

CONDITIONS OF SALE

THESE CONDITIONS CONTAIN LIMITATIONS OF SELLER'S LIABILITY

1. General

- In these conditions, "Sellers" means Sanderson Design Group Brands Limited, trading as Standfast & Barracks or Anstey Wallpaper Company "Buyer" means the buyer indicated on Seller's order confirmation and references to the goods include their packaging. If Seller has not issued an order confirmation, "Seller's order confirmation" means any document issued by Seller indicating the terms on which the products are supplied.
- These conditions supersede all prior representations or arrangements, and contain the entire agreement between the parties in connection with the products (unless otherwise stated on Seller's order confirmation). All other terms and conditions, express or implied, are excluded. None of Seller's employees or agents has authority to modify or supplement these conditions or to accept any order except on Seller's official sales forms. No products shall be deemed appropriate to the contract until after Seller has acknowledged Buyer's order in writing.
- Nothing in these conditions shall restrict the statutory rights of a buyer who deals as a consumer.
- Subject to the provisions of this contract, terms defined in the 2010 edition of Incoterms have the same meaning when used in these conditions.

2. Delivery

- Delivery or despatch dates quoted or requested are given or accepted by Seller in good faith but are not guaranteed and time shall not be of the essence in respect of the Seller's delivery or other obligations.
- Delivery shall be made to the place(s) and by the method(s) specified on Seller's order confirmation (or if none, to Buyer's address in England as stated on Seller's order confirmation, for export sales, FAS UK port/FOB UK airport). Buyer is responsible for un-loading. Buyer's or its carrier's receipt shall be conclusive evidence of delivery.
- Packaging is included in the price and is not returnable unless otherwise stated on Seller's order confirmation. Any special packaging requirements will incur a non-refundable additional charge. Buyer shall comply with all applicable law and regulations, and with any return, disposal or other requirements stated on Seller's order confirmation, in relation to any packaging in or on which the goods are supplied by Buyer, without prejudice to any statutory obligation to which Seller may be subject in relation to such packaging.
- Buyer shall accept manufacturing tolerances accepted in the trade (including, without limitation, tolerances relating to matching of colours and/or designs), and shall pay pro rata for the actual quantity of first quality goods delivered. The quantity stated on Seller's despatch note shall be conclusive evidence of the amount delivered except in cases of manifest error.
- Save for the purposes of Clause 3(e), 6(b) and 7, each delivery shall be treated as a separate contract, and partial deliveries are permitted unless otherwise stated on Seller's order confirmation. Accordingly, failure to make any particular delivery, or any breach of contract by Seller relating thereto, shall not affect any remaining deliveries.
- Buyer shall take delivery of the products by any date quoted by Seller or requested by Buyer or (if none) within a reasonable time. Seller may deliver early where reasonable. Buyer shall be responsible for all storage and other costs relating to Buyer's failure to comply with the contract and for all storage and other costs where Seller agrees to store products for Buyer.
- Buyer shall promptly supply all information and assistance required for Seller to execute Buyer's order.
- If the products are sold FAS or FOB, an on-board bill of lading, a mate's receipt or other document in proof of delivery alongside the vessel is conclusive evidence of delivery. If Seller or its carrier is unable for any reason to place the products on board ship upon their arrival at the port of delivery, a warehouse receipt for the products shall be treated as sufficient delivery.
- If the products are sold CIF or C&F, a receipt bill of lading or way bill is conclusive evidence of delivery.
- Seller undertakes to obtain any UK licence(s) required for the export of the products from the UK by Seller. Buyer undertakes to comply with any such licence(s) and to obtain and comply with all other necessary licences, permits and consents (including all other export/import licences).
- Seller shall be under no obligation whatsoever to accept repeat orders from Buyer.
- If Seller agrees to carry out any additional processing of the products, such processing shall be governed by Seller's then current conditions of processing.

