

# WEBSITE TERMS OF USE



## 1. OUTLINE

- 1.1 These Terms govern your use of and access to our Websites, including the websites of our Related Bodies Corporate and our various Brands. By using any of our Websites, you agree to these Terms. If you do not agree to the Terms, you may not use the Website(s).
- 1.2 We may change, vary or modify all or part of these Terms at any time at our sole discretion, in which case:
  - 1.2.1 we will post the new Terms on the Website; and
  - 1.2.2 they will apply to your use of and access to the Website through your acceptance of them by subsequent or continued use of the Website.
- 1.3 It is your responsibility to check these Terms periodically for changes. If you object to any variation to these Terms, your only remedy is to immediately discontinue your use of the Website.
- 1.4 By using the Website, you affirm that you are 18 years or over.
- 1.5 As long as you comply with these Terms, we grant you a personal, revocable, non-exclusive, non-transferable, limited right to enter and use the Website.

## 2. PRIVACY

- 2.1 The Privacy Policy can be found on the Website and applies to your use of the Website and the Products & Services.
- 2.2 The Privacy Policy may be changed from time to time and is effective immediately upon posting such changes on the Website.

## 3. ACCESS TO WEBSITE

- 3.1 Your access to the Website may be suspended without notice in the case of system failure, maintenance or repair, or any reason beyond our control or simply because we wish to do so.
- 3.2 Except as expressly provided otherwise in the Terms, we reserve the right to change or discontinue any website, page, functionality, feature or service on the Website at any time.
- 3.3 The Website contains Content that is protected by our Intellectual Property Rights and may include Intellectual Property Rights owned by third parties.
- 3.4 Except as expressly provided otherwise in the Terms, you do not have any right, title or interest in or right of use of any Content on the Website.

## 4. PRODUCTS & SERVICES

- 4.1 The terms and conditions set out in our contract with you will apply to any purchases of our Products & Services (Contract).
- 4.2 You agree to abide by such Contract terms.
- 4.3 Our obligations in relation to the Products & Service are governed solely by the Contract. Nothing on the Website alters the Contract terms. In the event of inconsistency between these Terms and the Contract, the terms of the Contract will prevail.
- 4.4 We may make changes to any Products & Services offered on the Websites, or to the applicable prices for any such Products & Services, at any time, without notice (except as may be applicable under a relevant Contract).
- 4.5 The Content on the Websites with respect to Products & Services may be out of date, and we make no commitment to update such Content on the Websites.

## 5. REGISTRATION OF USERS

- 5.1 To access or use certain parts of the Website, you may be required to register as a user and open an account (including setting up an identification name and password) and agree to certain terms and conditions.
- 5.2 When registering as a user of the Website, you must:
  - 5.2.1 provide us with accurate, complete and up-to-date registration information, as requested; and
  - 5.2.2 inform us of any changes to your registration information.

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- 5.3** When registering as a user of the Website, you must not:
- 5.3.1** register as a user multiple times or more than once using one email address; or
  - 5.3.2** impersonate or create a user registration for any person other than yourself (except where registering on behalf of a corporate entity).
- 5.4** As a registered user of the Website, you must:
- 5.4.1** ensure the security and confidentiality of your user registration details, including any username and/or password that you select;
  - 5.4.2** notify us immediately if you become aware of any unauthorised use of your user details; and
  - 5.4.3** not permit your user details to be used by or transferred to any other person.
- 5.5** You are entirely responsible for all activities which occur under your user details as a result of your failure to keep your information secure and confidential (including unauthorised use of your credit card or other payment details).
- 5.6** We reserve the right to, in our sole discretion, suspend or terminate your use or access to all or any part of the Website, including if we believe you:
- 5.6.1** are abusing the use of the Website in any way;
  - 5.6.2** have breached these Terms, including any provision of clause 6; or
  - 5.6.3** are no longer an active user of the Website.
- 5.7** If we suspend or terminate your use or access to all or any part of the Website, we may, without limitation, refuse to allow you future access to the Website or our Products & Services.
- 6. USE OF THE WEBSITE**
- 6.1** You must not, without our prior written consent:
- 6.1.1** use the Website in breach of any applicable laws or regulations;
  - 6.1.2** use the Website (or Content obtained from the Website):
    - a)** to transmit (or authorise the transmission of) “junk mail”, “chain letters”, unsolicited emails, instant messaging, “spimming,” “spamming” or large amounts of untargeted, unwanted or repetitive content, other than to share links to or content you generate by and through the Website on those of your authorised social media Websites for the purposes of beneficially sharing your use of the Website and the Products & Services and promoting the Website and the Products & Services;
    - b)** to impersonate any person or entity;
    - c)** to solicit money, passwords or personal information from any person;
    - d)** to harm, abuse, harass, stalk, threaten or otherwise offend others; or
    - e)** for any unlawful purpose;
  - 6.1.3** use the Website to upload, post, transmit or otherwise make available (or attempt to upload, post, transmit or otherwise make available) any Material that, in our opinion:
    - a)** is not your original work or material in which you have all relevant Intellectual Property Rights, or which in any way violates or infringes (or could reasonably be expected to violate or infringe) the Intellectual Property Rights or other rights of another person;
    - b)** contains, promotes or provides information about unlawful activities or conduct;
    - c)** is, or could reasonably be expected to be, defamatory, obscene, offensive, threatening, abusive, vulgar, profane or otherwise unlawful, including Material that racially or religiously vilifies, contains cruelty or abuse (including to animals), incites violence or hatred, or is likely to offend, insult or humiliate others based on race, religion, ethnicity, gender, age, sexual orientation or any physical or mental disability;

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- d) includes an image or personal information of another person or persons unless you have their consent;
          - e) poses or creates a privacy or security risk to any person;
          - f) you know or suspect (or ought reasonably to have known or suspected) to be false, misleading or deceptive;
          - g) contains viruses, or other computer codes, files or programs designed to interrupt, limit or destroy the functionality of other computer software or hardware;
          - h) advertises, promotes or solicits any goods or services or commercial activities;
          - i) contains financial, legal, medical or other professional advice;
          - j) interferes with, disrupts, or creates an undue burden on the Website or any systems, or networks connected to the Website; or
          - k) uses any deep-link, page-scrape, robot, spider or other automatic device, program, algorithm, or methodology or any similar process to retrieve, index, or in any way reproduce, modify or circumvent the navigational structure, security or presentation of the Website or any Content on it;
  - 6.1.4** copy, store, alter, reproduce, republish, upload, post, display, transmit or distribute any part of the Website or Content to any other device, server, website or other medium for publication or for any commercial enterprise or use;
  - 6.1.5** frame or mirror any part of the Website;
  - 6.1.6** use code or other devices containing any reference to the Website to direct other persons to any other web page;
  - 6.1.7** attempt to gain unauthorised access to any portion or feature of the Website, or any other systems or networks connected to the Website or to any of our servers, or to any of the Products & Services offered on or through the Website, by hacking, password mining or any other illegitimate means;
  - 6.1.8** probe, scan or test the vulnerability of the Website or any network connected to the Website, nor breach the security or authentication measures on the Website or any network connected to the Website;
  - 6.1.9** reverse look-up, trace, or seek to trace any information on any other user of or visitor to the Website to its source, or exploit the Website or any service or information made available of offered through the Website, in any way where the purpose is to reveal any information, as provided for by the Website;
  - 6.1.10** use any device, software or routine to interfere or attempt to interfere with the proper working of the Website or any transaction being conducted on the Website or with any other person's use of the Website;
  - 6.1.11** modify, adapt, sublicense, translate, sell, reverse engineer, decipher, decompile or otherwise disassemble any portion of the Website or cause any other person to do so; or
  - 6.1.12** delete any attributions or legal or proprietary notices on the Website.
- 6.2** You may use Content and information on our Products & Services made available by us for access via the Website, provided that you, unless we provide our written consent otherwise:
  - 6.2.1** do not remove any proprietary notice language in copies of such documents;
  - 6.2.2** use such information only for your personal, non-commercial informational purpose and do not copy or post such information on any networked computer or broadcast it in any media; and
  - 6.2.3** make no modifications to any such information.
- 6.3** You must, immediately upon our request or as we direct, remove, take down, modify and/or remedy and reference, post, share or upload you make on any other social media or internet-based Website that contains any Content in connection with the Website or the Products & Services.

