

TERMS & CONDITIONS 2014 REVISION

- 1. GENERAL**

The adherents to these Conditions of Trading are referred to throughout as the Finisher and the Customer. The term "Finisher" includes branches, subsidiaries and agents of the Finisher. All transactions are between the Finisher and the Customer as between principal and principle and are subject to the following conditions.
- 2.** No variation of a Contract order or quotation other than that specified in Clause 9 shall bind either party unless such variation is made in writing and signed by the party to be bound, or his Agent.
- 3.** These conditions of Trading shall prevail over any other Conditions inconsistent therewith except to the extent that a variation of these Conditions is agreed to by the Finisher and the Customer in writing.
- 4. CONCESSIONS NOT TO PREJUDICE FINISHER OR CUSTOMER**

Any concession, latitude or waiver allowed by the Finisher or the Customer at any time shall only apply to the extent specifically covered by such concession latitude or waiver and shall not prevent the Finisher or the Customer otherwise exercising his full rights under these Conditions of Trading.
- 5. PURPOSE, USE OR MARKET**

The Finisher shall not be deemed to have any knowledge of the particular purpose, use or market for which the goods are required unless such purpose, use or market is stated in the Contract or Order.
- 6. DESIGN COPYRIGHT**

The party proposing the use of the matter which is the subject of copyright, reservation or of a registered design, patent, trade name or trade mark shall indemnify the other against all damages, penalties, costs and expenses for which he may become liable if any work done in accordance with the Customer's Specification involves an infringement of a registered or unregistered design or patent or trade name or mark or is otherwise the subject of copyright reservation or registration.
- 7. SAMPLE**

Where a sample submitted by the Customer does not agree with written particulars supplied by the Customer, the written particulars shall prevail.
- 8. FORCE MAJEURE**

Either party may suspend delivery due to any stoppage of his machinery through fire, Queen's enemies, explosion, breakdown, strike, drought, flood, lockout or any cause whatsoever beyond his control. Neither party will be held responsible for any damage caused thereby to the other party.
- 9. INCREASES OR DECREASES IN WAGES AND COSTS**

Prices are subject to any amendments required by increases or decreases in confirmed wage agreements and in costs outside the Finishers' control to the extent that the whole or part of the specific Contract costs are affected.
- 10. TERMS OF PAYMENT**

Charges may be invoiced as soon as processing has been completed and accounts are payable on demand and are not subject to discount. Accounts become overdue if not paid on or before the last day of the month next succeeding the month in which the goods were invoiced. Interest may be charged on overdue accounts at 2 per cent above Bank of England Minimum Lending Rate.
- 11.** The Finisher reserves the right to charge for storage, carriage, handling, insurance, in respect of goods left in the custody of the Finisher for more than three months without processing instructions or for more than one month after the Customer has been informed of their readiness for delivery and in call cases where goods are removed from the custody of the Finisher before the Finisher has carried out any processing. In these circumstances and notwithstanding that a charge has been made the Finisher does not warrant the condition of the goods, nor accept any responsibility for their safe custody.
- 12. LIEN**

All goods delivered to or in the custody of the Finisher are subject to a lien for the general balance of account for the time being owing to the Finisher by the Customer including all liabilities of any kind whatsoever and a sufficient quantity of the goods may be sold at the absolute discretion of the Finisher and the proceeds credited against such balance of account if the amount is not paid within twenty-one days from the date on which the Finisher notified the Customer in writing of his intention to sell the said goods. If any sum remains after such credit it has to be credited to the Consumer's account. The Customer agrees that such sales may take place notwithstanding that the cloth has a design on it which is the subject of copyright or registration or reservation or patent or trade name or mark and the indemnity provision of Clause 6 shall apply.
- 13. RETENTION OF TITLE**

(a) **Title**
No title in the goods shall pass from the Seller to the Buyer unless and until the Seller has received payment in full for the goods and for any other amounts owing by the Buyer to the Seller on any other account whatsoever

