



Acorn Dairy Ltd. Archdeacon Newton, Darlington, DL2 2YB. Reg No. 6959532

## Terms & Conditions of Sale

### 1. Definitions

<b>Seller</b>	means Acorn Dairy of Archdeacon Newton, Darlington, DL2 2YB
<b>Buyer</b>	the person who buys or agrees to buy the goods from the Seller.
<b>Conditions</b>	the terms and conditions of sale as set out in this document and any special terms and conditions agreed in writing by the Seller.
<b>Goods</b>	the items which the Buyer agrees to buy from the Seller
<b>Price</b>	the price for the Goods, excluding VAT and any carriage, packaging and insurance costs.

**Force Majeure Event** has the meaning set out in clause 11.

### 2. Conditions

- 2.1 These Conditions shall form the basis of the contract between the Seller and the Buyer in relation to the sale of Goods, to the exclusion of all other terms and conditions including the Buyer's standard conditions of purchase or any other conditions which the Buyer may purport to apply under any purchase order or confirmation of order or any other document.
- 2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods from the Seller pursuant to these Conditions.
- 2.3 Acceptance of delivery of the Goods shall be deemed to be conclusive evidence of the Buyer's acceptance of these Conditions.
- 2.4 These Conditions may not be varied except by the written agreement of a director of the Seller.
- 2.5 These Conditions represent the whole of the agreement between the Seller and the Buyer. They supersede any other conditions previously issued.

### 3. Price

The Price shall be the price quoted on the Seller's price list as supplied in advance of receiving these Terms & Conditions.

### 4. Payment and Interest

- 4.1 Payment of the Price and any VAT shall be due within 30 days of the date of the Seller's invoice.
- 4.2 Interest on overdue invoices shall accrue from the date when payment becomes due calculated on a monthly basis until the date of payment at the rate of 8% per annum above the Bank of England base rate from time to time in force. Such interest shall accrue after as well as before any judgment.
- 4.3 The Buyer shall pay all accounts in pounds sterling, in full and not exercise any rights of set-off or counter-claim against invoices submitted by the Seller.
- 4.4 Payment should be made to: Acorn Dairy Ltd. Co Op Bank. Sort Code: 08-92-50 Acc: 68037578. Remittance sent to [organic@acorndairy.co.uk](mailto:organic@acorndairy.co.uk) / Acorn Dairy, Archdeacon Newton, Darlington DL2 2YB.

### 5. Goods

- 5.1 The Goods are described on the delivery note.

- 5.2 The Seller reserves the right to amend or change the specification of the Goods if required by any applicable statutory or regulatory requirements.

## **6. Warranties**

- 6.1 The Seller warrants that the Goods will be delivered in a chilled vehicle and shall:
- 6.1.1 conform with their description;
  - 6.1.2 be of satisfactory quality with the meaning of the Sale of Goods Act 1979; and
  - 6.1.3 be fit for any purpose held out by the Seller.

## **7. Orders & Delivery of the Goods**

- 7.1 The seller's order office will be open to receive orders for Goods from 7.30am to 4pm Monday to Friday and 8am to 10am on Saturday, for the next agreed delivery or collection date.
- 7.1 Delivery of the Goods shall be made to the Buyer's address. The Buyer shall make all arrangements necessary to take delivery of the Goods on the day notified by the Seller for delivery.
- 7.2 Goods may be delivered in glass bottles, green poly crates, shrink wrapped and palletised or on trolleys. All glass bottles, poly crates and trolleys must be returned to Acorn Dairy on the next collection/ delivery of Goods. If not the Seller may levy a charge to cover the cost of items at 20 pence/ glass bottle, £3/crate and £50/trolley.
- 7.2 The Seller undertakes to use its reasonable endeavours to despatch the Goods on an agreed delivery date, but does not guarantee to do so.
- 7.3 The Seller shall not be liable to the Buyer for any loss or damage whether arising directly or indirectly from the late delivery or short delivery of the Goods. If short delivery does take place, the Buyer may not reject the Goods but shall accept the Goods delivered as part performance of the contract, and a pro-rata adjustment to the Price shall be made.
- 7.4 If the Buyer fails to take delivery of the Goods on the agreed delivery date or, if no specific delivery date has been agreed, when the Goods are ready for despatch, the Seller shall be entitled to store and insure the Goods and to charge the Buyer the reasonable costs of so doing.

