

These are the terms and conditions for BMB Clothing Limited trading as Baird Group. Our address is: BMB Clothing Limited, t/a Baird Group, 1 Canal Wharf, Leeds, LS11 5BB, UK. Your use of this website will be subject to these terms and by using the website you agree to be bound by them. Use of your personal information submitted to or via the Site is governed by our Privacy Policy. Products available for sale on this website (Products) are subject to these terms and conditions. By placing an order for Products on this website you agree to be bound by these terms and conditions. We reserve the right to change these terms and conditions at any time, and you are bound by the version available on the site at the date of placing your order. Your statutory rights are not affected by these terms and conditions. These terms and conditions include our privacy policy and the information on our help page.

## 1. DEFINITIONS

1.1 In these conditions:

**"The Seller"** means or refers to BMB Clothing Limited trading as Baird Group.

**"The Buyer"** means the person, company or other business entity who purchases Goods from the Seller.

**"The Order"** means or refers to the written or verbal request for Goods sent by the Buyer to the Seller. "The Goods" means or refers to the goods described in the Order.

**"The Purchase Price"** means the total price payable by the Buyer to the Seller in respect of the Goods.

## 2. TERMS AND CONDITIONS OF SALE

2.1 An Order constitutes an offer by the Buyer to purchase the Goods in accordance with these conditions which shall apply to every sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under, endorsed upon, delivered with or contained in any purchase order, confirmation of order, specification or other document) and are the sole basis on which the Seller is prepared to trade with the Buyer.

2.2 These Terms and Conditions shall constitute the entire agreement between the parties and no addition or variation to these conditions shall be binding upon the Seller unless agreed in writing and signed by a Director of BMB Clothing Limited.

2.3 The Buyer shall be responsible for ensuring the terms of the Order and any applicable information is complete and accurate.

## 3. PRICE & PAYMENT

3.1 The price of the Goods shall be the price quoted or, if no price is quoted, the price set out in the Seller's published price list in force as at the date of delivery.

3.2 The Seller may, by giving notice to the Buyer at any time up to two business days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

3.2.1 any factor beyond the Seller's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

3.2.2 any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered, or any specification;

3.2.3 any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate or accurate information or instructions.

3.3 Unless otherwise agreed in writing and signed by a Director of BMB Clothing Limited the Buyer shall pay the Purchase Price in full in cleared funds without set off or deduction within 30 days of the date of invoice, which shall be issued by the Seller upon dispatch of the Goods. Time of payment shall be of the essence.

3.4 The Purchase Price is exclusive of Value added Tax and any other taxes or duties.

3.5 If the Buyer fails to make any payment on the due dates, then the Seller shall be entitled (without prejudice to any other right or remedy) to:

3.5.1 charge the Buyer interest (both and after judgment) on the amount unpaid at the rate of 4% per annum above Barclays Bank plc base rate from time to time, until payment is made in full (a part of a month being treated as a full month for the purpose of calculating interest); and/or

3.5.2 (if the Goods have not been delivered or the Buyer has not collected the same) retain the Goods or any other goods or products of the Buyer and charge the Buyer for the reasonable cost (including insurance) of storage and the Buyer irrevocably licences the Seller to sell the Goods or any other goods or products of the Buyer so retained to any bona fide third party at the best price reasonably obtainable on condition that the Seller shall account to the Buyer for the excess (after deducting all the Seller's charges, reasonable storage and selling expenses) obtained over the unpaid amount due; and

3.5.3 suspend any further delivery of the Goods to the Buyer.

## 4. DELIVERY

4.1 Subject to Clause 4.2 the Purchase Price is inclusive of delivery charge where delivery is required within the U.K. mainland, unless otherwise stated.

4.2 Orders which do not qualify for free delivery will attract a charge as set out and specified in the Seller's current price list. Orders requiring delivery by other than our nominated carriers will be charged at cost plus 10%.

4.3 Whilst the Seller shall use its reasonable endeavours to deliver the Goods by the delivery date requested by the Buyer in writing, time shall not be of the essence and shall not be made of the essence by notice. If the Seller fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement Goods of similar description and quality in the cheapest market available less the price of the Goods save that the Seller shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event (as specified in condition 13) or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.4 The Buyer shall provide all necessary instructions, documents, licences, consents and authorities that may be required in connection with the delivery of the Goods in good time before delivery.

4.5 In the event of the Buyer failing or refusing to take delivery of the Goods then the full Purchase Price becomes due immediately and the Seller shall store the Goods until delivery takes place and charge the Buyer for all related costs and expenses (including insurance).

## 5. EXAMINATION

The Buyer shall count and examine the Goods immediately on receipt thereof and notify the Seller in writing:

(i) of any defect that is apparent on normal visual inspection within 5 working days of delivery; and

(ii) in the case of a latent defect within a reasonable time of the latent defect having become apparent;

and shall subject to condition 6.4 otherwise be deemed to have accepted the Goods.

