

Terms and Conditions of Use

1. Definitions:

- a. **Agvance Nutrition, we or us** means Agvance Nutrition Limited and any subsidiaries.
- b. **CCLA** means the Contract and Commercial Law Act 2017.
- c. **Products** means all products sold to you via our Website from time to time, including:
 - i. the products and merchandise described or referred to (whether by item, product category, brand, kind or otherwise) in the delivery docket, invoice or like equivalent document provided to you; and
 - ii. free advice provided by Agvance Nutrition in relation to any product or merchandise.
- d. **Warranty/Warranties** means warranties, representations, conditions, guarantees, duties, liabilities, or customer rights.
- e. **Web Account** means an account for Agvance Nutrition's Website which allows a user to register and log in online to buy Products from Agvance Nutrition.
- f. **Web Account Holder** means a user who completes Agvance Nutrition's online registration process for a Web Account and is confirmed by Agvance as having a Web Account.
- g. **Website** means Agvance Nutrition's online shopping website at www.agvance.co.nz.
- h. **You** means the user of the Website or Internet Sites, including the purchaser of Products.

2. Terms of Use:

- a. These Terms and Conditions of Use ("Terms of Use") apply to your use of:
 - i. The Website, including for any online purchases of Products from Agvance Nutrition; and
 - ii. Any social media website, online chat forum, or page containing pages or content established by, or associated with Agvance Nutrition ("the Internet Sites").
- b. By accessing or using the Website or any of the Internet Sites you are deemed to have read and agree to be bound by these Terms of Use. If you do not accept these Terms of Use, you must cease accessing the Website and Internet Sites immediately.

3. Online Website Purchases:

- a. You can browse and order as a guest or you can register as a Web Account Holder and open a Web Account.
- b. Unless otherwise stated on the Website, prices displayed for Products exclude GST. Prices displayed on the Website may change without notice. The price cannot be varied after we accept an order unless we both agree otherwise in writing. Prices displayed on the Website exclude delivery costs. Delivery costs are shown separately before completion of an order. If a price displayed on the Website is incorrect, we may contact you before arranging delivery of the Product to confirm whether you want to buy the Product at the correct price and then arrange any additional payment or refund so you pay the correct price.

- c. Product descriptions and specifications displayed on the Website may change without notice. Notwithstanding any change to the description or specifications displayed on the Website, the specifications of a Product you order will be as shown on the Website at the time of order unless we both agree otherwise in writing.
- d. You may order a Product from the Website by following the directions on the Website and providing all details we require to enable us to process payment, fulfil the order and arrange delivery (if applicable). By placing an order, you offer to Purchase the Products ordered. Orders are deemed to have been received and accepted by us at the time we send an order confirmation to your nominated email address.
- e. You can buy Products displayed on the Website by using our online Card transaction facility. We do not store your Card Information when you buy Products from us online. We use the secure Hosted Payment page solution from Windcave to process online orders. You can see your Cards being authorised in real time, in a Secure Socket Layer (SSL) protocol secure environment. Windcave is certified AIS compliant. Your Card details will be used only to fulfil the transaction between us or as otherwise authorised by you or permitted by law.
- f. We may decline to fulfil any order. We may cancel any order before the Products have been dispatched. Any payment you make for an order which we cancel or refuse to fulfil will be refunded in full. All orders are made subject to Product availability.
- g. Payment for an order will be processed immediately upon an order being made.
- h. We may limit the number or quantity of any Product you can purchase in any transaction.

4. Title, Risk & Delivery

- a. Ownership of and title to all Products remains with Agvance Nutrition, and only passes to you upon payment in full for the Products being made to Agvance Nutrition.
- b. All Products are at your risk from the earlier of you taking possession or the point of delivery to the address nominated by you, whether or not you take delivery of them at that time.
- c. Agvance Nutrition will not be liable for any delay in delivery of any Products to you. Delivery may take additional time during sales, holidays and for other reasons. You are responsible for ensuring the correct delivery address details are provided when you place an order. We are not:
 - i. liable for any costs in relation to the resending of an order if incorrect delivery address details are provided.
 - ii. responsible for any delay in delivery caused by any factor beyond our reasonable control.
 - iii. responsible for any order that is delayed, declined or not accepted due to any interruption to an internet connection or computer issue.
- d. If you order Products for delivery outside New Zealand, if we agree to deliver then import duties and taxes may be levied on those Products when they are delivered. You will be responsible for paying all such duties and taxes. Where completion of delivery depends on payment of import duties or taxes, we are not obliged to complete delivery until you have paid all applicable import duties and taxes.

- e. You must use all Products strictly in accordance with any directions, instructions and terms contained on Product labels, packaging and any other product information supplied with the Products.

5. Privacy Policy:

- a. As well as these Terms of Use the Privacy Policy (found on the Website) also applies to you and your use of the Website and Internet Sites. You should ensure that you read the Privacy Policy in conjunction with these Terms of Use.

6. Amendments:

- a. Agvance Nutrition reserves the right to amend or replace these Terms of Use and the Privacy Policy from time to time. Amendments will be effective immediately upon being placed on the Website. Your continued use of the Website and Internet Sites following such amendments being placed on the Website will represent an agreement by you to be bound by such terms as amended.

