

TERMS AND CONDITIONS OF SALE

These are the terms and conditions of sale for New Zealand Food Group (1992) Limited, trading as Richfields Chocolate, with its head office at 57-61 Disraeli Street, Christchurch, New Zealand, phone +64 (3) 366-2039, email sales@nzfoodgroup.co.nz

1. Definitions

In these sale terms the following meanings shall apply: "we", "our" and "us" means New Zealand Food Group (1992) Limited; "you" and "your" means the person or company seeking to purchase products from us; "the products" means the products to be supplied by us; the "terms" means these sales terms and any special terms agreed in writing between us and you.

2. Your Contract with Us

2.1 All orders are accepted by us only under these terms which may not be altered except with our written agreement. Any contrary or additional terms, unless so agreed, are excluded.

2.2 All products are offered subject to availability and your order will be accepted when we allocate products to your order. If any products ordered are not available we will seek your agreement to provide substitutes or arrange a later delivery date once the products become available.

2.3 Once accepted orders may be cancelled or amended only with our written agreement and with at least 2 working days notice.

2.4 Our marketing materials are for guidance only and shall not constitute representations by us.

2.5 All quotes shall remain valid for a period of 30 days from the date provided.

3. Prices and Payment

3.1 All prices are shown in New Zealand dollars and exclude GST. The price of products shall be as stated in our price list current at the date of delivery. If you are not a New Zealand business and do not trade within New Zealand, we will apply an appropriate exchange rate.

3.2 For retail orders, payment is required before delivery is made. We accept payment by cash, cheque or bank transfer. Please contact us for an application form if you would like to open an account.

3.3 Except where we have given our prior written approval, all accounts are due for payment without deduction or retention 7 days after the date the invoice was issued ("the due date").

3.4 Credit is granted at our sole discretion by a method of payment acceptable to us and may be reviewed at any time. We may refuse to deliver any order if any of your accounts is overdue but you may not withhold payment of any invoice that is due to us by reason of any right of set-off or counterclaim which you may have or allege to have for any reason.

3.5 You agree to sell products we supply to you below in line with our suggested retail prices and only through agreed channels and territories.

4. Delivery

4.1 We deliver worldwide. We will deliver free of charge in the following situations:

4.1.1 Deliveries within NZ of orders in excess of \$250;

4.1.2 Deliveries outside NZ of orders in full container loads, or alternatives made by arrangement.

4.2 We aim to despatch stocked products within 1 working day and made to order products within 10 working days of your order being placed. Delivery will be to the address stated in your order. Delivery shall occur when the products arrive at the delivery address and are signed for on your behalf.

4.3 While we aim to get your order to you promptly, we do not guarantee delivery times, are not responsible for delays beyond our control and shall not be liable for any direct or indirect damages resulting from any delay by us in delivery of the products.

4.4 If you are not able to sign for delivery or we are unable to make delivery due to inadequate access or instructions, we shall be entitled (without prejudice to any other right or remedy we may have) to:

4.4.1 make additional charges for failed delivery;

4.4.2 store the products at your risk and cost;

4.4.3 invoice you for the products;

4.4.4 terminate this contract without liability on our part; and

4.4.5 recover from you all costs and losses incurred by us.

4.5 If the products are unavailable at the time you place your order, we reserve the right to deliver the products by instalments and provide a separate invoice in respect of each instalment.

5. Inspection and Claims

5.1 In case you wish to claim for short delivery or damage to the product prior to arrival at the point of delivery, you shall notify us either by phone within 24 hours of delivery or in writing within 7 days of delivery, otherwise you will be deemed to have accepted the products and thereafter not be entitled to reject them.

5.2 We shall not be liable for any loss or damage you may claim arising out of any damage to the products in transit or any incomplete delivery. Our sole liability for loss or damage in transit or any incomplete delivery is limited to supplying the products as ordered.

5.3 We shall not be liable for any damage caused by your mishandling of the products, your negligence or your storage of the products in unsuitable conditions.

5.4 All other claims or disputes must be notified in writing within 30 days of delivery, otherwise you will be deemed to have accepted the products and thereafter not be entitled to reject them.

6. Title and Risk

6.1 Risk in the products shall pass to you when the products are delivered. The title to the products shall remain with us until you pay the price of the products and any other sums outstanding between you and us whether in respect of this contract or otherwise.

6.2 Until title passes:

6.2.1 You shall hold the products as our agent and to our order; and

6.2.2 The products shall be stored separately from any other items and you shall not interfere with any identification marks, labels, or code numbers on the products.

6.3 We shall be entitled at any time to recover any or all of the products to which we have title and for that purpose we, our employees or agents may, with such transport as is necessary, enter upon any premises occupied by you or to which you have access where the products may be or are believed to be situated.

7. Warranties, Liabilities and Indemnities

7.1 You agree to have satisfied yourself about the suitability of the products. We do not warrant that the products are fit for any particular purpose.

7.2 You agree to indemnify us against all losses, damages and costs incurred by us in connection with the supply or use of the products. This indemnity will not operate to the extent that such losses, damages or costs are directly caused by us.

7.3 Without prejudice to any other provisions of these terms in any event our total liability for any one claim or the total of all claims arising from any one act of default on our part (whether arising from our negligence or otherwise) shall not exceed the value of the products ordered.

8. Default and Termination

8.1 If you fail to pay any invoice for any sum due to us under any contract on the due date; your credit limit is exceeded; you become insolvent or you commit a material breach of this contract and fail to remedy that breach after being requested to do so, all sums outstanding between you and us under this and any other contract shall become immediately due and payable and we shall be entitled to do any one or more of the following (without liability on our part and without prejudice to any other right or remedy we may have):

8.1.1 require payment in cleared funds in advance of further deliveries of products;

8.1.2 to charge interest on the amount outstanding, calculated daily at the rate of 2.5% per month from the due date until the date of settlement;

8.1.3 to suspend or cancel any further deliveries of products to you under any contract;

8.1.4 terminate this or any other contract with you.

8.2 You shall reimburse all our costs, including legal costs, on an indemnity basis which we incur in enforcing our rights under these terms including, but not limited to, recovery of any sums due.

9. General

9.1 This contract shall be governed and interpreted according to the law of New Zealand and you agree to submit to the exclusive jurisdiction of the New Zealand courts.

9.2 Except as provided otherwise in these terms, we shall not be deemed to be in breach of contract nor liable for any delays or failure to perform any of our obligations under this contract due to any cause beyond our reasonable control.

9.3 The waiver by us of any breach or default of these terms shall not be construed as a continued waiver of that breach nor as a waiver of any subsequent breach of the same or any other provision.

9.4 If any clause or sub-clause of these terms is held by a competent authority to be invalid or unenforceable the validity of the other clauses and sub-clauses of these terms shall not be affected and they shall remain in full force and effect.