



BUSINESS TERMS AND CONDITIONS

1. DEFINITIONS

In these Conditions:

"Buyer" : means the person for whom the Seller agreed to provide the Goods in accordance with these Conditions;

"Conditions" : means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller;

"Contract" : means the contract for the supply of the Goods, the contract supersedes any previous agreements made or existing between the Buyer and Seller;

"Delivery Address": means the delivery address referred to in the Seller's quotation or Contract;

"Delivery Date": means the date specified by the Seller when the Goods are to be delivered;

"Goods" : means the goods to be supplied to the Buyer pursuant to the Contract which the Buyer agrees to buy from the Seller;

"Price" : means the price for the Goods excluding carriage (other than as specified in condition 6.12), packing, insurance and VAT;

"Seller" : means J Bradbury & Company (Saddleworth) Limited a company registered in England (registration no.171961) whose registered office is at Britannia Mills, Crossland Moor, Huddersfield, West Yorkshire, HD1 4TW;

"Specification" : includes any plans, drawings, data or other information relating to the Goods;

"Writing": includes facsimile transmissions and emails.

1.2 In these Conditions words importing gender include each other gender; references to persons include bodies corporate, firms and unincorporated associations; the singular includes the plural and vice versa; and references to clauses are to clauses of these Conditions, and the headings in these Conditions are included for convenience only and shall not affect their interpretation.

1.3 References to all or any part of any statute or statutory instrument include any statutory amendment, modification or re-enactment in force from time to time and references to any statute include any statutory instrument or regulations made under it.

2.BASIS OF AGREEMENT

2.1 The Seller shall provide the Goods to the Buyer subject to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions put forward by the Buyer.

2.2 No variation to these Conditions shall be binding unless agreed in Writing between the Buyer and a duly authorised representative of the Seller.

2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by a duly authorised representative of the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

2.4 The Seller may at any time correct without liability any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by it.

2.5 The Buyer acknowledges that, before entering into the Contract for the purchase of the Goods from the Seller, it has expressly represented and warranted to the Seller that it is not insolvent and there are no circumstances which would entitle any debenture holder or secured creditor to appoint a receiver or entitle any person to petition for its winding up or exercise any other right over or against the Buyer or its assets.

3.QUOTATIONS AND ORDERS

3.1 Any quotation provided by the Seller to the Buyer is valid for a period of ninety days only from the date when it was despatched in Writing by the Seller to the Buyer, or such earlier period as may be stipulated on the quotation. No quotation submitted by the Seller to the Buyer shall be valid or binding on the Seller unless any necessary Specification has first been received in Writing by the Seller from the Buyer.

3.2 No order submitted by the Buyer shall be deemed or accepted, and the Contract shall not come into force, until the Seller has despatched a confirmation in Writing to the Buyer stating that it has accepted the order concerned.

3.3 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss, costs, damages, charges and expenses incurred by the Seller.

3.4 The Seller reserves the right to accept or refuse orders. The Seller also reserves the right (without prejudice to any other remedy) to cancel any uncompleted order or to suspend delivery in the event of the Buyer's obligations (including in particular, but without limitation, payment on the due dates for Goods delivered) to the Seller not being performed in accordance with their terms.

3.5 The Seller reserves the right to make any changes to the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller's Specification or in accordance with the samples provided to the Buyer by the Seller, which do not materially affect their quality or performance.

4.SAMPLES AND SALE BY DESCRIPTION

4.1 The Contract is to state clearly whether it is a contract for sale by sample or a contract for sale

by description.

4.2 In respect of a contract for sale by sample:

(a) the majority of the Goods supplied will correspond with the sample in quality provided that the Seller shall have no liability unless more than 5% of the Goods do not so correspond;

1. the Buyer shall be deemed to have had a reasonable opportunity of comparing the majority of any consignment supplied with the sample after two days from delivery have expired;
2. upon the Buyer having deemed to have had a reasonable opportunity of comparing the majority of any consignment supplied with the sample the Buyer will also be deemed to have notice of any defect rendering the Goods not in accordance with the contract and to have accepted all the Goods so delivered.

