

UMBRELLA AGREEMENT FOR THE SUPPLY OF GOODS

The Buyer and the Seller have agreed to enter into this Umbrella Agreement to confirm the continuing basis which the Buyer can purchase Goods from the Seller as required. In return for each party agreeing to pay the other (on demand) £1, the parties therefore agree:

1. Each Order for Goods placed by the Buyer and accepted by the Seller shall incorporate the Conditions set out in Appendix 1 and such Order shall constitute a separate contract (each being a **Contract**).
2. The Conditions shall apply to each Contract to the exclusion of all other terms (including any terms on any purchase order issued by the Buyer), unless the Seller expressly agrees that any additional terms should apply to any specific Order in writing.
3. All Goods are supplied under a Contract pursuant to an Order (and not under this Umbrella Agreement itself).
4. This Umbrella Agreement will apply from the date on which both parties have signed it until either party terminates it, giving the other 1 month's written notice. The termination of this Umbrella Agreement shall not affect any Order governed by a Contract which has not been fulfilled at the date of termination of this Umbrella Agreement and each such Contract shall continue in force in accordance with its terms.
5. This Umbrella Agreement and all related matters shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English courts. Capitalised terms used on this page but not defined on this page have the meaning given in the Conditions.

SIGNED for and on behalf of **J Rosenthal
and Son (Seller)**

SIGNED for and on behalf of
(Buyer)

Signature.....

Signature.....

Name:

Name.....

Position:

Position.....

Date.....

Date.....

J Rosenthal and Son a division of Ulster Weavers Ltd

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APPENDIX 1 - CONDITIONS OF SALE

1 Interpretation

- 1.1 In these Conditions the following expressions shall carry the following meaning in so far as the context shall admit:
- "BUYER" means the person who places an Order for Goods, as identified on the signature front-sheet to the Umbrella Agreement.
- "CONDITIONS" means the terms and conditions set out in this document, as amended from time to time.
- "CONTRACT" means the contract between the Buyer and Seller for the purchase and sale of the Goods incorporating these Conditions.
- "FORCE MAJEURE EVENT" means an event or circumstance beyond a party's reasonable control.
- "GOODS" means the goods (or any part of them) which the Seller is to supply in accordance with the Contract.
- "INCOTERMS" means the international commercial terms, governed and published by the International Chamber of Commerce in 2010.
- "ORDER" means the Buyer's order for the Goods as set out in the Buyer's purchase order or in the Buyer's written approval of the Seller's quotation, as the case may be.
- "SELLER" means J Rosenthal and Son a division of Ulster Weavers Ltd (a company registered in Northern Ireland under company number NI602986).
- 1.2 "SPECIFICATION" means the specification for the Goods, if any, which shall where relevant be the Seller's standard specification unless the Seller agrees to produce the Goods in compliance with an alternative or modified specification set out in or referred to in the Order (in which case that specification shall apply only to the Goods to which it is stated to apply).
- 1.3 Any reference in the Conditions to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted.
- 1.4 A reference to **writing** or **written** includes faxes and e-mails.
- 1.5 Any reference to a masculine provision shall be deemed to include reference to a female or neuter provision or vice versa and any reference to a singular provision shall be deemed to include reference to the plural and vice versa.

2 Basis of the Sale

- 2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with the Contract, which shall be governed by these Conditions to the exclusion of any and all other terms and the Buyer hereby agrees that the provisions of paragraph 1 of the front sheet to the Umbrella Agreement shall apply to the Contract. No variation to the Conditions shall be binding unless agreed in writing between the authorised representative of the Buyer and a director of the Seller.
- 2.2 An Order is an offer to purchase Goods. The Contract shall only come into effect and shall only becoming binding on the Seller when the Order is accepted by the Seller. Any quotation given by the Seller does not constitute an offer and may be revoked by the Seller. In any event, a quotation shall only remain valid for period of 30 days from its date of issue and is subject to clause 4.2.
- 2.3 The Buyer is responsible for ensuring that the terms of the Order are complete and accurate.
- 2.4 Once entered into, the Contract may only be terminated by the Buyer with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of such termination.

