

PRESTOPETS LIMITED TERMS OF PAYMENT AND CONDITIONS OF SALE – as from July 2003

1. General

- (a) "Seller" means PRESTOPETS LIMITED (registered in Gt. Britain Registration No. 1670073).
- (b) "Buyer" means the person purchasing any Goods or Services from the Seller.
- (c) "Conditions" means the terms and conditions of sale set out in this document and include any special terms and conditions agreed in writing between the "Buyer" and the "Seller".
- (d) "Goods" mean the Goods, which the Seller is to supply in accordance with these Conditions.
- (e) The headings in these conditions are for convenience only and such headings shall be ignored in construing each of the conditions herein contained.
- (f) This contract shall be governed by and construed in accordance with the Law of England and Wales

2. Limitation of Liability

- (a) No order for supply arising from a quotation or otherwise shall be deemed to be accepted or constitute a legally enforceable contract with the Buyer until accepted in writing or until delivery of the Goods which ever shall be the sooner. All quotations are subject to withdrawal or alteration without notice.
- (b) The Seller accepts no responsibility for any inaccuracy or error in orders or details given by telephone.
- (c) The Seller shall not be bound by any clerical or arithmetical errors in any price list invoice statement quotation or other documentation whatsoever.
- (d) These conditions constitute all the terms of the agreement. Any variation must be in writing and signed by an authorised representative of the Seller.
- (e) The descriptions specifications and illustrations contained in catalogues price lists and other leaflets or descriptive matter produced by the Seller shall not form part of the contract and no report representation or statement made by any servant or agent of the Seller shall be binding on the Seller. Any description or sample of Goods is by way of identification only and does not constitute a sale by description or sample. Source of Goods cannot be guaranteed and is for guidance only.
- (f) The Seller endeavours to supply good quality and disease free livestock. In the event of Goods being defective or damaged at the time of supply, then the Seller will accept liability for any death or personal injury arising as a result, but, subject as provided below, the Seller will issue a credit note to the full value of the defective or damaged goods, provided the claim is reported within twenty four hours, and that the defect is shown to exist at the time of supply. Other than for death or personal injury, the Seller shall, however, accept no further liability whatsoever, and all other warranties, statutory or otherwise, are excluded, so far as the law permits.
- (g) The Seller shall not be liable for any indirect or consequential loss or

damage including economic loss, loss of profits, business, operating time or use or any other form of loss or damage of whatever nature and howsoever arising.

- (h) Where the livestock supplied are fish in sizes of less than 10 centimetres long (including tail) no claim for a credit note or refund will be permitted unless more than 10 per cent of the fish shall be shown to be defective or damaged.
- (i) The buyer acknowledges that he has been recommended to follow the Ornamental Aquatic Trade Association Ltd code of conduct and in particular that it should,
  - I) Isolate all new fish arrivals
  - ii) Only introduce new fish arrivals to existing stock once completely satisfied with the well being of the new fish. Note – even apparently healthy fish may become sick if not cared for correctly.

3. Price

- (a) All Goods are sold at prices ruling at the date of dispatch and may vary at the Seller's discretion from those originally quoted or shown in the Seller's current price list catalogue or any other brochure or advertising material and may be altered without prior notice.
- (b) The price of Goods is exclusive of any applicable value added tax or duty which the Buyer shall be additionally liable to pay to the Seller at the ruling rate applicable on the date of the Sellers invoice.

4. Payment

- (a) The Buyer shall make payment to the Seller in full for all Goods supplied within twenty-eight days of the date of the Sellers' invoice (or such other period as may have been agreed in writing between the Buyer and the Seller).
- (b) If payment for the Goods is not made within the period specified in clause 4(a) interest shall accrue on any unpaid amount from the date payment was due until the date of payment at a rate of 4% above Barclays Bank Plc base rate from time to time in force and shall accrue at such rate after as well as before any judgement.
- (c) The Seller shall be entitled to invoice the Buyer for all administration costs, debt collection fee, legal fees or other costs incurred in recovering payment on overdue invoices and the Buyer shall be liable to reimburse the Seller in full on an indemnity basis for these amounts.
- (d) If any invoice remains unpaid after its due date for payment the Seller may at its discretion withhold supply of any further Goods to the Buyer until the invoice and any interest and costs of recovery have been settled in full.

5. Delivery

- (a) The seller shall use reasonable endeavours to supply the Goods by any estimated date but time is not of

the essence and the Seller shall incur no liability whatsoever for failure to supply Goods by such date.

- (b) Failure or defect in any one batch of goods shall not entitle the Buyer to refuse acceptance of further deliveries under the same or any other contract.
- (c) Risk in the Goods shall pass to the Buyer once the Goods have been delivered to or collected by the Buyer.
- (d) Unless it is agreed to the contrary at the time that an order for the Goods is placed the Buyer shall be deemed to have agreed to collect the Goods from the Sellers premises.

6. Cancellation

- (a) Where delivery or collection of an order for Goods is refused by the Buyer or at the request of the Buyer the delivery is suspended or delayed and the Seller is ready to supply then the Seller may treat the contract as fulfilled and may place the Goods in storage. The Buyer shall be liable for the costs of storage in addition to the costs of the Goods.
- (b) At any date after the agreed supply date the Seller may require the Buyer to accept the Goods and if the Buyer does not comply within seven days the Seller may dispose of the Goods elsewhere (where possible) and the Buyer shall remain liable to pay the Seller;
  - 1) The agreed price for the Goods
  - 2) The storage charges incurred by the Seller.
  - 3) The costs incurred by the Seller disposing of all or any of the Goods.

Less any amounts realised by the Seller disposing of the Goods.

7. Product Liability

The Buyer shall indemnify the Seller against any claim by any third party arising out of or in connection with any of the Goods.

8. Force Majeure

If delivery is delayed by strikes, lock-outs, fire, accidents, defective materials, acts of God, unfavourable weather conditions, flood or any other unavoidable occurrences that are beyond the reasonable control of the Seller then a reasonable extension of time for delivery shall be granted and the Buyer shall pay such reasonable extra charges as shall have been occasioned by the delay.