

NEW ZEALAND FARMERS LIMITED

TERMS AND CONDITIONS OF TRADING

1. STATUS OF TERMS

These terms and conditions ("Terms") apply to all sales of meat and other items ("Goods") by New Zealand Farmers Limited, 140-142 St John Street, London, UK, EC1V 4UB, VAT number 34202209 (the "Seller") to the exclusion of all others including, but not limited to, any terms or conditions which the party purchasing the Goods (the "Buyer") may purport to apply under any purchase order, confirmation or similar document. Any amendment to these Terms will only be effective if it is signed by an authorised signatory of the Seller. All orders for Goods shall be deemed to be a contractual offer by the Buyer to purchase Goods pursuant to these Terms and a binding contract will be formed upon acceptance by the Seller.

The International Meat Trade Association Conditions of Sale and Arbitration Rules dated 12th June 2010 ("IMTA Rules") except for clauses 8a, 14, 19b and 19c are hereby incorporated into these Terms by reference. However, these Terms will prevail if there is any inconsistency with the IMTA Rules.

Sections 3 to 9 of the Seller's current Chilled New Zealand Lamb Handling Procedure ("Chilled Handling Procedure") are also incorporated into these Terms by reference. The Chilled Handling Procedure is applicable when the Goods are chilled lamb and the Buyer will comply with the procedures set out in such sections including, but not limited to, the relevant storage requirements.

2. DELIVERY

In the interpretation of these Terms and the IMTA Terms:

- (a) where a contract is described as "delivered" this shall mean that the Seller shall be responsible for delivery of the Goods to the Buyer and the location agreed and DDP Incoterms 2010 shall be applicable; and
- (b) where a contract is described as "ex store" or "ex ship" this shall mean that the Seller will make the Goods available for the Buyer at an agreed cold store or port and EXW Incoterms 2010 shall be applicable.

In 'delivered' contracts, where the Buyer is unwilling or unable to take delivery of Goods, or delays unloading of Goods, it shall reimburse the Seller for all additional costs which the Supplier incurs and in any case shall be responsible for all demurrage and detention charges which result.

In 'ex-store' and 'ex ship' contracts: the Seller's price shall include an agreed rent free period for storage in a cold store and any cold store charges incurred after the expiry of such rent free period shall accrue to and be payable by the Buyer.

3. PAYMENT

Unless otherwise agreed, payment by the Buyer to the Seller:

- (a) under a delivered contract shall be made within 28 (twenty eight) days of delivery of the Goods to the Buyer's premises or to a public cold store nominated by the Buyer; and
- (b) sold under an ex store or ex ship contract shall be made within 28 (twenty eight) days of the Seller making the Goods sold in such consignment available to the Buyer.

Should the Buyer fail to make payment within that period, then (without prejudice to any remedy available to the Seller) the Buyer shall be liable to pay interest on any outstanding amount from the due date of payment until actual payment, at the rate of 4% per annum above the Official Bank Rate of the Bank of England. Seller will be entitled to set-off any amount owed by the Buyer from any amount owed to the Buyer. The Buyer has no right of set-off.

4. TITLE TO GOODS

- (a) Notwithstanding delivery of the Goods the legal title in the Goods delivered under these Terms shall remain in the Seller until the Buyer has paid the contract price in full.
- (b) Until the contract price has been paid in full the Buyer shall hold the Goods as bailee and trustee, owing fiduciary duties to the Seller and if the Seller so requires, the Buyer shall store such Goods at no cost to the Seller so that they are clearly identified as belonging to the Seller.
- (c) If any payment is overdue the Seller may (without prejudice to any of its other rights and remedies) recover and resell any or all of such Goods and may enter upon the Buyer's premises for that purpose.
- (d) Notwithstanding the foregoing, the Buyer shall be entitled to sell and effect, or have effected, delivery of the Goods to a third party nominated by the Buyer but the proceeds of such sale shall, whenever any sum whatsoever is due by the Buyer to the Seller, be held on trust for the Seller and on such sale or delivery to a nominated third party the Buyer is hereby deemed to assign to the Seller absolutely (and the Seller hereby

accepts such assignment) the benefit of any claim which the Buyer has against any such nominated third party arising from such sale and/or delivery.

5. WARRANTY FORCE MAJEURE AND EXCLUSION OF LIABILITY

The Seller warrants that the Goods shall comply with the Seller's published specification for goods of that nature. All other warranties, conditions or terms relating to fitness for purpose, quality or condition of the Goods, whether express or implied by statute or common law or otherwise are excluded to the fullest extent permitted by law.

For the purposes of clause 12 of the IMTA Terms, the Seller shall also not be liable for non-performance to the extent that this is caused by any other matter or circumstance beyond the Seller's reasonable control and such occurrences will be considered to be 'Force Majeure' for the purposes of that clause.

Subject to the following, under no circumstances shall the Seller be liable to the Buyer for any of the following types of loss or damage arising under or in relation to these Terms (whether arising for breach of contract, misrepresentation (whether tortious or statutory), tort (including but not limited to negligence), breach of statutory duty, or otherwise:

- (a) any loss of profits, business, contracts, anticipated savings, goodwill, or revenue, any wasted expenditure, or any loss or corruption of data (regardless of whether any of these types of loss or damage are direct, indirect or consequential); or
- (b) any indirect or consequential loss or damage whatsoever,

even if that Seller was aware of the possibility that such loss or damage might be incurred. However, nothing in these Terms seeks to limit the Seller's liability for death or personal injury caused by its negligence or for any other liability which cannot be excluded by law.

6. DISPUTES AND GOVERNING LAW

- (a) Any claims made in respect of the condition, quality or weight of the Goods delivered by the Seller to the Buyer must be notified by the Buyer to the Seller within 24 (twenty four) hours of delivery either to the Buyer's premises or to a public cold store nominated by the Buyer and confirmed in writing by the Buyer to the Seller within 7 (seven days) of the initial notification.
- (b) In any dispute regarding condition quality or weight of the Goods delivered the Goods in question must be retained for inspection by the Buyer. Where the Goods were supplied as frozen items, they must be kept pending inspection at a temperature of not higher than -18 degrees centigrade. Where the Goods supplied were chilled lamb, the process described in the Chilled Handling Procedure for storage and claims is applicable.
- (c) These Terms shall be governed by the laws of England and, subject to the following, English courts have exclusive jurisdiction to hear any dispute under or in relation to these Terms, notwithstanding clause 25 of the IMTA Terms. The Seller may as an alternative to raising litigation, at its option, raise any issue or dispute under or in relation to these Terms using the International Meat Trade Association Arbitration Rules which are appended to the IMTA terms. However, the Buyer shall only be entitled to raise a claim under those arbitration rules with the consent of Seller. The parties agree to comply with any decision of the Arbitrator under the International Meat Trade Association Arbitration Rules.