

TERMS OF TRADE

The seller of the goods and services (Seller) and the purchaser of the goods and services (Customer) agree that:

1. TERMS OF CONTRACT

- 1.1 These terms of trade (Terms) apply in respect of all offers to sell, quotations made, contracts secured and other commercial transactions for the supply of goods and services, including subscriptions and licences to use third-party products (together Goods) to the Customer, whether or not the signature section has been completed, and (except in the case of subscriptions and licences) remains in full force and effect until the Customer has received the Goods that the Customer has purchased and the Seller has received payment in full and cleared funds for those Goods. Where the Goods comprise subscriptions or licences these Terms remain in full force and effect for so long as the Customer's subscription is active or licence is paid up.
- 1.2 The Seller will not be bound by any conditions included in the Customer's order unless it accepts them in writing.
- 1.3 These Terms prevail over any oral representations or other conditions that may be or have been communicated between the Seller and the Customer including, without limitation, conditions of an order.
- 1.4 If the Seller does not accept conditions included in the Customer's order and the Customer accepts delivery of Goods delivered under that order, those actions by the Customer will be deemed to be acceptance by the Customer of these Terms, notwithstanding anything that may be stated to be the contrary in the Customer's inquiries or the Customer's orders.
- 1.5 The Seller has the right to decline or cancel any orders or to terminate any work which it has accepted if due to circumstances beyond the Seller's control if it would be impractical or uneconomic to fill the order, or if any information supplied by the Customer is materially incorrect.
- 1.6 The Seller has the right to amend these Terms from time to time. The most recent version of these Terms will always be available on the Seller's website. However, where these Terms are amended, the amended Terms will only apply to orders made after the effective date of the amendment, including subscription or licence renewals.

2. PRICE

- 2.1 Unless otherwise agreed in writing the price for the Goods is stated in Australian dollars and shall be the current price charged by the Seller at the date of delivery. Prices for subscriptions and term-based licences apply only to the current subscription or licence period.
- 2.2 Unless otherwise agreed in writing, prices are GST exclusive.
- 2.3 Unless otherwise agreed in writing, the price for the Goods excludes the cost of delivery by the normal road, rail, sea and air transport used by the Seller, and the cost of delivery for parts is an additional cost which is borne by the Customer. In addition, any extra cost of any special delivery or any special packaging for machines which is requested by the Customer may be added to the price.
- 2.4 Quoted prices may be altered at any time before delivery of the Goods to the Customer if wages, salaries, costs of raw materials, freight charges, duty and/or exchange rates fluctuate before delivery.
- 2.5 The Seller may withdraw any quotation before it is accepted and in any event any quotation will lapse 14 days after it is given.

3. PAYMENT

- 3.1 Unless otherwise agreed in writing the Customer must pay for the Goods in full prior to delivery. Subscriptions and licences must be paid prior to delivery in accordance with the payment date stated on the invoice.
- 3.2 Failure to pay for Goods on delivery may result in the delivery being stopped until the payment has been made.
- 3.3 In the event of late payment (and to enable the extra cost incurred by the Seller arising from late payment to be recovered) the Seller may charge interest on a daily basis to the Customer at a rate equal to 10% per annum over the Seller's bank overdraft rate from time to time, until the overdue amounts are paid with the interest accruing after as well as before any judgment which the Seller may obtain against the Customer. The Customer will also be liable to pay all of the Seller's expenses and legal costs incurred in obtaining a remedy for the Customer's failure to pay for the Goods when due.
- 3.4 The Customer may not set off against the price payable for the Goods any claims which the Customer might have against the Seller. However, the Seller may agree to accept Goods as a trade-in to be applied as a deposit or part payment.
- 3.5 The Seller may accept and apply payments from the Customer in respect of any indebtedness and the Seller will not be bound by any conditions or qualifications attached to such payments.
- 3.6 The Seller (or its related companies) may set off against any moneys owed by the Seller to the Customer, any moneys which the Customer owes to the Seller or to any subsidiary or related companies of the Seller, so that the obligation of the Seller to the Customer will be to pay the net balance only.
- 3.7 The Seller reserves the right to cease credit to the Customer should any amount fall overdue.
- 3.8 In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.
- 3.9 The Seller may at its discretion and from time to time vary the Customer's credit limit in relation to further purchases of Goods or services. If any acquisition would be in excess of the Customer's credit limit, the Seller reserves the right to require, prior to delivery of the Goods or services, payment in cash of the amount by which the cost exceeds the credit limit.

