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| Fairtrade Certification Agreement |
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| **This Agreement** is made on | |
| **Parties** | |
|  | Fairtrade Australia and New Zealand Ltd (ACN 114 571 881) registered in Australia of Suite 312, Level 3, 838 Collins St, Docklands VIC 3008 (***Fairtrade ANZ***) (and registered in New Zealand as an overseas company (company number 1659439) of 84c Hurstmere Road, Takapuna, Auckland New Zealand). |
|  | [ (ACN [\*])][ registered in [\*]**|** incorporated in [\*]] of [\*] (the ***Client***). |
| **Recitals** | |
|  | Fairtrade ANZ is authorised by Fairtrade International to undertake inspection and Certification of the Client in relation to the Fairtrade Standards. |
|  | This Agreement provides for Certification of the Client by Fairtrade ANZ. |
|  | The purpose of this Agreement is to enable Fairtrade ANZ to certify the Client against the applicable Fairtrade Standards. |

**It is agreed** as follows.

1. Definitions and Interpretation
   1. Definitions

The following definitions apply unless the context requires otherwise.

**“Advertising & Promotional Materials”** means all materials and statements used by the Client in relation to Products and includes (among others) leaflets, brochures, catalogues, press and broadcast advertising, press releases and information published via the internet.

1. **“Agreement”** means this Certification Agreement including the attached Schedules, all of which may be amended from time to time in writing in accordance with procedures in this Agreement.

"**Assurance Provider**" means FLOCERT or another certification body to whom Fairtrade International has delegated the function of inspection and Certification.

1. **"Audit"** means a process of verification to assess the compliance of a Fairtrade Operator and/or a product with the Fairtrade Standards. Audits may be conducted on- or off-site and may be announced or unannounced.
2. **"Auditor"** means any person qualified to carry out Audits on behalf of Fairtrade ANZ. The Auditor is appointed by Fairtrade ANZ and may be an independently contracted natural or legal person.

**"Certificate"** means a written confirmation or permission to trade issued by the Assurance Provider that a Fairtrade Operator or a specific lot of Product(s) is found to comply with a Fairtrade Standard.

1. **"Certification"** means the process by which an Assurance Provider determines a Client’s compliance with applicable Fairtrade Standards.
2. **"Certification Fee**" means the amount payable to Fairtrade ANZ by the Client in accordance with item 1.5 of Schedule 2.
3. **“Commencement Date”** means the date of execution of this Agreement.
4. **“Confidential Information”** means, in relation to a Party, any information or material pertaining to that Party’s business, information of a confidential nature about or pertaining to that Party, and information marked as confidential or agreed by the Parties in writing to be held in confidence.
5. The Confidential Information of Fairtrade ANZ (but not that of the Client) includes:
   1. trade secrets, financial information, know-how and business and marketing plans pertaining to Certification;
   2. all amounts paid or payable under this Agreement;
   3. the methods of calculation of payments due under this Agreement; and
   4. the terms of this Agreement;
6. whether oral, in writing or recorded in any other medium or mode of storage.

**"Decertification"** means removal of Certification.

1. "**Fairtrade ANZ**" means Fairtrade Australia and New Zealand Ltd (ABN 98 114 571 881) of Suite 312 Level 3 838 Collins St Docklands VIC 3008 Australia, and registered in New Zealand as an overseas company (company number 1659439) of 84c Hurstmere Road, Takapuna, Auckland New Zealand, collectively the exclusive NFO for Australia & New Zealand.

"**Fairtrade Group**" means Fairtrade International, FLOCERT, Fairtrade Marketing Organizations, and any members of Fairtrade International as defined in the Fairtrade International Constitution.

1. **"Fairtrade Importer"** means any person certified under the relevant Fairtrade Standards as the primary purchaser of Ingredients or Products other than in the country of origin at the date of any transaction relevant to this Agreement, and is either a party to a Certification Agreement with Fairtrade ANZ, or is certified or registered as a Fairtrade Importer by FLOCERT or by an Assurance Provider.
2. **"Fairtrade International"** means Fairtrade Labelling Organizations International, e.V., being the body that sets and maintains Fairtrade standards on behalf of its member NFOs.
3. **"Fairtrade Mark"** means a registered trademark owned by Fairtrade International and sub‑licensed to National Fairtrade Labelling Organisations (***NFO***). A Fairtrade Mark is only for use on consumer retail products that have met the Fairtrade Standards, and for the promotion of such products by the licensees, certified operators and third parties.
4. **"Fairtrade Operator”** means any person that has current Certification including, but not limited to:
   1. Fairtrade Producers;
   2. Fairtrade Importers;
   3. those which process a Product by transforming it in the original producing country;
   4. those which export Products from the original producing country); and
   5. those which manufacture a Product by transforming it outside the original producing country.
5. **"Fairtrade Premium"** is an amount paid to Fairtrade Producers in addition to the payment for their products. The Fairtrade Premium is intended for investment in the producers’ business and community (for a small farmers’ organization or contract production set-up) or for the socio-economic development of the workers and their community (for a hired labour situation).

**“Fairtrade Producer”** means any Client that has been certified according to Fairtrade Standards relevant for production and any applicable product standards and who has a FLOCERT certificate of registration valid at the date of any transaction relevant to this Agreement.

1. **“Fairtrade Standards”** means any and all of the standards published by Fairtrade International, FLOCERT or Fairtrade ANZ, as amended from time to time, including without limitation all standards, criteria, guidelines, policies or otherwise referred to in Schedule 1.
2. **"FLOCERT"** means FLOCERT GmbH, the international certification body certifying Fairtrade Operators under Fairtrade Standards.
3. **“Ingredients”** means any substance, including a food additive, used in the manufacture or preparation of a food and present in a final Product offered for sale by the Client, although possibly in a modified form.
4. **"Law"** means all statutes, proclamations, notices in the Government Gazette, ordinances, by‑laws and other legislation applicable in the Territory in which the relevant activity occurs and (without limiting the generality of the foregoing) all consumer product safety standards, any relevant consumer protection legislation, and any agreements with third persons relating to Products.
5. **"NFO"** means "National Fairtrade Labelling Organisation", being a member organisation of Fairtrade International; a list of NFOs is available via Schedule 1 and includes Fairtrade ANZ.

**“Packaging”** means all packaging materials ordinarily supplied with a Product and includes (among others) all containers, wrappers, labels and transit packaging.

1. **"Party"** means a party to this Agreement.
2. **"Premises"** means any premises at which Products are produced, manufactured, transformed, labelled, packaged, distributed, treated, stored or warehoused.
3. **"Products"** means products that are produced, processed and traded in compliance with applicable Fairtrade Standards under a valid Certificate.
4. **"Sell-Off Date"** means the last day of the Sell-Off Period, whether the Sell-Off Period expires or is terminated.
5. **"Sell-Off Period"** has the meaning given to that term in paragraph 7.4(d).
6. **"Small Client"** has the meaning given to that term in Schedule 2.
7. **"Standard Operating Procedures"** means the standard operating procedures referred to in Schedule 1.
8. **"Subcontractor"** means an individual or company that provides processing and/or manufacturing services on behalf of a Fairtrade Operator but does not take legal ownership of the product, also known as ‘Additional Entities’ in the Fairtrade Standards.
9. **"Suspension"** means temporary suspension of the Client’s Certification as defined under the Standard Operating Procedures.
10. **"Territory"** means the territory specified in item 1.3 of Schedule 2.
11. **"Trade Mark Licensing Agreement"** means an agreement between Fairtrade ANZ and the Client which grants a sub-licence in relation to a Fairtrade Mark.
    1. Interpretation
12. The following rules apply unless the context requires otherwise.
    * 1. Headings are for convenience only and do not affect interpretation.
      2. Mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.
      3. Nothing in this Agreement is to be interpreted against a Party solely on the ground that the Party put forward this Agreement or a relevant part of it.
      4. The singular includes the plural, and the converse also applies.
      5. If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
      6. A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
      7. A reference to a paragraph or schedule is a reference to a paragraph or schedule.
      8. A reference to a Party to this Agreement or another agreement or document includes the Party's successors, permitted substitutes and permitted assigns (and, where applicable, the Party's legal personal representatives).
      9. A reference to legislation (including delegated legislation), or to a provision thereof, includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it, as the case may be.
      10. A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
      11. A reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
      12. A reference to dollars and $ is to the currency as set out in item 1.4 of Schedule 2.
      13. A month means a calendar month.
      14. A reference to year is a reference to each successive period of 12 months, commencing on the Commencement Date.
      15. The definitions above apply to the terms used in the schedules to this Agreement, unless specified otherwise.
      16. Where any schedule conflicts with a term in the body of this Agreement, the term in the body of the Agreement prevails to the extent of the inconsistency.
    1. Interpretation of references to agreements or documents
       1. A reference to an agreement or document (including but not limited to any document referred to in Schedule 1) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document, and includes the recitals, schedules and annexures to that agreement or document.
       2. For the avoidance of doubt, any document incorporated into this Agreement by reference (including but not limited to any document referred to in Schedule 1) may be amended from time to time. The requirements contained in such documents may be added, deleted, or otherwise modified. The Client is required to meet the requirements of any document incorporated into this Agreement by reference and is required to monitor pending and finalized revisions of such documents.
13. Obligations of the Client
    1. Compliance with applicable Fairtrade Standards
       1. The Client must comply with all the terms of this Agreement, and with Fairtrade Standards as applicable at the relevant time.
       2. The Client will perform all actions required to receive and maintain Certification. This includes compliance with applicable Fairtrade Standards.
       3. If, in its dealings with a Fairtrade Operator, the supply of all Ingredients and/or Products is properly invoiced in accordance with the Fairtrade Standards, the Client is entitled to rely on such invoice as evidence that the Ingredients and/or Products which that Fairtrade Operator supplied to the Client comply with Fairtrade Standards. However the Client must notify Fairtrade ANZ if it suspects a failure by those Fairtrade Operators to comply with Fairtrade Standards.
       4. If the Client suspects or by any means becomes aware that a Fairtrade Operator has been Suspended pursuant to a Trade Mark Licensing Agreement or a Certification Agreement or has been Decertified, the Client must comply with all relevant requirements of the Fairtrade Standards.
       5. The Client will keep a record of all known complaints relating to any Fairtrade Product’s compliance with Fairtrade Standards. The Client will take and document appropriate action with respect to such complaints and any deficiencies found in products or services that affect compliance with the requirements of Certification. The Client will make these records available to Fairtrade ANZ or its appointed Auditor when requested.
    2. Violation of applicable Fairtrade Standards
       1. If Fairtrade Standards are violated by the Client, Fairtrade ANZ is authorized to apply sanctions relating to the Certification status of the Client. The applicable sanctions can be found in the Standard Operating Procedures for Certification, referenced in Schedule 1. The Client explicitly acknowledges the validity of the list of sanctions.
       2. The Client acknowledges that if it becomes Suspended under this Agreement and it is also a party to a Trade Mark Licensing Agreement, notwithstanding any provisions under that Trade Mark Licensing Agreement, it will also become suspended within the meaning of the Trade Mark Licensing Agreement.
       3. If, as determined by Fairtrade ANZ at its sole discretion, a Product has not been produced in accordance with Fairtrade Standards, on notice being given by Fairtrade ANZ, the Client must immediately withdraw such Product from production and sale by the Client.
    3. Continuous disclosure to Fairtrade ANZ

The Client has a duty to provide Fairtrade ANZ on a periodic and continuous basis with:

* + 1. an updated list of production and warehouse sites;
    2. an updated list of any Subcontractor’s sites;
    3. periodic reports of purchases, sales and processing of Fairtrade Products, confirmation of receipt of Fairtrade Premiums, and other reports as described in in the Fairtrade Standards;
    4. any information on changes that significantly affect the design or specification of any Fairtrade Product, or any indication that a Fairtrade Product may no longer comply with Certification requirements;
    5. any information regarding a potential or real conflict of interest present between the Client and an Auditor or Fairtrade ANZ employee in direct contact with the Client;
    6. any information that leads to a change in the Certification Fees charged by Fairtrade ANZ; and
    7. any information relating to any changes of ownership or control of the Client or the Client’s facilities or Premises.
  1. Compliance with Audits
     1. The Client must grant Fairtrade ANZ or its appointed Auditor free and unencumbered access to its Premises, records and personnel for the purpose of Client Audits (both announced and unannounced) as referred to in the Fairtrade Standards or for any other reason related to granting Certification.
     2. The Client agrees to allow Fairtrade International or its appointed agent and/or delegate free and unencumbered access to its Premises, records and personnel for the purpose of observing any Audit carried out by Fairtrade ANZ or its appointed Auditor and evaluating any Auditor's performance.
     3. Pursuant to the Standard Operating Procedures, if Fairtrade ANZ suspects that the Client has violated the Fairtrade Standards, Fairtrade ANZ may undertake an additional Audit outside of the regular certification cycle. The cost of the additional Audit is to be fully borne by the Client.
     4. If a Client cancels or postpones a confirmed Audit within 24 hours of its scheduled commencement, the Client will be required to pay any reasonable travel costs that have already been incurred for the purpose of the confirmed Audit by Fairtrade ANZ or its appointed Auditor.
  2. Use of Certification
     1. The Client will not make use of its Certification in such a manner as to bring Fairtrade ANZ into disrepute and will not make any statement regarding its Certification which is misleading or unauthorized.
     2. The Client will not make representations about its Certification beyond the scope outlined in its Certificate.
     3. When trading Fairtrade Products, the Client will only trade with Fairtrade Products which are listed in its Certificate.
     4. The Client uses Certification only to indicate that its products are certified as being in compliance with the Fairtrade Standards.
     5. The Client must not make any announcement, publication or publicity concerning this Agreement, the business of Fairtrade ANZ, Fairtrade International, FLOCERT or any NFOs, the Fairtrade Mark or any Product (subject to the exercise by the Client of the rights granted pursuant to this Agreement or any Trade Mark Licensing Agreement) without the prior written consent of Fairtrade ANZ which consent will not be unreasonably withheld.
     6. When making any announcement or engaging in any publicity, the Client must use its best endeavours to avoid any association with, or endorsement or approval of, whether explicit or implied, Fairtrade ANZ or Certification, whether related to this Agreement or not, which has not been approved in writing by Fairtrade ANZ in advance.
     7. Whenever the Client purchases any Ingredients or Products from a Fairtrade Operator who has obtained a Certificate as part of their Certification, the Client must exchange a copy of its Certificate with the Certificate of that Fairtrade Operator, and must retain copies of those Certificates.

1. Certification Fees and Payment
   * 1. The Client must pay to Fairtrade ANZ a pro-rata Certification Fee on or before the Commencement Date which will be calculated by reference to the number of months remaining in that financial year. The Certification Fee will then be applied and invoiced annually on 1 July.
     2. Fairtrade ANZ will periodically review the Certification Fee and will inform the Client in writing at least three months before any variations to the Certification Fee are applied.
     3. Non-payment of the Certification Fee constitutes a breach of this Agreement and Fairtrade ANZ may accordingly apply sanctions under the Standard Operating Procedures.
2. Obligations of Fairtrade ANZ
   * 1. Fairtrade ANZ will evaluate all Clients against relevant Fairtrade Standards by means of Audits (as per the Standard Operating Procedures).
     2. Fairtrade ANZ will make available to Clients an up-to-date detailed description of the evaluation and Certification procedures, and documents containing the requirements for Certification and the Client's rights and duties, including the payment of Certification Fees.
     3. Fairtrade ANZ will provide Clients who are successful in their Certification with a Certificate (as per the Standard Operating Procedures).
     4. Fairtrade ANZ has procedures for receiving allegations, complaints, appeals and disputes received from third parties about issues related to Certification. Current procedures are described in the relevant documents listed in Schedule 1.
     5. Fairtrade ANZ will only use Auditors trained in accordance with guidelines set by Fairtrade International to conduct Audits.
     6. Fairtrade ANZ will publish a list of certified Clients on its website, showing the name and function of the Client.
3. Subcontractors

In the event that the Client engages any Subcontractors, those Subcontractors must comply with the Subcontractor requirements under the Fairtrade Standards.

1. Confidential Information
   * 1. Each Party must take all reasonable steps to protect all Confidential Information which is disclosed to or obtained by it pursuant to or as a result of this Agreement and must not divulge the same to any unauthorised person and must only allow access to the same to its own staff (and where appropriate to authorised representatives) where reasonably necessary to give effect to this Agreement.
     2. A Party must not use the Confidential Information of the other Party for a purpose other than as contemplated by this Agreement.
     3. The obligations of confidentiality under this paragraph 6 do not apply to any information or material which:
        1. was already known to the recipient Party prior to its receipt from the disclosing Party;
        2. was subsequently disclosed to the recipient Party lawfully by a person who did not obtain the same (whether directly or indirectly) under an obligation of confidence from the disclosing Party;
        3. was in the public domain at the time of receipt by the recipient Party or has subsequently entered into the public domain other than by reason of the breach of the provisions of this paragraph 6 or of any obligation of confidence owed by the recipient Party or by any of its Subcontractors to the disclosing Party; and / or
        4. is required to be disclosed by either Party by any competent legal authority or pursuant to any Law.
     4. Notwithstanding this paragraph 6, Fairtrade ANZ may disclose the following information, including Confidential Information, to Fairtrade International and FLOCERT:
        1. Audit reports prepared under this Agreement and data from such reports;
        2. the Client's name, address and contact details;
        3. the scope of the Client's Certification and their Certification status;
        4. details of any exceptions granted against the Fairtrade Standards; and
        5. details of any decision in relation to any of the Client’s applications for Fairtrade Certification.
     5. Without limiting Fairtrade International's right to use the information provided in accordance with sub-paragraph 6(d) above, the Client acknowledges that Fairtrade International may use the information provided in accordance with sub-paragraph 6(d) above to produce aggregated monitoring and evaluation reports and to review Fairtrade ANZ's compliance with any applicable codes.
2. Duration and Termination of Agreement
   1. Duration

This Agreement will commence on the Commencement Date and will continue in force until terminated by either Party as set out in this paragraph 7 or paragraph 10.

