

## TERMS AND CONDITIONS OF SALE FOR BOND DESIGNS LTD

### 1 Definitions and Interpretation

1.1 In these Terms, unless the context requires otherwise:

**Agreement** means the contract for the purchase and sale of the Products comprising the Order and the Verification;

**Customer** means the person whose offer for the Products is accepted by BOND Designs Ltd;

**BOND Designs Ltd**, having its principal place of business at Orchard Lea, Winkfield Lane, Windsor, Berkshire SL4 4RU (Tel: +44 [0] 1344 887473, email design@BONDdesigns.co.uk), trading as BOND Designs Ltd;

**BOND Designs Ltd Site** means the website published by BOND Designs Ltd and located on the world wide web via the uniform resource locator <http://www.BONDDesigns.co.uk>;

**Force Majeure** means any Act of God, explosion, flood, tempest, lightning strike, fire, 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, parliamentary or local authority, import or export regulations or embargoes, strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of BOND Designs Ltd or of a third-party), difficulties in obtaining raw materials, labour, fuel, parts or machinery or power failure or breakdown in machinery or equipment, failure of or error in software, breakdown in communications equipment or ineffectiveness of internet communications;

**Products** means the goods (including any installment of the goods or any parts for them) or services which BOND Designs Ltd is to supply in accordance with these Terms;

**Order** means an offer of the Customer submitted to BOND Designs Ltd and/or through the BOND Designs Ltd Site by completion of the staged ordering process set out therein through submission of forms and following a series of hypertext links as directed on the BOND Designs Ltd Site;

**Special Products** means Products prepared to the Customer's specification (e.g. made-to-measure Products) or Products which have been personalised at the Customer's request or which by reason of their nature cannot be returned or are liable to deteriorate or expire rapidly;

**Terms** means the standard terms and conditions of sale set out in this document;

**Verification** means the verification in Written Form by BOND Designs Ltd of its acceptance of the Order, issued prior to or upon despatch of the Products to the Customer; and

**Written Form** includes without limitation electronic mail, cable, facsimile transmission and comparable means of communication.

## **2 Agreement**

- 2.1 These Terms shall govern the Agreement to the exclusion of any other terms and conditions subject to which any offer is made or purported to be made by the Customer. Subject always to the foregoing provision, BOND Designs Ltd shall sell and the Customer shall purchase the Products in accordance with the Order and the Verification.
- 2.2 No variation to these Terms shall be binding unless agreed in Written Form between authorised representatives of the Customer and BOND Designs Ltd.
- 2.3 The Customer acknowledges that the website text, price lists, lists of items for sale or other sales literature and any other information published on the BOND Designs Ltd Site shall constitute only an invitation to treat and may not be construed by the Customer as any offer by or binding obligation upon BOND Designs Ltd to sell any item to the Customer.
- 2.4 The Order shall not be deemed to be accepted by BOND Designs Ltd unless and until the Verification has been issued to the Customer.
- 2.5 The Customer shall be responsible to BOND Designs Ltd for ensuring the accuracy of the terms of the Order (including any applicable specification or measurements) submitted by the Customer, and for giving BOND Designs Ltd any necessary information relating to the Products within a sufficient time period to enable BOND Designs Ltd to perform the Agreement in accordance with its terms. For the avoidance of doubt, the Products will be manufactured in accordance with the specification forming part of the Order and BOND Designs Ltd shall not be responsible for any incorrect measurements provided by the Customer. The Customer shall be responsible to BOND Designs Ltd for ensuring that the measurements stated on the Order are correct.
- 2.6 Subject to Clause 9.1, the Order may not be cancelled by the Customer after the Verification has been issued except with the agreement in Written Form of BOND Designs Ltd and on terms that the Customer shall indemnify and keep indemnified BOND Designs Ltd 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 BOND Designs Ltd as a result of cancellation.