## 6. LIMITATION OF LIABILITY

6.1 Except as provided in conditions 6.3 and 6.4 all representations, guarantees, undertakings, conditions or warranties express or implied, statutory or otherwise are expressly excluded and this condition 6 specifies the entire liability of the Seller in relation to the supply of the Goods including liability in negligence.

6.2 The Seller does not exclude liability for death or personal injury resulting from its negligence or that of its employees.

6.3 Without prejudice to the foregoing the Seller shall in no circumstances be liable for

6.3.1 any indirect or consequential loss (including without limitation, loss of profit or liability to third parties) suffered by the Buyer or others; or

6.3.2 for any loss or damage in excess of the Purchase Price for the Goods in respect of which a claim is made.

6.4 Any Goods which are found to the Seller's reasonable satisfaction to be defective after normal use (in the case of defects apparent on inspection within five business days from the date of delivery and in the case of defects not apparent on inspection within 6 months from the date of delivery) due to faulty design or manufacture will, at the sole discretion of the Seller either be replaced or repaired free of charge provided that:

6.4.1 the Goods are made available for inspection at a time and place reasonably arranged by the Seller;

6.4.2 the Goods have not been misused, mishandled, modified or repaired other than with the written consent of the Seller;

6.4.3 the defect in the Goods does not arise from any instructions or specification supplied by the Buyer; and

6.4.4 the Purchase Price for the Goods have been paid by the due date; save that in no circumstances shall the Seller be liable for:

6.4.5 any defect arising from fair wear and tear;

6.4.6 any cloth or trimmings provided by the Buyer.

6.5 Any alterations necessary as a result of incorrect production will be carried out at the expense of the Seller, who reserves the right to do such alterations in the factories of the Seller or its nominated contractors. The cost of any alteration or repair other than those being the responsibility of the Seller will be charged to the Buyer at cost price.

6.6 Any alterations that are necessary as a result of incorrect information supplied to the Seller will be at the Buyer's expense.

6.7 Where the Buyer's cloths are accepted for manufacture of the Goods it is entirely at the Buyer's risk and the Seller will not, whilst every normal care is taken, be responsible for examining the cloth or avoiding faults except where they have been clearly indicated.

6.8 Any special fabric or trimmings, purchased by the Seller on behalf of the Buyer in accordance with order that remains unused will be, at the Seller's discretion, invoiced to the Buyer at the cost to the Seller.

6.9 The Buyer shall not be entitled to rely on any oral statement or representations made by the Seller or by the Seller's employees, agents or servants and the Buyer acknowledges that it will only rely on written data and specifications supplied by the Seller.

## 7. INDEMNITY

Except as provided in condition 6 the Buyer shall keep the Seller fully and effectually indemnified against all costs, claims, demands, expenses and liabilities of whatsoever nature and wheresoever arising which the Seller may sustain, pay or incur arising out of or in connection with the supply or use of the Goods.

## 8. RISK IN THE GOODS

Risk in the Goods shall pass to the Buyer on delivery except where the Buyer contracts to provide transportation between the Seller and the Buyer, the Buyer will be responsible for insuring the Goods in transit.

## 9. TITLE

Ownership of the Goods shall not pass to the Buyer until the Seller has received in full (in cash or in cleared funds):

(a) all sums due to it in respect of the Goods; and

(b) all other sums which are or which become due to the Seller from the Buyer on any account. Until ownership of the Goods has passed to the Buyer, the Buyer shall:

9.1 not do, or permit or cause to be done, any matter or thing whereby the rights of the Seller in respect of the Goods are or may be prejudiced;

9.2 hold the Goods on a fiduciary basis as the Seller's bailee;

9.3 store the Goods (at no cost to the Seller) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Seller's property;  
9.4 not destroy, deface or obscure any identifying mark on or relating to the Goods;  
9.5 maintain the Goods in good condition insured on the Seller's behalf for their full price against all risks to the reasonable satisfaction of the Seller. On request the Buyer shall produce the policy of insurance to the Seller; and  
9.6 hold the proceeds of the insurance referred to in condition 9.5 above on trust for the Seller and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

#### **10. RETENTION OF TITLE**

The Buyer may deal as principal and resell the Goods before ownership has passed to it on the condition that any sale shall be effected only in the ordinary course of the Buyer's business at full market value and only on terms that include the same Retention of Title provisions as this agreement. The Buyer's right to possession of and to resell the Goods shall terminate immediately:

- 10.1 if (being a company) an order is made or a resolution is passed for the winding up of the Buyer or circumstances arise which entitle a Court of competent jurisdiction to make a winding-up order of the Buyer, or an order is made for the appointment of an administrator to manage the affairs, business and property of the Buyer or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Frontsheet B1 to the Insolvency Act 1986) or (being an individual) the Buyer is subject to a bankruptcy petition or order; or
- 10.2 if (being a company) a receiver is appointed of any of the Buyer's assets or undertaking or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Buyer or if any other person takes possession of or sells the Buyer's assets; or
- 10.3 if the Buyer makes any arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- 10.4 if the Buyer 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) 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; or
- 10.5 if any distressment is levied against the Buyer or its property by any third party; or
- 10.6 if the Buyer ceases, or threatens to cease, to carry on business; or
- 10.7 if the Buyer fails to observe or perform any of its obligations under these terms and conditions; or
- 10.8 if the Buyer fails to pay in full any sum owing under these terms and conditions on the date on which payment falls due or in any other manner; or
- 10.9 if any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in conditions 10.1 – 10.8 (inclusive); or
- 10.10 if 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 has been placed in jeopardy; or
- 10.11 (being an individual) the Buyer 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.

The Buyer hereby grants to the Seller, its agents and employees an irrevocable licence to enter at any time any premises where the Goods is or may be located, stored or kept (and to the extent that such licence is invalid or inoperative the Buyer agrees that it shall procure for the Seller such a licence) in order to inspect it, or where the Buyer's right to possession has terminated, to recover it.

#### **11. INTELLECTUAL PROPERTY**

11.1 All intellectual property rights which shall include without prejudice to the foregoing copyright, design right registered design and trade marks whether registered or not in the Goods, including samples and all patterns, designs and know-how used in the manufacture of Goods is vested in and shall remain with the Seller.

11.2 The Buyer shall notify the Seller immediately with full particulars if any claim, notice or information is received alleging or indicating any infringement of the Seller's intellectual property with regard to the Goods and the Seller shall have conduct of any such proceeding.

11.3 The Buyer shall keep confidential any information or know-how it shall obtain in connection with the Seller's business, not in the public domain.

11.4 The Buyer shall ensure that any trade marks affixed in or used in relation to the Goods are not removed or obscured.

11.5 Any brochures, publicity or promotional information provided by the Seller are for illustration purposes only and do not give rise to any independent or collateral warranty on the part of the Seller.

#### **12. CANCELLATION/TERMINATION**

12.1 Following acceptance by the Seller of the Buyer's Order, no cancellation and/or suspension, either in whole or in part, may be made by the Buyer other than with the prior written consent of the Seller and upon terms that the Buyer shall indemnify the Seller in full against all loss (including without limitation loss of profit, loss of use, loss of production, business interference or increased cost of working or any other special or consequential loss) damages, costs, expenses and other liabilities awarded against or incurred by the Seller as a result of or in connection with the cancellation and/or suspension.

12.2 Without prejudice to any other claims or remedies which the Seller may have against the Buyer the Seller may terminate the Agreement immediately by written notice if the Buyer becomes subject to any of the events set out in condition 10.

12.3 Upon termination the Buyer shall pay on demand any Purchase Price outstanding at the time of termination.

#### **13. FORCE MAJEURE**

The Seller reserves the right to suspend or cancel delivery of Goods or any part thereof in the event of the Seller being prevented or hindered from obtaining or delivering dispatching same for reasons beyond the Seller's control. In this event, the Seller shall not be liable for any loss or damage direct or consequential which the Buyer may suffer in consequence or debt or commits any breach of these terms and conditions of any other contract between the Buyer and the Seller may without prejudice to any of its other rights or remedies terminate the contract for sale of the Goods forthwith by the notice to that effect.

#### **14. ASSIGNMENT**

The Buyer may not assign the benefit of this or any contract to purchase Goods from the Seller without prior written consent of the Seller which consent shall not be unreasonably withheld. The Seller may at any time assign, transfer, subcontract or deal in any other manner with all or any of its rights or obligations under any contract to provide Goods to the Buyer.

#### **15. GOVERNING LAW**

The contract for the sale of the Goods between the Seller and the Buyer including these terms and conditions shall be construed according to English Law and the Buyer hereby agrees to submit to the exclusive jurisdiction of the English Courts.

#### **16. SEVERABILITY**

If any wording in any provision of these terms and conditions is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of these terms and conditions and the remainder of such provision shall continue in full force and effect.

#### **17. CREDIT**

Any credit shall be subject to the Seller being satisfied as to the Buyer's credit references and without prejudice to the generality of the foregoing, the Seller may (in its absolute discretion), even if Goods have been delivered, refrain from notifying the Buyer that the Goods are ready for delivery until such time as the Buyer has tendered the Purchase Price to the Seller, together with any outstanding amounts which may be due to the Seller on any account whatsoever.

#### **18. MISCELLANEOUS**

The Buyer must promptly advise the Seller of any change of status. Any notice of change of status sent by the Buyer to the Seller shall only be deemed to have been validly served on the Seller if the Seller shall have received the same and until such time all orders will continue to be delivered to the original account for which the Buyer will remain responsible. **BMB CLOTHING LIMITED trading as BAIRD GROUP**

**TERMS AND CONDITIONS OF SALE – JULY 2019**