

## NEW FOREST FARM MACHINERY LIMITED - TERMS AND CONDITIONS (“TERMS”)

Please read these Terms carefully - Your attention is particularly drawn to the provisions of clause 12 (Limitation of liability). You have certain Legal rights and if you are an individual consumer your rights are explained in the Terms but this does not affect any legal rights that you have apart from these Terms.

### 1. THESE TERMS (THE CONTRACT)

1.1 These are the Terms (the Contract) on which we supply products (Goods and/ or Services) to you. The terms set out in our Order Form and/or Invoice for your products also apply and are part of the Terms.

1.2 If there is any conflict between the Terms in this document and the Order Form or Invoice the terms in the Order Form or Invoice (as the case may be) shall prevail. No other terms will apply to our contract (Contract) with you for the products and any quotation given by us shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue. All of the Terms shall apply to the supply of both Goods and Services that we supply to you except where application to one or the other is specified. Unless stated otherwise “products” means Goods (whether Whole Goods or Parts) and / or “Services” that we supply to you unless indicated otherwise. **Whole Goods** are any Goods with a Serial Number. **Parts** are any goods with a part number that are not Whole Goods or a part of the sale of a Whole Goods item.

### 2. INFORMATION ABOUT US AND HOW TO CONTACT US

2.1 We are New Forest Farm Machinery Limited (registered in England and Wales under number (01426065) whose registered office address is at Cornerways House, School Lane, Ringwood, Hampshire, BH24 1LG. Our registered VAT number is 323 4505 88. You can contact us by telephoning our office at 01425 472572 or by writing to us at [ed@newforestfarm.com](mailto:ed@newforestfarm.com). If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.

### 3. OUR CONTRACT WITH YOU

3.1 Our Contract with you is formed (and comes into legal force) when we accept your order for products (Order) in writing (which could be by email) or when we tell you that we are able to provide you with the products you have ordered (which we will also confirm in writing to you) or when we accept any payment from you for your purchase of products or when we submit our Invoice to you.

3.2 **Part-exchange:** If we agree with you take in goods that you have as a part-exchange then you warrant and agree that you are the owner of those goods of yours and that there is no security, encumbrance, outstanding finance or other third party right over them.

### 4. OUR GOODS AND SERVICES

4.1 We warrant that Goods will conform in all material respects with their description and be free from material defects in design, material and workmanship and that Goods will conform in all material respects, with their description and any applicable specification, be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and be fit for any purpose held out by us. **However, Goods may vary slightly from their pictures or samples, or drawings;** if we provide illustrations, drawings or examples, they are for illustration only and are not part of the

Terms (the Contract). If we are making or ordering the Goods (whole Goods) to specifications you have given us you are responsible for ensuring that these specifications are correct.

4.2 We warrant that the Services will be provided using reasonable care and skill.

## 5. CHANGES TO GOODS ORDERED

Where you have ordered specified Goods that we do not hold in stock but have to order from our suppliers then, if you wish to change the specification or goods after your order this may incur additional costs and / or may not be possible. If you wish to make a change to the Goods you have ordered please contact us. If it is possible we will let you know about any changes to the price of the Goods, the estimated timing of supply or anything else which would be necessary as a result of your requested change and ask you to confirm whether you wish to go ahead with the change.

## 6. OUR RIGHTS TO MAKE CHANGES

6.1 We may make minor changes to Goods and/ or Services to reflect changes in relevant laws and regulatory requirements and / or to implement minor technical adjustments and improvements. These changes will not affect your use of the products or your other rights.

6.2 We will be entitled to correct any minor or obvious typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document.

## 7. DELIVERY AND COLLECTION

7.1 Any **costs of delivery** will be as set out in the Order or Invoice or, if not set out in our Invoice collection or delivery of the products will be at your cost.

7.2 If we have agreed in writing to deliver the Goods (or serviced products) to you, we shall deliver the Goods (or serviced products) to the location set out in the Order or Invoice such other location as we may agree with you at any time.