### **3 Representations**

- 3.1 BOND Designs Ltd's employees or agents are not authorised to make any representations concerning the Products unless confirmed by BOND Designs Ltd in Written Form. In entering into the Agreement the Customer acknowledges that it does not rely on any such representations which are not so confirmed.
- 3.2 Any advice or recommendation given by BOND Designs Ltd or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Products which is not confirmed in Written Form by BOND Designs Ltd is followed or acted upon entirely at the Customer's own risk, and accordingly BOND Designs Ltd shall not be liable for any such advice or recommendation which is not so confirmed.
- 3.3 The Customer acknowledges that any information given by BOND Designs Ltd does not constitute rules or advice for cleaning, fitting or use of the Products. In entering into the Agreement the Customer acknowledges that it does not rely on any such information.
- 3.4 Any typographical, clerical or other error or omission in any sales literature, price list, website text, acceptance of offer, invoice or other document or information issued by BOND Designs Ltd shall be subject to amendment or correction without any liability on the part of BOND Designs Ltd.

### **4 Specifications of Products and Order**

- 4.1 The quantity, quality and description of and any specification for the Products shall be those set out in the Verification and BOND Designs Ltd's on-line catalogue located on the BOND Designs Ltd Site. BOND Designs Ltd cannot guarantee an exact colour match against any Products photography used on the BOND Designs Ltd Site or in BOND Designs Ltd's on-line catalogue, due to variations in colour monitors. The Customer is therefore advised to request fabric and/or wallcovering and/or trimming samples before submitting their Order.
- 4.2 If the Products are to be manufactured or any process is to be applied to the Products by BOND Designs Ltd in accordance with a specification submitted by the Customer, the Customer shall indemnify and keep indemnified BOND Designs Ltd in full against all loss, damages, costs and expenses awarded against or incurred by BOND Designs Ltd in connection with or paid or agreed to be paid by BOND Designs Ltd in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from BOND Designs Ltd's use of the Customer's specification.
- 4.3 There shall be a minimum Order of one metre of fabric or material, unless otherwise stated in Written Form by BOND Designs Ltd, and all Orders will be

rounded up to the next full metre. The Customer hereby acknowledges that it has been drawn to their attention that BOND Designs Ltd recommend allowing for shrinkage of up to 5% when submitting an Order in respect of cotton and/or cotton rich fabrics.

- 4.4 BOND Designs Ltd's policy being one of continuous improvement, BOND Designs Ltd reserves the right to change the Products or any relative specifications and designs at any time, without notice, as a result of changes in the law or at the discretion of BOND Designs Ltd.
- 4.5 The Customer hereby acknowledges that it has been drawn to their attention that the colours of the flame retardant or soil resistant fabrics will be slightly different to the colours of the non-flame retardant or non-soil resistant fabrics in the pattern books produced by the manufacturers of such fabrics. The Customer hereby agrees to take any such flame retardant or soil resistant fabrics at their own risk as to any such colour variations.
- 4.6 The Customer hereby acknowledges that in the manufacture of the Products it is inevitable that there will be variations in pattern repeats, fabric widths and colour and shade variations between batches of fabric. The Customer hereby agrees that they shall not be entitled to make any claims for compensation or damages against BOND Designs Ltd in connection with variations in pattern repeats and fabric widths which do not exceed 3% greater or smaller of the dimensions quoted in BOND Designs Ltd's Verification, on-line catalogue or fabric books. Where colour matching is important, BOND Designs Ltd recommend that a sample stock cutting is requested.

## **5 Price and Delivery Charges**

- 5.1 The price of the Products shall be the price specified by BOND Designs Ltd in the Verification, or, where no price is quoted in the Verification, the price listed in BOND Designs Ltd's price list or website text on the BOND Designs Ltd Site current at the date of the Verification.
- 5.2 BOND Designs Ltd reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Products to reflect:-
- 5.2.1 any increase in the cost to BOND Designs Ltd which is due to any factor beyond the control of BOND Designs Ltd (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture);
- 5.2.2 any delay or default caused by any instructions of the Customer or failure of the Customer to give BOND Designs Ltd adequate information or instructions; and/or

- 5.2.3 any alteration in delivery dates, quantities or specifications for the Products which is requested by the Customer.
- 5.3 The Customer shall be liable to pay BOND Designs Ltd's charges for delivery, transport, packaging and insurance of the Products to the address supplied by the Customer in the Order.
- 5.4 Subject to Condition 5.3, where the whole of the Order is delivered as a single consignment via standard delivery to an address within the UK mainland, BOND Designs Ltd's standard delivery charges are as follows:-
- | <u>total Order value</u> | <u>delivery charge</u>      |
|--------------------------|-----------------------------|
| less than £500.00        | 4% of the total Order value |
| between £501 and £2000   | 3% of the total Order value |
| between £2001 and £5000  | 2% of the total Order value |
| in excess of £5000       | 1% of the total Order value |
- provided always that BOND Designs Ltd shall be entitled in its discretion to make additional charges for furniture, large items, special delivery, sea freight, air freight and overseas deliveries.
- 5.5 The price shall be inclusive of any applicable Value Added Tax (except in the case of Products to be delivered to an address outwith the UK mainland, which shall be treated for tax purposes in accordance with BOND Designs Ltd's standard practice).
- 5.6 Where delivery of Products is made by installments, the price applicable shall be that ruling at the date of dispatch of each installment unless otherwise agreed in Written Form between BOND Designs Ltd and the Customer.

## **6 Payment**

- 6.1 Subject to any special terms agreed in Written Form between the Customer and BOND Designs Ltd, BOND Designs Ltd shall be entitled to payment in full for the price of the Products (and any costs of delivery and carriage, and VAT) on the date of issue of the Verification. Where payment is by cheque, BOND Designs Ltd shall not be required to process the Customer's order until the cheque has cleared and BOND Designs Ltd is in cleared funds. Where payment is made online using the Customer's credit or debit card, the Customer shall enter all relevant details using the Worldpay payment system or equivalent. Where payment is made by telephone using the Customer's credit or debit card, all such payments shall be inputted by BOND Designs Ltd using an electronic terminal supplied by BOND Designs Ltd's bankers. In each case, the Customer's credit or debit card shall be debited with payment in full for the Products, transport, packaging and insurance and applicable Value Added Tax on the date of the Verification.

- 6.2 The Customer shall pay the price of the Products and any charges for delivery, transport, packing and insurance on the date of the Verification, and BOND Designs Ltd shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Products has not passed to the Customer. The time of payment of the price shall be of the essence of the Agreement. Receipts for payment will be issued only upon request.
- 6.3 If the Customer fails to make any payment by the relevant due date or if payment is declined or not authorised by the issuer of the Customer's credit or debit card when processed by BOND Designs Ltd then, without prejudice to any other right or remedy available to BOND Designs Ltd, BOND Designs Ltd shall be entitled to:
- 6.3.1 cancel the Agreement or suspend any further deliveries to the Customer; and/or
  - 6.3.2 appropriate any payment made by the Customer to such of the Products (or the goods supplied under any other contract between the Customer and BOND Designs Ltd) as BOND Designs Ltd may think fit (notwithstanding any purported appropriation by the Customer); and/or
  - 6.3.3 charge the Customer interest (both before and after any Decree or judgement) on any amount unpaid, at the rate of five per cent per annum above the Bank of England base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest.)

## **7 Delivery of Products**

- 7.1 Delivery of the Products shall be made by BOND Designs Ltd or their nominated carrier delivering the Products to the delivery address specified in the Order.
- 7.2 Any dates quoted for delivery of the Products are approximate only and not guaranteed and BOND Designs Ltd shall not be liable for any delay in delivery of the Products howsoever caused. Time for delivery shall not be of the essence of the Agreement unless previously agreed by BOND Designs Ltd in Written Form. The Products may be delivered by BOND Designs Ltd in advance of the quoted delivery date upon giving reasonable notice in any form to the Customer.
- 7.3 Where the Products are delivered in installments, each delivery shall constitute a separate Agreement and failure by BOND Designs Ltd to deliver any one or more of the installments in accordance with these Terms or any claim by the Customer in respect of any one or more installments shall not entitle the Customer to treat the Agreement as a whole as repudiated. Orders for delivery outside the UK will be delivered as a single consignment.

