

## **AWEX TERMS & CONDITIONS**

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This document details the Terms & Conditions under which you agree to accept information services supplied by the Australian Wool Exchange Limited ACN 061 495 565 (**AWEX**). For the purposes of this document information services includes but is not limited to: electronic data interchange, market reports, databases, statistical information and graphing (**Services**). These Terms & Conditions form a binding legal agreement between AWEX and you (**Customer**). These Terms & Conditions apply to all Services supplied by AWEX in any way, including services supplied by email, using online facilities such as AWEX's website including associated data, information and software owned by or licensed to AWEX.

### **1. When will AWEX supply Services?**

- 1.1 AWEX will supply services to you in accordance with these Terms & Conditions.
- 1.2 AWEX:
  - (a) may suspend supplying the Services to you if you fail to pay any charges relating to such supply, and fail to remedy that breach within 15 days after receiving written notice requiring you to do so; and
  - (b) may terminate this Supply if you breach any of these Terms & Conditions and fail to remedy that breach within 30 days after receiving written notice requiring you to do so.
- 1.3 Either party may terminate such supply of information services at any time by giving the other party at least 30 days written notice. AWEX will stop supplying the Services to you at the end of that notice period.

### **2. What you must do**

- 2.1 You acknowledge:
  - (a) AWEX has expended considerable skill and effort in developing the Services and the rights granted to you under these Terms & Conditions do not include any transfer of any intellectual property rights ;
  - (b) AWEX protects those parts of the Services that are not publicly available as confidential information;
  - (c) AWEX protects its copyright in the Services;
  - (d) AWEX does not grant you a licence to use any trademarks owned by or licensed to AWEX; and
  - (e) you may only use any trademarks owned by or licensed to AWEX if you receive written permission from AWEX.
- 2.2 You must ensure :
- 2.3 your communications and computer systems are capable of receiving and accessing the Services, while still meeting your security requirements; and
- 2.4 all your personnel given access to the Services are:
  - (i) aware of these Terms & Conditions; and
  - (ii) are adequately trained in how to access, interpret and use the Services.
- 2.5 You agree:
  - (a) to use the Services only as permitted by AWEX and set out in this clause 2:
    - (i) for lawful purposes; and
    - (ii) in accordance with all personalised means of access, security codes and devices necessary to access the Services (including any user name password, Wool Industry Organisation Code or other unique identifier) (collectively referred to as **Codes**);

- (b) not to interfere with or damage (or attempt to interfere or damage) any Code, data, information or software associated with the Services;
  - (c) to keep confidential and secure any information and data obtained at the time by using the Services, including any Codes; and
  - (d) to keep any Codes obtained by you:
    - (i) confidential and on these Terms & Conditions on which it is provided to you by AWEX; and
    - (ii) secure against any improper or unauthorised use.
- 2.6 You must immediately notify AWEX if:
- (a) you suspect that any unauthorised person has gained access to your Codes;
  - (b) any unauthorised person is using your Codes; or
  - (c) you breach any of these Terms & Conditions.
- 2.7 AWEX is entitled to assume that any user has your authority each time any Services are used in conjunction with your Codes, except for any use occurring after you have given AWEX notice to the contrary.
- 2.8 You accept full responsibility and you indemnify AWEX for any expense, loss or liability (howsoever characterised or caused) incurred as a result of the use of the Services in conjunction with your Codes, except for expenses incurred after you have given AWEX notice under clause 2.6.
- 2.9 You, and any related body corporate, may:
- (a) use and copy the information supplied with the Services; and
  - (b) resupply the information supplied with the Services (either in whole or in part) to one or more other third persons, but only if you have:
    - (i) received written permission from AWEX to do so, including permission to use any trademarks owned by or licensed to AWEX; and
    - (ii) paid any applicable resupply price,  
so long as no more than the maximum number of users approved by AWEX in writing receive or access the information.
- 2.10 If you resupply any information supplied with the Services (either in whole or in part), you must:
- (a) credit AWEX as the source of that information; and
  - (b) indemnify AWEX for all losses, damages, expenses and costs incurred by AWEX as a result of any claim by any person against AWEX arising out of that resupply.

### **3. What you must pay**

- 3.1 AWEX will invoice you in accordance with AWEX's current price list.
- 3.2 AWEX may vary its price list at any time by giving you at least 30 days written notice.
- 3.3 You must pay each AWEX invoice within 15 days after its date.
- 3.4 All amounts referred to in AWEX's price list are exclusive of GST.
- 3.5 If any supply under these Terms & Conditions is a Taxable Supply (as that term is used in the GST Act), AWEX may, in addition to the payment for the Taxable Supply, recover the amount of the GST applicable to the Taxable Supply. Any amount of GST payable is payable at the same time as the payment for the Services to which it relates.

