

Harpers Home Mix Ltd
Terms and Conditions of Sale
Effective 1st April 2009

1. Definitions

- 1.1. The "Buyer" means any person, other customer, company or organisation who buys or agrees to buy Goods from or through the Seller.
- 1.2. The "Seller" means Harpers Home Mix Limited.
- 1.3. "Conditions" means the Terms and Conditions of Sale set out in this document and any special conditions agreed in writing by the Seller.

2. Conditions

- 2.1. These "Terms and Conditions" do not affect the statutory rights of a consumer.
- 2.2. All contracts of sale made by the Seller shall be deemed to incorporate these Terms and Conditions which shall prevail over any other document or communication from the Buyer, howsoever made.
- 2.3. If any amendments to these Terms and Conditions are required it must be requested in writing. Written confirmation that a request has been accepted or declined will be despatched within 10 working days.
- 2.4. Acceptance of delivery of goods shall be deemed conclusive evidence of the Buyers acceptance of these Conditions.

3. Buyers Contract

- 3.1. These conditions shall have precedence over any conditions appearing on any document emanating from the Buyer. Such Buyer conditions shall have no effect whatever unless expressly varied in writing by the Seller.

4. Prices

- 4.1. The Price shall be that on the Seller's list price applicable at the time a purchase is made, or shown on Seller's web site, or if applicable the price contained in the Seller's quotation or contract, including any rebates or surcharges where applicable, errors and omissions excepted.
- 4.2. All prices will be exclusive of VAT which will be added at the appropriate rate where applicable. Prices may be subject to change without notice excepting where a firm price is quoted for acceptance within a stated period of time.

5. Delivery of Goods

- 5.1. Delivery may be charged separately other than where a net delivered price has been agreed in advance.

6. Payment Terms

- 6.1. Seller's standard terms for payment of invoices is for receipt of payment by cheque or by receipt at Seller's bank by 23rd of the month following the month of purchase.
- 6.2. Failure to effect payment by the due date(s) will result in interest charges being applied at the rate of 1% per month on the overdue amount. The right is reserved to change the rate of interest subject to 14 days notice being given by the Seller.
- 6.3. Time for payment shall be of the essence and any failure to pay shall entitle the Seller at its option to treat the contract as repudiated by the Buyer and/or to delay delivery or sale of any further goods until all outstanding invoices have been paid in full.
- 6.4. Continued failure to pay accounts as due may result in the Seller, at his absolute discretion, suspending all or part of the trading facilities of the Buyer with the Seller. Payment of account balances shall be settled by cash or cheque, or by direct debit or direct payment to the Seller's bank, the details of which may be obtained from the Seller.
- 6.5. Alternative options for payment are available as follows; Seven-day or monthly direct debit, which may or may not attract a discount. The Seller reserves the right to refuse any request for alternative payment options.
- 6.6. Payment can also be made in person by cash, cheque or by debit or credit card in our customer Reception area at Waldon Way, Holsworthy Industrial Estate, Holsworthy. There is no additional charge for paying by debit card. A fee is charged if you choose to pay by credit card and current fees are available from the Customer Service Office on request.

6.7 Notwithstanding the payment terms set out herein, the Seller reserves the right to request the immediate payment of any account at any time.

7. Delivery

7.1. The Seller will take all reasonable steps to deliver goods or have them available for collection when required by the Buyer, but shall not be liable for any delay arising from the failure of others to deliver/supply as arranged. Delivery will be to site only and will not include the means of unloading or of the positioning of the goods in any location on the site. Any assistance given by employees, sub contractors or others of the Seller shall be at the risk of the Buyer.

7.2. Products manufactured by us and supplied within the UK will normally be delivered within five working days from Seller's receipt of order. The Buyer is advised to re-order product in time to allow for normal deliver.

7.3. Where a specific delivery date has been agreed, and if this delivery date cannot be met, the Buyer will be given the option to agree a new delivery date or to cancel the order.

7.4. Every reasonable effort will be made to keep any agreed delivery date. Should this not be possible every effort will be made to deliver part of an order on the delivery date to seek to ensure that no losses are incurred and no animals suffer, clause 7.2 will apply.

7.5. Whilst every reasonable effort will be made to keep any delivery date, time of delivery shall not be of the essence and the Seller shall not be liable for any losses, costs, damages or expenses incurred by the Buyer or any other person or company arising directly or indirectly out of any failure to meet any estimated delivery date.

7.6. Delivery of the goods shall be made to the Buyer's specified address and the Buyer shall make all arrangements necessary to take delivery of the goods whenever they are tendered for delivery.

7.7. Goods delivered or collected on pallets will be subject to a charge per pallet. This charge will be refundable when such pallets are returned by the Buyer in undamaged condition, and at Buyer's cost. The pallets will remain the property of the Seller until payment has been received or the pallets have been returned to the Seller.

8. Title

8.1. Title in any goods sold by the Seller shall not pass to the Buyer until payment in full of all sums due to the Seller has been made, but the risk in the goods shall pass to the Buyer upon delivery or collection. In the event of non-payment the Buyer will allow free access to the premises by the Seller in order that they may recover the goods.

8.2. In the event of non-payment the Seller shall be allowed by the Buyer to enter their premises during working hours to remove such goods without prejudice to the Seller's right to receive the full amount due under a contract.

9. Claims

9.1. At the delivery point on arrival and before the consignment is discharged or unloaded the Buyer shall to the best of their ability ensure that the goods are as ordered and are in acceptable condition. Any queries must be notified to the Seller immediately and resolved before the goods are unloaded. Where the Buyer collects the goods it is the responsibility of the collector to inspect and accept the goods before loading.

9.2. The Buyer shall inspect the goods immediately upon receipt and shall notify the Seller in writing to be received within three working days if the goods are not as ordered, are not of the expected standard, or are damaged or do not comply with any of the Contract. If the Buyer fails to do this he is deemed to have accepted the goods and any claims are waived and absolutely barred.

10. Latent Defects

10.1. Any defect that becomes apparent when the goods have been discharged or unloaded or unpacked must be notified to the Seller by telephone without delay.

10.2. In the case of non-delivery or shortage, the Buyer must notify the Seller immediately, failing which the Seller shall be under no liability whatsoever to the Buyer. A claim other than one of those listed above where the Buyer has not exercised his power of rejection the allegedly defective goods shall not entitle the Buyer to withhold or delay any payment due for them until the dispute has been resolved.

10.3. Later the Buyer must arrange for the goods to be inspected as follows:

Claims relating to latent defects must be made to the Seller immediately by telephone, followed by written confirmation to be received by the Seller within three days from the discovery of the defect. No claims for poor condition or deterioration will be accepted unless the storage facilities are adequate to maintain the goods in a stable condition.

10.4. A sample of any goods in respect of which any claim of defect or damage is made shall be preserved by the Buyer (together with the original bags, packing and labels if appropriate) at the Buyer's risk and either:

- (a) be retained by the Buyer for a reasonable period to enable the Seller or its agent to inspect or collect the goods or
- (b) at the Seller's option be returned by the Buyer to the Seller.

11. Complaints

11.1. If there is cause for complaint about our service or any goods or services purchased from or supplied by the Seller the Buyer must contact the Seller immediately. The Seller will respond as soon as possible after receiving a notice of a complaint and will aim to provide a resolution within five working days. All complaints will be dealt with in a fair and confidential manner.

12. Returns

12.1. Due to the nature of the Seller's products in general terms feed may not be returned. However, if it is agreed that the goods (e.g. bagged feed) are to be returned then :-

- (a) The Seller will not accept any bagged feed of which the bags have been opened or in any way damaged, other than they were opened in order to use the goods.
- (b) The Buyer will be liable for the cost of remedying any damage to the goods returned where such damage has, in the opinion of the Seller, been caused through the Buyer's fault.
- (c) The Seller reserves the right to make a handling and restocking charge of 10% of the value of goods which are returned if they were ordered in error or are no longer required. If the goods are faulty or being returned under complaint the restocking charge will not apply.

12.2. Bagged products being returned under Clause 12.1 (a) must be returned with the bag seal unbroken.

13. Warranty

13.1. The Seller warrants that the goods will at the time of delivery/collection correspond to the description given by the Seller. Except where the Buyer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977, Section 12) all other warranties, conditions or terms relating to fitness for purpose, merchantability or condition of the goods, whether implied by statute, common law or otherwise are excluded and the Buyer is satisfied as to the suitability of the goods for the Buyer's purpose.

13.2. In general the warranty on goods sold from stock by the Seller will conform to the warranty offered by the manufacturer of the goods and will be subject to fair and proper use and maintenance of the goods by the Buyer. It is important that the Buyer shall advise the Seller promptly if the goods are faulty or if there is any query regarding their suitability for purpose.

13.3. Where the goods are returned under complaint after a period of use the Seller will return the goods to the manufacturer or his agent for investigation and report. This could result in the goods being replaced as may be appropriate if the claim is accepted. If a claim of fault in the goods is not found to be justified the Seller will arrange for the goods to be returned to the Buyer with the consent and at the cost of the Buyer. The Seller will undertake to process any such returns promptly to minimise delay as far as is possible.

13.4. Warranty on any goods manufactured, blended or packaged by the Seller and/or offered for sale under the Seller's name shall be specific to the condition of the goods at the time of delivery and to the composition of the goods being as stated, within reasonable tolerances. No other responsibility will be accepted by the Seller for any use or storage of the goods by the Buyer or any claim for loss or damage arising therefrom unless it can be established beyond a reasonable doubt that the Seller is at fault.

13.5. The Buyer shall take all necessary protective precautions in the handling and use of medicated feed to comply with such COSHH regulations that apply. Product information literature can be supplied by the Seller on request by the Buyer.

14. Liability

14.1. Except as may be implied by law where the Buyer is dealing as a consumer, in the event of any breach of these Conditions by the Seller the remedies of the Buyer shall be limited to damages which shall in no circumstances exceed the price of the goods and the Seller shall under no circumstances be liable for any indirect, incidental or consequential damages.

14.2. In the event of any goods sold or agreed to be sold by the Seller not complying with the express terms of the contract of the sale, the Seller will at its absolute discretion, replace the defective goods free of charge to the Buyer or will refund all payments made to it by the Buyer in respect of the defective goods. Under no circumstances whatsoever shall the Seller's liability exceed the price of the allegedly defective goods.

15. Force Majeure

15.1. In the event that the Seller is prevented from carrying out its obligations under a contract for sale as a result of any cause beyond its control such as but not limited to, War, Strikes, Lock-outs, Flood, Accidents, Breakdown of machinery and Failure of third parties to deliver goods, the Seller shall be relieved of its obligations and liabilities under such contract for sale for as long as such fulfilment is prevented.

15.2. The Buyer shall have no claim against the Seller for any delay or non-fulfilment under this clause provided that the Seller has supplied the Buyer (if so requested) with satisfactory evidence justifying the delay or non-fulfilment. Where it is possible to do so the Seller shall make every endeavour to offer suitable alternative goods but shall not be bound to do so at the same price(s) as may be in the Contract.

16. No Waiver

16.1. The Seller's failure to insist upon strict performance of any provision of these Conditions shall not be deemed to be a waiver of its rights or remedies in respect of any present or future default of the Buyer in performance of or in compliance with any of these conditions.

17. Law and Jurisdiction

17.1. Any contracts shall in all respects be construed and operate as an English contract and in conformity with English law.

17.2. If any part of these terms and conditions that is not fundamental is found to be illegal or unenforceable, such finding will not affect the validity or enforceability of the remainder of these Terms and Conditions.

18. Dispute resolution

18.1. Any dispute (other than a claim for an unpaid debt) arising out of these Terms and Conditions shall be determined by arbitration under the Arbitration Rules of AIC (The Agricultural Industries Confederation Ltd) and all parties shall by accepting and applying these Terms and Conditions be deemed to have knowledge of such rules and to have been elected to be bound thereby.