



# SUPPLIER TERMS & CONDITIONS

Effective 1 August 2023  
Please visit [www.ufg.co.nz](http://www.ufg.co.nz)  
for branch and contact details



**UFG**  
UNITED FLOWER GROWERS

UNITED FLOWER GROWERS LIMITED



## TERMS AND CONDITIONS

United Flower Growers Limited ("UFG") as part of its business:

- (a) receives Goods from Suppliers to be sold on consignment/auction, in an agency capacity, to Buyers;
- (b) purchases Goods directly from Suppliers;
- (c) collects or arranges for the collection of Goods from Suppliers; and
- (d) procures the delivery of Goods directly from the Supplier to the Buyer.

These terms and conditions apply to all supplies of Goods by a Supplier to UFG, except to the extent that UFG and a Supplier otherwise agree in writing.

Any person may make an application for the supply of Goods in the form or forms prescribed by UFG from time to time. UFG may in its sole discretion accept or reject any application for the supply of the Goods and refuse to accept the Goods from any Supplier.

Where a person supplies Goods to UFG but has not signed an application for the supply of Goods, they shall be deemed to be a Supplier and be bound by these terms and conditions.

### 1. DEFINITIONS AND INTERPRETATION

- 1.1. In these terms and conditions unless the context requires otherwise:

**Buyer** means any person who purchases Goods from UFG, including where UFG is acting as agent for the Supplier.

**Direct Selling Costs** means all gross costs incurred by UFG (whether incurred as an internal cost or incurred to third parties) in achieving the sale of the Goods including levies, taxes, Hire Equipment charges (including daily hire charges), freight charges and costs, labelling, packaging, repacking and/or handling costs and charges and supermarket distribution centre charges.

**Force Majeure** means any event or circumstance beyond the control of the party claiming the benefit of clause 17.13, which that party is unable to prevent or overcome by the exercise of reasonable care and at a reasonable cost.

**Hire Equipment** means any equipment hired from UFG to a Supplier or Buyer and includes all trolleys, hire buckets or extensions including those branded with the UFG or FloraMax logo, and other buckets supplied through UFG's system.

**Interest Rate** means 15% per annum or such other interest rate notified by UFG from time to time.

**Goods** means all flowers, plants and perishable horticultural products supplied to UFG to sell as agent or for UFG to purchase.

**Supplier** means the person who supplies Goods to:

- (a) UFG; or
- (b) a Buyer when UFG is acting as agent.

**UFG Premises** means UFG's cool stores, warehouses, distribution centres, markets or other premises.

- 1.2. In the interpretation of these terms and conditions:

- (a) words importing the singular or plural number shall be deemed to include the singular or plural number respectively;
- (b) words importing one gender shall include every gender and the word "person" shall include bodies corporate and vice versa;
- (c) referring to anything after the word "including" does not limit what else might be included;
- (d) headings are inserted only as a matter of convenience and shall not define, limit or describe the scope or intent of the clauses of these terms and conditions;
- (e) all amounts referred to by UFG shall be exclusive of GST unless stated otherwise;
- (f) a reference to an enactment or to any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or regulations; and
- (g) a reference to consignment includes sales by way of auction.

### 2. ACCEPTANCE OF ORDERS BY UFG

- 2.1. The supply of Goods by the Supplier to UFG Premises for sale by UFG to Buyers on behalf of the Supplier, shall constitute an order.
- 2.2. The Supplier shall describe Goods as either Grade One, Grade Two or Ungraded Goods and the Supplier shall warrant that the description by grade by any sample or batch sampling or other acceptance procedure required by UFG shall be representative of the Goods.
- 2.3. UFG may alter the description of the Goods by grade if it reasonably finds that the acceptance procedure is not representative of the Goods and the Supplier shall accept that UFG is acting in the best interests of the Supplier in satisfying the Buyer of the Goods and completing the sale.
- 2.4. The Supplier agrees that UFG shall only warrant Goods graded as Grade One to the Buyer on behalf of the Supplier. Unsold Goods graded as Grade Two or Ungraded may at the discretion of UFG be disposed of if they are not sold, or are damaged or deteriorate or for plant deaths, unless the Supplier uplifts the Goods within 24 hours of notification by UFG. The Supplier will pay UFG the costs of storage and disposal.



