

PRODUCT AND EQUIPMENT SUPPLY AGREEMENT

Schedule 1 – General Terms and Conditions

1. DEFINITIONS AND INTERPRETATION

1.1. **Defined terms:** In this Agreement, unless the context requires otherwise:

Agreement means the Agreement, including the Key Terms, this Schedule 1 (General Terms and Conditions), Schedule 2 (Product Terms and Conditions), Schedule 3 (Equipment Terms and Conditions) and Schedule 4 (Guarantee) together with all appendices.

Business means the business specified in the Key Terms operated by the Customer on the Premises.

Bulk Fuel means Fuel delivered to Your Premises.

Card Fuel means Fuel purchased using a Customer Fuel Card.

Confidential Information means:

- a. all information and trade secrets already communicated or subsequently communicated to one Party by the other Party, under or in connection with this Agreement or otherwise with respect to the subject-matter of this Agreement, including any information obtained from the other Party:
 - i. in the course of negotiations leading to the signing of this Agreement; or
 - ii. in the performance of this Agreement; and
- b. any historical, current or future information about the business, methodology, property or affairs of a Party, including any information:
 - i. relating to the contractual, commercial or financial position or affairs of that Party;
 - ii. concerning that Party's suppliers, customers, agents or brokers;
 - iii. relating to that Party's internal management, structure, personnel or strategies; or
 - iv. comprising the terms of this Agreement or any documentation referenced under this Agreement; and
 - v. this Agreement.

Contamination means:

- a. the presence of pollutants, contaminants or toxic or hazardous substances, including petroleum hydrocarbons, in, on or under the soil, surface, water or groundwater; and/or
- b. the migration, transportation or disposal above, beyond or below the surface of pollutants, contaminants or toxic or hazardous substances.

Customer Fuel Cards has the meaning set out in clause 1 of Appendix A to Schedule 2.

Customer Tanks means any tanks owned by the Customer located at the Premises from time to time into which Farmlands agrees that Product is to be Delivered to the Customer under this Agreement, together with all associated dispensing equipment and the pipework between the Tank(s) and the dispensing equipment.

Delivery and Deliver have the meaning set out in clause 2 of Schedule 2.

Dispute means any matter arising out of or in connection with this Agreement on which the parties fail to agree.

Equipment means the equipment specified in the Key Terms loaned by Farmlands to the Customer, and, for the avoidance of doubt, does not include the Customer Tanks.

Farmlands Buy Price has the meaning given in clause 5.1 of Schedule 2.

Farmlands has the meaning given in the Key Terms.

Fee means the annual amount specified in the Key Terms payable by the Customer to loan the Equipment.

First Party has the meaning given in clause 9.1 of Schedule 1.

Force Majeure means any event or circumstance which in each case is beyond the reasonable control of the Party claiming it, having exercised reasonable care and diligence to prevent the occurrence of that event, but does not include lack of funds for any reason.

Forecast means a written forecast of the Customer's likely requirements for Product each year.

Freight has the meaning given in clause 5.1 of Schedule 2.

Freight Rates means the freight rate determined in accordance with Farmlands' standard freight pricing model as amended by Farmlands from time to time, unless otherwise agreed in writing by Farmlands and the Customer.

Fuel has the meaning given in the Key Terms.

GST means goods and services tax imposed under the Goods and Services Tax Act 1985.

Law means any statute, act or legislation; any regulations, Order in Council or other delegated legislation; and any district plan requirement, regional plan requirement, by-law, ordinance or the like of any legally constituted public authority.

Liability Limit means \$40,000 for an event or for any series of related events, or a total of \$50,000 in aggregate in any 12-month period.

Lubricants has the meaning given in the Key Terms.

Minimum Purchase means the minimum purchase amount for Fuel and Lubricants as specified in the Key Terms.

Permits has the meaning given in clause 3.1 of Schedule 3.

PPSA means the Personal Property Securities Act 1999.

Premises has the meaning given in the Key Terms.