4. DELIVERY

- 4.1 The Customer agrees that delivery will be deemed to be completed upon either receipt of the Goods by or on behalf of the Customer, or upon receipt of the Goods by a carrier for delivery to the Customer, whichever occurs earlier, provided that in the case of a subscription or licence, delivery is complete when the subscription or licence is activated or renewed;
- 4.2 The Seller will use reasonable efforts to see that deliveries are made according to schedule but any period or dates quoted for delivery are approximate only. The Customer agrees that the Seller is not, and will not be, liable for any loss incurred or damaged suffered by the Customer, however it arises, in the event that the Goods are not delivered by any estimated or agreed date.
- 4.3 The Seller will make reasonable efforts to deliver the Goods to the location the Customer notifies to the Seller. In the event that delivery cannot be effected by the Seller at that location, the Seller may, at its discretion, leave the Goods at that location or store the Goods. The Customer agrees to immediately pay the Seller any costs or expenses reasonably incurred by the Seller to store or re-deliver the Goods. Subscriptions and licences do not have a location for delivery. However, for online products, subscription or licence details will generally appear in the account section of the third-party's online product once activated. Licence details for on-premise licences typically appear within the administrative interface of the licensed product.
- 4.4 Goods may, at the Seller's discretion, be delivered by one delivery or by instalments. Each instalment will be deemed to be a separate sale and must be paid for separately by the Customer.

5. RISK AND OWNERSHIP

- 5.1 All risk in Goods supplied by the Seller will pass to the Customer upon delivery or deemed delivery of the Goods to the Customer, a carrier commissioned by the Customer or the Customer's nominated agent.
- 5.2 The Seller reserves the right to request from the Customer such guarantee or security as it may think desirable to secure to the Seller all sums due by the Customer and may refuse to supply further Goods until such security is given.
- 5.3 The Customer acknowledges and agrees that a purchase money security interest (PMSI), in accordance with the meaning given to that expression in the Personal Property Securities Act 2009 (Cth) (PPS Act), is granted by the Customer to the Seller in all of the Goods (other than subscriptions and licences) delivered to the Customer by, or on behalf of the Seller, for which the Seller has not received full payment in cleared funds and the Customer agrees to the security agreement evidenced by these Terms by executing these Terms, placing an order or accepting delivery of any Goods.
- 5.4 The Seller need not give any notice under PPS Act unless notice is required by the PPS Act and cannot be excluded.
- 5.5 Until payment in full has been received by the Seller from the Customer in accordance with these Terms, to the fullest extent permitted by law and without prejudice to any other rights that the Seller may have under the PPS Act, or otherwise:
 - 5.5.1 full and absolute ownership of and title in all Goods delivered to the Customer (other than subscriptions and licences) remains with the Seller; and
 - 5.5.2 the Customer authorises and grants an irrevocable license to the Seller and its authorised representatives to enter any premises where any Goods are kept to repossess the Goods and to use all reasonable force in doing so without incurring any liability for any resulting damage, provided that:
 - (a) in the case of a third-party online product, the Seller's rights are limited to a right to cancel the subscription or licence and deactivate it; and
 - (b) in the case of an on-premise product, the Seller's rights are limited to a right to remove, or require the product to be removed from, the Customer's systems or devices.

6. WARRANTIES

- 6.1 No warranty is given by the Seller in respect of subscriptions and licences. Except to the extent required by law the Seller warrants that the Goods (other than subscriptions and licences) will be free from all defects in workmanship and materials, for a period matching the manufacturer's warranty for those Goods.
- 6.2 No warranty is given and the Seller shall not be liable:
 - 6.2.1 where the Customer has altered or modified the Goods or has subjected them to any unusual or non-recommended use, services, or handling;
 - 6.2.2 for loss caused by any factors beyond the Seller's control;
 - 6.2.3 for failure to deliver the Goods by any special dates;
 - 6.2.4 for any indirect or consequential loss of any kind;
 - 6.2.5 for any second-hand Goods; and
 - 6.2.6 for normal wear and tear.
- 6.3 All second-hand Goods are sold "as is", without any representations or warranties about their quality, durability, or fitness, and with the entire risk in those respects to be borne by the Customer. If the second-hand Goods are sold without adequate operating information, the Goods shall not be used until the Customer has obtained such information. If the second-hand Goods are sold for parts or scrap, the Customer shall not use the Goods in as sold form.
- 6.4 The Seller's total liability in respect of subscriptions and licences is limited to the price of the subscription or licence (as the case may be). The Seller's total liability for defective or damaged Goods supplied by the Seller is limited at the Seller's option to either:
 - 6.4.1 replacing or repairing the defective or damaged Goods; or
 - 6.4.2 refunding the price of the defective or damaged Goods.
- 6.5 The Seller has no liability for the Goods and gives no representations or warranty except as provided in this Clause 6 and except to the extent that such liability, representation or warranty may not lawfully be excluded.

7. INDEMNITY

- 7.1 The Customer agrees to immediately indemnify and keep indemnified the Seller (and its directors, officers, employees and agents) from and against all claims, losses, damages, costs, judgments, expenses and liabilities of any kind whether for personal injury or property damage arising out of or in connection with:
 - 7.1.1 the Customer's use of the Goods that is in breach of these Terms and, in the case of subscriptions or licences, any use of the applicable third-party product that is in breach of the third-party's terms and conditions for use of, or licence for, its products;
 - 7.1.2 any breach by the Customer, its directors, employees or agents (if any) of these Terms, the third-party's terms and conditions for use of, or licence for, its products (in the case of Goods that are a subscription or a licence), or any law relating to the Goods; and
 - 7.1.3 any negligent act or omission of the Customer or its directors, employees or agents (if any).

8. ADVICE

Any advice, recommendation, information or service provided by the Seller in relation to the Goods is given in good faith, however, to the fullest extent permitted by law, such is provided without liability or responsibility on the part of the Seller.

9. CLAIMS

- 9.1 The Customer must immediately examine the Goods on delivery and must notify the Seller in writing no later than two days after delivery (Notification Period) of any short or defective delivery of any Goods, with reasons and/or an explanation of the circumstances.
- 9.2 Except as may otherwise be provided by law, the Customer agrees that the Customer is deemed to have accepted delivery of Goods:
 - 9.2.1 upon expiry of the Notification Period, unless prior to that time the Customer has notified the Seller in writing of its rejection of that delivery and the reasons for rejection are accepted by the Seller; or
 - 9.2.2 immediately upon use or opening of the Goods or performing any act inconsistent with the Seller's ownership of the Goods, whichever is earlier, and cannot bring a claim in respect of the same.
- 9.3 The Customer's claims shall specifically identify the defect and the Goods and the Customer shall return the defective Goods to the Seller immediately upon becoming aware of the defect.
- 9.4 If a claim is brought within the Notification Period and accepted by the Seller, the Seller will at its option either replace or repair defective Goods supplied by the Seller.
- 9.5 Goods must be returned freight paid and the Customer can claim for any reasonable freight charges.
- 9.6 The Seller will use reasonable endeavours to repair the Goods as soon as possible, but will not be liable for any delay in completing the repairs.
- 9.7 Where the Customer has subjected the Goods to unauthorised repairs or servicing or has modified or altered the Goods in any way then the Customer will be deemed to have waived any claims in respect of the unauthorised repairs, services, modification or alteration.

10. RESTRICTIONS

- 10.1 Unless otherwise agreed, the Goods supplied are being sold by the Seller to the Customer for the Customer's own use and the Customer may not:
 - 10.1.1 appoint anyone to resell the Goods; or
 - 10.1.2 sell the Goods to anyone who or which intends to resell the Goods, or, in the case of subscriptions or licences, sell them to anyone else or permit anyone else to use them or the third-party products to which they relate; or
 - 10.1.3 sell the Goods to the public.
- 10.2 The Customer accepts that it is purchasing the Goods for the purpose of its business.

11. CANCELLATION

- 11.1 The Customer may not cancel any order or part of it without the Seller's written consent and as a condition of giving such consent the Seller may require that it be reimbursed for the cost of reallocating labour and materials and other direct or indirect costs incurred by the Seller in respect of the cancellation. Subscriptions and term-based licences may only be cancelled in respect of a renewal term as set out in clause 13.
- 11.2 In the event that:
 - 11.2.1 the Customer fails to pay any amount for the Goods on the due date; or
 - 11.2.2 the Customer becomes insolvent; or
 - 11.2.3 the Seller or the Customer is refused any required licences or permits in respect of the Goods, then without limiting any other legal rights the Seller may cancel any outstanding orders or deliveries of order, and resell the Goods in question, or forfeit any deposit as liquidated damages, or sue the Customer for the purchase price of the Goods and any costs and expenses incurred by the Seller as a result of the Customer's default.

