

# JAMES ROBINSON FIBRES LTD

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# **Conditions of Sale**

THIS IS AN IMPORTANT LEGAL DOCUMENT WHICH YOU SHOULD READ BEFORE ENTERING INTO ANY CONTRACT WITH US FOR SUPPLY OF GOODS BY US TO YOU. YOUR ATTENTION, IN PARTICULAR IS DRAWN TO CONDITION 7 WHICH CONTAINS LIMITS TO AND EXCLUSIONS OF OUR POTENTIAL LIABILTY TO YOU

# Interpretation

1.9

1.1	In these Conditions: -	
	"Associated Company"	means any company which for the time being is either: -
		(a) a company having an ordinary share capital (as defined in Section 832 of the Income & Corporation Taxes Act 1988) of which we own (directly or indirectly) not less than 25% applying the provisions of Section 838 of the Income & Corporation Taxes Act 1988 in the determination of ownership; or
		(b) any of our subsidiaries or our holding company (in each case defined in Section 736 of the Companies Act 1985)
	"Conditions"	means the conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between you and us
	"Contract"	means the contract between you and us for the purchase and sale of the Goods incorporating these Conditions
	"Goods"	means the goods (including any instalment of the goods) which we are to supply in accordance with these Conditions
1.2	The headings in these Conditions are for convenience only and shall not affect their interpretation.	
1.3	These are the Conditions upon which we, James Robinson Fibres Limited (company number 388399) or, where the Goods in question have been supplied by an Associated Company, that Associated Company deal with you, our customer. They govern all our dealings with you to the exclusion of any other terms and conditions subject to which any order for the Goods is purported to be made by you.	
1.4	No variation of these Conditions shall bind us unless we agree it in writing.	
1.5	Neither our employees nor our agents are authorised to make any representations concerning the Goods unless confirmed by us, acting by an authorised signatory, in writing. You acknowledge that you do not rely on any representations which are not so confirmed. Brochures advertising and other promotional material issued by or on behalf of us do not form part of the Contract nor is any statement contained therein a representation or warranty on which you have relied in entering into the Contract.	
1.6	If we waive any breach of the Contract, it should not be considered by you to be a waiver of any further breach.	
1.7	If any provision of these Conditions is held to be invalid or unenforceable in whole or in part the remainder of these Conditions shall continue to apply.	
1.8	The Contract shall be governed by the laws of England.	

Any reference in these Conditions to any statutory provision shall be construed as including references to: -

- 1.9.1 any statutory modification, consolidation or re-enactment (whether in force before or after the date of the Contract) for the time being in force;
- 1.9.2 all statutory instruments or orders made pursuant to such statutory provision;
- 1.9.3 any statutory provision of which such statutory provision is a consolidation, re-enactment or modification.

# **Order and Specification**

- 2.1 No order submitted by you shall be deemed to be accepted by us unless and until confirmed by us in writing.
- You shall be responsible to us for ensuring the accuracy of the terms of any order (including without limitation any drawings or technical specification) which you submit and for giving us any necessary information relating to the Goods within a sufficient time to enable us to perform the Contract in accordance with its terms.
- 2.3 The quantity, quality and description of the Goods shall be those set out in our quotation or acceptance of your order and you will be responsible for ensuring such description is accurate.
- You may not cancel any order for Goods which we have accepted unless we agree to such cancellation in writing and you agree to indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses which we have incurred as a result of the cancellation.
- 2.5 We reserve the right to make any changes in the specification or packaging of the Goods which are required to conform with any applicable safety or other statutory requirements or which do not materially affect their quality or performance.
- 2.6 We reserve the right to sub-contract out the supply of the Goods (in whole or in part) at our sole discretion.

#### **Contract Price**

- 3.1 The price of the Goods shall be the price stated on our acceptance of your order.
- 3.2 If we agree to deliver the Goods to any location other than that which we agree when we accept your order and outside our own premises, you will be liable to pay any extra charges incurred regarding transport, packaging, insurance and all other reasonable costs relating to the delivery of the Goods.
- 3.4 All prices quoted by us will be exclusive of value added tax, which you will also be liable to pay to us if it is applicable.

#### **Terms of Payment**

- 4.1 We shall invoice you for the price of the Goods before we notify you that the Goods are ready for delivery. In the case of Goods which are to be delivered in installments we shall invoice you for the installment which is to be delivered.
- 4.2 You must pay the price for the Goods without deduction within no more than the time specified in our invoice and/or acceptance of your order notwithstanding that delivery of the Goods may not have taken place and that property in the Goods has not passed to you. The time of payment of the price shall be of the essence of the Contract.
- 4.3 If you fail to pay us on the due date then, without prejudice to any other right or remedy available to us, we shall be entitled to:
  - 4.3.1 cancel the Contract or suspend any further deliveries of Goods to you;
  - 4.3.2 appropriate any payment made by you to such of the Goods (or to any other goods supplied under any other contract between you and us) as we may think fit (notwithstanding any purported appropriation by you); and
  - 4.3.3 charge you interest (both before and after judgment) on the amount unpaid at rate of 8% per annum above the bank interest rate of the Bank of England from time to time until payment is made in full, together with compensation for late payment under the Late Payment of Commercial Debts (Interest) Act 1998 and the Regulations made thereunder.

# **Delivery of Goods**

- 5.1 You will take delivery of the Goods as specified in our acceptance of your order when we notify you that the Goods are ready for delivery.
- Any dates quoted for delivery of the Goods are approximate only and we shall not be liable for any loss or damage due to our failure to deliver the Goods promptly, or at all, howsoever caused. Time for delivery shall not be of the essence. We are entitled to deliver the Goods in advance of the quoted delivery date upon giving you reasonable notice.
- 5.3 If we fail to deliver the Goods (or any instalment of them) for any reason other than any cause beyond our reasonable control or your fault, and we are accordingly found to be liable to you, our liability shall be limited to the excess (if any) of the cost to you (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 5.4 If you fail to take delivery of the Goods or fail to give adequate delivery instructions (for reasons other than our fault) then, without prejudice to any right or remedy available to us, we may: -
  - 5.4.1 store the Goods until actual delivery and charge you for the reasonable costs (including insurance) of storage; or
  - 5.4.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to you for the excess over the price under the Contract or charge you for any shortfall below the price under the Contract.
- 5.5 Where we are to make a delivery of the Goods in bulk, we reserve the right to deliver up to 10% more or less than the quantity ordered without any adjustment in the price, and the quantity so delivered shall be deemed to be the quantity ordered.
- Where we are to deliver the Goods in instalments, each delivery shall constitute a separate contract and failure by us to deliver any one or more of the instalments in accordance with these Conditions or any claim by you in respect of any one or more instalments shall not entitle you to treat the Contract as a whole as repudiated.

# **Risk and Property**

- 6.1 Risk of damage to or loss of the Goods shall pass to you: -
  - 6.1.1 in the case of Goods to be delivered at our premises, at the time when we notify you that they are available for collection; or
  - 6.1.2 in the case of Goods to be delivered elsewhere at the time of delivery or (if you fail to take delivery of the Goods) the time when we have attempted to effect delivery of the Goods.
- 6.2 Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions the property in the Goods shall not pass to you until we have received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by us to you for which payment is then due.
- 6.3 Until such time as the property in the Goods passes to you, you shall hold the Goods as our fiduciary agent and bailee and shall keep the Goods separate from and unmixed with your own and those of third parties and properly stored, protected and insured and identified as our property. Until that time you shall be entitled to resell or use the Goods in the ordinary course of your business but shall account to us for the proceeds of sale or otherwise of the Goods, whether tangible or intangible including insurance proceeds and shall keep all such proceeds separate from any of your monies or property or those of third parties and, in the case of tangible proceeds, properly stored, protected and insured.
- 0.4 Until property in the Goods passes to you (and provided the Goods are still in existence and have not been resold or reprocessed) we shall be entitled at any time to require delivery of the Goods to us. If you fail to do so we will be entitled to enter upon your premises or those of any third party where the Goods are stored and repossess the Goods.
- You will not be entitled to charge by way of security for any indebtedness any of the Goods to which we retain the property, and if you do so all monies owed at that time by you to us shall (without prejudice to any other of our rights or remedies) become immediately due and payable.