4.3 In respect of a contract for sale by description:

(a) the Goods shall be manufactured and supplied in accordance with the description contained in the Seller's Specification and manufactured in accordance with all applicable British Standards which relate specifically to the Goods.

1. the Seller may from time to time make changes in the specification of the Goods which are required to comply with any applicable safety or statutory requirements which do not materially affect the fitness for purpose or quality of the Goods.

4.4 The Seller is unable to accept claims in respect of defects in quality once the fabric has been cut. Inspection prior to cutting is recommended.

4.5 A5 samples of Goods from the Seller's range can be supplied free of charge within 24 hours unless specified otherwise.

5.PRICE AND TERMS OF PAYMENT

5.1 The Price of the Goods shall be the Seller's quoted price or the price set out in the Contract. The Price is exclusive of VAT or any other applicable sales tax which shall be due at the rate ruling on the date of the Seller's invoice. Unless agreed otherwise, the price of the Goods is for delivery ex works, and carriage is not included.

5.2 With all first orders and whenever else specified by the Seller, the Buyer shall pay the Seller in full as a condition precedent to despatching the Goods.

5.3 In all other cases, payment of the Price and VAT shall be due within one month of the date of the invoice. Time for payment is of the essence.

5.4 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to it, the Seller may:

- (a) cancel the Contract and suspend any further deliveries to the Buyer;
- (b) appropriate any payment made by the Buyer to such invoices as the Seller may think fit (notwithstanding any purported appropriation by the Buyer);
- (c) charge the Buyer interest (both before and after judgment) on the amount outstanding on a daily basis from the date when payment becomes due until the date of actual payment at the rate of 2% per annum above the base rate of National Westminster Bank plc from time to time until all outstanding amounts are paid in full; and/or
- (d) bring an action for the invoice value notwithstanding that property in the Goods has not passed to the Buyer.

5.5 If the recovery of any sums outstanding from the Buyer to the Seller is passed to a debt collection agency, the Buyer shall pay the Seller's costs incurred on an indemnity basis in instructing such debt collection agency and all legal and other costs ancillary thereto.

5.6 In respect of a contract for sale by sample, the Seller shall be entitled to charge for all samples supplied by the Seller to the Buyer, any and all standard and specialist testing of the Goods, certification of the Goods, any other extra work performed by the Seller for the Buyer for which no specific provision is provided in the Contract or any other requirement requested by the Buyer.

5.7 The Seller reserves the right, at any time before delivery in accordance with clause 8, to refuse, modify or renegotiate orders in the event of increases in the price of the Goods to reflect any increase in the cost to the Seller of supplying them which is due to any factor, including (without limitation) any increase in costs of materials and labour, any change in delivery dates, quantities or Specifications for the Goods requested by the Buyer or any delay caused by any instructions of the Buyer or failure of the Buyer to give adequate information or instructions, any changes in taxes, duties or surcharges, or any pound sterling exchange rate fluctuations, together with any other conditions affecting the charges, quotes or procedures the Seller is obliged to follow.

5.8 The Seller must give the Buyer reasonable notice of any increase in price and the Buyer must have the right to terminate, if necessary. If an order is cancelled by the Seller due to circumstances set out in clause 5.3, then the Buyer shall be liable to indemnify the Seller against all loss, costs (including the cost of all labour and materials used and overheads incurred), damages, charges and expenses arising out of the orders and the cancellation thereof (the Seller giving credit for the value of any such materials sold or utilised for other purposes).

5.9 For the avoidance of doubt and without prejudice to the provisions of clause 6.7 below, should the Seller be prevented from effecting delivery on the agreed due date, the full Price of the Goods becomes payable as if the Goods had been delivered.

6.DELIVERY

6.1 Delivery of the Goods should be made to the Buyer's address on the Delivery Date, the Delivery Date is an estimate only, until confirmation by the Seller.

