



## Terms and conditions of trade

### 1. Definitions

In these conditions,

**Additional Charges** means the Company's then current time and material charges;

**Collection Bags** means the bags supplied from time to time by the Company for the Unprocessed Goods to be sent in;

**Company** means Blacker Sheep Limited t/a The Natural Fibre Company, whose registered office is at Unit B, Pipers Court, Pennygillam Industrial Estate, Launceston, Cornwall, PL15 7PJ

**Customer** means you;

**Goods** means the goods to be provided by the Customer for the purpose of enabling the Company to undertake the Services;

**Order** means the order placed by the Customer setting out the specific Services it wishes the Company to provide in respect of the Goods;

**Processed Goods** means (subject to clause 4.1.1) the Goods which have been the subject of the Services and "Processed" shall be construed accordingly;

**Services** means the provision of certain processing services in respect of the Goods all as detailed in the Order Form;

**Third Party** means any third party to whom the Company sub-contracts part or all of the Services;

**Unprocessed Goods** means the Goods sent by the Customer to the Company prior to being subject to the Services and "Unprocessed" shall be construed accordingly.

### 2. Formation of the contract

2.1 These conditions shall form the basis of the contract between the Company and the Customer. These conditions shall apply to the exclusion of all other terms and conditions (including to the fullest extent permitted) except so far as expressly agreed in writing by a person authorised to sign on behalf of the Company.

2.2 No servant or agent of the Company has power to vary these conditions orally, or to make oral representations or promises about the condition of the Processed Goods, their fitness for any purpose or any other matter whatever.

2.3 Unless otherwise expressly stated in writing, all quotations and estimates by the Company are invitations to treat. The Customer's Order is an offer, which offer will be accepted by the Company confirming its acknowledgement (in writing) of the Order.

2.4 These general conditions shall be subject to such further special conditions as may be prescribed in writing by the Company from time to time.

2.5 In the event of any conflict, or apparent conflict, between the special conditions and these general conditions, the special conditions shall prevail.

2.6 These conditions supersede all previous terms and conditions of sale issued by the Company.

2.7 References in the conditions to "in writing" shall include electronic communication.

### 3. Placing of an order and cancellation

3.1 Upon receipt of an Order (whether verbal or in writing), the Company will either acknowledge or decline such Order. If the Company forwards the Collection Bags to the Customer then the Company shall be deemed to have accepted such Order.

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- 3.2 Upon receipt of the Collection Bags, the Customer will arrange for the Unprocessed Goods to be placed in the Collection Bags in accordance with the instructions specified from time to time by the Company. The Customer will notify the Company in writing that the Unprocessed Goods are ready for collection ("**Collection Notice**"). By agreement with the Company, the Customer may arrange delivery of the Unprocessed Goods to the Company at the Customer's cost by other means than the Company's collection arrangements as described in this clause 3.2.
- 3.3 As soon as reasonably possible after receipt of the Collection Notice, the Company will arrange for the Unprocessed Goods to be collected from the Customer. The Customer acknowledges and accepts that it is responsible for ensuring that:
- 3.3.1 They are available at the time and place agreed for collection of the Unprocessed Goods;
  - 3.3.2 The Unprocessed Goods have been packed and labelled in the Collection Bags in accordance with the instructions issued from time to time by the Company;
  - 3.3.3 That the Unprocessed Goods will (unless the Company agrees otherwise) only be collected from the premises specified to the Company by the Customer when arranging collection.

The Company shall be entitled to levy Additional Charges for any additional costs incurred (including loss of time) as a consequence of the failure by the Customer to adhere to the above and shall further be entitled to amend any agreed delivery date for the Processed Goods which arises as a consequence of such failure.

- 3.4 The Customer cannot cancel or vary in whole or any part any Order accepted by the Company, except where expressly agreed in writing by a person authorised to sign on behalf of the Company.
- 3.5 The consent of the Company to cancellation or variation of the Order shall not in any way prejudice the Company's right to recover from the Customer full compensation for any loss or expense arising from such cancellation or variation on an indemnity basis.

