

**Farmway Limited**  
**Standard Conditions of Sale**

**These Standard Conditions of Sale contain exclusion and limitation clauses. The Customer's attention is drawn in particular to Conditions 3, 5, 6, 9 and 11**

**1. Definitions and interpretation**

- \*Customer\*** means the person who buys or agrees to buy the Goods from Farmway and shall (where the context so admits) include the Customer's agents and sub-buyers;
- \*Contract\*** means any contract made between Farmway and the Customer for the sale and purchase of Goods to which these Conditions apply;
- \*Conditions\*** means the terms and conditions of sale set out in this document and any additional or special terms and conditions agreed in writing by an authorised representative of Farmway;
- \*Farmway\*** means Farmway Limited (registered in England and Wales as an Industrial Provident Society with number IP11592R), Hallshaw Farm Supplies Limited registered number 1402731 and Yorkshire Animal Health Limited registered number 1633499 whose registered offices are at Cok Lane, Piercebridge, County Durham DL2 3JT.;
- \*Goods\*** means the goods which the Customer agrees to buy from Farmway;
- \*Price\*** means the price for the Goods in pounds sterling (excluding carriage, packing, insurance, VAT, and all other applicable taxes duties and levies);

Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

**2. Conditions applicable**

- 2.1. These Conditions shall apply to all contracts for the sale of Goods by Farmway to the Customer to the exclusion of all other terms and conditions including any terms or conditions which the Customer may purport to apply under any purchase order, confirmation of order, or similar document.
- 2.2. All orders for Goods shall be deemed to be an offer by the Customer to purchase Goods pursuant to these Conditions.
- 2.3. No order submitted by the Customer shall be deemed to be accepted by Farmway unless and until Farmway shall commence to undertake its obligations under the Contract.
- 2.4. No order which has been accepted by Farmway may be cancelled by the Customer except with the agreement in writing of Farmway and on terms that the Customer shall indemnify Farmway in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), charges and expenses incurred by Farmway as a result of cancellation.
- 2.5. The Customer shall be responsible to Farmway for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer, and for giving Farmway any necessary information relating to the Goods within sufficient time to enable Farmway to perform the Contract in accordance with these Conditions.
- 2.6. Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Customer's acceptance of these Conditions.
- 2.7. Any variation to these Conditions (including any additional or special terms and conditions shall be inapplicable unless agreed in writing by Farmway.

**3. The Goods**

- 3.1. The quantity, quality and description of the Goods shall be as specified or agreed in writing by Farmway.
- 3.2. Farmway may from time to time make changes in the specification of the Goods which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality, fitness for purpose or performance of the Goods.
- 3.3. Although Farmway endeavours to ensure that the information contained in its brochures, catalogues and other advertising, marketing and promotional material is accurate and not misleading Farmway makes no express representation or warranty concerning the Goods unless made or confirmed by an authorised representative of Farmway in writing.
- 3.4. Farmway shall not be liable for any advice or recommendation given by or on behalf of Farmway to the Customer as to the storage, application, or use of the Goods unless made or confirmed in writing by an authorised representative of Farmway.
- 3.5. Where any designs and/or specifications have been supplied by the Customer for manufacture, processing or assembly by or to the order of Farmway the Customer warrants that the use of those designs or specifications for the manufacture, processing or assembly of the Goods shall not infringe the rights of any third party.

**4. Price and payment**

- 4.1. The Price of the Goods shall be Farmway's quoted price.
- 4.2. The Price is exclusive of VAT which shall be payable by the Customer at the rate prevailing on the date of the VAT invoice.
- 4.3. Except as otherwise agreed by Farmway in writing, all prices are given by Farmway on the basis of delivery taking place at Farmway's premises. The Customer shall be responsible for the cost of transport and packaging and where Farmway agrees to arrange for the Goods to be insured in transit, the Customer shall be responsible for the cost of insurance.
- 4.4. The cost of packing will be charged to the Customer in accordance with Farmway's published price list current at the date of delivery of the Goods and will be due from the Customer in addition to the Price but will be credited to the Customer provided that they are returned carriage paid to Farmway in undamaged condition.
- 4.5. Farmway shall be entitled to invoice the Customer for the price of the Goods before or on or at any time after delivery of the Goods.
- 4.6. Unless otherwise agreed in writing by Farmway, payment of the full Price plus VAT and any other applicable costs in cash or cleared funds shall be due within 21 days from the end of the month in which the Goods are delivered, (in the case of payment being made otherwise than by direct debit or direct bank transfer ("Direct Debit") or 28 days from the end of the month in which the Goods are delivered) (in the case of payment by Direct Debit). Time for payment shall be of the essence.
- 4.7. The Customer may not withhold payment of any invoice or other amount due to Farmway by reason of any right of set-off or counterclaim which the Customer may have or allege to have or for any reason whatsoever.

**5. Delivery**

- 5.1. Any dates quoted by Farmway for delivery of the Goods are approximate only. Time for delivery shall not be of the essence of the contract and Farmway shall not be liable for any failure (howsoever caused) to deliver the Goods promptly or at all.
- 5.2. Unless otherwise agreed in writing by Farmway, the Goods shall be delivered to the Customer at Farmway's premises.
- 5.3. If Farmway agrees to arrange for carriage of the Goods on behalf of the Customer the carrier shall be deemed to be the Customer's agent.
- 5.4. If Farmway agrees that delivery of the Goods shall be made other than at Farmway's premises:
  - 5.4.1. the Customer shall provide safe and proper access and make all arrangements (including the provision of labour, equipment, storage and other facilities) necessary to take safe unloading and delivery of the Goods whenever they are tendered for delivery; and
  - 5.4.2. the Customer shall notify Farmway of any non-delivery of the Goods (or a consignment of the Goods) within 7 days of the notified date of delivery provided that a clear signature on a carrier's delivery advice sheet shall be deemed to signify receipt of the quantity of Goods indicated on the advice sheet notwithstanding the receipt by Farmway of any such notice.
- 5.5. Where delivery of the Goods is to be made by Farmway in bulk, Farmway reserves the right to deliver up to 5 per cent more or 5 per cent less than the quantity ordered subject to a proportionate adjustment in the Price and such quantity delivered shall be deemed to be the quantity ordered.
- 5.6. Farmway may deliver the Goods by separate instalments in which case each separate instalment shall be invoiced and paid for in accordance with these Conditions as if each separate instalment was the subject of a separate contract. Failure by Farmway to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more of the instalments shall not entitle the Customer to treat the Contract as a whole to be repudiated.
- 5.7. Notwithstanding that Farmway may have delayed or failed to deliver the Goods (or any of them) promptly the Customer shall be bound to accept delivery and to pay for the Goods in full provided that delivery shall be tendered within 3 months of the date of the Contract or if a delivery date shall have been agreed or quoted by Farmway, within 3 months of such delivery date.
- 5.8. If the Customer fails to take delivery of the Goods or fails to give Farmway adequate delivery instructions (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of Farmway's fault) then, without prejudice to any other right or remedy available to Farmway, Farmway may:
  - 5.8.1. store the Goods until actual delivery and charge the Customer for the reasonable costs of storage and insurance;
  - 5.8.2. sell the Goods at the best price readily obtainable and (after deducting all reasonable storage, insurance and selling expenses) account to the Customer for the excess over the Price or charge the Customer for any shortfall below the Price; or
  - 5.8.3. charge the Customer in respect of any losses arising from any delay caused by the acts or omissions of the Customer.

