

The following terms will be incorporated into each contract entered into between the Customer, the Customer's Guarantor(s) and MVS EquiBreed for the supply of all Goods and/or Services.

1. DEFINITIONS

- 1.1 **Customer** means any person or entity ordering and/or purchasing Goods and/or Services from EquiBreed and includes all of the Customer's employees and agents.
- 1.2 **EquiBreed** means MVS EquiBreed.
- 1.3 **Goods** means all goods supplied or to be supplied by EquiBreed to the Customer.
- 1.4 **Price** means the price for the supply of the Goods and/or Services by EquiBreed to the Customer, as determined by EquiBreed from time to time or as otherwise agreed in writing between the Customer and EquiBreed.
- 1.5 **Services** means all services provided or to be provided by EquiBreed to the Customer.
- 1.6 **Terms of Trade** means these Terms and Conditions of Trade as amended by EquiBreed from time to time.

2. ACCEPTANCE

- 2.1 The Customer agrees be bound by these Terms of Trade in respect of the supply of all Goods and/or Services and agrees that these Terms of Trade shall apply irrespective of whether, and the extent to which, any Goods and/or Services are provided by EquiBreed, directly or indirectly.
- 2.2 EquiBreed reserves the right, at any time and in its sole discretion, to refuse to supply or cease to supply the Customer with any Goods and/or Services without giving reasons for such refusal.

3. PRICING & PAYMENT

- 3.1 The Customer acknowledges that the Price shall at all times be exclusive of GST (unless otherwise expressly stated by EquiBreed in writing) and the Customer agrees to pay any GST on the Price. The Customer shall pay the Price to EquiBreed without deduction or set off.
- 3.2 Prior to supplying any Goods and/or Services to the Customer, EquiBreed may, at its sole discretion, require:
 - (a) the payment of the full Price; or
 - (b) a deposit as part payment of the Price;and the Customer agrees to pay the same to EquiBreed prior to the supply of the Goods and/or Services without deduction or set off.
- 3.3 EquiBreed shall issue invoices for the supply of the Goods and/or Services which sets out the Price or part of the Price payable by the Customer.
- 3.4 Unless otherwise specified in these Terms of Trade, payment of each invoice must be satisfied on or before:
 - (a) the 7th day after the date of the invoice;
 - (b) where the invoice relates to any semen collection, supply or storage Services, the date that such semen is removed from EquiBreed's premises; or
 - (c) where the invoice relates to any Goods and/or Services provided in respect of any animal, the date that such animal is removed from EquiBreed's premises; whichever is the earlier (Due Date).

4. CREDIT ACCOUNT

- 4.1 EquiBreed may, at its sole discretion, extend credit to a Customer for the supply of Goods and/or Services on a case by case basis. Where such credit is extended to the Customer, EquiBreed may impose a credit limit (**Credit Limit**) at its sole discretion for the Customer's account from time to time, and may alter the credit limit without notice. If the Credit Limit is exceeded by the Customer, EquiBreed may refuse to supply any further Goods and/or Services to the Customer or only continue to supply on a cash up front basis. The Customer acknowledges that

staying within the Credit Limit is the Customers sole responsibility and EquiBreed accepts no responsibility for any account going into excess of the Credit Limit.

- 4.2 In accordance with the Privacy Act 2020 and EquiBreed's Privacy Policy, the Customer and any guarantor of the Customer hereby authorises EquiBreed to:
- (a) conduct all credit checks, make enquiries, collect all and any information from and disclose such information to third parties, and undertake any searches in relation to the Customer's credit, financial and business affairs and history as is reasonably required to assess the Customer's credit position and as otherwise deemed necessary by EquiBreed from time to time; and
 - (b) contact third parties to disclose to EquiBreed such information as EquiBreed may reasonably require from time to time in respect of the above authorisation.
- 4.3 EquiBreed reserves the right to keep the creditworthiness of the Customer under review at all times. If EquiBreed deems the credit of the Customer to be unsatisfactory, or forms the view that any current or future payments may be at risk under any relevant insolvency regime, EquiBreed may require security for such payment and the Customer will make such security available in accordance with clause 10 of these Terms of Trade.