## 4. Assurances and Acknowledgements

- 4.1 The Customer acknowledges and accepts that:
- 4.1.1 If the weight of the Unprocessed Goods (excluding the Collection Bag) is (in the reasonable opinion of the Company) less than 20kg then the Company does not give any assurance at all that the Processed Goods returned will be same fibre as formed part of the Unprocessed Goods;
  - 4.1.2 If the weight of the Unprocessed Goods (excluding the Collection Bag) is (in the reasonable opinion of the Company) 20kg or above then the Company shall (subject to clause 4.1.6 or unless stated to the contrary in any accepted Order) use its reasonable endeavours to ensure that the Processed Goods returned will consist of the same fibre as formed part of the Unprocessed Goods. Notwithstanding the previous sentence the Customer acknowledges and accepts that the Company gives no warranty or assurance that the Processed Goods will be of the same or any other weight;
  - 4.1.3 In the event that the Services include blending with other fibres, weaving and/or dyeing there is a possibility that the Processed Goods will be damaged (including without limit shrinkage and/or physical damage). Whilst the Company will use its reasonable efforts to limit such damage (and will procure that any Third Party used in providing the Services also agrees to use its reasonable endeavours to limit such damage), the Customer acknowledges and accepts that the provision of blending, weaving and/or dyeing is at the Customer's risk;
  - 4.1.4 It will (if requested by the Company) liaise with a Third Party to discuss the provision of the Services;
  - 4.1.5 The Company shall be entitled to sub-contract any or all of its obligation to a Third Party/ies;
  - 4.1.6 The Company may need (if (acting reasonably at all times) it deems necessary) to add additional fibre to the Unprocessed Goods to assist or enable the spinning and processing of the same. Notwithstanding the previous sentence, the Company will use its reasonable endeavours to consult with the Customer before adding such additional fibre. In the case of Goods that are below 15kg of dry weight after scouring, the Customer may send down more fibre, pay for the part processing of the Partly Processed Goods and have them returned (at their cost), or give permission for processing to continue in the knowledge that a lower yield will be achieved and that they will be

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invoiced for a minimum of 12kg of Finished Goods if woollen spun, or a minimum of 10kg of Finished Goods if worsted spun. In the case of Goods which are certified of organic production, the Company will consult the Customer in all cases of low weight or quality issues to ensure organic certification may be maintained.

### 5. Price and Payment

- 5.1 Published prices are based on costs prevailing at the time when they are given or agreed and are exclusive of VAT. The Company shall be entitled to adjust the price of the Services at any time prior to invoicing as may be necessary to cover any direct or indirect cost increase(s) sustained by the Company after the date of the Order in relation to the supply and/or delivery of the Goods and/or Services.
- 5.2 Prices do not include any charges levied by the Company for any courier and collection service used to collect or return the Goods and/or the Company's administration of the same, which shall be Additional Charges.
- 5.3 Unless the sale is for cash or other credit terms which have been expressly agreed, all accounts are due for payment 30 days following the end of the month during which the Goods are notified as complete and ready for delivery and the Company will not be obliged to despatch Goods processed by the Company for the Customer until receipt of payment.
- 5.4 The Company reserves the right to charge interest at 5% per annum above the base rate from time to time in force of Halifax Bank of Scotland plc on all overdue accounts.
- 5.5 The Customer shall not be entitled to withhold payment of any amount payable under any Order by reason of any dispute or claim by the Customer.
- 5.6 The Customer shall not be entitled to set off against any amount payable under any Order any amount due by the Company to the Customer under any other agreement.
- 5.7 In the case of short delivery, partial delivery or delivery of damaged Goods (whether Processed or Unprocessed), the Customer shall remain liable to pay the full invoice price of all Goods delivered or available for delivery.
- 5.8 The Company reserves the right at any time at its discretion to demand advance payments or security for payments before continuing with the provision of Services or delivery of any of the Processed Goods notwithstanding any subsisting agreement to provide credit to the Customer.
- 5.9 The Customer shall reimburse to the Company the entire cost of representing any cheque or other instrument delivered to it in payment of sum(s) due by the Customer.
- 5.10 Without prejudice to any other rights of the Company, if the Customer shall fail to make punctual payments of any sum under any contract between the Company and the Customer, the Company may, at its option, either withhold delivery of the Goods until the total indebtedness of the Customer to the Company has been discharged or retain Goods in lieu of payment.
- 5.11 All legal costs and expenses reasonably incurred by the Company in seeking to collect overdue invoices from the Customer or otherwise to enforce its rights under this contract will be recoverable from the Customer on an indemnity basis.

### 6. Delivery

- 6.1 Delivery will be deemed to have been effected when the Processed Goods leave the premises of the Company or, as the case may be, the premises of the suppliers to the Company in circumstances where the Processed Goods are delivered direct from such suppliers or where the Processed Goods are not delivered by the Company but by an independent carrier, delivery of the Processed Good by the Company to the carrier shall be delivery to the Customer. The date upon which the Processed Goods are made available for delivery shall be deemed to be the delivery date for the purposes of this clause 6.1.
- 6.2 Delivery dates are given in good faith but are not guaranteed and no liability will be accepted for any loss whatsoever suffered or caused through late delivery or non-delivery and time of delivery shall not be of the essence.
- 6.3 The Company reserves the right to make delivery by instalments and tender a separated invoice in respect of each instalment.