* 1. Termination by Fairtrade ANZ
     1. Fairtrade ANZ may terminate this Agreement at any time by serving three months' written notice of termination on the Client.
     2. Fairtrade ANZ may terminate this Agreement at any time with immediate effect and without prejudice to its other remedies forthwith by notice in writing to the Client if:
        1. the Client commits a breach of any of the terms of this Agreement, or, where the breach is capable of remedy (as determined by Fairtrade ANZ in its absolute discretion) and has not been remedied within 15 days of receiving notice of the breach from Fairtrade ANZ;
        2. an amount payable under this Agreement is not paid or is not paid in full within 30 days after receiving notice of the breach for non-payment from Fairtrade ANZ;
        3. the Client is unable to pay its debts or enters into compulsory or voluntary liquidation or compounds with or convenes a meeting of its creditors or has a receiver or manager or an administrator appointed over its assets or takes or suffers any similar action in consequence of debt in any jurisdiction or ceases for any reason to carry on business;
        4. in the reasonable opinion of Fairtrade ANZ, the Client makes incorrect references to the Certification system, or the Client's use of a Fairtrade Mark, Certificate or any related licence will, or is reasonably likely to, bring the reputation of Fairtrade ANZ, Fairtrade International, FLOCERT, any NFO or a Fairtrade Mark into disrepute, or undermine the distinctiveness of a Fairtrade Mark, or in any way be a potential cause of confusion in the market;
        5. the Client is Decertified;
        6. in the reasonable opinion of Fairtrade ANZ, information provided to Fairtrade ANZ by the Client pursuant to paragraph 2, or information otherwise obtained by Fairtrade ANZ, does or may affect the direct or indirect control of the business (in total or in part) of the Client; or
        7. the Client commits an act of fraud or misrepresentation.
     3. The Client may appeal a decision made by Fairtrade ANZ in accordance with the Fairtrade ANZ Appeal Policy referred to in Schedule 1.
  2. Termination by the Client
     1. The Client may terminate this Agreement at any time by serving three months' written notice of termination of this Agreement on Fairtrade ANZ.
     2. The Client may terminate this agreement in accordance with sub-paragraph 8.1(d).
     3. The Client may terminate this Agreement at any time with immediate effect and without prejudice to its other remedies forthwith by notice in writing to Fairtrade ANZ if:
        1. Fairtrade ANZ commits a breach of any of the terms of this Agreement, provided that if the breach is capable of remedy such notice of termination must only be given in the event that Fairtrade ANZ having been notified of the breach has been given a reasonable opportunity to remedy it and has failed to do so; or
        2. Fairtrade ANZ is unable to pay its debts or enters into compulsory or voluntary liquidation or compounds with or convenes a meeting of its creditors or has a receiver or manager or an administrator appointed over its assets or takes or suffers any similar action in consequence of debt in any jurisdiction or ceases for any reason to carry on business.
  3. Consequences of termination
     1. Upon termination of this Agreement, Fairtrade ANZ is required to publish the change in Certification status as a result of the termination of this Agreement.
     2. Termination of this Agreement will not affect accrued rights and remedies at the time of termination, and in particular (without prejudice to that generality) the provisions of paragraphs 3, 6, 11, 17, 18 and 19 will have effect notwithstanding termination.
     3. Upon termination of this Agreement, the Client must:
        1. discontinue its use of all Advertising & Promotional Materials or Packaging that contain reference to Certification with Fairtrade ANZ; and
        2. within seven (7) days, inform its suppliers, Subcontractors and customers of the status change in Certification.
     4. Subject to sub-paragraphs 7.4(f) and 7.4(g) and provided the Client has complied with its obligations under this Agreement, the Client may, for a period of not exceeding three months after the termination of this Agreement (***Sell-Off Period***), in respect of any stock of Ingredients and/or Products or unfulfilled orders on hand as at the date of termination of the Agreement (provided such stock of the Ingredients and/or Products which are the subject of the unfulfilled orders comply in all respects with Fairtrade Standards), sell such stock or fulfill such orders. However, the obligations of the Client and the rights of Fairtrade ANZ under this Agreement apply with full force and effect during the Sell-Off Period.
     5. Upon expiration or termination of the Sell-Off Period, or upon termination of this Agreement pursuant to paragraph 7.2(b), the Client must:
        1. immediately withdraw all Products from supply, distribution and sale;
        2. cease use of any Advertising & Promotional Materials; and
        3. ensure that any Subcontractors comply with this paragraph.
     6. In the event the Client does not comply with its obligations under this Agreement during the Sell-Off Period, Fairtrade ANZ may provide notice to the Client terminating the Sell‑Off Period with immediate effect and without prejudice to its other remedies, and instructing the Client to cease the relevant actions immediately, including all actions listed in sub-paragraphs 7.4(e)(i)-(iii) above.
     7. If Fairtrade ANZ has terminated this Agreement pursuant to sub-paragraph 7.2(b), the Client is not entitled to the Sell-Off Period and the Client must immediately follow the actions set out in sub-paragraphs 7.4(e)(i)-(iii) above.
     8. Upon termination of this Agreement the Client must, within the timeline set by Fairtrade ANZ, deliver to Fairtrade ANZ the current version of its Certificate (and any copies of the Certificate).

