

STANDARD TERMS AND CONDITIONS OF SALE



1. APPLICATION OF THESE CONDITIONS

These conditions, subject to any variations agreed to in writing, apply to all supplies made by the company specified in the invoice or the contract as Multikraft Australia to the entity specified in the invoice or the contract as the Purchaser. These conditions, in their present form or as changed, pursuant to these conditions, together with the relevant credit application form (if applicable), invoices and Purchase Orders exchanged between the parties form the contract.

2. DEFINITIONS

The following words have the following meanings in these conditions:

Contract means the contract between the Purchaser and Multikraft Australia for the supply of the Goods, as described in clause 1;

Goods means all goods and/or services ordered in the Purchase Order.

GST has the same meaning as in the GST Law.

GST Law means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Loss means any loss, liability, damage, expense or cost whatsoever and includes (without limitation) indirect or consequential loss or damage, loss of profits or business opportunity, and damage to equipment or property;

Multikraft Australia means the company identified in the invoice as Multikraft Probiotics Australia (ABN 32 167 462 931).

Personal Information has the meaning set out in the Privacy Act 1988 (Cth).

PPSA means the Personal Property Securities Act 2009 (Cth).

Multikraft Probiotics Australia

858 Gooburrum Road, Bundaberg QLD 4670, AUSTRALIA

1300 MICROBES (642 762)

www.multikraft.com.au

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Privacy Law means the Privacy Act 1988, including (without limitation) the 13 Australian Privacy Principles (APPs) in the Privacy Act 1988 (Cth) and all relevant Australian privacy laws, including the Health Privacy Principles under state legislation (e.g. those contained in the Health Records Act 2001 (Vic) or the privacy provisions contained in Part 2 of the Health Records (Privacy and Access) Act 1997 (ACT)), the Privacy Regulations 2013 and the Privacy (Credit Reporting) Code.

Purchase Order means a purchase order issued by the Purchaser to Multikraft Australia.

Purchaser means the person (including its successors, personal representatives and permitted assigns) who acquires the Goods from Multikraft Australia, and where this consists of more than 1 person the obligations in the Contract are deemed to be joint and several.

Related Bodies Corporate has the meaning given to it in the Corporations Act 2001 (Cth).

Sales Confirmation means a confirmation of the Purchase Order issued by Multikraft Australia to the Purchaser.

3. INCONSISTENCIES

Where the supply purports to be made on or subject to terms and conditions other than these conditions, the Purchaser agrees that such other terms and conditions are disregarded and form no part of the Contract unless Multikraft Australia agrees otherwise in writing.

4. ACKNOWLEDGMENT

The Purchaser acknowledges and agrees that:

- 4.1 Multikraft Australia's liability under these conditions falls solely on Multikraft Australia; and
- 4.2 the obligations the Purchaser accepts and warranties the Purchaser makes are accepted and made for the benefit of Multikraft Australia and all of Multikraft Australia's Related Bodies Corporate.

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5. ACCEPTANCE OF PURCHASE ORDERS AND FORECASTS

- 5.1 Multikraft Australia will only accept Purchase Orders which are accompanied by a purchase order number. Multikraft Australia reserves the right to refuse acceptance of any Purchase Order, within 5 working days after receipt. Any quotation given by Multikraft Australia lapses if not accepted by the Purchaser within 30 days.
- 5.2 All Purchase Orders supplied by the Purchaser are subject to acceptance by Multikraft Australia and no Contract between Multikraft Australia and the Purchaser comes into existence until Multikraft Australia issues a Sales Confirmation in relation to the Purchase Order.
- 5.3 If the Purchaser has provided Multikraft Australia with a forecast of future requirements it acknowledges that Multikraft Australia will be entitled to rely on the accuracy of such forecast(s) for the purpose of ordering raw materials and arranging its resources so as to be able to meet those forecast requirements.
- 5.4 If any such forecast is materially inaccurate Multikraft Australia shall be entitled to invoice the Purchaser for all costs, expenses or losses which result from Multikraft Australia having relied on the inaccurate forecast. Such invoice will be subject to the normal terms of payment applying to the Purchaser.
- 5.5 In any event, Multikraft Australia reserves the right to invoice the Purchaser for all finished Goods made to a confirmed Purchase Order or forecast where no delivery date has been confirmed by the Purchaser within 3 months of Sales Confirmation. Such invoice will be subject to the normal terms of payment applying to the Purchaser.