- 2.5. Any Goods supplied to UFG for sale or auction on behalf of the Supplier that have not been graded may be classified as Ungraded Goods by UFG. Goods are supplied to specific UFG Premises for sale or auction. UFG may transfer the Goods to other UFG Premises for sale at that other location if in UFG's reasonable opinion a better net result (after costs of transfer) is able to be achieved for the Supplier (including being able to achieve a sale which would not have been able to be made at the other UFG Premises).
- 2.6. UFG may, at its discretion, allow the Supplier to sell Goods directly to a Buyer:
- (a) with delivery at UFG Premises;
  - (b) at a price agreed by the Supplier and Buyer; and
  - (c) on these terms and conditions and UFG's Buyer terms and conditions, provided that UFG shall collect payment from the Buyer (as the supplier's agent) and deduct the amounts detailed in clause 4.1
- 2.7. If the Supplier agrees to sell the Goods to UFG at a fixed price:
- (a) no order accepted by UFG shall be cancelled without the consent of UFG; and
  - (b) if the order is cancelled the Supplier shall pay UFG for all costs and expenses incurred by UFG in fulfilling such order to the date of cancellation.

### **3. PRICE**

- 3.1. UFG shall publish a price list ruling at the time of sale to the Buyer or the price shall be the price accepted by the Buyer at auction in which case the price and minimum order quantity decisions of the auctioneer shall be final and binding on the Supplier.
- 3.2. The price shall exclude Goods and Services Tax. UFG may deduct the cost of delivery and insurance and any other fees or industry levies from the price paid to the Supplier.

### **4. PAYMENT**

- 4.1. Subject to clause 4.3, UFG shall account to the Supplier for the proceeds for on-consignment sales of Goods (after making all permitted deductions including costs payable by the Supplier) after each Supplier 14 day payment cycle from the date of the sale of the completed line of Goods supplied, irrespective of whether the Buyer has paid UFG for the same. This is subject to UFG's right to deduct:
- (a) commission (in accordance with the then current commission tariff schedule);
  - (b) handling and administration fees, any industry fees or levies according to the terms set out in the invoice, any adjustments to the auction price that may be required to allow for damaged goods; and

- (c) any other costs or amounts UFG is entitled to deduct or set-off pursuant to these terms and conditions.

UFG shall issue a buyer created tax invoice to the Supplier for all Goods sold on consignment.

- 4.2. The method of payment for any payment by UFG to the Supplier shall be determined by UFG from time to time and such methods of payment may include, but shall not be limited to, payment by direct credit.
- 4.3. Where the Buyer has given notice of a claim in relation to a supply of Goods, UFG shall be entitled to withhold payment for the Goods from the Supplier and shall expeditiously investigate the Buyer's claim. In the event UFG determines that the Buyer's claim has no merit, it shall make payment to the Supplier in the next Supplier payment cycle. In the event UFG determines that there is some merit to the Buyer's claim, UFG shall notify the Supplier. The Supplier irrevocably appoints UFG as its agent to settle such claim on such terms as UFG considers to be in the best interests of the Supplier and UFG having regard to all of the circumstances. Where UFG settles a claim in a manner that reduces the amount payable to the Supplier, the commission payable to UFG shall be calculated on the amount paid to the Supplier and not on the original sale price. The Supplier indemnifies UFG from all reasonable costs incurred by UFG in dealing with such dispute, except where the dispute or claim relates to a matter where UFG has been at fault. Where UFG settles a claim which reduces the amount payable to the Supplier and UFG receives notice of the claim after payment has been made to the Supplier, UFG shall be entitled to deduct:
- (a) the amount equal to the reduction in the amount payable to the Supplier in respect of the Goods which was subject to the claim; and
  - (b) any other costs for which the Supplier is responsible under this clause, from any future amounts payable to the Supplier.

### **5. DELIVERY DOCUMENTATION FOR GOODS**

- 5.1. All Goods supplied to UFG shall be accompanied by accurately completed delivery documentation in a form acceptable to UFG, as notified by UFG from time to time (which may include documentation submitted electronically).
- 5.2. The Supplier warrants to UFG that the information set out in the delivery documentation shall be complete, accurate and not misleading or deceptive in any manner.





