

Farm Tender Escrow Terms and Conditions

PARTIES

These Escrow Terms and Conditions are agreed between:

- The Farm Trader Pty Ltd (ACN 142 666 831) trading as Farm Tender, of 107-117 Railway Place, Elmore Victoria 3558 (**Farm Tender**);
- The Seller whose details are set out in item 1 of Schedule 1 (**Seller**); and
- The Purchaser whose details are set out in item 2 of Schedule 1 (**Purchaser**)

INTRODUCTION

The Seller has agreed to sell, and the Purchaser has agreed to purchase, Goods. In addition, the Seller and the Purchaser have agreed that the Purchaser will pay the Escrow Amount to Farm Tender to be held in accordance with these Terms and Conditions.

1 APPOINTMENTS

- 1.1 The Seller and the Purchaser appoint Farm Tender as escrow agent on the terms set out in these Terms and Conditions. Farm Tender accepts its appointment as escrow agent and agrees to hold and disburse the Escrow Amount in accordance with these Terms and Conditions.
- 1.2 The Seller appoints the Seller's Representative to give a Payment Direction and take any other actions on its behalf for the purposes of these Terms and Conditions and acknowledges and agrees that each other party is entitled to treat any notice given or action taken by the Seller's Representative in relation to these Terms and Conditions as having been given or taken by the Seller.
- 1.3 The Purchaser appoints the Purchaser's Representative to give a Payment Direction and take any other actions on its behalf for the purposes of these Terms and Conditions and acknowledges and agrees that each other party is entitled to treat any notice given or action taken by the Purchaser's Representative in relation to these Terms and Conditions as having been given or taken by the Purchaser.
- 1.4 If any other agreement exists between Farm Tender and either or both of the Seller and the Purchaser (**Other Agreement**), these Terms and Conditions will prevail over the Other Agreement to the extent of any inconsistency.

2 PAYMENT TO FARM TENDER

The Purchaser must pay the Escrow Amount into the Escrow Account. Farm Tender confirms, and the Seller and Purchaser accept, that the Escrow Account is maintained by Farm Tender for the purpose of holding the Escrow Amount and other escrow amounts that it may hold for other sellers and purchasers.

3 FARM TENDER'S RIGHTS AND OBLIGATIONS

- 3.1 Farm Tender is entitled to rely on any notification given by a Seller's Representative or a Purchaser's Representative or any other notification which Farm Tender in good faith believes to be genuine. Without limiting the foregoing, Farm Tender is entitled to make a payment in accordance with a Payment Direction that appears to Farm Tender, acting reasonably, to have been executed by the Seller's Representative and the Purchaser's Representative.

- 3.2 Without limiting clause 3.1, Farm Tender is not required to conduct any due diligence or investigation into the veracity of any Payment Direction.

- 3.3 Farm Tender's duties and responsibilities in relation to the Escrow Amount are limited to those set out in these Terms and Conditions. Without limiting the generality of this clause 3.3, Farm Tender:

- (a) acts as a depository only and is not responsible or liable for the sufficiency or validity of any funds deposited with it, nor is it required to use or advance its own funds or incur any liability in performance of its duties or the exercise of its rights under these Terms and Conditions;
- (b) is not under any duty to inquire into the terms and provisions of any agreement or instruction other than as set out in these Terms and Conditions;
- (c) is not required to procure that interest is paid on the Escrow Amount or otherwise manage the Escrow Amount; and
- (d) will have no further duties or responsibilities under these Terms and Conditions following payment of the Escrow Amount in accordance with clause 4.1.

- 3.4 Farm Tender:

- (a) will charge the Fees for undertaking the functions required to be performed by it under these Terms and Conditions;
- (b) is entitled to be reimbursed by the Seller for all expenses Farm Trader incurs in connection with these Terms and Conditions; and
- (c) may deduct those Fees and expenses from the Escrow Amount.

4 RELEASE OF ESCROW AMOUNT

- 4.1 If and when all or any part of the Escrow Amount is required under the sale agreement between the Seller and the Purchaser to be paid to the Seller, the Seller and the Purchaser agree that they will promptly give a Payment Direction to Farm Tender directing Farm Tender to make the required payment. If the total amount of the Payment Direction exceeds the Escrow Account Balance Farm Tender must only pay the Escrow Account Balance in accordance with the Payment Direction.