**6. Acceptance**

- 6.1. The Customer shall inspect the Goods as soon as practicable following first receipt and shall within 7 days of receipt notify Farmway of any alleged defect, [shortage in quantity], damage or failure to comply with description which would be apparent on a reasonable examination of the Goods.
- 6.2. The Customer shall allow Farmway to inspect the Goods within a reasonable time following any notification under Condition 6.1 and before any use is made of them.
- 6.3. If the Customer shall fail to comply with the provisions of Conditions 6.1 and 6.2, the Goods shall be conclusively presumed to be in accordance with the Contract and free from any defect or damage which would be apparent on a reasonable examination of the Goods and the Customer shall be deemed to have accepted the Goods.
- 6.4. If the Customer properly rejects any of the Goods which are not in accordance with the Contract the Customer shall (subject to Farmway replacing the Goods) nonetheless pay the full Price for such Goods and if delivery of the rejected Goods shall have been made at Farmway's premises the Customer shall at its own cost return such rejected Goods to Farmway before the date when payment of the Price is due.
- 6.5. No Goods delivered to the Customer which are in accordance with the Contract will be accepted for return by Farmway and any such Goods returned to Farmway may at Farmway's absolute discretion be returned to the Customer or stored by Farmway at the Customer's cost without prejudice to any right or remedies Farmway may have.

**7. Title and risk**

- 7.1. The Goods shall be at the Customer's risk as from the delivery.
- 7.2. Property in the Goods shall not pass from Farmway until:
  - 7.2.1. the Customer shall have paid the Price (plus VAT thereon) in full; and
  - 7.2.2. no other sums whatever shall be due from the Customer to Farmway.
- 7.3. Until property in the Goods passes to the Customer in accordance with Condition 7.2 the Customer shall hold the Goods and each of them on a fiduciary basis as bailee for Farmway.
- 7.4. Should the Customer convert the Goods (or any of them) into a new product (whether or not such conversion involves the admixture of any other goods or thing whatsoever and in whatever proportions) the conversion shall be effected by the Customer solely as agent for Farmway who shall have the full legal and beneficial ownership of the new products. Where any such conversion shall have been effected references in this Condition 7 to 'the Goods', shall include references to any new products incorporating the Goods.
- 7.5. The Customer shall safely store the Goods (at no cost to Farmway) separately from all other goods in its possession and marked in such a way that they are clearly identified as Farmway's property provided that should Goods which are the property of Farmway be admixed with:
  - 7.5.1. goods the property of the Customer, then Farmway shall have the full legal and beneficial ownership of the product thereof; or
  - 7.5.2. goods the property of any person(s) other than the Customer (whether or not goods of the Customer are also included), then Farmway shall have the full legal and beneficial ownership of the product thereof in common with such person(s) other than the Customer.
- 7.6. Notwithstanding that the Goods (or any of them) remain the property of Farmway the Customer may sell (at full market value for the account of Farmway) or otherwise deal with the Goods in the ordinary course of the Customer's business. Any such sale or dealing shall be by the Customer acting as principal on its own behalf who shall be liable for any claims whatsoever and howsoever arising out of any such sale or dealing.

- 7.7. Farmway shall be entitled to recover the Price (plus VAT) and any other applicable costs notwithstanding that property in any of the Goods has not passed from Farmway.
- 7.8. Until such time as property in the Goods passes from Farmway, the Customer shall upon request deliver up to Farmway such of the Goods as have not ceased to be in existence or resold by the Customer. If the Customer fails to do so Farmway may enter upon any premises owned occupied or controlled by the Customer where the Goods are situated and repossess the Goods. On the making of any such request the rights of the Customer under Condition 7.6 shall cease.
- 7.9. The Customer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of Farmway.
- 7.10. The Customer shall insure and keep insured the Goods to the full Price against 'all risks' to the reasonable satisfaction of Farmway until the date that property in the Goods passes from Farmway and shall whenever requested by Farmway produce a copy of the policy of insurance.
- 7.11. The Customer shall (if requested to do so by Farmway) promptly deliver the prescribed particulars of this Contract to the Registrar of Companies in accordance with the Companies Act 1985 Part XII (as amended) and if it fails to do so within 7 days of the date of any such request hereby appoints Farmway as its agent and attorney to make such delivery on its behalf.
- 7.12. Without prejudice to the other rights of Farmway, if the Customer fails to comply with the provisions of Conditions 7.9, 7.10 or 7.11 all sums whatever owing by the Customer to Farmway shall forthwith become due and payable.