7.3 Unless we have agreed to deliver the products to you or agreed another place for collection, you shall collect the products from our premises at Salisbury Road, Blashford, Ringwood, BH24 3PE within ten Business Days of us notifying you that the products are ready. Collection must be during our working hours of 9am to 5pm on weekdays (excluding public holidays) and 8am to 1pm on Saturdays.

7.4 **Any dates quoted for delivery (or availability) of the Goods or for performance of the Services are approximate only, and the time is not of the essence.** We will aim to provide the products within any time stated in our Order form/ Invoice, or as otherwise agreed with you in writing, but are not able to guarantee time of performance/ delivery. In particular, but without limitation to the above, if Goods (or parts for other Services) need to be ordered from our suppliers we are not able to guarantee time of that delivery.

7.5 We shall not be liable for any delay in delivery of the products that is caused by an event beyond our reasonable control (a **Force Majeure** event). Without limitation to the foregoing, we will not be responsible for supplying the products late or not supplying any part of them if this is caused by you not giving us the information we need within a reasonable time of us asking for it. If we are unable to deliver products to you because of an event of

Force Majeure we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. If there is a risk of substantial delay you may contact us to end the Contract and receive a refund for any products you have paid for but not received.

**7.6** If no time is stated then we will perform and deliver the Services within a reasonable time and **if we have not delivered your products within 3 months after the estimated date or after you have notified us in writing then you may cancel the Contract by giving us written notice and we will then refund to you any money you have paid for Services not carried out by us** and the provisions of clause 8 shall apply.

**7.7** **Storage charges:** If you do not allow us access to your property to perform the Services or to deliver the Goods as arranged (and you do not have a good reason for this) we may after 30 days following this date charge you additional costs (which could include costs, expenses and insurance) incurred by us as a result. Storage charge rates are £25 per week. If, despite our reasonable efforts, we are unable to contact you or re-arrange delivery we may end the contract and clause 9 will apply.

**7.8** If, 6 months after we notified you that the products were ready for delivery or collection, you have not taken or accepted delivery of them, we may resell or otherwise dispose of part or all of the products and, after deducting reasonable storage and selling costs, account to you for any excess over the price of the Goods (or other products) or charge you for any shortfall below the price of the Goods (or other products).

**7.9** **Risk:** The products will be your responsibility from the time we deliver the product to the address you gave us or you or they are collected from us.

**7.10** **Ownership:** You will only own Goods that we are selling to you (as opposed to your goods or equipment that are with us for Services) once we have received payment in full – **until we have received full payment we retain ownership of the Goods.**

**7.11** **Where Goods are to be delivered in instalments,** each delivery shall constitute a separate contract and failure by us to deliver any one or more of the instalments in accordance with these Terms or any claim by you in respect of any one or more instalments shall not entitle you to treat the Contract as a whole as at an end.

## **8. YOUR RIGHTS TO END THE CONTRACT**

**8.1** You may contact us to end your Contract for a product at any time before we have delivered it or completed supplying it, but if the Goods are being ordered in by us we shall be entitled to retain any deposit you have paid and charge you any additional costs that we have incurred in obtaining the Goods. If we have commenced carrying out Services we shall be entitled to retain any deposit and / or charge for work already incurred.

**8.2** If you are ending a Contract for a reason set out at (a) to (d) below the Contract will end immediately and we will refund you in full for any products which have not been provided and you may also be entitled to further compensation. The reasons are:

- (a) we have told you about an upcoming change to the product or these Terms which is material and which you do not agree to;
- (b) we have told you about an error in the price or description of the product you have ordered and you do not wish to proceed;

- (c) there is a risk that supply of the products may be significantly delayed because of events of Force Majeure; or
- (d) breach of the Contract by us where you have a legal right to end the Contract because of that breach.

**8.3** If you end the Contract for a reason other than as set out in clause 8.2 (above), then the Contract will end immediately and we will refund any sums paid by you for products not provided but we may deduct from that refund (or, if you have not made an advance payment, charge you) reasonable compensation for the net costs we will incur as a result of your ending the Contract.

**8.4** If you end the Contract after products have been dispatched to you and they are delivered to you, you must return them to us. If you are ending the Contract because one of the events in Clause 8.2 then we will pay the costs of return. In all other circumstances you must pay the costs of return.

## **9. OUR RIGHTS TO END THE CONTRACT**

**9.1** We may end the Contract for a product at any time by writing to you if:

- (a) you do not make any payment to us when it is due and you still do not make payment within 90 days of us reminding you that payment is due. In this event we shall be entitled to collect any such Goods from you;
- (b) you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the products; or
- (c) you do not, within 90 days, allow us to deliver the products to you or collect them from us;

**9.2** If we end the Contract in the situations set out in clause 9.1 we will refund any money you have paid in advance for products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the contract.

## **10. IF THERE IS A PROBLEM WITH THE PRODUCT**

**10.1** If you have any questions or complaints about the product, please contact us as soon as possible. You can telephone our customer service team at 01425 472572 or write to us at our email address set out above. Alternatively, please speak to one of our staff in-store.

**10.2** We are under a legal duty to supply products that are in conformity with this Contract. If you are a non-Account customer and an individual consumer you will have legal rights as a consumer and we summarized these below and nothing in these terms will affect your legal rights.

### **Summary of Consumer Rights for individual consumers:**

This is a summary of your key legal rights as a Consumer. These are subject to certain exceptions. For detailed information please visit the Citizens Advice website [www.adviceguide.org.uk](http://www.adviceguide.org.uk) or call 03454 04 05 06.

If your product is **Goods**, the Consumer Rights Act 2015 says goods must be as described, fit for purpose and of satisfactory quality. During the expected lifespan of your product your legal rights entitle you to the following:

- up to 30 days: if your goods are faulty, then you can get an immediate refund.
- up to six months: if your goods can't be repaired or replaced, then you're entitled to a full refund, in most

cases.

- up to six years: if your goods do not last a reasonable length of time you may be entitled to some money back.

If your product is **services**, for example servicing your vehicle or machinery, the Consumer Rights Act 2015 says:

- you can ask us to repeat or fix a service if it's not carried out with reasonable care and skill, or get some money back if we can't fix it.
- if you haven't agreed a price beforehand, what you're asked to pay must be reasonable.
- if you haven't agreed a time beforehand, it must be carried out within a reasonable time.

**10.3** If you wish to exercise your legal rights to reject products you must either return them in person to where you bought them, post them back to us or (if they are not suitable for posting) allow us to collect them from you. We will pay the costs of postage, please contact us for a free returns label or collection.

## **11. PRICE AND PAYMENT**

**11.1 Price:-** The price of the product/s (which includes VAT) will be the price set out in our **Order Form or Invoice** (or, in the absence of that, in our price list in force at the date of your order) unless we have agreed another price in writing.

**11.2** If we accept and process your order where a pricing error is obvious and unmistakeable and could reasonably have been recognised by you as a mispricing, we may end the Contract and refund you any sums you have paid.

**11.3 VAT (and any other Taxes):-** If the rate of VAT changes between your order date and the date we supply the product, we will adjust the rate of VAT that you pay, unless you have already paid for the product in full before the change in the rate of VAT takes effect. You are responsible for any other or further Taxes that may apply if you are based outside of the United Kingdom or if you take the products outside the United Kingdom.

**11.4 Payment:** Unless we have agreed with you in writing (whether in our Invoice, in these Terms or otherwise) other payment terms, **payment must be made in full in cash on completion of your order and the Contract** and before we dispatch any products or you collect them. For **Goods that we have to order from suppliers**; in some cases we take a **deposit payment of 20% of the product price**. Unless we are taking a deposit payment we will not charge your credit or debit card until you collect or we dispatch the products to you or (in the case of call-out Services) once we have completed the Services and provided you with our Invoice.

If you are a **Credit Account Customer** your payment terms are as follows and we reserve the right to withdraw credit facilities if your account falls into arrears;

- (i) for **Whole Goods, 7 days from date of delivery/ collection.**
- (ii) For Parts or Services, 30 days from date of our Invoice.

If you are a **non Credit Account Customer** your payment terms are as follows;

- (i) For any **Goods, payment in full must be made on purchase and before delivery or collection** and for **Services payment must be made in full on completion of the Services and receipt of our Invoice.** For **Services** we may require a deposit payment from you before

we commence work and we will invoice you for the balance of the price of the services when we have completed them

- (ii) For **call-out Services** (where service is requested, and we are called out to you) – payment must be made **within 5 working days of us presenting or sending you our Invoice**.

Interest, as provided in these Terms, will be charged on any late payment.

**11.5 Interest on Late Payment:-** If you do not make any payment to us by the due date we may charge interest to you on the overdue amount at the rate of 4% a year above the base lending rate of Bank of England's base rate from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with any overdue amount.

11.6 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law) to our Bank account as stated on our Invoice – or to such other account specified or agreed by us in writing

**12. LIMITS TO OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU**

**12.1** If we fail to comply with these Terms, we are responsible for direct loss or damage you suffer that is a foreseeable result of our breaking this Contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.

**12.2** Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to, liability for; death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation.

**12.3** If we fail to deliver the Goods, our liability shall be limited to the costs and expenses incurred by you in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods and to any other direct loss or damage you suffer that is a foreseeable result of our breaking this contract or our failing to use reasonable care and skill.

**12.4 Our total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract is limited to £1,000,000.00 (1 Million Pounds) AND SHALL BE LIMITED AS FOLLOWS.** If any loss falls into one or more of the categories in **(a)** below and also falls into a category, or is specified, in clause **(b)** below, then it is not excluded.

**(a) The following types of loss are wholly excluded:**

- (i) Loss of profits.
- (ii) Loss of sales or business.
- (iii) Loss of agreements or contracts.
- (iv) Loss of anticipated savings.
- (v) Loss of use or corruption of software, data or information.
- (vi) Loss of or damage to goodwill.

(vii) Indirect or consequential loss.

**(b) The following types of loss and specific loss are not excluded:**

(i) Sums paid by you to us pursuant to the Contract, in respect of any Services not provided in accordance with the Contract.

(ii) Wasted expenditure.

(iii) Additional costs of procuring and implementing replacements for, or alternatives to, Services not provided in accordance with the Contract. These include [but are not limited to] consultancy costs, additional costs of management time and other personnel costs, and costs of equipment and materials.

(iv) Your losses arising out of or in connection with any third party claim against you which has been caused by our act or omission.

**13. DATA PROTECTION: HOW WE MAY USE YOUR PERSONAL INFORMATION**

**13.1** We will use the personal information you provide to us to supply the products to you; to process your payment for the products; and (if you agreed to this during the order process), to inform you about similar products that we provide, but you may stop receiving these at any time by contacting us.

**13.2** Where we extend credit to you for the products we may pass your personal information to credit reference agencies and they may keep a record of any search that they do.

**13.3** **We will only give your personal information to other third parties where the law either requires or allows us to do so.** We will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, our obligations under the Data Protection Legislation

**14. OTHER IMPORTANT TERMS**

**14.1** We may transfer our rights and obligations under these Terms to another organisation by giving you written notice. You need our consent to transfer your rights to someone else.

**14.2** This Contract is between you and us. No other person shall have any rights to enforce any of its terms except as may be specifically stated otherwise herein.

**14.3** Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

**14.4** If we do not insist immediately that you do anything you are required to do under these Terms, or if we delay in taking steps against you in respect of your breaking this Contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.

**14.5** These Terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you are a consumer and you live in Scotland you can bring legal proceedings in respect of the

products in either the Scottish or the English courts. If you are a consumer and live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.

I/ we confirm that I/we have read and understood, and I accept, these Terms.

Signed (customer) .....

Print name .....

Dated .....

On behalf of .....

(provide your company or organization name if applicable)

Phone number .....

Mobile number .....

Email address .....

Address .....