Products means either Fuel or Lubricants or both (if applicable) as specified in the Key Terms.

Product Supplier means Z Energy.

Purchase Price means the amounts payable by the Customer for the Products as specified in the Key Terms and determined in accordance with clauses 5.1 (for Fuel) and 5.3 (for Lubricants) of Schedule 2.

Related Company has the meaning given to that term in section 2(3) of the Companies Act 1993, and the term "Related Companies" has a corresponding meaning.

Repair Cost means \$40,000.

Tank(s) means tank(s) specified in the Key Terms owned by Farmlands and the Customer Tank(s) (if any) and "Tank" means any one of the Tanks.

Term has the meaning given in the Key Terms.

Working Day means a day other than a Saturday, Sunday or statutory public holiday where the Premises are located.

- 1.2. **Interpretation:** In the construction of this Agreement, unless the context requires otherwise:
- a. in the event of any conflict between the Key Terms and the Schedules, the Key Terms shall prevail;
 - b. any capitalised terms not defined above shall have the meaning set out in the Key Terms;
 - c. a reference to a clause or a schedule is to a clause or schedule of this Agreement, and a reference in a schedule to a paragraph is a reference to a paragraph in that schedule;
 - d. except where this Agreement expressly states otherwise, a reference to any monetary amount is to New Zealand dollars;
 - e. a reference to any document, including this agreement, includes a reference to that document as amended or replaced from time to time;
 - f. where a Party is comprised of more than one person or entity, the obligations of each such person or entity shall be joint and several;
 - g. a reference to a prohibition against doing any thing includes a reference to not permitting, suffering or causing that thing to be done;
 - h. a reference to persons shall be deemed to include references to individuals, companies, corporations, firms, partnerships, joint ventures, associations, organisations, trusts, states or agencies of state, government departments and local and municipal authorities in each case whether or not having separate legal personality;
 - i. where a word or expression is defined in this Agreement, other parts of speech and grammatical forms of that word or expression have corresponding meanings;
 - j. the singular includes the plural and vice versa;
 - k. a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations; and
 - l. a reference to "written" or "in writing" includes all modes of presenting or reproducing words, figures and symbols on a tangible and permanently visible form.

2. TERM

- 2.1. **Term:** This Agreement will commence on the Commencement Date and, unless terminated earlier in accordance with its terms, will continue for the Initial Term and any subsequent term.
- 2.2. **Renewal:** On expiry of the Initial Term or any subsequent term, this Agreement will continue for another period of at least the Initial Term, terminable by either Party with 90 days' written notice.

3. PAYMENT

- 3.1. **Invoice:** Farmlands will invoice the Customer monthly for:
 - a. the Purchase Price of the Product Delivered by Farmlands during that month;
 - b. any costs arising under clause 5.5(a) of Schedule 2;

- c. the aggregate amount of all purchases made with Customer Fuel Cards during that month;
- d. the Fee specified in the Key Terms in respect of Equipment; and
- e. any costs arising under clauses 2.2 and 2.3 of Schedule 3.

Farmlands will ensure that each such invoice is a valid GST invoice and sets out in reasonable detail the calculation of the amounts so invoiced.

- 3.2. **Payment:** The Customer will pay each invoice no later than the 20th day of the month following the month in which it is invoiced. Farmlands may change the required frequency of payment, and may require payment to be made in cash or any other method, by giving five days' notice in writing to the Customer. The change in frequency or method of payment shall take effect from the date and time set out in Farmlands' notice.
- 3.3. **GST:** All monetary amounts in this Agreement are stated before the addition of GST. If any GST is payable on those amounts, the Party obliged to pay each amount must add and pay the GST at the same time and in the same manner as it is obliged to pay the amount.
- 3.4. **Disputes:** The Customer will promptly notify Farmlands in writing if it reasonably disputes the accuracy of any invoice or other matter relating to any payment under this Agreement, and shall be entitled to withhold amounts payable to Farmlands under such invoices only to the extent of the dispute, until such time as the dispute is determined. The Customer shall otherwise make all payments due under this Agreement without set-off or deduction. The dispute will be determined in accordance with clause 15 of Schedule 1.
- 3.5. **Late payment:** Without prejudice to Farmlands' other rights and remedies set out in this Agreement or at Law or otherwise, where any amount payable by the Customer under this Agreement is not paid by the due date for payment:
 - a. the Customer must pay Farmlands interest on that amount at the rate of 21% per annum for the period from the due date until the date of payment, such interest to be calculated by multiplying the unpaid daily balance at the end of each day by the daily interest rate (being 21% per annum divided by 365); and
 - b. Farmlands may at its discretion suspend Delivery of Product to the Customer where payment is not made within five Working Days of the due date until such time as payment is received.