**8. Farmway's intellectual property**

- 8.1. No right or licence is granted to the Customer under any patent, trade mark, copyright, registered design or other intellectual property right except the right to use or resell the Goods.
- 8.2. All Goods sold in retail packaging may be resold by the Customer only in the packaging supplied by Farmway and in no case may any trade mark other than those applied by Farmway be marked on or applied in relation to the Goods.

**9. Exclusion and limitation of liability**

- 9.1. This Condition 9 provides for the entire liability of Farmway whether in contract, tort, (including negligence), misrepresentation (unless fraudulent), strict liability or other legal liability including liability for the acts or defaults of its employees, agents, sub-contractors or affiliated companies.
- 9.2. All warranties and conditions whether implied by statute or otherwise are excluded from this Contract provided that nothing in this Contract shall restrict or exclude liability for death or personal injury where it is not lawful to do so or affect the statutory rights of a Customer dealing as consumer.
- 9.3. A claim by the Customer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall be notified to Farmway within seven days from the date of delivery (or where the defect or failure was not apparent on reasonable examination) within a reasonable time after discovery of the defect or failure. If the Customer does not notify Farmway accordingly Farmway shall have no liability for such defect or failure.
- 9.4. If the Goods are not in accordance with the Contract for any reason, the Customer's sole remedy shall be limited to Farmway either replacing the Goods (or such of them as are not in accordance with the Contract) or, at Farmway's election, refunding the Price (or a proportion of the Price where only some of the Goods are not in accordance with the Contract).
- 9.5. In the event of any breach of contract by Farmway the remedies of the Customer shall be limited to damages. Farmway's liability to the Customer, whether for any breach of contract or otherwise, shall not in any event exceed the Price.
- 9.6. All persons visiting Farmway's premises do so at their own risk and Farmway accepts no liability for any injury caused to persons visiting Farmway's premises for whatever purpose, except where caused by Farmway's negligence.
- 9.7. Farmway accepts no responsibility (except for death or personal injury caused by Farmway's negligence) for injury or loss resulting from the unauthorised boarding of delivery vehicles for whatever purpose.
- 9.8. No liability whatsoever or howsoever arising is accepted for any loss of profits, wasted overheads, special, indirect or consequential loss including, but not limited to, goodwill, contracts, anticipated savings, any increased cost of working or third party claims even if Farmway knew of or was informed of the possibility of the same.
- 9.9. No liability whatsoever or howsoever arising is accepted for any loss or damage suffered by the Customer or liability to third parties incurred by the Customer in respect of any Goods manufactured, processed or assembled by (or to the order of) Farmway in accordance with designs and/or specifications supplied by the Customer and Farmway shall not be responsible for checking or testing any such designs and/or specifications.
- 9.10. It is expressly acknowledged and agreed by the Customer with the exclusions and limitations of liability contained in this clause are fair and reasonable having regard to the price of the Goods; any special requirements of the Customer; the difficulty of dealing with claims submitted a considerable time after the events allegedly giving rise to them; the availability to the Customer of insurance cover; and the expense of Farmway obtaining adequate insurance cover for any potential liabilities (whether contractual or tortious) arising out of or in connection with the Contract.

