

CARRFIELDS LIVESTOCK

PRIVATE SALE TERMS AND CONDITIONS

1. Definitions

"Agreement" means the Private Sale Note and these Terms.

"you or your" means you, the person named as the buyer (including an exporter) or seller of livestock in a Private Sale Note in relation to a Transaction and **buyer, seller or exporter**, means you in that capacity, where you are named as such in the relevant Private Sale Note.

"we, us or our" means Carrfields Livestock Limited and includes any other company in the Carrfields group of companies (a list of which is available on our Website).

"Commission" means the percentage of the Purchase Price that we are entitled to be paid as commission for acting as an agent to the Transaction.

"Delivery" means the time at which the livestock pass the tailgate of the buyer's transport vehicle and Deliver and Delivered has a corresponding meaning.

"Delivery Date" means the date specified for delivery in the Private Sale Note.

"Effective Date" means the date on which the Private Sale Note is signed by both you and the buyer or seller of the Stock (as the case may be), or where the Private Sale Note is not signed, upon Delivery of the Stock to you (or where you are the seller, to the buyer).

"Private Sale Note" means the sales note created by us on the Platform between you (as the buyer or seller of Stock) and the buyer or seller (as the case may be) of the Stock.

"Force Majeure Event" means any event beyond the reasonable control of a party, including any flood, earthquake or other natural disaster and includes (whether preventable or not) any death, disease or theft not deliberately caused by the party seeking to rely on the Force Majeure Event.

"GST" means goods and services tax pursuant to the Goods and Services Tax Act 1985.

"person" includes a body corporate.

"Platform" means the agriG8 and saleG8 systems and applications used by us to facilitate sales of Stock.

"PPSA" means the Personal Property Securities Act 1999.

"Purchase Price" means the total purchase price for the Stock as set out in the Private Sale Note.

"Stock" means the livestock subject to a Transaction, as specified in the Private Sale Note.

"Terms" means these terms and conditions as replaced or amended from time to time.

"Transaction" means a transaction for the sale or purchase of Stock by you, through us as your agent and/or as the agent for the other party to the transaction (as the case may be), the details of which are recorded in an Private Sale Note.

"Website" means www.carrfields.co.nz and www.carrfieldslivestock.co.nz.

2. Use of Platform

By instructing us (whether verbally or in writing) in relation to a Transaction, you irrevocably authorise us to use the Platform to create Private Sale Notes to document the Transaction and for that purpose, to enter information into (including personal information), and store that information on, the Platform.

3. Agreement

- 3.1 These Terms apply to and form part of each Private Sale Note created by us in relation to a Transaction. We may amend these terms from time to time by notice in writing to you and the amended terms will apply to any subsequent Private Sale Notes.
- 3.2 The Private Sale Note and this Agreement take effect as a legally binding contract on the Effective Date.
- 3.3 Where the buyer under a Private Sale Note is an exporter, you acknowledge and agree that we are acting as agent for the exporter, and the exporter's terms and conditions of supply apply in addition to these Terms and will prevail to the extent of any inconsistency with these Terms.

4. Carrfields Group

- 4.1 We appoint Carrfields Limited as our agent for the purposes of administering and enforcing, and invoicing and collecting payment

under, this Agreement. Carrfields Limited may enforce all of the rights, powers and entitlements granted to or conferred on us under this Agreement.

- 4.2 Carrfields Limited will issue a monthly transaction statement to you showing all amounts owing by you to members of the Carrfields Group. Carrfields Limited may apply any credit balance owing by any member of the Carrfields Group to you to satisfy any amounts owing by you to any other member of the Carrfields Group, whether or not such amount has fallen due for payment.

5. Agency

We may act as agent for either or both parties to this Agreement in respect of a Transaction. In acting as agent:

- (a) we give no assurances or warranties to you as to the financial position of the other party or their ability to perform the Transaction; and
- (b) we shall not be responsible or liable in any way for any acts or omissions by or on behalf of the other party to the Private Sale Note or any other person, including non-payment of any amount owed to you, any loss or damage to the Stock, or any failure to Deliver (including a failure by the buyer to take Delivery) or delay to Delivery.