1. Time for delivery of the Goods shall not be of the essence unless previously agreed by the Seller in writing.
2. The Seller shall not be liable for any losses caused to the Buyer for any delay in delivery of the Goods.
3. The Goods may be delivered by the Seller in advance of the Delivery Date upon giving reasonable notice to the Buyer.
4. The Seller may deliver the Goods by separate instalments in accordance with the agreed delivery schedule, where appropriate:

(a) each delivery shall constitute a separate contract and failure by the Seller to deliver one or more instalments in accordance with the Contract shall not entitle the Buyer to treat the Contract as a whole as repudiated;

(b) failure of the Buyer to pay for any one or more of the said instalments of the Goods on the due dates shall entitle the Seller to suspend further delivery of the Goods pending payment by the Buyer and/or to treat this Contract as repudiated.

6.6 The Buyer shall make all arrangements necessary to take delivery of the goods whenever they are tendered for delivery.

1. If the Seller is prevented by the Buyer from effecting delivery of the Goods, the Seller may exercise either of the following rights:

(a) treat the Buyer's failure as a repudiation of the Contract and terminate the Contract with immediate effect; in that case the Seller may do any of the following, either alone or in combination:

(i) dispose of the Goods as it thinks fit;

(ii) retain any payments made by the Buyer before termination of the contract; and/or

(iii) recover from the Buyer any costs incurred in respect of storage of the Goods or their disposal, together with damages for any other losses caused by the Buyer's breach; or

(b) arrange for storage of the Goods in which case:

(i) the Goods shall be stored at the Buyer's own risk;

(ii) the costs of storage shall be for the Buyer's own account and the Buyer will indemnify the Seller against all costs incurred by the Seller in effecting or arranging such storage;

(iii) the Buyer will pay the Seller a reasonable fee for its services in effecting or arranging for storage for the Goods; and/or

1. the Seller may at any time give the Buyer notice to collect the Goods and, if the Buyer fails to comply with such notice, treat the Buyer's breach as repudiatory or continue to store them in accordance with this clause.

6.8 The Seller reserves the right to withhold delivery of Goods to the Buyer at any time when the Buyer has exceeded, or upon delivery would exceed, any credit limit with the Seller either in relation to the Goods or otherwise.

6.9 A delivery or collection note signed by or on behalf of the Buyer, or the Buyer's customer, agent or duly authorised representative, is deemed to be evidence of the delivery of the Goods specified therein.

6.10 Where the unloading of the Goods is for any reason delayed the Buyer shall indemnify the Seller in respect of any loss or damage which it may sustain in consequence thereof.

6.11 The Buyer shall be deemed to have accepted the Goods 24 hours after delivery to the Buyer, subject to clause 8.

1. The Seller shall not charge any additional sum for carriage in respect of deliveries within 3 working days. The Buyer should refer to the Company's current price lists for quicker delivery.

7.RISK AND PROPERTY

7.1 Risk of damage to, or loss of, the Goods shall pass to the Buyer as from delivery.

7.2 Notwithstanding delivery and/or the passing of risk in the Goods, the Goods shall remain the property of the Seller until the Buyer has paid to the Seller all sums outstanding under the Contract and all other contracts between the parties.

7.3 Until such time as title in the Goods passes to the Buyer:

(a) the Buyer shall hold the Goods, properly protected and insured, in a fiduciary capacity as bailee for the Seller and accordingly shall keep the Goods separate from other goods on the premises of the Buyer and clearly marked as being the property of the Seller;

(b) the Seller shall be entitled at any time to require the Buyer to deliver up the Goods and if the Buyer fails to do so the Seller shall be entitled to enter upon the premise of the Buyer or any third

party where the Goods are stored and repossess them; and
(c) the Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) immediately become due and payable.

7.4 The Buyer has the right to sell the Goods but the proceeds of resale (or such part of the proceeds that is equal to the amount owed by the Buyer to the Seller) shall be held in a separate account to the Sellers' order and on trust for the Seller until all sums referred to in clause 7.2 have been paid in full and the Buyer shall assign to the Seller any rights or claim that the Buyer may have against any sub-purchaser.

7.5 The Buyer's right to possession of the Goods supplied by the Seller shall terminate if the Buyer is declared bankrupt or makes any proposal to his creditors for any composition or voluntary arrangement or, if the Buyer is a company, an administrator, receiver or liquidator is appointed in respect of it, its business or any of its assets.