- 4.2 If a dispute arises between the parties with respect to the escrow arrangements provided for in these Terms and Conditions, Farm Tender may pay the Escrow Amount into a court of competent jurisdiction and will then be relieved fully from any liability or obligation with respect to that Escrow Amount. The Seller and the Purchaser must pursue any legal redress or recourse in connection with any dispute relating to the escrow arrangements contained in this document without making Farm Tender a party.

5 NOTICES

- 5.1 A notice or demand from a party to another party can be signed by the first party, one of its officers, any lawyer acting for it or any person authorised to act on its behalf. It may be served by giving it to the recipient, by sending it to the e-mail address the recipient has nominated in Schedule 1 or any

other email address of the recipient, its employee or officer, in each case last known to the sender, or by posting it to the recipient's registered office or its address specified in Schedule 1, or other address last known to the sender.

5.2 If a party sends another party a notice by email, it is to be treated as having been received 24 hours after it was sent, unless the sender has, in the meantime, received a message indicating that it has not been received.

5.3 If a party sends another party a notice by post it is to be treated as having been received the third Business Day after posting.

5.4 Nothing in this clause 5 affects a party's right to serve in any other way permitted by law.

6 LAW AND JURISDICTION

These Terms and Conditions are governed by and construed in accordance with the laws in force in Victoria. Each party submits to the non-exclusive jurisdiction of the courts of Victoria.

7 GENERAL

7.1 The parties shall not vary these Terms and Conditions except in writing signed on behalf of all of the parties.

7.2 If any provision in these Terms and Conditions is, or becomes, unenforceable, illegal or invalid for any reason, the relevant provision is to be considered to be modified to the extent necessary to remedy the unenforceability, illegality or invalidity. If this is not possible, the provision is to be severed from the Terms and Conditions, without affecting the enforceability, legality or invalidity of any other term of these Terms and Conditions.

8 DEFINITIONS

In these Terms and Conditions:

Escrow Account means the bank account details of which are specified in item 5 of Schedule 1.

Escrow Account Balance means, at any time, the total credit balance of the Escrow Account that is attributable to payments by the Purchaser under clause 2, less any amount that Farm Trader is entitled to retain under clause 3.4 or otherwise.

Escrow Amount means the amount specified in item 4 of Schedule 1.

Fees means the fees payable to Farm Tender by the Seller, as set out in item 8 of Schedule 1.

Goods means the goods that the Seller has agreed to supply to the Purchaser under the sale agreement between the two of them.

Payment Direction means a direction to Farm Tender in the form set out in Schedule 2.

Purchaser's Representative means the individual specified in item 6 of Schedule 1, or such other person whose details are notified to Farm Tender and the Seller in writing by the Purchaser.

Seller's Representative means the individual specified in item 7 of Schedule 1, or such other person whose details are notified to Farm Tender and the Purchaser in writing by the Seller.

Schedule 2 – PAYMENT DIRECTION

TO: The Farm Trader Pty Ltd ACN 142 666 831 trading as Farm Tender

We refer to the Escrow Terms and Conditions between the Seller, the Purchaser and Farm Tender.

In accordance with the terms and conditions set out in the Escrow Terms, we hereby unconditionally and irrevocably authorise and direct you to pay the following amount(s) (**Released Amount**) to the account[s], and in accordance with the instructions, specified below:

Option 1: if one payee only

Released Amount:

Payment Date:

Account Name:

Bank name:

BSB: Account Number:

Option 2: if more than one payee

Released Amount:

Payment Date:

Account Name:

Bank name:

BSB: Account Number:

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Signature of **Seller or Seller's** Representative on behalf the Seller
Name:
Date:

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Signature of **Purchaser or Purchaser's** Representative on behalf of the Purchaser
Name:
Date:

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Signature of **Farm Tender Auctions Representative** on behalf of The Farm Trader Australia Pty Ltd (Farm Tender Auctions)
Name:
Date: