

Terms and Conditions of Supply

By submitting a credit application and ordering Goods from SPS, the Applicant agrees that the following terms and conditions shall apply to the supply.

1. Definitions

In these terms and conditions and (unless the context otherwise requires):

- 1.1 "ALC" is an abbreviation of the Australian Consumer Law and includes all applicable State, Territory and Commonwealth law(s), including without limitation, Schedule 2 of the Competition and Consumer Act 2010 (Cth) as amended from time to time.
- 1.2 "Applicant" means the person/s submitting the credit application and/or ordering Goods as specified in any invoice, document or order, and it includes the Applicant's personal representatives, successors and permitted assigns.
- 1.3 "Consequential Loss" means loss of expected savings, loss of use, loss of opportunity, loss of profit, loss of revenue, increased financing costs, loss arising from delay, or any consequential, special or indirect loss of damage was known or foreseeable, and whether arising from a claim under indemnity, contract, tort (including negligence), statute or otherwise.
- 1.4 "Consumer" means a consumer as that term is defined in section 3 of ACL.
- 1.5 "Force Majeure Event" means with respect to SPD, any event or circumstance, regardless of whether it was foreseeable, that was not caused by SPS and which prevents SPS from complying with, or performing, any of its obligations under any contract with the Applicant.
- 1.6 "Goods" means all goods supplied by SPS to the Applicant at the Applicant's request from time to time.
- 1.7 "PMSI" means a purchase money securities interest and has the meaning given in section 14 of the PPSA
- 1.8 "PPSA" means the *Personal Property Securities Act 2009* (CTH)
- 1.9 "Price" means the Price payable for the Goods as agreed between SPS and the Applicant in accordance with clause 4 below
- 1.10 "SPS" means Saltbush Pastoral Services Pty Ltd ABN 21 607 256 002 its successors and permitted assigns.

2. General

- 2.1 Any order received by SPS from the Applicant for the supply of Goods shall constitute a binding contract and acceptance of the terms and conditions contained herein.
- 2.2 Unless otherwise specifically agreed in writing by SPS, where any terms and conditions of the Applicant's order are inconsistent with these terms and conditions, then these terms and conditions will prevail. Any variations or additions to these terms and conditions not expressly agreed to in writing by SPS are expressly rejected.
- 2.3 SPS may vary these terms and conditions by notice in writing to the Applicant.

3. Change in Control

- 3.1 The Applicant shall give SPS not less than fourteen (14) days prior written notice of any proposed variation to any of the information supplied by the Applicant to SPS or in the structure or nature of the Applicant's business (including but not limited to, changes in the Applicant's ownership structure, address, contact phone or fax number/s, or legal name). The Applicant shall be liable for any loss incurred by SPS as a result of the Applicant's failure to comply with this clause.

4. Price and Payment

- 4.1 At SPS's sole discretion the Price shall be confirmed by SPS at the time an order is placed by the Applicant and will then be indicated, along with the due date for payment, on any invoice provided by SPS to the Applicant as at the time of delivery.
- 4.2 The Price shall include any applicable delivery and export charges.
- 4.3 Payment of any invoice may be made by electronic funds transfer or cheque.
- 4.4 The Applicant must pay the Price and the GST thereupon without set-off, deduction, withholding or counterclaim.
- 4.5 Unless otherwise stated the Price does not include GST. In addition to the Price the Applicant must pay to SPS an amount equal to any GST SPS must pay for any supply by SPS under this or any other agreement for the sale of Goods and/or Services. In addition, the Applicant must pay any other taxes and duties (including, but not limited to, customs duty, packaging costs, freight charges or bank charges) that may be

applicable in addition to the Price except where they are expressly included in the Price.

4.6 Any amounts received by SPS may be applied at SPS's discretion: first against interest, fees, charges, collection expenses and legal expenses; and second, towards any amount that the Applicant owes to SPS from time to time.

4.7 SPS will be entitled to set off against any money owing to the Applicant amounts owed to SPS by the Applicant on any account whatsoever.

4.8 SPS reserves the right to increase its prices at any time.

5. Delivery of Goods

5.1 SPS's obligation to deliver shall be discharged on arrival of Goods at the Applicant's nominated delivery destination or nominated agent or carrier. If the Customer is unable or unwilling to accept physical delivery of the Goods when the Goods are ready for delivery, SPS shall be entitled to charge a fee for any delay suffered, or to arrange for storage of the Goods at the risk and cost of the Applicant including all transportation, storage and other consequential costs.

5.2 Dates and times quoted for delivery are estimates only.

5.3 SPS shall not be liable for any loss or damage, including consequential loss or damage, arising from any delay in delivery or failure to deliver or supply Goods either whole or in part, due to any Force Majeure Event.

