



Avocado Industry Council Limited

and

AvoGreen® Owner Operator Licensing Agreement

- has a minimum of 1 year’s experience in pest monitoring

The requirements set by the AIC to become a Fully Accredited Monitor may be varied as and when required by the AIC.

Interim Accredited Monitor means a Monitor who:

- has passed an eyesight test
- has attended an AIC training day
- has passed an examination as set by the AIC
- is being mentored by a Fully Accredited Monitor

The requirements set by the AIC to become an Interim Accredited Monitor may be varied as and when required by the AIC.

Monitor means a person identified by the AIC as a responsible employee or contractor of the Owner Operator who identifies and quantifies insect pests in avocado orchards.

Specification means all of the specifications, operational procedures and requirements in relation to the AvoGreen® programme as determined by the AIC from time to time, and as detailed in the AvoGreen® area of the AIC website (www.nzavocado.co.nz).

2. Licence

2.1 The AIC hereby authorises the Owner Operator to provide pest monitoring services in accordance with the AvoGreen® programme only to avocado orchard properties for which they are the holder of a Property Identification Number (“P-PIN”) within New

Zealand. Current orchard properties for which the Owner Operator is a holder of a P-PIN are listed in Schedule A.

- 2.2 This licence in no way confers any proprietary rights or interest in AvoGreen® as a registered trademark in the Owner Operator and the mark shall remain the exclusive property of the AIC.

3. Owner Operator service

- 3.1 The Owner Operator will carry out the AvoGreen® programme in accordance with the Specification.
- 3.2 The AIC shall be free to add to, alter or in any way vary the Specification which shall have effect immediately notice of such change is given to the Owner Operator in accordance with clause 12 hereof.
- 3.3 The Owner Operator will engage qualified and responsible employees or contractors as Monitors to carry out the AvoGreen® programme in accordance with the Specification and shall ensure that such employees or contractors are aware of all of their obligations not only under the Specification, but under this agreement.
- 3.4 For the purposes of this clause “qualified” shall mean accredited as such by the AIC.

4. Reports

- 4.1 The Owner Operator will provide monitoring data to the AIC for each orchard monitored at least monthly.

5. Fee

- 5.1 The Owner Operator will pay to the AIC an administration fee of \$100.00 (plus GST) per year or part thereof ending on the 30th day of April. The Operator will pay such invoice issued in respect of the administration fee within a month of issue.
- 5.2 Upon the issue of a certificate to each Fully Accredited Monitor, the Owner Operator will be invoiced for the sum of \$25.00 (plus GST). The Owner Operator will pay such invoice issued in respect of each Fully Accredited Monitor within a month of issue.
- 5.3 Annually when each Fully Accredited Monitor receives their renewed certificate the Owner Operator will be invoiced for the sum of \$25.00 (plus GST). The Owner Operator will pay such invoice issued in respect of each Fully Accredited Monitor within a month of issue.

6. Audit

- 6.1 The Owner Operator will select an AIC approved auditor to audit and report on the Owner Operator's compliance with the terms of this agreement and the Specification.
- 6.2 The Owner Operator shall meet the cost of such audits that shall be rendered by the auditor direct to the Owner Operator. Failure to meet such payment shall be deemed to be a default under this agreement.
- 6.3 Such auditor will audit the Owner Operator's performance at least twice in the first twelve month period after the Owner Operator applies for a licence and having successfully passed those audits then the auditor shall complete audits once in any following period of twelve months, but the AIC may increase the frequency of such audits when it reasonably considers that to be necessary based on adverse audit reports or non-compliance with the Specification or this agreement.
- 6.4 The Owner Operator undertakes to supply to such auditor such information, co-operation and assistance as may be necessary to enable the auditor to promptly and effectively

complete its obligations. That shall include access to such records and data as the Owner Operator has utilised in carrying out the terms of this agreement.

- 6.5 The Owner Operator acknowledges that the auditor shall be entitled to report to the AIC and hereby waives any right to privacy or confidentiality that may attach to information and data required in carrying out the terms of such audit.

7. Term

- 7.1 This agreement shall be for a term of 5 years on and from the 1st day of *Month* 200X, but shall thereafter continue until determined in accordance with the terms of this agreement.

- 7.2 At the expiration of the finite term this agreement may thereafter in any event be terminated by either party by one month's written notice to the other.

8. Non-exclusive

- 8.1 The Owner Operator acknowledges that the AIC may appoint other parties to carry out the obligations of an Owner Operator in similar manner to this agreement.

9. Intellectual property

- 9.1 This agreement shall constitute authorisation to the Owner Operator to use the AvoGreen® trademark only for the purposes of advertising or performing its services under this agreement. However, such right to use shall be a licence only and shall in no way constitute an assignment or otherwise transfer proprietary rights in the trademark.

- 9.2 If the AIC reasonably considers that advertising or other material utilised by the Owner Operator does or may bring the AvoGreen® trademark into disrepute or that it is otherwise prejudicial to the goodwill vested in the AvoGreen® trademark the AIC may direct the Operator to delete, vary or remove such advertising or material.

9.3 On the expiration of this agreement the AIC may require delivery to it of all material held by the Owner Operator containing the AvoGreen® trademark. The Owner Operator will not thereafter use that trademark in any way.

10. Liability

10.1 The AIC does not warrant to the Owner Operator that the AvoGreen® programme will identify all insect pests which may damage an avocado tree or fruit nor that adoption of the AvoGreen® monitoring programme will obtain particular export packout rates. Accordingly the AIC shall not be responsible to the Owner Operator in damages for any act or default arising from execution of this agreement.

11. Default

11.1 Nothing in this agreement shall prevent an Owner Operator seeking a variation to the Specification because of peculiar local conditions, or other adequate cause, and the AIC may grant such a variation in its discretion, but in so doing shall stipulate whether such variation is limited as to time, location or Owner Operator.

11.2 The Owner Operator shall be deemed to be in default in the following events:

- (a) If it fails to carry out monitoring in accordance with the Specification, or does so in an inadequate way.
- (b) If it fails to report to the AIC in accordance with the requirements of this agreement.
- (c) If it is otherwise in default in performing any of its obligations under this agreement or the Specification.

11.3 The existence of any default pursuant to this clause shall be determined by the audit conducted in accordance with clause 6 hereof. Both parties agree to accept such audit reports as determining issues arising under this agreement.

11.4 If any audit report determines there is default by the Owner Operator the AIC may:

- (a) Increase the frequency of audits and/or require remedial action specified by the AIC.
- (b) If the Owner Operator does not within ten working days of advice of such remedial action remedy such default the AIC shall be entitled to terminate this agreement with immediate effect.
- (c) If the Owner Operator has two successive audit reports which determine there is default under this agreement or the specification the AIC may immediately terminate this agreement.

12. Notices

12.1 Notices to be given in accordance with this agreement shall be sent either by facsimile or email and deemed to be received on the day that they were sent. The addresses for such notices are as specified by the parties in the panels attached to the attestation provisions of this agreement.

IN WITNESS WHEREOF these presents were executed by the parties the day and year first hereinbefore written.

SIGNED by **Alan Thorn** on ()
behalf of the **AVOCADO INDUSTRY**
COUNCIL LIMITED in the presence)
of:)

Witness:

Address:

Occupation:

Schedule A

1. Orchard properties that the Owner Operator is currently the holder of a P-PIN and entitled to carry out AvoGreen® monitoring on, are:

PXXXX

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