

Conditions of Sale - Livestock

1. DEFINITIONS

"Agent" means Ruralco Holdings Limited A.C.N 009 660 879 and any subsidiary or associated entity and as trustee of any trust;

"Buyer" means the person making a commercial credit account application and/or entering into a Contract with the Agent and the Vendor and includes its authorised representatives;

"Contract" means any contract for the sale or supply of Livestock to the Buyer through the Agent at auction or otherwise;

"Commission" means any commission payable to the Agent;

"Livestock" means the livestock supplied, provided, auctioned for sale, and/or otherwise made available by or through the Agent;

"Purchase Price" means the price of Livestock determined at auction; and

"Vendor" means the person identified as the vendor at auction and includes its authorised representatives.

2. APPLICATION

2.1 These terms and conditions govern every Contract for the sale of Livestock to the Buyer, with the Agent as *del credere agent*.

2.2 These terms and conditions must be read together with any applicable *Livestock Auction Terms and Conditions of Sale* ("Auction Conditions") and General Terms of Credit.

2.3 To the extent of any inconsistency between Auctions Conditions and these terms and conditions, these terms and conditions will prevail. To the extent of any inconsistency between these terms and conditions and the General Credit Terms, the General Credit Terms will prevail.

3. SALE AND PURCHASE

3.1 The Buyer agrees to purchase the Livestock from the Vendor through the Agent, for the Purchase Price, in accordance with these terms and conditions.

4. PAYMENT

4.1 The Vendor directs the Buyer to pay the Agent the Purchase Price on the terms of the invoice, and in accordance with any terms of credit between the Agent and the Buyer.

4.2 The Buyer is not entitled to withhold any payments or to refuse payment on the grounds of counter claims which are disputed by the Agent.

4.3 The Purchase Price is exclusive of GST (unless expressly stated otherwise) and the Buyer will pay GST in addition to the Purchase Price (where applicable) and will pay GST with respect to any other taxable supply in accordance with this Contract.

4.4 The Buyer will pay any other applicable charges, duties (including any stamp duty or custom duty) impost, levies, excise and/or lot charges with respect to this Contract and the sale, purchase and/or slaughter of the Livestock.

4.5 If the Purchase Price is not paid in full on the due date for payment, the Buyer will pay interest calculated daily from the invoice date up to and including the date of payment in full, at the interest rate agreed in any terms of credit between the Buyer and the Agent.

5. AGENT'S RIGHTS

5.1 The Agent acts as *del credere agent* of the Vendor and will pay the Purchase Price (less the Commission) to the Vendor within seven (7) days of delivery of the Livestock to the Buyer.

5.2 The Buyer acknowledges that the Agent shall recover the Purchase Price from the Buyer.

5.3 From the time of payment of the Purchase Price to the Vendor under clause 5.1, the Vendor assigns without limitation, all its rights under the Contract to the Agent, who may exercise these rights in its own capacity.

5.4 The Buyer acknowledges the assignment under clause 5.3 and agrees to deal with the Agent as the assignee of the Vendor's rights.

5.5 The parties acknowledge that the Agent may receive from the Buyer a fee for its services and the parties further acknowledge that in such instances the Agent will be acting as agent for both the Buyer and the Vendor and notwithstanding that a conflict may arise, the parties hereby consent to the Agent, and will not make any claim against the Agent, acting in such capacity.

5.6 Notwithstanding clause 5.3, nothing in this Contract shall render the Agent liable in any way to the Buyer as Vendor nor entitle the Buyer to any right the Buyer may have against the Vendor under the Contract or otherwise.

6. RISK

6.1 Livestock will be at the risk of the Buyer on and from delivery.

6.2 The Buyer shall indemnify the Vendor against any loss or damage suffered by the Vendor in connection with the Livestock on and from the day that the Livestock are at the risk of the Buyer pursuant to this Contract.

7. TITLE

7.1 Property and title in the Livestock shall only pass to the Buyer and is reserved to the Vendor until the total Purchase Price is paid in full by the Purchaser. Until such time, the Buyer shall hold the Livestock as bailee for the Vendor.

7.2 From delivery until payment of the Purchase Price in full by the Buyer, the Buyer shall maintain the Livestock separately and in such a manner that they are clearly identified as the property of the Vendor and shall insure the Livestock with a reputable insurer, in the name of the Vendor, the Agent and the Buyer, at market value.

7.3 The Vendor and the Agent shall be entitled at any time until title in and to the Livestock passes to the Buyer to demand evidence of insurance and to the return of the Livestock and shall be entitled without notice to the Buyer and without liability to the Buyer to enter any premises occupied by the Buyer in order to search for and remove the Livestock.

7.4 The Buyer acknowledges that if it sells the Livestock before title in and to the Livestock has passed to the Buyer in accordance with this clause, it sells the Livestock as a fiduciary agent of the Vendor provided that such sale shall not give rise to any obligations on the part of the Vendor. The Buyer shall hold the proceeds of sale on trust for the Vendor in a separate account.

7.5 If title in and to the Livestock has not passed to the Buyer in accordance with this clause, the Buyer's implied right to sell the Livestock shall immediately terminate upon the happening of any of the events stipulated in clause 12.1.

8. PERSONAL PROPERTY SECURITIES ACT

8.1 The Buyer acknowledges that this agreement constitutes a Security Agreement for the purposes of the *Personal Property Securities Act 2009* (PPSA) and that the Buyer grants a Security Interest and Purchase Money Security Interest (as defined in the PPSA) in favour of the Vendor over all Livestock (and their proceeds) delivered to the Buyer.

8.2 The Buyer acknowledges that the Security Interest arising under a Contract is assigned by the Vendor to the Agent under clause 5.3.

8.3 Any Security Interest granted under this Contract will be held by Ruralco Holdings Limited ACN 009 660 879 for the benefit of the Vendor.

8.4 The Buyer will execute documents and do such further acts as may be required by the Vendor to register the Security Interest under the PPSA.

8.5 Until ownership of the Livestock passes, the Buyer waives its rights under the following provisions of Part 4 of the PPSA:

- (a) to receive a notice of intention of removal of an accession (section 95);
- (b) to receive a notice that the Agent decides to enforce its security interest in accordance with land law (section 118);
- (c) to receive a notice of enforcement action against liquid assets (section 121(4));
- (d) to receive a notice of disposal of Livestock by the Agent (section 129);
- (e) to receive a notice to dispose of Livestock (section 130);
- (f) to receive a statement of account following disposal of Livestock (section 132(3)(d));
- (g) to receive a statement of account if no disposal of Livestock for each 6 month period (section 132(4));
- (h) to receive notice of any proposal of the Vendor to retain Livestock (section 135);
- (i) to reinstate the Security Agreement (section 143);
- (j) to receive a notice of any verification statement (section 157(1) and section 157(3));

8.6 The Buyer further agrees that where the Agent has rights in addition to those under Part 4 of the PPSA, those rights will continue to apply.

8.7 The Buyer acknowledges that it has received value as at the date of first delivery of the Livestock and has not agreed to postpone the time for attachment of the Security Interest (as defined in the PPSA) granted to the Vendor under this Contract.

8.8 The Buyer irrevocably grants the Vendor the right to enter upon the Buyer's property or any premises where the Livestock are located, without notice, and without being in any way liable to the Buyer or to any third party. If the Vendor has cause to exercise any of its' rights under sections 123 or 128 of the PPSA or otherwise provided at law. The Buyer shall indemnify the Vendor from any claims made by any third party as a result of such exercise.

9. EXCLUSION OF WARRANTY

9.1 In accepting delivery of the Livestock, the Buyer acknowledges that it has examined the Livestock and that it is relying entirely on its own judgement and not on any statements made by the Vendor (or the Agent) and that the Vendor makes no representation or warranty as to the condition, merchantability, quality or fitness of the Livestock in any respect.

9.2 All conditions and warranties expressed or implied by statute or otherwise and whether as to condition, quality or fitness for any particular purpose or as to any other matter or thing whatsoever are hereby excluded from this Contract to the fullest extent permitted by law.

9.3 Where such rights cannot be excluded, modified or limited, the Vendor's liability for any breach is limited at its option to the replacement or re-supply of equivalent Livestock or repayment of the cost of the same.

9.4 The Agent will not be responsible for any breach of warranty by the Vendor or the Buyer. The Agent gives no warranty as to the Vendor's title to the Livestock or the Vendor's right to sell the Livestock and is not liable in respect of any error, mis-description or omission in any particulars appearing or stated regarding the description or pedigree of any of the Livestock.

10. FORCE MAJEURE

10.1 If either party is interrupted in, or prevented from, the performance of its obligations under this Contract by reason of any Force Majeure Event, such party will not be in breach of this Contract and the time for performance of its obligations under this Contract will be extended for a period equal to the duration of the contingency that occasioned the delay, interruption or prevention, provided that if any such period exceeds 30 days, either party may immediately terminate this Contract without liability, by notice in writing to the other.

10.2 In this clause 10, "Force Majeure Event" means any rain event, flood, fires, lockouts, labour disputes, quarantine restrictions, epidemic, storm, earthquake, act of God, or any act (including laws, regulations, disapprovals or failure to approve) of any government or agency, whether national, municipal or otherwise or any other cause beyond a party's reasonable control.

11. BREACH OF CONTRACT

11.1 If the Buyer breaches any of its obligations under this Contract the Vendor or the Agent may (in addition to any other rights and/or remedies):

- (a) rescind this Contract;
- (b) use such force as is necessary to retake possession of the Livestock and for that purpose the Buyer authorises the Vendor to enter any premises where the Livestock are located; and/or resell the Livestock upon such terms and conditions as the Vendor elects and any deficiency arising and all expenses of and incidental to any such resale (including any attempted sale) shall be recoverable from the Buyer as liquidated damages.

12. TERMINATION AND DEFAULT

12.1 If any of the events set out in (a) to (e) below occur, the Vendor or the Agent may at its option immediately terminate this Contract without prejudice to any other action or remedy which it has or might otherwise have had, and all monies owing and outstanding to the Vendor or Agent on any account whatsoever and irrespective of whether the due date on any statement of account has occurred or passed shall become immediately due and payable:

- (a) the Buyer makes default in any payments or is unable or states that it is unable to pay its debts as and when they fall due;
- (b) the Buyer being an individual commits an act of bankruptcy or has a controller or trustee appointed in respect of the Buyer's estate or any part of the Buyer's property or assets;
- (c) the Buyer being a company passes a resolution for its winding up or enters into liquidation or has an application for winding up filed against it;
- (d) a receiver, receiver and manager, controller or voluntary administrator is appointed over any part of the property or assets of the Buyer;
- (e) the Buyer experiences any analogous events having substantially similar effects to any of the events specified above.

13. SEVERANCE

13.1 If any provision of these terms and conditions or its application to any person or circumstance is or becomes invalid, illegal or unenforceable the provision shall so far as possible be read down to such extent as may be necessary to ensure that it is not invalid, illegal or unenforceable. If any provision or part of it cannot be so read down the provision or part of it shall be deemed to be void and severable and the remaining provisions of these terms and conditions shall not in any way be affected or impaired.

14. GOVERNING LAW

14.1 This Contract shall be governed and construed in accordance with the law in force in the State in which the Buyer is located. The parties hereto irrevocably submit to and accept, generally and unconditionally, the non-exclusive jurisdiction of any of the costs of that State with respect to any legal action or proceedings which may be brought at any time relating in any way to this Contract.

15. CONFIDENTIALITY

15.1 Except as required by law the parties agree to treat this Contract as confidential. The parties acknowledge and agree that clause 15 constitutes a confidentiality agreement pursuant to Section 275(6) of the PPSA.

15.2 Neither party will disclose, send or make available any of the information referred to in Section 275(1) of the PPSA to any person except as required by law.

16. SEVERANCE

16.1 If any provision of these terms and conditions or its application to any person or circumstance is or becomes invalid, illegal or unenforceable the provision shall so far as possible be read down to such extent as may be necessary to ensure that it is not invalid, illegal or unenforceable. If any provision or part of it cannot be so read down the provision or part of it shall be deemed to be void and severable and the remaining provisions of these terms and conditions shall not in any way be affected or impaired.

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Ruralco
HOLDINGS LIMITED

LOCAL SERVICE. NATIONAL STRENGTH