#### **Warranties and Liabilities**

- 7.1 Subject to the Conditions set out below we warrant that the Goods will be of satisfactory quality at the time of delivery.
- 7.2 We shall be under no liability under the above warranty (or any other warranty condition or guarantee) if the total price for the Goods is not paid by the due date for payment.
- 7.3 We shall be under no liability to you for any defect in the Goods arising from any specification which you provide.
- 7.4 We shall be under no liability to you in respect of any defect in the Goods arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow our instructions or directions in respect of the use of the Goods (whether oral or in writing) misuse or alteration or repair of the Goods or the reprocessing or use of the Goods in any process or compound.
- 7.5 Subject as expressly provided in these Conditions, and except 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 other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 7.6.1 Any claim which you make based on any alleged defect in the quality quantity or condition of the Goods or their failure to correspond with specification must be notified to us in writing: -
  - 7.6.1 within seven days from the date of delivery (whether or not delivery is refused by you); or
  - 7.6.2 where the defect or failure was not apparent on reasonable inspection within seven days after discovery of the defect or failure; and
  - 7.6.3 in any event before you mix process or use the Goods;
  - so that if delivery is not refused and you do not notify us accordingly you shall not be entitled to reject the Goods and must pay the price as if the Goods had been supplied in accordance with the Contract.
- 7.7 Where any valid claim in respect of any of the Goods arises in accordance with these Conditions which is based on any defect in the quality or condition of the Goods or their failure to meet specification we shall be entitled to replace the Goods (or the part thereof in question) free of charge or, at our sole discretion, to refund to you the price for the Goods (or a proportionate part of the price), but we shall have no further liability to you.
- 7.8 Except in respect of death or personal injury caused by our negligence, we shall not be liable to you 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 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 the negligence of us, our employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by you.
- 7.9 We shall not be liable to you or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of our obligations in relation to the Goods if the delay or failure was due to any cause beyond our reasonable control.
- 7.10 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions) (Restrictions on Statements) Order 1976) your statutory rights are not affected by these Conditions.

# **Insolvency**

- 8.1 This Condition applies if: -
  - 8.1.1 you make any voluntary arrangement with your creditors (whether formal or informal) or become bankrupt or go into liquidation; or
  - 8.1.2 a receiver or administrator is appointed over any of your property or assets; or
  - 8.1.3 you cease to carry on business; or
  - 8.1.4 we reasonably apprehend that any of the events mentioned above is about to occur and notify you accordingly.
- 8.2 If this Condition applies then we shall be entitled to cancel the Contract or to suspend any further deliveries of the Goods under the Contract without any liability to you and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

**Export Terms** 

9.1 In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in

force at the date when the Contract is made. Unless the context otherwise requires any term or expression which is defined or given a particular meaning in the provisions of Incoterms shall have the same meaning in the Conditions but if there is any conflict between the provisions of Incoterms

and these Conditions the latter shall prevail.

9.2 Where the Goods are supplied for export from the United Kingdom the provisions of this Condition 9 shall (subject to any special terms agreed in

writing between us) apply notwithstanding any other provision of these Conditions.

9.3 You 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 the Goods.

9.4 The Goods shall be delivered as specified by us in our acceptance of your order and from the air or seaport of shipment and we shall be under no

obligation to give notice under section 32 (3) of the Sale of Goods Act 1979.

9.5 We shall have no liability for any claim in respect of damage to the Goods during transport.

9.6 You shall pay for the Goods in accordance with the terms specified in our acceptance of your order. If you fail to do so, we may withhold delivery,

reject the order in question or terminate the Contract if partial deliveries have occurred, as applicable and at our discretion. In such circumstances, you

will indemnify us against all losses, storage charges, insurance and other costs or damages arising out of any delay or cancellation of delivery.

Assignment

10. You shall not assign the Contract or any rights accruing under it without our prior written consent.

**Intellectual Property** 

Any specifications or designs for the Goods prepared by us or on our behalf (including the copyright, design right or other intellectual property in

them) shall remain at all times our property. Where any designs or specifications have been supplied by you for manufacture by us to your order then

you warrant that the use of those designs or specifications for the manufacture, processing, assembly and supply of the Goods to you will not infringe

the rights of any third party.

All specifications, photographs, illustrations and other material produced by us in the manufacture and/or supply of the Goods and all reference to

weights, measurements and other technical details contained in such materials are all provided for identification purposes only and are intended to be

approximate. We shall not be liable for loss suffered by you as a result of your reliance on such materials or details.

12. <u>Notices</u>

12.1 Any notice to be given under these Conditions shall be delivered by hand or sent by first class post to the last known address or registered office of the

addressee or such address in Great Britain as the intended recipient may from time to time have notified the other party for the purpose of this clause, or

sent in electronic form to an electronic address specified or stated in on the business communications of the addressee for such purpose.

12.2 Notice shall be deemed to have been received: -

12.2.1 if sent by first class post 24 hours after posting;

12.2.2 if delivered by hand on the day of delivery;

12.2.3 if sent by electronic communication at the time of sending.

Chairman: C.J.F Taylor, ATI Managing Director: J.M Taylor Directors: M.A Longley, A.W Tate, A. Thornton, B.M Taylor, E.M Taylor Company Secretary: K.R Taylor Cole Financial Director: S. Walker