- 7.4 If the Customer fails to take delivery of the Products or fails to give BOND Designs Ltd adequate delivery instructions in the Order then, without prejudice to any other right or remedy available to BOND Designs Ltd, BOND Designs Ltd may:
- 7.4.1 store the Products until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; or
  - 7.4.2 sell the Products at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Agreement or charge the Customer for any shortfall below the price under the Agreement
- 7.5 Delivery shall be evidenced by the return to BOND Designs Ltd of its or its authorised carriers' official packing/delivery note which, howsoever signed as acknowledgement of receipt of the goods, shall constitute absolute proof of delivery of the items specified in it. The Customer shall inspect the Products thoroughly upon delivery and by signing the delivery note confirm that the Products have been received in good condition

## **8 Transfer of ownership and risk**

- 8.1 Risk of damage to or loss of the Products shall pass to the Customer:
- 8.1.1 in the case of Products to be delivered at BOND Designs Ltd's premises, at the time when BOND Designs Ltd notifies the Customer that the Products are available for collection; or
  - 8.1.2 in the case of Products to be delivered otherwise than at BOND Designs Ltd's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Products, the time when BOND Designs Ltd has tendered delivery of the Products.
- 8.2 Notwithstanding delivery and the passing of risk in the Products, or any other provision of these Terms, the title to and in the Products shall not pass to the Customer until all sums due by the Customer to BOND Designs Ltd (including any applicable interest and charges) have been paid in full
- 8.3 Until such time as the property in the Products passes to the Customer, the Customer shall keep the Products separate from those of the Customer and third parties and properly stored, protected and insured and identified as BOND Designs Ltd's property, but shall be entitled to resell or use the Products in the ordinary course of its business.
- 8.4 Until such time as the property in the Products passes to the Customer (and provided the Products are still in existence and have not been resold), BOND

Designs Ltd shall be entitled at any time to require the Customer to deliver up the Products to BOND Designs Ltd and, if the Customer fails to do so forthwith, to enter upon any premises of the Customer or any third party where the Products are stored and repossess the Products. The Customer shall be obliged to assist and allow BOND Designs Ltd to repossess the Products

- 8.5 The Customer shall not be entitled in any way to charge by way of security for any indebtedness any of the Products, which remain the property of BOND Designs Ltd, but if the Customer does so, all moneys owing by the Customer to BOND Designs Ltd shall (without prejudice to any other right or remedy of BOND Designs Ltd) forthwith become due and payable.

## **9 Returned Products**

- 9.1 Subject to Clause 9.2, within 7 days of delivery of the Products the Customer shall be entitled to withdraw from the Agreement, return the Products and receive a full refund (or where the Products have not been paid for, full credit), provided that the Products have not been used in any way, are in the same good condition which they were received by the Customer and are returned to BOND Designs Ltd. In such event the Customer shall be responsible for the costs of returning the Products and shall indemnify BOND Designs Ltd against all and any such costs.

- 9.2 Clause 9.1 shall not apply to Special Products

- 9.3 Subject to Clause 9.1 and any statutory rights of the Customer, refunds to the Customer are entirely at the discretion of BOND Designs Ltd and, if accepted by BOND Designs Ltd, shall be subject to a handling charge equal to 15% of the total value of the Products, which, where applicable shall be due and payable on the due date of the original invoice.

## **10 BOND Designs Ltd's Warranties and Limitation of Liability**

- 10.1 Subject to the conditions set out below, BOND Designs Ltd warrants that the Products will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of twelve months from the date of their initial use or twelve months from delivery, whichever is the first to expire.

- 10.2 The above warranty is given by BOND Designs Ltd subject to the following conditions:

10.2.1 BOND Designs Ltd shall be under no liability in respect of any defect in the Products arising from any drawing, design or specification supplied by the Customer;