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## 7. MATERIAL OF USER

- 7.1 You acknowledge that we have the right, but are not obliged, to:
- 7.1.1 review, moderate or monitor your use of the Website; or
  - 7.1.2 confirm whether any Material you upload using the Website conforms with these Terms.
- 7.2 We are not responsible for, and accept no liability with respect to, any Material uploaded, posted, transmitted or otherwise made available on the Website by any person other than us.
- 7.3 We will not be taken to have uploaded, posted, transmitted or otherwise made Material available on the Website simply by facilitating others to post, transmit or make Material available, nor do we endorse any opinion, advice or statement made by any person other than us.
- 7.4 You are responsible for ensuring the accuracy and completeness of any Material or information you provide to us via the Website or otherwise in order for us to provide our Products & Services. We are not responsible or liable to you for any loss or damage due to, without limitation, you providing us with inaccurate or incomplete information regarding the requested Products & Services such as recipient identification or delivery information.

## 8. THIRD PARTY FEATURES

- 8.1 The Website may feature or display links and pointers to websites, content and advertising owned and/or operated by third parties (Third Party Features).
- 8.2 Third Party Features (if any) do not form part of the Website and are not under our control. By featuring or displaying such Third Party Features we do not in any way represent that we recommend or endorse the relevant third party, its products or services. We do not accept any responsibility in connection with any Third Party Features. If you engage with any such Third Party Features, you do so entirely at your own risk.
- 8.3 The payment gateways (if any) integrated into the purchase process made available through this Website are maintained or developed by third party service providers and are not maintained or developed by us. Your use of such services is subject to the terms and conditions of use maintained by such third parties and we are not responsible to you for your use of their payment gateway services. You acknowledge that we have no responsibility for and are liable in relation to any information provided to or via the payment gateway.
- 8.4 If you link to the Website from another website (or otherwise authorise another person to link from a third party website to the Website), you agree that we reserve the right to require you to remove the link immediately and that you will comply with such a request if made in writing.
- 8.5 From time to time, we may promote, advertise, or sponsor functions, events, offers, competitions or other activities that may be conducted online or offline and may be conducted by third parties. You participate in any such activities entirely at your own risk. We do not accept any responsibility in connection with your participation in activities conducted by any third party. These communications and/or activities may be subject to separate terms and conditions and are conducted in accordance with the terms of the Privacy Policy.

## 9. CONTENT DISCLAIMER

- 9.1 You assume total responsibility for your use of the Website and any linked independent third-party websites.
- 9.2 Except where expressly stated otherwise, Content on the Website is provided as general information only. It is not intended as advice and must not be relied upon as such. You should make your own inquiries and take independent advice tailored to your specific circumstances prior to making any decisions.
- 9.3 You acknowledge and agree that:
- 9.3.1 transmissions on the internet are never completely private or secure and you understand that any message or information you send to or download from the Website (where permitted) may be read or intercepted by others;
  - 9.3.2 we are not responsible for, and accept no liability in relation to, any other users' use of, access to or conduct in connection with the Website in any circumstance;

- 9.3.3 we cannot ensure that any images, files or other data you download, share or obtain from the Website (if you are permitted to do so) will be free of viruses or contamination or destructive features;
- 9.3.4 the Website and its Content is delivered on an as-is and as-available basis;
- 9.3.5 while we use reasonable endeavours to ensure that the Website is available continuously, we do not make any representations or warranties that your access will be uninterrupted, timely, secure, error free, or that any defects will be corrected, or that your use of the Website will provide specific results or benefits and we will not be liable for the same; and
- 9.3.6 your sole remedy against us for dissatisfaction with the Website or any Content or Material is to stop using the Website.

