

TERMS OF TRADE

NEW ZEALAND HOPS LTD



In these Terms of Trade we have used "NZ Hops", "we", "us" and "our" to refer to New Zealand Hops Limited and "you" to refer to our customer. By ordering Goods from us you agree to these Terms.

1. DELIVERY

- 1.1. Unless otherwise agreed we will arrange for delivery of the Goods to the address specified by you at your cost. Delivery charges are determined on the weight and/or size off the goods once packaged and the location to which the goods are being shipped.
- 1.2. Where a carrier supplies us with a tracking number for goods being shipped to you, we will reference this tracking information to your order.
- 1.3. We will use reasonable endeavours to deliver Goods to you as soon as reasonably practicable following receipt of your order. We aim to ensure that all Goods are delivered to locations within published delivery timeframes but accept no responsibility or liability for any delays in delivery and any delays in delivery will not entitle you to cancel any order which has already been accepted.

2. TITLE AND RISK

- 2.1. We shall retain title to Goods we supply until they have been paid for in full and you have performed all your other obligations under these Terms.
- 2.2. Risk in all Goods passes to you when the Goods are collected or delivered (as applicable). You shall insure Goods for their full price, and shall not sell, dispose or part with possession of them or do anything else inconsistent with our ownership of the Goods, from collection until title in them passes to you.

3. PRICE

- 3.1. All prices are plus GST and other taxes and duties, which shall be paid by you.
- 3.2. Other than where we expressly agree otherwise in writing, our prices are subject to change without notice.
- 3.3. Where you order Goods from us greater than 12 months in advance of the anticipated Delivery date we reserve the right to pass on a proportion of our currency exchange risk to you by pegging an agreed proportion of the price payable by you to the relevant exchange rate (mid-market, as published by Reuters) at an agreed point in time. We will agree this with you in writing at the time of confirming your order.

4. PAYMENT

- 4.1. You must pay for Goods on their collection or delivery (as applicable), unless we expressly agree otherwise.
- 4.2. We are under no obligation to supply Goods to you on credit. If we grant you credit, you agree to pay our invoices by the 20th of the month following the date of the invoice.
- 4.3. We may notify you at any time of a limit on the amount of credit we are willing to offer you or that we are going to stop supplying Goods to you on credit. This shall be without prejudice to your obligation to pay amounts owing.

- 4.4. All payments shall be made without set-off or deduction. Receipt of a cheque, bill of exchange, or other negotiable instrument will not constitute payment and you remain liable for payment until payment is received by us.
- 4.5. We may apportion payments to outstanding accounts as we see fit.

5. DEFAULT

- 5.1. You will be in Default if:
 - a) you fail to pay an amount due under these Terms by the due date for payment; or
 - b) you commit a breach of any of your other obligations under these Terms or the terms of any other contract you have entered into, or enter into in the future, with us or one of our related entities; or
 - c) you become insolvent, are wound up, have a receiver appointed, enter into any composition or arrangement with your creditors, do any act which would render you liable to be placed in liquidation or have a receiver appointed over your property, commit an act of bankruptcy, cease to be of full legal capacity, or die;
 - d) Goods that we have retained title to are at risk; or
 - e) an event or a series of events (whether related or not) occurs which, in our opinion, may cause a material adverse change in your ability to meet your obligations to us.
- 5.2. If you are in Default then we may, at our option, do any one or more of the following:
 - a) charge you default interest at 14% per annum on any late payments calculated on a daily basis from the due date until the date payment is received;
 - b) withhold the further supply of goods on credit,
 - c) require you to remedy the default in the manner and within a period that we tell you;
 - d) require you to pay to us all amounts you owe us immediately;
 - e) suspend or terminate your account with us;
 - f) enforce security interests created by these Terms;
 - g) exercise any rights that we have under these Terms or that are available to us at law.

