

MOTUNAU AG AIR LIMITED - CONTRACTOR AGREEMENT

(Between Client and Motunau Ag Air Limited)

INTRODUCTION

Motunau Ag Air Limited (“MAA”) and the Client wish to set out their respective responsibilities and obligations on the terms set out in this agreement.

For the purpose of this agreement, “Client” means the person who contracts MAA to complete the Work under this agreement and includes the Client’s agents. “Work” means the aerial application of product and related services carried out by MAA under this agreement. “Work Area” means the area where the Work is to be undertaken by MAA and its employees (including the airstrip, access track and storage areas) and the airspace used to carry out the Work.

SIGNING

The Client engages MAA to carry out the Work on the terms set out in this agreement. Both parties agree to be bound by the terms of this agreement. The Client will be deemed to have accepted the terms of this agreement when placing an order for Work with MAA. MAA may update the terms set out in this agreement from time to time in writing or on its website.	
Client’s authorised signatory: _____	MAA’s authorised signatory: _____
Print name: Date:	Print name: Date:

Client to retain one (1) copy and return the other via email to: ga200c@icloud.com or post in pre-paid envelope.

TERMS AND CONDITIONS

1. The Client agrees:

- 1.1 To pay MAA all fees and expenses for carrying out the Work plus GST (if any). Where this agreement has been entered into by an agent of the Client (or a person purporting to act as an agent), the agent and Client will be jointly and severally liable for payment of all fees and expenses due to MAA under this agreement.
- 1.2 That all amounts payable by the Client will be due on the 20th of the month following the month of issue of each GST invoice by MAA. MAA may suspend the completion of any ongoing Work or terminate this agreement in the event of non-payment. MAA may charge interest on any overdue amounts from the date payment falls due to the date of payment at the commercial overdraft rate of MAA’s bank plus 2% per annum in addition to the costs of any actions taken by MAA to recover the debt.
- 1.3 That the Client has advised MAA of any significant hazards (including drones) in the Work Area.
- 1.4 That should the Client become aware of any significant hazard or unsafe practice in the Work Area, the Client must inform MAA and take appropriate actions before the Work commences or continues, in order to remove the hazard or discontinue the unsafe practice. This applies irrespective of whether the Work Area is under the Client’s control.
- 1.5 That it will be the sole responsibility of the Client to undertake and be compliant with any applicable spray plans, neighbour notification, nutrient budgets/limits and environment plans. MAA will have no liability to the Client or any third party for the product used, whether the product is suitable for the intended use, the aerial application of the product (including any risks associated with the use of a product near a neighbouring property) and any desired results from the use of the product in aerial application.
- 1.6 To complete the attached checklist for aerial application recording actions taken by the Client in identifying hazards and informing MAA of these. The Client is responsible for the airstrip, access track and storage of product being used and must comply with any actions set out in the checklist prior to the Work commencing or procure that such actions occur, irrespective of whether the airstrip, access track or storage is owned by the Client.

1.7 To the extent permitted by law, the Client agrees to indemnify MAA against any liability or costs incurred by MAA as a result of any breach by the Client of its obligations under this agreement.

2. MAA agrees:

2.1 Subject to the Client complying with its obligations under this agreement, that MAA will perform the Work.

2.2 That MAA and its employees are trained and competent to carry out the Work in a safe manner.

2.3 All plant, machinery, tools and safety equipment that may be used by MAA and its employees are in good repair, are suitable and available and will be used at times when necessary to do so.

2.4 If MAA or its employees identify any hazards in the Work Area which are likely to cause MAA or its employees harm, access to the Work Area or the carrying out of the Work will not proceed until appropriate control or corrective actions are undertaken by the Client.

3. The parties agree:

3.1 That if MAA is in breach of this agreement, MAA is only liable to the Client for reasonably foreseeable claims, damages, liabilities, losses or expenses caused directly by the breach. MAA will not be liable to the Client under this agreement for indirect, consequential or special loss, or loss of profit, however arising, whether under contract, in tort or otherwise.

3.2 The maximum aggregate amount payable by MAA, whether in contract, tort or otherwise, in relation to claims, damages, liabilities, losses or expenses arising under this agreement is \$20,000.00 (excluding GST).

3.3 Without limiting any defences either party may have under the Limitation Act 2010, MAA will not be considered liable for any loss or damage resulting from any occurrence unless a claim is formally notified to MAA within three (3) months from completion of the Work.

3.4 That the Work is for business purposes only and the provisions of the Consumer Guarantees Act 1993 are excluded in relation to the Work.

3.5 This agreement contains the entire understanding between the parties concerning the subject matter of this agreement and supersedes all prior communications between the parties.

3.6 MAA reserves the right to terminate this agreement at any time by giving the Client written notice.

3.7 If any term under this agreement is illegal, unenforceable or invalid, the remaining terms are not affected. The parties will negotiate in good faith to agree any other means by which the effect of that term can be retained.

3.8 A party must, at its own expense and within a reasonable time of being requested by another party to do so, do all things and execute all documents that are reasonably necessary to give full effect to this agreement.

3.9 The parties will attempt in good faith to settle any dispute under this agreement between themselves but failing that by mediation.

3.10 This agreement will be governed by, and construed in accordance with, New Zealand law. Subject to clause 3.9, the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

3.11 This agreement may be executed in any number of counterparts (including facsimile or scanned PDF counterpart), each of which shall be deemed an original, but all of which together shall constitute the same instrument.

ACCESS, STORAGE AND AIRSTRIP CHECKLIST

(Client's responsibility)

Access and Storage:

- Access to the airstrip is appropriate for loaded vehicles, graded and shingled to a safe standard.
- All access ways to the storage bin are clear and level, graded as necessary, and are free from long grass and weeds.
- There is sufficient room for trucks to turn without damaging the aircraft operating area.
- The storage bin is dry and has a waterproof cover or roof.
- The Client or his or her agent will be on hand to ensure the fertiliser is covered after delivery.
- Aircraft loading area is flat and smooth.

Airstrip:

- The airstrip surface has been checked for soft or wet areas, branches, wire, potholes, rabbit holes, and damage from stock, cowpats and other surface irregularity.
- The grass is short.
- All stock has been removed for at least 14 days prior to airstrip use.
- The strip has been checked by driving over it at 80 km/h.
- The airstrip is completely free of obstacles 15 metres either side of the centre line.

Flight Path:

- The flight path is clear of any hazard including fences, wires and trees.
- No known drones are operating in the area.

Product:

- All fertiliser is to be dry, free from lumps, and foreign objects and free flowing.
- All chemicals supplied by the Client are to be used within used-by dates, in an un-opened sealed container with original labels attached and to be approved for aerial application.

Hazards:

(Client to identify)