5. INTEREST AND COSTS

- 5.1 Without prejudice to EquiBreed's other rights and remedies under these Terms of Trade or at law, EquiBreed may (at EquiBreed's discretion) take any one or more of the following actions:
- (a) if the Customer fails to pay any invoice by the Due Date, charge interest on all overdue accounts at the rate of 1.5% per month calculated on a daily basis from the Due Date until it is received in full by EquiBreed. Any interest will form an integral part of the overdue debt and any payments received by EquiBreed may be applied firstly against the interest;
 - (b) if at any time during any month the Customer's account is in excess of the Customer's Credit Limit, charge the Customer a default administration fee for that month in which the excess occurred, of the greater of 10% of the excess (highest amount during that month, less the Customer's Credit Limit) or \$50.00; and/or
 - (c) seek reimbursement from the Customer for any costs, charges and expenses (including debt collection and legal costs as between solicitor and client) incurred by EquiBreed or any third party in consequence of, or in connection with, any default or any breach of these Terms of Trade by the Customer including, without limitation, the enforcement by EquiBreed of any power, right or remedy conferred upon EquiBreed by law or by these Terms of Trade.

6. SERVICES AT EQUIBREED'S PREMISES

- 6.1 Where any of the Customer's animals are present at EquiBreed's premises for the purpose of the provision of any Goods and/or Services, the Customer acknowledges and agrees such animals are so present at the Customer's sole risk and all obligations in respect of the animals' safety, care and welfare will be the sole responsibility of the Customer. It shall be the sole responsibility of the Customer to insure all animals present at EquiBreed's premises.
- 6.2 Where reasonably required as part of the Goods and/or Services provided by EquiBreed, the Customer authorises EquiBreed to drench and provide any farrier, agistment or other reasonably required veterinary services in respect of any of the Customer's animals, at the Customer's sole cost.
- 6.3 All animals arriving at EquiBreed's premises shall be subject, at EquiBreed's sole discretion, to:
- (a) the collection of a faecal sample for the purposes of laboratory assessment of faecal egg count and management of the animal's worm burden during its residence at EquiBreed's premises;
 - (b) the collection of a nasal swab sample where EquiBreed considers the animal exhibits any nasal discharge on arrival, or at any time during residence at EquiBreed's premises;
 - (c) a second opinion from an independent veterinary service provider as to the health, diagnostic and treatment plan for the Customer's animal if deemed necessary by EquiBreed

All costs associated with the collection, processing, veterinary services and diagnosis of any samples by EquiBreed or its agents for any purpose shall be invoiced to the Customer and are payable in accordance with clause 3.

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7. SEMEN AND EMBRYO STORAGE

- 7.1 Where any embryo, semen and/or semen storage container is being stored by EquiBreed as part of the Services provided to the Customer, such storage is accepted at the Customer's sole risk. The Customer shall at all times bear the sole risk of any loss, theft and/or damage to any embryo, semen and/or containers stored by EquiBreed at EquiBreed's embryo and semen storage facility and the Customer shall be solely responsible for insuring all embryos and semen stored by EquiBreed.
- 7.2 The Customer's "sole risk" in clause 7.1 means the receipt, custody and delivery of the embryo, semen and/or semen storage container and any handling thereof is undertaken by EquiBreed on the basis that the Customer carries the full risk of liability, with no recourse back to EquiBreed. The Customer agrees and acknowledges this risk and agrees to arrange all insurance in relation to the storage of all embryos, semen and/or semen storage containers.

8. SEMEN AND EMBRYO DISPATCH

- 8.1 Prior to any embryo and/or semen being dispatched from EquiBreed's storage facility, the Customer must complete and execute a "Semen Request Form" and/or "Embryo Request Form" (as produced by EquiBreed from time to time) and EquiBreed must be entirely satisfied with the Customer's completion and execution of such form.
- 8.2 All costs associated with each embryo and/or semen dispatch will be invoiced by EquiBreed and must be paid in full by the Customer prior to the semen and/or embryo being dispatched from EquiBreed's storage facility.
- 8.3 EquiBreed shall in no way be liable to the Customer for any loss or theft of, damage to, or defect found in, any embryo, semen and/or semen containers dispatched once such embryo, semen and/or semen containers leave EquiBreed's storage facility.
- 8.4 Where any Embryo Request Form is submitted by the Customer, and the Customer has requested that an embryo is to be transferred to a third party facility to undertake any in vitro fertilisation and or embryo transfer services, the Customer agrees that EquiBreed shall undertake all thawing services in relation to the embryo before the embryo is sent to the third party. EquiBreed shall provide the third party with transfer protocol to be followed when transferring the thawed embryo. EquiBreed provides no representation or warranty of any sort whether express or implied as to the viability of the thawed embryo.

