

The customer's attention is drawn in particular to the provisions of clause 15.

1. **Interpretation**

1.1 **Definitions.** In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Commencement Date: has the meaning given to it in clause 3.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 17.7.

Contract: the contract between Woolcool and the Customer for the sale and purchase of the Goods in accordance with these Conditions and, if applicable, the Export Sale Conditions and any other documentation referred to in either of them.

Customer: the person or firm who purchases the Goods from Woolcool.

Export Sale Conditions: the export sale conditions annexed to these Conditions, which shall apply exclusively to export sales (if applicable).

Delivery Location: the address for delivery of the Goods, as set out in the Order Confirmation (or otherwise specified by Woolcool in writing from time to time).

Force Majeure Event: has the meaning given in clause 16.2.

Goods: the goods (or any part of them) to be supplied by Woolcool under the Contract, as set out in the Order Confirmation.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Customer's written or verbal order for the Goods.

Order Confirmation: has the meaning given in clause 3.4.

Specification: the specification for the Goods, as set out in the Order Confirmation (or otherwise agreed to in writing by the parties).

Trade Secrets: has the meaning given in regulation 2 of the Trade Secrets (Enforcement etc.) Regulations 2018/597.

Woolcool: The Wool Packaging Company Limited, Company Number 06900094, whose registered office is at Units 1a & 1b Tungsten Park, Opal Way, Stone, Staffordshire, ST15 0SS.

1.2 **Construction.** In these Conditions, the following rules apply:

1.2.1 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

1.2.2 A reference to a party includes its personal representatives, successors or permitted assigns;

1.2.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.2.4 Any phrase introduced by the terms including, include, in particular or any similar expression will be construed as illustrative and will not limit the sense of the words preceding those terms;

1.2.5 A reference to **writing** or **written** includes emails but not faxes;

1.2.6 References to clauses are to the clauses of these Conditions and references to paragraphs are to paragraphs of the Export Sale Conditions;

1.2.7 Unless the contrary is stated, any conflict arising between the Contract Particulars, these Conditions,

the Export Sale Conditions (if applicable) and any other documents referred therein will be resolved in the following order of precedence:

- (a) the Contract Particulars;
- (b) the Export Sale Conditions (if applicable);
- (c) these Conditions;
- (d) any other documents referred to.

2. **Basis of Contract**

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. They supersede any previously issued terms and conditions of purchase or supply.

2.2 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

2.3 The Contract is not a contract for a sale by sample.

2.4 Any samples, drawings, descriptive matter, or advertising produced by Woolcool and any descriptions or illustrations contained in Woolcool's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them. Any samples, drawings, descriptive matter, or advertising produced by Woolcool will not form part of the Contract or have any contractual force.

2.5 A quotation for the Goods given by Woolcool will not constitute an offer. A quotation (whether contained in an unconfirmed Order Confirmation or otherwise) will only be valid for a period of 20 Business Days from its date of issue. Any prices set out in a quotation shall be exclusive of those costs, charges and other sums set out in clause 9 of these Conditions, which shall be payable by the Customer in addition.

3. **Order process**

3.1 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions.

3.2 The Customer is responsible for ensuring that the terms of the Order and any specification submitted by the Customer are complete and accurate.

3.3 Woolcool shall be free to accept or decline an Order (whether in full or in part) at its absolute discretion.

3.4 No Order shall be deemed to be accepted by Woolcool until Woolcool issues a "Sales Order Acknowledgement" form (for Customer's operating on approved credit accounts) or "Pro Forma Order" form (for all other Customers) or otherwise confirms its acceptance of the Order (whether in full or in part) in writing or by e-mail or other electronic communication (in each case the "**Order Confirmation**"), at which point the Customer has:

3.4.1 **if the Customer is not operating on an approved credit account:** 14 calendar days from the date of the Order Confirmation to pay the relevant invoice raised by Woolcool in respect of the Order; or

3.4.2 **if the Customer is operating on an approved credit account:** 20 Business Days from the date of the Order Confirmation to confirm (in writing) its Order.

3.5 The Contract will come into existence the day upon which the Customer makes payment of the relevant invoice in accordance with clause 3.4.1 or provides such written confirmation to Woolcool in accordance with 3.4.2 (as applicable) ("**Commencement Date**").

3.6 Once the Order has been accepted by Woolcool, the Order cannot be amended or cancelled by the Customer without Woolcool's prior written approval in respect of such amendment or cancellation.

4. **Goods**

4.1 The Goods are described in the Specification.

4.2 To the extent that the Goods are to be manufactured in accordance with a specification supplied by the Customer, the Customer will indemnify Woolcool against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs

- and expenses) suffered or incurred by Woolcool in connection with any claim made against Woolcool for actual or alleged infringement of any Intellectual Property Rights belonging to any third party arising out of or in connection with Woolcool's use of the specification. This clause 4.2 will survive termination of the Contract.
- 4.3 Woolcool reserves the right to amend the Specification from time to time if required by or in order to reflect any applicable statutory or regulatory requirements.
5. **Delivery**
- 5.1 The method of delivery will be as set out in the Order Confirmation (or otherwise specified in writing by Woolcool).
- 5.2 **If Woolcool is to deliver the Goods, the provisions of this clause 5.2 shall apply:**
- 5.2.1 Woolcool, or its nominated carrier, will deliver the Goods to the Delivery Location at any time after Woolcool notifies the Customer that the Goods are ready.
- 5.2.2 Delivery of the Goods will be completed on the Goods' arrival at the Delivery Location. The Customer's or the Customer's personnel will be responsible for unloading the Goods.
- 5.3 **If the Customer is to collect the Goods, the provisions of this clause 5.3 shall apply:**
- 5.3.1 The Customer, or its nominated carrier, shall collect the Goods from the Delivery Location within five Business Days of Woolcool notifying the Customer that the Goods are ready for collection.
- 5.3.2 Delivery of the Goods will be completed once Woolcool has made the Goods available to the Customer, or its nominated carrier, for collection at the Delivery Location.
- 5.4 **The provisions of this clause 5.4 apply irrespective of the method of delivery.**
- 5.4.1 Woolcool will use reasonable endeavours to ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Woolcool reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered. To the extent that a delivery note is not provided on delivery, Woolcool will, at the Customer's reasonable request, provide an electronic delivery note to the Customer provided that the Customer's request for a delivery note is submitted within a reasonable time after delivery taking place and, in any event, no later than 14 calendar days following the completion of delivery in accordance with clause 5.2.2 or 5.3.2 (as applicable).
- 5.4.2 If Woolcool requires the Customer to return any packaging materials to Woolcool, Woolcool will notify the Customer of such a requirement by stating this on the delivery note or otherwise requesting such return in writing at any time. The Customer will, at Woolcool's option, return any such packaging materials to Woolcool's registered office (or such other location nominated by Woolcool from time to time) or make them available for collection at such times as Woolcool will reasonably request. Returns of packaging materials will be at Woolcool's expense.
- 5.4.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Woolcool will not be liable for any delay in delivery of, or failure to deliver, the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Woolcool with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.4.4 If Woolcool fails to deliver the Goods, its liability will be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
- 5.4.5 If the Customer fails to accept or take (as applicable) delivery of the Goods within three Business Days of Woolcool notifying the Customer that the Goods are ready then, except where such failure or delay is caused by a Force Majeure Event or Woolcool's failure to comply with its obligations under the Contract:
- (a) delivery of the Goods will be deemed to have been completed at 9.00 am on the third Business Day after the day on which Woolcool notified the Customer that the Goods have arrived or were ready for collection (as applicable); and
- (b) subject to clause 5.4.6 Woolcool will store the Goods until actual delivery takes place and may charge the Customer for all related costs and expenses (including insurance).
- 5.4.6 If the Customer has failed to accept or take (as applicable) delivery 10 Business Days after the day on which Woolcool has notified the Customer that the Goods were ready for delivery, the following provisions will apply:
- (a) **in respect of bespoke Goods:** Woolcool may, at its option, store any such bespoke Goods and charge the Customer any storage costs incurred as a result as well as any costs incurred as a result of restocking any Goods where restocking is viable; and
- (b) **in respect of standard Goods:** Woolcool will be entitled to charge the Customer for all storage and restocking costs. To the extent that the Customer has paid for the Goods in advance, Woolcool may, in its discretion, as agent for the Customer, resell such standard Goods or otherwise dispose of part or all of them and, if it does so, charge the Customer for any shortfall below the price of the Goods. However, Woolcool will account to the Customer in respect of any excess if a sale or disposal of such standard Goods is for a price greater than that paid by the Customer.
- 5.4.7 If Woolcool delivers up to and including 10% more or less than the quantity of Goods ordered the Customer may not reject them, but a pro rata adjustment will be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.
- 5.4.8 Woolcool may deliver the Goods by instalments, which will be invoiced and paid for separately. Each instalment will constitute a separate Contract. Any delay in delivery or defect in an instalment will not entitle the Customer to cancel any other instalment.
6. **Quality**
- 6.1 Woolcool warrants that on delivery, and for a period of 12 months from the date of completion of delivery in accordance with clause 5.2.2 or 5.3.2 (as applicable) or, if applicable, clause 5.4.5 ("**warranty period**"), the Goods will:
- 6.1.1 conform in all material respects with their description (as set out in the Specification);
- 6.1.2 be free from material defects in design, material and workmanship;
- 6.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- 6.1.4 be fit for any purpose held out by Woolcool in writing.
- 6.2 As the Customer's sole and exclusive remedy, Woolcool shall, at its option, repair, replace or refund the price paid for the Goods that do not comply with the warranty set out in clause 6.1, provided that the Customer:
- 6.2.1 gives notice in writing to Woolcool during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.1;
- 6.2.2 such notice specifies in sufficient detail the nature and extent of the defects
- 6.2.3 Woolcool is given a reasonable opportunity of examining such Goods; and
- 6.2.4 the Customer (if asked to do so by Woolcool) returns such Goods to Woolcool's place of business at the Customer's cost.
- 6.3 Woolcool will not be liable for Goods' failure to comply with the warranty set out in clause 6.1 in any of the following events:
- 6.3.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 6.2;
- 6.3.2 the Customer fails to store the Goods in a cool, dry place;
- 6.3.3 the Customer stores the Goods in such a place which is likely to cause damage to the Goods;