## 10. EXCLUSIONS + LIMITATIONS

- 10.1 All express or implied representations, conditions, statutory guarantees, warranties and provisions (whether based on statute, common law or otherwise), relating to these Terms, that are not contained in it, are excluded to the fullest extent permitted by law.
  - 10.2 Any liability arising in relation to your use of the Website, however arising and whether for consequential loss or otherwise, including any liability arising by virtue of any representation or warranty, whether express or implied by law, is hereby excluded to the fullest extent permitted by law.
  - 10.3 To the extent we have failed to comply with a consumer guarantee under the ACL which cannot be excluded, our liability is limited (to the extent permitted by law) to, at our option to:
    - 10.3.1 in the case of goods -
      - (a) the replacement of the goods or the supply of equivalent goods;
      - (b) the repair of the goods;
      - (c) the payment of the cost of replacing the goods or of acquiring equivalent goods; or (d) the payment of the cost of having the goods repaired; or
    - 10.3.2 in the case of services -
      - (a) the supply of the services again; or
      - (b) the payment of the cost of having the services supplied again.
  - 10.4 No warranty is given and we will not be liable for:
    - 10.4.1 alterations, modifications or variations to the Website or Content which are not performed by us;
    - 10.4.2 damage or failure caused by unusual or non-recommended use or application of the Website or Content;
    - 10.4.3 updates to the iOS, Android or other relevant mobile operating Website, the API environment for the relevant mobile operating Website or any other release of a version of any relevant software which renders features of the Website unstable or unusable; and/or
    - 10.4.4 loss caused by any factors beyond our control.
  - 10.5 We will not be liable for any special, indirect, consequential or economic loss or damage or loss of profits (in contract or tort or arising from any other cause of action) suffered by you or any other person resulting from any act or omission by us.
  - 10.6 You are solely responsible for the safe use of the Website while using the Website and you assume responsibility for anyone you contact using the Website. You expressly acknowledge and agree that your use of the Website is at your own personal and sole risk.
- ## 11. NOTICE OF INFRINGEMENT
- 11.1 If you think that the Website has been accessed or used by another user in breach of the Terms, please email us at [insert].
  - 11.2 If you wish to send us a copyright infringement notification, you must:
    - 11.2.1 identify the Content or Material(s) that you believe infringe(s) your copyright;

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- 11.2.2 identify each copyright protected work in which you own the rights and which you believe has been infringed;
- 11.2.3 identify how each copyright protected work has been or is being infringed; and
- 11.2.4 include your contact information.

## 12. GENERAL

- 12.1 **Indemnity:** You indemnify and keep us indemnified in respect of all damages, losses, costs and expenses (including legal costs) that we may incur as a result of your use of, access to, conduct in connection with, breach or alleged breach of these Terms.
- 12.2 **Lawful purpose:** You shall ensure that the Website is used only for lawful purposes and in accordance with any applicable laws.
- 12.3 **Binding:** These Terms shall bind our successors, administrators and permitted assigns and your executors and permitted assigns, or, being a company, its successors, administrators and permitted assigns.
- 12.4 **Force Majeure:** If a Force Majeure Event occurs, we may:
  - 12.4.1 totally or partially suspend any Website, any part of the Websites during any period in which we may be prevented or hindered from delivering by our normal means of supply or delivery due to that Force Majeure Event; and
  - 12.4.2 elect to extend at our discretion the period for performance of an obligation under these Terms as is reasonable in all the circumstances.
- 12.5 **Assignment:** We may without notice to you assign, transfer and/or sub-contract our rights and/or obligations (in whole or in part) under these Terms. You may not assign, transfer, hold on trust or otherwise delegate any of your rights or obligations under these Terms without our prior written consent.
- 12.6 **Severability:** Each clause in these Terms is severable and if any clause is held to be illegal or unenforceable, then the remaining clauses will remain in full force and effect.
- 12.7 **Waiver:** No failure, delay, relation or indulgence on our part in exercising any power, right or remedy precludes any other or further exercise of that or any other power, right or remedy.
- 12.8 **Governing law:** These Terms shall be governed by the laws of the State of New South Wales.

