

Terms & Conditions 2010 Revision

TERMS & CONDITIONS OF CARRINGTON TEXTILES LIMITED ("Carrington")

1. GENERAL CLAUSES

The clauses (including the definitions and the rules of interpretation) set out in the document entitled "General Clauses of the Terms & Conditions of Carrington Textiles Limited" shall apply to and are incorporated in these Conditions.

2. APPLICABILITY OF CONDITIONS

2.1 The Conditions apply to all Contracts to the exclusion of any other terms and conditions including those stipulated or referred to by the Buyer or which the Buyer may attempt to apply (including in the Order or in any negotiations preceding the formation of the Contract) even if any such terms and conditions contain a clause which is inconsistent with or which purports to exclude the Conditions or which purports to provide that the delivery of any Goods

by Carrington shall constitute acceptance of such terms and conditions (which clause shall, in addition to the rest of such terms and conditions, be of no effect and the Conditions shall prevail).

2.2 Any Quotation shall be deemed to be an offer by Carrington to sell Goods pursuant to the Conditions

2.3 Any variation of the Conditions shall be ineffective unless agreed in writing by Carrington and signed by an authorised representative of Carrington on its behalf.

2.4 Any representations, statements or warranties made or given by Carrington or its servants and agents (whether orally or in writing) shall not be deemed to form part of the Contract or to have induced the Buyer to enter into the Contract unless it is contained in any Quotation (or in any document to which reference is made in it).

2.5 The Buyer shall be exclusively responsible for satisfying itself that any Goods are fit for the purpose intended for them by the Buyer.

2.6 In no circumstances shall Carrington have any liability whatsoever for any advice provided to the Buyer unless it is in writing on Carrington's headed paper and signed by an authorised representative of Carrington on its behalf following receipt of a suitable written specification from the Buyer.

2.7 In no circumstances shall Carrington have any liability for checking or approving any specification for any Goods provided by the Buyer.

2.8 Nothing in the Conditions shall prevent Carrington's being entitled to supply Goods to a third party whose business is similar to or in any way competitive with the business of the Buyer.

2.9 All terms, conditions, warranties and representations (whether implied or made expressly) by Carrington or by its servants or agents or otherwise (other than those express warranties set out in these Conditions, in the Quotation or in any document to which reference is made in the Quotation) relating to the quality or fitness for purpose of any Goods are excluded to the fullest extent permitted by law

2.10 The Conditions express the entire agreement between the Parties and supersede any negotiations or prior agreements on their subject matter.

2.11 Nothing in the Conditions shall restrict or exclude liability for any matter for which it would be illegal for Carrington to seek to restrict or exclude liability.

3. ORDERS

Notwithstanding that Carrington may have provided the Buyer with a Quotation, no Order shall be binding on Carrington unless and until it has been confirmed in writing by Carrington.

4. TOLERANCES

4.1 Carrington shall be entitled to make reasonable variations in dimensions, construction and properties and in any event, in the case of continuous filament threads, shall be entitled to make variations covered by the tolerances or exemptions from time to time laid down by the Bureau International pour la Standardisation des Fibres Artificielles ("BISFA")

4.2 Carrington shall not be in breach of the relevant Contract if the aggregate length delivered

(a) in the case of Contracts for 1,000 metres or less is within 10% of

(b) in the case of Contracts for over 1,000 metres up to 2,000 metres is within 5% of

and

(c) in the case of Contracts for over 2,000 metres is

within 3% of the aggregate length stated on or calculated from the relevant Contract provided that the Price for such Goods shall be adjusted pro rata to the discrepancy.

5. PRICE

5.1 The Price for any Goods shall be that set out in the relative Quotation.

5.2 Carrington shall be entitled by giving notice to the Buyer at any time before delivery to increase the Price of any Goods in order to reflect any increase in the cost to Carrington which is due to factors occurring after the making of the Contract which are beyond the reasonable control of Carrington (including any increase in the costs of wages, overheads, materials or other manufacturing costs; foreign exchange fluctuations; alteration in taxation; alteration of duties; any change of delivery

dates, quantities or specifications of the Goods which is requested by the Buyer; any instructions of the Buyer or any failure of the Buyer to give or delay by the Buyer in giving Carrington adequate information or instructions; any failure by the Buyer to take or delay by the Buyer in taking delivery of Goods or any act or default on the part of the Buyer or its servants, agents or employees).

6. TERMS OF PAYMENT

6.1 Payment of the Price by the Buyer to Carrington shall be due within such period as is specified hereafter.

6.2 Any discount specified shall be forfeited if payment is not made by the Buyer to Carrington of the full discounted Price by the due date.

6.3 Interest on overdue invoices shall accrue from day to day from the date on which payment becomes due until the date of payment at the rate of 10% (ten per cent) per annum and such interest may accrue after as well as before any judgment.

6.4 In the event of non-payment by the Buyer of an invoice from Carrington by the due date Carrington shall have the right at its own discretion to suspend deliveries of any Goods under any Contract or to cancel any Contract and claim damages from the Buyer for any losses resulting from such cancellation.

6.5 The Buyer shall not be entitled to withhold payment or part payment of any invoice from, or of any other sums due to, Carrington by reason of any right of set-off or counterclaim which the Buyer may have or allege to have or for any reason whatever but Carrington shall at any time be entitled to deduct from or set off against any monies payable by it to the Buyer such sums as the Buyer owes to Carrington.

7. DELIVERY

7.1 The Delivery Date shall be treated as an estimate only unless Carrington has expressly undertaken in writing signed by an authorised representative of Carrington on its behalf to guarantee that Delivery Date.

