

# PGG Wrightson GO-STOCK Master Contract

## D. Terms and Conditions

### 1. TERM OF CONTRACT

1.1 This Contract is binding after the Farmer and PGW's Livestock Rep and Livestock Manager sign it and PGW provides a fully signed copy to the Farmer. This Contract ends as set out in clause 6 and 5.6.

1.2 Before buying, or agreeing to extend the period of the Farmer's grazing of any Livestock under this Contract, PGW will send the Farmer a Purchase Confirmation Form. Each Purchase Confirmation Form represents a separate contract, incorporating any terms set out in the Purchaser Confirmation Form and the terms set out in this Contract (including any replacement terms applying under clause 9.4). The terms of each such Contract apply to the Farmer's grazing of the Livestock referred to in the Purchase Confirmation Form. Purchase Confirmation Forms are binding transactional records and in the absence of manifest error will apply as between PGW and the Farmer as an accurate record of requests by the Farmer. If the Farmer does not dispute the content of a Purchase Confirmation Form within 48 hours of receipt, the Purchase Confirmation Form is deemed to be accurate and accepted by the Farmer.

### 2. PURCHASE OF STOCK

2.1 The Farmer may request at any time that PGW buy Livestock or extends the grazing period of Livestock to be grazed by the Farmer under this Contract. Requests may be made verbally or in writing, and may be made to PGW's Livestock Representatives. If PGW approves this request, PGW will send the Farmer a Purchase Confirmation Form. After sending the Farmer the Purchase Confirmation Form, PGW will in consultation with the Farmer, select and buy Livestock for the Farmer to graze under this Contract. PGW may buy Livestock from the Farmer or third parties.

2.2 PGW will during the Buying Window buy up to 105% of the Maximum Tally. No minimum tally must be bought. PGW may agree in its sole discretion:

- to buy Livestock in excess of 105% of the Maximum Tally;
- to buy Livestock after the expiry of the Buying Window; and/or
- that the terms of this Contract and a Purchase Confirmation Form apply to livestock bought by PGW before this Contract is signed or before a particular Purchaser Confirmation was provided to the Farmer.

2.3 The Farmer warrants that it owns any Livestock that it sells to PGW and that all such Livestock are free of any security interests, liens, charges or other interests held by another party.

2.4 The Farmer authorises any Authorised Person to request from time to time that PGW buys and sells Livestock under this Contract.

### 3. THE FARMER'S OBLIGATIONS

3.1 The Farmer will, at its cost, provide the following Grazing Services in respect of all Livestock:

#### Stock Health and Condition

- graze and care for all Livestock using best animal husbandry practices, including providing appropriate grazing, pasture, feed and care;
- shear and crutch any sheep and lambs. Any wool shorn belongs to the Farmer.
- harvest and properly store all velvet using reasonable endeavours to obtain the maximum value of velvet possible, and provide the velvet to PGW on PGW's ordinary terms for velvet sales.
- pay all on-farm costs incurred in farming and caring for the Livestock;
- comply with all relevant laws in its care of the Livestock, including the Animal Welfare Act 1999 and all associated regulations and codes of practice;
- promptly advise PGW if the Farm or condition, health or welfare of the Livestock is adversely affected;
- let PGW inspect the Livestock at any time and make the Livestock available for collection on behalf of PGW on request;
- not remove the Livestock from the Farm unless necessary e.g. due to flooding, disease or feed requirements. The Farmer must immediately advise PGW and follow PGW's directions if the Livestock are removed;
- pay freight costs incurred in transporting the Livestock to and from the Farm;

#### Stock Identification and NAIT

- ensure the Livestock are always identifiable in the form required by PGW and/or under law;
- for any:
  - NAIT Animal other than Dairy Cattle, provide PGW with the complete NAIT file for the Livestock (including individual RFID number).
  - Dairy Cattle, provide PGW with the Lifetime ID of each of the cattle and a copy of the complete group profile for the cattle, at the earlier of purchase or delivery to the Farm. The

Farmer consents to PGW accessing the Farmer's NAIT account without notice to confirm the location of the Livestock.