9. SEMEN AND EMBRYO DISPOSAL

- 9.1 Without limiting clause 5.1, where EquiBreed is or has been storing any embryo and/or semen for the Customer and the storage fees invoiced to the Customer by EquiBreed remains unpaid for more than 30 days from the date of the relevant invoice, EquiBreed reserves the right to sell, gift, destroy or otherwise dispose (**Dispose**) of such embryo and/or semen by whatever means it considers appropriate, with the net realised value of the embryo and/or semen Disposed of (if any) to be set-off against any monies owing by the Customer to EquiBreed and any balance being retained by EquiBreed.
- 9.2 The Customer indemnifies EquiBreed against all liabilities, costs, claims or demands arising out of or flowing from EquiBreed exercising the right of Disposal conferred upon it by clause 9.1.
- 9.3 EquiBreed may without notice to the Customer, destroy or otherwise dispose of any embryo and/or semen held or stored by EquiBreed where EquiBreed considers in EquiBreed's absolute discretion that:
 - (a) any container, straw or other vessel in which the embryo or semen is held is damaged;
 - (b) the embryo or semen presents a risk or possible risk of escape or contamination;
 - (c) the embryo, semen or any container, straw or other vessel in which the embryo or semen is held is, or may be, in breach of, or is likely to be in breach of, any relevant quarantine rule or procedure imposed by EquiBreed or any other competent authority including but not limited to the Ministry for Primary Industries or an identified studbook; or
 - (d) the thawed Embryo or semen does not meet EquiBreed's quality control standards.

10. IVF AND SURROGATE SERVICES

- 10.1 Where EquiBreed provides to the Customer any in vitro fertilization (**IVF**) or embryo transfer (**ET**) and surrogate services, EquiBreed acknowledges that it does not use any genetic engineering or modification practices in relation to IVF or ET services.
- 10.2 The Customer acknowledges and agrees to the following with regard to the IVF and ET services:

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- (a) Where surrogate animals are not owned by EquiBreed (**Third Party Surrogate**) the Customer shall ensure that there is an agreement between the Third Party Surrogate owner and the Customer in relation to the

Services to be undertaken. EquiBreed shall not be required to make any enquires in relation to whether there is such agreement in place between the Third Party Surrogate and the Customer.