7.6 The Buyer grants the Seller, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are stored in order to inspect them or, where the Buyer's right to possession has terminated, recover them.

7.7 It shall be the responsibility of the Buyer (and not the responsibility of the Seller) to obtain all consents necessary for the installation and storage of any Goods and to satisfy itself that the installation and storage of such Goods is in accordance with the provisions of any relevant by-laws, regulations or statutes.

8.WARRANTIES AND LIABILITY

8.1 The Seller shall use its reasonable endeavours to deliver the Goods in accordance with any Specification agreed with the Buyer and unless otherwise agreed in Writing between the Seller and the Buyer, the Seller warrants that the quality and finish of the Goods shall be reasonably in compliance with the generally recognised standards in the trade for the class of work and type, quality and finish of the goods concerned.

8.2 No liability will be accepted by the Seller for Goods which the Buyer claims are not of such quality or standard unless a written claim is made within ten days, of receipt of the goods and then provided only that a reasonable number of the Goods complained of are forwarded to the Seller for inspection.

8.3 No returns of Goods are accepted without the prior written agreement of the Seller and in any case not after one month has elapsed since delivery. A handling charge of 30% will be applied by the Seller, with a minimum charge of £50.00.

8.4 If the Buyer fails to give such notice then, subject to any defect which is not one which should be apparent on reasonable inspection, the Goods shall be conclusively presumed to be in all respects in accordance with the Specification, and accordingly the Buyer shall be deemed to have accepted the Goods in question and the Seller shall have no liability to the Buyer with respect to that delivery.

8.5 The Seller shall be under no liability in respect of any defect in the Goods arising from any Specification supplied by the Buyer and further the Seller does not warrant that the Goods

produced in accordance with any Specification supplied by the Buyer will be fit for any particular purpose, or of satisfactory quality, or free of any defect where and to the extent that the unfitness, deficiency in quality or defect is attributable to the Specification supplied by the Buyer and all implied warranties and conditions relating to such Goods are hereby excluded to that extent.

8.6 Save as provided in this clause 8, the Seller shall have no liability for any defect appearing in the Goods at any time which is due or partly due to any of the following:

1. the material of which the Goods are made;
2. the design or method of manufacture of the Goods;
3. any process or treatment of the Goods by any person other than the Seller; or
4. any process or treatment specifically requested in the specification supplied by the Buyer.

8.7 The Seller shall be under no obligation to ensure that the Goods are an exact match or that one batch exactly matches another, whether the colour or finish are defined by reference to a sample or by description. Where a colour or finish is specified in the Contract by reference to a sample or description, the Buyer shall accept as complying with the Contract all parts which are a commercial match with the sample or correspond with the description, as the case may be, and a commercial match with each other in accordance with the standard generally recognised in the trade. The Seller shall be under no liability for any failure to provide a commercial match or for colour variations outside accepted trade tolerances unless such variations are within the same batch. Although every effort is made to ensure that the materials comply with samples the exact constituency of the fabric cannot be guaranteed.

8.8 Save as provided for in this clause 8 the Seller shall have no liability for any loss or damage howsoever caused for any defect in the quality of the Goods or their failure to correspond to any description, sample or Specification, whether caused by the Seller's negligence or otherwise or such that may subsequently develop in the Goods supplied by the Seller.

8.9 The Seller shall not be liable for indirect loss or third party claims occasioned by delay in delivering the Goods or for any loss to the Buyer arising from delay in transit, whether as a result of the Seller's negligence or otherwise.

8.10 Advice of damage, delay or partial loss of Goods in transit, non-delivery or of quantity shortages or excess must be given in writing to the Seller within seven days of delivery and any such claim must be made in writing to the Seller within ten days of delivery. Subject to clause 8.13, the Seller shall not be liable in respect of any claim unless these requirements have been complied with except in any particular case where the Buyer proves that (i) it was not possible to comply with the requirements and (ii) advice (where required) was obtained and the claim made soon as reasonably possible.

8.11 All Goods must be stored by the Buyer in suitable conditions and the Seller will not be liable to the Buyer for any defects brought about by the Buyer storing the Goods in unsuitable conditions.