#### Compliance / Biosecurity

- correctly complete an ASD when required and provide a copy to PGW if requested;
  - comply with its obligations under:
    - the NAIT Act as the Person In Charge of Animals; and
    - the Resource Management Act 1991; and
    - all associated Regulations, National Policy Statements and National Environmental Standards, in relation to the Farm and the Grazing Services
  - provide evidence of the TB status of any cattle on the Farm on PGW's request and comply with all requirements of the National Bovine Tuberculosis Pest Management Plan;
  - immediately notify PGW in writing of any biosecurity event including notices received from or cases raised with/by MPI or OSPRI NZ; and
  - not knowingly introduce animals on to the Farm that are subject to, or from a property subject to, any notice, order or other direction from MPI issued under the Biosecurity Act 1993 or any other legislation or regulations.
  - All legislation and regulatory references above include any replacements.
- 3.2 The Farmer warrants that it:
- is not aware of any circumstances that might cause a prudent farmer to suspect that any animals on the Farm are or may be or become infected by any Notifiable Organism; and
  - has disclosed, and will immediately notify PGW in writing upon becoming aware of:
    - information relating to the Livestock that might be material to a prudent farmer; or
    - circumstances that might cause a prudent farmer to suspect that any Livestock or other animals on the Farm are or may be or become infected by any Notifiable Organism.

#### 4. OWNERSHIP AND SECURITY

4.1 PGW owns the Livestock until:

- PGW sells them to a third party, or
- the Farmer buys them under clauses 5.5 or 5.6, in which case ownership passes to the Farmer when PGW is paid in full for all Livestock bought.

PGW owns all progeny of the Livestock and the proceeds of the Livestock and progeny. All progeny are deemed to be Livestock for the purposes of this Contract.

4.2 The Farmer bears all risk in the Livestock from the time of delivery to the Farm (or, if they are already on the Farm, from the date that the applicable Purchase Confirmation Form is sent to the Farmer) until:

- they cross the carrier's tailgate when leaving the Farm; or
- if the Farmer buys them, ownership passes under clause 4.1.b.

PGW will not insure the Livestock. The Farmer may insure the Livestock at its own cost.

4.3 PGW has a security interest in the Livestock, any progeny and their proceeds, because:

- PGW owns and retains title in them under clause 4.1; and/or
- where they are on the Farm for longer than 1 calendar year, this Contract is a lease or bailment for more than 1 year solely for the purposes of the PPSA.

The Farmer will promptly execute and deliver to PGW all documents and do all things which PGW deems appropriate to perfect PGW's security interest over the Livestock, any progeny and their proceeds or obtain the priority required by PGW or register/maintain and/or renew registration of a financing statement for PGW's security interest.

4.4 If the Livestock that are the subject of the security interest subsequently become part of some other product or mass, then nothing in this Contract can be construed as limiting the application of sections 82 to 86 of the PPSA. Nothing in section 114(1)(a), 117(1)(c), 120(2), 133 or 134 of the PPSA applies. The Farmer's rights in sections 116, 119, 121, 125, 129 and 131 of the PPSA do not apply. The Farmer waives its right under section 148 of the PPSA to be given a copy of any verification statement in relation to any financing statement or financing change statement that PGW may register. The Farmer acknowledges that this clause 4 is reasonably necessary to enable us to efficiently exercise our rights under the PPSA by reducing the administrative processes and costs associated with doing so.

4.5 The Farmer will not represent to anyone that it owns the Livestock. The Farmer will not sell the Livestock except to PGW, and has not and will not grant or do anything that would give any other party a lien, mortgage, security interest or other interest over the Livestock.

### 5. SALE OF LIVESTOCK AND PAYMENT FOR GRAZING SERVICES

5.1 PGW or the Farmer may at any time call for the sale of the Livestock. PGW will arrange the sale of the Livestock to a third party as determined by PGW and pay the Farmer under clauses 5.2 to 5.4.

5.2 As payment for the Grazing Services, PGW will pay the Farmer the Farmer's Margin within 17 days of selling the Livestock. PGW may delay payment of all or part of the Farmer's Margin relating to a particular Purchase Confirmation Form until all Livestock to which that Purchase Confirmation Form applies are sold and paid for in full. Any negative Farmer's Margin will be debited to the Farmer's PGW account.

