

AWN Livestock Trading Account Terms and Conditions**1. APPOINTMENT OF AWN AS LIVESTOCK AGENT**

- (a) The Applicant agrees to appoint AWN as their Livestock Agent and Del Credere Agent by contracting / consigning their sale / purchase of livestock to AWN.
- (b) These terms and conditions govern every contract / consignment for the sale / purchase of livestock by the Applicant through AWN.
- (c) Consignment includes any contract for the sale / purchase of livestock through AWN at auction or otherwise.
- (d) These terms and conditions must be read together with any applicable Livestock Auction Terms and Conditions of Sale
- (e) The Applicant authorises AWN to sell / purchase in accordance with any instruction the Applicant may give to AWN, or otherwise, at the discretion of AWN.
- (f) The Applicant also agrees that the proceeds of any sale/ purchase of livestock are to be paid to AWN and that AWN may deduct from those proceeds and retain for itself all of the Fees, Costs and Payments, under Clauses 5 (a) to (d), payable by the Applicant to AWN under this agreement in relation to the sale/ purchase of livestock before forwarding the balance to the Applicant.
- (g) If the proceeds of the sale / purchase of livestock are insufficient to pay the Fees, Costs and Payments payable by the Applicant in relation to that livestock sale / purchase, the Applicant must pay AWN, on demand, all outstanding Fees, Costs and Payments in relation to the consignment.

2. TITLE

- (a) The Title to the Livestock remains with the Vendor until it passes to the Purchaser upon confirmation of the sale / purchase of the livestock by the Purchaser and then only after full payment is received from the Purchaser for the livestock purchased and all other outstanding amounts in relation to the purchase.
- (b) Until full payment is received, the Purchaser shall hold the livestock as bailee for the Vendor.
- (c) Upon delivery and until paid in full, the Purchaser shall maintain the livestock separately and in such manner that they can be readily identifiable as the property of the Vendor and the Purchaser must insure the livestock at their purchase price, with a reputable insurer, in the name of the Vendor, AWN and the Purchaser.
- (d) Until full payment is received, the Vendor or AWN shall be entitled at any time to demand evidence of appropriate insurance and the return of the livestock and shall be entitled, without notice to the Purchaser and without liability to the Purchaser, to enter any premises occupied or used by the Purchaser in order to search for and remove the livestock.
- (e) The Purchaser acknowledges that if they sell the livestock before Title to the livestock has passed to them, they sell the livestock as a fiduciary agent of the Vendor provided that such sale will not give rise to any obligations on the part of the Vendor and the Purchaser shall hold the proceeds of the sale on trust for the Vendor in a separate account.

- (f) Title to the Livestock does not pass to AWN unless AWN becomes the Purchaser of the livestock in which case Clause 2 (a) will apply.

3. RISK

- (a) Livestock will be at the risk of the Purchaser on and from delivery of the livestock to the Purchaser's nominated destination.
- (b) The Purchaser indemnifies the Vendor against any loss or damage in relation to the livestock on and from the day of delivery of the livestock to the Purchaser's nominated destination.
- (c) After risk has passed to the Purchaser, the Purchaser shall not have any claim against the Vendor or AWN.

4. PAYMENT

- (a) The Vendor directs the Purchaser to pay AWN the purchase price of the livestock on the terms of the invoice, and in accordance with any terms of credit between AWN and the Purchaser.
- (b) The Purchaser is not entitled to withhold any payments or refuse payment on the grounds of counter claims which are disputed with AWN.
- (c) The Purchase Price is exclusive of GST (unless otherwise stated) and the Purchaser will pay GST on the Purchase Price (if applicable) and will also pay GST on any other taxable supply in accordance with the consignment.
- (d) If the Purchase Price together with all other related charges, including GST, on the invoice are not paid in full by the Purchaser by the due date, the Purchaser 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 between the Purchaser and AWN.

5. FEES, COSTS AND PAYMENTS

- (a) The Applicant agrees to pay AWN any commission payable to AWN in accordance with the terms and conditions applicable to the manner of sale / purchase selected by the Applicant, and
- (b) All other charges, duties, taxes, imposts, levies, excise and all other costs in connection with the sale / purchase of the livestock (including but not limited to freight, etc).
- (c) All Fees, Costs and Payments are due and payable on the earlier of date of the sale / purchase of livestock, the termination of this contract, or if applicable, on demand by AWN.
- (d) If AWN incurs any costs on behalf of the Applicant after the date on which AWN pays the Applicant the balance of the livestock sale proceeds, the Applicant must reimburse AWN for such costs immediately upon demand.

6. RIGHT OF SET OFF

- (a) AWN in its sole discretion, may at any time set-off any amount owing by the Applicant to any Australian Wool Network Pty Ltd related company (AWN) on any AWN account held on the Applicant's behalf whatsoever whether or not the amount owing by the Applicant has become due or payable.

7. AWN'S LIMITED LIABILITY

- (a) The Applicant acknowledges that AWN liability under this agreement is limited to its duty to compensate the Applicant in the manner set out in Clause 1.
- (b) AWN shall not be responsible for any breach of warranty by the Vendor or the Purchaser.
- (c) AWN 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 in misdescription or regarding the description, pedigree, pregnancy status or condition of any livestock.
- (d) AWN excludes liability for any and all indirect or consequential losses or damages (including loss of profits or lost opportunity) together with any liability to any third party arising from the livestock itself or the Applicant's handling of the livestock, howsoever arising and notwithstanding the fact that such losses or damages were reasonably foreseeable.

8. VENDOR LIABILITY AND WARRANTIES

- (a) The Vendor acknowledges that the livestock is, to the best of its knowledge, in good condition and accurately described in any documents or materials provided to AWN relating to the livestock.
- (b) The Vendor warrants that it has, or will have, the right to sell the livestock at time of delivery,
- (c) The Vendor warrants that the livestock are either free or will be free and will remain free from any charge or encumbrance prior to the delivery of the livestock.
- (d) The Vendor warrants that the Purchaser will obtain Title to the livestock upon full payment by the Purchaser.
- (e) The Vendor indemnifies and keeps AWN indemnified at all times against all liabilities, losses, damages, costs or expenses incurred or suffered by AWN and all actions, proceedings, claims or demands made against AWN relating to the quality or condition of the livestock including but not limited to the description, pedigree, pregnancy status or condition of any livestock, other than any wilful or negligent acts or omissions caused by AWN.

9. PURCHASER LIABILITY AND WARRANTIES

- (a) The Purchaser warrants that they have the authority to enter into a contract / consignment with AWN to purchase livestock.
- (b) The Purchaser warrants that they have the ability to pay AWN for the purchase of livestock and all other charges, duties, taxes, imposts, levies, excise together with all other costs in connection with the purchase of the livestock (including but not limited to freight, etc).

10. AWN'S RIGHTS AS DEL CREDERE AGENT OF THE VENDOR

- (a) AWN acts as a Del Credere Agent of the Vendor and will pay to the Vendor the Purchase Price (less the Commission) within 10 days of delivery of the livestock to the Purchaser.
- (b) The Purchaser acknowledges that AWN shall recover the Purchase Price from the Purchaser.
- (c) From the time of payment of the Purchase Price to the Vendor, the Vendor assigns without limitation, all its rights under the contract / consignment to AWN, who may exercise these rights in its own capacity.
- (d) The Purchaser acknowledges this assignment and agrees to deal with AWN as the assignee of the Vendor's rights.
- (e) Both the Vendor and the Purchaser acknowledge that AWN may receive from the Purchaser a fee for its service and both parties further acknowledge that in such instances AWN will be acting for both the Vendor and the Purchaser and notwithstanding that a conflict of interest may arise, both parties consent to AWN acting on their behalf and will not make any claim against AWN acting in such capacity.
- (f) Nothing in this contract / consignment shall render AWN liable in any way to the Purchaser as Vendor, nor entitle the Purchaser to any right the Purchaser may have against the Vendor under this contract / consignment or otherwise.

11. PURCHASER - PERSONAL PROPERTY SECURITY ACT (PPSA)

- (a) The Purchaser acknowledges that this contract / consignment constitutes a Security Agreement under Section 20 of the Personal Property Securities Act 2009 (PPSA) and that the Purchaser grants a Security Interest and Purchase Money Security Interest (PMSI) as defined in the PPSA in favour of the Vendor over all the livestock delivered to the Purchaser.
- (b) The Purchaser acknowledges that the Security Interest arising under this contract / consignment is assigned by the Vendor to AWN.
- (c) The Purchaser further acknowledges that such Security Interest will be held by AWN for the benefit of the Vendor.
- (d) The Purchaser acknowledges they will execute documents and such further acts as may be required by the Vendor to register the Security Interest under the PPSA
- (e) Until ownership of the livestock passes to the Purchaser, the Purchaser waives its rights, to the extent permissible by law, under the provisions of Part 4 of the PPSA to receive notices.
- (f) The Purchaser also acknowledges that where AWN has rights in addition to Part 4 of the PPSA, those rights will continue to apply
- (g) The Purchaser acknowledges that it has received value as at the date of delivery of the livestock and has not agreed to postpone the time for attachment of the Security Interest granted to the Vendor under this contract / consignment.
- (h) If the Vendor has cause to exercise its rights under Sections 123 and 128 of the PPSA, the Purchaser irrevocably grants the Vendor the right to enter the Purchaser's property or any other premises where the livestock are located, without notice, and without being liable to the Purchaser or to any third party.

12. FORCE MAJEURE EVENT

- (a) Force Majeure event means any rain events, floods, fires, lockouts, labour disputes, quarantine restrictions, epidemics, storms, earthquakes, acts of God, or any other act (including laws, regulations, etc) of government or agency, whether national, municipal or otherwise or any cause beyond a party's reasonable control.
- (b) If either party is interrupted in, or prevented from, their obligations by reason of any Force Majeure event, such party will not be in breach of this contract / consignment and the time for completion of this contract / consignment will be extended for a period equal to the duration of the delay, provided that if any such period exceeds 30 days, either party may immediately terminate this contract / consignment without liability, by notice in writing to the other party.

13. BREACH OF CONTRACT

- (a) If the Purchaser breaches any of its obligations under this contract / consignment, the Vendor or AWN may (in addition to any other rights or remedies) rescind this contract / consignment, and
- (b) The Purchaser authorises the Vendor or AWN to enter any premises where the livestock are located and to use such force as is necessary to retake possession of the livestock, and
- (c) Resell the livestock under such terms and conditions as the Vendor elects and any deficiency arising to any such sale (including all expenses, incidental costs and costs related to any attempted sales) shall be recoverable from the Purchaser.

14. TERMINATION

- (a) The Vendor or AWN may terminate this contract / consignment without prejudice to any other action or remedy they have, might otherwise have, to any monies owing to the Vendor or AWN on any account whatsoever, whether or not the amounts have become due or payable, if
- (b) The Purchaser is in default of any payments and is unable or states they are unable to pay their debts, or
- (i) The Purchaser commits an act of bankruptcy or has a controller or trustee appointed to the Purchaser's estate, property or assets, or
- (ii) The Purchaser company passes a resolution to wind up or enters into liquidation, or
- (iii) The Purchaser company has an application to wind up filed against it.

15. GENERAL

- (a) If a party comprises two or more persons, this agreement applies to those persons jointly and each of them individually.
- (b) If any provision of these terms and conditions is illegal or unenforceable, it will be severed from these terms and conditions and the remaining terms and conditions will continue in full force and effect.
- (c) This agreement is governed by the laws of the State in which the Purchaser is located.

- (d) These terms and conditions may be amended by AWN from time to time, will be made available on the AWN website and will take effect from the date the amended terms and conditions are listed on AWN's website.