4. RISK AND TITLE

- 4.1. **Risk:** The risk of loss of or damage to the Product and any Equipment will pass from Farmlands to the Customer immediately upon delivery of the Product or Equipment from Farmlands to the Customer in accordance with the terms of this Agreement. The Customer is responsible for the Equipment at all times while in its possession and while being delivered by or on behalf of the Customer. The Customer uses the Equipment at its sole risk.

- 4.2. **Title:**
- a. Title to the Products shall remain with Farmlands and shall pass from Farmlands to the Customer at the time the Customer pays the Purchase Price for the relevant Products.
 - b. At no time during the Term of this Agreement shall ownership in the Equipment or any part of it transfer to the Customer from Farmlands and the Customer shall only be entitled to use the Equipment as lessee on the terms of this Agreement.
 - c. If Farmlands does not receive payment for any Product in accordance with this Agreement, then without prejudice to any of Farmlands' other rights and remedies under this Agreement or at law, Farmlands may retake possession of any Product and may enter the Premises to do so.

5. SECURITY INTEREST

- 5.1. **Security interest:** The Customer grants to Farmlands a security interest (as that term is defined in the PPSA) in:
- a. all of its present and after acquired property on the terms set out in Auckland District Law Society Inc's General Security Agreement (REF: 6301); and
 - b. each item of Equipment leased to the Customer, and all Product supplied by Farmlands to the Customer,
- to secure all payment and other obligations of the Customer under this Agreement, until such time as full payment in cleared funds of all money owed under this Agreement is received by Farmlands, and all other obligations of the Customer under this Agreement have been satisfied.
- 5.2. **Co-mingling of Products:** If any Product is combined, blended or co-mingled with any other products or goods, then Farmlands' security interest will extend to the new or co-mingled goods to the fullest extent permitted under the PPSA. All accessories, replacement parts or other articles incorporated or installed in or affixed to any Equipment shall be deemed to become part of the relevant Equipment and owned by Farmlands unless they are only temporarily installed in any Equipment and can be removed at the Customer's expense at the expiry or termination of the Term without damaging any Equipment, in which case ownership of those items shall remain with the Customer.
- 5.3. **Waiver of rights:** The Customer agrees that nothing in sections 133 and 134 of the PPSA will apply to this Agreement and waives its rights under sections 114(1) (a), 116, 120(2) 121 and 148 of the PPSA and its right to receive a copy of any verification statement under the PPSA.
- 5.4. **Change of Customer name or details:** The Customer shall not change its name, or its address or any contact details without giving Farmlands 10 Working Days' written notice.

6. LIABILITY

- 6.1. **Consequential and indirect loss:** Notwithstanding any other provision of this Agreement, neither Party shall be liable under or in connection with this Agreement, whether in contract, tort or otherwise, for any indirect or consequential loss or any loss of profit, lost business, loss of goodwill or loss of opportunity.