8.12 Nothing in these Conditions shall exclude the Seller's liability for death or personal injury as a result of its negligence or its liability resulting from its fraud.

8.13 The Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for:

(a) any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by its negligence,

employees or agents or otherwise) which arise out of or in connection with the supply of the Goods and/or the Services or their use or resale by the Buyer, except as expressly provided in these Conditions; and/or

(b) any sum exceeding the value of Goods defectively processed.

8.14 The Seller shall be under no liability whatsoever in respect of any advice it has given or views it has expressed whether or not such advice is given or such views expressed at the Buyer's request.

8.15 Save as otherwise provided in these conditions and specifically (but without prejudice to the generality of the foregoing) clauses 8.5 and 8.6, the Seller guarantees that:

- (a) the Goods supplied are fit for their purpose;
1. the Goods meet the stated technical specification;
 2. the Goods provide for up to five years usage;

PROVIDED ALWAYS THAT

(a) the manufacturer has ensured appropriate manufacturing methods have been used in respect of the Goods;

1. the manufacturer has ensured the fabric has been protected from damage by wood or metal edges in the appropriate manner;

(c) the Goods have only been subjected to general wear and tear;

(d) the Goods have not been subjected to any improper use or neglect; and

(e) regular cleaning has been carried out by the end user.

8.16 The Goods are guaranteed for a period of either 2 or 5 years, as specified on the appropriate pattern card. If the pattern card contains no reference to the period of the guarantee then it is to be inferred that the guarantee will be for a period of 2 years.

8.17 If the Goods fail to perform as guaranteed they will be replaced at the expense of the Seller. This will be the case only upon satisfactory conclusion, following investigation by the technical team. The guarantee is based on wear and tear in the sole opinion of the Seller and not on appearance.

8.18 The Seller reserves the right for any claim arising from this guarantee to first be investigated by their technical team.

8.19 Save as provided in clause 8.12, the Seller's liability under these conditions and the guarantee in clause 8.15 is limited to the Price of the Goods in question and shall in no circumstances exceed the Price provided always that if any breach of the said guarantee can be rectified then the Seller shall only be obliged to rectify such defect. Should the Seller be unable to rectify the breach then the remedy of the Buyer is limited to damages..

9.FORCE MAJEURE

9.1 The Seller shall not be liable for any failure to carry out, or delay in carrying out, the Contract for any reason beyond its reasonable control, including (without limitation), act of God, legislation, war, fire, flood, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation or furtherance of a dispute or due to any inability to procure materials required for the performance of the Contract or machine breakdown, and, in the event of any such failure or delay, at its absolute discretion may elect:

(a) to terminate the Contract; or
(b) to proceed to perform or continue performance under the Contract within a reasonable time after the termination of such events or circumstances and with such reasonable variation as shall be appropriate in the circumstances.

10. GENERAL

10.1 The Contract is personal to the Buyer who may not assign, transfer, declare a trust in respect of or otherwise dispose of any of its rights under the Contract without the prior consent in Writing signed by a duly authorised representative of the Seller.

10.2 With the exception of clause 10.6, nothing in these Conditions is expressly or impliedly intended to confer on any third party any right to enforce any of its provisions pursuant to the Contracts (Rights of Third Parties) Act 1999.

10.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing and addressed to the Seller at its registered office and to the Buyer at the address given on its order or to such other address as may at the relevant time have been notified to the party giving notice pursuant to this provision.

10.4 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

10.5 Any provisions of these Conditions which is held invalid or unenforceable shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions of these Conditions.

10.6 The Seller may at its discretion perform its obligations and exercise its rights under the Contract through any other person and any such sub-contractors, agents and servants shall have the benefit of these Conditions.

10.7 Any dispute arising under or in connection with these Conditions or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on application of either party by the President for the time being of the Law Society of England and Wales, in accordance with the rules of the London Court of International Arbitration.

10.8 The Contract is to be governed by and construed in all respects in accordance with the laws of England and Wales and the Buyer agrees for the benefit of the Seller to submit to the exclusive jurisdiction of the English Courts.