



Terms of Business

A reference for our B2B terms for provision of goods and services



Outline statement

AgVantage UK Ltd pride themselves with putting customer service at the heart of what we do whether in the field or back in the workshop. As a result, we do our best to maintain a code of practice led by our terms of business and refer to them in many parts of our business operation to help us get it right for you, our customer. In the rare instance that something does not quite meet our high standards, we use these terms of business to find a resolution with you at first point of call wherever possible. This does not mean this is our only working policy and there may be other policies also applicable to your enquiry, which we will do our best to bring to your attention where relevant. As the nature of the work we do is specialised and requires us to maintain the highest standards of care for everything we sell, we offer a Business to Business (B2B) service only.

We look forward to working with your business.



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Definitions and Explanation

The Customer's attention is particularly drawn to the provisions of clause 11 (**Limitation of liability**).

The following definitions and rules of interpretation apply in these Conditions.

Authorised Signatory: a person authorised by the Supplier to sign on its behalf

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Business to Business (B2B): any sale of a good or a service from AgVantage UK Ltd (the first business) will only be made to a customer as recognised below. No domestic sales of any kind are offered by AgVantage UK Ltd (The Supplier).

Commencement Date: has the meaning given in: clause 3.7.

Conditions: these terms and conditions as amended from time to time in accordance with clause 14.8.

Contract: the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures: as defined in the Data Protection Legislation

Customer: the person (sole trader or partnership) or firm (a legally recognised company or entity in its own right, such as a Limited Company or a Parish Council) who purchases the Goods and/or Services from the Supplier.

Data Protection Legislation: the UK Data Protection Legislation, GDPR and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

Deliverables: the deliverables set out in the Order produced by the Supplier for the Customer.

Delivery Location: has the meaning given in clause 3.2.

Exchange Rate: this is the rate of currency purchase on the date of sale as set by the Base rate and not Oanda (see HOERP for more information).

Force Majeure Event: has the meaning given to it as outlined.

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any relevant plans or drawings, that are agreed in writing by the Customer and the Supplier.

Legislation: An Act in force in the Country of operation at the time of adopting these Terms of Business. Some may have been referenced in these Terms of Business for the purpose of working toward best practice, but AgVantage UK will only acknowledge those Acts that specifically apply to B2B transactions in the event of any legal proceedings.

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's written acceptance of the Supplier's quotation or overleaf, as the case may be.

Services: the services supplied by the Supplier to the Customer as set out in the Service Specification.

Service Specification: the description or specification for the Services provided by the Supplier to the Customer.

Spares: Goods consisting of parts and spares supplied by the Supplier as set out in an order or installed whilst providing Services to the Customer

Supplier: AgVantage UK Limited registered in England and Wales with company number **12977697**

Supplier Materials: has the meaning given in clause 7.1.6.

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation (EU)2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive (2002/58/EC) (as updated



by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

(b) Interpretation:

- i. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- ii. A reference to a party includes its successors and permitted assigns.
- iii. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- iv. Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- v. A reference to **writing** or **written** includes fax and email.

1. Basis of contract

1.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.

1.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

1.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.

1.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

1.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue.

1.6 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

1.7 Unless otherwise agreed in writing, all industrial or intellectual property rights of any nature whatsoever in the Goods remain vested in the Supplier and the manufacturer of the Goods at all times.

1.8 The Customer may not cancel the Contract save and except with the written consent of the Supplier and on the terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including costs of material and labour used or exchange rate liabilities incurred as a result of the order being placed), damages, charges and expenses incurred by the Supplier as a result of the cancellation. The Supplier may cancel the Contract at any time prior to delivery for any reasonable understanding, such as undisclosed additional risk at the time of ordering by the customer. Where this occurs, the Customer will assume full liability for all outlined expenses incurred by the Supplier provided in way of invoice which is subject to the terms for payment below.

1.9 The Contract is conditional and the Supplier reserves the right to cancel the Contract should the Supplier receive what it considers an unsatisfactory response to a credit check of the Customer. The Supplier's cancellation the Contract pursuant to this clause 1.9 shall not give rise to any liability by or to the Supplier and shall not entitle the Customer to receive or claim any compensation or damages.

Goods

2.1 The Goods are described in the Supplier's catalogue as modified by any applicable Goods Specification. In cases of ordering new equipment, where an item has been modified from the



standard Goods Specification by the Customers order, this item will be considered a bespoke product.

2.2 To the extent that the Supplier prepares Goods in accordance with the Customer's specifications or instructions, the Customer must ensure that:

2.2.1 the specifications or instructions are accurate and in writing; and

2.2.2 the Goods which are prepared in accordance with those specifications or

2.2.3 instructions will be fit for the purpose for which the Customer intends to use them

2.3 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

2.4 The Supplier gives no warranty as to fitness for purpose for any Goods which have been prepared or adapted in accordance with the Customer's specifications or instructions. The Customer acknowledges the limitations of liability to the Supplier under Section 6 of the Health and Safety at work Act 1974 in this event.

Delivery of Goods

3.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

3.2 Unless otherwise confirmed in writing by an Authorised Signatory delivery of the Goods will be deemed to have been effected when the Goods leave the Supplier's premises whether the Goods have been collected by the Customer or on the Customer's behalf or the Goods have been delivered to the Customer by the Supplier or on the Supplier's behalf. The Supplier may deliver to the location set out in the Order or such other location as is agreed by the Customer and the Supplier (**Delivery Location**) at any time after the Supplier has informed the Customer that the Goods are ready.

3.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

3.4 The Supplier may decline to deliver the Goods if the Supplier or its carriers believe that it would be unsafe, unlawful or unreasonably difficult to do so; or if the premises (or the access to them) are unsuitable for the delivery vehicle. The Supplier will notify the Customer in those circumstances and the Supplier will either agree upon the Customer collecting the Goods from the Supplier's premises or agree upon a suitable alternative delivery location.

3.5 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

3.6 If the Customer fails to accept delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

3.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

3.6.2 the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

3.7 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods paid by the Customer or charge the Customer for any shortfall below the price of the Goods.

3.8 Where the Customer provides, as a part of the Contract, trade-in equipment (**Equipment**) the Equipment shall be delivered and accepted upon condition that after examination by the Supplier it shall be delivered in the same condition as when so examined and that the recorded mileage/hours worked is correct and that the Equipment is the Customer's property absolutely, is not subject to any charge, lien or other encumbrance and is not the subject of any hire, finance or hire purchase of any similar agreement. The Customer must ensure that the equipment is available for collection by the Supplier at the agreed time, date and location.

3.9 The Customer agrees to provide the V5C Registration Certificate (if applicable) for the goods being part-exchanged by the Customer, together with proof of identity and address as required by the Supplier. The Customer confirms that the goods to be part-exchanged are registered in the Customer's name.

3.10 If the Customer cannot deliver the goods to be exchanged in the condition that it was in when so examined by the Supplier, the Supplier has the right to terminate the agreement with all out of pocket costs passed to the Customer via an invoice.

3.11 As the Supplier must comply with Anti Money Laundering legislation, for any item bought of value over £5,000.00 AgVantage UK Ltd may require a proof of funds if the machine has been owned by the Customer for less than 6 months prior to selling to AgVantage UK Ltd.

Quality of Goods

4.1 The Customer acknowledges that the Supplier is not the manufacturer of the Goods supplied under the contract and so cannot give any general warranty of quality (except for those given in clause 5.2 below). The Customer shall be entitled to the benefit of any manufacturers guarantee or warranty as is given by the manufacturer or suppliers of the Goods to the Supplier to the extent that the Supplier is able to assign such warranty or guarantee to the Customer.

4.2 The Supplier warrants that on delivery the Goods shall:

- 4.2.1 conform in all material respects with their description and any applicable specification;
- 4.2.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- 4.2.3 be fit for the purpose held out by the Supplier

4.3 Except as expressly provided for in this clause, the Supplier excludes to the fullest extent permissible by the law, all conditions, warranties and stipulations express or implied, statutory or otherwise, which, but for such exclusion would or might subsist in favour of the Customer.

4.4 Subject to clause 4.6 if:

- 4.4.1 The Customer gives notice in writing in accordance with clause 14.2 within 3 days of delivery that some or all of the Goods do not comply with the warranty in clause 4.2 and clause 4.3; and
- 4.4.2 the Supplier is given a reasonable opportunity of examining such Goods; and
- 4.4.3 the Customer (if asked by the Supplier to do so) returns such Goods to the Supplier's place of business at the Customer's costs,
- 4.4.4 the Supplier shall at its option replace the defective Goods, or refund the price of the defective Goods in full but shall not be liable for any claim for loss or damage consequential or otherwise. All claims pursuant to this clause 28 must be submitted in writing to the Supplier within the time limit stated in clause 4.5.1 to be considered.