### **4. What AWEX does and does not warrant**

- 4.1 AWEX does not warrant that:
  - (a) services are or will be complete, free from all errors or fit for any particular purpose;
  - (b) information will continue to be available to AWEX to enable it to keep the Services up to date; or
  - (c) any electronic transmission of the Services is or will be secure or virus free.

- 4.2 AWEX warrants it is not aware that its supply of the Services to you will infringe the copyright or confidentiality rights of any person.
- 4.3 AWEX's website, awex.com.au, contains links to third party websites. The links are provided solely for your convenience and do not indicate, expressly or impliedly, any endorsement by AWEX.
- 4.4 AWEX must comply with the *Privacy Act 1988 (Cth)* that regulates, among other things, the collection, storage, quality, use and disclosure of personal information. For a copy of AWEX's Privacy Statement, please write to: The Privacy Officer/Company Secretary Australian Wool Exchange Ltd PO Box 651 North Ryde BC, NSW 2113 or call (02) 9428 6100 or visit awex.com.au.

## **5. Confidentiality**

- 5.1 You acknowledge that:
  - (a) unless clause 5.1(b) applies, you may not disclose any information supplied with the Services to anyone other than a related body corporate; or
  - (b) if you have received written permission from AWEX to do so and paid any applicable resupply price, you may disclose to any person any information supplied with the Services, but in each case still subject to clause 2.7.
- 5.2 AWEX acknowledges that it will not, without your written permission, disclose to any person any information which you notify AWEX in writing is in fact confidential information, unless AWEX is otherwise legally entitled to do so.

## **6. Exclusion and limitation of AWEX's liability**

- 6.1 Where AWEX issues or provides any forward looking statement, users need to be aware that these statements contain or are based on information provided by third parties and involves subjective judgment and analysis and is subject to significant uncertainties, risks and contingencies, many of which are outside the control of, and are unknown to, AWEX and its directors. In particular, they relate only as of the date of their issue, and they are subject to significant regulatory, business, competitive and economic uncertainties, risks and other factors. Actual future events may vary materially from forward looking statements and assumptions on which those statements are based.
- 6.2 Other than as required by law, although AWEX believe there is a reasonable basis for the forward looking statements, neither AWEX nor its directors, officers, employees or any related body corporate, gives any representation, assurance or guarantee (express or implied) as to the accuracy or completeness of any forward looking statement or that the occurrence of any event, result, performance or achievement will actually occur. Recipients are cautioned not to place undue reliance on such forward looking statements.
- 6.3 If AWEX is partially or wholly precluded from complying with its obligations under these Terms & Conditions by anything outside AWEX's reasonable control, then AWEX's obligation to perform in accordance with these Terms & Conditions will be suspended for the duration of the delay arising directly out of that event.
- 6.4 AWEX makes no express warranties other than that in clause 4.2. Furthermore, you acknowledge:
  - (a) The Services are not a replacement for your decision-making policies and procedures; and
  - (b) AWEX does not accept and excludes liability for any decision you make using information supplied with the Services.
- 6.5 Under the Australian Consumer Law (**ACL**), consumers have certain rights which cannot be excluded, including guarantees as to the acceptable quality and fitness for purpose of goods and services. Nothing in these Terms & Conditions will be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by the ACL and which by law cannot be excluded, restricted or modified.

- 6.6 AWEX excludes all liability for all claims, expenses, losses, damages and costs made against or incurred or suffered by you directly or indirectly (including without limitation, lost revenue and lost profits) arising out of:
- (a) using the Services, whether or not in accordance with these Terms & Conditions;
  - (b) not being able to use the Services;
  - (c) negligence of AWEX or its employees, contractors or agents in connection with the Services or the performance of AWEX's obligations under these Terms & Conditions; or
  - (d) termination of the supply by either party for any reason, even if such damage or loss could reasonably have been in the contemplation of either party when entering into these Terms & Conditions.
- 6.7 If AWEX fails to comply with a statutory guarantee which by law cannot be excluded, then to the extent permitted by law, AWEX limits its liability to, at its option:
- (a) re-supplying the Service; or
  - (b) paying the cost of having the Service supplied to the AWEX Customer again.

## **7. Governing law**

- 7.1 These Terms & Conditions are governed by the law applicable in New South Wales.