



## TRADING TERMS - NON-CONSUMER SALES

N. P. Seymour Agricultural Engineers (Seller) supplies all goods and services under the following terms and conditions. Where used goods are sold special written provisions will be negotiated.

1. Formation of Contract. The Seller contracts with the Customer in accordance with the following terms and conditions. These terms and conditions are deemed to be accepted by the Customer unless express written variations are agreed which may only be authorised on the Seller's side by the written acceptance of a Partner.

2. Prices & Delivery Dates. Prices are subject to change at any time prior to the Seller's despatch of the written acknowledgement of the Customer's order, provided that such change had been agreed by the customer. An acknowledgement of order must be sent within 7 days of receipt of the Customer's order. No price change thereafter shall be binding on the Customer until the Customer has signified his consent in writing.

Delivery dates are given in good faith but without any liability being accepted when these are exceeded.

3. Quotations. All quotations are an invitation to trade and no order will be binding on the Seller until his formal notice of acceptance is sent.

4. Despatch. a) Delivery takes place when the goods have been off-loaded at the Customer's premises, or to his order, except when the Customer collects the goods from the premises of the Seller in which case the delivery shall take place when the goods have been loaded on to the vehicle of the Customer.

b) When the Seller despatches to the instructions of the Customer, the Seller shall send carriage paid at carrier's risk and may invoice the Customer for all charges.

In which event to protect his interest the Customer must:

(i) Notify the Seller in writing if the goods have not been received within seven days of the date of the Seller's advice note or invoice having been received.

(ii) Endorse carriers' waybills "unexamined".

(iii) Notify the Seller and the carrier in writing within three working days of receipt if there is any breakage or shortage.

c) If at the Customer's request or through his failure to give full forwarding instructions, the goods are not despatched from the Seller's works within 15 days after receipt of notification that the goods are ready for despatch, then the Seller shall be entitled to invoice and receive payment for the goods as though the Customer had taken delivery and title is to pass on payment in full and the Customer shall be responsible for reasonable storage charges.

d) Where the Seller delivers goods which are destroyed or damaged, the Seller shall after consultation and in agreement with the Customer, either repair or replace goods provided notification is received within five working days following delivery.

5 PASSING OF PROPERTY. (a) Notwithstanding the provisions of clause 4 as to the passing of risk, the goods shall remain the sole and absolute property of the seller until buyer has paid in full the agreed price thereof and all other sums due from buyer to seller whether under this contract or otherwise (including any interest thereon). Notwithstanding such retention of title, seller shall be entitled to maintain an action for the price of the goods as soon as payment falls due.

(b) Buyer acknowledges that he is in possession of goods solely as bailee and in fiduciary capacity for seller until such time as the agreed price thereof and all other sums due from buyer to seller, whether under this contract or any other contract, have been paid in full. Until such time buyer will store the goods on his premises separately from others goods (including his own) and in a manner which makes them readily identifiable as belonging to the seller and shall not alter, modify or add to any such goods or any marking or identification on them and shall maintain them in good condition.

(c) If payment for the goods supplied under this or any other contract is over due, in whole or in part, seller may (without prejudice to any of his other rights) retake possession of and/or resell any goods, the title to which it has retained and the buyer shall, upon request of seller, allow seller to enter his premises during normal working hours for the purpose of recovering possession of such goods.

(d) Notwithstanding any other agreement as to the terms of payment the total invoice price shall immediately become due and payable and the seller shall have the right forthwith terminate this contract (without prejudice to any other of his rights) upon the occurrence of any of the following events:-

1 The buyer commits any act of bankruptcy or if a petition of bankruptcy is presented against buyer;

2 If buyer ceases or threatens to cease to carry on business;

3 If buyer shall enter into any negotiations for an arrangement or composition with his creditors;

4 In the event of the buyer being a limited company, if a petition is presented for an administration order or if a petition is presented or a resolution is proposed to wind up buyer or if a receiver of his assets or undertaking or part thereof is appointed;

5 If any distress or execution is levied on buyer. Upon any such termination seller shall have such rights of repossession and resale as are set out in subclause (c) above.

(a) Subject to the provisions of this clause and notwithstanding that the property in the goods has not passed, buyer may agree to sell the goods in the ordinary course of his business subject to the express condition that such an agreement to sell shall take place as agent and bailee for the seller whether buyer sells on his own account or not and that the proceeds of sale (less buyers profit margin) are held in trust for seller and kept separate from any monies or property of buyer or any third party.

(f) Buyer shall not in any circumstance place the proceeds of sale of goods supplied by the seller in any overdrawn bank account, so long as any sum payable to the seller remains outstanding.