1. Amendment
   1. Amendments generally
      1. This Agreement may only be varied in accordance with this paragraph 8 and paragraphs 3(b) and 16 or by written agreement signed by the Parties.
      2. The Client acknowledges and agrees that:
         1. amendments made to any Fairtrade Standards will be made unilaterally by the Fairtrade Group;
         2. amendments made to any Fairtrade Standards may lead to a change in the requirements of Fairtrade Certification; and
         3. in accordance with sub-paragraph 1.3(b), it is the Client's responsibility to maintain its own familiarity with the applicable Fairtrade Standards and will maintain such familiarity.
      3. Fairtrade ANZ will periodically review this Agreement as may be reasonably required to maintain adherence to Fairtrade Standards, and for practical purposes Fairtrade ANZ may decide to modify this Agreement through written notification three months prior to the intended effectiveness of the change.
      4. Subject to sub-paragraph 7.4(d), in the event that the Client does not agree with the intended change, the Client may terminate this Agreement in writing:
         1. within 30 days after receipt of the written notification by Fairtrade ANZ; and
         2. with effectiveness of the termination on the date of the change.
      5. If the Client does not terminate pursuant to paragraph 8.1(d), any subsequent objection to variations to this Agreement may be regarded by Fairtrade ANZ as a breach of the terms and conditions of this Agreement.
      6. In the interim period before any actions pursuant to paragraphs 8.1(d) or 8.2(a)-(b) are completed, all other conditions of this Agreement will remain in force.
   2. Amendments due to prohibition or unenforceability
      1. Fairtrade ANZ will within three months of becoming aware that a provision in this Agreement is or may be prohibited or unenforceable, by written notice make such amendments to this Agreement or incorporate into the Agreement such revised terms as Fairtrade ANZ determines in its sole discretion to overcome the prohibition or unenforceability, while ensuring this Agreement satisfies the requirements of Fairtrade Standards and furthers Fairtrade ANZ’s objectives.
      2. Any amendment made by Fairtrade ANZ pursuant to paragraph 8.2(a) will be taken to have been agreed upon by the Client, and any objection may be regarded by Fairtrade ANZ as a breach of the terms and conditions of this Agreement, with the result that Fairtrade ANZ may in its sole discretion given notice to the Client terminating the Agreement with immediate effect in accordance with sub-paragraph 7.2(b)(i).
      3. The Client must do all things necessary to give effect to any amendments made pursuant to this paragraph.
2. Indemnity and Limitation of Liability
   * 1. Subject to paragraph 9(c), either party’s liability for an infringement of obligations under this Agreement will be limited to damages caused intentionally or by gross negligence. In no event will either party be liable to the other for indirect, punitive or consequential damages of any kind. Any exclusion or limitation of liability of Fairtrade ANZ includes the personal liability of employees, legal representatives and vicarious agents of the Fairtrade Group as well as the liability of the organisations in the Fairtrade Group.
     2. In any event and under all circumstances, Fairtrade ANZ’s entire and total cumulative liability to the Client for breach of any provision of this Agreement or otherwise shall never exceed the total amount paid by the Client to Fairtrade ANZ hereunder.
     3. The Client will be liable for and indemnify Fairtrade ANZ together with its staff, consultants, agents and representatives, including its appointed Auditors (together, ***Indemnified Parties***) against any and all liability, loss, damages, costs, legal costs, professional and other expense of any nature incurred or suffered by any or all of the Indemnified Parties arising out of any dispute or contractual, tortious or other claims or proceedings brought against any or all of the Indemnified Parties by any person claiming relief against any or all of the Indemnified Parties by reason of the manufacture, distribution, importation, labelling, storage, promotion, offering for sale, sale, supply or use of any Products by the Client or its Subcontractors, except to the extent that any such claims arise as a direct result of a breach of this Agreement by Fairtrade ANZ.
     4. For the avoidance of doubt, no indemnity is provided to the Client by Fairtrade ANZ pursuant to this Agreement or otherwise.
     5. Nothing in this paragraph shall restrict or limit either Party's general obligation at Law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.
3. Force Majeure
   * 1. Neither party will be liable in damages for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its reasonable control including, but not limited to natural disasters, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected. The right to terminate will not be affected.
     2. If either party is prevented from, or delayed in, performing any duty under this Agreement, then this party shall immediately notify the other party of the event, of the duty affected, and of the expected duration of the event.
     3. If any Force Majeure event prevents or delays performance of any duty under this Agreement for more than sixty days, then either party may on due notification to the other party terminate the Agreement.
4. Assignment
   * 1. The Client may not assign, transfer, or in any other manner make over (***Assign***) to any person the benefit or burden of this Agreement.
     2. Fairtrade ANZ may, in its sole discretion, Assign all or any of its rights or obligations under this Agreement, and the Client must co-operate fully in relation to such Assignment, including, at the request of Fairtrade ANZ executing all documents necessary to give effect to such Assignment, including executing a novation agreement.
5. Written Form and Notice
   * 1. Any notice, demand, consent or other communication (***Notice***) given or made under this Agreement:
        1. must be in writing and signed by the sender or a person duly authorised by the sender;
        2. must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand, email or fax to the address, email address or fax number in item 1.1 (as applicable) of Schedule 2 or the address, email address or fax number last notified by the intended recipient to the sender; and
        3. will be conclusively taken to be duly given or made:
           1. in the case of delivery in person, when delivered;
           2. in the case of delivery by post, two business days after the date of posting (if posted to an address in the same country) or seven business days after the date of posting (if posted to an address in another country);
           3. in the case of delivery by email, on the first to occur of:

receipt by the sender of an email acknowledgement from the recipient's information system showing that the Notice has been delivered to the email address stated above;

the time that the Notice enters an information system which is under the control of the recipient; and

the time that the Notice is first opened or read by an employee or officer of the recipient; and

* + - 1. in the case of fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax number or name of recipient and indicating that the transmission has been made without error,

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 4 pm (local time) it will be conclusively taken to have been duly given or made at the start of business on the next business day in that place.

1. No Waiver
   * 1. No waiver by Fairtrade ANZ of the performance of any of the Client's obligations under this Agreement will be granted by Fairtrade ANZ except in writing, referring expressly to this Agreement, bearing the date of such waiver, and (for the purpose of distinguishing it from any other such waivers made under this paragraph 13) bearing a sequential reference number applied to such waiver and signed for and on behalf of Fairtrade ANZ by an authorised signatory.
     2. No failure or delay on the part of either Party to exercise any right or remedy under this Agreement will be construed or operate as a waiver thereof nor will any single or partial exercise of any right or remedy as the case may be. The rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies provided by Law or in equity.
2. Law and Jurisdiction

This Agreement is governed by the Law of the jurisdiction set out in item 1.2 of Schedule 2. In relation to it and related non-contractual matters each Party irrevocably submits to the non‑exclusive jurisdiction of the courts with jurisdiction there and waives any right to object to the venue on any ground.

1. Dispute Resolution
   1. Fairtrade ANZ Complaints Policy

Without limiting paragraph 2 and any rights of termination Fairtrade ANZ has under this Agreement, if the Client wishes to make a complaint about a matter relating to or arising out of this Agreement, it may, but is not obliged to, make a complaint under the Fairtrade ANZ Complaints Policy. If it is not satisfied with the resolution of its complaint pursuant to the Fairtrade ANZ Complaints Policy, or if it does not wish to make a complaint pursuant to the Fairtrade ANZ Complaints Policy, it must notify Fairtrade ANZ of a dispute in accordance with paragraph 15.2.

* 1. Negotiation

Without limiting paragraph 2 and any rights of termination Fairtrade ANZ has under this Agreement, if there is a dispute between the Parties relating to or arising out of this Agreement, then within 10 business days of a Party notifying the other Party of a dispute, senior representatives from each Party must meet and use all reasonable endeavours acting in good faith to resolve the dispute by joint discussions.

* 1. Mediation

If the dispute between the Parties referred to in paragraph 15.2 is not resolved within 10 business days of notification of the dispute under paragraph 15.2, the Parties must submit the dispute to mediation, administered by the Resolution Institute.