## **6. WARRANTIES**

- 6.1. The Supplier warrants that:
- (a) it is the legal and beneficial owner of the Goods.
  - (b) it will supply the Goods in accordance with the description defined in the grading method.
  - (c) the Goods supplied:
    - (i) are in all respects of good and merchantable quality;
    - (ii) are fit for purpose;
    - (iii) are true to description including as to content, variety and measure; and
    - (iv) comply with all laws (including the Weights and Measures Act 1987), regulations, other lawful requirements and the provisions of these terms and conditions.
- 6.2. The Supplier will replace Goods that are damaged or defective that are graded as Grade One Goods provided that:
- (a) UFG notifies the Supplier within 24 hours of selling the Goods to a Buyer on behalf of the Supplier that the Goods are damaged or defective; and
  - (b) UFG investigates the claim on behalf of the Supplier.
- 6.3. The Supplier will allow UFG to make any adjustments to the auction price of the Goods where the Supplier short-supplies a declared quantity of Goods or includes damaged Goods in the declared quantity. The price adjustment shall be in proportion of the short delivered or damaged Goods to the declared quantity of the Goods.
- 6.4. UFG shall not be liable to the Supplier and the Supplier will not hold UFG liable for any loss of profits or any consequential, indirect or special loss, damage or injury of any kind whatsoever suffered by the Supplier or any other person arising directly or indirectly from any breach of any of UFG's obligations arising under or in connection with the contract including delays in the sale or delivery of Goods on behalf of the Supplier or from any cancellation or suspension of the contract or from negligence, misrepresentation or other act or omission on the part of UFG, its servants, agents or contractors.
- 6.5. While the Goods are at UFG Premises UFG will insure the Goods against loss or damage under UFG's material damage insurance policy and UFG accepts responsibility to the Supplier for any loss of or damage to Goods at UFG Premises to which UFG's material damage insurance policy responds. UFG shall take all reasonable steps to properly store and care for the Goods while the Goods are at UFG Premises.

## **7. COMMISSION**

- 7.1. UFG shall be entitled to a commission on all consignment sales of Goods pursuant to UFG's Supplier Tariff Schedule in force at the time of sale. Commission shall be calculated on the sale price of the Goods exclusive of GST and any of the costs comprising the Direct Selling Costs or the other costs referred to in clause 7.3 that UFG determines from time to time and specifies in the Supplier Tariff Schedule.
- 7.2. UFG shall be entitled to vary the Supplier Tariff Schedule by notice in writing to Suppliers or by publishing a new Supplier Tariff Schedule on UFG's website. Any amended Supplier Tariff Schedule will apply to sales of Goods 10 business days after the date on which it is notified to the Supplier or published on UFG's website.
- 7.3. The commission shall be deducted from the sale price achieved for the Goods at auction. UFG shall also deduct the Direct Selling Costs from the amount payable to the Supplier.

## **8. PURCHASE OF GOODS BY UFG**

- 8.1. This clause 8 applies where the Supplier supplies Goods to UFG for purchase by UFG and not for sale on consignment.
- 8.2. The Supplier authorises UFG to purchase, as principal and without notice to the Supplier, any Goods supplied to UFG for on consignment sales as if the Supplier had supplied the Goods to UFG for purchase by UFG and not for on consignment sale. UFG may dispose of such Goods in any manner as it considers fit in its sole discretion.
- 8.3. The purchase price for the Goods shall be a fair price for the Goods based on trading conditions at that time in the locality of the relevant UFG Premises to which the Goods has been supplied (or otherwise relocated). UFG shall pay the Supplier for the Goods in accordance with clause 4, or as otherwise agreed by the Supplier and UFG.
- 8.4. In all other respects these terms and conditions shall apply to all purchases of Goods by UFG, with any necessary modification to take account of the fact that the sale is to UFG and not supplied for an on consignment sale. For the avoidance of doubt UFG will deduct its standard commission and the other deductions in accordance with clause 4.1.



## 9. GST REGISTRATION

- 9.1. The Supplier must be registered for GST and shall notify UFG of its GST number.

## 10. HIRE EQUIPMENT

- 10.1. The Supplier authorises UFG to do all things UFG determines necessary and appropriate to:
- (a) utilise and account for Hire Equipment; and
  - (b) facilitate the operation of the Hire Equipment system.