6. PERSONAL PROPERTY SECURITIES ACT 1999 ("PPSA")

- 6.1. Clause 2.1 creates a security interest in Goods we supply to you.
- 6.2. You shall not grant any other security interest or any lien over Goods that we have a security interest in.
- 6.3. At our request you shall promptly sign any documents and do anything else required by us to ensure our security interest constitutes a first ranking perfected security interest in the Goods.
- 6.4. We may at any time (after seeking pre-approval and referring to the Customer's health & safety and other security protocols) enter your premises and properties to uplift Goods that we have a security interest in.
- 6.5. If Goods that we have a security interest in are processed, included or dealt with in any way causing them to become accessions, processed or commingled Goods, our security interest will continue in the whole in which they are included. You shall not grant any other security interest or any lien in either the Goods or in the whole.

- 6.6. You waive any rights you may have under sections 114(1)(a), 116, 120(2), 121, 125, 126, 127, 129, 131, 133, and 134 of the PPSA.
- 6.7. You waive your right to receive a copy of any verification statement (as that term is defined in the PPSA).
- 6.8. You shall give us prior written notice of any proposed change of your name or address.

7. WARRANTIES

- 7.1. We warrant that the Goods will be in accordance with the relevant specifications for those Goods.
- 7.2. The Consumer Guarantees Act 1993, the Fair Trading Act 1986, and other statutes may impose warranties, conditions or obligations upon us which cannot by law (or which can only to a limited extent by law) be excluded. Other than as expressly provided for in these Terms, we exclude all such imposed warranties, conditions or obligations to the extent permitted by law and exclude any warranty, condition or obligation imposed or implied under common law, equity or otherwise.
- 7.3. The guarantees contained in the Consumer Guarantees Act 1993 are excluded where you acquire goods and services from us for the purposes of a business in terms of sections 2 and 43 of that Act.

8. LIMITATION OF LIABILITY

- 8.1. Except as expressly otherwise provided by clauses 7.1 or 7.2, we shall not be liable for any loss or damage or liability of any kind whatsoever (including consequential loss or lost profit or business) whether suffered or incurred by you or another person and whether in contract, or tort, or otherwise and whether such loss or damage arises directly or indirectly from Goods provided by us to you.
- 8.2. To the extent that we are liable for any reason for any loss suffered or liability incurred by you arising from any breach of these Terms or for any other reason, such liability is limited to the amount of the price of the Goods concerned. If Goods are returned by you, or if you make a claim in writing to us in relation to Goods provided, we may, in our discretion, replace the Goods, or refund the price of those Goods to you, provided that:
 - a) the Goods must be returned, or the claim must be made in writing to us within six (6) calendar month(s) of collection;
 - b) you must supply the date and number of any invoice relating to the Goods; and
 - c) we must be given a reasonable opportunity to inspect the Goods.

9. PRIVACY OF INFORMATION

- 9.1. You authorise us:
 - a) to collect, retain and use information about you from any person for the purpose of assessing your creditworthiness;
 - b) to disclose information about you:
 - i. to any person who guarantees, or who provides insurance, or who provides any other credit support, in relation to your obligations to us;

- ii. to such persons as may be necessary or desirable to enable us to exercise any power or enforce or attempt to enforce any of our rights, remedies and powers under these Terms.

10. NOTICES

- 10.1. Any notice may be given by phone, in person, posted, or sent by facsimile or email to you or where you are a company, to any of your directors.

11. CONFIDENTIALITY

- 11.1. You shall at all times treat as confidential all non-public information and material received from us and shall not publish, release, or disclose the same without our prior written consent. For clarity, confidential information includes any new Intellectual Property and prices.

12. COSTS

- 12.1. You must pay our costs (including legal costs, as between solicitor and client) of and incidental to the enforcement or attempted enforcement of our rights, remedies and powers under these Terms.

13. CREDIT INFORMATION

- 13.1. You consent to us, or any financier or credit-rating agency, making enquiries of and obtaining any information about your financial standing and credit worthiness.

