



Terms of trade

1. Interpretation

1.1 In these Conditions the following words have the following meanings: ‘Company’ means Blacker Sheep Limited, Unit B Pipers Court Pennygillam Industrial Estate, Launceston, Cornwall, PL15 7PJ and its trading names (The Natural Fibre Company, Blacker Yarns and Blacker Designs) (England and Wales Company Registration Number 5426960);

‘Conditions’ means the standard terms and conditions of sale set out in this document;

‘Contract’ means the contract for the sale of the goods to be supplied by the Company pursuant to these Conditions, the Company’s standard contract of sale (a Trade Order Confirmation setting out the description and quantity of the Goods to be supplied by the Company) and any special terms and conditions agreed in writing between the Customer and the Company;

‘Customer’ means any person (which shall include an individual firm, body, corporate or unincorporated association) with whom the Company contracts for the supply of goods or services;

‘Goods’ means the goods (or any instalment of the goods) specified in the Company’s standard contract of sale to which these Conditions are annexed.

1.2 References to a clause or clauses are references to a clause or clauses in these Conditions

2. Constitution of the Contract and Specification of Goods

2.1 The Contract shall be deemed to come into existence when the Customer’s order is accepted by the earlier of the Company’s written acceptance or the delivery of the Goods and shall be on the basis that these conditions are agreed by the Customer. In all questions concerning the Contract (except Clause 6.1), time is of the essence.

2.2 The Customer acknowledges that it has read these Conditions and that it is fair and reasonable to form part of the Contract.

2.3 These conditions shall apply in place of and prevail over any terms and conditions of purchase contained or referred to in the Customer's order or in correspondence or any other terms or conditions elsewhere or implied by trade custom, practice or course of dealing unless specifically agreed to in writing by the Company and any purported provisions to the contrary are hereby excluded or extinguished. Without prejudice to the foregoing generality any general conditions of order submitted by or on behalf of the Customer shall if inconsistent with these Conditions be deemed to have been rejected by the Company.

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Telephone: 01566 777635 Email: enquiries@blackeryarns.co.uk Website: www.blackeryarns.co.uk
Registered Company Number 5426960 VAT Number 867 1186 01



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2.4 No variations of these Conditions, shall be binding unless agreed in writing by authorised representatives of the Company and the Customer.

2.5 The description and illustrations contained in the Company's catalogues, price list and other advertising materials (including without limit specifications, technical data and performance criteria) are intended to present a general idea of the Goods described on them, are given in good faith but are for guidance only and shall not be regarded as a representation as to the method of use or function of the Goods.

2.6 The Company shall not be liable for any variations on the specification of the Goods, which do not materially affect the use and operation of the Goods or for the substitution of any materials or component parts of the Goods by other materials or parts of a quality equivalent or superior to that originally specified.

2.7 It shall be the Customer's responsibility to ensure that the Goods are suitable for their intended purpose. Any knowledge that the Company has of the Customer's intended purpose shall not, unless otherwise agreed, imply any warranty that the Goods are suitable for that purpose.

2.8 The Company shall be entitled to carry out any part(s) of the manufacture of the Goods through any agents or sub-contractors appointed by it in its absolute discretion for that purpose.

2.9 The Customer shall be responsible to the Company for ensuring the accuracy of the terms of an order for Goods (including any applicable specification) submitted by the Customer and for giving the Company any necessary relevant information relating to the Goods to enable the Company to perform the Contract.

3. Price of Goods

3.1 All prices shall be calculated and paid in sterling or otherwise as the Company and the Customer shall agree.

3.2 Prices quoted are excluding Carriage and VAT or other taxes but include normal packaging and insurance.

3.3 All other rates, prices and discounts published in catalogues, list and other documents are subject to variation at any time and any relevant changes shall be notified to the Customer at the date of acceptance of the order. If no rate or price is quoted or published, the price shall be that current at the date of acceptance of the order.

3.4 The Company reserves the right, by giving notice to the Customer at any time before delivery of the goods, to increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond its reasonable control (such as without limitation any foreign exchange fluctuation, alteration of duties, significant increase in the costs of labour, raw materials, fuel or other costs of

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manufacture and/or carriage), and change in delivery dates or quantity or specification for the Goods requested by the Customer.

4. Terms of Payment

4.1 Goods will be invoiced prior to delivery unless specifically agreed otherwise in writing; payment of accounts must be received by the 20th day of the calendar month following the invoice date.