For the purposes of this clause 10, the Supplier will be referred to as the "Hirer".

- 10.2. UFG will charge the Hirer usage fees and refundable deposits as detailed in the Supplier Tariff Schedule. Usage fees will be invoiced when the Hire Equipment passes through UFG Administration system (either via Auction, Trading or Sub-Tenants) and will be charged to both Buyer and Supplier.
- 10.3. Deposits will only be refunded after the Hire Equipment is returned.
- 10.4. Hire Equipment remains the property of UFG at all times.
- 10.5. Hire Equipment may not be used for any purpose other than that of the carrying of Goods for trading purposes with UFG, to and from UFG Premises.
- 10.6. Hire Equipment may not be defaced or altered in any manner and must be maintained in a usable condition.
- 10.7. The maximum term of hireage is 14 days.
- 10.8. The Hirer shall comply with the record-keeping procedures that are established by UFG from time to time to document each transaction.
- 10.9. A UFG staff member shall record and manage all issues and returns, and it will be the responsibility of the Hirer to ensure that the appropriate documentation for each hire transaction, is completed correctly.
- 10.10. UFG will maintain an accurate ledger of all hire transactions and may request the immediate return of Hire Equipment. The hirer's ledger will never record a negative amount and therefore will not go into credit.
- 10.11. UFG may restrict hire, to any individual or organisation, in its sole discretion.
- 10.12. Hire Equipment may not be transferred to, or given for use, to anyone other than the Hirer or UFG.
- 10.13. The responsibility to return Hire Equipment to UFG within the 14 day hire period remains that of the original Hirer and cannot be transferred to any other party.
- 10.14. Hire Equipment can only be hired by a Hirer who holds a current trading account or credit facility with UFG.

- 10.15. UFG may charge a Hirer for lost Hire Equipment, which will be the deposit rate applying at the time. UFG may increase the deposit rate from time to time.
- 10.16. The use of UFG's Bucket and Extensions Hire System is deemed to be acceptance and agreement to all these terms and conditions (irrespective of the Hirer having signed an application form).
- 10.17. UFG may terminate the hireage by giving five (5) working days' notice. Such termination will not stop any further necessary action in the event of any breach of this clause 10.

## 11. DELIVERY AND RISK

- 11.1. The Supplier shall make the Goods available at UFG Premises and the uplift of the Goods by the Buyer from UFG Premises if the Goods have been transferred in accordance with clause 2.5, shall constitute delivery to the Buyer from the Supplier. Proof of delivery will be the buyer created tax invoice arranged by UFG. If the Buyer fails to take delivery of the Goods within the same day that the Goods have been purchased by the Buyer UFG may charge the Buyer for costs of storage or transport to the Buyer and the Goods have perished or deteriorated between the time of purchase and the time of delivery to charge the Buyer for the full cost of the Goods and remit the price of the Goods less commission or brokerage, handling and administration fees to the Supplier.
- 11.2. Risk in the Goods shall pass from the Supplier to the Buyer upon purchase of the Goods by the Buyer and the Buyer will be responsible for any loss or damage or deterioration to the Goods arising from delays in delivery to the Buyer. UFG will enforce these conditions on behalf of the Supplier.

## 12. LATE PAYMENT

- 12.1. If the Supplier fails to pay any amount payable by the Supplier to UFG by the due date for payment, UFG shall be entitled to charge interest on the overdue amount at the Interest Rate, both before and after judgment, compounding daily from the date that the payment was due until the actual date of payment. Interest will be payable on demand. Nothing in this clause 12.1 limits any of UFG's other rights or remedies.
- 12.2. The Supplier indemnifies UFG, and shall keep UFG indemnified, against all costs, losses and expenses (including legal costs on a solicitor and own client basis and debt collection costs) suffered or incurred by UFG in recovering, or attempting to recover, any monies owing by the Supplier under these terms and conditions.
- 12.3. UFG may, prior to paying any monies to the Supplier under these terms and conditions, first apply any such monies in reduction of any amounts owing by the Supplier or any related person of the Supplier to UFG prior to accounting to the Supplier for any balance.