14. DISPUTES

- 14.1. Any claim or dispute arising under these Terms shall be determined by arbitration under the Arbitration Act 1996 if the parties are unable to resolve such dispute themselves within one (1) month of the dispute arising. However, nothing in this clause prevents either party from taking immediate steps to seek any equitable relief before the New Zealand courts.

15. CUSTOMER CLAIMS

- 15.1. You shall conduct a full inspection of the Goods promptly after delivery and will immediately advise us in writing of any nonconforming Goods in terms of their quantity or quality. Claims of nonconforming or defective Goods which could have reasonably been disclosed by inspection must be made to us no later than seven (7) days after receipt by you. Evidence of any such claim must be preserved and made available to us for inspection. Unless claim is timely made, all Goods shall be deemed conforming and accepted.

16. FORCE MAJEURE

- 16.1. If we have given you a time for collection or delivery of the Goods (or any part of them), such time is approximate only and is not deemed to be of the essence.
- 16.2. We shall not be liable for delay or failure to perform our obligations under these Terms if the cause of delay or failure is beyond our reasonable control.

17. GENERAL

- 17.1. These Terms replace any earlier representations, warranties, understandings and agreements (whether oral or written), and together with any written order form constitute the entire agreement between us and you relating to their subject matter.
- 17.2. You shall not transfer or assign your rights, powers or obligations under these Terms without our prior written consent.
- 17.3. No failure or delay by us in insisting upon the strict performance of these Terms or exercising any right under these Terms will operate as a waiver of those matters.
- 17.4. We may amend these Terms, or the terms of any other online service supplied to you by NZ Hops and accessed via CraftWeb ("Online Service"). If we change any Terms we will post the amended terms on CraftWeb and require you to accept these new terms upon log-in. The Customer and any Guarantor(s) agree that the amended terms are deemed accepted by the Customer placing any new order, either via CraftWeb or directly via Purchase Order after the date of notification. Notification of amendments will be made via e-mail to the primary CraftWeb account contact.
- 17.5. You shall not sell/licence NZ Hops products through third parties (such as original equipment manufacturers, distributors, value added resellers or other dealers or agents) without Supplier's prior written consent to the proposed relationship (including the specific terms of such relationship).

18. DEFINITIONS

- 18.1. In these Terms unless the context otherwise requires:
- "Default" has the meaning set out in clause 5.1.
- "Goods" means any goods that we supply to you from time to time.
- "Intellectual Property" means all intellectual property rights including, without limitation, copyright, patent and design rights, drawings, documents, data, ideas, procedures, calculations and all other statutory and common law rights and interests.
- "Security" means all existing and future security held by us that secures your obligations under these Terms.
- 18.2. The rule of construction known as the contra proferentem rule does not apply to these Terms.

19. CANCELLATION OF ACCOUNT

- 19.1. Unless earlier terminated as provided in these terms, NZ Hops may cancel your account as follows:
- Immediately with or without cause;
 - Immediately, for any breach or default of these terms by the other party which has not been cured within 7 days after the delivery of notice thereof to the party alleged to be in breach, specifying with particularity the condition, act, omission or course of conduct asserted to constitute such breach or default;

- Immediately, if required by law or by any rule, regulation, order, decree, judgment or other governmental act of any governmental authority; or;
- Immediately by NZ Hops if we reasonably suspect that you have breached any of your obligations of confidentiality or protection of NZ Hops proprietary rights.

20. EFFECT OF CANCELLATION

- Upon notice of cancellation of your account for any reason, the following provisions shall apply:
- NZ Hops may continue to fill any orders from you that have been accepted by us prior to the termination of your account under the terms of any agreement;
- All outstanding balances owed by you to NZ Hops shall become immediately due and payable to us in full without setoff or deduction;
- All rights, service and access granted to you under these terms shall cease, and where appropriate, revert to NZ Hops.

Disclaimer: These terms and conditions are confidential, privileged and only for the information of the intended recipient and may not be used, published or redistributed without the prior written consent of New Zealand Hops Ltd.