4.2 Where any account or part thereof is overdue for payment, the Customer shall cease to be entitled to the benefit of any discount specified in that account or any other account, and the Company shall be entitled to charge interest on the amount due from time to time from the last date of timely payment in terms of clause 4.4 to the actual date of payment, at the rate of five per centum per annum over the Bank of Scotland base rate in force from time to time. When an account is overdue by more than 30 days, the Company shall be entitled in addition to charge monthly storage charges, of £5 per kilogram of Goods held, or such other amount as may be specified in the Company's invoices from time to time, to the Customer so long as the Goods are not paid for or despatched.

4.3 If the Customer fails to make timely payment or if the Customer ceases to trade or threatened to cease to trade or if the Customer makes any voluntary agreement with its creditors or becomes subject to an administration order or goes into liquidation, or a receiver is appointed to any of the assets of the Customer, or if matters are brought to the attention of the Company which result in the Company forming the reasonable opinion that the Customer is unable to pay its debts in the ordinary course of its business, then in any such event the Company may either suspend all further delivery of the Goods whether under this Contract or otherwise until payment is made in full or, at its option, treat the Contract as repudiated.

4.4 Any amounts due by the Customer to the Company under the Contract shall be payable in full without any compensation set-off or counter-claim.

4.5 The Company will be entitled to reimbursement of all legal and other direct costs properly incurred in and associated with the collection of overdue payments.

14.6 The Company may appropriate any payment made by the Customer to any sum due under the Contract or under any other such Contract as the Company thinks fit and may for this purpose disregard any appropriation by the Customer.

4.7 Price is based on Goods being invoiced to the agreed delivery schedule.

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5. Title to Goods

5.1 Notwithstanding delivery, property and title in Goods supplied under the Contract shall not pass to the Customer until all sums due to the Company under the Contract shall have been paid by the Customer.

5.2 Until property in the Goods passes, the Customer shall keep the Goods free from any lien, charge or encumbrances and the Company may at any time require the Goods to be returned to it by the Customer and if any such requirement is not met the Company may repossess the Goods and enter any premises of the Customer for that purpose.

5.3 Until property in the Goods passes, the Customer shall so far as possible store the Goods in such a way that they are identifiable as the property of the Customer and from all other Goods in the possession of the Customer.

5.4 Notwithstanding the foregoing, the risk of damage to or loss destruction to the Goods shall pass to the Customer at the time the Goods are delivered in accordance with the Contract. Accordingly, the Company shall not be liable for the safety of the Goods and the Customer should therefore insure the Goods.

5.5 This clause 5 shall survive termination of the Contract for whatever reason.

6. Delivery of Goods

6.1 Unless otherwise specified, delivery dates or periods given by the Company are estimates only and shall not be construed as fixed.

6.2 Delivery of the Goods shall take place:

6.3 1 Where the Company undertakes delivery of the Goods, when the Goods shall be loaded off the Company's carriage ship, lorry or other transport at the station, port or address specified by the Customer

Or

6.3.2 When the Customer undertakes delivery of the Goods when the Goods are loaded on to the Customer's carriage, lorry or other transport at the Company's address.

6.4 The Company shall be under no obligation to give to the Customer the notice mentioned in Section 32(3) of the Sale of Goods Act 1979

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6.5 Any receipt obtained by the Company from the Customer accepting or taking delivery of the Goods shall be conclusive evidence of delivery by the Company to the Customer of the Goods or such part thereof as is indicated by the receipt.

6.6 The Company may deliver the Goods in instalments, and no failure by the Company in respect of any one or more instalments shall vitiate the Contract.

6.7 If the Customer fails to take delivery of the Goods or any part thereof on the due date or to give adequate forwarding instructions to enable the Goods to be delivered on the due date, the Company may issue a written notice to the Customer stating that risk in the Goods shall be deemed to pass to the Customer on the date delivery was due and that thereafter the Company shall insure and store the Goods at the Customer's expense and the Customer shall indemnify the Company in respect of all losses and expenses incurred by it arising out of such failure.

6.8 Unless otherwise agreed in writing between the Company and the Customer, the Company may deliver against any order a lesser number of Goods than the quantity of Goods ordered without any liability whatsoever to the Customer save that the Contract value shall be adjusted accordingly.

6.9 The Customer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.

7. Warranties and Liability

7.1 The Customer shall be deemed to have examined the Goods within three days of delivery thereof (time being of the essence) and to have satisfied itself that they conform to the Contract. A claim that Goods are not in accordance with the Contract will not be accepted by the Company unless a separate written notice is given to the carrier concerned (if appropriate) and to the Company within three days of receipt of the Goods, followed by a fully and properly vouched claim within fourteen days of the receipt of the Goods. Any delivery book or note marked 'Not Examined' will not be accepted by the Company for the purposes of this clause 7.1.