3. Price

- Unless otherwise stated on Seller's order confirmation, prices are free delivered to Buyer's address in England as stated overleaf and exclusive of VAT and all other duties, fees or taxes. All sums due to Seller shall be paid in the currency and to the address stated on Seller's order confirmation, or such other address as Seller may require.
- Unless otherwise stated on Seller's order confirmation, payment is due on the last working day of the month following the month of invoice, but Seller may require security for payment before despatch in the circumstances described in Clause 6(c). Invoices may be raised as soon as products are ready for delivery.
- Where prices are quoted in currencies other than sterling, Buyer shall compensate Seller for any currency losses suffered by Seller as a result of Buyer's failure to pay for the products on the date specified in Clause 3(b).
- Unless prices are stated to be fixed on Seller's order confirmation, Seller may increase prices in accordance with increases in Seller's costs and/or general price list increases occurring after the date of Seller's order confirmation but before despatch. Buyer may in writing within 3 working days of notice of such increase cancel the contract insofar as it relates to undelivered products the subject of the increase.
- In the circumstances described in Clause 6(c), all unpaid balances owing to Seller from Buyer shall become a debt immediately due and payable to Seller, irrespective of whether ownership of the products has passed to Buyer under Clause 7.
- Time of payment is of the essence of the contract. Seller may charge interest 4% above National Westminster Bank plc's base rate per annum for the time being (to accrue from day to day) on any sum owed to Seller under the contract which is not paid on the date specified in Clause 3(b), after as well as before any judgement. Buyer may not withhold payment or make any set-off on any account.
- Seller may appropriate sums received from Buyer against any debt due to Seller from Buyer (under this or any other contract), irrespective of any purported appropriation by Buyer.
- Were any business or division of Seller indebted to Buyer in respect of goods or services by Buyer (whether or not such debt is then due and payable), Seller may, without prior notice to Buyer, set off any or all of such indebtedness against any monies owing by Buyer to Seller, whereupon Buyer shall, to the extent of such set-off, be discharged from its obligations to pay for products (without prejudice to any other remedies of Seller in respect of any non-payment or other default by Buyer) and Seller shall to the same extent be discharged from its indebtedness to Buyer.

4. Seller's Warranty

- Seller warrants that upon delivery the products:
 - are sold with goods title; and
 - comply with any specification appearing on Seller's order confirmation and are made with sound materials and workmanship to normal standards accepted in the industry, in all material respects ("Seller's Warranty").
- SELLER DOES NOT WARRANT THAT THE PRODUCTS ARE FIT FOR ANY PARTICULAR PURPOSE OR INTENDED USE BY BUYER, AND IT IS FOR BUYER TO SATISFY ITSELF THAT THE PRODUCTS ARE SO FIT.**
- If the products correspond to any sample supplied or accepted by Seller, they shall be considered to comply with Seller's Warranty. If a sample submitted by Buyer does not correspond to written particulars supplied by Buyer, the latter shall prevail.
- Seller's Warranty shall cease to apply if Buyer fails materially to comply with any instructions of Seller relating to the products.
 - Buyer shall examine the products as soon as reasonably practicable after delivery. Buyer shall immediately notify Seller of any incomplete or failed delivery, loss or damage during carriage or if the products fail to comply with Seller's Warranty. Unless Buyer so notifies Seller within 30 days after the date when Buyer became or ought reasonably to have become aware of any of the above, and in any event before the earlier of
 - 6 months from date of despatch by Seller or from the date Buyer is informed that the products are ready for delivery, whichever is the earlier; and
 - 30 days after the products have been used or put into processBuyer shall (subject to Clause 4(f)) be treated as having waived all claims connected with the matter which should have been notified.
 - Subject to notification within the period required by Clause 4(c), if it is shown to Seller's reasonable satisfaction that the products fail materially to comply with Seller's Warranty, Seller shall be given a reasonable opportunity to correct such failure, and, if Seller does not or is unable to do so, Seller will at Buyer's option either refund the purchase price (or, if the products have depreciated for reasons other than Seller's default or have been used or put into process, a reasonable part of the purchase price), or replace the products (if reasonably practicable) within a reasonable time, free of charge. **SUCH CORRECTION, REFUND OR REPLACEMENT SHALL, SUBJECT TO CLAUSE 4(f) BELOW, BE SELLER'S SOLE LIABILITY IN RELATION TO ANY SUCH FAILURE.** Replacement products are covered by these conditions, including Seller's Warranty. Products which are alleged not to comply with the contract shall as far as possible be preserved for inspection by Seller, and if replaced or if a refund is made shall be returned to Seller (at Seller's cost) if Seller reasonably so requests.
 - Clause 4(a)(ii) does not apply to seconds, remainder stock or samples or to goods sold as obsolete or sub-standard or to fabric one cut by or on behalf of Buyer.
 - (i) Seller does not exclude any liability which cannot be excluded as between Buyer and Seller under any United Kingdom legislation.
 - If the products are intended by Seller to be and are in fact resold by Buyer in the United Kingdom to individual(s) without further processing, testing or inspection, Seller will pay reasonable compensation to Buyer for any damages and costs finally awarded against Buyer in the United Kingdom under Part 1 of the Consumer Protection Act 1987 ("the CPA"), but only to the extent that Seller is itself liable under the CPA for the claim in question because the products were defective (within the meaning of the CPA) at the time of delivery by Seller. Seller shall not be liable to the extent that any liability is Buyer's responsibility under Clause 8(b)(i) or arises from any default of Buyer (including but not limited to any failure by Buyer to ensure that the products are sold only for uses recommended by Seller), or where Buyer knew or ought reasonably to have known of the said defect.
 - Where the performance of products are subject to test whether by the Seller or a third party the Seller will not be liable for any cost arising from non-conformance where the products are sold, cut (or, if relevant) treated, or in any way altered by or on behalf of the Customer prior to receipt of any certificate resulting from a test agreed to be carried out by or on behalf of the Seller.

