

ORCHARD SERVICES AGREEMENT

The Orchardist	Name:	
	Address:	
	Contact People:	
	Contact Number:	

The Contractor	Name:	
	Address:	
	Contact People:	
	Contact Number:	

The Orchard	Address:	
	KPIN:	
	Canopy Area and Variety:	

Length of Agreement	This Agreement, unless cancelled earlier, is for the period: to			
Services to be Provided "Services" 1. Cross out any services that do not apply 2. Insert due date for date-specific services	<i>Winter Pruning</i>	<i>Male Pruning</i>	<i>Summer Pruning</i>	<i>Girdling</i>
	<i>Thinning</i>	<i>Harvest – Picking</i>	<i>Mowing and Mulching</i>	<i>Weed Spraying</i>
	<i>Spray Application</i>	<i>Fertiliser Application</i>	<i>Pollination</i>	<i>Shelter Maintenance</i>
	<i>Pest monitoring</i>	<i>Repair & Maintenance of Orchard Structures</i>	<i>Repair & Maintenance of Kiwifruit Vines</i>	<i>Supervision of Orchard Services</i>
	Other:			
Special Directions for Performing Services	Refer to Appendix 1 for details of the required timeframes, performance and quality standards for the Services.			
Payment	Applicable rates for the Services are listed in Appendix 2.			

Cancellation	<ol style="list-style-type: none"> 1. Either party may cancel the Agreement by giving the other party one month's written notice or less by agreement between the parties. 2. On cancellation of the Agreement the Orchardist will only be liable to pay the Contractor for Services performed by the Contractor to kiwifruit industry best practices.
Contractor's Obligations	<ol style="list-style-type: none"> 1. The Contractor is responsible for providing the Services to the Orchardist in accordance with the terms and conditions set out in this Agreement. 2. The Contractor represents and warrants to the Orchardist that it is fully experienced and properly qualified, licensed, equipped, organised and financed to perform and complete the Services and will at all times ensure that the Services are carried out in accordance with kiwifruit industry best practices. Where applicable, the Contractor will perform the Services to the level and specifications set out in Appendix 1. 3. The Contractor will use its best endeavours to complete the Services within the time frames specified by the Orchardist, following all reasonable directions and instructions given by the Orchardist. 4. The Contractor will comply with the GLOBAL G.A.P. and GRASP quality assurance systems at all times during the term of this Agreement and provide the Orchardist with a valid Compliance Assessment Verification (CAV) before providing Services for which a CAV is required by Zespri. The Contractor shall ensure that all Services are provided in accordance with Zespri requirements, including the GLOBAL G.A.P. and GRASP systems. 5. The Contractor warrants that it holds, and for the term of this Agreement will continue to hold, all licences and qualifications which may be necessary in order to perform the Services. 6. The Contractor will comply with all relevant laws and regulations that apply to the Contractor and to the provision of the Services. 7. The Contractor agrees that workers employed by the Contractor are not employees of the Orchardist and that the Orchardist has no legal or other responsibility for the Contractor's workers. 8. The Contractor will ensure all workers have written employment agreements, are paid in accordance with New Zealand law, are paid all wages due and are legally entitled to work in New Zealand. 9. The Contractor shall immediately on request give the Orchardist the full name and date of birth of the worker and provide a photocopy of the worker's work permit or proof of NZ citizenship or residency. 10. The Contractor acknowledges it is responsible and liable for payment of all taxes, assessments and levies (including Accident Compensation levies), in respect of amounts paid to the Contractor under this Agreement. 11. The Contractor indemnifies the Orchardist in respect of liabilities, costs and expenses (including full costs between solicitor and client), claims or demands incurred by the Orchardist, arising out of or in conjunction with the Services of this Agreement
Health and Safety	<ol style="list-style-type: none"> 1. Prior to commencing the Services the Contractor will complete and provide to the Orchardist a copy of its Health and Safety Plan for approval. As the technical expert in the work activity, the contractor is best placed to ensure the management of the Health & Safety risks is adequate and the orchardist will monitor this against the agreed Health & Safety plan. 2. The Contractor warrants that all Services supplied pursuant to this Agreement will comply with the requirements set out in Appendix 1 and the Health and Safety at Work Act 2015. The Contractor will not make

	<p>any changes to any Service and, in particular, the method of providing the Services, without the Orchardist's prior written consent.</p> <ol style="list-style-type: none"> 3. The Contractor will: <ol style="list-style-type: none"> a) Implement and comply with the approved Health and Safety Plan; b) Ensure that all plant and machinery brought onto the orchard is well maintained, in safe condition and where relevant inspected and certified safe for use. (I.e. vehicles with current WOF, electrical gear tested and tagged); c) Take so far as is reasonably practicable steps to ensure the safety of all persons under the Contractor's control and third parties in connection with the performance of the Services; d) Ensure that it and all of its workers (including any subcontractors) comply with the Health and Safety at Work Act 2015, and all other applicable legislation and regulations; e) Provide sufficient skilled and suitably qualified personnel to perform the Services; and f) Promptly notify the Orchardist of any accident or injury which occurs in relation to the provision of the Services. 4. When performing the Services the Contractor shall ensure that there is always one person currently trained in First Aid on the Orchard and that best practice hygiene standards are maintained. 5. The Contractor shall perform the Services in accordance with its own methods and best trade practices subject always to compliance with this Agreement and the Health and Safety at Work Act 2015. 6. Failure by the Contractor to comply with its health and safety obligations may result in this Agreement being terminated immediately. 7. To the extent permitted by law, the Contractor indemnifies and shall keep indemnified the Orchardist against all costs, damages, loss and expenses incurred or suffered by the Orchardist arising out of any breach by the Contractor of the health and safety requirements of this Agreement.
Biosecurity	<ol style="list-style-type: none"> 1. The following biosecurity practices are to be followed on the orchard <ol style="list-style-type: none"> a) All staff vehicles to be parked off the orchard or in designated parking area. b) All staff to be advised of the Hygiene practices that have been agreed upon by the orchardist. c) All work to stop in wet weather unless agreed prior. 2. No plant material to be bought onto the orchard without prior consent of the orchardist. 3. Unusual symptoms or suspected biosecurity threats to be reported.
Orchardist's Obligations	<ol style="list-style-type: none"> 1. The Orchardist agrees to provide the Contractor with access to the Orchard property to carry out the Services. 2. The Orchardist agrees to meet their obligations under the Health and Safety at Work Act 2015 including but not limited to providing the Contractor with all Health & Safety information pertaining to the orchard including permanent and temporary hazards that may impact on the Contractor. 3. The Orchardist will provide clear instructions for the Services. The Orchardist will endeavour to be available to answer questions and clarify issues notified by the Contractor. 4. The Orchardist agrees to pay the Contractor in accordance with Appendix 2.
Insurance	Optional – tick if required:

