

# LEINSTER FARM MACHINES (SALES) LIMITED

## BUSINESS TERMS AND CONDITIONS

### 1. ACCEPTANCE BY THE DEALER

This order and any allowance on used goods offered by the Purchaser by way of trade-in shall not bind the Dealer until this Order is signed by the Dealer or on his behalf by a duly authorised person.

### 2. DELIVERY BY THE DEALER

- (a) The Dealer will endeavor to secure delivery of the goods on the estimated delivery date or dates from time to time furnished (if any) but does not guarantee the time of delivery nor shall the Dealer be liable for any damage or claim to any kind howsoever arising in respect of delay in delivery. The Dealer shall not be obliged to fulfil orders in the sequence in which they are placed.
- (b) If the Dealer fails to deliver the goods within 30 days of the estimated date of delivery of which the Purchaser has been advised, the Purchaser may by notice in writing to the Dealer require delivery of the goods within fourteen days of receipt by the Dealer of such notice. If the goods are not delivered to the Purchaser within the said fourteen days, the Purchaser may cancel this agreement and in that event the Dealer shall return any deposit paid to the Purchaser and shall be under no further liability.
- (c) Should the Dealer be unable to secure delivery of the goods for reasons outside his control for a period of three months from the estimated delivery date, it shall be at liberty to give notice in writing to the Purchaser to cancel this agreement and shall return any deposit paid to the Purchaser and thereupon be under no further liability.

### 3. ACCEPTANCE BY PURCHASER

Should the purchaser fail to accept delivery of or fail to pay for the goods within fourteen days from the date of service of a notice by the Dealer confirming the availability of the goods for delivery, the Dealer shall be at liberty to treat this agreement as repudiated by the Purchaser and thereupon any deposit paid shall be forfeited without prejudice to the Dealer's right to recover from the Purchaser by way of damages any loss or expense which the Dealer may suffer or incur by reason of the Purchaser's default. The said notice shall be sent by pre-paid registered post to the Purchaser's last known address.

### 4. CONDITIONS AND WARRANTIES

Before signing this Order Form the Purchaser shall examine the Goods. The purchaser is hereby reminded that the condition of merchantable quality implied by Section 14(2) of the Sale of Goods Act 1893 as amended by the Sale of Goods and Supply of Services Act 1980 does not apply in relation to any defects which such an examination ought to reveal. Should the goods be sold subject to defects notified by the Dealer to the Purchaser before signing this Order Form the condition of merchantable quality above referred to does not operate in relation to those defects: All statements, representations, conditions or warranties as to the quality of the goods or their fitness for any purpose whether expressed or implied by law or otherwise are hereby expressly excluded.

### 5. GUARANTEES

While the Dealer will use his best endeavors to secure for the purchaser the benefit of any guarantee issued by a manufacturer, supplier, or other third party, and delivered by the Dealer in respect of the goods, it is hereby expressly agreed that the Dealer shall have no liability in respect of the observance of the terms of any such guarantee. In the case of any guarantee delivered by the Dealer in respect of the goods, whether or not issued by a manufacturer, supplier, or other third party, the Purchaser shall comply with the terms of any such guarantee and in particular shall have the goods serviced and maintained in accordance with the provisions thereof where and if so required thereby.

### 6. PRICE CHANGES

If after the date of this Order the manufacturer's or distributor's recommended retail price for the goods shall be altered then:

- (a) In the event of the recommended retail price being increased before delivery of the goods the Dealer may give notice of such increase to the Purchaser. The purchaser shall pay the Dealer the amount of the price increase unless he notifies the Dealer that he is not prepared to do so within fourteen days of receipt by him of the said notice of price increase in those circumstances, the Dealer shall have the option, to cancel this agreement by notice in writing to the Purchaser and shall refund any deposit paid. Any notice of cancellation shall be sent by pre-paid registered post addressed to the Purchaser's last known address:
- (b) In the event of the recommended retail price being reduced before delivery of the goods the Dealer may give notice of such reduction to the Purchaser. Thereafter, either party shall have the option by notice in writing to the other (as the case may be) to cancel this agreement and any deposit paid by the Purchaser shall be refunded to him. Any notice of cancellation shall be sent by pre-paid registered post addressed to the last known address of the Dealer or Purchaser as the case may be.