6. TERMS OF PAYMENT

- 6.1 Terms of payment are cash with order unless credit has been approved by Multikraft Australia. If credit is satisfactorily established, invoices will be paid on or before the due date specified on the invoice (without deduction or set-off of any kind) unless otherwise agreed to by Multikraft Australia in writing. If payment is not received by the due date Multikraft Australia reserves the right to charge interest at the 90-day Bank Bill Swap Bid Rate (as quoted on ASX page BBSY at 11.00am)

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plus 15% per annum commencing from the due date of payment in respect of all the Purchaser's indebtedness which is overdue. Any interest so levied shall accrue on a daily basis and shall accrue until all monies owing are paid in full. The Purchaser shall also be liable to pay all expenses, legal costs on a solicitor and own client basis, of Multikraft Australia in relation to obtaining remedy of the failure to comply.

- 6.2 Notwithstanding any rights of lien to which Multikraft Australia may otherwise be entitled, Multikraft Australia shall have a specific lien (including a right of sale) over the goods the subject of the Contract and any goods the subject of any other contract with the Purchaser until the price of the goods has been paid in full. The Purchaser shall not be entitled to make any deduction from the price of the goods in respect of any off-set or counter claims.

7. DEFAULT

If the Purchaser defaults in payment, or an application is made to a court to wind up the Purchaser, or a receiver or administrator is appointed to manage the affairs of the Purchaser, or the Purchaser is in material breach of the Contract, then Multikraft Australia may terminate the Contract or any Purchase Order immediately and may recover from the Purchaser, at a minimum, reasonable compensation for materials purchased and ordered, labour expended and other expenses incurred such as transport in complying with the Purchase Orders.

8. DELIVERY AND RISK

- 8.1 While Multikraft Australia will use all reasonable endeavours to deliver by the date specified in the Purchase Order, it does not unless otherwise agreed in writing guarantee delivery on that date and is not liable for any Loss resulting from late or early delivery. Delivery of the Goods shall be effected when the Goods are unloaded from the delivery vehicle or placed on the Purchaser's or the Purchaser's agent's nominated carrier. If no date for delivery has been specified, then the Goods shall be supplied to the Purchaser and the Purchaser shall receive the Goods as soon as practicable for Multikraft Australia after the Sales Confirmation is issued and the Goods have been manufactured.

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- 8.2 Risk in the Goods passes to the Purchaser at the time of delivery. Delivery to the Purchaser is deemed to occur at the time of delivery to the Purchaser, its agent or carrier.
- 8.3 Multikraft Australia may deliver up to 5% more or less of the amount specified for delivery, subject only to an appropriate adjustment to the price payable, in full satisfaction of Multikraft Australia's obligations pursuant to the Contract, provided the Purchase Order satisfies the minimum run-size requirements of Multikraft Australia.
- 8.4 The Purchaser shall notify Multikraft Australia within 7 days of delivery of any short fall in or loss of or damage to goods delivered. Failure to so notify shall, to the extent permitted by law, disentitle the Purchaser to any remedy in respect to the shortage, loss or damage.

9. PASSING OF PROPERTY

- 9.1 Multikraft Australia's rights under this clause 9 secure:
- (a) Multikraft Australia's right to receive the price of all Goods sold under this Contract;
 - (b) all other amounts owing to Multikraft Australia under this Contract or any other contract.
- 9.2 All payments received from the Purchaser must be applied in accordance with section 14(6)(c) of the PPSA.
- 9.3 The Purchaser agrees that legal title and property in the Goods is retained by Multikraft Australia until payment is received in cleared funds from the Purchaser of all sums owing to Multikraft Australia, whether under the Contract or otherwise. The Purchaser must keep the Goods separate from other goods and store the Goods so that they are readily identifiable as those supplied by Multikraft Australia.
- 9.4 The Purchaser must not sell the Goods except in the ordinary course of the Purchaser's business.
- 9.5 If the Purchaser fails to pay by the due date any amount owing to Multikraft Australia, Multikraft Australia may (without prejudice to any of its other rights) recover and resell any of the Goods in which property has not passed to the Purchaser. In addition to any rights Multikraft Australia may have under Chapter 4

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of the PPSA, Multikraft Australia may, without notice, enter any premises where it expects the Goods may be located and remove them without committing a trespass, and the Purchaser authorises Multikraft Australia to enter onto the premises where the Goods are kept to take possession of the Goods for that purpose at any time. The Purchaser also indemnifies Multikraft Australia from and against all Loss suffered and or incurred by Multikraft Australia as a result of exercising its rights under this clause 9. If there is any inconsistency between Multikraft Australia's rights under this clause 9 and its rights under Chapter 4 of the PPSA, this clause 9 prevails.