(b) **Storage of the Goods**
Until payment for the goods has been made in full, including
- payment of any interest due, the Buyer shall store the goods in such a way as to enable them to be identified as the property of the Seller and shall hold them as bailee for the Seller. The Buyer shall not dispose of or part with possession of the goods until title passed, save that the Buyer may sell the goods in the normal course of business.
- (c) **Risk**

The risk in the goods shall pass to the Buyer when they are dispatched from the Seller's premises either for delivery to the Buyer or as a result of collection by the Buyer. The Buyer shall keep the goods fully insured until title has passed.
- (d) **Recovery of the Goods**

The Seller reserves the right to repossess and uplift the goods and thereafter to resell the same and for this purpose the Buyer hereby grants an irrevocable right and licence to the Seller's employees and agents to enter upon all or any of its vehicles or premises in which the goods are stored with or without vehicles during normal business hours. This right shall continue to subsist notwithstanding the termination of the contract for any reason and is without prejudice to any accrued rights of the Seller thereunder or otherwise.
- (e) **Recovery of Proceeds of Sale of Goods in the Event of Non-Payment**

If the Buyer re-sells any goods supplied by the Seller, the proceeds of any such re-sale equivalent to all sums owing ("the Proceeds") shall belong to the Seller until payment has been received in full. The Buyer will hold the Proceeds in a fiduciary capacity and keep them in a separate account, to be remitted forthwith to the Seller.
- (f) **Termination of Buyer's Rights**

The Buyer's right to possession shall cease forthwith in the following events:

 - (i) the Buyer has not paid all amounts due to the Seller on any account whatsoever;
 - (ii) the Buyer is declared bankrupt or makes or attempts to make any proposal to his creditors for composition or other voluntary arrangement with its creditors or does or fails to do anything which would entitle a petition for winding up or a bankruptcy order to be presented;
 - (iii) the Buyer does or fails to do anything which would entitle any person to appoint a receiver to the whole or part of the Buyer's assets or would entitle any person to present a petition for the administration of the Buyer or a resolution is passed for the winding up of the Buyer;
 - (iv) a judgement against the Buyer remains unsatisfied;
 - (v) the Buyer is unable to pay a debt to a third party as it falls due and/or is deemed to be insolvent
 - (vi) Any distress or execution is levied against any of the Buyer's assets.
- (g) **Mitigation**

All mitigation/recovery activities by the Seller under the contract between the parties are agreed to be entirely without prejudice to any additional claims it may have against the Buyer for any failure by the Buyer to complete its obligations under the contract between the parties.
- (h) **Deduction, Set-off or Counterclaim**

In the event of any of the occurrences referred to in sub-clause 13f above arising, all sums due from the Buyer to the Seller shall become immediately due and payable without deduction, set-off or counterclaim.
- 14. QUANTITY, DESCRIPTION AND CONDITION OF GOODS**

The Customer shall ensure that cloth delivered to the Company is in proper condition for processing or re-processing and the Company shall not be liable for faults or damage already caused to, contained in, or inherent or latent in the cloth, or due to its packaging or any other thing received with the cloth or its packing. The Customer shall ensure that the cloth delivered to the Company does not contain any substances proscribed by any legislation or regulation whether made by the United Kingdom or the European Economic Community or otherwise applicable which substances shall include but not be limited to those listed and published from time to time on the list of proscribed substances known as the "Red List". The Company reserves the right to claim against the Customer for any injury caused to the Company's personnel, for any damage caused to the Company's premises or machinery or to other customer's goods and for all costs and consequential damages, fines, penalties or expenses of whatsoever kind sustained, suffered or incurred by the Company due to or arising out of the presence in the cloth or its packing of any of the above faults, things or substances. The Company shall not be liable for any defects which arise in cloth received by it and which are attributable in whole or in part:

 - (a) to any prior processing or inconsistencies in the grey cloth whether between pieces or within a piece.
 - (b) To sighting or tinting colours, oil or size not fully removed by the preparing processes normally used for that type of cloth.
 - (c) To faulty handling, rolling or packing before receipt by the Company.
 - (d) To the grey cloth proving to be unsuitable for any process ordered.
- 15.** In the case of fabrics delivered to the Finisher, widths, weights, individual lengths and details of cuts and in the case of yarn the weight only are to be stated on the order sheets or advice notes and will be accepted by the Finisher unless discrepancies are pointed out by him. Alternatively, if this information has not been given by the Customer, the Finisher's figures shall be accepted. The Finisher is under no obligation to put goods into work until all discrepancies have been agreed.
- 16.** The precise fibre content of the goods delivered to the Finisher is to be stated in writing by the Customer. The Finisher is not to be held responsible for the consequences of any inaccuracies in this description.
- 17.** The Finisher assumes that the goods delivered to him by the Customer are in a proper condition for processing. The Finisher shall not be liable for damage caused by wires, pins, hooks, weavers, seams and cuts, bad selvages or other manufacturers' faults, or by the presence of deleterious material in the goods. The Finisher reserves the right to be recompensed by the Customer for any damage to machinery, or to any Customer's goods, or injury to operatives. The Finisher shall not be liable for any goods received by him which develop defects attributable to any prior processing.
- 18. FINISHING TOLERANCES**

The Finisher shall be allowed an agreed process shrinkage and tolerance allowance applicable to the type of goods processed. Notwithstanding the foregoing, no gain or loss in length, width or weight in the course of processing is guaranteed by the Finisher nor can it be claimed by the Customer. If the Finisher agrees to finish to a specific finished weight he will only undertake to provide an average weight and will not guarantee any portion of such goods to be of the specified weight.
- 19.** The Finisher claims and must be allowed a reasonable degree of variation in matching. When goods are to be matched to cuttings of different construction or of different material or processed with different classes of bleaching or dyeing material a greater tolerance is required.
- 20.** The Finisher reserves the right to leave a metallic residue in processed goods up to one-hundredth of one per cent by weight.
- 21. RE-PROCESSING**

Goods re-processed at the Customer's request will be charged to the Customer at not less than the full rate and at the Customer's risk.
- 22. FAULTS, GOODS DAMAGED AND KEPT ("D & K") AND GENERAL CLAIMS**

The Finisher shall be afforded the opportunity of inspecting in the UK any goods alleged to be defectively processed provided that in the case of goods already exported the cost or re-importation and delivery to the Finisher's premises shall be at the Customer's expense. If the Finisher admits liability he may at his discretion correct the faults or may treat any faulty goods as "Damaged and Kept" ("D & K").
- 23.** The customer shall not be entitled to make any claim nor to receive any allowance under these Conditions of Trading unless the claim is made or allowance asked for within six months commencing from the date of delivery of the processed goods or from the date on which the Customer has been informed of the readiness of the goods for delivery, whichever is earlier.
- 24.** Goods which have been subjected to any further process after leaving the Finisher's hands or have been cut or made up shall be deemed to have been processed to the satisfaction of the Customer.
- 25.** The Finisher shall have the right to inspect goods that are subject to a claim of any kind before agreeing to any settlement.
- 26.** The Customer shall declare on each order form the value for "D & K" purposes of the goods in the state in which they were delivered to the Finisher. The "D & K" allowed by the Finisher shall be calculated on the entire order and shall not exceed the declared value. No deductions will be allowed until agreement has been reached on the amount.
- 27.** No "D & K" will be paid on samples.
- 28.** Notwithstanding the foregoing, in the event of a claim settlement will be limited to the value of the goods defectively processed and will in no case extend to consequential loss however caused.
- 29. DESCRIPTION OF FINISHED GOODS**

The Finisher shall not be responsible for any claim arising from inaccurate descriptions of the finished goods applied at the Customer's request and the Customer shall indemnify the Finisher against any claims so arising.
- 30. INSURANCE**

Except as may be notified to Customers from time to time the Finisher shall insure goods in his custody against loss through fire only. The Finisher's liability shall exclude all consequential loss or damage.
- 31. ARBITRATION**

If any dispute shall arise between the Seller and Buyer under this Contract, such dispute shall at the request of either party be referred to the Confederation of British Wool Textiles Limited for adjudication under the arbitration rules of the British Wool Confederation.
- 32. INTERPRETATION**

The foregoing Conditions of Trading shall be construed according to the law of England.