

Kia Ora

WEBSITE TERMS OF USE

1. ABOUT THIS WEBSITE

- 1.1 This website: kiaorastudscone.com.au (**'Website'**) is owned and operated by Kia Ora Stud Pty Ltd ACN 089 061 978 trading as Kia Ora (**'we', 'us' or 'our'**).
- 1.2 These Terms of Use (**'Terms'**) govern use of this Website by the user (**'you' or 'your'**).
- 1.3 In these Terms, **'use'** or **'using'** of this Website means:
 - (a) Visiting, browsing, accessing or otherwise using any part of this Website or any of its content, information or material.
- 1.4 Before using this Website, you must read and agree to be bound by these Terms. If you do not agree to these Terms, please do not use this Website.

2. AGREEMENT TO THESE TERMS

- 2.1 These Terms form a binding contractual agreement between you and Kia Ora.
- 2.2 For that reason, these Terms are important and you should ensure that you read them carefully and contact us with any questions before you use this Website. You can contact us on + 61 (0) 2 6543 7105 or at kiaora@kiaoraestates.com.au.
- 2.3 By using any part of this Website, you acknowledge and agree that you have read, understood and accept these Terms and you agree to be bound by them.

3. WEBSITE CONTENT

- 3.1 We take proper care and precaution to ensure that all content, information and material offered on this Website is accurate and up-to-date.
- 3.2 We reserve the right to alter, amend, modify, restrict, terminate or suspend any of the content, information, material or products made available on this Website, in our sole and absolute discretion, from time to time, without notice to you.

3.3 Linked Sites and User Generated Content:

- (a) This Website may contain links to other websites, which are owned or operated by third-parties (**'Linked Sites'**) as well as content added by people other than us (**'User Generated Content'**).
- (b) We do not control, endorse, recommend, sponsor or approve Linked Sites or User Generated Content. We are not responsible or liable for content, information, material or products on Linked Sites or in User Generated Content, nor for its legality, originality and copyright, nor for any associated person, organisation, operator, product or service.
- (c) Linked Sites are provided for information purposes only, which you may access in your sole and absolute discretion.
- (d) Linked Sites are not subject to these Terms or to Kia Ora' Privacy Policy. Accordingly, you should check the terms and privacy policy contained on any Linked Sites you visit.

- (e) Linking to this Website is not permitted. We reserve the right to prevent third-parties from linking to this Website.

3.4 Third-Party Advertising:

- (a) This Website may feature or display third-party advertising. Kia Ora does not control, endorse, recommend, sponsor or approve third-party advertising. We are not responsible or liable for third-party advertising, or for any associated organisation, operator, product or service.

4. WEBSITE USE

- 4.1** We grant you a non-exclusive, worldwide, non-transferable licence to use this Website in accordance with the terms and conditions set out in these Terms.
- 4.2** You may access and use this Website, including any incidental copying that occurs as part of that use, in the normal manner and may also print one copy of any page within this Website for your own personal, non-commercial use.
- 4.3** You acknowledge and agree that:
 - (a) We retain complete editorial control over this Website. We reserve the right to alter, amend, modify, restrict, terminate or suspend operation of this Website, in our sole and absolute discretion, from time to time, without notice to you.
 - (b) This Website will not operate on a continuous basis, and may be unavailable from time to time, including for maintenance purposes.
- 4.4** You acknowledge and agree to access and use this Website:
 - (a) In accordance with these Terms and with all applicable local, state, national and international laws, regulations, rules, codes or other legal obligations.
 - (b) For personal, non-commercial use only.
 - (c) In a manner that takes the necessary precautions to ensure the process you use to access this Website does not expose you to vulnerabilities, viruses, defects or other harmful components that may damage your own computer system.
 - (d) In a manner that does not damage, incapacitate, circumvent security, place unreasonable burden or otherwise disrupt the operation of this Website or the servers or networks that host this Website, nor interfere with any other party's use of this Website.
- 4.5** You must *not* add any content to this Website unless you hold all necessary rights, licences and consents to do so.
- 4.6** You must *not* send unsolicited communications, advertising or promotional material, including spam, junk mail, chain letters or pyramid schemes to us. This includes use of contact information provided on this Website. Nor must you spam or send unsolicited communications, advertising or promotional materials to any other party.
- 4.7** You acknowledge and agree *not* to access and use this Website in a manner that:
 - (a) Would cause you or us to breach any local, state, national and international law, regulation, rule, code or other legal obligation.
 - (b) Is or could reasonably be considered to be obscene, inappropriate, defamatory, tortuous, disparaging, indecent, seditious, offensive, pornographic, harmful, threatening, abusive, stalking, harassing, liable to incite racial hatred, discriminatory, blasphemous or otherwise offensive. This includes using this Website to communicate, publish or distribute any material of such nature.