### 7. PURCHASE OF USED ITEMS (TRADE-INS)

- (a) Any goods given in exchange or as part payment towards the purchase price of the goods sold pursuant to this agreement (hereinafter called "the trade-in") shall be equipped and in the same condition, reasonable wear and tear only excepted, at the time of delivery for acceptance by the Dealer as it was at the time of examination thereof by the Dealer. The trade-in shall be the absolute property of the Purchaser and held by it free from all encumbrances except those specifically brought to the attention of the dealer and noted on the Purchase/Settlement Voucher for used items.

# LEINSTER FARM MACHINES (SALES) LIMITED

## BUSINESS TERMS AND CONDITIONS

- (b) The trade-in item shall be delivered to the Dealer not later than fourteen days from the date of notification to the Purchaser that the goods to be supplied by the Dealer are ready for delivery but provided always that the property and risk in the trade-in shall not pass to the seller until the aforesaid conditions have been complied with and the trade-in has been delivered by the Purchaser to the Dealer and accepted by it.
- (c) Should the Dealer through no fault on his part be unable to effect delivery of the goods within 30 days of the estimated day of delivery the Dealer may elect, from time to time, to vary the amount of the allowance offered to the Purchaser in respect of his trade-in by notice in writing to the Purchaser. The Purchaser may within seven days of receipt of such notification cancel this agreement by notice in writing in which event any deposit shall be returned to the Purchaser and the Dealer shall be under no further liability.

### 8. CANCELLATION OF CONTRACT

Where this agreement is cancelled in accordance with any of the provisions hereof, with the exception of Clause 3 above, the Dealer shall return to the Purchaser the deposit and any trade-in. In the event that the property in the trade-in item has passed absolutely to the Dealer and it has sold the trade-in before cancellation of this agreement the Dealer shall account to the Purchaser in respect of the price which the Dealer has realised on the sale of the trade-in less the cost of repairs and servicing effected on the trade-in before such sale. The Dealer will have no liability to the Purchaser arising out of or in respect of such sale save in respect of the net proceeds of sale calculated in the manner aforesaid.

### 9. INSURANCE

The Dealer is not responsible for and in no way guarantees the provision of insurance cover of any kind for the goods notwithstanding any request by the Purchaser to assist and having assisted in arranging such cover.

### 10. NOTICES

Except as otherwise provided for herein, a notice given hereunder must be in writing and sent by post to the residence or place of business of the person to whom it is addressed and shall be deemed to have been received in due course of post.

### 11. ARBITRATION

Any dispute or difference of any kind whatsoever which arises between the Dealer and the Purchaser shall be referred to a single arbitrator to be agreed between the parties, or in the absence of agreement to be named by the President for the time being of the Institution of Engineers of Ireland. The arbitrator from time to time acting under this provision shall have and may exercise all the powers conferred on arbitrators by the Arbitration Act 1954 or any statutory modification thereof. The parties further agree that in the event of the said dispute involving any further party that such dispute shall be submitted to arbitration by the same arbitrator.

### 12. RISK

From the moment of delivery the risk in the goods shall pass to the Purchaser.

### 13. RESERVATION OF TITLE

The title to any property in the goods shall remain with the Dealer and shall not pass to the Purchaser until the purchase price has been paid in full.

### 14. PURCHASE OF THE GOODS BY FINANCE COMPANY

Within seven days of notification that the Goods are ready for delivery, the purchaser shall be at liberty, with the consent of the Dealer, to arrange for a finance company to purchase the Goods from the Dealer at the price payable hereunder. Upon the purchase of the Goods by such finance company, the terms and conditions of this agreement shall continue to apply to such sale in so far as they are appropriate and any reference to the 'purchaser' hereunder shall be deemed to include a reference to the finance company. Any trade-in shall be purchased by the Dealer at a price equal to the allowance agreed to be given to the Purchaser in relation thereto upon the conditions set out in Clause 7 above (save that in such clause all references to delivery by the Dealer shall be construed as meaning delivery by the Dealer to or to the order of the finance company) and the Dealer shall be accountable to the finance company on behalf of the purchaser for the said price and any deposit paid by him under this agreement. Notwithstanding any purchase of the goods by the finance company, the provisions of this agreement shall continue to apply as between the dealer and the purchaser expressly agrees that if any dispute or difference should arise as between the purchaser and the dealer, the purchaser shall be bound by all of the provisions hereof (including Clause 11. hereof) notwithstanding that the actual purchase of the goods was made not by the purchaser but by such finance company.