(g) Where goods belonging to the customer are repaired, serviced or adapted in any way on the instruction of the customer, the property in parts supplied by the Seller shall not pass to the Customer until the full contract price is paid to the Seller and the Customer grants an irrevocable licence to the Seller to enter on to the Customers premises to recover goods in which the Seller's goods have been affixed or assembled and to disassemble the Seller's goods for retention by the Seller where payment is overdue. The Customer accepts that the Seller will have no liability for damage reasonably caused in such disassembly and for reassembling the goods if this clause is invoked.

6. Limitation of Liability. a) The Seller shall be liable for death or personal injury that directly results from its negligence.

b) The Seller shall be liable for foreseeable loss or damage to property sustained by the Customer and caused by the Seller's negligence in the performance of its obligations under this contract or caused by goods that are defective at the time of delivery to the customer PROVIDED THAT

(i) the Seller's total liability under each contract for such loss or damage shall be up to the extent of the Seller's insurance cover, the value of which is available on request.

(ii) the Customer adheres to the terms of the manufacturer's written warranty and instructions.

(iii) the Customer takes all reasonable steps to mitigate his loss.

A Statement of the Seller's insurance cover will be provided by their insurers on request.

7. Terms of Payment. Where credit terms are agreed the due date for payment will be the 20th of the month following date of invoice unless separately agreed. The due date for payment shall be of the essence.

If payment is not made by the due date, interest on any outstanding balance will be charged at 10% above Barclays Bank PLC monthly base rate prevailing from time to time.

The Seller reserves the right to withdraw credit facilities without notice.

8. Instructions for Safe Use. Customers are advised to read Manufacturers' instructions supplied with all machinery and to follow those instructions closely. Adequate provision shall be made by the Seller for installation of equipment and appropriate initial instructions and it is the Customer's duty to ensure that his employees are fully acquainted with them.

9. Cancellation or Suspension of Order. Orders accepted by the Seller shall not be cancelled either wholly or in part nor may the Customer suspend deliveries thereunder without the consent in writing of the Seller and subject to compliance by the Customer with such reasonable requirements as to compensation for costs incurred by the Seller.

10. Returns for Credit. The Seller disclaims liability for goods returned, after the Customer has accepted the goods, without the written consent of the Seller to return the goods, which shall not be unreasonably withheld. The Seller disclaims liability for any goods whilst in transit to the Seller.

11 . Replacement. In the event of replacement free of charge of a part or parts replaced become the property of the Seller.

12. Conditions. The rights of the Seller or the Customer shall not be adversely affected by any concessions extended by either party to the other and no waiver of rights by either party in respect of any breach by the other shall operate as a waiver in respect of any other breach.

13. Insolvency. Either party may terminate this Contract by giving the other party written notice to that effect at any time after that other party has a receiver appointed of the whole or any part of his property or undertaking or makes any composition or scheme of arrangement with his creditors or is adjudicated bankrupt or goes into liquidation and if that other party is a partnership then the right to terminate this Contract under this clause shall arise on the happening of any of the aforesaid events to the partnership or to any partner therein.

14. Breach. Without prejudice to any legal or equitable remedies available for any breach of this Contract, if either party defaults in any of his obligations under this Contract and fails to comply with a written notice from the other party warning against a further default of a similar nature or, if it is practicable, requiring the default to be remedied within such reasonable period as the notice specifies then that other party may terminate this Contract forthwith by giving the defaulting party written notice to that effect.

15. Force Majeure. If the default in the performance of any obligation under the Contract (other than the payment of money) is unavoidably caused by loss of possession of land or industrial action or restrictions imposed by any government authority, whether at local, national or international level, or disease or weather conditions or fire or flood or act of God or by any other occurrence which the defaulting party is unable to prevent by taking reasonable measures and the defaulting party gives the other party written notice thereof as soon as is reasonably practicable after the occurrence, then the defaulting party shall not be liable for any loss damage or injury occasioned to the other party by the default.

16. Arbitration. Any dispute under this Contract shall be referred to arbitration before a sole arbitrator appointed by agreement between the parties or in default of agreement, by the President of the British Institute of Agricultural Consultants. Every such arbitration shall be governed by the provisions of the Arbitration Acts of 1950, 1974 and 1979 and any statutory modifications thereof for the time being in force.

17. Unfair Contract Terms. The Seller has drawn up these Terms and Conditions of Sale in the light of the Unfair Contract Terms Act 1977. They are considered by the Seller to be fair and reasonable and its prices are based on contracts made under these conditions. If the Purchaser considers these terms to be unreasonable in whole or in part he must inform the Seller in writing before any contract is made otherwise he will be deemed to have accepted that they are reasonable.

18. The Law. The proper law of this Contract shall be the law of England.