7.2 The Goods shall be delivered to the Buyer on (or as soon as reasonably practicable after) the Delivery Date but Carrington reserves the right to deliver Goods in advance of the Delivery Date upon giving reasonable notice to the Buyer and/or in instalments.

7.3 The Buyer shall make all arrangements to take delivery of the Goods whenever they are tendered for delivery and in any event Carrington shall be entitled to send an invoice to the Buyer for the relevant Goods whether the Buyer has taken delivery or not and payment shall be due from the Buyer to Carrington pursuant to the Conditions.

7.4 The carrier of any Goods shall be deemed to be the Buyer's agent.

7.5 Carrington shall not be liable for any loss or damage whatever (including indirect and consequential loss or damage) due to failure by Carrington to deliver the Goods (or any of them) promptly or at all for any reason whatsoever nor shall such failure or delay give rise to a right by the Buyer to treat the Contract as repudiated or to reject the Goods.

7.6 Goods shall be deemed to have been delivered to the Buyer unless notice of non-delivery shall have been given by the Buyer to Carrington within 21 days of the date of despatch.

7.7 If the Buyer fails to take delivery of Goods whenever they are tendered for delivery and Carrington holds them in stock for the

Buyer, Carrington shall be entitled, from the date which falls 56 (fifty six) days after the date of the relevant invoice, (without prejudice to any other right or remedy available to it)

(a) to treat the Contract as repudiated and consequently sell the Goods to a third party in mitigation of its loss (and the costs and expenses of such resale shall be deducted from the proceeds of sale for the purpose of calculating the amount of such mitigation of loss) and/or

(b) to impose upon the Buyer charges at a commercial rate for such storage and in respect of all charges incurred by Carrington as a result of such storage (including insurance, carriage costs and the storage and carriage charges of any third party).

8. TITLE AND RISK

8.1 No title in the Goods shall pass from Carrington to the Buyer unless and until Carrington has received payment in full for the Goods and for any other amounts owing by the Buyer to Carrington in respect of that Contract or of any other Contract and Carrington shall be entitled to recover all sums due to it for the Goods notwithstanding that property in any of the Goods has not passed from it to the Buyer.

8.2 Until title in the Goods has passed from Carrington to the Buyer, the Buyer

(a) shall hold the Goods as bailee and in a fiduciary capacity for Carrington

(b) shall (at no cost to Carrington) store the Goods in such a way as to enable them easily to be identified as the property of Carrington and maintain records of them

(c) shall keep the Goods fully insured

(d) shall not dispose of or part with possession of the Goods until title in them has passed from Carrington to the Buyer, save that the Buyer may sell the goods in the normal course of business provided that the Buyer ensures that the proceeds of such sale shall be paid into a separate bank account and such proceeds shall be held by the Buyer on trust and in a fiduciary capacity for

Carrington and shall be remitted by the Buyer to Carrington forthwith and

(e) shall upon request deliver up to Carrington such of the Goods as have not been resold and if the Buyer fails to do so Carrington (without prejudice to any other right or remedy available to it) or any third party on Carrington's instructions may at any time with or without vehicles and without prior notice enter upon any premises or vehicles owned, occupied or controlled by the Buyer where the Goods are situated and repossess and dispose of the Goods, and this right shall continue to subsist notwithstanding the termination of the Contract for any reason.

8.3 The risk in the Goods shall pass from Carrington to the Buyer when they are despatched from Carrington's premises either for delivery to the Buyer or as a result of collection by the Buyer.

9. CLAIMS

9.1 Any Claim must be notified to Carrington in writing (a) in the case of an export shipment, within 3 months of the invoice date of such Shipment and

(b) in any other case, within 30 days of delivery

9.2 Upon discovery by the Buyer of the matter giving rise to the Claim, the Buyer

(a) must not use, cut, treat, process, resell or otherwise deal with the relevant Goods

(b) must afford Carrington an opportunity to inspect those Goods as soon as reasonably practicable after such discovery and

(c) must not, without the prior written approval of Carrington signed by an authorised representative of Carrington on its behalf, attempt to remedy or repair the problem with those Goods or permit any third party to do so.

9.3 It shall be a condition of any Claim

(a) that the matter giving rise to the Claim must not be

(i) caused (whether wholly or in part) by fair wear and tear; neglect; misuse; improper adjustment; or the application of any unsuitable, improper or experimental process or treatment or

(ii) arise from any drawing design or specification of the Buyer and

(b) that all sums due to Carrington in respect of the Goods must be paid by the due date for payment pursuant to the Contract.

9.4 If any of the conditions in clauses 9.1 to 9.3 are not complied with, Carrington shall have no liability in respect of the relevant Claim.

9.5 If all of the conditions in clauses 9.1 to 9.3 are complied with and Carrington accepts that the Claim is valid, Carrington will at its discretion in respect of those Goods

(a) refund the Price of them (in consideration of the return of such Goods and, if such Goods are branded with tickets, stamps or labels of the Buyer or of any third party, the Buyer's licence to Carrington without charge to effect a re-sale of such Goods without removal of such tickets, stamps or labels)

(b) repair or rectify them free of charge or

(c) replace them

and any further liability to the Buyer in respect of those Goods is excluded to the fullest extent permitted by law.

9.6 Carrington shall not be liable for any Claim for any indirect or consequential loss or expense or damage suffered by the Buyer including loss of profit or income, of business, of production, of anticipated savings, of business opportunity or of goodwill.

9.7 The Buyer shall be entitled to no remedy in respect of any Claim other than damages and under no circumstances shall the liability of Carrington to the Buyer exceed the Price of the relevant Goods.