6. Carrfields Account

- 6.1 If you are not an existing account holder with us or another member of the Carrfields Group, you must do all things necessary to become an account holder with us as soon as possible after Delivery.
- 6.2 We may elect to pay any amount due to you under this Agreement by crediting your account with us.

7. Price

Unless otherwise agreed in writing with us, the Purchase Price and any other amount specified in this Agreement:

- (a) is given in New Zealand dollars;
- (b) does not include the cost of delivery; and
- (c) does not include GST, which is payable at the same time and in the same manner as the supply to which the GST relates.

8. Payment, Commission and delivery

- 8.1 Where you are the buyer you acknowledge and agree that:
 - (a) you are responsible for arranging for the Stock to be collected by your carrier on the Delivery Date (or such other date as may be agreed) at your cost;
 - (b) we may charge and invoice you for the Commission plus GST (where we are not also acting as the agent for the seller);
 - (c) you must pay the Purchase Price (plus any applicable Commission) to us in full in cleared funds available for immediate disbursement no later than 14 days after the Delivery Date; and
 - (d) we may (but are not obliged to) pay the seller of the Stock before you have paid us. Where we do so, you are not released from any liability to pay the Purchase Price to us and the seller's rights under this Agreement are assigned and transferred to us.
- 8.2 Where you are the seller you acknowledge and agree that:
 - (a) you will make the Stock available for collection on the Delivery Date (or such other date as may be agreed);
 - (b) pedigree transfers are to be delivered in a form satisfactory to us in respect of the livestock on or before the Delivery Date;
 - (c) we are not obliged to pay or credit all or any part of the Purchase Price to you until:
 - (i) we have received the full amount of the Purchase Price from the buyer of the Stock;
 - (ii) (if applicable) all the exporter's terms and conditions have been met (including receipt of all applicable documentation in a form satisfactory to us and/or the exporter); and
 - (iii) you have done all things within your control to transfer title of the Stock to the buyer, including performing (or allowing us to perform on your behalf) all NAIT recording obligations; and
 - (d) we may deduct Commission plus GST from the Purchase Price and any other charges payable by you to us (as set out in the

Private Sale Note) before paying the balance of the Purchase Price to you.

- 8.3 Subject to clauses 8.2(a), (b) and (c) above, we agree to promptly account to the seller for the balance of the Purchase Price.
- 8.4 If any amount due to be paid by you to us under this Agreement is not paid on the due date for payment, then without prejudice to any other remedies available to us, we may charge default interest on monies overdue at the rate of 21% per annum. We may vary the default interest rate at our discretion by giving 14 days' notice in writing to you. Default interest will accrue on a daily basis and compound monthly from the due date for payment until the actual date of payment (whether before or after judgment). Any amounts received by us once default interest has started to accrue will be applied first in payment of default interest.
- 8.5 All costs incurred by us in enforcing or attempting to enforce our rights under this Agreement and recovering any amount owed by you, including legal costs on a solicitor on client basis and debt collection costs, are payable by you on demand.

9. Title and PPSA

- 9.1 Ownership in the Stock passes to the buyer on the receipt by us of the Purchase Price in full. Until such time as payment in full is made, the buyer agrees to:
- (a) hold or deal with the Stock as a fiduciary and agent of the seller (but the buyer will not hold itself out to be the seller's agent to any third party);
 - (b) keep the Stock separate from your other livestock or otherwise ensure that the Stock is separately identified or identifiable;
 - (c) not grant any interest or charge over the Stock to any person;
 - (d) insure the Stock at your cost for full replacement value against all risks and naming us as an interested party; and
 - (e) not assign or purport to assign to any other person the right to receive any proceeds arising out of the Stock.
- 9.2 The buyer grants us (for ourselves and as agent for the seller):
- (a) a security interest in the Stock and its proceeds to secure payment by the buyer of the Purchase Price; and
 - (b) an irrevocable licence to take any action we consider necessary at any time to protect the Stock or our (and the seller's) security interest in the Stock (including taking possession of the Stock at any time without notice and entering onto any land and/or into any premises where any Stock are located, regardless of whether or not an occupier is present, and repossessing the Stock),
- and to the extent permitted by law, we will not be liable to you or any other person for any loss or damage caused by our actions under this clause and you indemnify us and the seller and our servants and agents, on demand, against any costs we may suffer or incur as a result from any such access or repossession.
- 9.3 The buyer agrees to do all things necessary to enable us to register a financing statement on the Personal Property Securities Register ("PPSR") and to ensure that the security interest is a first ranking perfected security interest over the Stock and proceeds.
- 9.4 The seller acknowledges that we may (but are not obliged to, and will not be liable for any failure to) register a financing statement on the PPSR in respect of the security interest granted to us (and you) under clause 9.2(a).
- 9.5 If the Stock subsequently becomes part of some other product or mass, then nothing in these Terms shall limit the application of sections 82 to 86 of the PPSA.
- 9.6 The buyer waives its right to receive a copy of any verification statement in respect of any financing statement or financing change statement relating to the security interest, waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the PPSA (to the extent that these rights may be waived under section 107(2) of the PPSA) and agrees that nothing in sections 114(1)(a), 120(1), 122, 133 or 134 of the PPSA will apply.

