

In these conditions the expression "the Buyer" shall mean Optima Consumer Health Ltd, which is contracting to purchase goods from any supplier ("the Seller").

1 Application of conditions

- 1.1 The Buyer's purchase order constitutes an offer by the Buyer to purchase the goods subject to these conditions.
- 1.2 These conditions shall govern and be incorporated into every contract for the purchase of goods made by or on behalf of the Buyer with the Seller.
- 1.3 These conditions shall apply to the exclusion of and shall prevail over any terms and conditions contained in or referred to in any documentation submitted by the Seller or in any correspondence or elsewhere or implied by trade custom, practice or course of dealing unless specifically excluded or varied in writing by a director or other authorised representative of the Buyer.
- 1.4 Delivery of the goods by the Seller shall (without prejudice to any other manner in which acceptance of these conditions may be evidenced) be deemed to constitute unqualified acceptance of these conditions.
- 1.5 If subsequent to any contract of purchase which is subject to these conditions, a contract of purchase is made with the same Seller without any reference to any conditions of sale or purchase, such a contract, howsoever made, shall be deemed to be subject to these conditions.
- 1.6 The Buyer accepts no liability whatsoever, howsoever such liability arises, for any goods unless an order has been placed and/or amended on its behalf, by an authorised representative of the Buyer.

2 Prices

- 2.1 The prices payable for the goods shall be the prices stated in the Buyer's purchase order and, unless otherwise so stated, shall be:
- 2.1.1 exclusive of any applicable value added tax (which shall be payable by the Buyer subject to receipt of a VAT invoice); and
- 2.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the goods to the delivery address specified by the Buyer and any duties, imposts or levies other than value added tax.
- 2.2 No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in the rates of exchange or otherwise) without prior consent of the Buyer in writing.
- 2.3 The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller, whether or not shown on its own terms and conditions of sale.

3 Terms of Payment

- 3.1 The Seller shall be entitled to invoice the Buyer on or at any time after the delivery of the goods and each invoice shall quote the number of the Buyer's purchase order.
- 3.2 Unless otherwise stated in the Buyer's purchase order, the Buyer shall pay for the goods within 30 days after the end of the month of receipt by the Buyer of a proper invoice or, if later, after acceptance of the goods by the Buyer.
- 3.3 The Buyer shall be entitled to set off against the price any sums owed to the Buyer by the Seller.
- 3.4 Where a payment is late as defined in the Late Payment of Commercial Debts ("LPCD"), the interest rates set out in the LPCD (Interest) Act 1998 as amended from time to time shall be deemed not to be applicable, and the parties instead specifically agree that interest shall be payable at the rate of 6% per annum on all outstanding payments from the date due and up to and including the date on which final settlement is made in full.

4 Delivery

- 4.1 The goods shall be delivered to the delivery address specified by the Buyer on the date or within the period stated in the Buyer's purchase order (or where no date or period is specified within 28 days of the order), in either case during the Buyer's usual business hours. The Seller shall off-load the Goods as directed by the Buyer.
- 4.2 Where the date of delivery of the goods is to be specified after the placing of an order, the Seller shall give the Buyer reasonable notice of the specified date.
- 4.3 The time of delivery of the goods is of the essence of the contract.
- 4.4 A packing note quoting the number of the Buyer's purchase order must accompany each delivery or consignment of the goods and must be displayed prominently.
- 4.5 If the goods are to be delivered by instalments, the contract for the purchase of the goods will be treated as a single contract and not severable.
- 4.6 The Buyer shall be entitled to reject any goods delivered which are not in accordance with the Buyer's purchase order, and shall not be deemed to have accepted any goods until the Buyer has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the goods has become apparent. Any inspection or testing of the goods by the Buyer shall not prejudice the Buyer's right to reject defective goods at a later date and make a claim in respect of them.
- 4.7 The Seller shall supply the Buyer in good time with any instructions or other information required to enable the Buyer to accept delivery of the goods.
- 4.8 The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the goods, whether or not any goods are accepted by the Buyer.
- 4.9 If the goods are not to be delivered on the due date then, without prejudice to any other remedy, the Buyer shall be entitled to deduct from the price or (if the Buyer has paid the price) to claim from the Seller by

way of liquidated damage for delay the amount specified in the purchase order for those goods.