- 6.2. **Limitation of liability:** To the fullest extent permitted by law, unless otherwise expressly agreed in writing by Farmlands, the maximum combined amount that Farmlands, including its employees, subcontractors or anyone else for whom it is responsible (together) will have to pay to the Customer, including its employees, officers and agents, and to anyone else who suffers any loss or damage as a result of the actions or omissions of Farmlands whether in connection with this Agreement or otherwise, is the Liability Limit. This limitation of liability does not apply where Farmlands is responsible for Contamination caused by a spill during Delivery of Product, and Farmlands shall be responsible for cleaning up and otherwise remedying the effects of any such event as set out in clause 9.1(c) of Schedule 2.

7. INSURANCE

- 7.1. **Each Party to insure:** Each Party will have and maintain throughout the Term, at its own expense, public liability insurance cover, with a reputable insurer, with a limit of indemnity of not less than \$5,000,000.00 per event or series of related events.
- 7.2. **Customer to insure:** Without limiting clause 7.1, the Customer shall at its own cost, at all times during the Term and for six months after expiry or termination of this Agreement, maintain comprehensive insurance in respect of the Product, Equipment and its business with an insurance company acceptable to Farmlands against such risks as are normally insured against in accordance with good and prudent practice, and as is otherwise reasonably required by Farmlands.
- 7.3. **Farmlands to be named:** Each policy maintained by the Customer shall note Farmlands' interest, specify Farmlands as loss payee and otherwise be in terms approved by Farmlands, none of which terms shall be varied without Farmlands' prior consent.
- 7.4. **Evidence of cover:** The Customer shall provide evidence of such insurance to Farmlands promptly upon Farmlands' request. The Customer must punctually pay all premiums due there under and produce evidence of such payment upon request.

8. FORCE MAJEURE

- 8.1. **No liability where there is a Force Majeure:** Without limiting clauses 4.2 or 4.4 of Schedule 2, there will be no liability for non-performance of any obligation under this Agreement during the time and to the extent that such performance is wholly or substantially prevented by a Force Majeure, provided that the Party claiming Force Majeure complies with clause 8.2 of this Schedule 1.
- 8.2. **Notice of Force Majeure:** A Party that wishes to claim the benefit of clause 8.1 of this Schedule 1 must:
- a. as soon as practicable (but in any event within 48 hours of the Force Majeure), give notice and full details to the other Party of:
 - i. the Force Majeure; and
 - ii. the extent of its inability to perform any of its obligations under this Agreement and the likely duration of such non-performance;

- b. use all reasonable endeavours to limit the effects of the Force Majeure;
 - c. give the other Party reasonable opportunity and assistance to investigate the cause and effects of the Force Majeure; and
 - d. resume performance of its obligations under this Agreement as soon as reasonably possible after the effects of the Force Majeure have ended.
- 8.3. **Extension of Term:** Any suspension of obligations under clause 8 of this Schedule 1 will not extend the Term.

9. TERMINATION

- 9.1. **Termination Events:** Either Party (in this clause, the “First Party”) may give the other Party notice immediately terminating this Agreement if:
- a. the other Party commits a breach of this Agreement which cannot be remedied or, if capable of remedy, the breach remains unremedied for 10 Working Days after the First Party has given notice to the other Party specifying the breach and requesting it be remedied;
 - b. the other Party repeats (or at least three occasions in any 12-month period) or continues, after having been warned, any breach of this Agreement;
 - c. the other Party is unable to perform any material obligation under this Agreement for a period of 30 calendar days or more as a result of Force Majeure;
 - d. execution is levied against all or a substantial part of, or a receiver, manager or administrator (or similar) is appointed of any of, the assets of the other Party or any of its holding companies; or
 - e. the other Party or any of its holding companies either goes into liquidation (other than voluntarily for solvent reconstruction or amalgamation purposes with the prior written approval of the First Party), or is dissolved, or enters into a scheme of arrangement with any class of its creditors, or is placed under statutory management.
- 9.2. **Termination events – Farmlands:** Farmlands may give the Customer notice immediately terminating this Agreement if:
- a. any Tank(s) material to the business of either Party is totally or substantially destroyed, or is stolen and cannot be recovered;
 - b. the supply agreement between Farmlands and its own supplier expires or is terminated for any reason and Farmlands cannot find another supplier on terms acceptable to Farmlands in its sole discretion; or
 - c. the contract under which Farmlands has an exclusive licence to supply Gulf Oil Lubricants in New Zealand is terminated for any reason or Farmlands’ right to supply Lubricants is otherwise affected.
- 9.3. **Consequences of termination or expiry:** On termination or expiry of this Agreement the following provisions will apply
- a. before and after the date of termination or expiry, Farmlands shall, at the Customer’s cost (unless the Agreement is terminated by the Customer pursuant to clauses 9.1(a) or 9.1(b) of this Schedule 1, in which case Farmlands will do so at its cost), provide such reasonable assistance to the Customer in managing the termination (including the Customer’s transition to