5.3 PGW's determination of the Procurement Fee, Gross Margin, GO-STOCK Fee, Selling Costs and Farmer's Margin is final and binding except in the case of material error. If the Farmer is grazing Livestock of a given species under multiple Purchaser Confirmation Forms, then for the purposes of calculating amounts owed to each party under a particular Purchase Confirmation Form, Livestock of that species which are sold are deemed at the time of sale to be those grazed for the longest.

5.4 PGW will charge:

- Selling Fee; and
- for each of the Livestock:
  - bought under this Contract, a Procurement Fee, which will be included in the Purchase Price if bought from another Livestock Company, and charged by PGW to the Farmer if bought from the Farmer;
  - sold under this Contract to the Farmer or a processor that does not pay headage to PGW, a Processing Fee, to be included in the Selling Costs.

PGW may receive payments direct from a processor in relation to the Livestock.

5.5 The Farmer is deemed to buy from PGW any Livestock which it fails to deliver to PGW, and will pay PGW the Purchase Price and GO-STOCK Fee for that Livestock. No Farmer's Margin will be paid in respect of such Livestock. The GO-STOCK Fee will be calculated on the date selected by PGW. PGW will deduct this amount for each of the Livestock not delivered from the Farmer's Margin under this contract. If the payment exceeds the Farmer's Margin, any shortfall will be debited to the Farmer's PGW account.

5.6 The Farmer may buy all or any Livestock from PGW after a Purchase Confirmation Form is sent if agreed in writing with PGW. The Farmer will pay PGW the Purchase Price plus Selling Costs plus GO-STOCK Fee for that Livestock. The GO-STOCK Fee will be calculated on the sale date set by PGW. No Farmer's Margin will be paid in respect of such Livestock. The amount payable will be debited to the Farmer's PGW account and payable on the due date set by, and shown on the tax invoice issued by, PGW. PGW will have no further obligations under this Contract and this Contract will end in respect of the Livestock bought immediately upon ownership passing under clause 4.1.

5.7 PGW may set off any amounts owed under this Contract to:

- the Farmer by PGW against amounts owed to PGW by; and
- PGW by the Farmer against amounts owed by PGW to, the Farmer under this or any other contract or debt owed. The Farmer has no right of set off.

### 6. TERMINATION

6.1 Each Contract arising under a Purchase Confirmation Form ends on the earliest of:

- Sale of all Livestock bought under that Purchase Confirmation Form and final payment made under clause 5.2, 5.5, or 5.6 as applicable; or
- Termination under clause 6.2.

6.2 PGW may, in its absolute discretion for any reason, remove all or any Livestock from the Farm at any time and/or terminate the Contract applying to those Livestock (in whole or in only in respect of the Livestock removed), including where the Farmer has elected to buy the Livestock but ownership has not yet passed. If PGW terminates a Contract:

- Before the Livestock are delivered to the Farm, no Farmer's Margin is payable.
- After the Livestock are delivered to the Farm, clause 5 applies.

No other Farmer's Margin, compensation for termination or other cost is payable by PGW and PGW may recover from the Farmer all freight and Selling Costs, even if incurred after termination.

6.3 PGW may terminate this Contract at any time by written notice to the Farmer.

### 7. WARRANTIES AND LIABILITY

7.1 The Farmer agrees that:

- PGW gives no warranties relating to the Livestock (including in relation to their health and wellbeing, suitability for grazing or fitness) or the subject matter or any other aspect of this Contract including the

FARMER INITIALS:

GUARANTOR INITIALS:

# PGG Wrightson GO-STOCK Master Contract

## D. Terms and Conditions

- Farmer's Margin achievable. To the maximum extent permissible by law, all implied and statutory warranties and conditions to be given or performed by PGW are excluded, including those under Part 3 of the Contract and Commercial Law Act 2017 and (as the Farmer is in trade) the Consumer Guarantees Act 1993. Where the Farmer enters into this Contract for business/trade purposes, PGW and the Farmer agree that sections 9, 12A and 13 and 14(1) of the Fair Trading Act 1986 do not apply to this Contract or any matters arising under or in connection with it, and the Farmer agrees that it is fair and reasonable that the parties are bound by this clause;
- b. this Contract constitutes the entire understanding between the parties concerning its subject matter, and supersedes all prior discussions, proposals, representations and understandings, written or oral, relating to that subject matter; and
- c. it entered into this Contract solely in reliance on its own judgement and investigations and has not relied on any representations made by PGW.
- 7.2 PGW excludes all liability for any losses that the Farmer may incur in connection with this Contract or as a result of providing the Grazing Services, including: any negative Farmer's Margin, any loss suffered by the Farmer as a result of or in connection with any Livestock or other animals on the Farm or owned by the Farmer having or contracting any disease or illness.
- 7.3 If, for any reason, the exclusions in clauses 7.1 or 7.2 do not apply or PGW is otherwise liable to the Farmer under this Contract:
- a. PGW's liability is limited to the amount of the GO-STOCK Fee:
- in relation to sheep, as if sold at 300 days; and
  - in relation to any other Livestock, as if sold at 360 days.
- a. PGW's liability is limited to liability for direct losses and PGW is not liable for indirect or consequential losses, loss of production, income or goodwill, or special or exemplary damages.
- 7.4 The Farmer will indemnify PGW against any loss, claim, damage, expense, liability or proceeding (including any direct, indirect, or consequential losses, loss of profit, loss of reputation and all interest, penalties and reasonable legal and other professional costs and expenses) suffered or incurred at any time by PGW which result directly or indirectly from any willful breach or non-performance of any of the Farmer's obligations, undertakings or warranties contained or implied in this Contract or any negligent, unlawful, or fraudulent act or omission by the Farmer.
- 7.5 The Farmer acknowledges and agrees that:
- a. the Grazing Services performed by the Farmer and any circumstances or risks arising under this Contract or in performance of those Grazing Services are substantially outside of PGW's reasonable control, and accordingly PGW maintains a legitimate interest in protecting itself from such circumstances and risks; and
- b. the rights, exclusions and indemnities in favour of PGW under this clause 7 are reasonably necessary to protect PGW's legitimate interests and business.
- 8. PURCHASE/SALE OF DAIRY CATTLE BY FORWARD CONTRACT**
- 8.1 This clause 8 applies where the Livestock are Dairy Cattle.
- 8.2 The Farmer agrees that in order to fulfil the contract arising under a Purchase Confirmation Form PGW may buy Dairy Cattle as purchaser under a Forward Contract and the Farmer:
- a. will accept those Cattle notwithstanding:
- the condition of the Cattle or their non-compliance with the specifications of the Forward Contract at the time of settlement; or
  - any delay in the supply of the Cattle to the Farmer.
- b. acknowledges that if PGW terminates or does not settle the Forward Contract for any reason, then PGW may cancel the contract arising under the relevant Purchase Confirmation Form and the Farmer will not have any claim against PGW.
- 8.3 PGW may sell Dairy Cattle under a Forward Contract and the Farmer will be responsible for ensuring that the Cattle comply with the specifications in the Forward Contract on the settlement date and complying with the terms of the Forward Contract on PGW's behalf at the Farmer's cost (except those terms relating to the receipt of the purchase price). PGW will provide the Farmer with a copy of any Forward Contract for the sale by PGW of any Cattle. The Farmer and Guarantor each agree to enter into a Guarantee of the performance of PGW's obligations as vendor under a Forward Contract, on request by PGW, on PGW's standard form (copy available on request). Notwithstanding clause 5.1 and 5.6, the Farmer may not call for the sale of, or itself buy, any Cattle in respect of which PGW has entered into a Forward Contract for the sale of those Cattle. For the purposes of:
- a. Clause 5.1, entry into such a Forward Contract for the sale by PGW of those Cattle constitutes a "sale".
- b. Clause 5.2, the date of the sale will be the actual date of settlement under the Forward Contract.
- 8.4 The Farmer indemnifies and holds harmless PGW against any loss or damages of any kind resulting from or related to a breach of a Forward Contract which arises from or relates directly or indirectly to a breach by the Farmer of this Contract.
- 8.5 The Farmer agrees that PGW may provide to any counterparty under a Forward Contract, all information (whether personal or confidential information of the Farmer or otherwise) reasonably necessary to perform the Forward Contract.
- 9. MISCELLANEOUS**
- 9.1 The Farmer acknowledges that PGW is the principal buyer or seller of any Livestock bought or sold under this Contract, and therefore is never acting as the Farmer's agent. Nothing in this Contract constitutes a partnership or joint venture between the parties. The Farmer is an independent party to PGW.
- 9.2 The Farmer will not assign any right or obligation under this Contract without PGW's prior written consent (not to be unreasonably withheld).
- 9.3 PGW's Customer Terms of Trade are incorporated into this Contract (available at [www.pggwrightson.co.nz](http://www.pggwrightson.co.nz)). If there is any inconsistency between PGW's Customer Terms of Trade and the terms of this Contract, the terms of this Contract prevail.
- 9.4 PGW may in its absolute discretion change the terms of this Contract at any time by publication on our Group website [www.pggwrightson.co.nz](http://www.pggwrightson.co.nz) > our company > terms and conditions. PGW will notify you by email when changes to this Contract are made. Regardless of any publication of varied terms, all Purchase Confirmation Forms will be unaffected subsequent changes to this Contract and will be on the version of these terms published on PGW's group website at the time the Purchase Confirmation Form is sent to the Farmer. Subject to this clause, the terms of this Contract cannot be varied except by written agreement.
- 9.5 PGW will not be liable for any failure or delay in complying with any of its obligations under this Contract, provided the failure or delay arises directly or indirectly from an event or circumstance which cannot be reasonably foreseen by PGW or is beyond PGW's reasonable control. Clause 14.13 of PGW's Customer Terms of Trade does not apply.
- 9.6 The person signing this Contract warrants that they are authorised to represent the Farmer. The Farmer and Guarantor(s) acknowledge that they have read and agree to be bound by the terms of this Contract and the details the Farmer has supplied in the Schedule are true and correct, and that they had the opportunity to negotiate the content of this Contract and be represented by a lawyer in relation to this Contract.
- 9.7 The Farmer agrees to PGW using its information to assess the Farmer's credit worthiness, and disclosing its information to credit reporting agencies. Where the Farmer is a company or trust PGW may undertake credit assessment over its directors, shareholders or trustees. The Farmer, and its directors, shareholders and trustees authorise PGW to release their personal information to third parties for these purposes.
- 9.8 The Farmer will advise PGW in writing of any changes in the ownership, management, or persons with control of the Farmer, including any change in shareholding, directorship, trustees, partners, limited partners, or other interests.
- 9.9 The parties consent to use, provide and accept information in an electronic pursuant to section 220 of the Contract and Commercial Law Act 2017.
- 10. DEFINITIONS AND INTERPRETATION**
- 10.1 The parties agree that in this Contract, unless the context requires otherwise:
- ASD** means an Animal Status Declaration as defined in the Animal Products Notice: Specifications for Products Intended for Human Consumption.
- Authorised Persons** means any director, trustee, partner, officer of the Farmer, or any person ostensibly representing the Farmer in its interactions with PGW or from whom PGW has a history of taking instructions or requests on behalf of the Farmer.
- Buying Window** means the period identified as the Buying Window on a Purchase Confirmation Form.
- Cattle** means the cattle supplied by PGW to the Farmer under this Contract.
- Dairy Cattle** means cattle used or to be used for dairy farming.
- Farm** means the property(s) listed in Part A or any other property owned, leased or grazed by the Farmer and agreed by PGW.
- Farmer** means the person identified as the Farmer in A of this Contract.
- Farmer's Margin** is:
- Where there is no Specified Processor, or the Livestock is sold to the Specified Processor, the Gross Margin less the GO-STOCK Fee, plus GST.