## **8. Acceptance of the Goods/ Returns Policy**

- 8.1 The Buyer shall be deemed to have accepted the Goods 12 hours after delivery to the Buyer.
- 8.2 The Buyer shall carry out a thorough inspection of the Goods at the time of delivery, or within 3 hours of delivery and give notice to the delivery man, in writing or by telephone to the seller, after discovering that some or all of the goods do not comply with the Warranty above, the Buyer must return the Goods to the Seller at the Buyer's cost and the Seller shall, at its option, repair or replace any Goods that are defective, or refund the price of such defective Goods.
- 8.3 Where the Buyer has accepted, or has been deemed to have accepted, the Goods the Buyer shall not be entitled to reject Goods which are not in accordance with the contract.

## **9. Title and risk**

- 9.1 Risk shall pass on delivery of the Goods to the Buyer's address.
- 9.2 Notwithstanding the earlier passing of risk, title in the Goods shall remain with the Seller and shall not pass to the Buyer until the amount due under the invoice for them (including interest and costs) has been paid in full.
- 9.3 Until title passes the Buyer shall hold the Goods as bailee for the Seller and shall store or mark them so that they can at all times be identified as the property of the Seller.
- 9.4 The Seller may at any time before title passes and without any liability to the Buyer:

- 9.4.1 repossess and dismantle and use or sell all or any of the Goods and by doing so terminate the Buyer's right to use, sell or otherwise deal in them; and
  - 9.4.2 for that purpose (or determining what if any Goods are held by the Buyer and inspecting them) enter any premises of or occupied by the Buyer.
- 9.5 The Seller may maintain an action for the price of any Goods notwithstanding that title in them has not passed to the Buyer.

**10. Carriage of Goods**

Carriage may be chargeable on some sales and the rate be confirmed in writing prior to supply commencing.

**11. Force Majeure**

- 11.1 For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of the Seller including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Seller or any other party), failure of a utility service or transport network, act of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, earthquake, epidemic or similar events, or default of suppliers or subcontractors.
- 11.2 The Seller shall not be liable to the Buyer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

**12. Limitation of Liability: THE BUYER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

- 12.1 Nothing in these Conditions shall limit or exclude the Seller's liability for:
  - 12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - 12.1.2 fraud or fraudulent misrepresentation;
  - 12.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
  - 12.1.4 defective products under the Consumer Protection Act 1987.
- 12.2 Subject to clause 12.1:
  - 12.2.1 the Seller shall under no circumstances whatever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 12.3 After the Warranty Period, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 12.4 This clause 12 shall survive termination of the Contract.

**13. General**

- 13.1 Notices.
  - 13.1.1 Any notice or other communication given to a party under or in connection with this Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax or e-mail.

13.1.2 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action

13.2 Waiver. A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

13.3 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

13.4 Third parties. A person who is not a party to the Contract shall not have any rights to enforce its terms.

13.5 This Contract contains the entire agreement and understanding of the parties relating to the subject matter of this Contract and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between the parties, whether written or oral.

13.6 Variation. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by the Seller.

13.7 Governing law. This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

13.8 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

13.9 For the purposes of the Data Protection Act 1998 and the EU General Data Protection Regulation 2016/679, Acorn Dairy is the (data) controller for the processing of personal information supplied by you. Acorn Dairy is registered with the Information Commissioner’s Office (Registration number: **A8267261**) and their Data Protection Policy is available <https://acorndairy.co.uk/resources/>

SIGNED: Caroline Bell  
..... Director For and on behalf of Acorn Dairy

**I have read and agree with the stated Terms & Conditions for sale on pages 1-4.**

**SIGNED: .....(Printed Name & Position).....**

**For & on behalf of.....(The Buyer) Company No .....**

**Business Address: .....**

**.....Post Code.....Telephone.....**

**Regular Contact Name (if different to above) .....**

**Accounts Email : .....**

**Accounts Contact Name..... Accounts Telephone.....**

**VAT No. .... Please complete & return Page 4 to [organic@acorndairy.co.uk](mailto:organic@acorndairy.co.uk)**