- 6.3.4 the defect arises because the Customer failed to follow Woolcool's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- 6.3.5 the defect arises as a result of Woolcool following any drawing, design or specification supplied by the Customer;
- 6.3.6 the Customer alters or repairs such Goods without the written consent of Woolcool;
- 6.3.7 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- 6.3.8 the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 6.4 Except as provided in this clause 6, Woolcool will have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1.
- 6.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 6.6 These Conditions will apply to any repaired or replacement Goods supplied by Woolcool.
7. **Title and Risk**
- 7.1 The risk in the Goods will pass to the Customer on completion of delivery in accordance with clause 5.2.2 or 5.3.2 (as applicable) or, if applicable, clause 5.4.5.
- 7.2 Title to the Goods will not pass to the Customer until the earlier of:
- 7.2.1 Woolcool receiving payment in full (in cash or cleared funds) for the Goods; and
- 7.2.2 the Customer reselling or using the Goods in the ordinary course of its business, in which case title to the Goods shall pass to the Customer at the time specified in clause 7.4
- 7.3 Until title to the Goods has passed to the Customer, the Customer will:
- 7.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Woolcool's property;
- 7.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 7.3.3 store the Goods in a cool, dry place and in accordance with Woolcool's storage instructions communicated to the Customer from time to time;
- 7.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- 7.3.5 notify Woolcool immediately if it becomes subject to any of the events listed in clause 10.2; and
- 7.3.6 give Woolcool such information relating to the Goods as Woolcool may require from time to time.
- 7.4 Subject to clause 7.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before Woolcool receives payment for the Goods. However, if the Customer resells the Goods before that time, title to the Goods shall pass from Woolcool to the Customer immediately before the time at which resale by the Customer occurs.
- 7.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 10.2, then, without limiting any other right or remedy Woolcool may have:
- 7.5.1 the Customer's right to use the Goods in the ordinary course of its business ceases immediately; and
- 7.5.2 Woolcool may at any time:
- (a) require the Customer to deliver up all Goods in its possession; and
- (b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
8. **Credit limits**
- Woolcool may set and vary the credit limit for such credit account from time to time and reserves the right to withhold all further supplies if the Customer exceeds such credit limit.
9. **Price and Payment**
- 9.1 The price of the Goods will be the price set out in the Order Confirmation, or, if no price is quoted, the price set out in Woolcool's published price list in force as at the date of delivery.
- 9.2 Woolcool may by giving notice to the Customer at any time up to 2 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- 9.2.1 any factor beyond Woolcool's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- 9.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- 9.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give Woolcool adequate or accurate information or instructions.
- 9.3 The price of the Goods is exclusive of the following which shall be payable by the Customer to Woolcool in addition and which be added to the relevant invoices:
- 9.3.1 costs and charges of additional packaging, insurance and transport of the Goods;
- 9.3.2 packaging, freight, and insurance;
- 9.3.3 customs, handling, tariffs or import and/or export duties; and
- 9.3.4 all costs or charges in relation to loading, unloading, carriage, delivery and shipping.
- 9.4 The price of the Goods is exclusive of amounts in respect of value added tax ("VAT") (or equivalent sales tax), sale, withholding or other applicable tax (other than income tax which Woolcool may be subject). The Customer will, on receipt of a valid VAT invoice from Woolcool, pay to Woolcool such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- 9.5 Notwithstanding any other provision of these Conditions, Woolcool hereby reserves the right in its discretion to charge the Customer for any and all additional and supplemental costs, expenses and/or charges which it properly incurs in connection with the supply of the Goods at any time prior to actual delivery of the Goods (including without limitation to reflect any increases in taxes, duties and/or tariffs). Any such costs, expenses and/or charges shall be payable by the Customer in addition to the price for the Goods and shall be added to the relevant invoice(s) accordingly.
- 9.6 Woolcool may invoice the Customer for the Goods:
- 9.6.1 **if the Customer is not operating on an approved credit account:** at any time before despatch of the Goods; or
- 9.6.2 **if the Customer is operating on an approved credit account:** on or any time after delivery.
- 9.7 The Customer will pay each invoice submitted by Woolcool:
- 9.7.1 **if the Customer is not operating on an approved credit account:** in full and cleared funds to the bank account nominated in writing by Woolcool within 14 calendar days following the date of the relevant invoice. No Goods will be despatched by Woolcool until payment has been received in accordance with the provisions of this clause 9; or
- 9.7.2 **if the Customer is operating on an approved credit account:** in full and cleared funds to the bank account nominated in writing by Woolcool within 30 calendar days following the date of relevant invoice.
- 9.8 Time for payment by the Customer is of the essence.
- 9.9 If the Customer fails to make any payment due to Woolcool under the Contract by the due date for payment, then the Customer will pay interest on the overdue amount at the rate of 4% per annum above Bank of England's base rate from time to time but at 4% per annum for any period when that base rate is below 0%. Such interest will accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer will pay the interest together with the overdue amount.