- (c) Violates the rights of any third-party.
 - (d) Misleads, deceives, invades or is in breach of another's privacy or confidentiality.
 - (e) Infringes the copyright, trade marks or other intellectual property rights of any third-party.
 - (f) Brings Kia Ora, its directors, officers, employees, agents or contractors into disrepute, or brings this Website into disrepute.
 - (g) Gives the impression that content derives from Kia Ora, its directors, officers, employees, agents or contractors.
 - (h) Scrapes, indexes, reproduces, redistributes or republishes any part of this Website.
 - (i) Accesses, scrapes or archives content such as scripting software, using automated means.
 - (j) Distributes or links to any malware or malicious code, including computer viruses, worms, trojan horses, logic bombs, spyware, adware or any other program that may disrupt, destroy, damage, harm, limit, circumvent security measures, or cause undesirable effects to the functionality of computer software, hardware, networks or telecommunications systems.
 - (k) Manipulates, alters or circumvents this Website.
- 4.8** We reserve the right to remove any content, information or material from this Website and/or any social media platforms we manage, which is found to be in breach of these Terms, copyright or any other intellectual property rights, or which we deem in our reasonable opinion to be illegal and/or inappropriate.
- 4.9** We reserve the right to notify the relevant law enforcement authority regarding any fraudulent or illegal activity in the use of this Website.

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1** Kia Ora reserves all rights in relation to intellectual property on this Website.
- 5.2** Nothing in these Terms gives you the right to use any of the intellectual property on this Website, nor does it constitute a transfer of any intellectual property rights.
- 5.3** You acknowledge and agree that, as between you and Kia Ora, we own or licence all intellectual property featured or displayed on this Website, including but not limited to content, graphics, design, text, images, videos, icons, layout, appearance, logos, distinctive brand features, trade marks and software. This intellectual property is protected by Australian and international laws.
- 5.4** Use of this Website and its content is for personal use only. Except as may be otherwise indicated on this Website, you are authorised to view, play, print and download content contained on this Website for personal, informational and non-commercial purposes only.
- 5.5** Your use of this Website is subject to the *Copyright Act 1968* (Cth) and any other similar laws. Except as permitted by applicable laws, you must not use, replicate, reproduce, publish, licence, store, convey, distribute, transmit, transfer, display, perform, create derivative works from, alter, modify or sell any part of this Website or its content, information or material, without our prior express written consent, or in the case of third-party material, without the copyright owner's prior express written consent.
- 5.6** The names, logos or badges of any other organisations and/or their associated products or services contained on this Website may be trade marks of their respective owners and are used under licence with their consent.

- 5.7** By posting or adding any content onto this Website and/or any social media platforms we manage, you automatically grant us a perpetual, irrevocable, non-exclusive, royalty-free, worldwide and transferrable right and licence to use, copy, display and distribute the content in any way, to create derivative works of the content, or incorporate the content in other works so as to publish and promote the content, and permit us to authorise any other party to do the same thing. This includes, without limitation, publishing testimonials, comments, feedback, ideas or suggestions on this Website and/or any social media platforms we manage.
- 5.8** You consent to any act or omission which would otherwise constitute an infringement of your moral rights, and if you add any content in which any third-party has moral rights, you must also ensure that the third-party also consents in the same manner.
- 5.9** The licence in clause 5.7 will survive any termination of these Terms.
- 5.10** You expressly warrant and represent to us that you have all necessary rights to grant the licences and consent set out in clauses 5.7 and 5.8.

6. WARRANTIES

- 6.1** You expressly warrant and represent to us that:
- (a)** You are 18 years of age or over and have full legal capacity to enter these Terms or have permission from your parent or legal guardian.
 - (b)** You have had sufficient opportunity to access, read, understand and accept these Terms.
 - (c)** You will comply with these Terms and use this Website in accordance with these Terms and with all applicable laws, only for lawful purposes.
 - (d)** All information you supply Kia Ora through this Website is true, accurate, complete and up-to-date.

7. LIMITATION OF LIABILITY AND DISCLAIMER

- 7.1** This Website is provided on an 'as is' basis. We do not make any warranties or representations of any kind, express or implied, about the content, information, material or products offered on this Website or any Linked Sites, or to the accuracy, availability, reliability, completeness, contemporariness, performance or relevance of any such content, information, material or products, except as otherwise provided by applicable laws.
- 7.2** Use of this Website and any Linked Sites is at your own risk. By using this Website or any Linked Sites, you acknowledge and agree that to the full extent permitted by applicable laws, we are not liable to you or any third-party for any direct, indirect, punitive, incidental, special, consequential or exemplary damages, including without limitation:
- (a)** Damages for loss of profits, use, data, goodwill, interruption of business, or any other intangible losses arising from or connected with the use, performance or reliability of this Website or any Linked Sites.
 - (b)** Delay or inability to use or rely on this Website or any Linked Sites.
 - (c)** Unauthorised access to this Website or any Linked Sites.
 - (d)** Alteration of any transmission of data.
 - (e)** Any other matter related to this Website or any Linked Sites.

