

# **NUTLAND CARPET ACCESSORIES LIMITED**

## **Terms and Conditions of Sale**

1. **DEFINITIONS** in these conditions the following expressions shall have the following meanings.

(a) "The Company" shall mean Nutland Carpet Accessories Limited.

(b) "Goods" shall where the context so permits include raw materials processed materials or fabricated products whether of the manufacture of the Company or not.

(c) "Supply" shall where the context so permits include a sale lease hiring or loan of the Goods.

(d) "The Buyer" shall mean the person firm or company with whom any contract to supply Goods is made by the Company.

(e) "Despatch" shall mean the time when the goods leave the Company's premises at Renown Close, Chandlers Ford Industrial Estate, Eastleigh, Hampshire, or any depot or warehouse at which goods may be stored.

## **2. GENERAL**

(a) The following terms and conditions (subject to and together with any other terms set out in our written quotation or in any written amendment signed by a director of our company) are the only terms and conditions applicable to the transaction, superseding all previous discussions and negotiations whether oral or written and prevailing over any terms or conditions put forward by any other party in any manner whatsoever or at any point in time.

(b) The price of the goods or services to which these terms and conditions apply is based on the application of these terms and conditions, if so requested in writing we will (at our discretion) quote specifically, a price for such goods or services on terms placing a greater liability upon us.

(c) We do not seek to take away any right in law that cannot lawfully be negated and should it be held by a Court of competent jurisdiction that any of these terms or conditions has that effect, then such part or parts shall be severed from the remainder, which shall continue in full force and effect.

## **3. ACCEPTANCE OF ORDERS, CANCELLATIONS, RETURNS**

(a) No order for goods shall bind us until accepted by us. Orders accepted by us may not be cancelled by the buyer without our prior written consent and in the event of our giving such consent, we reserve the right to charge a cancellation fee as a condition thereof. After despatch, goods may not be returned to us without our prior written consent and in the event of our giving such consent (subject to goods not having deteriorated, depreciated or been damaged) we reserve the right as a condition of such consent to charge a re-stocking fee equivalent to 10% of the price of the goods. Furthermore, if such written consent is given, the customer must return the goods carriage paid unless alternative arrangements are agreed with us in advance.

(b) **SPECIAL ORDERS** - Orders for items not stocked and specially obtained cannot be cancelled once the order has been placed with the manufacturer, nor can the goods be returned to the company for credit.

(c) **CUT LENGTHS** Cut lengths of sheet flooring and nosing's cannot be cancelled once cut, and cannot be returned for credit.

## **4. PRICE**

(a) All goods and services shall be charged at prices ruling at the date of delivery or performance, but if in any written quotation we agree to hold a particular price for a specified period, then such prices shall be applicable during that period.

(b) All prices are inclusive of carriage if situated within a 50-mile radius of the Company's premises, strictly main land only. All goods supplied to the Channel Islands shall have the carriage and insurance paid by "The Buyer".

(c) All prices are exclusive of Value Added Tax and this will be charged at the appropriate rate ruling at the date of dispatch.

**5. ADDITIONAL COSTS** The Buyer agrees to pay for any loss or extra cost incurred by the Company through the Buyer's instructions or lack of instructions or through failure or delay in taking delivery or through any act of default on the part of the Buyer its servants agents or employees.

## **6. TERMS OF PAYMENT**

(a) Unless otherwise stated by the Company in writing and signed on its behalf payment of the price together with the Value Added Tax thereon shall be made by the Buyer of the Company's sales invoice and payment in full shall be made notwithstanding any delay in the delivery installation or use of the Goods.

(b) Payment for goods or services shall be made strictly in accordance with our normal terms of trading which are 2 1/2% cash discount for settlement by the 20th of the month following the date of invoice. Thereafter, all accounts are strictly net and overdue.

(c) If any such payment is not made on the due date or if the customer is in default under any provisions of this or any other contract with us we reserve the right to suspend delivery or the performance or completion of any services whilst such default continues.

(d) In addition to and without prejudice to any other right open to us, we reserve the right to charge interest on overdue accounts at the rate of 2 1/2% per month over the base rate for the Company's bankers applicable from time to time.

## **7. DELIVERY**

(a) In the event of shortage or non-delivery of the goods, notification must be made in writing to the Company

(i) within three days of delivery for loss from a package or from an unpacked consignment or for damage, deviation, mis-delivery delay or detention

(ii) within fourteen days of date of invoice for loss or non-delivery of the whole of the consignment or of any separate packing forming part of that consignment No claim for non-delivery or short delivery can be entertained outside these limits.

(b) Notwithstanding anything contained in any quotation, order or otherwise, we reserve the right to suspend delivery for a period equal to the continuance of the consequences of any of the following matters which affect availability or capacity to make deliveries – namely any strike or industrial action, fire, explosion, government direction, stoppage of supplies to us or any other matter beyond our control. If in our judgment any such matter shall render delivery within a reasonable time impossible, we shall be entitled to cancel the order or orders in question.

(c) We shall in no circumstances whatever be liable for any consequence of suspended delivery or our cancellation of any order under these provisions.

## **8. PASSING OF PROPERTY TITLE AND RISK**

The legal and equitable title to the goods supplied under any contract will not pass to the purchaser until the price for the goods and all other sums due from the purchaser under such contract have been paid in full and until such payment the purchaser will hold the goods in a fiduciary capacity as bailey for the Company.

Where the goods are resold by the purchaser and at the time of such resale the

property in such goods has not passed to the purchaser then the proceeds of such resale's (or other assets into which such proceeds have been converted) will be held by the purchaser in a fiduciary capacity on trust for the Company and the purchaser will account to the Company for the same to the extent necessary to pay the price for the goods and all other sums due to the Company from the purchaser under the contract.

The purchaser shall so long as the Company is entitled to the property in the goods store the same so that they are identifiable as the property of the Company. Without prejudice to any of the Company's other rights (whether to damages or under any contract or otherwise howsoever) the Company may at any time after the price for the goods or any other sum payable by the purchaser to the Company under any contract has become due and remains unpaid rescind such contract and or recover the goods which are still the Company's property and may enter onto the purchaser's premises either by the Company's servants or agents for that purpose.

Whether or not the price for the goods or any other sum has become due from the purchaser under any contract such price or such sum will be deemed to be due from the purchaser immediately on his committing any act of bankruptcy, calling a meeting (whether formal or informal) of any of his creditors or (where the purchaser is a body corporate) having a Receiver or Manager appointed of its undertaking or any part thereof or on a resolution being passed or on a petition being presented to any Court for the winding-up of the purchaser or on the happening of any act whatsoever or the commencement of any proceedings whatsoever relating to the insolvency or possible insolvency of the purchaser.

Notwithstanding anything contained in these terms and conditions the risk in the goods shall pass on delivery to the purchaser or a carrier whichever is earlier.

## **9. CLAIMS LIABILITY**

(a) Any claim in respect of goods alleged to be damaged or defective or goods mis-delivered or short-delivered must be made to us in writing with the utmost speed (see clause 7) after which any unreasonable delay shall entitle us to refuse to entertain the claim.

(b) We shall have no liability in any circumstances for any consequential loss and in no case shall our liability exceed the invoice price of the goods in question – it being a matter for our reasonable discretion whether to replace the goods or refund the purchase price.

(c) It is the floor layers responsibility to check all materials for correct code numbers, batch numbers and shade matches, etc. The Company accepts no responsibility for errors after the floor covering is laid.

## **10. DEFECTIVE GOODS**

(a) The Company will pass on to the Buyer any benefits obtainable under any warranty given by the Company's supplier provided that the Goods have been accepted and paid for.

(b) In the case of any claim under this paragraph the Company reserves the right at its sole discretion of repairing or replacing the Goods or crediting to the Buyer in full the price paid by the Buyer to the Company.

(c) In order to exercise its rights under this paragraph the Buyer shall inform the Company within seven days of the date when such defect appeared or ought reasonably to have been discoverable and shall return the defective goods carriage paid to the Company's works.

(d) It shall be the sole responsibility of the Buyer to ensure that where necessary or relevant the goods comply with all building regulations and by-laws and all other

regulations orders or enactments whatsoever whether statutory or otherwise and no liability shall be incurred by the Company in the event of any breach thereof or non-compliance therewith.

(e) Nothing herein shall impose any liability upon the Company in respect of any defect in the Goods arising out of any acts omissions negligence or default of the Buyer its servants or agents including in particular but without prejudice to the generality of the foregoing any failure by the Buyer to comply with any recommendations of the Company as to storage and handling of the Goods.

(f) Where the Goods are for delivery by installments any defect in any installment shall not be a ground for cancellation of the remainder of the installments and the Buyer shall be bound to accept delivery thereof.

**11. REPRESENTATIONS** No statement description information warranty condition or recommendation contained in any catalogue price list advertisement or communication or made verbally by any of the agents or employees of the Company shall be construed to enlarge vary or override in any way any of these conditions.

**12. CARRIAGE** Orders for less than carriage paid quantities will be subject to a reasonable administration charge plus cost of carriage. The carriage paid quantities will be reviewed from time to time and full details can be ascertained from our current price list, a copy of which is available on request.

Where possible, we will endeavour to meet special delivery subject to the additional costs being borne by the customer. We shall not be liable in any way for failure or delay in delivery.

**13. SUITABILITY OF GOODS** If requested in writing to do so, we will use our utmost endeavours to give sound and honest advice as to the suitability of goods sold by us for a particular use or purpose, but we do not represent or warrant (and nobody has authority to represent or warrant) the fitness of any goods for any particular purpose or use, whether such purpose or use is known to us or not.

**14. INSURANCE** It shall be the duty of the customer adequately to insure against all risks loss or damage inherent in or arising from the use or re-sale of goods sold by us.

**15. INDEMNITY AGAINST INFRINGEMENT OF INDUSTRIAL PROPERTY RIGHTS** The customer will fully indemnify and hold us harmless against any claim or liability in respect of any infringements or alleged infringements of any Patent, Trade Mark, Registered Design or any other like claim resulting from compliance with the customer's instructions, express or implied.

**16. PROPER LAW** The contract shall in all respects be governed by English Law and shall be deemed to have been made in England.