

WALNUTS NZ CO-OPERATIVE LTD
(Company)

TERMS AND CONDITIONS OF WALNUT SUPPLY

1. DEFINITIONS

These are the terms and conditions referred to in Section 19 of the Constitution of Walnuts New Zealand Co-operative Limited (Company). Expressions defined in the Companies Act 1993 and the Co-operative Companies Act 1996 and the Constitution where used in these Terms and Conditions have the meanings so defined.

2. OWNERSHIP OF WALNUTS SUPPLIED

Ownership of walnuts supplied to the Company shall pass at the time when they are accepted by the Company onto its premises. From this time, the walnuts will be insured by the Company.

3. CONTROL OF SUPPLY

3.1 The Board may refuse to accept any walnuts delivered to the Company's premises, if in its opinion,

- (a) The walnuts are not up to the required and defined standard as set from time to time by the Board and notified to all shareholders, or the Quality Standards authority approved by the Board, or
- (b) Any Government agency or health authority has imposed any restriction on the use of walnuts from that shareholder, or
- (c) That person has been dishonest in his dealings with the Company, or
- (d) The orchard surroundings or place from which the walnuts are obtained are dirty or unhealthy or not free from hazard, or
- (e) The shareholder or his or her family or assistants or assistants' families are suffering from any infectious disease which might detrimentally affect walnuts, or
- (f) By reason of force majeure (which includes damage or destruction of Company plant, strikes, processing difficulties and any incident usually included in the term force majeure) it would be impracticable to utilise the walnuts if collected, or

(g) That walnuts have not been produced in compliance with all statutory or regulatory requirements then in force.

3.2 The Company is not obliged to purchase walnuts from non-shareholders.

3.3 The Board shall be under no liability to any supplier for any such refusal to accept walnuts and that supplier shall have no recourse against either the Company or the Directors or any of them whatsoever in respect of that refusal.

4. LIABILITY OF SUPPLIER IN RELATION TO SUPPLY

A supplier shall be liable to the Company for all losses, costs, penalties and civil damages which may be suffered by the Company arising from a breach by the supplier of these conditions of supply or any other conditions of supply required by the Board from time to time or breaches of any other statutory or legal obligation relating to supply.

5. PAYMENTS TO SUPPLIERS

5.1 The Board shall prior to the close of each financial year determine the price to be paid for walnuts supplied by the suppliers.

5.2 Subject to Clause 5.8 the Board may in its absolute discretion decide to set and to credit one or more interim payments to the suppliers account as part payment of the price to be determined under clause 5.1. Interim payments may be varied during the course of the year and except as otherwise determined by the Board shall be retrospective for all walnuts supplied in the year to which they relate.

5.3 If the price determined under clause 5.1 is less than the total interim payments under clause 5.2, each supplier shall, if the Board so determines, be liable to pay the Company the amount by which the total of the interim payment exceeds the price. Such amount shall be a debt owed to the Company and shall be debited to the supplier's account.

5.4 If, after payment of the price under clause 5.5 in respect of a particular financial year, the Company receives further net amounts for the sale of walnut products the Board may in its absolute discretion decide either to increase the price paid in respect of the financial year, or add those amounts to the net amounts received for the sale of walnut product in the current financial year.

5.5 The credit for the price for all walnuts supplied during a financial year, determined under clause 5.1 less any interim advances paid under clause 5.2 shall be credited to the supplier's account on such date as the Board determines and may be credited in part instalments and at varying dates.

5.6 All charges for services and supplies provided to the supplier by the Company or any subsidiary of the Company may be debited to the same account.

5.7 If the Company is unable to make a payment of any credit balance by reason of lack of knowledge of the whereabouts of the holder of the account within five years of the credit to that account the sum shall be forfeit to the Company for the benefit of the Company.

5.8 The Board may apply any monies payable under clauses 5.1 and 5.2 to a

supplier who does not hold the number of shares required by the share standard, to the payment of any number of fully paid shares, up to the number required to comply with the share standard.

6. OTHER INCOME

6.1 Any or all of the income of the Company, other than income arising from the sale of walnuts, may at the discretion of the Board, be added to the amounts in respect of which the price for walnuts is determined under clause 5.1 for shareholders, or, with the approval of any ordinary resolution of the shareholders, be distributed as a dividend to shareholders.

6.2 No interest shall be payable on an unclaimed dividend, and if unclaimed for five years, such dividend may be forfeited by the Company for the benefit of the Company.

7. LIEN FOR GOODS SUPPLIED

The Company shall have a first and paramount lien for any money due by any supplier for goods, stores merchandise, or other chattels or services supplied to him or her by the Company or any subsidiary of the Company and for the debts, liabilities, and engagements (whether solely or jointly with any other person to or with the Company or any subsidiary of the Company) of any supplier upon the money due to any supplier for any walnuts and upon all the shares in the name of each member, whether solely or jointly with any other person. The lien shall extend to all dividends from time to time declared in respect of those shares. Unless otherwise agreed, the registration of a transfer of shares shall operate as a waiver of the Company's lien on the shares.

8. PREMIUMS IN RESPECT OF WALNUTS

The Directors may fix and pay from time to time such premiums and allowances to individual suppliers or sections or groups of suppliers in respect of the supply of walnuts of any particular type or in any particular form or during any particular period or at any particular place or times as they from time to time consider to be necessary.

9. GRADING OF WALNUTS

9.1 The Directors may from time to time, in their sole discretion, grade or class, and regrade or reclass, all walnuts supplied to the Company, and they may in such manner as they think fit, subject to the provisions of any legislation or the rule of law, fix the various grades or classes into which the product so supplied shall be fixed.

9.2 The Directors may from time to time fix premiums or allowances or fix and deduct penalties for specified grades or classes of walnut produce.

9.3 The Directors shall publish and supply to all suppliers of walnuts a schedule setting out all standards of walnut quality and requirements on suppliers to meet the specifications of the Company's Food Control Plan, and any premiums or penalties attaching to such standard on each occasion that any alteration is made to any one of

such premiums or penalties or a new premium or penalty is introduced. The schedule shall in any case be provided at the start of each walnut season.

10. SPECIFIC CHARGES FOR THE SUPPLY OF WALNUTS

The Directors may from time to time, for the purposes of meeting or partly meeting the additional cost (if any) of the transport, handling, processing and administration of particular supplies of walnuts, make such charge per supplier or at such varying rates in respect of different quantities of walnuts supplied during the Financial Year as they deem equitable.

11. ACCESS TO SUPPLIERS PROPERTY

The Company shall have access to the property of each supplier as is reasonably necessary at any time for the purposes of facilitating and implementing the supply of walnuts from each supplier in accordance with the terms and conditions of supply and for verification of standards.

12. INFORMATION ABOUT SUPPLIERS

12.1 Collection, Use, Storage and Access

The collection, use, storage and disclosure by the Company of any personal information about a Supplier is subject to the Privacy Act 1993. That information:

- (a) will only be used by the Company for a purpose relating to the walnut industry;
- (b) will be held by the Company at its registered office and will be available to the Supplier on request subject to the exceptions contained in the Privacy Act 1993. The Supplier may seek correction of the information.

12.2 Authorisation for Disclosure

The Supplier irrevocably authorises:

- (a) any third party to disclose to the Company upon request information relating to the walnut industry about the Supplier and such information will be used only in accordance with the provisions of clause 12.1 of these Terms and Conditions;
- (b) the Company to disclose to any third party information relating to the walnut industry about the Supplier for any purpose relating to the walnut industry.