5 Cancellation

The Buyer shall be entitled to cancel its order in respect of all or part only of the goods by giving notice to the Seller at any time prior to delivery, in which event the Buyer's sole liability shall be to pay to the Seller the price for the goods in respect of which the Buyer has exercised its right of cancellation, less the Seller's net saving of cost arising from cancellation.

6 Risk and title

- 6.1 Risk of damage to or loss of the goods shall remain with the Seller until delivery to the Buyer is complete (including any off-loading and stacking).
- 6.2 Title in the goods shall pass to the Buyer once they have been accepted by the Buyer, unless payment for the goods is made prior to delivery, when it shall pass to the Buyer once payment has been made.
- 6.3 Where goods are to be paid for by instalments property will pass upon payment of the first instalment notwithstanding that the total risk will remain the Seller's until full payment is made or delivery completed (whichever is the later).

7 Liability

- 7.1 The Seller warrants to the Buyer that the goods: will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Seller or made known to the Seller at the time the Buyer's order is placed or which was apparent by implication from the nature of the goods;
- 7.1.2 will be free from defects in design, material, tolerance, performance, safety and workmanship;
- 7.1.3 will correspond with any description in the Buyer's purchase order and any relevant specification or sample;
- 7.1.4 will be free from foreign bodies, contamination and objectionable odours and, in the case of food or food ingredients, will be wholesome and fit for human consumption;
- 7.1.5 will comply with all statutory requirements and regulations and other legal obligations relating to among other things the manufacture, packaging, sale and delivery of the goods;
- 7.1.6 will, in the case of raw materials for the manufacture of food, comply with all national food laws of all European countries; and
- 7.1.7 will, in the case of packaging, strictly comply with all statutory laws and other legal requirements of all European countries and the nature of labelling of all packaging will meet any requirements imposed by law or any relevant authority.
- 7.2 Without prejudice to any other remedy, if any goods are not supplied in accordance with these conditions, then the Buyer shall be entitled to:
- 7.2.1 require the Seller to repair the goods or to supply replacement goods within 7 days; or
- 7.2.2 at the Buyer's sole option, and whether or not the Buyer has previously required the Seller to repair the goods or to supply any replacement goods, to treat the contract as discharged by the Seller's breach and require the repayment of any part of the price which has been paid.
- 7.3 The Seller shall indemnify the Buyer in full against all liability, loss (including consequential loss), damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:
- 7.3.1 breach of any warranty given by the Seller in relation to the goods;
- 7.3.2 any claim that the goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any specification supplied by the Buyer;
- 7.3.3 any liability under the Consumer Protection Act 1987 in respect of the goods; and
- 7.3.4 any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the goods.

8 Insurance

- 8.1 The Seller shall at its own cost insure adequately and with an insurance company of good repute against all loss, damage, injury or other claims suffered or incurred by the Seller or the Buyer which may arise in any way whatsoever (a) out of the contract for the purchase of the goods or (b) in respect of product liability or employer's liability.
- 8.2 The Seller shall provide evidence of the insurance and payment of the current premiums on request.
- 8.3 The Seller will hold any Insurance monies payable under this Condition in trust for the Buyer.
- 8.4 The provisions of this Condition 8 shall survive the termination of this Agreement for whatever reason.

9 Force majeure

The Buyer reserves the right to defer the date of delivery or payment or to cancel any order or reduce the volume of the goods ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Buyer including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce).

10 Orders and specifications

- 10.1 The quantity, quality and description of the goods shall, subject as provided in these conditions, be as specified in the Buyer's purchase order and/or in any applicable specification supplied by the Buyer to the Seller or agreed in writing by the Buyer.
- 10.2 Any specification supplied by the Buyer to the Seller, or specifically produced by the Seller for the Buyer, in connection with the order, together with the copyright, design rights or any other intellectual property rights in the specification, shall be the exclusive property of the Buyer. The Seller shall not disclose to any third party or use any such specification except to the extent that it is or becomes public knowledge through no fault of

the Seller, or as required for the purpose of the Seller fulfilling the Buyer's order.

- 10.3 The Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the goods.
- 10.4 The Seller shall not unreasonably refuse any request by the Buyer to inspect and test the goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and the Seller shall provide the Buyer with all facilities reasonably required for inspection and testing. Any inspection or testing of the goods by the Buyer shall not prejudice the Buyer's right to reject defective goods at a later date and make a claim in respect of them.
- 10.5 If as result of inspection or testing the Buyer is not satisfied that the goods will comply in all respects with the Buyer's order and these conditions, and the Buyer so informs the Seller within 7 days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance.
- 10.6 The goods shall be marked in accordance with the Buyer's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course.

11 Termination

- 11.1 The Buyer may terminate this or any other subsisting contract with the Seller immediately by giving notice in writing to the Seller if:
- 11.1.1 the Seller has a receiver or administrative receiver appointed, passes a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect, becomes subject to an administration order, enters into any voluntary arrangement with its creditors or ceases or threatens to cease to carry on business or if any national or local law equivalent of any of the foregoing occurs;
- 11.1.2 the Seller commits any material breach of any term of this contract or any other contract with the Buyer which, in the case of a breach capable of being remedied, is not remedied within 14 days of a written request to do so; or
- 11.1.3 the Buyer reasonably apprehends that any of the above is about to occur and notifies the Seller in writing.
- 11.2 Should the Buyer exercise its right to terminate a contract in accordance with the provisions of Condition 11 the Buyer reserves the right to engage another seller to complete the supply of the goods. Following any such termination the Seller shall indemnify the Buyer against all loss, damage, costs including management and similar costs, expenses including professional fees and expenses and all other expenditure or loss of opportunity or revenue whatsoever incurred or suffered by the Buyer as a result of the Seller's breach.
- 11.3 Termination of this contract shall not affect any of the Buyer's accrued rights or liabilities or affect the coming into force or the continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after termination.

12 Assignment

- None of the rights or obligations of the Seller under these conditions may be assigned or transferred in whole or in part without the prior written consent of the Buyer.
- 12.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to these Conditions. A person not party to these conditions shall not have or acquire any right to enforce any of the terms of this document. This provision shall not affect any right or remedy of any third party which exists or is available otherwise than by reason of the Contracts (Rights of Third Parties) Act 1999.
- 12.2 The provision of 12.1 shall prevail over any other provision of these Conditions which is inconsistent with it.

13 General

- 13.1 The headings of these conditions are for convenience only and do not affect the interpretation or construction of these conditions.
- 13.2 If any provision of this agreement is held by any competent authority to be invalid, illegal or unenforceable in the whole or in part such invalidity, illegality or unenforceability shall not affect the other provisions of this agreement which shall remain in full force and effect. The parties shall attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.
- 13.3 No failure or delay by either party to exercise any right or remedy under this agreement shall be construed or operate as a waiver of that right or remedy nor shall any single or partial exercise of any right or remedy preclude the further exercise of that right or remedy. No waiver by either party of any breach of this agreement shall be considered as a waiver of a preceding or subsequent breach. The rights and remedies provided in this agreement are cumulative and are not exclusive of any rights or remedies provided by law.
- 13.4 All notices which are required to be given under these conditions shall be in writing. Notice delivered personally shall be deemed to have been served when delivered, and notice sent by first class post shall be deemed to have been served 48 hours after despatch (7 days if given by airmail), and notices sent by facsimile shall be deemed to have been served on the date of despatch.
- 13.5 Any contract to which these conditions apply shall be governed by and construed in accordance with the Laws of England. The parties submit to the exclusive jurisdiction of the English Courts.
- 13.6 No variation to these conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.