5.4 The cost of delivery of Goods is included in the Price.

6. Damaged Goods and Warranties

6.1 The Applicant must inspect the Goods once received and must within 48 hours of delivery notify SPS in writing of any evident damage/spoilage, shortage in quantity or failure to supply in accordance with any order. If the Applicant fails to provide such notice, the Applicant shall be deemed to have accepted the Goods.

6.2 Under applicable State, Territory and Commonwealth Law (including without limitation the ACL), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the ACL) may be implied into these terms and conditions ("Non-Excluded Guarantees").

6.3 SPS acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

6.4 Notwithstanding clauses 6.1 to 6.3 but subject to the ACL:

6.4.1 except as otherwise expressly specified in the terms of any applicable written warranty provided by SPS, SPS's liability to the Applicant (whether arising under statute, contract, tort (including negligence), equity or otherwise) for any defect in the Goods, is limited, at SPS's option, to the replacement of the Goods;

6.4.2 and also subject to clause 6.4.1, SPS is not liable to the Applicant or anyone else in connection with the Goods or with these terms and conditions (including any changes to the terms and conditions), including without limitation for:

6.4.2.1 any direct, indirect or Consequential Loss or damage, any loss of actual or anticipated savings, opportunity, revenue, profit or goodwill, or other economic loss; and

6.4.2.2 any claim, action or proceeding by a third party against the Applicant (or any loss, damages or liability incurred or suffered by the Applicant as a result of any such claim, action or proceeding); and

6.5 Subject to this clause 6, SPS makes no representations under these terms and conditions including but not limited to the quality of the Goods. All implied conditions, warranties, undertakings, inducements or representations whether express or implied, statutory or otherwise, relating to these terms and conditions or their subject matter are excluded to the maximum extent permitted by law.

7. Default and Consequences of Default

7.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of one percent (1.0%) per calendar month or part thereof, and the Applicant shall be liable for, and expressly undertakes to pay, all such interest.

7.2 Without prejudice to any other remedies SPS may have, if at any time the Applicant is in breach of any obligation (including those relating to payment) under these terms and conditions SPS may suspend or terminate the supply of Goods to the Applicant. SPS will not be liable to the Applicant for any loss or damage the Applicant suffers because SPS has exercised its rights under this clause.

7.3 If:

7.3.1 SPS has any reasonable grounds to believe that the Applicant may not be able to make do and punctual payment to SPS or there is any default or failure by the Applicant in making do and punctual payment to SPS of any moneys owing by the Applicant; or

7.3.2 the Applicant becomes bankrupt or insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors or ceases to carry on a business; or

7.3.3 a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Applicant or any asset of the Applicant.

Then, all amounts owing to SPS shall, whether or not due for payment, become immediately payable, and, without prejudice to SPS's other remedies at law, SPS shall be entitled to do any or all of the following:

7.3.4 place on stop any credit facilities which may have been extended to the Applicant;

7.3.5 withdraw any credit facilities which may have been extended to the Applicant;

7.3.6 withhold any further delivery of Goods;

7.3.7 in respect of Goods already delivered, enter onto the Applicant's premises to recover and resell the Goods for its own benefit;

7.3.8 exercise such rights as are afforded to Saltbush under the PPSA.

7.4 The Applicant agrees to hold harmless and indemnify SPS, on a full indemnity basis, as a separate obligation against any liability (including but not limited to all losses, costs, charges, expenses, disbursements, collection and legal costs) incurred by, or assessed

against, SPS in connection with enforcing any of its rights under these terms and conditions of supply.

7.5 The Applicant acknowledges that collection costs may be calculated on a commission basis at a percentage rate of up to 20% of the amount due and expressly agrees to pay for those expenses, irrespective of the amount of work actually performed by the collection agent.

8. Title

8.1 SPS and the Applicant agree that legal and beneficial ownership of the Goods shall not pass until:

8.1.1 The Applicant has paid SPS all amounts owing to SPS; and

8.1.2 The Applicant has met all of its other obligations to SPS.

8.2 Receipt by SPS of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognized by SPS.

8.3 It is further agreed that until ownership of the Goods passes to the Applicant in accordance with clause 8.1 that:

8.3.1 the Applicant irrevocably authorizes SPS to enter any premises where SPS believes the Goods are kept and recover possession of the Goods.