- 7.3** You acknowledge and agree that we are not liable for any alterations, amendments, modifications, restrictions or suspension of the content, information, material or products made available on this Website or on Linked Sites.
- 7.4** To the full extent permitted by applicable laws, we do not guarantee or accept any legal liability arising from or connected to the accuracy, availability, reliability, completeness, contemporariness, performance or relevance of content, information or material contained on this Website or any Linked Sites.
- 7.5** The content, information or material offered on this Website is for general use only. Reliance on any content on this Website is entirely at your own risk.
- 7.6** We do not make any warranties or representations that this Website or any Linked Sites is free from vulnerabilities, viruses, defects or other harmful components that may damage your own computer system.
- 7.7** We do not guarantee secure or uninterrupted access to this Website or any Linked Sites, and are not liable for unsecure or interrupted access resulting from technical difficulties beyond our control.
- 7.8** The opinions and views expressed on any social media platforms we manage reflect the personal opinions and views of the individual author and not the opinions or views of Kia Ora.
- 7.9** You assume full responsibility for the information you supply us. You acknowledge and agree that neither you nor any third-party may hold Kia Ora liable for any inaccuracies, errors, omissions, faults, delays, loss or damage caused by incorrect information you supply us.
- 7.10** This clause will survive any termination of these Terms.

8. INDEMNITY

- 8.1** You assume full responsibility and agree to indemnify, defend and hold Kia Ora, its directors, officers, employees, agents or contractors harmless for and against any and all liability or expense which may arise from all kinds of claims, liabilities, actions, proceedings, suits, judgements, losses, damages, litigation costs and legal fees resulting directly or indirectly from:
 - (a)** Your use of this Website or any damage you may cause to this Website.
 - (b)** Any information you provide, either through this Website or otherwise, that is not accurate, complete or up-to-date, or is misleading or a misrepresentation.
 - (c)** Your breach of these Terms.
 - (d)** Any misuse of our goods or services by you, your employees, agents or contractors.
 - (e)** Your breach of any law or third-party rights.
- 8.2** You agree to cooperate with us, at your own expense, in the handling of disputes, complaints, investigations or litigation that arise as a result of your use of this Website or our goods or services, including but not limited to disputes, complaints, investigations or litigation that arise out of or relate to incorrect information you have given us.
- 8.3** This clause will survive any termination of these Terms.

9. PRIVACY

- 9.1** We respect your privacy and are committed to protecting your personal information in accordance with the *Privacy Act 1988* (Cth). Please read the Privacy Policy provided on this Website.

- 9.2** Our Privacy Policy supports the Australian Privacy Principles and sets out the basis on which we collect, use, store and disclose your personal information, as well as your rights to access your personal information, and how you can contact us about our privacy practices.

10. TERMINATION

- 10.1** We reserve the right in our sole and absolute discretion to suspend or terminate your access to this Website at any time, for any reason, including but not limited to breach of these Terms. Such suspension or termination will not affect neither party's rights or liabilities.
- 10.2** These Terms terminate automatically if, for any reason, we cease to operate this Website.
- 10.3** We may otherwise terminate these Terms immediately, on notice to you, if you have breached these Terms in any way.
- 10.4** If you breach these Terms, we reserve the right to take all necessary action, including legal action, to enforce our rights against you. All rights not expressly granted in these Terms are reserved.

11. EVENTS BEYOND CONTROL

- 11.1** Neither party will be liable to one another for any loss caused by any failure to observe these Terms where such failure is occasioned by causes beyond a party's reasonable control, including but not limited to fire, flood, riot, strike, war, restrictions and prohibitions or any other actions by any government or semi government authorities.

12. SEVERABILITY

- 12.1** If any part of these Terms is deemed invalid or unenforceable, then those parts may be severed and the other parts of these Terms will remain unaffected and continue in full force and effect.

13. GOVERNING LAW

- 13.1** These Terms are governed by the laws of New South Wales, Australia.
- 13.2** You acknowledge and agree that the courts of New South Wales have exclusive jurisdiction to settle any claim or dispute which may arise out of or in relation to this Website or these Terms.

14. ENTIRE AGREEMENT

- 14.1** These Terms and our Privacy Policy comprise the entire agreement and understanding between you and Kia Ora on everything connected with the subject matter of these Terms, and supersede any prior understanding, discussion, arrangement, representation, agreement or warranty, whether written or oral, and will have effect from the date of these Terms.

15. UPDATES TO THESE TERMS

- 15.1** These Terms were last updated on **2 October 2024**
- 15.2** These Terms replace any other Website terms published by us to date.
- 15.3** We reserve the right to alter, amend, modify or otherwise update these Terms in our sole and absolute discretion, from time to time, without notice to you.

15.4 Updates will be effective immediately upon publication on this Website. You should check this page from time to time to make sure you are aware of any updates.

15.5 By continuing to use this Website after publication of any updates, you acknowledge and agree that you have read, understood and accept to be bound by these Terms as altered, amended, modified or otherwise updated.

16. GENERAL

16.1 You must not assign, sublicense or otherwise deal in any other way with any of your rights under these Terms.

16.2 Each party must at its own expense do everything reasonably necessary to give full effect to this agreement and the events contemplated by it.