alternative supply arrangements) as the Customer may request;

- b. each Party will pay the other Party any amount payable under this Agreement in respect of the period before termination or expiry, and all moneys outstanding under this Agreement shall immediately become due and payable; and
 - c. each Party will promptly return to the other any property of the other Party in its possession or control
- 9.4. **Survival of rights and obligations:** Termination of this Agreement does not operate as a waiver of any breach by either Party of this Agreement and does not prejudice any right, or extinguish any liability or obligation, which has accrued up to or on the date of termination. Clauses 5, 6, 9, ,11, 12, 13, 15 of Schedule 1, clauses 3.3, 3.4 and 10 of Schedule 2, survive termination of this Agreement, together with any other term requiring payment of any sum outstanding at termination, and any other terms which expressly or impliedly are intended to survive termination.

10. GENERAL OBLIGATIONS

- 10.1. **Adequate records:** Farmlands will maintain adequate records in sufficient detail in relation to the following, and will provide a copy of such records to the Customer at any time on request:
- a. the documents and other information necessary to verify the calculation and amount of the Fees, Purchase Price and any other amounts paid, or payable, by the Customer under this Agreement; and
 - b. the quantity of all Product supplied to the Customer under this Agreement.
- 10.2. **Compliance with laws:** Each Party will at all times in performing its obligations under this Agreement comply (and ensure that its employees, agents and contractors comply) with all applicable Laws.
- 10.3. **Licenses:** Each Party shall ensure that it has all permits, licenses, authorisations, certifications and consents that are required in relation to the performance of its obligations under this Agreement, and shall comply at all times with the requirements of those permits, licenses, authorisations, certifications and consents.
- 10.4. **Access to Premises:** The Customer will ensure that Farmlands (including Farmlands’ employees, agents and contractors) has access to the Premises during the Customer’s normal days and hours of operation (as notified to Farmlands) and at such other times as may be necessary for Farmlands to Deliver Product or Equipment in accordance with its obligations under this Agreement.
- 10.5. **Details of relevant personnel:** The Customer may require Farmlands to supply details of its personnel who are proposed to access the Premises under this Agreement. The Customer may at its cost require certain photographic identification and/or security access cards to be obtained and carried by Farmlands personnel in order to gain access to any part of the Premises.
- 10.6. **Health, safety and security:** Farmlands will ensure at all times that its employees, agents, contractors or other persons under its control entering onto the Premises for the purposes of, or in connection with, this Agreement will:

- a. not obstruct or interfere with the conduct of the Customer's Business (and that of its customers); and
- b. as required by the Customer from time to time, attend and complete a site induction programme and such obligation will include attending any repeat or refresher courses (as required by the Customer) at the Customer's expense.

11. REPUTATION

- 11.1. **Farmlands brand:** The Customer shall not do or omit to do any act or thing which may damage or bring Farmlands' brand into disrepute, and shall comply with Farmlands' requirements in relation to any branding or logos on the Product and Equipment.
- 11.2. **Gulf Oil brand:** In respect of the supply of Lubricants, the Customer shall not do or omit to do any act or thing which may damage or bring the "Gulf Oil" brand into disrepute, and shall comply with Farmlands' requirements in relation to any branding or logos on the Lubricants and related Equipment.

12. NON-COMPETE

- 12.1. **Non-compete:** The Customer agrees that it will not, and it will procure that its associated persons (including every director, shareholder and Related Company will not in any capacity whatsoever, directly or indirectly solicit, entice or endeavour to solicit or entice any Farmlands customer away from Farmlands at any time during the Term of this Agreement or for the period of one year after the termination or expiry of this Agreement.

13. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

- 13.1. **Confidential Information:** Each Party will keep confidential and will not disclose nor use any Confidential Information of the other Party except to the extent required for the performance of this Agreement, as otherwise agreed in writing by the other Party to this Agreement, or as required by law or the listing rules of any stock exchange on which its securities are quoted. Each Party shall notify the other Party of any breach or suspected breach of this clause, and shall comply with the reasonable directions of the other Party in relation to affected Confidential Information.
- 13.2. **Public statements:** Neither Party or any of its employees, agents, representatives or subcontractors may make any public statement about this Agreement unless it has first obtained written consent from the other Party.
- 13.3. **Names, logos and trademarks:** Neither Party shall incorporate the name, logo, trademark, or other intellectual property of the other Party in any presentation, document, signage, or sales advertising or promotional material unless the presentation, document, signage, material or other means of promotion has first been submitted and approved in writing by the other Party.
- 13.4. **Restrictions in respect of Lubricants:** In respect of the supply of Lubricants, the Customer agrees that they will not at any time:
 - a. remove any identifying marks on the Lubricants or Equipment provided in connection with the Lubricants; or
 - b. directly or indirectly dispute the validity of any copyright

patents, patent applications, trademarks, trade names or other intellectual property of any kind which may be owned or licenced by Farmlands in relation to the Lubricants.

14. NOTICES

- 14.1. **Address for notices:** Any notice or other communication to be given under this Agreement must be in writing and addressed to the recipient at the physical address or email address set out in the Key Terms, or such amended address as is notified by that Party to the other Party from time to time.
- 14.2. **Receipt of notices:** A notice or other communication will be deemed to have been received:
 - a. in the case of hand delivery, at the time of actual delivery to the recipient's physical address;
 - b. in the case of delivery by pre-paid post, on the fifth Working Day after posting; and
 - c. in the case of delivery by email, at the time shown in the delivery confirmation report generated by the sender's email system which indicates that the email was sent to the recipient's email address,
 provided that if a notice or other communication is received or deemed to have been received after 5 pm on a Working Day or on a day which is not a Working Day, it will be deemed not to have been received until 9 am on the next Working Day.

15. DISPUTE RESOLUTION

- 15.1. **Negotiation:** If any Dispute arises between the Parties concerning the rights and obligations contained in this Agreement, the Parties will enter into negotiations to resolve the Dispute promptly following either Party invoking the procedures set out in clause 15 of this Schedule 1 by notice to the other. The Parties shall first attempt to resolve any Dispute by negotiation at the senior management level of each Party.
- 15.2. **Mediation:** If for any reason the Dispute is not resolved within 10 Working Days of entering into negotiations, or within such further period as the Parties may agree upon in writing, the Parties will refer the Dispute to mediation. The mediator and the mediator's fee shall be agreed by the Parties or, failing agreement within five Working Days of the referral to mediation, appointed and determined by the President for the time being of the New Zealand Law Society. Unless the Parties agree otherwise, the mediation will be conducted in terms of the standard mediation agreement promulgated by LEADR New Zealand Incorporated at the time the dispute is referred to mediation. All discussions during the mediation process shall be without prejudice and shall not be referred to in any later proceedings. Each Party shall bear their own costs in mediation and shall meet the costs of the mediator equally between them. If the Dispute is not resolved within 10 Working Days of the appointment of a mediator, or within such further period as the Parties may agree upon in writing, the Parties will refer the Dispute to arbitration.
- 15.3. **Arbitration:** Arbitration shall be conducted by an independent arbitrator appointed jointly by the Parties.

If the Parties cannot agree on the arbitrator within 10 Working Days of referral to arbitration under clause 15.2 of this Schedule 1, the President for the time being of the New Zealand Law Society will appoint an independent arbitrator. The arbitration proceedings will be conducted in Christchurch (or any such other place as the Parties may agree), in accordance with the Arbitration Act 1996. The decision of the arbitrator will be final and binding on the Parties, and the costs of the arbitrator will (subject to any award by the arbitrator) be borne equally by them.

- 15.4. **Urgent remedies:** Nothing in clause 15 of this Schedule 1 excludes or limits either Party's right to seek or obtain any order or relief by way of injunction or declaration or other equitable or statutory remedy against the other Party or other person where the claimant believes such order or relief is necessary for the urgent protection of rights or property.

16. GENERAL PROVISIONS

- 16.1. **Warranty of authority:** Each Party represents and warrants to the other that it has and will at all times maintain all necessary right, power and authority to enter into and perform its obligations under and in accordance with this Agreement.
- 16.2. **Variation:** No variation to this Agreement will be effective unless it is in writing and signed by both Parties.
- 16.3. **Assignment:** The Customer shall not assign or transfer this Agreement, or any rights or obligations under this Agreement, without the prior written consent of Farmlands. For the purposes of this clause a change in the effective control of the Customer will be deemed to be an assignment by the Customer. For the avoidance of doubt, a change in the legal or beneficial ownership of the Customer of 50% or more from the date of this Agreement will constitute a change in effective control and will be deemed to be an assignment by the Customer.
- 16.4. **No partnership:** Nothing in this Agreement is intended to make either Party a joint venture, partner, agent or fiduciary of the other Party. Neither Party has the authority to act or assume any obligation or liability on behalf of the other Party, or to use or refer to the other Party's brand without its prior written consent.
- 16.5. **Entire Agreement:** This Agreement including the Schedules constitutes the entire agreement between the Parties in relation to its subject matter and replaces and supersedes all earlier arrangements and agreements, whether oral or written, between the Parties relating to such matters.
- 16.6. **Severing unlawful terms:** If any part of this Agreement is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination will not impair the enforceability of the remaining parts of this Agreement.
- 16.7. **No waiver:** Except where a Party has signed an express written waiver of a right under this Agreement, no failure, delay or indulgence by either Party in exercising any power or right conferred on that Party by this Agreement will operate as a waiver of that power or right. A written waiver applies only to the right and on the occasion specified in it.
- 16.8. **Further Assurances:** Each Party agrees to execute and deliver any documents and to do all things as may reasonably be required by the other Party to obtain the full benefit of this Agreement according to its intent.
- 16.9. **Costs:** Except as otherwise provided in this Agreement, the Parties will meet their own costs relating to the negotiation, preparation and completion of this Agreement.
- 16.10. **Counterparts:** This Agreement may be executed in any number of counterparts (including facsimile and scanned PDF counterparts). Once the Parties have executed the counterparts, and each Party has received a copy of each signed counterpart which that Party did not execute, each counterpart shall be deemed to be as valid and binding on the Party executing it as if it had been executed by all the Parties.
- 16.11. **Governing Law:** This Agreement will be governed by and construed in accordance with New Zealand law. Both Parties submit to the non-exclusive jurisdiction of the New Zealand courts for any proceedings arising in connection with this Agreement.
- 16.12. **United Nations Convention:** The United Nations Convention on Contracts for the International Sale of Goods of Vienna, 11th April 1980, shall not apply to this Agreement.
- 16.13. **Privacy Act:** If the Customer does not pay any money owed to Farmlands on its due date, Farmlands may give information that it holds about the Customer to its debt collector for the purposes of collection. Farmlands may also use any information the Customer has given to it or that it obtains by reason of this Agreement, including details of this Agreement, for any of Farmlands' business purposes or objectives. Where the Customer is an individual, the Customer has a right of access to and is permitted to request the correction of any personal information Farmlands holds about the Customer.