8.3.2 SPS may recover possession of any Goods in transit whether or not delivery has occurred;

8.3.3 the Applicant shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of SPS;

8.3.4 SPS may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Applicant;

9. Personal Property Securities Act 2009

9.1 In this clause 9, financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

9.2 The Applicant acknowledges and agrees that these terms and conditions constitute a security agreement

and until SPS has received payment for all amounts owing to it by the Applicant, SPS has a:

9.2.1 PMSI in the Goods (and its proceeds) supplied presently and in the future by SPS to the Applicant;

9.2.2 security interest in relation to any other amounts owed by the Applicant to SPS.

9.3 The Applicant undertakes to:

9.3.1 promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up to date in all respects) which SPS may reasonably require to:

9.3.1.1 register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;

9.3.1.2 register any other document required to be registered by the PPSA; or

9.3.1.3 ensure that a security interest is enforceable, perfected and otherwise effective, including to cure any defect in any registration.

9.3.2 indemnify, and upon demand reimburse, SPS for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;

9.3.3 not register a financing change statement in respect of a security interest without the prior written consent of SPS;

9.3.4 not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of SPS.

9.3.5 immediately advise SPS of any material change in its business practices of selling Goods which would result in a change in the nature of proceeds derived from such sales.

9.4 SPS and the Applicant agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

9.5 The Applicant waives their rights to receive notices under sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) and 135 of the PPSA.

9.6 The Applicant waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.

9.7 Unless otherwise agreed to in writing by SPS, the Applicant waives their right to receive a verification statement in accordance with section 157 of the PPSA.

9.8 The Applicant must unconditionally ratify any actions taken by SPS under clauses 9.3 to 9.5.

9.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions the PPSA.

10. Charge

10.1 In consideration of SPS agreeing to supply the Goods, the Applicant hereby charges in SPS's favour, all of its respective present and future rights, title and interests (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Applicant either now or in the future, to secure the performance by the Applicant of its obligations under these terms and conditions (including, but not limited to, the payment of any money) and hereby consents to SPS lodging a caveat or caveats which note SPS's interest.

11. Cancellation

11.1 SPS may cancel the supply of Goods at any time before the Goods are due to be delivered by giving written notice to the Applicant. On giving such notice SPS shall repay to the Applicant any money paid by the Applicant for the Goods. SPS shall not be liable for any loss or damage whatsoever arising from such cancellation.

11.2 In the event that the Applicant cancels delivery of the Goods the Applicant shall be liable for any and all loss incurred (whether direct or indirect) by SPS as a direct result of the cancellation (including, but not limited to, any loss of profits).

12. Termination

12.1 SPS may terminate any this contract by written notice if:

12.1.1 the Applicant fails to make any payment due;

12.1.2 there is any other substantial breach of this contract by the Applicant;

and the Applicant has not rectified the breach within 14 days of a written notice from SPS which specifies the breach complained of.

12.2 The Applicant may terminate this contract by written notice if there is a substantial breach of this contract by SPS, and SPS has not rectified the breach within 14 days of a written notice from the Applicant which specifies the breach complained of.

12.3 Either Applicant, or SPS, may terminate this contract by written notice if the other: -

12.3.1 does an act of bankruptcy mentioned in s.40 of the Bankruptcy Act 1966 (Cth); or

12.3.2 becomes an externally administered body corporate as defined in the Corporations Act 2001 (Cth).

12.4 Termination does not affect rights rising from a breach of contract.

13. Privacy

13.1 Saltbush's Privacy Policy and Credit Reporting Policy available on its website or upon request to Saltbush, are agreed to by the Applicant.

13.2 Saltbush's website may be hosted, or some data may be stored overseas. All personal information derived from Australia will still be treated in accordance with Saltbush's policies whilst being stored overseas.

13.3 In accordance with Saltbush's policies, the Applicant agrees that Saltbush may use or disclose information to its suppliers and to third parties for the purpose of providing the Goods, providing information about Goods; sending information about Saltbush and/or Saltbush's services; performing administrative and marketing operations; complying with legislative and regulatory requirements or as otherwise permitted or authorized by law; considering any other application the Applicant makes to Saltbush; managing Saltbush's rights and obligations in relation to external payment systems, e.g. credit card schemes and debit payment schemes; conducting market research or Applicant

satisfaction research; and developing and identifying products and services that may interest the Applicant.

14. Miscellaneous

14.1 The failure by SPS to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect SPS's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

14.2 These terms and conditions and any contract to which they apply shall be governed by the laws of South Australia, and are subject to the non-exclusive

14.3 Jurisdiction of the Court in that state.

14.4 Where the Applicant is a trustee

14.4.1 The Applicant agrees to produce a stamped copy of the trust deed (with all amendments) if and when requested by SPS.

14.4.2 The Applicant warrants that it has full power and authority to enter into these terms and conditions in its capacity as trustee of this trust.