  - Where there is a Specified Processor and the Livestock is not sold to the Specified Processor, the Gross Margin less the GO-STOCK Fee, less the Non-Supply Fee, plus GST.
- Forward Contract** means a forward contract for the sale and purchase of Dairy Cattle in PGW's standard form (available on request) or any other form accepted by PGW.
- GO-STOCK Contract** means any contract between PGW and the Farmer under which the Farmer grazes livestock owned by PGW.
- GO-STOCK Fee** means the fee calculated under the table set out on the Purchase Confirmation Form, which will be one lump sum per head for an initial period until an additional daily fee is charged until all animals are sold, all plus GST.
- Grazing Services** means the services described in clause 3.1 in relation to the Livestock, which are the future provision of services by the Farmer to PGW after the contract date set out at the bottom of the front page.
- Gross Margin** means the aggregate GST exclusive sale price of the Livestock, less the aggregate Selling Costs and aggregate Purchase Price of the Livestock, plus where the Livestock or any of them are subject to a claim to MPI for compensation, any compensation received by PGW from MPI for that Livestock.
- Livestock** means any cattle, sheep, deer or other livestock owned by PGW and grazed by the Farmer under this Contract.
- Maximum Tally** means the number of stock identified as the Maximum Tally on a Purchase Confirmation Form.
- MPI** means Ministry for Primary Industries or any other entity or organisation appointed by Ministry for Primary Industries or empowered under the Biosecurity Act 1993 or any replacement or subordinate legislation or regulation.
- NAIT Animal** means any Livestock subject to the requirements of the NAIT Act.
- NAIT Act** means the National Animal Identification and Tracing Act 2012.
- Non-Supply Fee** means the amount specified as the Non-Supply Fee on a Purchase Confirmation Form.
- Notifiable Organism** means any organism declared to be a notifiable organism under the Biosecurity Act 1993.
- PPSA** means Personal Property Securities Act 1999.
- Processing Fee and Procurement Fee** each mean \$15 plus GST per head in respect of cattle, \$2 per head in respect of sheep and lambs, and \$5 per head in respect of deer.
- Purchase Confirmation Form** means the Purchase Confirmation Form referred to in clause 1.2, or a form confirming the extension of a grazing period, as applicable.
- PGW** means PGG Wrightson Limited.
- Purchase Price** is the actual price paid by PGW for the Livestock, plus any Procurement Fee and any fees and charges associated with the purchase of the Livestock (including saleyard fees), in each case GST exclusive. For the purposes of clause 5.5, 5.6 and any Purchase Confirmation Form, the Purchase Price for an individual animal is the aggregate Purchase Price divided by the total number of Livestock.
- Selling Costs** means the GST exclusive costs associated with the sale of the Livestock including killing charges, Processing Fee, levies, saleyard fees and Selling Fee.
- Selling Fee** means a fee equal to the amount of the commission PGW would charge if it were selling an animal as agent.
- Specified Processor** means any Specified Processor specified on a Purchase Confirmation Form.
- 10.2 Where two or more persons are listed as the "Farmer" their liability is joint and several.
- 11. LEVIES**
- 11.1 If any levy, tax, fee or any other charge of any kind ("Charge") is at any time levied or charged in respect of:
- the Livestock;
  - any processing, sale or slaughter of the Livestock; or
  - against any emission, waste product or byproduct ("Emissions") produced by the Livestock,
- then the Parties agree that to the extent the Parties are permitted by law to allocate:
- liability for payment of any Charge, the Farmer will be solely liable for payment of the Charge.
  - responsibility for any Emissions, or any production or effects of any Emissions, the Farmer is solely responsible for the same.
- 12. TRUSTS**
- 12.1 If the Farmer is a trust, each signatory enters into this Contract in its capacity as trustee of the Farmer and the Full Name of Legal Entity on the front page of this Contract is deemed to include each trustee in its capacity as trustee.
- 12.2 The liability under this Contract of trustees correctly identified on the front page as independent trustees, is limited to the assets of the trust, except in the case and to the extent of any dishonesty by the trustee or if the trustee has lost its right to be indemnified from the assets of the trust.
- 13. MARKETING**
- 13.1 The Farmer consents to PGW providing the Farmer Details in Sections A and B to PGW's business units to send the Farmer direct marketing materials (including by email) promoting PGW products and services.

FARMER INITIALS:

GUARANTOR INITIALS: