

TERMS AND CONDITIONS – 7 day account

1 General

The whole of the Agreement between Tamarix Poultry Farm Pty Ltd ABN 26 130 612 021 ("Tamarix") and the Applicant referred to in the Credit Application ("Customer") are those set out in these Terms and Conditions as amended from time to time and those, if any, which are implied and which cannot be excluded by law ("Terms"). Any other contractual terms of the Customer (whether upon the Customer's order or elsewhere) which are contrary to or inconsistent with these Terms shall not apply nor shall they constitute a counter-offer. By receiving delivery and/or supply of all or a portion of the goods, materials and/or parts and/or labour and/or services supplied by Tamarix under these Terms ("Goods"), the Customer shall be deemed to have accepted these Terms and to have agreed that they shall apply to the exclusion of all others.

2 Credit Terms

- 2.1 Payment is due on or prior to seven (7) days after the day of receiving the invoice in respect of the supply of the Goods was rendered unless otherwise stated in writing by Tamarix. Tamarix may charge liquidated damages at a rate equivalent to two percent (2%) in excess of the rate of interest for the time being fixed under Section 2 of the *Penalty Interest Rates Act 1983* (Vic) if payment is not received by the due date.
- 2.2 Tamarix's express or implied approval for extending credit to the Customer may be revoked or withdrawn by Tamarix at any time.
- 2.3 Tamarix is entitled to set-off against any money owing to the Customer amounts owed to Tamarix by the Customer on any account whatsoever.
- 2.4 Any payments received from the Customer on overdue accounts will be applied first to satisfy interest which may have accrued, second to reasonable expenses and legal costs referred to in Clause 2.5, and then to principal.
- 2.5 The Customer is liable for all reasonable expenses (including contingent expenses such as debt collection commission) and legal costs (on a full indemnity basis) incurred by Tamarix for enforcement of obligations and recovery of monies due from the Customer to Tamarix.

3 Pricing

- 3.1 If Tamarix has not specified the price to be charged to the Customer at the time that the Customer places its order, the price charged to the Customer shall be the price ruling as at the date of delivery. The Customer acknowledges that Tamarix's prices are subject to alteration from time to time.
- 3.2 Unless otherwise specified by Tamarix, the prices exclude:-
 - 3.2.1 Any statutory tax, including any GST, duty or impost levied in respect of the Goods and which has not been allowed for by Tamarix in calculating the price.
 - 3.2.2 Costs and charges in relation to insurance, packing (other than the standard packing of Tamarix), crating, delivery (whether by road, rail, ship or air) and export of the Goods.

4 Delivery and Supply

- 4.1 Tamarix reserves the right to stop supply at any time if the Customer fails to comply with the Terms.
- 4.2 Tamarix may refuse to supply any order by the Customer for Goods in its absolute discretion and may make the supply conditional upon Tamarix receiving a satisfactory credit assessment of the Customer.
- 4.3 If the Customer directs that delivery of the Goods be staggered over different times or to different addresses from those specified in the Credit Application, then the Customer:-
 - 4.3.1 shall be liable for any additional cost, charge and expense incurred by Tamarix in complying with the Customer's direction; and
 - 4.3.2 shall pay for the whole of the invoiced value of the Goods pursuant to Clause 2 notwithstanding the staggered deliveries.
 - 4.3.3 Such action shall be deemed to be delivery to the Customer.
- 4.4 If the Customer is unable or fails to accept delivery of the Goods, Tamarix may deliver it to a place determined by Tamarix. Such action shall be deemed to be delivery to the Customer. The Customer shall be liable for all cost, charge and expense incurred by Tamarix on account of double cartage/delivery or similar causes.

5 Freight

Subject to Clause 3.2 and unless otherwise agreed, Tamarix will ship by the least expensive route and carrier to all points. If the purchaser chooses a route with a higher charge than the route of Tamarix's choice for shipment, Tamarix will charge the difference to the Customer.