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- 6.4 Unless otherwise stated, all quotations and estimates assume delivery in single consignments. The Company reserves the right to levy Additional Charges for delivery by instalments, where requested by the Customer.
- 6.5 The Customer shall provide, at its own expense, the labour necessary for loading the Unprocessed Goods and unloading the Processed Goods, such labour to be available during normal working hours of the day notified by the Company or its carrier for delivery. The Customer shall unload the goods with reasonable speed. If the Company's or the Company's carrier's delivery vehicle is kept waiting for an unreasonable time or is obliged to return to the Company or the Company's carrier without completing delivery through lack of assistance or if additional staff have to accompany the Company's or the Company's carrier's driver to unload the Goods, an appropriate Additional Charge will be made.
- 6.6 If the Customer fails to take delivery on the agreed delivery date or, if no specific delivery date has been agreed, when the Processed Goods are ready for dispatch, the Company shall be entitled (but not obliged) to store and insure the Processed Goods and to charge the Customer the reasonable costs of so doing.
- 6.7 The Customer shall procure the signature of the Company's or the Company's carrier's delivery note as acknowledgement of delivery.
- 6.8 The Company or its carrier will collect Unprocessed Goods from and will deliver the Processed Goods to as near as possible to the delivery address as a safe hard road permits. The Company or its carrier reserves the right to refuse to collect Unprocessed Goods from or deliver Processed Goods to premises considered at the discretion of the Company or its carrier to be unsuitable.
- 6.9 Subject at all times to the provisions of clause 4, if the Customer wishes to claim that any of the Processed Goods are delivered damaged, the Customer shall give notice to the Company within two days after the date of delivery, failing which the Processed Goods shall be deemed to have been delivered undamaged and in accordance with the delivery documents.
- 6.10 If short delivery or damaged Processed Goods are complained of, the Company shall be under no liability in respect thereof unless a reasonable opportunity to inspect the Processed Goods is provided to the Company before any use thereof is made by the Customer. The liability of the Company for short delivery or damaged Processed Goods shall be strictly limited to the provision of any Processed Goods not delivered or the replacement or, at the Company's option, repair of any damaged Processed Goods.

### 7. Title and risk

- 7.1 Risk in the Goods remains with the Customer where the Company is providing Services and all processes are undertaken at the Customer's risk although the Company will use its reasonable skills and endeavours to process the Goods to the required standard and quality, given the quality of the raw materials to be Processed.
- 7.2 Where Goods are to be Processed, the Company will make an initial inspection and sort the Unprocessed Goods, rejecting any materials which the Company believes are likely to reduce the final Processed quality or are unsuitable for the purpose specified by the Customer. Notwithstanding the previous sentence, in no event is the Company giving any warranty or assurance that the Unprocessed Goods are fit for any particular purpose. Such rejected material will be disposed of by the Company at the Customer's expense unless a special agreement is made that it should be returned to the Customer.

Where the Company deems the Goods to be Processed unlikely to reach a quality acceptable to the Customer, it will notify the Customer and, by agreement with the Customer, alter the Order to provide an alternative service or return the Unprocessed Goods or dispose of them on the Customer's behalf and at the Customer's cost.

- 7.3 The Company shall be entitled to exercise a lien over Unprocessed Goods or Processed Goods, whether or not any service has been provided by the Company, until the Customer has paid all liquidated sums due from the Customer to the Company, whether in respect of a particular Order or otherwise.
- 7.4 The ownership of Goods Processed by the Company for the Customer shall remain with the Customer unless the Customer does not pay for them within sixty days of the date of the invoice, whereupon such Goods will become the property of the Company in recompense for the processing work done upon such Goods. Notwithstanding the previous sentence, nothing in this clause shall limit or prevent the Company from claiming from the Customer for any shortfall.
- 7.5 The Customer shall indemnify the Company against any costs, expenses or losses incurred or sustained by the Company in the exercise of the Company's rights pursuant to any Order.

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- 7.6 If any Customer shall become bankrupt or insolvent, or have a receiving order or administration order made against him or compound with his creditors or, being a corporation, commence to be wound up, not being a members voluntary winding up for the purpose of reconstruction or amalgamation, or carry on its business under a receiver for the benefit of its creditors or any of them, or the Company has bona fide doubts as to the solvency of the Customer all sums payable to the Company by the Customer in respect of the Goods or otherwise shall become due and payable forthwith without requirement for any notice to be given and the Company shall be released from its obligation to deliver such of the Goods as remain undelivered save on terms acceptable to the Company.