7. Content:

- a. While Agvance Nutrition endeavours to take all reasonable and appropriate care in the preparation of the content on the Website and Internet Sites and has no reason to believe that any information contained on the Website and Internet Sites is inaccurate, Agvance Nutrition does not warrant the accuracy, adequacy, or completeness of such information or that such information is error-free. Agvance Nutrition does not accept liability for any loss or damage which may result either directly or indirectly from reliance by you upon the accuracy or currency of information contained on the Website and Internet Sites including, without limitation, where such loss or damage is a result of or contributed to by the negligence of Agvance Nutrition.

8. Posting Policy:

- a. The following provisions apply to any comments, statements, blogs, feedback or interactions that you wish to post and are posted ("Posts") on any of the Internet Sites. (a) Agvance Nutrition reserves the right without notice or explanation to: (i) not allow the posting of any specific Post; (ii) edit any specific Post; or (iii) remove any Post; (b) Personal abuse, foul language, inappropriate subject matter or discriminatory remarks of any nature will not be tolerated; (c) Any Posts must not violate any third-party intellectual property rights; (d) You agree to indemnify Agvance Nutrition on demand for any loss or costs of whatever nature suffered by Agvance Nutrition whether direct or consequential as a result of any breach by you of the paragraphs (a), (b) and (c) above. Agvance Nutrition does not monitor Posts in real time and cannot guarantee that all inappropriate content will be immediately removed.

9. Opinions:

- a. Unless explicitly stated otherwise, the comments or statements posted on the Internet Sites by others do not represent the opinions of Agvance Nutrition

regardless of whether Agvance Nutrition may have edited or formatted such comments or statements in the course of their being posted on the Internet Sites. The views and opinions expressed by users or third parties are their own and do not represent those of Agvance Nutrition. To the best of Agvance Nutrition's knowledge, all comments or statements made on the Internet Sites represent the genuine opinion of the authors of such comments or statements.

10. Intellectual Property:

- a. Unless otherwise stated, Agvance Nutrition is the owner of, or otherwise has the right to use, all copyright, trademarks and other intellectual property rights relating to Agvance Nutrition, its subsidiaries, or the Agvance Nutrition Products on the Website and Internet Sites. This includes, without limitation, all intellectual property rights in respect of all text, graphics, logos, images and any downloads that may be offered on the Website and Internet Sites. Agvance Nutrition's ownership in such intellectual property is protected by both New Zealand and international law.

11. Licence:

- a. Agvance Nutrition grants you a limited licence ("Licence") for the purpose of learning about Agvance Nutrition and its Products and services, ordering Agvance Nutrition products and services, and making personal use of the Website and Internet Sites. Any contravention by you of these Terms of Use terminates the Licence immediately. Under no circumstances, without the prior written approval of Agvance Nutrition, may you adapt, reproduce, store, distribute, print, display, publish or create derivative works from any part of the Website and Internet Sites other than in accordance with the Licence. You must not use any data gathering and extraction tools or software to extract information from the Website and Internet Sites. You must not frame or utilise framing techniques to enclose any of the content of the Website and Internet Sites without obtaining the express prior permission of Agvance Nutrition. You must not use any meta tags or other hidden text which incorporate Agvance Nutrition's name or any of its intellectual property including trademarks without the express prior permission of Agvance Nutrition. You may not use the Website or its content for any commercial purposes, including resale, without the prior written consent of Agvance Nutrition. You agree to fully indemnify Agvance Nutrition for any loss or damage it may suffer in contract, tort, equity, statute, regulation or otherwise, including without limitation any economic loss, loss of turnover, profits, business or goodwill, whether direct or consequential, in respect of any third party claims against Agvance Nutrition, its related parties, employees, contractors or agents, that may arise as a result of your breach of the Licence.

12. Proprietary Notices:

- a. In the event that you are granted permission by Agvance Nutrition to use any content from the Website and Internet Sites other than for personal use, subject to any contrary agreement you reach with Agvance Nutrition, you must ensure that all copyright, trademark and other proprietary notices contained in the content are retained.

13. Linked Websites and Third-Party Information:

- a. The Website and Internet Sites may contain links to other websites (“Linked websites”). Those links are provided for convenience only and may not remain current or be maintained. Agvance Nutrition is not responsible for the content or privacy practices or security risks associated with Linked Websites. Links with Linked Websites should not be construed as an endorsement by Agvance Nutrition, approval or recommendation of the owners or operators of those Linked Websites, or of any information, graphics, materials, products or services referred to or contained on those Linked Websites, unless and to the extent stated to the contrary. The Internet Sites may contain information which is obtained from third parties and which those third parties or Agvance Nutrition may post on the Internet Sites from time to time. Such information is provided for convenience only and Agvance Nutrition does not necessarily endorse the products or services referred to in the information. Access to Linked websites is at your own risk.