### 13. TERMINATION

- 13.1. This agreement may be terminated by either party immediately on written notice to the other party, if an Event of Default occurs. "Event of Default" shall mean if a party:
- (a) fails to pay any amount on the due date;
  - (b) fails to comply with the warranty conditions relating to the Goods;
  - (c) commits any act of bankruptcy, or enter into any composition or agreement with creditors; or
  - (d) which is a company does any act which render it liable to be liquidated or if a resolution is passed or proceedings commenced for its liquidation or steps are taken to appoint a receiver or administrator in respect of any of its assets.
- 13.2. Termination or suspension of this agreement shall not relieve either party of its obligations to pay all money owed by it to the other party on any account whatsoever, which money shall be payable immediately if an Event of Default occurs notwithstanding that the date for payment of the money may not have arrived. Termination or suspension of this agreement shall not relieve any party from liability arising from any antecedent breach of the terms of this agreement.
- 13.3. Except as specifically provided for in clause 13.2 above, upon the termination of this agreement for any reason, all rights of either party granted by these terms and conditions shall terminate.

### 14. SUPPLIER CONDUCT

- 14.1. The Supplier will comply with:
- (a) all reasonable environmental, labour/employment, anti-bribery and other requirements notified by UFG from time to time, including to enable UFG to meet its Buyers' requirements;
  - (b) any supplier code of conduct or similar, as adopted by, and as may be amended by, UFG from time to time and notified to the Supplier; and
  - (c) any applicable modern slavery or climate-related laws.
- 14.2. A failure by the Supplier to comply with any requirements set out in clause 14.1 will be a material breach of these terms and conditions, entitling UFG to suspend or stop working with the Supplier.

### 15. DISPUTE RESOLUTION

- 15.1. No party shall commence any court or arbitration proceedings related to a dispute arising out of or in connection with these terms and conditions unless that party has first complied with this clause 15.

- 15.2. If any dispute arises out of or in connection with these terms and conditions (not being a dispute between a Buyer which is not UFG and a Supplier), the parties involved in the dispute shall endeavour to resolve the dispute by way of mediation in terms of the Resolution Institute standard mediation agreement (New Zealand version), without prejudice to any other rights at all. Either party may initiate mediation by giving written notice to the other party. The mediator and the mediator's fee shall be agreed by the parties, but if they cannot agree within 5 business days after mediation has been initiated, then the mediator shall be appointed and the mediator's fee determined by the Chair of the Resolution Institute (or his or her nominee) on application of either party.
- 15.3. If the dispute is not resolved within 15 business days of the appointment of a mediator (or within such further period agreed in writing by the parties), then the dispute will be finally determined by arbitration in accordance with the Arbitration Act 1996 (excluding clauses 4 and 5 of the Second Schedule of the Act) and the provisions set out in clause 15.4.
- 15.4. For the purposes of providing a timely and cost efficient resolution of any dispute, and to enable the parties to continue with their ongoing business (if that is appropriate), in respect of any arbitration arising under these terms and conditions, unless all parties to a dispute otherwise agree in writing, the arbitration shall be conducted in the following manner:
- (a) the parties to the dispute shall endeavour to agree on the appointment of an arbitrator within 10 business days of a dispute being referred to arbitration by one party. If the parties are unable to agree on an arbitrator within the 10 business days, either or both parties shall, within 2 business days apply to the President for the time being of the New Zealand Law Society to appoint an arbitrator;
  - (b) from the date that the arbitrator is appointed, each of the parties to the dispute shall within 10 business days serve written submissions with accompanying documentary evidence on the other parties to the dispute and the arbitrator (the "initial submissions");
  - (c) each of the parties to the dispute shall then have 5 business days, from the date of service of the last submission, to respond to the submissions of the other parties to the dispute, and serve further written submissions on each of the parties and the arbitrator ("the counter submissions"); and
  - (d) based on the initial submissions and accompanying documentation, and the counter submissions of the parties, the arbitrator shall then determine the dispute within 10 business days of receiving the last counter submission or within 15 business days of the last initial submission if no counter submissions are received. There shall be no formal hearing or any variation to this dispute process unless agreed in writing by all parties.





15.5. The provisions in this clause 15 shall not be construed or operate to prevent a party from seeking a temporary restraining order or injunctive or other equitable relief with respect to a breach (or attempted breach) of these terms and conditions by the other party.

## 16. CONSUMER GUARANTEES ACT 1993

16.1. Nothing in these terms is intended to have the effect of contracting out of the provisions of the Consumer Guarantees Act 1993 except to the extent permitted by that Act where one party acquires the Goods from the other party in a business to business situation and all provisions of these terms shall be read as modified to the extent necessary to give effect to that intention.

16.2. The Supplier shall not give or make any undertaking, assertion or representation in relation to the Goods including the grading of the Goods to any person or company without the prior approval in writing of UFG, meaning that UFG shall represent the Supplier to a Buyer of the Goods and the Supplier shall indemnify UFG against any liability or cost incurred by UFG as a result of any breach by the Supplier of this provision.

## 17. GENERAL

17.1. **Commencement and alteration of terms and conditions:** These terms and conditions come into full force and effect on the date stated on the front page and will replace all existing terms and conditions. UFG may alter any of these terms and conditions by giving notice of such alteration to the Supplier either directly and/or by publication on UFG's website. Any amended terms and conditions will take effect 10 business days from the date on which the amended terms and conditions are notified to the Supplier and/or published on UFG's website. Alteration to or the adoption of quality standards may be notified to Suppliers in the same manner.

17.2. **UFG Premises rules:** Where the Supplier is at any UFG Premises, the Supplier shall:

- (a) work safely and report any hazards, accidents or injuries to the appropriate UFG representative at UFG's Premises;
- (b) comply with UFG's health and safety and other policies and procedures (including UFG's traffic management policies and procedures) notified or made available to the Supplier, or displayed at the relevant UFG Premises, from time to time, and shall ensure that all information on health and safety and traffic management notified or made available to the Supplier or displayed at the relevant UFG Premises is conveyed to the Supplier's employees and agents attending UFG Premises; and

(c) comply with all rules relating to conduct at UFG Premises, as notified or made available to the Supplier, or displayed at the relevant UFG Premises, from time to time.

Such notifications may be made by UFG either directly to the Supplier and/or by the rules being displayed in writing at a prominent place or places at the relevant UFG Premises.

17.3. **Use of UFG Equipment:** The Supplier shall ensure it, and its employees, agents and contractors, only utilise any equipment owned or in the possession of UFG ("UFG Equipment") with the consent of UFG and in accordance with UFG's health and safety policies notified or made available to the Supplier or displayed at the relevant UFG Premises, and any directions or instructions given by UFG, from time to time. The Supplier shall ensure that the person operating UFG Equipment is qualified to do so.

17.4. The Supplier uses UFG Equipment entirely at its risk and indemnifies UFG, and shall keep UFG indemnified, from all direct or indirect losses, costs or damages incurred or suffered by UFG in connection with, or arising from or in relation to, the use of UFG Equipment by the Supplier or its employees, agents and contractors, however arising, except to the extent caused or contributed to by UFG by its negligence or breach of these terms.

17.5. **Supply of Goods to other than UFG Premises:** Where the Supplier is supplying the Goods to a Buyer or other location, the Supplier shall ensure it complies with all health and safety policies, all rules issued from time to time by the Buyer or the owner or occupier of the relevant premises as applicable and shall indemnify UFG, and keep UFG indemnified, from all direct losses, costs or damages incurred or suffered by UFG in connection with, or arising from or in relation to, the Supplier's actions (or those of its employees, agents or contractors) while at the Buyer's premises or other location.

17.6. **No consequential loss:** Notwithstanding any other provisions in these terms and conditions, in no circumstances will UFG have any liability to any Supplier for any consequential loss (including loss of profits) arising from any breach by UFG of any provision of these terms and conditions.

17.7. **UFG's liability:** Without limiting any other provision of these terms and conditions UFG's liability to a Supplier or any other person in respect of any event or series of related events arising out of, or in connection with, these terms and conditions, whether in tort (including negligence), contract, equity, or on any other basis, shall be limited, to the extent permitted by law, to an amount equal to the value of the Goods supplied to which the event or series of related events relates, except to the extent caused or contributed to by UFG by its breach of these terms or as otherwise expressly set out in these terms.



- 17.8. **Indemnity:** The Supplier indemnifies UFG, and shall keep UFG indemnified, against all direct, indirect and consequential costs, losses, claims, proceedings, expenses and liabilities (including on a solicitor and client basis) arising out of, in connection with, or resulting from, a breach by the Supplier of its obligations and/or warranties under these terms and conditions, except to the extent such loss is caused or contributed to by UFG by its negligence or breach of these terms.
- 17.9. **Information / Privacy:** UFG may obtain information about the Supplier from the Supplier or any other person (including any credit or debt collection agencies) in the course of UFG's business, including credit assessment, debt collecting and direct marketing activities, and the Supplier consents to any person providing UFG with such information.
- (a) UFG will collect, store, use and disclose personal information the Supplier provides in accordance with the Privacy Act 2020 and UFG's privacy policy (as amended from time to time) available at [www.ufg.co.nz](http://www.ufg.co.nz). The Supplier or the Supplier's personnel (as applicable) have the right to access and request correction of their personal information. Where the Supplier provides personal information about another person to UFG, the Supplier warrants it has all consents necessary to collect, use and disclose that personal information.
- (b) The Supplier must notify UFG of any change in circumstances that may affect the accuracy of the information provided by the Supplier to UFG.
- (c) The Supplier consents to the disclosure by UFG of information about the Supplier to any Buyer as is necessary for, or ancillary to, UFG's provision of services to the Supplier, the supply of Goods to a Buyer and/or UFG's business.
- 17.10. **Intellectual Property: The Supplier:**
- (a) warrants that the Supplier has not breached any intellectual property rights of any third party in relation to any Goods supplied by the Supplier to UFG and/or any Buyer pursuant to these terms and conditions;
- (b) grants UFG the right to use any trade mark, brand, logo or other intellectual property right which the Supplier uses in relation to the Goods supplied by the Supplier to UFG and warrants that the Supplier may grant such right to UFG; and
- (c) acknowledges that the use of any trade mark, brand, logo or other intellectual property right which UFG has the right to use ("UFG Intellectual Property") by the Supplier and/or in relation to the Goods supplied by the Supplier does not give the Supplier any ownership right in UFG Intellectual Property or the right to use UFG Intellectual Property for any purpose other than the purpose for which the right to use UFG Intellectual Property was granted.
- 17.11. **Communication:** UFG may send written communications to the Supplier via electronic means to the email address the Supplier has provided to UFG or by other means.
- 17.12. **Third parties:** The parties do not intend to create rights and/or grant remedies to any third parties or beneficiary of these terms and conditions and all covenants, stipulations, promises and agreements herein contained shall be for the sole and exclusive benefit of UFG, the Suppliers and their successors and permitted assigns.
- 17.13. **Force majeure:** Notwithstanding any other provision of these terms and conditions, non-performance by either party of any of its obligations (other than to pay money under these terms and conditions shall be excused, without liability for non-performance, during the time and to the extent that such performance is prevented, wholly or substantially, by Force Majeure.
- (a) The party claiming the benefit of clause 17.13 shall promptly give written notice to the other party specifying the cause and extent of its inability to perform any of its obligations under these terms and conditions and the likely duration of such non-performance. In the meantime such party shall take all reasonable steps to remedy or abate the Force Majeure.
- (b) No party shall, by virtue of this clause, be required against its will to settle any strike, lockout or other industrial disturbances.
- (c) Performance of any obligation affected by Force Majeure shall be resumed as soon as reasonably possible after the termination or abatement of the Force Majeure.
- 17.14. **No waiver:** A failure, delay or indulgence by UFG in exercising any power or right under these terms and conditions will not operate as a waiver of that power or right. A single exercise or partial exercise of any power or right under these terms and conditions will not preclude further exercises of that power or right or the exercise of any other power or right.
- 17.15. **Entire agreement:** These terms and conditions supersede and extinguish all earlier negotiations, understandings and agreements, unless UFG and Supplier have agreed otherwise expressly and in writing.
- 17.16. **Saving clause:** If any provision of these terms and conditions is or becomes or is declared invalid, unenforceable or illegal such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of these terms and conditions which shall remain in full force and effect notwithstanding such invalidity, unenforceability or illegality.
- 17.17. **No assignment by Supplier:** The Supplier may not assign any of its rights, or subcontract any obligations under these terms and conditions.
- 17.18. **Governing law:** These terms and conditions are governed by New Zealand law and the Courts of New Zealand shall have non-exclusive jurisdiction in any proceedings arising from or in relation to the supply of Goods or these terms and conditions.