- 9.10 The Customer will pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Woolcool may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Woolcool to the Customer.
- 9.11 If the Customer is required under any applicable law to withhold or deduct any amount from the payments due to Woolcool, the Customer shall increase the sum it pays to Woolcool by the amount necessary to leave Woolcool with an amount equal to the sum it would have received if no such withholdings or deductions had been made.
10. **Termination and Suspension**
- 10.1 If the Customer becomes subject to any of the events listed in clause 10.2, Woolcool may without limiting its other rights or remedies terminate the Contract with immediate effect by giving written notice to the Customer.
- 10.2 For the purposes of clause 10.1, the relevant events are:
- 10.2.1 the Customer fails to pay any undisputed amount due under the Contract on the due date for payment and remains in default not less than 14 calendar days after being notified in writing to make such payment;
- 10.2.2 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 5 calendar days of being notified in writing to do so;
- 10.2.3 the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- 10.2.4 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- 10.2.5 (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- 10.2.6 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- 10.2.7 (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
- 10.2.8 a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- 10.2.9 (being an individual) the Customer is the subject of a bankruptcy petition or order;
- 10.2.10 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 calendar days;
- 10.2.11 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.2.1 to clause 10.2.10 (inclusive);
- 10.2.12 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
- 10.2.13 the Customer's financial position deteriorates to such an extent that in Woolcool's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;
- 10.2.14 there is a change of Control of the Customer and for the purposes of this clause 10.2.14 **control** will have the meaning given in section 1124 of the Corporation Tax Act 2010 and **change of control** shall be construed accordingly; and
- 10.2.15 (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 10.3 On termination of the Contract for any reason the Customer will immediately pay to Woolcool all of Woolcool's outstanding unpaid invoices and interest.
- 10.4 Termination of the Contract, however arising, will not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.
- 10.5 Clauses which expressly or by implication survive termination of the Contract will continue in full force and effect.
11. **Suspension**
- 11.1 Without limiting its other rights or remedies, Woolcool may suspend provision of the Goods under the Contract or any other contract between the Customer and Woolcool if the Customer becomes subject to any of the events listed in clause 10.2.1 to clause 10.2.15, or Woolcool reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
12. **End-User Complaints**
- If the Customer notifies Woolcool that it has received a complaint from an end-user in respect of a defective product sold by the Customer, and the end-user and/or the Customer alleges that the defect in such product has arisen due to an issue with the Goods, Woolcool shall undertake internal investigations (such investigations to be carried out in accordance with Woolcool's standard product recall and complaints policies and procedures that are in force from time to time) to determine the validity of the complaint relating to the Goods and shall report the findings of such investigation to the Customer as soon as reasonably possible. In the event that the defect arises as a result of any breach of the provisions of clause 6.1, the provisions of clause 6.2 shall apply.
13. **Intellectual Property Rights**
- 13.1 All Intellectual Property Rights in or arising out of or in connection with the Goods will be owned by Woolcool.
- 13.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Goods, the Customer's use of any such Intellectual Property Rights is conditional on Woolcool obtaining a written licence from the relevant licensor on such terms as will entitle Woolcool to license such rights to the Customer.
- 13.3 To the extent that the Client provides Woolcool with any logos, artwork or other materials ("**Customer Materials**") belonging to the Customer or the Customer's licensors (as the case may be) to be incorporated in or on to the Goods, the Client hereby grants to Woolcool a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable licence to copy, use and modify the Customer Materials and all other Intellectual Property Rights owned by the Customer (or its licensors) ("**Customer IPRs**") for the term of the Contract for the purpose of creating the Goods in accordance with the Contract.
- 13.4 The Customer shall indemnify Woolcool in full for all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other