10. Risk

- 10.1 The risk of any loss, damage or deterioration to the Stock passes to the Buyer from the earlier of:
- (a) 12 noon on the Delivery Date; or
 - (b) the time of Delivery.
- 10.2 If you are the buyer you agree that you are responsible for checking that the quantity of Stock delivered is correct upon Delivery and notifying the seller immediately of any error. Once you have accepted

Delivery, the correct quantity of Stock is deemed to have been Delivered.

- 10.3 If you are the seller and you fail to make the Stock available for Delivery on the agreed date, then without prejudice to any other remedies available to us (or the buyer), we (or they) may:
- (a) sue you for specific performance; or
 - (b) cancel this Agreement and sue you for damages.
- 10.4 If this Agreement is cancelled under clause 10.3(b), the seller must immediately repay any amount paid to the seller together with default interest on those monies from the date paid until the date of cancellation calculated in accordance with clause 8.4.

11. Biosecurity Risk

- 11.1 The Stock shall be deemed a "Biosecurity Risk" if within the period of 12 months prior to Delivery of the Stock to the Buyer, the Stock are or have been:
- (a) subject to a notice of direction (for any reason) from the Ministry of Primary Industries ("MPI"); or
 - (b) depastured upon any property which is or has been subject to a notice of direction or restricted place notice (for any reason) from MPI,
- and provided in each case that the Stock have not subsequently been found clear of the disease or organism which was the reason for the notice of direction or restricted place notice. A Biosecurity Risk shall include if the Stock have been confirmed or are suspected to be infected with Mycoplasma Bovis or the Stock have been depastured upon property which has been confirmed or is suspected to be infected with Mycoplasma Bovis.
- 11.2 The seller will promptly advise us and the buyer if:
- (a) some or all of the Stock are or have become a Biosecurity Risk;
 - (b) the seller receives any test results that indicate some or all of the Stock may become a Biosecurity Risk; or
 - (c) the Seller otherwise has reasonable grounds to suspect that the Stock will become a Biosecurity Risk.
- 11.3 The buyer may at its cost at any time before Delivery (but sufficiently prior to obtain any test results before the Delivery Date), arrange for all or any of the Stock to be tested by an independent qualified veterinarian to determine whether all or any of the Stock are or may become a Biosecurity Risk. For the avoidance of any doubt, the buyer may not delay the Delivery Date if the buyer does not receive such test results before the Delivery Date.
- 11.4 Without limiting clause 18, if prior to Delivery, any of the Stock are a Biosecurity Risk, the buyer may reject any or all of the Stock by giving written notice to us and the seller on or before Delivery and the Purchase Price will be adjusted accordingly.

12. Warranties

- 12.1 If you are the seller you warrant that you are the full legal and beneficial owner of the Stock and the Stock are sold and transferred to the buyer free from any mortgage, encumbrance or lien.
- 12.2 You warrant that:
- (a) all consents and approvals required by you to enter into and perform this Agreement have been obtained; and
 - (b) you will comply with the National Animal Identification and Tracing Act 2012 in respect of all PICA duties and agree that we are not liable for any breach of your statutory obligations under that Act.
- 12.3 Except for the warranties set out in clauses 12.1 and 12.2 and any other warranties specified in the Private Sale Note, neither we nor the seller make any representations or give any warranties in relation to the Stock, its condition, fitness or otherwise and the buyer acknowledges that it has entered into this Agreement in reliance on its own judgement.