4.5 The Supplier shall not be liable for the Good's failure to comply with the warranty in this clause if:

- 4.5.1 the Customer makes further use of the Goods after giving notice in accordance with clause 4.5.1

4.5.2 the defect arises because the Customer fails to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good industry practice;

4.5.3 the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Customer;

4.5.4 the Customer alters or repairs such Goods without the Supplier's written consent;

4.5.5 the defects arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;

4.5.6 the total price for the Goods has not been paid by the due date for payment; or

4.5.7 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standard.

4.6 Except as expressly provided for in this clause, the Supplier excludes to the fullest extent permissible by the law, all conditions, warranties and stipulations expressed or implied, statutory or otherwise, which, but for such exclusion would or might subsist in favour of the Customer.

Title and risk

5.1 The risk in the Goods shall pass to the Customer on completion of delivery.

5.2 Title to the Goods shall not pass to the Customer until the later of

5.2.1 the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due; and

5.2.2 in the event of a Part Exchange only, the Supplier has confirmed its satisfaction with the condition and receipt of any goods to be provided by the Customer in Part Exchange.

5.3 Until title to the Goods has passed to the Customer, the Customer shall:

5.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

5.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

5.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

5.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 11.1.1 to clause 11.1.5; and

5.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.

5.4 If the Customer fails to comply with its obligations under clause 1.33.1 all sums owed by the Customer to the Supplier shall immediately become due and payable.

5.5 If section 5.2 is not met for any reason, Agvantage UK Ltd will ensure that all monies are recovered including the differences in value of any Title or Good supplied at the point of recovery.

5.6 Should recovery of the Title not be possible for any reason, all monies owing will be pursued, including the recovery of any other Title in the debtors possession, with all costs of pursuance transferred to the Customer until such time as the balance is paid in full.

Supply of Services

6.1 The Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects.

6.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Service Specification, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

6.3 The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

6.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

Customer's obligations

7.1 The Customer shall:

- 7.1.1 ensure that the terms of the Order and any information it provides in the Service Specification and the Goods Specification are complete and accurate;
- 7.1.2 co-operate with the Supplier in all matters relating to the Services;
- 7.1.3 provide the Supplier, its employees, agents, consultants and subcontractors, with access to facilities as reasonably required by the Supplier to provide the Services;
- 7.1.4 provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- 7.1.5 comply with all applicable laws, including health and safety laws;
- 7.1.6 keep all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation.

7.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- 7.2.1 without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- 7.2.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 1.400; and
- 7.2.3 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

Charges and payment

8.1 A deposit is required once a signed order confirmation form is received. The value of that deposit is discretionary to the Supplier and will be agreed at the point of sale within the signed order form with the Customer. The deposit must be paid, if as cash, within 5 working days of the date on the signed order confirmation form. In the event it is goods being taken as deposit, these goods must be transferred to the ownership of AgVantage UK Ltd within 5 working days of the date on the signed order confirmation form, including any V5 documents. Any goods which are taken as deposit will have an agreed valuation (completed by the Supplier) and this will be confirmed in writing at the time of ordering.

8.2 The price for Goods shall be the price set out in the Order or, if no price is quoted, the price set out in the Supplier's published price list as at the date of order. As the exchange rate on currency can change, it shall be made clear what currency the price has been set out in for the purpose of quotation or invoice. For any Order placed from a quotation in a currency other than that of the domestic currency where the transaction occurs, the exchange rate applicable upon that transaction will be the one published by the Bank of England on the Commencement Date of the Contract. The Customer will be liable for any additional costs for ordering in a currency other than the domestic currency where the transaction is to occur, including transaction fees, CHAPS fees or other applicable fees in relation to dealing in currency.

8.3 Except as otherwise stated in writing under the terms of any quotation and unless otherwise agreed in writing between the Supplier and the Customer, all prices are given by the Supplier on an ex-works basis, and where the Supplier agrees to deliver the Goods, the Customer shall be liable to pay the Supplier's charges for transport, packaging, insurance and any taxes, levies and duties.

8.4 The Price for Services shall be on a time and materials basis. If no estimate is provided or only part of the work covered by the estimate is carried out, the Supplier shall be entitled to charge a proper and reasonable price for materials supplied and the work done (including stripping down leading to determination as to the practicability or other of any work and reassembly).

8.5 In respect of Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on completion of the Services unless otherwise agreed in writing.

8.6 All prices quoted or invoiced are exclusive of any applicable value added tax or other applicable sales tax which the Customer shall be additionally liable to pay to the Supplier.

8.7 The Supplier reserves the right to increase the price of the Goods, by giving notice to the Customer any time before delivery of the Goods, to reflect any increase in the costs of the Goods to the Supplier that is due to:

8.7.1 Any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, increases in labour, materials and other costs);

8.7.2 the need to comply with any applicable safety or other statutory or regulatory requirements or any changes to such requirements;

8.7.3 any delay caused by any instruction of the Customer in respect of the Goods or failure by the Customer to give the Supplier adequate information or instructions in respect of the Goods.

