

**RENEWAL CARPET TILES LTD**  
**TERMS & CONDITIONS OF SALE**

**1 DEFINITIONS**

In these Terms the following terms shall have the meanings set out below:

**“Agreement”** means any contractual arrangement incorporating these Terms;

**“Buyer”** means the person who buys or agrees to buy Goods from the Seller and for the avoidance of doubt a person includes a partnership, limited company, limited liability partnership or other body of persons as well as an individual;

**“Delivery”** means collection of Goods by the Buyer or a carrier (including the Seller) at the Seller’s premises for delivery to the Buyer and “Deliver” and “Delivered” shall be interpreted accordingly;

**“Delivery Date”** means the date specified by the Seller when Goods are to be delivered;

**“Goods”** means the articles that the Buyer agrees to buy from the Seller;

**“Intellectual Property”** means all intellectual property whether registerable or otherwise and whether or not registered including (but not limited to) copyright, database right, design right, registered designs, trade marks, patents and know-how;

**“Order”** means the Buyer’s purchase order for Goods;

**“Price”** means the price of Goods excluding any carriage packaging insurance or VAT agreed in acceptance of the order including any variations agreed in accordance with these Terms;

**“Seller”** means Renewal Carpet Tiles Ltd whose registered office is at P.O.Box 428, Blackburn. BB2 2WQ;

**“Specification”** means the description of Goods to be provided by the Seller as agreed to by the Seller. For the avoidance of doubt a proof approved by the Buyer shall be the Specification to the exclusion of any earlier Specification unless subsequently altered by agreement between the parties;

**“Terms”** means the terms and conditions of sale and supply set out in this document, and any special terms and conditions agreed in writing between the Buyer and the Seller;

**“Working Day”** Monday to Friday inclusive except for English Public holidays.

**2 TERMS TO APPLY**

2.1 These Terms shall apply to all contracts for the sale or supply 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 may claim to apply under any purchase order, confirmation of order or similar document or by virtue of any previous dealings with the Seller.

2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Terms. Each such Order shall produce a separate contract on these Terms if accepted by the Seller.

2.3 The placing of an Order shall be deemed conclusive evidence of the Buyer’s acceptance of these Terms but no binding contract shall arise until the Seller issues written acceptance of an Order.

2.4 All quotations supplied, Orders accepted and work commenced by the Seller on behalf of any Buyer shall be exclusively upon these Terms, unless otherwise specifically

accepted by the Seller in writing. Any changes or additions to the Specification or these Terms shall only bind the Seller if agreed by a director of it in writing.

### **3 PRELIMINARY WORK**

- 3.1 The Seller will submit samples for the Buyer's approval. The Seller excludes liability for any elements of the Specification not corrected by the Buyer following inspection of a sample. The Seller offers no guarantees or warranties for samples.
- 3.2 Should work be suspended or cancelled at the request of the Buyer or delayed through any default of the Buyer the Seller shall be entitled to payment for work already carried out, and additionally for any additional costs or expenses incurred by the Seller in order to comply with the Order.
- 3.3 All estimates are valid for 60 days from issue by the Seller and subject to clause 2.3 above may only be accepted by the Buyer in writing within that time.

### **4 PRICE**

- 4.1 The Seller reserves the right to charge to the Buyer the amount of any taxes (other than corporation tax on the Seller's profits) including (but not limited to) value added tax, duties or other imposts or royalties payable by the Seller in connection with the provisions of Goods whether or not included on any quotations or estimates.
- 4.2 The Price is based on current costs of production, labour, material and spare parts at the date of quotation and is subject to alteration by the Seller at any time to meet any rise in such costs.
- 4.3 The price payable to the Seller by the Buyer for Goods purchased by the Buyer shall be the price in force at acceptance of the Order.

### **5 PAYMENT**

- 5.1 The Seller may invoice the Buyer for the Price of the Goods on or at any time after delivery of the Goods and where Goods are delivered in instalments the Seller may invoice the Buyer for each instalment separately.
- 5.2 The Buyer shall make payment in cleared funds without deduction or set-off within the calendar month immediately following the month of receipt (including deemed receipt) by the Buyer of the Seller's invoice or within such other period as the Seller may notify to the Buyer from time to time.
- 5.3 All payments by cheque or bankers draft should be made out to Best Image Limited and made in pounds sterling or such currency as the Seller may designate.

### **6 GOODS, TITLE, RISK**

- 6.1 The quantity and description of the Goods shall be as set out in the Order subject to the Specification.
- 6.2 Notwithstanding that risk in Goods shall pass to the Buyer on Delivery by the Seller full legal and equitable title and interest in all and any Goods supplied to the Buyer shall remain in the Seller and shall not pass to the Buyer until the Seller has received payment in cleared funds in full of all amounts due and owing from the Buyer to the Seller for the time being (including any interest accruing and owing to the Seller) and from time to time in respect of all such Goods supplied by the Seller to the Buyer at any time.
- 6.3 During such time as title in the Goods remains in the Seller, the Buyer shall store or otherwise keep the Goods separately and in such a way as clearly to indicate at all times

that the Goods are owned by the Seller and shall not remove obscure or delete any mark placed on the Goods by the Seller which may enable it to be identified.