7.2 Failure to notify the Company of the non-delivery of the Goods or any of them within seven days of the receipt by the Customer of the invoice in respect thereof will release the Company from liability for claims for non-delivery.

7.3 Any Goods considered to be damaged or defective and their packaging materials shall be retained by the Customer, intact as delivered, for a period of twenty-one days from notification of the claim, within which time the Company or its agents shall have the right to attend at the Customer's premises to investigate the complaint. Any breach of this condition shall disentitle the Customer to any claim in this respect.

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7.4 The Company shall have no liability to the Customer in respect of damaged or defective Goods where:

7.5.1 Damage has been sustained in transit after delivery of the Goods to the Customer or its agent

Or

7.5.2. Defects are caused by the use of or dealing with the Goods other than in accordance with any instruction supplied with the Goods, or by wear and tear, accident or misuse improper application or neglect of if any adjustments, alterations or other work has been done to the Goods by any person other than the Company.

7.6 Goods reported by the Customer to be defective or not conforming to the Contract shall if authorised by the Company be returned and shall at the sole option of the Company, either be replaced or be credited.

7.7 Save in relation to death or personal injury the Company's liability (if any) to the Customer whether in contract, delict, quasi-delict or otherwise in respect of any defect in the Goods or for any breach of the Contract or for any negligence or omission of the Company or its servants or agents or for any breach by the Company of any duty owed to the Customer in connection with the Contract or with the Goods shall be limited to the invoice value of the Goods supplied and the Company shall not in any event be liable for any loss of profit or any indirect, special or consequential loss or damage or expenditure howsoever caused, nor for any adverse effects, resulting from the application to the Goods of any process, operation or treatment.

7.8 Subject as expressly provided in these Conditions and except for where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties conditions or terms implied by statute or common law are excluded to the fullest extent permitted by law.

7.9 The Customer shall not be liable to the Customer or deemed to be in breach of the Contract by reason of any delay or other failure to perform the whole or part of the Contract as a result of factors outside the Company's control, and without prejudice to the forgoing generality, factors outside the Company's control shall include Act of God, explosion, flood, tempest fire or accident, war or threat of war, sabotage insurrection, civil disturbance or requisition acts, restrictions regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental or local authority, import or export regulations or embargoes, strikes, lock-outs or other industrial action or trade disputes, difficulties in obtaining raw materials, labour, fuel, parts or machinery or power failure or breakdown in machinery.

8. Indemnity

The Customer will indemnify the Company against all claims, costs and expenses resulting from any infringement of any intellectual property rights or from any claim in respect of any breach of confidence passing off or unfair competition or the equivalent in any part of the world where such infringement or claim

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is due to the Company having manufactured the Goods in accordance with specifications supplied by the Customer.

9. Arbitration

Any dispute or disagreement under or in connection with the interpretation or application of these Conditions or in respect of the supply of the Goods shall be referred for determination by an independent arbiter appointed by agreement or in default of agreement nominated on the application of either the Company or the Customer by the president for the time being of the Law Society of England and Wales. Such arbiter in the determination of such dispute or disagreement shall act as an expert and not as an arbiter whose decision (in the absence of manifest error) shall be binding on the Company and the Customer.

10. General

10.1 Any written notice to be given under the contract shall be given by way of first class prepaid letter post or facsimile transmission or by telex or by e-mail or by personal delivery by the party giving it to the other party at its last business address notified to the other and shall be deemed to be delivered either forty-eight hours after posting (in case of a letter) or immediately upon receipt (in the case of facsimile transmission, telex, or e-mail).

10.2 The Customer shall not be entitled to cancel or repudiate the Contract.

10.3 The Customer shall not be entitled to assign or transfer in whole or in part the benefit or burden of the Contract without the Company's prior written consent.

10.4 The rights and remedies of the Company set out in these Conditions shall be in addition to and without prejudice to any other rights and remedies which may be available to the Company at common law or under statute.

10.5 Save as herein completely varied, nothing in the Contract affects the rights of the Customer at common law or under statute.

10.6 If any provision of these Conditions is held by any competent authority to be invalid or enforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

10.7 The Contract shall in all respects be governed by and construed in accordance with the law of England and Wales and Customer submits irrevocably to the non-exclusive jurisdiction of the English courts.

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