3 The Goods

- 3.1 Any samples, drawings or advertising produced by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 3.2 The quantity of Goods shall be set out in the Order.
- 3.3 The Buyer shall indemnify the Seller against all liabilities and losses (including damages awarded and legal and other costs and expenses) suffered or incurred by the Seller in connection with any actual or alleged infringement of a third party's intellectual property arising out of or in connection with the Seller's use or compliance with any Specification supplied by the Buyer or the Seller's compliance with any other direction given by the Buyer in respect of the Goods. This clause shall survive termination of the Contract.
- 3.4 The Seller reserves the right to amend any Specification if required to comply with applicable statutory or regulatory requirements.
- 3.5 The design and any Specification of all Goods shall be and shall remain the intellectual property of the Seller (or its third party licensor (as appropriate)).
- 3.6 All Goods sold in retail packaging may be resold by the Buyer only in the packaging supplied by the Seller and in no case may any trade mark other than those applied by the Seller be marked on or applied in relation to the Goods without the Seller's express written consent. Subject only to clause 3.7, no right or licence is granted under the Contract to the Buyer except the limited right to use or re-sell the Goods.
- 3.7 The Buyer may, only upon obtaining the express consent of the Seller, advertise and promote the sale of the Goods under the product names and other branding associated with the relevant Goods only in the manner, in the media and for the purposes agreed between the Seller and the Buyer in advance. The Buyer shall in undertaking such advertising and promotion comply at all times with any brand guidelines issued by the Seller from time to time and shall in addition comply with all other reasonable instructions of the Seller as to the form and content of such advertising and promotion. For the avoidance of doubt, any right to advertise or promote Goods granted by the Seller under this clause and the Buyer's associated right to use any trade marks or other branding associated with the Goods, may be revoked by the Seller at any time on notice to the Buyer, whereupon the Buyer shall immediately cease all use of such advertising and promotional materials, including all product names, trade marks and other branding.
- 3.8 Nothing in this clause or elsewhere in these Conditions shall operate to assign any goodwill or intellectual property in the Goods or any associated marks or other branding to the Buyer and the Buyer agrees that on demand it shall assign to the Seller any such goodwill or intellectual property that may vest in it by operation of law at any time.
- 3.9 The Seller's employees or agents are not authorised to make any representations (including as to the storage, application or use of the Goods) concerning the Goods unless confirmed by a director of the Seller in writing. In entering into the Contract, the Buyer acknowledges that it does not rely on any representations which are not so confirmed.

4 Price of the Goods

- 4.1 The price of the Goods shall be the price set out in the Order or, if no price is set out in the Order, the price set out in the Seller's published list price in force at the date of the Contract. Where the Goods are supplied for export from the United Kingdom, the Seller's published export price list shall apply.
- 4.2 The Seller may, by giving notice to the Buyer at any time before delivery, increase the price of the Goods to reflect any increase in the Seller's costs due to:
- (a) any factor beyond the control of the Seller (including foreign exchange fluctuation, currency regulation, increases in taxes and duties and increases in the labour, materials or other manufacturing costs);
 - (b) any request by the Buyer to change the delivery dates, quantities or types of Goods ordered, or the Specification; or
 - (c) any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.3 The price of the Goods excludes: (a) amounts in respect of value added tax (VAT) or other taxes (or if applicable customs duties and import taxes), which the Buyer shall additionally be liable to pay to the Seller; and (b) the costs of and charges of packing, insurance and transport of the Goods, which shall be invoiced to the Buyer by the Seller.

