

uniFARM



Feeding Systems & Livestock Management

www.unifarm.com.au **0417 992 763**

TERMS OF SALES AND DELIVERY

Purchaser means any person contracting with Unifarm (ABN 27843112978) for supply of goods, parts or service, if the purchaser consists of more than one person, the terms bind them severally and jointly

All sales and deliveries by UNIFARM are governed by the general terms and conditions of Orgalime S2000, S2000S and SE01 as well as the special terms and conditions set out below. To the extent of any inconsistency, these special terms and conditions shall prevail.

SPECIAL TERMS AND CONDITIONS:

Drawings and descriptions:

All information about weight, dimensions, capacity, technical and other data stated in catalogues, prospectuses, circulars, advertisements, pictures, dimensioned sketches and price lists is approximate and subject to confirmation. At the execution of orders, UNIFARM reserves the right to make any changes deemed in its sole discretion to be necessary for technical reasons without notice.

Nature of the goods and services:

The purchaser acknowledges that all goods and services sold or supplied by UNIFARM are not of a kind ordinarily acquired for personal, domestic or household use or consumption and that the goods or services are being acquired solely for business purposes.

Offers:

Offers are made subject to confirmation and subject to the goods being available. UNIFARM reserves the right to change or revoke unfilled offers at any time without notice.

Order confirmation:

Entry into a binding agreement for delivery is subject to the order being confirmed in writing by UNIFARM, including orders based on offers made by UNIFARM.

Prices:

All prices are current prices in the specified currency. UNIFARM reserves the right to alter any prices, if changes occur in materials supplies, raw material prices, wages, exchange rates or any other circumstances beyond UNIFARM's control, including duties, freight and insurance rates, etc. without notice.

Payment:

Payment for deliveries shall be made as stated on the order confirmation, or if such confirmation does not exist, as appears from the payment terms printed on the relevant invoice. All payments shall be made in the manner specified by UNIFARM without counterclaim or set-off. In the case of overdue payment, default interest at a rate of 14.0% p.a. above the official Australian cash rate (as published by the Reserve Bank of Australia) shall be payable from the due date and until payment is made. A fee shall be charged for submitting a reminder after the due date.

Retention of title:

All goods remain the property of UNIFARM until the purchase sum has been paid in full. Risk in the goods passes from UNIFARM to the purchaser on delivery.

Insurance:

The purchaser shall insure the delivery at full value and replacement value of all goods sold, with UNIFARM named as co-insured, from the time of delivery until payment has been made in full.

Cancellation:

Once an order has been accepted, the purchaser may only cancel the order with the written consent of UNIFARM. If an order is cancelled for any reason, the purchaser must reimburse UNIFARM for all costs incurred by UNIFARM prior to the cancellation. Delivered goods may not be returned, unless as agreed with UNIFARM and if so, with a deduction of at least 15% of the value of the goods payable in return costs.

Delivery:

All deliveries exclude installation unless specifically agreed otherwise. UNIFARM shall not be liable for any changes or delays in the time of delivery caused by industrial disputes or any other circumstances beyond its control, including fire, war, currency restrictions, lack of means of transportation, ordinary scarcity of goods, etc.

Breach of agreement:

If the purchaser does not observe the agreed terms for payment of the purchase sum or receipt of the goods, UNIFARM shall not be obliged to deliver and UNIFARM shall have the right to cancel confirmed orders and claim damages.

Complaints/examinations:

As soon as reasonably possible (and in any event, within seven days) after delivery, the purchaser shall subject the delivered goods to a reasonable examination and shall, immediately thereafter, notify UNIFARM in writing of any defects, damage or deficiencies. Thereafter, the purchaser shall not be entitled to claim against UNIFARM for any defects which could have been identified by such examination.

Liability for defects:

The liability of UNIFARM in relation to any defects to any goods or services shall be limited to: in the case of goods – the replacement of the goods or the supply of equivalent goods, the repair of the goods or a reduction in the purchase sum proportionate to the defect; or, in the case of services – the supplying of the services again, as SKIOLD MV, in its absolute discretion determines, provided that the purchaser notifies UNIFARM of such defect within 12 months of delivery of the goods or services.

If UNIFARM, acting reasonably, considers that it is not expedient to remedy any defect at the purchaser's premises, or if UNIFARM determines that replacement of the goods is required, the purchaser shall return the purchased goods (or the defective parts thereof) to an address specified by UNIFARM to facilitate repair or replacement of the parts or replacement of the goods by UNIFARM.

Defective parts, which are replaced, are the property of UNIFARM. The transport of defective parts to UNIFARM shall be for the purchaser's own account and risk. Transport of repaired or new parts from UNIFARM to the purchaser shall be for UNIFARM's account and risk.

UNIFARM shall not be liable for any defects if the goods have not been used correctly and as agreed in the assumed terms of operation. The purchaser shall not be entitled to claim against UNIFARM for materials delivered by the purchaser or any independent third party or for a construction demanded by the purchaser. Further, the purchaser shall not be entitled to claim against UNIFARM for any defect to the goods

which occur due to lack of maintenance, incorrect fitting by the purchaser, changes made without UNIFARM's written consent, errors in repairs performed by the purchaser or usual wear and tear, or deterioration.

Product liability:

1. To the maximum extent permitted by law, UNIFARM excludes all liability to any person for any loss or damage (whether direct or indirect) and however caused that may be suffered as a result of the use of any goods or services. To the maximum extent permitted by law, UNIFARM excludes any conditions or warranties that would otherwise be implied into these terms and conditions.
2. UNIFARM shall not be liable for any damage caused by the goods or services to:
 - a) real and personal property, occurring while the goods were in the possession of the purchaser; or
 - b) products (or any part thereof) manufactured by the purchaser.
3. In the event that UNIFARM is held liable to a third party for any damage mentioned under a) and b), the purchaser shall indemnify and hold harmless UNIFARM against any loss, cost or liability.
4. In no circumstances shall UNIFARM be liable for any operational loss, loss of profit or other indirect or consequential losses.
5. If a third party makes a claim for damages against UNIFARM or the purchaser under this provision, the party shall immediately inform the other of such claim.
6. Unifarm unless explicitly stated cannot be held responsible for a particular product / ingredient being difficult to handle, mix or auger in any way through its range of equipment and if modifications and changes are required this additional cost will be payable by the purchaser
7. All products sold by Unifarm are covered by the products manufactures norm and standards valid to their country of origin and if additional norms and standards are required by the purchaser this will be the responsibility of the purchaser
8. Capacity quoted for feed mills are at a continuous production and can be affected with reduced capacity due to difficult recipes and or ingredients

UNIFARM and the purchaser shall be mutually obliged to accept a lawsuit before the court which hears any claims for damages put forward by a third party against one of them on the basis of damage claimed to have been caused by the delivered goods. The mutual relationship between the purchaser and the seller, however, shall always be settled by arbitration.

Consequential and similar losses:

In respect of claims against UNIFARM in the form of liquidated damages, reference is made to ORGALIME S2000, S2000S & SE01, according to which UNIFARM shall only be liable for such a claim under special circumstances and only for a specified maximum amount.

In respect of defects in the delivered goods, delays, product liability suits, and in other cases, UNIFARM shall assume no liability for operational loss, time loss, loss of profit or any other indirect loss.

If a court of arbitration or any other court should impose such liability on it, UNIFARM's liability shall not exceed AUD 200,000 per claim.

Installation:

Installation is not included in UNIFARM's offer unless explicitly stated otherwise. This also applies to all construction work, foundation and electrical installations. If UNIFARM's staff should be delayed or held up at the site of installation for reasons, which are not due to UNIFARM, the costs incurred shall be payable by the purchaser and shall form part of the purchase sum.

Workplace Health and Safety:

The Customer shall comply with and ensure that it and its employees, servants or agents comply with the Workplace Health and Safety Act or equivalent legislation whilst the Supplier is performing the Works and indemnifies the Supplier against any liability or responsibility in respect of any failure by the Customer or its employees, servants or agents to comply.

Environmental Issues:

The Customer shall ensure that it and or any other relevant person shall apply for and obtain and maintain all approvals, permits, licences and authorisations which may be necessary under the Environmental Protection Act Queensland 1994 and/or any other Environmental Legislation ("The Act") for and in relation to the exercise of its rights and obligations under this agreement and to comply with all duties under the Act.

Arbitration and Jurisdiction:

Any disputes arising as a result of the agreement and any connection herewith shall not be referred to the courts but shall instead be submitted to arbitration in accordance with, and subject to, The Institute of Arbitrators & Mediators Australia Rules for the Conduct of Commercial Arbitration.

All legal questions, including any assessment of UNIFARM's liability, which should arise as a result of the agreement, shall be heard according to the laws of the State of Western Australia.

Severability:

Any provision in these terms and conditions which is invalid or unenforceable may be severed from this document and the remaining clauses or parts thereof continue in full force and effect.

January 2016