### **8. Raw materials supplied by the Customer for processing**

- 8.1 The Company can only operate on a financially viable basis if it is sure that no sheep dip, pesticide or other potentially harmful chemical residues are contaminating the Unprocessed Goods sent by the Customer for Processing. The Company is required by applicable authorities including without limit South West Water and The Environment Agency to confirm that these chemicals will remain absent from the Company's effluent and they will undertake testing of that effluent to ensure compliance.
- 8.2 It is a condition of these terms that the Customer undertakes through placing an Order (and by signing the Order form as required by the Company) that the Goods contain no allopathic veterinary medicinal products of any sort, including but not limited to sheep dip, organophosphates or synthetic pyrethroids. It is the Customer's responsibility to check this and to remove any Goods coming from animals which have been individually treated as well as to ensure that no group treated Goods are included. Since the Company processes each Order as a single batch it may be possible to identify the sources of any residues or contaminants and the Company reserves the right to reject and return Goods to the Customer at the Customer's cost should the Company suspect it contains any and not to accept further Orders until such time as the Customer can demonstrate that the Goods are without contamination to the Company's satisfaction. The Customer will fully and effectively indemnify the Company against any loss, damage, cost or expense arising from its failure or breach of this clause.
- 8.3 The Company reserves the right to test Unprocessed Goods on a random basis as it sees fit.
- 8.4 Should any Goods be found to be the source of moths or other vermin or contaminants which require the Company to undertake cleansing, disinfecting or other treatments within its premises the full costs of such treatment or if necessary destruction will be charged to the Customer who has been identified as the source of such Goods.

### **9. Defective goods**

- 9.1 In the event that a defect in the Processed Goods is discovered by the Customer and reported to the Company in writing during the period of one month from the date of delivery of the Processed Goods, which defect was caused solely by the faulty provision of the Services, the Company will, at its option, either repair the Processed Goods at its own expense, replace the Processed Goods or refund the price paid by the Customer to the Company in respect of the specific faulty provision of Processed Goods, subject in all cases to the return of the Processed Goods (or such of them as it is claimed are defective) to the Company by the Customer, at the Customer's expense.
- 9.2 Save as set out in the foregoing sub-clause, all warranties or other terms implied by statute or otherwise shall not apply to any Order, to the fullest extent permitted by law.
- 9.3 The Company shall not be liable for any consequential or indirect loss suffered by the Customer or any third party in relation to any Order and the Customer shall indemnify the Company in respect of any claim of any person in respect of such consequential or indirect loss.
- 9.4 The Customer shall indemnify the Company against any liability that the Company may incur as a result of a claim against the Company under the Consumer Protection Act 1987 in respect of an alleged defect in the Processed Goods.
- 9.5 Wool, mohair and alpaca are natural products and irregularities are perfectly normal. The Company shall not be liable for any losses arising from such irregularities.

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9.6 The entire liability of the Company under these conditions shall not exceed the contract price of the Processed Goods which give rise to a claim or £1 per kilogram of wool or £4 per kilogram of mohair or alpaca (as the case may be), whichever is the lower.

### 10. Specifications

10.1 No guarantee can be given that the Processed Goods delivered will match samples submitted in all material respects, as natural fibres vary from time to time.

10.2 If the Processed Goods are manufactured to the design or specification of the Customer or the Customer's agent, the Processed Goods carry no undertaking or warranty of any kind save that they will comply with the design or specification in all material aspects as far as the raw materials permit.

10.3 In the event that the Company provides designs and/or estimates of quantities or measurements on the basis of specifications submitted by the Customer, the Company shall exercise reasonable care in so doing but the Company accepts no liability for inaccuracies in the estimates or variations due to the nature of the raw materials used.

### 11. Force majeure

The Company shall not be liable for any failure to deliver or delay in delivery of the Processed Goods arising from circumstances outside its control, including but not limited to lock-outs, fire, accidents, defective materials, delays in receipt of raw materials or bought-in goods or components.

### 12. Notices

All notices served hereunder shall be served by first class pre-paid post or facsimile or e-mail message at the registered office or principal trading or e-mail address of the intended recipient. Notices shall be deemed served when they would ordinarily have been received in formal business hours according to the means of transmission of such notices.

### 13. English Law

The construction, validity and performance of these conditions shall be governed by English law.

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