- (b) Where surrogate animals are owned by EquiBreed (**EquiBreed Surrogate**) the EquiBreed Surrogate shall at all times remain the property of EquiBreed. The Customer acknowledges that it is in the possession of the EquiBreed Surrogate solely as bailee for EquiBreed and shall not be entitled to sell, lease or otherwise dispose of possession of the EquiBreed Surrogate to any third party.
- (c) The Customer agrees to pay a bond in an amount determined by EquiBreed before the EquiBreed Surrogate leaves EquiBreed's premises.
- (d) The Customer shall at all times be responsible for the EquiBreed Surrogate's welfare and the Customer shall ensure that at all times from the date the EquiBreed Surrogate leaves EquiBreed's premises to the date it is returned following weaning of the foal, that:
 - (i) the EquiBreed Surrogate remains healthy and disease free and is returned in good condition including with feet trimmed by a farrier, body condition score of >3/5 and evidence from the Customer of vaccination and drench status; and
 - (ii) the Customer shall be responsible for all costs relating to the EquiBreed Surrogate's health and wellbeing including but not limited to veterinary services.
- (e) Where the EquiBreed Surrogate requires any veterinary services while in the Customer's care, the Customer shall notify EquiBreed of the services required. The Customer shall at no time euthanise the EquiBreed Surrogate without EquiBreed's prior written consent. Where EquiBreed provides consent for an EquiBreed Surrogate to be euthanised, the Customer must ensure that (unless, agreed otherwise by EquiBreed), that the EquiBreed Surrogate is euthanised by a veterinarian and a certificate provided to EquiBreed from the veterinarian who undertook the service. For the avoidance of doubt, all veterinary services are required to be paid by the Customer.
- (f) The Customer shall immediately notify EquiBreed of any health or other issues arising in respect of the EquiBreed Surrogate.
- (g) In the event that the requirements of clause 10.1 have not been met or a EquiBreed Surrogate requires any veterinary services on its return to EquiBreed following weaning of the foal, which in EquiBreed's reasonable opinion are required as a result of any act or omission of the Customer, EquiBreed shall retain the bond paid pursuant to clause 10.1(c) and the Customer shall be responsible for all additional costs and any veterinary services and shall pay such costs on invoice from EquiBreed in accordance with clause 3.
- (h) The Customer shall ensure that the EquiBreed Surrogate shall remain free of any security interest, charge, lien or encumbrance during such time as it is in the possession of the Customer.
- (i) Unless otherwise notified by EquiBreed and without limiting clause 13, EquiBreed provides no representation or warranty as to the results to be achieved from any ET, IVF or surrogate services provided by EquiBreed including but not limited to a successful pregnancy, quality of any foal such as size, health, conformation, ability, or anything in relation to the foal whatsoever.
- (j) EquiBreed guarantees pregnancy up to 42 days in EquiBreed Surrogates located at EquiBreed's premises only. After the 42 days gestation period the Customer shall be responsible for obtaining and holding foetal insurance. Where the Customer removes the EquiBreed Surrogate from EquiBreed's premises any guarantee provided by EquiBreed under this clause is waived. EquiBreed does not guarantee pregnancy in Third Party Surrogates or any surrogates other than EquiBreed Surrogates.

11. OWNERSHIP

- 11.1 EquiBreed retains ownership in all Goods including pregnancies and/or resulting foals until the Customer has paid the full Price for the Goods and/or Services and all other monies owing by the Customer to EquiBreed.
- 11.2 The Customer grants EquiBreed and its servants or agents an irrevocable and perpetual licence to enter into any premises under the ownership or control of the Customer for the purposes of repossessing any Goods not paid for in full by the Due Date.

11.3 The Customer acknowledges that it is in possession of any Goods as bailee for EquiBreed until full payment for all Good and/or Services has been received. The Customer will hold the proceeds of sale of all Goods that have not yet been paid for in trust for EquiBreed.

11.4 Without limiting any other remedy of EquiBreed (whether in these Terms of Trade or otherwise), EquiBreed shall be entitled to a lien over all animals located at EquiBreed's premises to which Services are provided in respect of and/or all semen collected or stored by EquiBreed for any amounts outstanding from the Customer and further EquiBreed shall have the power to sell such animals or semen over which such a lien is taken to recover the amounts outstanding should the same not be paid in full within 30 days of the date of the relevant invoice. For this purpose, the Customer appoints EquiBreed as its attorney with the power to sell the animal or semen if such amounts remain unpaid.

12. PERSONAL PROPERTY SECURITIES ACT 1999

12.1 Notwithstanding anything in clause 7, the parties acknowledge that the Customer grants EquiBreed security interests over:

- (a) all the Goods delivered to the Customer; and
- (b) all the Customer's present and after acquired property, being all the Customer's personal property and all other property.

12.2 The Customer agrees to:

- (a) protect EquiBreed's retention of title provisions as provided in clause 10.2(e);
- (b) if required by EquiBreed, cooperate in good faith with EquiBreed to execute the documentation required to register any security interest in favour of EquiBreed on the Personal Property Securities Register and protect EquiBreed's interest in the Goods and/or Services supplied; and
- (c) waive any right to receive a copy of the verification statement, pursuant to s148 of the Personal Property Securities Act 1999.

13. WARRANTIES AND GUARANTEES

13.1 The Customer accepts that equine farming carries inherent risks and variables that are outside the control of EquiBreed and which may affect the results achieved through use of EquiBreed Goods and/or Services. EquiBreed does not give, and its employees, servants and agents do not have the authority to give, any representation or warranty of any sort, whether express or implied, as to the results and/or performance to be achieved or expected from Goods and/or Services supplied by EquiBreed.

13.2 Without limiting clause 13.1, in providing the Goods and/or Services, EquiBreed provides no representation or warranty as to the fertility of any animal, semen, embryo, oocyte or gamete.

13.3 Where the supply of Goods and/or Services under these Terms of Trade is to a Customer that is a business or in trade (**Business User**) then:

- (a) the statutory guarantees contained in the Consumer Guarantees Act 1993 are excluded to the fullest extent permitted by law; and
- (b) where it is reasonable in the circumstances, EquiBreed's obligations in sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 are excluded to the fullest extent permissible by law.

13.4 Notwithstanding anything in these Terms of Trade to the contrary, where the Customer is a consumer and not a Business User, such Goods and/or Services are subject to the Consumer Guarantees Act 1993 and/or Fair Trading Act 1986. Where the Customer is a consumer their rights under this clause 13.4 are not affected by clause 14, including EquiBreed's limitations of liability set out in that clause (**Consumer Rights**). The Customer may have other rights in addition to Consumer Rights, however such other rights are, to the extent permitted by applicable law, subject to the limitations of liability set out clause 14 (**Other Rights**).

13.5 The Customer will indemnify and hold harmless EquiBreed from any liability arising from the Customer on-selling any Goods for a business purpose where the Customer fails to exclude the application of the Consumer Guarantees Act to such transaction.

14. LIMITATION OF LIABILITY

14.1 In respect of Business Users and in respect of Other Rights the Customer may have, EquiBreed shall not be liable for any loss, damage, injury or claim of any kind (including loss of profit, loss of bargain, loss of business opportunity, direct, indirect, consequential or special loss or damage) however caused (whether arising in contract, breach of contract, pre- contractual misrepresentation or other dispute arising out of these Terms of Trade, tort (including negligence), statute or otherwise) suffered by or made against the Customer, any third party or any animal and arising in connection with or flowing from any Good and/or Service supplied (including a total or partial supply failure or performance impairment) by EquiBreed.

14.2 Notwithstanding clause 14.1, in the event that EquiBreed is found to be liable for any loss, damage, injury or claim of any kind, then the liability of EquiBreed, whether arising in contract, tort (including negligence), statute or otherwise in any other circumstances whatsoever including in connection with Goods and/or Services supplied, shall not in any event exceed the net Price paid by the Customer in respect of the relevant Goods and/or Services or, at the sole discretion of EquiBreed, the replacement of such Goods and/or re-supply of such Services. In no circumstances whatsoever shall EquiBreed be liable to the Customer for any loss of profit, loss of bargain, loss of business opportunity, consequential, incidental or special loss or damage.

15. INDEMNITY

15.1 Where the Customer is a Business User the Customer indemnifies EquiBreed in respect of all liabilities, costs (including but not limited to full costs of any fees between solicitor and client or debt collection agency fees) claims, demands, disbursements and other expenses incurred by EquiBreed, arising out of or incidental to a breach of this contract or default, act or omission by the Customer.

16. CANCELLATION

16.1 Orders for any Goods and/or Services placed with EquiBreed by the Customer cannot be cancelled without the written approval of EquiBreed. In the event that EquiBreed accepts the cancellation of any order placed, it shall be entitled to charge a reasonable fee for any work done or expenditure incurred on behalf of EquiBreed to the date of the cancellation in reliance on the order, including a fee for the processing and acceptance of the Customer's order and request for cancellation.

16.2 EquiBreed may cancel an order for Goods and/or Services at any time by EquiBreed giving the Customer written notice. The Customer shall indemnify EquiBreed against all claims and loss of any kind whatsoever however caused or arising as a result of this clause, brought by any person in connection with any cancellation by EquiBreed, its agents or employees in connection with the cancelled Goods and/or Services.

17. FORCE MAJURE

17.1 EquiBreed will not be liable for any delay or failure in the performance of any of the obligations imposed by these Terms of Trade, provided that such failure is occasioned beyond the reasonable control and without the fault or negligence of EquiBreed.

18. TERMINATION

18.1 If the Customer fails to pay any monies owing by the Due Date or in EquiBreed's opinion breaches these Terms of Trade in any other way whatsoever, commits any act of bankruptcy, or being a company does any act, which would render it liable to be wound up or has a receiver appointed over its property, EquiBreed may (without prejudice to any other remedies available to it immediately suspend or terminate these Terms of Trade. The proportion Prices owing in respect of all Goods and/or Services will immediately fall due and payable (irrespective of whether the time for such payment is not yet due). In the event the Customer is declared bankrupt or insolvent they must notify EquiBreed immediately.