- 4.4 The Seller may invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods in accordance with clause 5.1.
- 4.5 The Buyer shall pay each invoice in full and cleared funds within 30 days of the date of the Seller's invoice (the "Due Date"). Payment shall be made to the bank account nominated by the Seller. Time of payment is of the essence.
- 4.6 If the Buyer fails to make any payment by the Due Date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to: (a) terminate the Contract; or (b) suspend any further deliveries to the Buyer and charge interest on all amounts unpaid at the rate of 4 per cent per annum above the base rate of National Westminster Bank Plc from time to time, until payment in full is made.
- 4.7 The Buyer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except where required by law). The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

5 Delivery

- 5.1 The Seller shall deliver the Goods to the location set out in the Order or such other location as the parties may agree ("Delivery Location") at any time after the Seller notifies the Buyer that the Goods are ready. Delivery is complete upon the unloading of Goods at the Delivery Location.
- 5.2 All delivery dates quoted by the Seller are approximate only and the time of delivery is not of the essence. The Seller shall not be liable for any delay in delivery of the Goods caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or other relevant instructions.
- 5.3 The Seller may deliver the Goods in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 5.4 Where the delivery of the Goods is to be made by the Seller in bulk, the Seller reserves the right to deliver up to 10 percent more or 10 percent less than the quantity ordered, and (i) the quantity so delivered shall be deemed to be the quantity ordered under the relevant Order, and (ii) the price per individual unit of Goods applicable to that Order (as determined in accordance with clause 4.1) shall not be adjusted. Accordingly, the total price payable for the Goods shall be adjusted to reflect the percentage increase or decrease in the total unit quantity of Goods so delivered and the Seller shall be entitled to reflect such change in the invoice it is entitled to issue under clause 4.4 (or where such invoice has been issued, to issue a further invoice or credit note for an amount equal to the change).
- 5.5 The Seller may deliver the Goods in installments, which shall be invoiced and paid for separately. Any delay in delivery of or defect in an installment shall not entitle the Buyer to cancel any other installment.
- 5.6 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions within a reasonable time (except where such failure or delay is caused by a Force Majeure Event or the Seller's failure to comply with its obligations under the Contract) then without prejudice to any other right or remedy available to the Seller, the Seller may:
- store the Goods at the Buyer's risk until delivery takes place and charge the Buyer for the reasonable costs (including insurance) of storage; or
 - sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.
- 5.7 For international deliveries, delivery and risk shall be determined by the Incoterms specified in the Order, rather than in accordance with clauses 5.1 and 6.1. All other provisions of such Incoterms shall apply to the relevant Contract and shall, in respect of such international delivery, override and supersede any conflicting provisions of the Conditions.

6 Risk and Title

- 6.1 Risk in the Goods shall pass to the Buyer on completion of delivery as set out in clause 5.1, or on the Goods being placed in storage as set out in clause 5.6(a).
- 6.2 Subject to clause 6.4, title (both legal and beneficial) in the Goods (Title) shall not pass to the Buyer until the Seller has received payment in full for the Goods, any other goods that the Seller has supplied to the Buyer, and any other sums that the Buyer owes to the Seller.
- 6.3 Until Title to the Goods has passed to the Buyer, the Buyer shall:
- store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property; and
 - not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; and
 - maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery (and produce a copy of the insurance policy upon request),
- and the Seller (and/or its appointed representative(s)) may enter any premises of the Buyer (and the Buyer shall ensure that the Seller and/or its appointed representatives may enter the premise of any third party) where the Goods are stored in order to recover the Goods.
- 6.4 The Buyer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Seller receives payment. If the Buyer does so resell the Goods, Title to the Goods shall pass to the Buyer immediately before such resale by the Buyer occurs.
- 6.5 If any of the Goods are, prior to payment of the price by the Buyer, made up or incorporated in or mixed with other goods then, if they remain separately identifiable and are not irrevocably incorporated, the Seller shall be entitled to the property in such other goods until payment shall have been made or such other goods shall have been sold.
- 6.6 If before Title to the Goods passes to the Buyer, the Buyer becomes subject to any of the events listed in clause 8.1 then, without limiting any right or remedy the Seller may have:
- the Buyer's rights to resell the Goods or use them in the ordinary course of its business shall cease immediately; and
 - the Seller may at any time: (i) require the Buyer to deliver to it all Goods in its possession that have not been resold or irrevocably incorporated into another product; and (ii) if the Buyer fails to do so promptly, enter any premises of the Buyer (and the Buyer shall ensure that the Seller and/or its appointed representatives may enter the premises of any third party) where the Goods are stored in order to recover them.