- 10.2.2 BOND Designs Ltd shall be under no liability in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow BOND Designs Ltd's instructions (whether oral or in writing), misuse or alteration or repair of the Products without BOND Designs Ltd's approval;
- 10.2.3 BOND Designs Ltd shall be under no liability in respect of any defects which are brought to the attention of the Customer prior to the issuance of an Verification and which are noted on the Verification (for example Products sold as "clearance" Products);
- 10.2.4 BOND Designs Ltd shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Products has not been paid by the due date for payment;
- 10.2.5 the above warranty does not extend to parts, materials or equipment not manufactured by BOND Designs Ltd, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer or any third party supplier to BOND Designs Ltd; and
- 10.2.6 all Products sold by BOND Designs Ltd must be cleaned in accordance with the instructions accompanying the Products on delivery.
- 10.3 Subject as expressly provided in these Terms, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 10.4 Any claim by the Customer which is based on any defect in the quality or condition of the Products or their failure to correspond with specification shall (whether or not delivery is refused by the Customer) be notified to BOND Designs Ltd in Written Form within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. Subject to Clause 9.1, if delivery is not refused, and the Customer does not notify BOND Designs Ltd accordingly, the Customer shall not be entitled to reject the Products and BOND Designs Ltd shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Products had been delivered in accordance with the Agreement.
- 10.5 Where any valid claim in respect of any of the Products which is based on any defect in the quality or condition of the Products or their failure to meet specification is notified to BOND Designs Ltd in accordance with these Terms, BOND Designs Ltd shall be entitled to replace the Products (or the part in question) free of charge or, at BOND Designs Ltd's sole discretion, refund to the Customer the price of the Products (or a proportionate part of the price), but

BOND Designs Ltd shall have no further liability to the Customer or any other person.

- 10.6 Except in respect of death or personal injury caused by BOND Designs Ltd's negligence, BOND Designs Ltd shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Agreement, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of BOND Designs Ltd, its employees or agents or otherwise) which arise out of or in connection with the supply of the Products or their use or resale by the Customer, and the entire liability of BOND Designs Ltd under or in connection with the Agreement shall not exceed the price of the Products, except as expressly provided in these Terms.
- 10.7 BOND Designs Ltd is not covered by a separate Professional Indemnity Insurance.
- 10.8 BOND Designs Ltd shall not be liable to the Customer or be deemed to be in breach of the Agreement by reason of any delay in performing, or any failure to perform, any of BOND Designs Ltd's obligations in relation to the Products, if the delay or failure was due to any Force Majeure or other cause beyond BOND Designs Ltd's reasonable control.

## **11 Intellectual Property**

As between BOND Designs Ltd and the Customer, all intellectual property rights in any specifications, drawings and technical descriptions submitted by BOND Designs Ltd with or in connection with the Agreement shall (unless otherwise indicated in Written Form by BOND Designs Ltd) belong to BOND Designs Ltd and any infringement is actionable in law or otherwise.

## **12 Customer's Insolvency**

If the Customer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction), has a receiver, liquidator or administrator appointed over any of its property or assets, ceases, or threatens to cease, to carry on business, or if BOND Designs Ltd reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly, then without prejudice to any other available right or remedy, BOND Designs Ltd shall be entitled to cancel the Agreement or suspend any further deliveries without any liability to the Customer, and if the Products have been delivered, but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

### **13 Performance**

BOND Designs Ltd may perform any of its obligations or exercise any of its rights hereunder by itself or where applicable through any other person, provided that any act or omission of any such other person shall be deemed to be the act or omission of BOND Designs Ltd

### **14 Notices**

Any notice required or permitted to be given by either party to the other under these Terms shall be in Written Form 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 pursuant to this provision to the party giving the notice.

### **15 No waiver**

No waiver by BOND Designs Ltd of any breach of the Agreement by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision. If any provision of these Terms is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected.

### **16 Entire agreement**

The Agreement and these Terms shall constitute the entire agreement between the Customer and BOND Designs Ltd in respect of the supply of Products and shall supercede all previous oral or written representations. In particular, the Customer may not rely on any statements made by any employee, representative or agent of BOND Designs Ltd.

### **17 Assignment**

BOND Designs Ltd may assign or sub-contract to any person the whole, or any part of, the Agreement with the Customer. Unless otherwise agreed in Written Form, the Customer may not assign either the benefit or the burden of any Agreement.

### **18 Choice of laws and jurisdiction**

The Agreement shall be governed by the law of England and Wales, and the Customer agrees to submit to the non-exclusive jurisdiction of the Courts.