19. DISPUTE RESOLUTION

19.1 In the event of any dispute between the parties in relation to these Terms of Trade (but excluding a dispute relating to payment of monies due) the parties will first seek to resolve such dispute by promptly giving notice to the other party and will co-operatively endeavor to resolve the dispute. If the dispute remains unresolved the parties will first

seek a resolution through the use of mediation or other informal method of resolution before pursuing arbitration or resolution through the Courts.

20. NOTICES

20.1 Every notice given under these Terms of Trade will be sufficiently given if delivered personally, posted or successfully transmitted by fax to the intended recipient at his/her or its last known address or facsimile number.

21. INDIVIDUAL LIABILITY AND GUARANTEES

21.1 Where the Customer comprises more than one person carrying on business in partnership, each and every individual partner will be jointly and severally liable to EquiBreed in respect of all or any indebtedness or liability of the Customer arising out of these Terms of Trade.

21.2 Where the Customer is a limited liability company or other corporation, trust or partnership, in consideration for EquiBreed supplying any Goods and/or Services to the Customer, the director(s), trustee(s) or partner(s) who at any time sign their agreement to bind the limited liability company or other corporation, trust or partnership to these Terms of Trade also sign in their personal capacity as a guarantors interposing and binding themselves as sureties and co-principal debtors with the Customer, jointly and severally, for the due and principal payment of all monies and performance of all obligations due by the Customer arising out of these Terms of Trade.

22. VARIATIONS

22.1 **Without notice:** EquiBreed may amend these Terms and Conditions without the Customer's consent if EquiBreed considers that the amendment:

- (a) is minor;
- (b) is to correct an error;
- (c) is required to comply with any law or regulatory directive; or
- (d) will not have a material adverse effect on you.

22.2 **Other amendments:** All other changes to these Terms of Trade will be notified to the Customer by email or other electronic means. If the Customer does not provide notice of rejection of the new Terms of Trade to EquiBreed within 30 days of the date of notification, then the Customer agrees to be bound by, on a continuing basis by the amended Terms of Trade. If the Customer notifies EquiBreed within 30 days of being notified of the changes to the Terms of Trade that the Customer does not accept the amended Terms of Trade, the Customer shall continue to be bound, on a continuing basis, by the Terms of Trade in force immediately prior to the date of notification. If, following such notice to the Customer, the Customer at any time orders, uses or otherwise comes into possession of any Goods and/or Services produced, supplied or sold by EquiBreed, the Customer shall be bound, on a continuing basis to EquiBreed then current Terms of Trade.

ONLINE PAYMENT TERMS AND WEBSITE TERMS OF USE

These online purchase terms and website terms of use (**Terms**) apply to the use of MVS EquiBreed's (**EquiBreed**) website at www.equibreed.co.nz/ (**Website**) and purchase of products sold by EquiBreed on the Website (**Goods**). These Terms constitute a contract between you and MVS EquiBreed. By proceeding you accept these Terms.

Please note that the Terms may be altered or added to by EquiBreed at any time that EquiBreed determines necessary, with or without notice. Please, therefore, ensure that you read the Terms carefully on each occasion that you use the Services. It is strongly recommended that you take and retain a copy of the transaction for record keeping purposes.