- (g) It is a condition of Buyer's right of recovery under Clause 4(f) that Buyer shall promptly notify Seller of any relevant claim, shall comply with the Seller's reasonable requirements to minimise liability and/or avoid further liability, and shall allow the Seller conduct of all action and/or settlement negotiations.

5. Force Majeure

- Seller shall not be liable for any failure to comply with the contract related to any circumstances whatever (whether or not involving Seller's reasonable negligence) which are beyond Seller's reasonable control and which prevent or restrict Seller from complying with the contract.
- Seller may where reasonable in all the circumstances (whether or not involving Seller's negligence) without liability suspend or terminate (in whole or in part) its obligations under the contract, if Seller's ability to manufacture, supply deliver or acquire materials for the production of the products by Seller's normal means is materially impaired.

6. Termination and Suspension

- Except where Buyer has caused or contributed to any delay, Buyer may (as Buyer's sole remedy, without affecting the balance of the contract quantity) terminate the contract by notice to Seller in respect of any instalment of products which is not despatched with 60 days after any date quoted on Seller's order confirmation (unless the goods have been specially manufactured or adapted for Buyer).
- Seller may (without prejudice to its other rights or remedies) terminate or suspend Seller's performance of the whole or any outstanding part of the contract in the circumstances described in Clause 6(c). Seller may also suspend deliveries while investigating any claim relating to prior shipments (under any contract) of products.
- The relevant circumstances are if:
 - Buyer fails to take delivery of or for the products on the date required under Clause 2(f) or 3(b) respectively, or breaches any other term of the contract, or if Buyer is late in payment or performance under or otherwise breaches any other contract for the sale or purchase of goods or services between Buyer and Seller or any other Abaris Holdings division or company; or
 - Buyer becomes bankrupt or insolvent or if a receiver or encumbrancer takes possession of any material part of Buyer's assets, or Buyer suffers any foreign equivalent of the foregoing; or
 - Seller has reasonable grounds for suspecting that an event in Clause 6(c)(ii) has occurred or will occur, or that the Buyer will not pay for the products on the due date, and so notifies Buyer.
- If Buyer provides Seller with security for the contract price, reasonably acceptable to Seller, within 3 working days after a notice has been given under Clause 6(c)(iii), Seller shall withdraw the notice.