* 1. Court proceedings

A Party may not commence court proceedings in relation to a dispute relating to or arising out of this Agreement until it has exhausted the procedures in this paragraph 15, unless the Party seeks appropriate injunctive or other interlocutory relief to preserve property or rights or to avoid losses that are not compensable in damages.

1. Severability
   * 1. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.
     2. Fairtrade ANZ will within three months of becoming aware that a provision in this Agreement is or may be prohibited or unenforceable, make amendments to this Agreement pursuant to sub-paragraphs 8.2(a) and 8.2(b).
2. Further Assurances

Each Party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Agreement and the transactions contemplated by it and to protect Fairtrade ANZ's intellectual property rights.

1. Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to the matters dealt with in this Agreement and supersedes any previous agreement between the Parties in relation to such matters. Both of the Parties acknowledge that in entering into this Agreement they have not relied on any representation or warranty save as expressly set out in this Agreement.

1. Limits on Parties

This Agreement does not render either Party a partner, agent or employee of the other and no Party has the authority or power to bind, contract in the name of or create a liability against the other Party.

|  |  |
| --- | --- |
| **EXECUTED** by **FAIRTRADE AUSTRALIA AND NEW ZEALAND LTD** in accordance with the *Corporations Act 2001(Cth):* | )  )  ) |
| Signature of Chief Executive Officer | Signature of Certification Manager |
| Molly Harriss Olson    Name of Chief Executive Officer    Date    [**DELETE WHICHEVER SIGNING CLAUSE IS NOT APPLICABLE**] | Yasmin Duale    Name of Certification Manager    Date |
| **[EXECUTED** by **CLIENT NAME**in accordance with the [*Corporations Act 2001 (Cth):****- or other relevant legislation****]* | )  )  ) |
| Signature of Director | Signature of **[Director/Secretary/witness]** |
| Name of Director    Date  **OR** | Name of **[Director/Secretary/witness]**  ] |
| **[EXECUTED** by **CLIENT NAME**in accordance with the [*Companies Act 1993 (NZ):****- or other relevant legislation****]* | )  )  ) |
| Signature of Director | Signature of **[Director/Secretary/witness]** |
| Name of Director    Date | Name of **[Director/Secretary/witness]**  ] |

1. 1. NFOs and Fairtrade Standards
      1. NFOs

The list of Fairtrade NFOs can be accessed at the following address: <http://www.fairtrade.net/fairtrade-organizations.html>

* + 1. Incorporation of Fairtrade Standards

The following documents are incorporated by means of dynamic reference and as applicable in their respective latest version depending on the function of the Client:

* + - * 1. Fairtrade standards as adopted by Fairtrade International

Trader and product specific Fairtrade standards, as made available through publication on: <http://www.fairtrade.net/sites/standards.html>

* + - * 1. Fairtrade Compliance Criteria and complementary documentation

The relevant version of each Compliance Criteria list, as it is subject to change, and the complementary documentation referenced in some specific requirements is accessible and published on the FLOCERT webpage: <http://www.flocert.net/fairtrade-services/fairtrade-certification/compliance-criteria/>

* + - * 1. Fairtrade ANZ Policies

Fairtrade ANZ policies are made available through publication on: <https://fairtrade.com.au/page/trade-policies>

* + - * 1. Standard Operating Procedures for Certification

Standard Operating Procedures for Certification are made available through publication on: <http://fairtrade.com.au/page/trade-policies>

1. * + 1. Parties
          1. Fairtrade ANZ [delete address of Fairtrade ANZ which is not in the Jurisdiction as set out in item 1.2]

Suite 312, Level 3  
838 Collins Street  
Docklands VIC 3008  
  
Telephone +61 3 9602 2225  
Facsimile +61 3 9602 1059  
Email [licensing@fairtrade.com.au](mailto:licensing@fairtrade.com.au)

84c Hurstmere Road  
Takapuna  
Auckland  
  
Telephone +64 9 9204950  
Facsimile +64 9 9204951 Email [licensing@fairtrade.com.au](mailto:admin@fairtrade.com.au)

* + - * 1. [Client name]

[Client address, phone, fax and email details]

* + - 1. Jurisdiction: [Australia / New Zealand]
      2. Territory: [Australia / New Zealand]
      3. Currency: [Australian dollars / New Zealand dollars]
      4. Fees
         1. The annual Certification Fee is:

$250 (plus GST) for Small Clients; and

$500 (plus GST) for all other Clients.

* + - * 1. A ***Small Client*** is a Client with:

a maximum annual Fairtrade sales value of $25,000;

total annual turnover of $1,000,000; and

a maximum of 10 full time employees and has been approved as a Small Client following application to Fairtrade ANZ.