	<p><input type="checkbox"/> The Contractor will take out and maintain during the term of this Agreement a policy for public liability insurance of an amount determined by the contractor (acting reasonably) from time to time. The amount of public liability insurance required at the commencement of this Agreement is \$2,000,000. If requested by the Orchardist, the Contractor will provide a certificate of currency of insurance and verification that the premiums for the public liability insurance cover has been paid.</p> <p><input type="checkbox"/> In addition to holding public liability insurance, the Contractor will take out and maintain during the term of this Agreement insurance covering such other risks (and for such level of cover) as any reasonable and prudent person that is providing Services that are the same as the Services would insure against. If requested by the Orchardist, the Contractor will provide the Orchardist with verification that the Contractor holds such insurance cover.</p>
Dispute Resolution	<ol style="list-style-type: none"> 1. The parties agree to use their best efforts to resolve any dispute that may arise under the Agreement through good faith negotiations. 2. Either party, upon failure of good faith negotiations, may elect to resolve the dispute by mediation. If a request for mediation is made, then the parties shall agree upon a recognised kiwifruit-industry mediator. If the parties are unable to agree to the appointment of a mediator, the parties agree to the Chief Executive Officer of NZKGI appointing a mediator. 3. Should resolution of the dispute not be agreed in mediation, then, this Agreement may be terminated at the discretion of either party. 4. The parties shall continue to perform their obligations under the Agreement as far as possible as if no dispute has arisen pending the final resolution of any dispute except that the Orchardist may at its sole discretion choose to appoint another contractor or complete required orchard services themselves.
Relationship	<ol style="list-style-type: none"> 1. The parties acknowledge and agree that the Contractor has been engaged as an independent contractor. Nothing in this Agreement creates or evidences any employer/employee, partnership, joint venture or agency relationship between the parties.
Signed by the Orchardist	
Signed by the Contractor	
Date of Agreement	

Version 6 – February 2018. Prepared by NZ Kiwifruit Growers Incorporated.

NZKGI has taken care and prepared this Agreement in good faith. NZKGI makes no warranty or representation as to the accuracy or the completeness of this Agreement. NZKGI does not accept responsibility or liability should any grower or other party incur any loss, injury or damages arising from that person's reliance on this Agreement. NZKGI recommends parties seek legal advice before signing this Agreement to ensure the wording fits the particular circumstances of the parties.

APPENDIX 1: Time, Quality and Performance Requirements	
Service	Requirements
Spray Application	The Contractor shall ensure that notification and signage in accordance with GlobalGAP and local Council requirements is undertaken in advance of all agrichemical applications that take place on the orchard.

APPENDIX 2: Payment Schedule

Payment Terms	<ol style="list-style-type: none"> 1. Below are the agreed rates and any change to these rates will require the agreement of the Orchardist in writing in advance of any rate change. 2. Unless agreed otherwise, the Contractor will invoice the Orchardist for the Services provided each month. 3. Subject to the delivery of the Services being satisfactory to the Orchardist, the Orchardist will pay each valid tax invoice from the Contractor within seven days of receiving the invoice. 4. The Contractor warrants that it is registered for GST pursuant to the Goods and Services Tax Act 1985. Provided that the Contractor is GST registered, the Orchardist will pay the Contractor GST in addition to the rates set out below. 5. Withholding Tax will be deducted by the Orchardist unless a valid exemption certificate is provided. 6. Where the services delivered do not meet the requirements specified in Appendix 1 the Orchardist may deduct penalties from invoice payments. 7. If there is any dispute between the parties regarding an amount invoiced by the Contractor, the Orchardist may withhold payment of the disputed amount until the dispute has been resolved by the parties 8. The Contractor will maintain records which clearly identify time and expenses incurred in the provision of the Services.
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Hourly Rates		Rate per hour charged to Orchardist (plus GST)	Rate paid to employees

Contract Rates [The contractor must provide evidence that at least minimum wage has been paid to employees]		Contract rate charged to Orchardist	Rate paid to employees
	Vine Maintenance		
	Winter Pruning		
	Stringing		
	Male Pruning		
	Girdling		
	Repair & maintenance of vines		
	Thinning		

	Summer Pruning		
	Harvest		
	Fruit Picking		
	Spray		
	Spray application		
	Weed spraying		
	Fertiliser		
	Fertiliser application		
	Other		
	Mowing and mulching		
	Pollination		
	Shelter maintenance		
	Supervision of orchard services		
	Repair & Maintenance of orchard structures		
	Pest Monitoring		