13. Platform

We will use all reasonable commercial endeavours to ensure the availability and integrity of the Platform, subject to any downtime required for maintenance or other reasons outside of our control. However, because of the technology involved, we cannot and do not accept any responsibility for any loss that you may incur as a result of our use of the Platform.

14. Liability

- 14.1 To the extent permitted by law, we will not be liable to you or any other person whether in tort (including negligence), contract, equity or otherwise, for any loss or liability of any kind, whether direct,

indirect, special or consequential, and whether arising out of the Agreement or use of the Platform.

- 14.2 If for any reason we cannot rely on clause 14.1, our maximum liability to you (or any other person) arising out of or in connection with this Agreement is the lesser of \$100 and the actual Commission we received in relation to the Transaction giving rise to the claim.

15. Guarantee

Where any person has guaranteed your obligations to us (whether under this Agreement or any other agreement with us, including an account opening form) the guarantor guarantees your performance of this Agreement and between us and the guarantor, the guarantor may for all purposes be treated as being primarily liable to us and the seller or buyer (as the case may be) and we shall be under no obligation to take proceedings against you before taking proceedings against the guarantor.

16. Consumer Guarantees Act, Fair Trading Act and sale of goods

- 17.1 You agree that the Stock is being supplied and acquired in trade and therefore the Consumer Guarantees Act 1993 does not apply.
- 17.2 You also agree that section 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 (as amended or replaced) do not apply to this Agreement. You acknowledge that you have not relied on any representations made by us or any other person in entering into this Agreement and accordingly, that this clause is fair and reasonable.
- 17.3 To the extent permitted by law, the provisions of the Contract and Commercial Law Act 2017, the United Nations Convention on Contracts for the International Sale of Goods (1980) and/or the Sale of Goods (United Nations Convention) Act 1994 do not apply to this Agreement.

18. Force Majeure

No party to this Agreement or to a Transaction (including us) will be liable to any other party for any delay in delivery, non-delivery, destruction or deterioration of all or any part of the Stock or for any other default in performance of any of its obligations directly or indirectly caused by a Force Majeure Event. If a Force Majeure Event occurs, we may in our absolute discretion, elect to cancel any Transaction in full or in part or extend the time for Delivery of Stock under a Transaction for such period as may be reasonably necessary and no party will have any claims against us or any other party as a consequence of such cancellation or delay.

19. Information

- 19.1 You authorise us to:
- (a) collect, retain and use information (including personal information) about you for the purpose of the Transaction (including carrying out credit checks and debt collection). You also agree that we may use the information provided by you for marketing purposes (including by email where you provide us with your email address); and
 - (b) provide information about you (including information relating to any default in your payment obligations) to any third party for the purpose of that party carrying out credit checks, obtaining credit reports or debt collection.
- 19.2 You may ask us for a copy of the information that we hold about you at any time and ask for any details that are wrong to be corrected.

20. General

- 20.1 A reference to any legislation in this Agreement includes a reference to that legislation as amended and to any replacement or substitute legislation, and includes a reference to any regulations enacted under such legislation.
- 20.2 This Agreement is subject to, governed by and interpreted in accordance with New Zealand law and the parties submit to the exclusive jurisdiction of the courts of New Zealand in respect of any dispute in relation to this Agreement.
- 20.3 Each term of this Agreement is separately binding. If any clause is held by a court of competent jurisdiction to be void, unenforceable or otherwise ineffective the remaining clauses will continue to be valid and enforceable, and the offending clause deemed to be amended to the minimum extent required by law to be valid and binding.
- 20.4 Where you comprise of more than one person or entity then the obligations between those persons under this Agreement is joint and several.
- 20.5 This Agreement may be entered into in counterparts (including electronic copies) which when taken together will constitute one agreement.