

The customer's attention is drawn in particular to the provisions of clause 10.

1. As we can accept your order and make a legally enforceable agreement without further reference to you, you must read these terms and conditions to make sure that they contain all you want and nothing that you are happy with. If you are not sure about anything, please call us on 07495 821883

2. Interpretation

2.1 Definitions:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 12.6.

Contract: the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Customer: the person or firm who purchases the Goods from the Supplier.

Force Majeure Event: has the meaning given in clause 11.

Goods: the goods (or any part of them) set out in the Order.

Order: the Customer's order for the Goods, as set out in the Customer's purchase order form.

Specification: any specification for the Goods, that is agreed in writing by the Customer and the Supplier.

Supplier: Agri Sales Limited, Southfield Farm, Hull Road, Wilberfoss, York, YO41 5NT (registered in England and Wales with company number 08395341).

3. Basis of contract

3.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.

3.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.

3.4 A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 5 Business Days from its date of issue.

4. Goods

4.1 The Goods are described on the Supplier's website or advertisements.

5. Delivery

5.1 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.

5.2 Delivery is completed on the completion of unloading of the Goods at the Delivery Location.

5.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods.

5.4 If the Supplier delivers to addresses outside England and Wales, Scotland, Northern Ireland, the Isle of Man and Channel Islands the Customer may need to pay import duties or other taxes, as the Supplier will not pay them.

5.5 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

5.6 If the Customer fails to accept delivery of the Goods within 5 Business Days of the Supplier notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:

(a) delivery of the Goods shall be deemed to have been completed at 9:00 am on the third Business Day after the day on which the Supplier notified the Customer that the Goods were ready; and

(b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

5.7 If 5 Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting any deposit, reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

6. Quality

6.1 Upon delivery the Goods will be:

- (a) of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- (b) be fit for any purpose for which you buy the goods which, before the contract is made, you made known to us (unless you do not rely, or it is unreasonable for you to rely, on our skill and judgment) and be fit for any purpose held out by us; and
- (c) conform to their description.

6.2 In the event of the condition of the Goods being such as might or would (subject to these conditions) entitle you to claim damages or to repudiate the contract, you shall not then do so but shall first ask us to repair the goods which we will do so within 14 days of being notified of any defects; if it is not possible to repair the goods then we will supply a satisfactory substitute within 21 days of being notified of any defect; if we do repair the goods or supply a satisfactory substitute then you will be bound to accept such repaired or substituted goods and we shall be under no liability in respect of any loss or damage whatsoever arising from the initial delivery of the defective goods or from the delay before the defective goods are repaired or the substitute goods are delivered; if we do not repair or replace the defective machine we will provide a refund within 28 days of being notified of any defects:

6.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

6.4 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

7. Title and risk

7.1 The risk in the Goods shall pass to the Customer on completion of delivery.

7.2 Title to the Goods shall not pass to the Customer until [the earlier of]:

- (a) the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer, in which case title to the Goods shall pass at the time of payment of all such sums; and
- (b) the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in *clause 7.4*.

7.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to

the Goods;

- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 9.1; and
- (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.

7.4 Subject to clause 7.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:

- (a) it does so as principal and not as the Supplier's agent; and
- (b) title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

7.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.1, then, without limiting any other right or remedy the Supplier may have:

- (a) the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
- (b) the Supplier may at any time:
 - (i) require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
 - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

8. Price and payment

8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date of delivery.

8.2 The Supplier may, by giving notice to the Customer at any time up to 5 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- (a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- (c) any delay caused by any instructions of the Customer or failure of the Customer to

give the Supplier adequate or accurate information or instructions.

8.3 The price of the Goods:

- (a) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
- (b) excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer

8.4 The Supplier may invoice the Customer for the Goods on or at any time after the order is accepted.

8.5 The Customer shall pay the invoice in full and in cleared funds by the end of the month following the month the invoice was dated. Payment shall be made to the bank account nominated in writing by the Supplier. Time for payment is of the essence.

8.6 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4.0% per annum above Barclays Bank PLC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

8.7 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

9. Termination

9.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 3 of that party being notified in writing to do so;
- (b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up or made bankrupt (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or in the case of an individual if the step or action is taken in another

jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

- (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

9.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

9.3 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest.

9.4 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.

9.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

10. Limitation of liability

10.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- (d) defective products under the Consumer Protection Act 1987; or
- (e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

10.2 Subject to clause 10.1:

- (a) the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed

100% of the price of the Goods.

11. Force majeure

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 14 days, the party not affected may terminate this Contract by giving 7 days written notice to the affected party.

12. General

12.1 Assignment and other dealings.

- (a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

12.2 Confidentiality.

- (a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause 12.2; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

12.3 Entire agreement.

- (a) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

12.4 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.5 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

12.6 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

12.7 **Notices.**

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.7(a); if sent by pre-paid first class post or other next working day delivery service, at 9:00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

12.8 **Third party rights.** No one other than a party to this Contract shall have any right to enforce any of its terms.

12.9 Right to cancel

For most products bought off-premises you have a legal right to change your mind within 14 days and

receive a refund. The cancellation period will expire after 14 days from the day

(a) on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the goods. **OR**

(b) on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the last good. **OR**

(c) on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the last lot or piece. **OR**

(d) on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the first good.

To exercise the right to cancel, you must inform us Agri Sales Limited, Southfield Farm, Hull Road, Wilberfoss, York, YO41 5NT Tel: 07495 821883; info@agrisalesltd.com of your decision to cancel this contract by a clear statement (e.g. a letter sent by post, fax or e-mail).

To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

Effects of cancellation

If you cancel this contract, we will reimburse to you all payments received from you, including the cost of delivery (except for the supplementary costs arising if you chose a type of delivery other than the least expensive type of standard delivery offered by us).

We may make a deduction from the reimbursement for loss in value of any goods supplied, if the loss is the result of unnecessary handling by you.

We will make the reimbursement without undue delay, and not later than –

(a) 28 days after the day we receive back from you any goods supplied, or

(b) (if earlier) 28 days after the day you provide evidence that you have returned the goods.

We may withhold the reimbursement until we have received the goods back or you have supplied evidence of having sent back the goods, whichever is the earliest.

You shall send back the goods or hand them over to us, without undue delay and in any event not later than 14 days from the day on which you communicate your cancellation from this contract to us. The deadline is met if you send back the goods before the period of 14 days has expired.

You will have to bear the direct cost of returning the goods.

12.9 You are only liable for any diminished value of the goods resulting from the handling other

than which is necessary to establish the nature, characteristics and functioning of the goods.

12.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

12.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.