6 Cancellations and Claims

- 6.1 No cancellations or partial cancellation of an order by the Customer shall be accepted by Tamarix unless it has first consented in writing to such cancellation or partial cancellation and unless a cancellation charge has been paid which, as determined by Tamarix, will indemnify Tamarix against all loss, without limitation.
- 6.2 All complaints, claims, or notification of lost Goods, Goods damaged in transit or Goods that do not comply with the Customer's purchase order must be submitted by the Customer to Tamarix in writing within seven (7) business days of the date of the invoice rendered for the supply of the Goods. Otherwise, the Customer shall be deemed to have accepted the Goods and shall not refuse to pay for the Goods on the basis that they were lost, damaged in transit, or do not comply with the Customer's purchase order.

7 Privacy Act 1988 (Cth) ("Privacy Act")

To enable Tamarix to assess the Customer's application for credit, the Customer authorises Tamarix:-

- 7.1 To obtain from a credit reporting agency a consumer or commercial credit report containing personal information about the Customer and its guarantors pursuant to Section 18K(1) of the *Privacy Act*; and
- 7.2 To obtain a report from a credit reporting agency and other information in relation to the Customer's commercial credit activities; and
- 7.3 To give to a credit reporting agency information including identity particulars and application details

AND in accordance with Section 18N(1) of the *Privacy Act* the Customer authorises Tamarix to give to and obtain from any credit provider named in the accompanying credit application and credit providers that may be named in a credit report issued by a credit reporting agency information about the Customer's credit arrangements. The Customer understands that this information can include any information about its credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the *Privacy Act*.

The Customer understands that information can be used for the purposes of assessing its application for credit (Section 18L(4) of the *Privacy Act*), assisting it to avoid defaulting on its credit obligations, assessing its credit worthiness and notifying other credit providers and credit reporting agencies of a default by it under these Terms.

8 Notification

The Customer must notify Tamarix in writing within seven (7) days of:-

- 8.1 Any alteration of the name or ownership of the Customer.
- 8.2 The issue of any legal proceedings against the Customer.
- 8.3 The appointment of any provisional liquidator, liquidator, receiver, receiver manager or administrator to the Customer.
- 8.4 Any change in the ownership of the business name of the Customer. The Customer agrees that it shall be liable to Tamarix for all Goods supplied to the new owner by Tamarix until notice of any such change is received.

9 Warranties

No warranties except those implied and that by law cannot be excluded are given by Tamarix in respect of Goods supplied. Where it is lawful to do so, the liability of Tamarix for a breach of a condition or warranty is limited to the replacement of the Goods, or the payment of the cost of replacing the Goods, as determined by Tamarix.

10 Force Majeure

Tamarix shall be released from its obligations in the event of national emergency, war, prohibitive governmental regulation or if any other cause beyond the control of the parties renders provision of the Goods impossible, where all money due to Tamarix shall be paid immediately and, unless prohibited by law, Tamarix may elect to terminate the Agreement.

11 Equitable Charge

The Customer as beneficial owner and/or registered proprietor now charges in favour of Tamarix all of the Customer's estate and interest in any real property (including but not limited to any applicable land owned by the Customer named or described as the Customer's Street Address in the Credit Application if applicable) ("Land") to secure payment of accounts rendered by Tamarix to the Customer for the delivery and/or supply of the Goods including interest payable on these accounts and costs (including legal costs on a full indemnity basis) incurred by Tamarix and including the costs to prepare and lodge a Caveat against the Land and to remove the Caveat.

12 Failure to Act

Tamarix's failure to enforce or insist upon the timely performance of any term, condition, covenant or provision in these Terms, or Tamarix's failure to exercise any right or remedy available under these Terms or at law, or Tamarix's failure to insist upon timely payment of monies when due or to demand payment of any charges or fees which accrue or any extension of creditor forbearance under these Terms shall not constitute a waiver of any subsequent default or a waiver of Tamarix's right to demand timely payment of future obligations or strict compliance with the Terms.

13 Legal Construction

- 13.1 These Terms shall be governed by and interpreted according to the laws of Victoria and Tamarix and the Customer consent and submit to the jurisdiction of the Courts of Victoria.
- 13.2 Notwithstanding that any provision of the Terms may prove to be illegal or unenforceable pursuant to any statute or rule of law or for any other reason that provision is deemed omitted without affecting the legality of the remaining provisions and the remaining provisions of the Terms shall continue in full force and effect.