- professional costs and expenses) incurred or suffered by Woolcool arising out of or in connection with any claim or complaint brought against Woolcool for actual or alleged infringement of a third party's rights (including any Intellectual Property Rights) arising out of, or in connection with, the receipt or use of any Customer IPRs by Woolcool.
14. **Confidentiality**
- 14.1 **Confidential Information** means all confidential information (however recorded or preserved) disclosed by a party or its Representatives (as defined below) to the other party and that party's Representatives whether before or after the date of this Contract in connection with the supply of Goods by Woolcool, including but not limited to any information that would be regarded as confidential by a reasonable business person relating to:
- 14.1.1 the business, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of the disclosing party;
- 14.1.2 the operations, processes, product information, know-how, designs, Trade Secrets or such other trade secrets or software of the disclosing party; and
- 14.1.3 any information developed by the parties in the course of carrying out this Contract.
- 14.2 **Representatives** means in relation to a party, its employees, officers, representatives and advisers.
- 14.3 The provisions in this clause 14 will not apply to any Confidential Information that:
- 14.3.1 is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause);
- 14.3.2 was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
- 14.3.3 was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party; or
- 14.3.4 the parties agree in writing is not confidential or may be disclosed.
- 14.4 Each party will keep the other party's Confidential Information confidential and will not:
- 14.4.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this Contract ("**Permitted Purpose**"); or
- 14.4.2 disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 14.
- 14.5 A party may disclose the other party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that:
- 14.5.1 it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
- 14.5.2 it procures that its Representatives will, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this clause as if they were a party to this agreement,
- 14.5.3 and at all times it is liable for the failure of any Representatives to comply with the obligations set out in this clause 14.5.
- 14.6 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause 14.6, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 14.7 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this clause are granted to the other party, or to be implied from this Contract.
- 14.8 This clause 14 will survive termination of the Contract.
15. **Limitation of Liability**
- 15.1 Nothing in these Conditions will limit or exclude Woolcool's liability for:
- 15.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- 15.1.2 fraud or fraudulent misrepresentation;
- 15.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- 15.1.4 defective products under the Consumer Protection Act 1987; or
- 15.1.5 any matter in respect of which it would be unlawful for Woolcool to exclude or restrict liability.
- 15.2 Subject to clause 15.1:
- 15.2.1 Woolcool's total aggregate liability in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement or any collateral contract will be limited to 110% of the sums paid or payable by the Customer for the Goods.
- 15.2.2 the following types of loss are wholly excluded:
- (a) loss of profits (whether direct, indirect or consequential);
- (b) loss of sales or business (whether direct, indirect or consequential);
- (c) loss of agreements or contracts (whether direct, indirect or consequential);
- (d) loss of anticipated savings (whether direct, indirect or consequential);
- (e) loss of damage to goodwill (whether direct, indirect or consequential); and
- (f) indirect or consequential loss.
- 15.3 This clause 15 shall survive termination of the Contract.
16. **Force Majeure**
- 16.1 Neither party will be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event.
- 16.2 For the purposes of clause 16.1, a "**Force Majeure Event**" means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, pandemics, epidemics, natural disasters or extreme adverse weather conditions, or, in respect of the Customer, default of Woolcool or its subcontractors, Brexit or UK-EU trade agreement. The Customer's inability to pay is not a Force Majeure Event.
17. **General**
- 17.1 **Assignment and other dealings.**
- 17.1.1 Woolcool may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 17.1.2 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations hereunder without Woolcool's prior written consent.
- 17.2 **Notices.**
- 17.2.1 Any notice or other communication given to a party under or in connection with the Contract will be in writing and shall be:
- (a) addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in

accordance with this clause, and will be delivered personally, sent by pre-paid first class post or other next working day delivery service, or commercial courier; or