8.8 The Customer must make payment for the Goods (excluding Spares) in full to the Supplier prior to delivery of the Goods, unless otherwise agreed in writing by an Authorised Signatory. The Supplier reserves the right to withhold delivery or collection of Goods until full payment has been received.

8.9 The Customer must make payment for Services and Spares in full within 30 calendar days of the date of the invoice.

8.10 Time for payment shall be of the essence of the Contract and no payment shall be deemed to have been received until the Supplier has received cleared funds.

8.11 All payments made by the Customer under the Contract shall be made without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

8.12 If the Customer fails to make payment due to the Supplier under the Contract by the due date, the Supplier shall be entitled to:

8.12.1 charge the Customer interest on the overdue amount at the rate of 4% per annum above Barclays Bank PLC base rate from time to time, such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgement;

8.12.2 suspend delivery of the Goods to the Customer until all amounts outstanding have been paid and the Supplier will endeavour to give notice to the Customer that it intends to suspend delivery of Goods, but shall not be obliged to do so and failure to give such notice shall not prejudice the Supplier's rights under this clause;

8.12.3 cancel the Contract; and

8.12.4 Pursue the recovery of any and all reasonable costs incurred by the Supplier, including any and all costs of pursuance, recovery and or removal of the Goods or Spares supplied and all labour hours charged, detailed by way of an invoice.

8.13 The Supplier charges a handling charge of 10% of the purchase price or £5.00 whichever is the greater for Goods returned for credit, other than faulty Goods.

8.14 The Customer is reminded of the All Monies clause under section 5 of these Terms of Business.

Data Protection (GDPR)

9.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause 9, **Applicable Laws** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.

9.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and the Supplier is the processor.

9.3 Without prejudice to the generality of clause 10.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract.

9.4 Without prejudice to the generality of clause 10.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:

9.4.1 process that personal data only on the documented written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that personal data. Where the Supplier is relying on Applicable Laws as the basis for processing personal data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;

9.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

9.4.3 ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and

9.4.4 not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

(a) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;

(b) the data subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;

(c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and

(d) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;

9.4.5 assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

9.4.6 notify the Customer without undue delay on becoming aware of a personal data breach;

9.4.7 at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Contract unless required by Applicable Law to store the personal data; and



9.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause.

9.5 At the time of writing this policy, the Supplier has appointed Microsoft One Drive as a third-party processor of personal data under the Contract. The Supplier reserves the right to amend this appointment at any time after the date of publication of these Terms of Business, where any appointment amendment will be communicated where applicable by the Supplier at the time of receiving the request. The Customer consents to the Supplier appointing Microsoft One Drive as a third-party processor of personal data under the Contract. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third party processor appointed by it pursuant to this clause.

9.6 Either party may, at any time on not less than 30 days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

Limitation of liability

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

10.1 The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

10.2 The restrictions on liability in this clause apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

10.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

10.3.1 death or personal injury caused by negligence;

10.3.2 fraud or fraudulent misrepresentation; and

10.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

10.4 Subject to clause 10.3 the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of or damage to goodwill, or any indirect or consequential loss, loss of profit or loss of use or production arising under or in connection with the Contract even if the Supplier has been negligent.

10.5 Subject to clause 10.3, the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the lower of the actual direct loss suffered by the Customer and the price paid by the Customer to the Supplier for the Services or Goods in question.

10.6 The Customer shall be solely responsible for and shall keep the Supplier indemnified against any loss, liability or expense arising directly from the use of the Goods other than in accordance with the operating manuals of the Goods.

10.7 It must be made clear to the Customer that we are at liability to the Terms of Business of the Manufacturer and as such, in particular to new machinery orders, all orders for new equipment from any of the Manufacturers we supply from are under the Manufacturers terms of business. This means that in all instances wherever these Terms of Business are referred to, at first point of reference all sales or Hire Agreement arrangements of equipment including any warranty claims, any exclusions, limitations or prohibitions are those of the relevant Manufacturer(s) in the first



instance and where any discrepancy may lay between our Terms of Business and those of the Manufacturer, the default position will always be that of the Manufacturer in the first instance.