7 Warranties and Liability

- 7.1 The Seller warrants that on delivery, the Goods shall:
- conform with any applicable Specification;
 - be free from material defects in design, material and workmanship; and
 - be of satisfactory quality.
- 7.2 Subject to clause 7.4, if:
- the Buyer gives notice in writing to the Seller within a reasonable time of discovery (and, in any event, no later than 5 days from the date delivery is completed) that some or all of the Goods do not comply with the warranty set out at clause 7.1; and
 - the Buyer returns such Goods to the Seller's place of business at the Seller's cost (within 14 days of such request from the Seller) or, if otherwise agreed that the Seller will collect the Goods, ensures that the Goods are made available for collection by the Seller at the Buyer's premises at the agreed date and time (and if the Goods are not ready for collection at the agreed time of collection then the return of Goods shall be at the Buyer's cost); and

(c) the Buyer affixes such returns authorisation number as may be given to it by the Seller (in response to the Buyer's notice), to the Goods to be returned prior to the same being returned or made available to the Seller for collection; and

(d) the Seller is given a reasonable opportunity of examining such Goods,

the Seller shall, at its option, either repair or replace the defective Goods or refund the price of the defective Goods in full.

7.3 Where the Buyer returns Goods because they do not comply with clause 7.1(a), the Buyer shall ensure that (so far as is possible) such Goods are returned to the Seller in saleable condition and without any diminution in their quality (which includes leaving packaging intact so far as is possible).

7.4 The Seller shall not be liable for the Goods failure to comply with the warranty set out in clause 7.1 in any of the following events:

- a) the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage and use of the Goods or (if there are none) good trade practice regarding the same;
- b) the defect arises as a result of the Seller following any drawing, design, instruction or specification supplied by the Buyer;
- c) the Buyer alters or repairs such Goods without the written consent of the Seller;
- d) the total price for the Goods has not been paid by the Due Date;
- e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- f) the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

7.5 Except as set out in clause 7.2, the Seller shall have no liability for any breach of the warranty set out in clause 7.1 and the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are excluded from the Contract to the fullest extent permitted by law.

7.6 Nothing in these Conditions shall limit or exclude the Seller's liability for: (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; (d) defective products under the Consumer Protection Act 1987; or (e) any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.

7.7 Subject to clause 7.6, the liability of the Seller under or in connection with any Contract shall not exceed the amount payable by the Buyer in respect of the Order which is the subject of that Contract and, in any event, the Seller shall under no circumstances be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract.

8 Termination

8.1 Without limiting its other rights or remedies, the Seller may terminate a Contract with immediate effect by giving written notice to the Buyer if:

- a) the Buyer commits a material breach of any term of the Contract or any contract relating to any other order between the Buyer and the Seller and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
- b) the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- c) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- d) the Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

8.2 Without limiting its other rights or remedies, the Seller may suspend provision of the Goods under the Contract or any other contract between the Buyer and the Seller if the Buyer becomes subject to any of the events listed in clause 8.1a) to clause 8.1d), or the Seller reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under the Contract by the Due Date, or fails to pay any amount due for payment under any other contract with the Seller.

8.3 On termination of the Contract for any reason the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest.

8.4 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.

8.5 A provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

9 General

9.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this contract and a person who is not a party to this contract shall have no right under that Act to enforce any term of the contract.

9.2 Any notice required or permitted to be given by either party to the other under the Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified to the party giving the notice.

9.3 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

9.4 If any of the Conditions (or any part thereof) is or becomes invalid or unenforceable it shall be deemed modified to the minimum extent necessary to make it enforceable, or if not possible, shall be deemed deleted. The validity and enforceability of all other provisions of the Conditions shall not be affected.

9.5 The Contract and all claims arising from or in connection with it or its subject matter or formation (including non-contractual disputes and claims) shall be governed by and construed in accordance with the laws of England and the parties agree to submit to the non-exclusive jurisdiction of the English Courts.

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