12. CUSTOMER TRADE IN GOODS

- 12.1 This clause 12 applies in respect of all offers to sell, quotations made, contracts secured and other commercial transactions (Trade-in Contract) for the supply of used goods from the Customer (Trade-in Goods) to the Seller and this clause remains in full force and effect until title, free from all encumbrances, and risk has passed to the Seller in the Trade-in Goods that the Customer has sold.
- 12.2 All risk and title in the Trade-in Goods supplied by the Customer to the Seller shall remain with the Customer until the earlier of: the delivery of the Goods for which the Trade-in Goods are being used as the deposit or part payment; or the point of time immediately prior to the on-sale of the Trade-in Goods by the Seller. For the avoidance of doubt, unless title passes earlier in accordance with clause 12.2, all the title and risk in the Trade-in Goods shall pass to the Seller, free of all encumbrances, immediately prior to the Sellers on-sale of the Trade-in Goods.
- 12.3 While the Customer has possession of the Trade-in Goods, the Seller shall notify the Customer of any potential on-sale of the Trade-in Goods, at which time the Customer shall immediately deliver the Trade-in Goods to the Seller. In the event that the Customer fails to deliver the Trade-in Goods, the Seller shall have the right to seize the Trade-in Goods, at the Customer's expense and title and risk shall be deemed to have passed to the Seller.
- 12.4 While the Customer retains possession and use of the Trade-in Goods the Customer must at all times keep and maintain the Trade-in Goods properly serviced, in proper working order and deliver the Trade-in Goods in a condition materially the same (as determined by the Seller in its absolute discretion) as at the date of Trade-in Contract.
- 12.5 The Customer shall not create or permit to exist any security interest (without the Seller's prior written consent) in relation to the Trade-in Goods.

13. SUBSCRIPTIONS AND LICENCES

- 13.1 The Seller acts as a reseller of subscriptions and licences to use certain third-party products, including CLAAS connect subscriptions for Farm connect, Field connect and Fleet connect, but does not grant any rights to the Customer in respect of those products. The Customer must have an account with the third-party and/or agree to the third-party's terms and conditions for use of, or licence for, its products in order to be able to access or operate those products, or, in the case of products with free access rights, the paid functionality of those products. The Seller's role is limited to facilitating the activation of subscriptions or licences for these products on payment by the Customer of the price charged by the Seller.
- 13.2 Given the nature of subscriptions and licences, clauses 9 and 12 of these Terms do not apply to any subscriptions or licences.
- 13.3 Subscriptions and term-based licences are for a 12 month period. Perpetual licences do not have a term.
- 13.4 Subscriptions and licences for some third-party products automatically renew each year on the anniversary of the original activation date (Renewal Date), unless the Customer provides notice of cancellation (in accordance with clause 13.7) or their account with the third-party for that product is terminated. The original activation date can usually be found in the account section of the third-party's online product or, for an on-premise licence, within the administrative interface of the licensed product. If the original activation date is not displayed as stated, this information can be obtained by contacting the Seller.
- 13.5 Subscriptions and licences that automatically renew are stated in the account section of the third-party's online product, the administrative interface of an on-premise licensed product, on the third-party's terms and conditions for use of, or licence for, its product, or on the Seller's previous invoice for the subscription or licence.
- 13.6 Where subscriptions or licences automatically renew, a renewal reminder will either be sent by the third-party provider of the product, or, if the third-party does not do so as a matter of course, by the Seller. Renewal reminders are typically sent to the person designated by the Customer as the administrator or who was registered as the first admin user. The Customer should contact the Seller if it is unsure whether renewal reminders are being sent. If the price of a subscription or licence will increase from the prior period the Seller will notify the Customer of the new price at least six weeks prior to the Renewal Date.
- 13.7 To avoid automatic renewal, the Customer must notify the Seller of its intention to cancel the subscription or licence no later than four weeks before the Renewal Date. The Seller invoices subscriptions and licences once that point has passed. Cancellations take effect at the end of the then current subscription or licence period.
- 13.8 The Customer must place a new order with the Seller for any subscription or licence that does not automatically renew.
- 13.9 Subscriptions and licences are deemed to be accepted on delivery. In these Terms, delivery, in relation to a subscription or licence, means activation by the Seller or the third-party licensor of the relevant subscription or licence so that the Customer has the right to access or operate the functionality of the products to which the subscription or licence relates. In the case of a renewal of a subscription or licence, delivery is deemed to occur on the Renewal Date.

14. FORCE MAJEURE

The Seller will not be liable for any loss or damage caused by its failure or delay to supply the Goods due to anything outside the reasonable control of the Seller.

15. WAIVER

Any failure by the Seller to enforce any of its rights under these Terms or at law shall not constitute a waiver.

16. SEVERABILITY

Each clause in these Terms is severable and if any clause or part of a clause is held to be illegal or unenforceable, then the remaining clauses and parts of clauses will remain in full force and effect.

17. GOVERNING LAW

These Terms will be interpreted in accordance with and governed by the laws of Victoria and the parties submit to the non-exclusive jurisdiction of the Courts of Victoria and any Courts competent to hear appeals from those Courts.

18. PRIVACY POLICY

- 18.1 You can access CLAAS Harvest Centre's privacy policy at <https://claasharvestcentre.com/australia-terms-conditions/>.