10.8 Agvantage UK Ltd have made all reasonable attempts to ensure that all machinery supplied by us to the Customer conforms to legislation in force at the time of the agreement, we hold no liability to maintain any purchase to future legislation changes should any occur. Agvantage UK Ltd requires all Customers to ensure that their purchase meets their needs and as such Agvantage UK Ltd accept neither loss nor liability for any changes in industry regulation or legislation otherwise, either domiciled or outside of the UK

10.9 Although Agvantage UK Ltd recognises the international nature of some of its business customers we cannot accept neither loss nor liability should any supplied equipment, be it second hand or Manufacturer supplied, be taken outside of the UK for any period of time whether worked or not. Any such event would invalidate any warranty or claim to warranty contained in these Terms of Business or those of any Manufacturer or otherwise expected.

10.10 Any repair completed by a customer within a warranty period, either personally or through a third party unless expressly consented to by Agvantage UK Ltd in writing, will void any warranty and as such Agvantage UK Ltd reserve the right to void any warranty claim or period subject to discovery of any evidence of works completed outside of expected maintenance as outlined within any instruction manual.

10.11 Agvantage UK Ltd use Manufacturer supplied or approved parts for all mechanical works, warranty claims and service work wherever possible. Where this is not possible, Agvantage UK Ltd refers the customer to the Terms of Business of the part Manufacturer.

10.12 Any part(s), after market fittings, attachments or appendages or consumables supplied by the Customer for Agvantage UK Ltd to fit, work, service or otherwise attach to any equipment whether supplied by Agvantage UK Ltd or not will instantly void any warranty claim as to the work completed or its outcome as we cannot verify their quality or competency. Agvantage UK Ltd also refer the Customer to section six of the HSE guidelines on second hand supplied equipment and its fitness for work so that the Customer can ensure that this meets their own needs.

10.13 This clause shall survive the termination of the Contract.

Termination

11.1 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:

11.1.1 the Customer commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 5 days after receipt of notice in writing to do so;

11.1.2 the Customer fails to pay any amount due under the Contract on the due date;

11.1.3 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

11.1.4 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

11.1.5 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

11.2 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 11.1.1 to clause 11.1.5, or the Supplier reasonably believes that the Customer is about to become subject to any of them.

Consequences of termination

12.1 There are no cooling off periods offered with our machines once the Supplier is in receipt of a signed order confirmation, including any second hand machinery supplied with a modification including signwriting or other mechanical amendment. Any Deposit(s) paid are non-refundable immediately after the order is confirmed with the Supplier. In the event that a second hand machine is used as deposit, this shall be non-returnable and become the property of AgVantage UK LTD immediately upon receipt of termination of contract.

12.2 Any costs incurred by the Supplier in the event of a cancellation for any reason by the Customer, are immediately payable by the Customer. These will be outlined in an invoice to the Customer. These costs are not limited nor finite, including the costs of pursuance and or legal proceedings. This is not an exhaustive list of costs and any reasonable cost incurred after the date of the signed order form by the Supplier will be passed to the Customer in the event of cancellation.

12.3 These costs may be recovered as physical goods to the value of the debt, minus the costs of recovery and pursuance.

12.4 On termination of the Contract:

12.4.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;

12.4.2 the Customer shall return all of Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

12.5 Termination of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

12.6 Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue in full force and effect.

Force Majeure

13.1 Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**).

13.2 The Customer will also recognise that in such events of Force Majeure, The Supplier cannot be liable for delay in performing or failure to perform, any of its obligations under the Contract for the provision of its service, e.g. waiting on a part for a piece of machinery in a country which is directly affected by the outbreak of a war. AgVantage UK cannot reasonably account for adverse weather, war, pandemic or other events, circumstances or causes beyond its reasonable control.

13.3 The Customer will recognise that, due to the international nature of Manufacturers, Force Majeure events experienced by AgVantage UK LTD may not necessarily be limited to events in the United Kingdom.



General

14.1 Assignment and other dealings

14.1.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

14.1.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

14.2 Notices.

14.2.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice.

14.2.2 A notice is deemed to have been served as follows:

(a) if personally, by E-mail at the time of delivery;

(b) if posted, at the time of expiration of 48 hours (or in case of air-mail) 7 days after the envelope containing the notice is posted.

14.2.3 This clause 14.2 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

14.3 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 14.3 shall not affect the validity and enforceability of the rest of the Contract.

14.4 Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

14.5 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

14.6 Entire agreement.

14.6.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

14.6.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract.

14.7 Third parties rights.

14.7.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.



14.7.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

14.8 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

14.9 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

14.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

14.11 **Trademarks/Branding.** All informational material provided by the seller may not be copied, sold on, made public or brought to the attention of third parties in any way, unless the nature of the information provided otherwise allows. The customer is not allowed to remove the (image) trademark of the seller or of a third party on the delivered goods.

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