7. Passing of Risk and Property

- Risk of damage to or loss of the Goods shall pass to the Buyer:
 - in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery to the Buyer or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
 - in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
- Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Terms, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but the Buyer may resell or use the Goods in the ordinary course of its business.
- Until such time as the property passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller may at any time require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, enter on any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- The Buyer shall not be entitled to pledge, create a lien over or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without limiting any other right or remedy of the Seller) forthwith become due and payable.

8. Intellectual Property: and Third Party Claims

- Buyer shall not use any trademarks or tradenames applied to or used by Seller in relation to the products in any manner not approved by Seller.
- BUYER SHALL INDEMNIFY SELLER AGAINST ANY LIABILITY INCURRED BY SELLER:**
 - AS A RESULT OF INCORPORATING PROPERTY OF BUYER IN THE PRODUCTS OR APPLY ANY TRADEMARK, TRADENAME OR DESIGN TO THE PRODUCTS ON BUYER'S INSTRUCTIONS, OR COMPLYING WITH ANY OTHER INSTRUCTIONS OF BUYER RELATING TO THE PRODUCTS; AND
 - IN RELATION TO ANY THIRD PARTY CLAIMS ARISING FROM THE USE MADE OF OR DEALING BY BUYER IN THE PRODUCTS (IRRESPECTIVE OF WHETHER THEY INVOLVE THE NEGLIGENCE OF SELLER, ITS AGENTS OR EMPLOYEES), EXCEPT AS PROVIDED IN CLAUSE 4(f) OR IF ARISING FROM SELLER'S WILLFUL DEFAULT.
- The Seller shall promptly notify the Buyer of any relevant claim, shall comply with the Buyer's reasonable requirements to minimise liability and/or avoid further liability, and shall allow the Buyer conduct of any action and/or settlement negotiations, on reasonable terms.
- The Seller gives no warranty as to any designs used from their archive or any design service provided.
 - Any design granted, provided, licensed or otherwise by the Seller shall only be for the purpose of the specific order placed, for that product in the territory of the Buyer unless otherwise expressly agreed on the order confirmation.

9. ADVICE AND ASSISTANCE

SELLER SHALL NOT BE LIABLE, IN CONTRACT, TORT OR OTHERWISE, AND IRRESPECTIVE OF THE NEGLIGENCE OF SELLER, ITS AGENTS OR EMPLOYEES, FOR ANY REPRESENTATIONS, ADVICE OR ASSISTANCE GIVEN UNDER THIS CONTRACT OR OTHERWISE, AND WHETHER BEFORE OR AFTER THE DATE OF THE CONTRACT) BY OR ON BEHALF OF SELLER IN CONNECTION WITH THE PRODUCTS OR THE CONTRACT, UNLESS AND THEN ONLY TO THE EXTENT THAT SELLER HAS MADE SUCH REPRESENTATIONS, AND/OR AGREED TO PROVIDE SUCH ADVICE OR ASSISTANCE, FOR A FEE UNDER A SEPARATE WRITTEN CONTRACT WITH BUYER.