- 9.6 The Purchaser acknowledges and warrants that Multikraft Australia has a security interest (for the purposes of the PPSA) in the Goods and any proceeds until title passes to the Purchaser in accordance with this clause 9. The Purchaser must do anything reasonably required by Multikraft Australia to enable Multikraft Australia to register its security interest with the priority Multikraft Australia requires and to maintain that registration.
- 9.7 The Purchaser acknowledges that the Standard Terms and Conditions of Sale of Multikraft Probiotics Australia applies to each Purchase Order accepted from time to time and each invoice issued from time to time by Multikraft Australia.

10. CANCELLATIONS

Any request by the Purchaser for cancellation of a Purchase Order must be in writing and may be delivered to Multikraft Australia by post, hand delivery, or email. The Purchaser is liable to reimburse Multikraft Australia for the costs it has incurred for labour and materials in fulfilling the Purchase Order up to the date the request for cancellation is received and acknowledged by Multikraft Australia.

11. FORCE MAJEURE

- 11.1 Neither party is liable for any Loss incurred by the other party as a result of any delay or failure to observe any of these conditions (other than an obligation to pay money) as a result of any circumstance beyond the party's control, including but not limited to any strike, lock-out, labour dispute, act of God, fire, flood, accidental

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or malicious damage or breakdown in machinery. The party affected must notify the other party as soon as possible of such circumstance.

- 11.2 During the continuance of such circumstance the obligations of the party affected, to the extent they are affected by the circumstance, are suspended and resume as soon as possible after the circumstance has ceased to have effect.

12. MULTIKRAFT AUSTRALIA'S LIABILITY

- 12.1 Nothing in these conditions is to be interpreted as having the effect of excluding, restricting or modifying any statutory guarantee, condition or warranty, or right or liability implied by any applicable legislation into the Contract, if such exclusion, restriction or modification would be void or prohibited by the legislation.

- 12.2 To the extent that Multikraft Australia breaches any statutory guarantee, condition or warranty implied into the Contract and which cannot be excluded or modified, Multikraft Australia's liability is limited to, at Multikraft Australia's discretion:

(a) in the case of Goods:

- (i) replacement of the Goods or supply of equivalent Goods;
- (ii) payment of the cost of replacing the Goods or acquiring equivalent Goods;
- (iii) repair of the Goods; or
- (iv) payment of the cost of having the Goods repaired; or

(b) in the case of services, to:

- (i) supply of the services again; or
- (ii) payment of the cost of having the services supplied again.

- 12.3 Subject to (a) and (b) above, Multikraft Australia is not liable to the Purchaser (or to any third party claiming through the Purchaser) for any Loss caused by any act or omission of Multikraft Australia, its employees or agent, and whether based on negligence, tort, contract or otherwise. Under no circumstances shall Multikraft Australia be liable for indirect or consequential losses.

13. INTELLECTUAL PROPERTY

Any technical information, knowledge or processing methods at any time transmitted either orally or in writing by Multikraft Australia to the Purchaser shall remain the property of Multikraft Australia and shall be considered absolutely

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confidential by the Purchaser who shall not use them for any purpose nor sell, transfer or divulge them in any manner to anyone without the prior written consent of Multikraft Australia. The Purchaser warrants that the use by Multikraft Australia of any designs or instructions supplied by the Purchaser will not infringe the patents, trademarks, designs or copyright (“intellectual property”) of any other person and the Purchaser agrees to indemnify Multikraft Australia against any claim relating to or arising from the infringement of any intellectual property of any other person. If at any time a claim is made against Multikraft Australia or Multikraft Australia becomes aware that a claim is likely to be made against Multikraft Australia for infringing any intellectual property or contributing to any such infringement by Multikraft Australia or any other person as a result of supplying Goods, Multikraft Australia may immediately terminate or suspend this Contract.