- (b) sent by email to: (i) if addressed to Woolcool: josie@woolcool.com; or (ii) if addressed to the Customer, such e-mail address that Woolcool holds on its file for the Customer from time to time.

17.2.2 A notice or other communication will be deemed to have been received:

- (a) if delivered personally, when left at the address referred to in clause 17.2.1;
- (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting;
- (c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or
- (d) if sent by email, at the time of transmission, or, if this time falls outside of business hours in the place of receipt, when business hours resume. In this clause 17.2.2(d), business hours means 9.00am to 5.00pm Monday to Friday on a Business Day.

17.2.3 The provisions of this clause 17.2 will not apply to the service of any proceedings or other documents in any legal action.

17.3 Entire agreement.

17.3.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

17.3.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in the Contract.

17.4 Severance.

17.4.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it will be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision will be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause will not affect the validity and enforceability of the rest of the Contract.

17.4.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties will negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

17.5 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and will not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

17.6 **Third party rights.** A person who is not a party to the Contract will not have any rights to enforce its terms.

17.7 **Variation.** No variation of the Contract will be effective unless it is in writing and signed by the parties (or their authorised representatives).

17.8 **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), will be governed by, and construed in accordance with the laws of England and Wales.

17.9 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales will have exclusive

jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims), unless the Export Sale Conditions apply, in which case the parties irrevocably agree to settle any dispute by arbitration.

EXPORT SALE CONDITIONS

These Export Sale Conditions shall apply only to export sales. If there is any conflict between the provisions of these Export Sale Conditions and the Conditions, the Export Sale Conditions shall take priority (in accordance with clause 1.2.7 of the Conditions).

1. Delivery

1.1 Unless otherwise agreed to in writing by Woolcool, the Goods will be delivered EXW (Incoterms® 2020) – Units 1a & 1b Tungsten Park, Opal Way, Stone, Staffordshire, ST15 0SS, United Kingdom.

2. Import licences

2.1 The Customer is responsible for obtaining, at its own cost, such import licences and other consents in relation to the Goods as are required from time to time and, if required by Woolcool, the Customer shall make those licences and consents available to Woolcool prior to the relevant shipment.

2.2 Without limiting paragraph 2.1, the Customer shall at its own cost provide to Woolcool, or (where local laws or regulations require Woolcool to do so) assist Woolcool in procuring, any documents necessary under applicable laws and regulations for Woolcool to export the Goods to the Delivery Location in accordance with such laws and regulations.

3. Exchange rate

3.1 Unless otherwise agreed to in writing by Woolcool, the Customer shall make all payments due to Woolcool under the Contract in GBP(£).

3.2 If Woolcool does agree to payment in the Customer's local currency then:

3.2.1 for the purposes of converting local currency of the Customer into GBP(£), the rate of exchange to be applied shall be the rate of exchange applied by the Bank of England spot rate for the purchase of GBP(£) with such foreign currency as at the close of business when the relevant payment is made; and

3.2.2 the Customer shall pay on Woolcool's written demand any shortfall from the sterling amount invoiced that arises when the amount paid in local currency is converted into sterling in accordance with paragraph 3.2.1, along with any bank or other costs of conversion incurred by Woolcool.

4. Arbitration

4.1 Any dispute, controversy or claim arising out of or relating to the Contract, including any question regarding its breach, existence, validity or termination or the legal relationships established by the Contract, shall be finally resolved by arbitration under the LCIA rules, which rules are deemed to be incorporated by reference into this clause. It is agreed that:

4.1.1 the tribunal shall consist of one arbitrator to be agreed by the parties;

4.1.2 in default of the parties' agreement as to the arbitrator, the appointing authority shall be the Chartered Institute of Arbitrators in London;

4.1.3 the seat of the arbitration shall be London;

4.1.4 the arbitration shall be governed by the laws of England and Wales; and

4.1.5 the language of the arbitration shall be English.

Last updated 7 September 2021.