10. LIMITATION OF LIABILITY

- WITHOUT PREJUDICE TO ANY OTHER LIMITATION OF SELLER'S LIABILITY (WHETHER EFFECTIVE OR NOT):
 - IN NO CIRCUMSTANCES WHATSOEVER SHALL SELLER BE LIABLE (IN CONTRACT, TORT OR OTHERWISE, AND IRRESPECTIVE OF ANY NEGLIGENCE OR OTHER ACT, DEFAULT OR OMISSION OF SELLER OR ITS EMPLOYEES OR AGENTS) FOR ANY INDIRECT OR CONSEQUENTIAL LOSSES (INCLUDING LOSS OF GOODWILL, BUSINESS OR ANTICIPATED SAVINGS), LOSS OF PROFITS OR USE, OR (SUBJECT TO CLAUSE 4(f)) ANY THIRD PARTY CLAIMS, IN CONNECTION WITH THE PRODUCTS OR THE CONTRACT.
 - EXCEPT AS PROVIDED UNDER CLAUSE 4(f) SELLER'S TOTAL AGGREGATE LIABILITY IN CONNECTION WITH THE PRODUCTS OR THE CONTRACT (IN CONTRACT, TORT OR OTHERWISE AND WHETHER OR NOT RELATED TO ANY NEGLIGENCE OR OTHER ACT, DEFAULT OR OMISSION OF SELLER OR ITS EMPLOYEES OR AGENTS), IS LIMITED TO THE CONTRACT PRICE, EX-WORKS AND EX-VAT.
- WITHOUT PREJUDICE TO SELLER'S WARRANTY, BUYER'S SOLE REMEDY SHALL BE IN DAMAGES.
- SELLER'S WARRANTY AND BUYER'S REMEDY UNDER CLAUSE 4(f) ARE IN SUBSTITUTION FOR ANY OTHER WARRANTIES, RIGHTS, OBLIGATIONS, REPRESENTATIONS, LIABILITIES, TERMS OR CONDITIONS (WHETHER THEY ARE EXPRESS OR IMPLIED, OR ARISE IN CONTRACT, TORT OR OTHERWISE, AND IRRESPECTIVE OF THE NEGLIGENCE OF SELLER, ITS EMPLOYEES OR AGENTS) IN CONNECTION WITH THE PRODUCTS (INCLUDING, WITHOUT LIMITATION, ANY RELATING TO SATISFACTORY QUALITY, FITNESS FOR PURPOSE, CONFORMITY WITH DESCRIPTION OR SAMPLE, CARE AND SKILL OR COMPLIANCE WITH REPRESENTATIONS, BUT EXCLUDING IMPLIED STATUTORY WARRANTIES RELATING TO TITLE), AND ALL SUCH WARRANTIES, RIGHTS, OBLIGATIONS, REPRESENTATIONS, LIABILITIES, TERMS OR CONDITIONS ARE HEREBY EXPRESSLY EXCLUDED.
- WITHOUT PREJUDICE TO CLAUSE 4(c), NO ACTION MAY BE BROUGHT AGAINST SELLER IN CONNECTION WITH THE PRODUCTS OR THE CONTRACT UNLESS PROCEEDINGS ARE ISSUED AGAINST SELLER WITHIN TWO YEARS AFTER BUYER BECAME OR OUGHT TO HAVE BECOME AWARE OF THE CIRCUMSTANCES GIVING RISE THERETO.
- THIS CLAUSE 10 APPLIES NOTWITHSTANDING ANY FUNDAMENTAL BREACH OR BREACH OF A FUNDAMENTAL TERM OF THE CONTRACT BY SELLER.

11. Miscellaneous

- The contract may not be assigned by Buyer without Seller's prior written consent.
- Notices must be in writing to Seller's or Buyer's address and are deemed delivered on the first working day after sending by hand or (subject to confirmation of transmission) by telex or facsimile, or, within the UK, or the third working day after being placed prepaid in the first class post to Buyer's or Seller's U.K. address. Qualified acceptances by Buyer on delivery notes shall not constitute notice of any claim or acceptance by Seller of any such qualification.
- No failure by Seller to enforce any provision of this contract shall be construed as a release of its rights relating thereto or to sanction any further breach.
- If any provision of the contract is found to be invalid or unenforceable it shall have effect to the maximum extent permitted by law, or, if not so permitted, shall be deemed deleted.
- The provisions of Clauses 3(h) 7, 8(d) and 10 shall survive any termination of this Contract.

12. Law

This contract shall be governed by and construed in accordance with the law of England, Buyer hereby agrees, for Seller's exclusive benefit, that the English courts shall have sole jurisdiction to hear all claims or proceedings connected with the products or the contract. Seller may nevertheless bring claims in any other courts of competent jurisdiction.