14. TAX AND DUTIES

The Purchaser is liable for all taxes (including GST), duties, levies and other government fees and charges in relation to the Goods. Unless specified otherwise, prices quoted do not include such taxes (including GST), duties, etc.

15. GOODS AND SERVICES TAX

If, and to the extent, any supply of the Goods under the Contract is a taxable supply within the meaning of the GST Law, the price for the Goods will be increased to include GST payable by Multikraft Australia in respect of the supply. All rebates, discounts or other reductions in price will be calculated on the GST exclusive price.

The parties agree that:

- (a) the parties must be registered persons within the meaning of the GST Law;
- (b) Multikraft Australia must provide tax invoices and if applicable adjustment notes to the Purchaser in the form prescribed by or for the purposes of the GST Law; and
- (c) costs required to be reimbursed or indemnified excludes any amount that represents GST for which an input tax credit within the meaning of the GST Law can be claimed.

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16. CLAIMS

Any claim by the Purchaser arising out of the Contract must be made in writing and may be delivered by post, hand delivery, or email as soon as practicable after discovery by the Purchaser of the problem and in any event no later than 14 days after delivery of the Goods. To the extent Multikraft Australia can identify the Goods and the date of manufacture the Purchaser must supply a sample and information if requested. Multikraft Australia has the right at any time within 14 days after receipt of the claim to inspect the relevant Goods. If the Purchaser disposes of any of the Goods within the 14 day period, except with the written consent of Multikraft Australia, all claims in respect of the Goods disposed of are deemed to have been waived by the Purchaser.

17. CONFIDENTIALITY

- 17.1 Unless required by law or otherwise agreed, the Purchaser must keep confidential all information it receives from Multikraft Australia which relates to the Goods, Multikraft Australia's business or any services Multikraft Australia provides and any of Multikraft Australia's intellectual property (including without limitation any formulations), other products or processes except to the extent that information is in the public domain.
- 17.2 In the event the Purchaser deems it reasonable to share Confidential Information with a third party, then the third party is required to sign and execute a Non-Disclosure Agreement or equivalent Confidentiality Agreement with Multikraft Australia before the Purchaser is permitted to disclose any Confidential Information.

18. INSURANCE

Unless otherwise instructed by the Purchaser in writing or included in a written quotation or price list by Multikraft Australia, insurance cover for the Goods in transit will not be arranged by Multikraft Australia. Instructions for insurance cover will only be accepted in writing at the time the Goods are ordered. Multikraft

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Australia is not obliged to give the Purchaser a notice referred to in Section 35(3), Sale of Goods Act 1896 (Qld) (or any equivalent legislation).

19. TRANSPORT

If the Purchaser requests delivery by means other than the means normally used by Multikraft Australia, then the Purchaser must pay all additional costs associated with the means chosen. If, within 4 weeks after the Goods are available for dispatch, Multikraft Australia is unable or finds it impractical to transport the Goods by the means chosen, Multikraft Australia may transport the Goods by any means it considers suitable and will advise the Purchaser accordingly.

20. OTHER DELIVERY PROVISIONS

- 20.1 Delivery may be made in one or more lots and at different times and by separate deliveries or shipments. Each lot must be accepted and paid for, notwithstanding any late delivery or non-delivery of any other lot. If Multikraft Australia allows the Purchaser to nominate a delivery date, such date may not be more than 60 days after the expected date of manufacture of the Goods, as advised by Multikraft Australia to the Purchaser.
- 20.2 If the Purchaser is unable or unwilling to accept delivery on or before the nominated delivery date, or if no delivery date is nominated and the Purchaser is unable to accept delivery when Multikraft Australia gives notice that the Goods are available for delivery, then Multikraft Australia will hold the Goods in stock for 45 days after which time it may, at its discretion:
- (a) continue to hold the Goods and charge the Purchaser for storage;
 - (b) invoice the Purchaser and deliver the Goods in accordance with prior arrangements, notwithstanding that the Purchaser's representative or agent is not present or is unwilling to accept the Goods; or
 - (c) treat the Contract as having been repudiated by the Purchaser and invoice the Purchaser for the full Contract price for the Goods and any other costs incurred by Multikraft Australia less any amounts received by Multikraft Australia from a bona fide sale of the Goods to a third party.