14. Social Networking Sites:

- a. These Terms of Use must be read in addition to the respective terms and conditions governing the use of social networking sites, such as Facebook, as published by the relevant social networking site. By accessing a social networking site you agree to be bound by, and comply with, the terms and conditions of that social networking site, provided that these Terms of Use, along with our Privacy Policy are paramount where there are inconsistencies with the general terms and conditions published by the relevant social networking site.

15. Links:

- a. Agvance Nutrition requires that you obtain prior written approval from Agvance Nutrition before providing any link to the Website. Where such approval is given, you further agree that you will not use any Agvance Nutrition logo, trademark or other proprietary graphic as part of such link without the express prior approval of Agvance Nutrition.

16. Accessing:

- a. You must take your own precautions to ensure that the process you employ for accessing the Website and Internet Sites, and/or downloading any information from the Website and Internet Sites, does not expose you to the risk of viruses, malicious computer code or other forms of interference which may damage your computer system, telecommunication equipment or other property. Agvance Nutrition does not accept responsibility for any interference or damage to your computer system or telecommunication equipment which may arise in connection with your use of the Website, the Internet Sites or any Linked Website.

17. Warranty:

- a. If due solely to Agvance Nutrition’s act, omission or negligence, any Product is defective or does not materially conform to our description, we will at our option

repair or replace the Product or provide a refund of the purchase price for the Product. This warranty does not limit any rights you have against third party supplier of Products, in accordance with subclause b.

- b. To the extent permitted by any contract for supply entered into between Agvance Nutrition and a third party supplier of the relevant Products, Agvance Nutrition will pass through or assign to you the rights to, and benefit of, any supplier warranties, indemnities and associated remedies (whether contained in such contract of supply or any statute) provided by that third party supplier in relation to those Products. All other statutory and other implied Warranties to be given, made, performed or met by Agvance Nutrition, including those in Part 3 of the CCLA, are negated and excluded to the fullest extent that it is lawful for us to do so. Other than as required by law, we give no Warranty concerning any Product's description, condition, unencumbrance, quality or fitness for any purpose. It is your responsibility to satisfy yourself as to the condition and quality and fitness for purpose of the Products and you accept the Products on this basis.
- c. For the avoidance of doubt, no clause in these Terms excludes or limits any benefit of, any supplier warranties, indemnities and associated remedies (whether contained in such contract of supply or any statute) provided by a third party supplier in relation to those Products including under section 12 of the CCLA.

18. Exclusion of Warranty:

- a. You agree that where the Products are both supplied and acquired in trade the Consumer Guarantees Act 1993 does not apply and this clause contracts out of the provisions of the Consumer Guarantees Act. To the fullest extent permitted by law, in relation to your access and use of the Internet Sites, any condition or warranty either express or which would otherwise be implied by law into these Terms of Use is hereby excluded. The Internet Sites are provided 'as is' and 'as available' without any warranties, either express or implied, including but not limited to warranties of merchantability, fitness for a particular purpose, or non-infringement.

19. Exclusion of Liability:

- a. Under no circumstances will Agvance Nutrition, its employees or its agents be liable to you in contract, tort, equity, statute, regulation or otherwise for any loss, damage, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by you or by any other third party, whether direct or consequential (including without limitation any economic loss or other loss of turnover, profits, business or goodwill) arising out of any dispute or contractual, tortious or other claims or proceedings made by or brought against you which relate in any way to these Terms of Use, your Web Account, or your access and use of the Website or Internet Sites or in respect of any failure or omission on the part of Agvance Nutrition to comply with its obligations as set out in these Terms of Use in respect of your access and use of the Website or Internet Sites. If you are using the Website or Internet Sites for the purpose of a business, you agree that the provisions of the Consumer Guarantees Act 1993 do not apply to you.

20. Jurisdiction:

- a. The Website and Internet Sites are governed by and are to be interpreted in accordance with the laws of New Zealand and in all matters relating to or arising from your use of the Website and Internet Sites, you agree to submit to the non-exclusive jurisdiction of the Courts of New Zealand.

21. Disputes:

- a. In the event of any problem with the Website or Internet Sites or any content, you agree that your sole remedy is to cease using the relevant Website or Internet Site.

22. Breach & Waiver:

- a. In the case of a breach of these Terms of Use by you or any other person, Agvance Nutrition is free to decide whether it wishes to take action for such breach, and if so when and how. Agvance Nutrition reserves the right to suspend or terminate your access to the Website and Internet Sites at its sole discretion, without prior notice, for any breach of these Terms of Use. Agvance Nutrition will not be prevented by passage of time or any other matter, from exercising its rights. If Agvance Nutrition waives any rights available to it under these Terms of Use on one occasion, this does not mean that those rights will automatically be waived on any other occasion.

23. Severability:

- a. If any of these Terms of Use is held to be invalid, void, unenforceable or illegal for any reason, such provision shall be deemed to be severed from these Terms of Use and the remaining Terms of Use shall continue in force.

24. No Assignment:

- a. You may not assign any of your rights or obligations pursuant to these Terms of Use.

25. Queries:

- a. If you have any queries regarding these Terms of Use please do not hesitate to contact Agvance Nutrition. For contact details, please refer to the 'Contact Us' page on the Website.