

CORNTHWAITE GROUP : TERMS OF PURCHASE AND PART-EXCHANGE

Registered Office: Cornthwaite Agricultural Ltd, Hall Lane, Bispham Green, Ormskirk, L40 3SB

Company Number: 06236827

This document sets out the terms and conditions on which we (Cornthwaite Group) purchase wholegoods from you (our Customer), either outright or as a part-exchange for new wholegoods you purchase from us. Please read these terms carefully as they contain exclusions and limitations of our liability.

1. INTERPRETATION

1.1 Definitions:

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

Business Hours: the period from 8.00 am to 5.30 pm on any Business Day.

Contract: the contract between the Customer and Cornthwaite Group for the purchase of a Wholegood by Cornthwaite Group from the Customer, to which these Purchase Terms shall apply.

Cornthwaite Group: Cornthwaite Agricultural Limited, registered in England and Wales with company number 06236827 with registered office at Hall Lane, Bispham Green, Ormskirk, Lancashire, L40 3SB.

Customer: the 'trade' or 'non-trade' person or firm from whom Cornthwaite Group purchases the Wholegood, as set out in the Order Acknowledgement or Customer Invoice, as the case may be. For the purpose of this definition: (a) 'trade' means any customer that purchases a Wholegood from Cornthwaite Group for the purpose of resale of that Wholegood to a third-party or third parties inside or outside of the UK; and (b) 'non trade' means any customer that purchases a Wholegood from Cornthwaite Group for its own use, or for the use of any other business in its group, and not for resale.

Customer Invoice: an invoice issued by the Customer relating to the purchase by Cornthwaite Group of a Wholegood as part of a sale of a new Wholegood by Cornthwaite Group to that Customer.

Handover Date: the date of delivery or collection of the Wholegood as agreed between the parties.

Handover Location:	the address for delivery or collection of the Wholegood as agreed between the parties.
Outstanding Finance:	in relation to the Wholegood, any outstanding finance arranged between the Customer and a third party.
Part Exchanged Wholegood:	shall have the meaning given in clause 5.1.
Purchase Terms:	the terms and conditions set out in this document as amended from time to time in accordance with clause 12.3.
Self-billing Invoice:	an invoice issued by Cornthwaite Group relating to the purchase by a non-trade Customer of a Wholegood pursuant to a separate self-billing agreement signed by the Customer.
Specification:	any specification for the Wholegood, including any tooling and accessories to be included, that is agreed in writing between Cornthwaite Group and the Customer.
Terms of Business:	Cornthwaite Group's standard terms of business for the sale of wholegoods, a copy of which is available here: https://www.cornthwaitegroup.com/all-terms .
Wholegood Value:	the value of the Wholegood or Part Exchanged Wholegood being sold by the Customer to Cornthwaite Group as calculated following inspection conducted in accordance with clauses 4.1 to 4.3 as agreed between the parties and set out in the Order Acknowledgement, Customer Invoice or Self-Billing Invoice (as the case may be).
Wholegood:	the wholegood (including any Part Exchanged Wholegood) being sold by the Customer to Cornthwaite Group in accordance with these Purchase Terms and set out in the Order Acknowledgement, Customer Invoice or Self-billing Invoice (as the case may be).

1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** excludes fax but includes email.

2. BASIS OF CONTRACT

- 2.1 These Purchase Terms apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or that are implied by law, trade custom, practice or course of dealing.
- 2.2 The Wholegood Value presented to the Customer constitutes an offer by Cornthwaite Group to purchase the Wholegood for the Wholegood Value in accordance with these Purchase Terms (**Offer**), which the Customer is welcome to accept or reject.
- 2.3 The Offer shall be deemed to be accepted:
 - (a) in the case of non trade Customers (whether Cornthwaite Group is purchasing a Wholegood or Part Exchanged Wholegood), once Cornthwaite Group sends to the Customer the Order Acknowledgement or the Customer issues the Customer Invoice or Self-billing Invoice to Cornthwaite Group (as the case may be) featuring the relevant Wholegood; or
 - (b) in the case of trade Customers, once the Customer issues the Customer Invoice to Cornthwaite Group,

at which point and on which date the Contract shall come into existence.

- 2.4 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Purchase Terms.

3. THE WHOLEGOOD'S CONDITION

- 3.1 The Customer warrants and represents that it is the owner of the Wholegood and that, unless otherwise communicated in writing by the Customer to Cornthwaite Group, there is no security, encumbrance, Outstanding Finance or other third party right over it, or any category of insurance damage associated with it. The Customer further warrants and represents that the Wholegood:
 - (a) corresponds with its description and any applicable Specification; and
 - (b) is of satisfactory quality and fit for any purpose held out by the Customer expressly or by implication; and
 - (c) has valid registration documents, including V5C logbook, where applicable; and
 - (d) is of the original manufacturer specification and factory standards as regards the emissions system and the Customer has not altered the Wholegood or any of its software or hardware in any way that would breach UK or EU law regarding carbon emissions.

- 3.2 The Customer shall be solely responsible for deleting all operation centre data from the Wholegood on or before the Handover Date and, in the event of a Part Exchanged Wholegood, transferring all such operation centre data to the Wholegood it purchases. Cornthwaite Group may, upon request and at its absolute discretion, assist the Customer with the transfer of the operation centre data for a fee. For more information, please contact service@cornthwaitegroup.com. For the avoidance of doubt, Cornthwaite Group shall not be held responsible for any issues that may arise during the deletion or transfer of operation centre data from the Wholegood.
- 3.3 The Customer shall indemnify Cornthwaite Group against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Cornthwaite Group arising out of or in connection with any breach of clauses 3.1 and 3.2.

4. WHOLEGOOD VALUATION

- 4.1 To enable Cornthwaite Group to assess the Wholegood Value, the Customer shall provide Cornthwaite Group with, in relation to the Wholegood:
- (a) information about its make, model, year of manufacture, hours of use, registration number, registration date, serial number and engine number;
 - (b) information about its condition, including photographs and/or videos evidencing this;
 - (c) information about its service history and details about the balance of any warranty;
 - (d) details of known faults, damage or missing components;
 - (e) details of any tooling or accessories to be included;
 - (f) details of Outstanding Finance (if any); and
 - (g) any other information about the Wholegood that Cornthwaite Group may reasonably require.
- 4.2 The Customer warrants and represents that the information provided in accordance with clause 4.1 is complete and accurate.
- 4.3 In addition, and without prejudice to clause 4.1, Cornthwaite Group may inspect and/or test the Wholegood and any information provided by the Customer as part of ascertaining the Wholegood Value. The Customer shall remain fully responsible for the Wholegood during and notwithstanding any such inspection or testing.
- 4.4 Upon receipt of the information set out in clause 4.1 and/or Cornthwaite Group's inspection and/or testing of the Wholegood in accordance with clause 4.3, Cornthwaite Group shall provide the Customer with the Wholegood Value.
- 4.5 In the event the Customer does not provide Cornthwaite Group with the information set out in clause 4.1, or if, following inspection or testing, Cornthwaite Group considers that the Wholegood

does not conform to Cornthwaite Group's requirements or is unlikely to comply with the Customer's warranties and representations at clause 3.1, Cornthwaite Group reserves the right to withdraw its Offer to purchase the Wholegood.

- 4.6 Unless otherwise agreed by Cornthwaite Group, the Wholegood Value is final and shall not be subject to any negotiations.
- 4.7 The Wholegood Value is valid for 7 days, unless otherwise communicated to the Customer by Cornthwaite Group. In the event the Customer does not accept the Wholegood Value within that timeframe, Cornthwaite Group's Offer will be deemed to be withdrawn unless otherwise agreed between the parties in writing.

5. PART EXCHANGE

- 5.1 Cornthwaite Group may, at its absolute discretion, agree with the Customer to take in the Wholegood as a part-exchange for the purchase of a new wholegood by the Customer from Cornthwaite Group (**Part Exchanged Wholegood**).
- 5.2 Where Cornthwaite Group agrees to purchase a Part Exchange Wholegood as set out at clause 5.1:
- (a) the Customer will raise either a Customer Invoice (in the case of trade Customers and at the election of non-trade Customers) or a Self-billing Invoice (in the case of non-trade Customers only) in respect of the Part Exchanged Wholegood; and
 - (b) Cornthwaite Group will raise an invoice for the new wholegood being purchased separately by the Customer in accordance with the Terms of Business (**New Wholegood**); and
 - (c) payment of the invoices raised under clauses 5.2(a) and 5.2(b) shall be made:
 - (i) in such clear, separate payments by the respective parties as may be agreed between them, together with all other sums due in accordance with and pursuant to clause 11 below; or
 - (ii) only where this payment method has been agreed by the parties, whether orally or in writing, on a case-by-case basis, the Customer shall pay to Cornthwaite Group, in full and without set off, the sum due to Cornthwaite Group following deduction of the Wholegood Value of the Part Exchanged Wholegood from the value of the New Wholegood (**Offset Balance**), together with all other sums due in accordance with and pursuant to clause 11 below.

6. OUTSTANDING FINANCE

- 6.1 If the Wholegood is subject to Outstanding Finance, Cornthwaite Group shall not, unless otherwise agreed by Cornthwaite Group at its absolute discretion, be responsible for settlement of the Outstanding Finance.
- 6.2 Unless otherwise agreed by Cornthwaite Group, the Customer shall be solely responsible for:

- (a) obtaining the consent of the finance provider with regard to the proposed sale, or part-exchange of the Wholegood, to Cornthwaite Group, as the case may be and providing Cornthwaite Group with written confirmation of such consent; and
- (b) settling any remaining balance under the Outstanding Finance in advance of entering into the Contract with Cornthwaite Group.

6.3 At its absolute discretion, Cornthwaite Group may elect to, and may agree with the Customer that it will, settle the Outstanding Finance itself directly with the finance provider. Where Cornthwaite Group agrees to do this, the amount of the Outstanding Finance shall be deducted from any sum payable by Cornthwaite Group to the Customer, or offset against the Offset Balance due from the Customer to Cornthwaite Group, as the case may be. The Customer hereby authorises Cornthwaite Group to make such payment on its behalf.

6.4 The Customer shall indemnify Cornthwaite Group against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Cornthwaite Group arising out of or in connection with any issues, notifications, claims or liabilities arising in relation to any third party finance provider who has or had any interest in or to the Wholegood that the Customer intends to sell or part-exchange under the Contract.

7. MANUFACTURER'S AND OTHER WARRANTIES

7.1 To the extent that the benefit of any remaining warranties provided by the Wholegood manufacturer can be assigned to Cornthwaite Group, the Customer shall, if requested by Cornthwaite Group, provide any such details and assign them to Cornthwaite Group.

7.2 Until such assignment, the Customer shall co-operate with Cornthwaite Group in any reasonable arrangements to provide Cornthwaite Group with the benefit of such warranties or like condition, including enforcement of such warranties at the cost of and for the benefit of Cornthwaite Group.

8. HANDOVER

8.1 The Customer shall ensure that the Wholegood is properly secured in such manner as to enable it to reach its destination in good condition.

8.2 The Customer shall deliver, or make available for collection (as the case may be) the Wholegood:

- (a) on the Handover Date;
- (b) at the Handover Location; and
- (c) during Business Hours, or as otherwise instructed by Cornthwaite Group.

8.3 The handover of the Wholegood is completed when the Wholegood is loaded or unloaded (as the case may be) at the Handover Location.

8.4 In the case of a Part Exchanged Wholegood, delivery of the new wholegood shall be made in accordance with Schedule 1, paragraph 2.13 of the Terms of Business, a copy of which can be found here: <https://www.cornthwaitegroup.com/all-terms>.

9. CORNTHWAITE REMEDIES

9.1 If the Wholegood is not delivered or made available for collection on the Handover Date, or does not comply with the warranties and representations set out in clause 3.1, then, without limiting any of its other rights or remedies (including its right to claim under the indemnities at clauses 3.3 and 6.4), and whether or not it has accepted the Wholegood, Cornthwaite Group may exercise any one or more of the following rights and remedies:

- (a) terminate the Contract;
- (b) reject the Wholegood and return it to the Customer at the Customer's own risk and expense;
- (c) refuse to accept any subsequent delivery of the Wholegood which the Customer attempts to make;
- (d) if the Wholegood is a Part Exchanged Wholegood, withhold delivery of the new wholegood until the Wholegood has been delivered or made available for collection;
- (e) claim damages for any other costs, loss or expenses incurred by Cornthwaite Group which are in any way attributable to the Customer's failure to carry out its obligations under the Contract.

9.2 Cornthwaite Group's rights and remedies under these Purchase Terms are in addition to its rights and remedies implied by statute and common law.

10. TITLE AND RISK

Title and risk in the Wholegood shall pass to Cornthwaite Group on completion of the handover in accordance with clause 8.

11. PRICE AND PAYMENT

11.1 The price of the Wholegood or Part Exchanged Wholegood shall be the Wholegood Value as set out in the Order Acknowledgement, Customer Invoice or Self-billing Invoice (as the case may be).

11.2 The price of the Wholegood:

- (a) excludes amounts in respect of value added tax (**VAT**), which Cornthwaite Group shall additionally be liable to pay to the Customer at the prevailing rate, subject to the receipt of a valid VAT invoice; and
- (b) if the Wholegood is delivered by the Customer, includes the costs of insurance and carriage of the Wholegood.

11.3 No extra charges shall be effective unless agreed in writing with Cornthwaite Group.

- 11.4 If Cornthwaite Group purchases the Wholegood outright, Cornthwaite Group shall pay the Wholegood Value (subject to clause 6.3, if applicable) to the Customer prior to the Handover Date. Payment shall be made to the bank account nominated in writing by the Customer.
- 11.5 In the case of Part Exchanged Wholegood, payment shall be made in accordance with clause 5 (subject to clause 6.3, if applicable).
- 11.6 If either party fails to make a payment due to the other party under these Purchase Terms by the due date, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 11.6 will accrue each date at 2% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 11.7 Cornthwaite Group may at any time, without notice to the Customer, set off any liability of the Customer to Cornthwaite Group against any liability of Cornthwaite Group to the Customer, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, Cornthwaite Group may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by Cornthwaite Group of its rights under this clause shall not limit or affect any other rights or remedies available to it under Contract or otherwise.

12. GENERAL

12.1 Assignment and other dealings.

- (a) Cornthwaite Group 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 or obligations under the Contract.
- (b) 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 Cornthwaite Group.

12.2 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties.
- (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it has no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

12.3 **Variation.** Except as set out in these Purchase Terms, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by Cornthwaite Group (or its authorised representative).

12.4 Waiver.

- (a) Except as set out in clause 2.4, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy does not waive that or any other right or remedy, nor does it prevent or restrict the further exercise of that or any other right or remedy.

12.5 Severance. If any provision or part-provision of these Purchase Terms becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part-provision of these Purchase Terms is deemed deleted under this clause 12.5, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

12.6 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by email to the following addresses (or an address substituted in writing by the party to be served):

Cornthwaite Group: sales@cornthwaitegroup.com.

Customer: any email address used by the Customer or the Customer's personnel relating to the sale of the Wholegood.
- (b) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- (c) This clause 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.

12.7 Third party rights.

- (a) 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.
- (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

- 12.8 **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.
- 12.9 **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.