1. WARNINGS

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- 1.1 You must ensure that your access to the Website is not illegal or prohibited by laws which apply to you. You agree to comply with all applicable laws when viewing the Website and dealing with EquiBreed.
- 1.2 You must take your own precautions to ensure that the process which you employ for accessing the Website does not expose you to the risk of viruses, malicious computer code or other forms of interference which may damage your own computer system. For the avoidance of doubt, EquiBreed do not warrant that the Website, or any linked site, are free of viruses, malicious computer code or other interference. EquiBreed do not accept responsibility for interference or damage to your computer system which arises in connection with your use of the Website or any linked site. EquiBreed do not warrant that the Website will be always available, free from errors, malfunctions, or other failures. The Website may be temporarily suspended from time to time for maintenance.
- 1.3 Payments through the Website are made through a secure third party website and or through a third party alternative payment provider. However, you acknowledge and agree that Internet transmissions cannot be guaranteed to be entirely secure or private and any information provided by you (including credit card information) may be able to be read and/or intercepted by a third party. EquiBreed shall have no liability for the interception and/or 'hacking' of any data or other unauthorised access to information provided by you.
- 1.4 Unfortunately, no data transmission over the internet can be guaranteed as totally secure. Whilst EquiBreed will use reasonable endeavours to protect such information, EquiBreed do not warrant and cannot ensure the security of any information which you transmit to EquiBreed. Accordingly, any information that is transmitted to EquiBreed, including payment information is transmitted at your own risk. Nevertheless, once EquiBreed receive your transmission, EquiBreed will use reasonable endeavours to preserve the security of such information.

2. DISCLAIMER

- 2.1 Any information contained on the Website is for general information purposes only, and is not tailored to your specific needs or requirements. EquiBreed may update the content of the Website, including without limitation, product availability or pricing, at any time.
- 2.2 EquiBreed do not accept liability for any loss, damage, however caused (including through negligence) which you may directly or indirectly suffer in connection with your use of the Website or any linked website, nor do EquiBreed accept any liability for any such loss arising out of your use of or reliance on information contained on or accessed through the Website. EquiBreed encourage you to review the applicable terms of use of any linked website.

3. YOUR WARRANTIES

- 3.1 You warrant that:
- (a) you will not in any way damage or disrupt the Website;
 - (b) you will not use the Website or any material supplied by EquiBreed for any unauthorised or unlawful purpose;
 - (c) you are aged 18 or over; and
 - (d) you have the appropriate authority to validly accept the Terms and are able to and will meet your obligations in relation to these Terms.
 - (e) the credit card used in connection with the purchase of Goods from the Website is issued in your name.
 - (f) you will pay the credit card issuer all charges incurred for the purchase of Goods; and
 - (g) the information supplied by you is true and correct.

4. PRICE AND PAYMENT

- 4.1 EquiBreed agrees to supply, and you agree to purchase, the Goods displayed in your online shopping cart at the time of checkout, for the confirmed final purchase price displayed at the time of checkout including delivery (**Price**).
- 4.2 You agree that the Price shall at all times be:
- (a) in New Zealand dollars and include GST (15%).
 - (b) made by using only Visa, MasterCard credit cards, account to account payment options or such other payment method as agreed by EquiBreed from time to time.
 - (c) Inclusive of delivery, as confirmed by you at the time of checkout.
- 4.3 EquiBreed may contact you to confirm your credit card details.
- 4.4 Upon completing a transaction for the purchase of Goods, you will be presented with a confirmation screen verifying the transaction details you wish to process. It is your responsibility to verify that all transaction information and other details are correct.
- 4.5 EquiBreed shall have no liability for transactions which are incorrect as a result of inaccurate data entry in the course of the use of the Services or for loss of data or information caused by factors beyond EquiBreed control.
- 4.6 Once a payment has been made it cannot be cancelled.
- 4.7 EquiBreed accepts no responsibility for refusal or reversal of payments, which shall be a matter between you and your credit card issuer.

5. PROVISION/COLLECTION OF INFORMATION

- 5.1 You acknowledge that the credit card information supplied by you in relation to the payment of the Price is processed through a secure third party website. The only information supplied to MVS EquiBreed via the third party website is:

- (a) The name of the payer.
- (b) The first 4 and last 3 digits of the credit card (for validation purposes).
- (c) The payment amount.

5.2 By paying the price you agree:

- (a) To provide information through electronic means, i.e. you agree to provide any relevant information, in the format and to the standards described for each transaction.
- (b) That the information supplied by you will be retained in electronic form.
- (c) To receive information through electronic means.
- (d) Agree to the terms and conditions.

5.3 You hereby authorise EquiBreed to collect information about you (including information about transactions processed by you) from time to time through your use of the Website. Any such information collected in accordance with the Privacy Act 2020 and EquiBreed's Privacy Policy.