## 13. INTERPRETATION + DEFINITIONS

- 13.1 **Personal pronouns:** Except where the context otherwise provides or requires:
  - 13.1.1 the terms we, us or our refers to NH Foods Australia Pty Ltd (ABN 87 001 548 401) and its Related Bodies Corporate; and
  - 13.1.2 the terms you or your refers to a user of the Website.
- 13.2 **Defined terms:** In these Terms, unless otherwise provided, the following terms shall have their meaning as specified:
  - ACL** means the Australian Consumer Law contained in Schedule 2 of the Competition and Consumer Act 2010 (Cth).
  - Brands** means all of our brands, registered and unregistered trade marks, logos, business, trading or company names, catch phrases or words used by us in relation to our business including but not limited to:
    - (a) NH Foods;
    - (b) Wild Rivers Purebred Wagyu;
    - (c) Oakey Premium Wagyu;
    - (d) Angus Reserve - Black Angus Beef;
    - (e) Manning Valley...Naturally;
    - (f) Nature's Fresh - Natural Beef;
    - (g) Omugi Beef.

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**Content** means all text, graphics, user interfaces, visual interfaces, photographs, illustrations, audio, video, trademarks, logos, sounds, music, artwork and computer code including but not limited to our Brands, the design, structure, selection, coordination, expression, look and feel and arrangement of such content contained on the Website which is owned controlled or licensed by or to us and is protected by Intellectual Property Rights.

**Contract** has the meaning described in clause 4.1.

**Force Majeure Event** means circumstances beyond our reasonable control shall include, but not be limited, to compliance with any laws, regulations, orders, acts, instructions or priority request of any government, or any department or agency, civil or military authority, acts of God, acts of the public enemy, your acts or omissions, pandemic or epidemic, fires, floods, strikes, lockouts, embargoes, wars, labour or material shortages, riots, insurrections or defaults of our suppliers or subcontractors.

**Intellectual Property Rights** means all forms of intellectual property rights (whether registered or unregistered) in copyright, designs, patents, trade marks, domain names, trade secrets, know-how, confidential information, and all other similar proprietary rights and all extensions and renewals thereof anywhere in the world which currently exist and/or are recognised in the future, including, where the context requires, all Intellectual Property Rights in respect of our Brands.

**Material** means any material in which you have Intellectual Property Rights provided by you for use on the Website or in the production, development and supply of the Products & Services to you including, but not limited to, text, illustrations, photographs, audio, video, any combination of these or other material.

**Privacy Policy** means our privacy policy as amended from time to time available via our Website.

**Products & Services** means the supply, processing and export of foods including but not limited to fresh meats, products or services that we may provide through the Website or otherwise from time to time.

**Related Bodies Corporate** has the meaning defined in section 50 of the Corporations Act 2001 (Cth).

**Terms** means these terms and conditions of access to the Website and any additional terms, conditions, notices and disclaimers displayed elsewhere on the Website, as amended from time to time.

**Website** means all or any of our websites, mobile applications, electronic interfaces and platforms that are owned, provided and/or operated from time to time by us regardless of how it is accessed by users (including via the internet, mobile phone or any other device or other means), including but not limited to the following websites:

- (a) [www.nh-foods.com.au](http://www.nh-foods.com.au);
- (b) [www.wilddriverswagyu.com.au](http://www.wilddriverswagyu.com.au);
- (c) [www.oakeypremiumwagyu.com.au](http://www.oakeypremiumwagyu.com.au);
- (d) [www.angusreserve.com.au](http://www.angusreserve.com.au);
- (e) [www.naturesfreshnaturalbeef.com.au](http://www.naturesfreshnaturalbeef.com.au);
- (f) [www.manningvalleynaturallybeef.com.au](http://www.manningvalleynaturallybeef.com.au),
- (g) [www.omugibeef.com.au](http://www.omugibeef.com.au),

and any other Websites relating to us or our Brands.