

THE ORGANIC PET FOOD COMPANY LIMITED

STANDARD TERMS AND CONDITIONS – FOR CONSUMER PURCHASES ONLY

The Customer's attention is in particular drawn to the provisions of condition 1.48.

INTERPRETATION

- 1.1 The following definitions and rules of interpretation apply in these conditions.
- Company:** The Organic Pet Food Company Limited;
- Conditions:** these terms and conditions together with those set out in the Website Terms, which are hereby incorporated by reference;
- Contract:** any contract between the Company and the Customer for the sale and purchase of the Goods;
- Customer:** the person who, as a consumer (i.e. not in the course of business or trade), purchases the Goods from the Company;
- Goods:** any goods agreed in the Contract to be supplied to the Customer by the Company (including any part or parts of them)
- Website Terms:** the general terms and conditions which apply to the use of this website.
- 1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.3 Words in the singular include the plural and in the plural include the singular.
- 1.4 A reference to one gender includes a reference to the other gender.
- 1.5 Headings do not affect the interpretation of these Conditions.
- 1.6 In the event of any conflict or inconsistency between these Conditions and the Website Terms, these Conditions shall prevail.

APPLICATION OF CONDITIONS

- 1.7 Subject to any variation under clause 1.8 the Contract shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).
- 1.8 These Conditions apply to all the Company's sales to Customers and any variation to these Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by one of the directors of the Company. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.
- 1.9 Each order or acceptance of a quotation for Goods by the Customer from the Company shall be deemed to be an offer by the Customer to buy Goods subject to these Conditions.
- 1.10 No order placed by the Customer shall be deemed to be accepted by the Company until a notice of despatch (either in writing or by email) is issued by the Company or (if earlier) the Company delivers the Goods to the Customer.
- 1.11 The Customer (a) represents that it enters into the Contract as a consumer and not in the course of business or trade; and (b) shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 1.12 Any quotation is given on the basis that no Contract shall come into existence until the Company issues a notice of despatch to the Customer. Any quotation is valid for a period of 28 days only from its date, provided that the Company has not previously withdrawn it.

DESCRIPTION

- 1.13 The quantity and description of the Goods shall be as set out in the Company's quotation or notice of despatch.
- 1.14 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the

Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

DELIVERY

- 1.15 Unless otherwise agreed in writing by the Company, the Goods shall be delivered to the Customer's address set out in the Contract.
- 1.16 The Customer shall make arrangements to take delivery of the Goods in accordance with the terms of the Contract and, in any case, within 7 days of the Company giving it notice that the Goods are ready for delivery.
- 1.17 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 1.18 Subject to the other provisions of these Conditions delay in delivery shall not entitle the Customer to terminate or rescind the Contract unless such delay exceeds 30 days.
- 1.19 The Customer shall inspect the Goods as soon as possible following delivery, and in any case within 10 working days thereof, and shall notify the Company immediately in writing of any defect or fault in the Goods. The Company shall make the necessary arrangements for collection of the defective/faulty Goods and the Customer shall provide all reasonable assistance in connection therewith. Until such collection, the Customer shall keep the Goods safe and in conditions which will not impair or further impair the Goods.
- 1.20 If necessary, the Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 1.21 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.

NON-DELIVERY

- 1.22 The quantity of any consignment of Goods as recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide evidence proving the contrary to the reasonable satisfaction of the Company.
- 1.23 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or refunding any sums paid by the Customer for the Goods.

RISK/TITLE

- 1.24 The Goods are at the risk of the Customer from the time of delivery.
- 1.25 Ownership of the Goods shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
 - (a) the Goods; and
 - (b) all other sums which are or which become due to the Company from the Customer on any account, including any applicable delivery charges.

RIGHT OF CANCELLATION

- 1.26 The Customer has the right to cancel the Contract at any time up to 10 days after receipt of the Goods.
- 1.27 To exercise the right of cancellation, the Customer must give written notice to the Company by hand, post or via the email contact function of the Website, giving details of the Goods ordered and (where appropriate) their delivery. [Notification by phone is not sufficient.]
- 1.28 If the right of cancellation is exercised after delivery of the Goods, the Customer will be responsible for returning the Goods to the Company at the Customer's own cost. The Goods must be returned to the Company address provided by the Company in response to the Customer notice served under clause 7.2 above. The Goods must not be opened, altered or damaged in the meantime or in transit.
- 1.29 Provided that the Customer provides notice in accordance with clause 7.2 above, the Company will refund or re-credit the Customer within 30 days of receipt of the said notice for any sum paid by the Customer for the Goods.
- 1.30 If the Customer fails to return the Goods as required, the Company may charge a sum not exceeding the direct costs of recovering the relevant Goods.

PRICE

- 1.31 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Company's price list published on the date of delivery or deemed delivery.
- 1.32 The price for the Goods shall be [inclusive] of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage, insurance and additional duties or taxes, all of which amounts the Customer shall pay in addition when it is due to pay for the Goods.

PAYMENT

- 1.33 Payment of the price for the Goods is due in pounds sterling in full in advance of delivery. All payments must be made net and free of all bank charges.
- 1.34 Time for payment shall be of the essence.
- 1.35 No payment shall be deemed to have been received until the Company has received cleared funds.
- 1.36 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 1.37 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 1.38 If the Customer fails to pay the Company any sum due pursuant to the Contract, the Customer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 2% above the base lending rate from time to time of Lloyds TSB Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

QUALITY

- 1.39 The Company warrants that (subject to the other provisions of these Conditions) on delivery, and for a period of 1 month from the date of delivery, the Goods shall:
- (a) be of satisfactory quality;
 - (b) be reasonably fit for consumption or use by pets; and
 - (c) be reasonably fit for any particular purpose for which the Goods are being bought if the Customer had made known that purpose to the Company in writing and the Company has confirmed in writing that it is reasonable for the Customer to rely on the skill and judgement of the Company.
- 1.40 The Company shall not be liable for a breach of any of the warranties in clause 1.39 unless:
- (a) the Customer gives written notice of the defect to the Company, and, if the defect is as a result of damage in transit to the carrier, within 3 days of the time when the Customer discovers or ought to have discovered the defect; and
 - (b) the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Customer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Company's cost for the examination to take place there.
- 1.41 The Company shall not be liable for a breach of any of the warranties in clause 1.39 if:
- (a) the Customer makes any further use of such Goods after giving such notice; or
 - (b) the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
 - (c) the Customer alters or repairs such Goods without the written consent of the Company.
- 1.42 Subject to clause 1.40 and clause 1.41, if any of the Goods do not conform with any of the warranties in clause 1.39 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Customer shall, at the Company's expense, return the Goods or the part of such Goods which is defective to the Company.
- 1.43 If the Company complies with clause 1.42 it shall have no further liability for a breach of any of the warranties in clause 1.39 in respect of such Goods.

- 1.44 Any Goods replaced shall belong to the Company and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the 1 month period.

LIMITATION OF LIABILITY

- 1.45 Subject to clause 1.14, clause 1.21 and clause 1.38, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- (a) any breach of these Conditions;
 - (b) any use made by the Customer of any of the Goods, or of any product incorporating any of the Goods; and
 - (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 1.46 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 1.47 Nothing in these Conditions excludes or limits the liability of the Company:
- (a) for death or personal injury caused by the Company's negligence; or
 - (b) under section 2(3), Consumer Protection Act 1987; or
 - (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
 - (d) for fraud or fraudulent misrepresentation.
- 1.48 Subject to clause 1.46 and clause 1.47:
- (a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price or the sum [of £50.00 (fifty pounds)], whichever is the greater; and
 - (b) the Company shall not be liable to the Customer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

ASSIGNMENT

- 1.49 The Company may assign the Contract or any part of it to any person, firm or company.
- 1.50 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of [30] days, the Customer shall be entitled to give notice in writing to the Company to terminate the Contract.

GENERAL

- 1.51 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 1.52 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 1.53 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

- 1.54 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 1.55 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 1.56 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

COMMUNICATIONS

- 1.57 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:
- (a) (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Customer by the Company; or
 - (b) (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Customer.
- 1.58 Communications shall be deemed to have been received:
- (a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
 - (b) if delivered by hand, on the day of delivery; or
 - (c) if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.
- 1.59 Communications addressed to the Company shall be marked for the attention of "The Managing Director".