6. EXCLUSION/LIMITATION OF EQUIBREED LIABILITY

6.1 Where you are a consumer your rights are not affected by clause 6.3, including EquiBreed's limitations of liability set out in that clause (**Consumer Rights**). You may have other rights in addition to Consumer Rights, however such other rights are, to the extent permitted by applicable law, subject to the limitations of liability set out clause 6.3 (**Other Rights**).

6.2 If you are a business or are in trade (**Business User**), you agree that to the extent permitted by applicable law:

- (a) the implied conditions and warranties set out in the Consumer Guarantees Act 1993 are excluded and sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 are excluded; and
- (b) except as expressly set out in these Terms, the Goods are provided on an 'as is' basis, and all implied terms, conditions and warranties are excluded.

6.3 The following limitations and exclusion of liability apply in respect of Business Users and in respect of any Other Rights you may have:

- (a) EquiBreed will not be liable to you whatsoever for any matter that EquiBreed have excluded liability for within these Terms, any indirect loss, consequential loss, loss of profit, loss of bargain, loss of business opportunity or exemplary damages suffered by either party or any other person, loss arising out of or flowing from any pre-contractual misrepresentation, forecast or breach of these Terms, whether contemplated by these Terms or not, and whether actionable in contract, tort (including negligence), equity or otherwise.
- (b) If notwithstanding clause (a), EquiBreed are found liable to you or any third party for any loss or damage, however caused (including through negligence), EquiBreed's maximum liability to you in aggregate will be limited to \$1,000.

6.4 Where you are Business User, you agree to indemnify and keep EquiBreed indemnified against all loss, damages, costs (including, without limitation, loss of profits) and expenses of any kind, whether direct or indirect, which arise from or in connection with your breach of these Terms, whether in tort, contract, equity or otherwise.

7. USE/AVAILABILITY OF SERVICES AND PRODUCTS

7.1 EquiBreed do not warrant or guarantee that the Goods and/or your use of the Goods and Products will be error-free, immediate, virus free and/or continuously available or that the information provided through the Website will be complete, accurate and/or up-to-date. EquiBreed reserves the right to suspend, amend or cancel the Services at any time either temporarily or permanently.

8. GOVERNING LAW

- 8.1 These Terms are governed by New Zealand law. The New Zealand Courts have exclusive jurisdiction over any matter in connection with the Services and these Online Payment Terms.

9. DELIVERY

- 9.1 All goods are dispatched via NZ Couriers and you will receive confirmation of your tracking details. You are responsible for providing accurate delivery and address details. EquiBreed will have no liability for the delivery of goods where incorrect address details have been provided. Freight fees are calculated at checkout. Please allow 3 working days for orders to be processed. Please allow extra time for rural delivery. For items requiring refrigeration, please provide an urban delivery address. EquiBreed shall not in any way be responsible for any consequences (direct or indirect) arising from such delay or non- delivery. If you have any issues with delivery please contact NZ Couriers directly and provide your tracking details.
- 9.2 Cancellation Policy: If you need to cancel your order, please contact our office immediately. If the order has already been dispatched, we will be unable to cancel your order.

10. PERSONAL INFORMATION

- 10.1 Personal information is collected and used by EquiBreed's in accordance with the Privacy Act 2020 and EquiBreed's Privacy Policy.

11. MISCELLANEOUS

- 11.1 No alteration or variation of these Terms of Trade will be binding upon EquiBreed unless authorised by EquiBreed in writing.
- 11.2 EquiBreed may from time to time amend these Terms of Trade by giving the Customer notice in writing. Such notice in writing shall constitute authorisation for the purposes of clause 11.1.
- 11.3 The Customer will not assign or otherwise transfer or encumber its rights or obligations under these Terms except with the prior written consent of EquiBreed.
- 11.4 No waiver of any provision of these Terms will serve as a waiver of any other provision of these Terms nor as a continuing waiver of such provision and EquiBreed will not have waived or deemed to have waived any provision of these Terms unless such waiver is in writing and executed by EquiBreed.
- 11.5 Should any part or provision of these Terms be held unenforceable or in conflict with the applicable laws or regulations of any jurisdiction, the invalid or unenforceable part or provision will be replaced with a provision which accomplishes, to such extent as possible, the original business purpose of the part or provision in a valid and enforceable manner, and the remaining of the Agreement will remain binding on the parties.