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20.3 Multikraft Australia will deliver the Goods to the Purchaser's nominated facility. The Purchaser or their nominated agent must unload the Goods at the Purchaser's risk.

21. PRODUCT SPECIFICATIONS AND DESIGN CHANGES

Multikraft Australia may make any changes or improvements to the design or specification of the Goods at any time without giving prior written notice to the Purchaser unless otherwise agreed in writing.

22. PAYMENT BY LETTER OF CREDIT

If the Purchaser is not resident in Australia or is not an Australian company, payment must be made by irrevocable letter of credit. If the Purchaser requires delivery of the Goods outside Australia, prices quoted are free alongside ship or FAS as defined in Inco Terms 2010, unless otherwise agreed in writing by Multikraft Australia.

23. ASSIGNMENT AND NOVATION

The Purchaser must not assign or novate the Contract or otherwise deal with the benefit of it or a right under it, or purport to do so, without the prior written consent of Multikraft Australia. A change in control of the Purchaser will be deemed an assignment for the purposes of this contract.

24. RELATIONSHIP OF THE PARTIES

Except as expressly provided in the Contract nothing in the Contract is intended to constitute a fiduciary relationship or an agency, partnership or trust; and no party has authority to bind any other party.

25. SIGNIFICANT REGULATORY CHANGES

Should any significant change in law or regulation (including the introduction of any form of emission or carbon trading scheme or emissions or carbon tax) occur during the Term, Multikraft Australia will subject to clause 11.1 be entitled, by 10 days notice in writing to the Purchaser, to increase the price payable by the Purchaser for Products by an amount equal to the increased cost that will be

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incurred by Multikraft Australia in supplying the Products to the Purchaser as a result of such significant change.

26. ENFORCEMENT OF SECURITY INTEREST

If Chapter 4 of the PPSA would otherwise apply to the enforcement of the security interest created under this Contract, the Purchaser agrees that the following provisions of the PPSA will not apply; section 95 (notice of removal of accession) to the extent that it requires Multikraft Australia to give a notice to the Purchaser; section 121(4) (enforcement of liquid assets – notice to grantor); section 130 (notice of disposal), to the extent that it requires Multikraft Australia to give a notice to the Purchaser; paragraph 132(3)(d) contents of statement of account after disposal); subsection 132(4) (statement of account if no disposal); section 135 (notice of retention); section 142 (redemption of collateral); and section 143 (reinstatement of security agreement).

27. NOTICES UNDER PPSA

Multikraft Australia does not need to give the Purchaser any notice under the PPSA (including a notice of verification statement) unless the notice is required by the PPSA and that requirement cannot be excluded.

28. PRIVACY

The Purchaser must comply with the Privacy Law with respect to any act done or practice engaged in by the Purchaser for the purposes of this Contract, including, without limitation, in relation to the collection, use, disclosure, storage, destruction or de-identification of Personal Information. The Purchaser must also enter into a contractual arrangement to this effect with any subcontractor or third party to which it discloses Personal Information in connection with this Contract.

29. MISCELLANEOUS

29.1 Any of these conditions may be varied in writing by Multikraft Australia unless otherwise agreed between the parties. Any variation to these conditions will only apply to Purchase Orders placed after the condition has been varied.

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- 29.2 Multikraft Australia may set-off any amounts owed by it to the Purchaser under the Contract against amounts owed by Multikraft Australia to the Purchaser on any account whatsoever.
- 29.3 The waiver by Multikraft Australia of any provision, or breach of any provision, of the Contract is not to be construed as a waiver of any other provision or a breach of any other provision, or further breach of the same or any other provision of the Contract.
- 29.4 If any provision of the Contract is unenforceable or void either in whole or in part for any reason, then that provision (or part) is deemed to be deleted without in any way affecting the validity or enforceability of any other provision.
- 29.5 The Contract (including the details appearing on the Purchase Order) constitute the entire agreement between the Purchaser and Multikraft Australia and no modification is binding in relation to the Contract unless agreed to in writing by Multikraft Australia.

30. GOVERNING LAW

This contract will be interpreted under and governed by the laws of the State of Queensland, Australia.

The parties submit to the exclusive jurisdiction of the courts of State of Queensland, Australia and any courts that may hear appeals from those courts in respect of any proceedings in connection with this contract.

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