**10. Farmway's remedies**

- 10.1. Farmway shall be entitled to a general lien on all goods of the Customer in Farmway's possession (including goods of the Customer which have been paid for) for the unpaid price of all Goods sold to the Customer by Farmway under this or any other Contract.
- 10.2. If the Customer (i) fails to make payment for the Goods in accordance with this Contract, or (ii) commits any other breach of this Contract, or (iii) if any distress or execution shall be levied upon any of the Customer's goods, or (iv) if the Customer offers to make any arrangement with its creditors, or (v) (being an individual or a firm) commits an act of bankruptcy, or (vi) if any petition in bankruptcy is presented against the Customer, or (vii) the Customer is unable to pay its debts as they fall due, or (viii) if (being a body corporate) any resolution or petition to wind up the Customer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented, or (ix) if a receiver, administrator, administrative receiver, or manager shall be appointed over the whole or any part of the Customer's business or assets, or (x) if the Customer shall suffer any analogous proceedings under foreign law, or (xi) the Customer ceases, or threatens to cease, to carry on business, or (xii) Farmway reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly then notwithstanding any previous agreement or arrangement to the contrary, all sums outstanding in respect of the Goods shall become due and payable immediately and Farmway may in its absolute discretion and without prejudice to any other right or remedy which Farmway may have:
  - 10.2.1. suspend all future deliveries of Goods to the Customer; and/or
  - 10.2.2. appropriate any payment made by the Customer to such of the Goods supplied under such Contract (if more than one) as Farmway may in its sole discretion determine; and/or
  - 10.2.3. charge the Customer interest on the amount unpaid, at a rate equal to 2.0% per month (and pro rata for part of a month) from the date when payment becomes due until the date of actual payment which shall accrue at such a rate after as well as before any judgment; and/or
  - 10.2.4. treat this and/or any other Contract as repudiated by the Customer; and/or
  - 10.2.5. enter upon any premises owned occupied or controlled by the Customer where the Goods are situated and repossess the Goods

**11. Cancellation**

Farmway may cancel this Contract at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice Farmway shall promptly repay to the Customer any sums paid in respect of the Price. Farmway shall not be liable for any loss or damage whatever arising from such cancellation.

**12. Force majeure**

Neither party shall be liable for any default due to any act of God, war, strike, lockout, industrial action, fire, flood, drought, tempest or other event beyond the reasonable control of either party and if any such event shall persist for a period in excess of three months, Farmway shall be entitled by notice in writing to the Customer to cancel the Contract without liability with regard to any unperformed part thereof.

**13. Notices**

Any notice required to be served pursuant to this Contract shall be in writing and served by first class post or by hand on Farmway at Cok Lane, Piercebridge, County Durham DL2 3JT or such other address as Farmway may from time to time notify to the Customer and on the Customer at the Customer's registered office or principal place of business.

**14. Dispute resolution**

- 14.1. In this condition "mediation" shall mean mediation in accordance with the mediation procedure of IDR Europe Limited or CEDR.
- 14.2. Either party may at its absolute discretion refer any difference which relates to or arises out of the Contract to mediation under the auspices of either IDR Europe Limited or CEDR ("the chosen ADR organization") as a condition precedent to exercise any right to litigation save that the right to seek and obtain injunctive relief and/or to issue and pursue proceedings for non-payment of an invoice is expressly excluded for this condition precedent.
- 14.3. Once a party has elected for the chosen ADR organization to handle a mediation then there shall be no switch to the other body for the purposes of dealing with the dispute in question without the written agreement of both parties.
- 14.4. The mediator shall be agreed upon by the parties, but failing such agreement within 14 days of one party proposing (and providing details of) a proposed mediator, the mediator shall be appointed by the chief executive officer of the chosen ADR organization from amongst trained mediators proposed by that organisation.
- 14.5. Unless otherwise agreed the parties shall share equally the costs of the mediator.
- 14.6. The use of mediation will not be construed to affect adversely the rights of either party should the mediation not resolve the dispute in question.

**15. Headings**

All headings are for ease of reference only and shall not affect the construction of this Contract.

**16. Severance**

Any provision of this Contract which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of this Contract.

**17. Waiver**

No waiver or forbearance by Farmway (whether express or implied) in enforcing any of its rights under this Contract shall prejudice its right to do so in the future.

**18. Third party rights**

The Contract is not made for the benefit of nor shall any of its provisions be enforceable by, any person other than the parties to the Contract and their respective successors and permitted assignees.

**19. Proper law of contract**

This Contract is subject to the law of England and Wales.