- 6.4 During such time as title in the Goods remains in the Seller, the Buyer shall have power to deal with or use the Goods (and other items in which the Goods are incorporated) as fiduciary bailee of the Seller in the normal course of its business and to dispose of the Goods by way of bona fide sale at full market value.
- 6.5 Without prejudice to any other rights or remedies arising out of any breach of contract by the Buyer, the Seller shall be entitled:
- 6.5.1 to repossess all or any of the Goods and
- 6.5.2 to take possession of all or any of the items incorporating such Goods
- if the Seller is entitled to terminate the Agreement pursuant to these Terms.
- 6.6 For the purpose of any repossession or taking of possession pursuant to sub-clause 6.5 the Seller or the Seller's agent shall be entitled to enter upon any relevant land or buildings with such transport as may be necessary and for the avoidance of doubt the Seller shall be entitled to take such steps as are necessary to gain entry to any premises where Goods are stored and take possession of it including (but not limited to) forcing entry if the Buyer does not co-operate with a request from the Seller for access to such premises. The Buyer shall pay all costs incurred by the Seller or its agent in such repossession or taking of possession.
- 6.7 The Buyer shall at its own expense take out and secure the continuance of an all-risk insurance policy in respect of all Goods supplied in accordance with these terms to their total value at replacement cost. Such policy shall cover the Goods from and including the date on which the risk in the Goods passes to the Buyer under these Terms. The Buyer shall procure that the Seller's interest in the Goods shall be recorded by an endorsement on the policy specifying the Seller as loss payee (and shall provide the Seller with a copy of it) and (to the extent that the Seller has not received full payment in respect of any Goods) any sums which are received under any such policy may be credited against any sums owing from the Buyer to the Seller.
- 6.8 The Buyer warrants that it is not at the time of entering into the Agreement insolvent and knows of no circumstance which would entitle any creditor to appoint a receiver or to petition for winding up or bankruptcy or to exercise any other rights over or against the Buyer's assets or to take any analogous proceedings in any jurisdiction.

## **7 WARRANTIES AND LIABILITIES**

- 7.1 Subject to the following provisions, the Seller warrants that the Goods will correspond with their Specification on the Delivery Date and will be free from all intrinsic manufacturing defects for a period of ten years from the Delivery Date ("Guarantee Period").
- 7.2 The warranty in Clause 7.1 is given by the Seller subject to the following conditions:
- 7.2.1 the Seller shall be under no liability in respect of any defect arising from:
- 7.2.1.1 any action, omission or default of the Buyer or customer of it;
- 7.2.1.2 normal wear and tear;
- 7.2.1.3 wilful damage;
- 7.2.1.4 negligence;
- 7.2.1.5 abnormal working conditions;
- 7.2.1.6 any failure to follow the Seller's instructions and recommendations including (but not limited to) those relating to fitting and cleaning of

Goods whether oral or written;

- 7.2.1.7 any misuse or alteration or repair of the Goods without the Seller's approval.
- 7.2.2 the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment.
- 7.3 Subject as expressly provided in these Terms, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 7.4 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Terms.
- 7.5 A claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within seven days from the discovery of the defect. If delivery is not refused and the Buyer does not notify the Seller accordingly the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Agreement.
- 7.6 Where a valid claim in respect of any of the Goods which is based on a defect in the quality or condition of the Goods or their failure to meet Specification is notified to the Seller in accordance with these Terms, the Seller may replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, credit to the Buyer the price of the Goods (or a proportionate part of the price pro rata to the proportion of the Guarantee Period in clause 7.1 remaining at the time of the valid claim to reflect the use of the Goods enjoyed by the Buyer), in which case the Seller shall have no further liability to the Buyer.
- 7.7 Except in respect of death or personal injury caused by the Seller's negligence, or liability for defective products under the Consumer Protection Act 1987 (where applicable), the Seller shall not be liable to the Buyer 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 loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods (including any delay in supplying or failure to supply the Goods in accordance with the Agreement or at all) or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Agreement shall not exceed the price of the Goods, except as expressly provided in these Terms.
- 7.8 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Agreement by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without limiting the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:
  - 7.8.1 Act of God, explosion, flood, tempest, fire or accident;
  - 7.8.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
  - 7.8.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any government, parliamentary or local authority;
  - 7.8.4 import or export regulations or embargoes;

- 7.8.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
  - 7.8.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
  - 7.8.7 power failure or breakdown in machinery.
- 7.9 For the avoidance of doubt, time shall not be of the essence in the delivery of Goods.

## **8 INTELLECTUAL PROPERTY RIGHTS**

- 8.1 The Seller reserves to itself all Intellectual Property rights in Goods.
- 8.2 Where the Seller retains Intellectual Property rights in Goods the Buyer shall not modify, reproduce, publish or distribute any of the Goods or associated materials in any way not expressly included in the Specification without express written permission from the Seller.

## **9 SELLER'S PROPERTY**

- 9.1 Any materials owned by or licensed to the Seller and used by it in production or delivery of Goods shall remain its property and the Buyer shall acquire no rights in such items unless otherwise agreed in writing or necessary for the performance of the Agreement.
- 9.2 Where Goods are defective as a result of features specified by the Buyer, the Seller shall not be liable to any person as a result of such defects and the Buyer shall on demand indemnify and keep indemnified the Seller against any claim, loss or liability arising from any such defects. The Buyer shall in any event remain liable to pay the Price to the Seller.

## **10 DELIVERY**

- 10.1 The Seller reserves the right to delivery the Goods in instalments.
- 10.2 Where Goods are to be delivered in instalments each delivery shall constitute a separate contract for the sale of Goods and failure by the Seller to deliver one or more of the instalments in accordance with the terms of the Agreement shall not entitle the Buyer to treat the contract for other instalments or the total order as repudiated.
- 10.3 The Seller shall use its reasonable endeavours to procure that Goods will be Delivered on the Delivery Date.
- 10.4 While the Seller will use its reasonable endeavours to adhere as far as possible to any Delivery Dates agreed, no claim shall lie against the Seller in respect of any damage or loss however arising from delay in Delivery or failure to Deliver in whole or part whether such delay is caused by the Seller or any third party and whether or not it is caused by negligence. The Seller does not accept any liability for delays or errors in carriage by a third party and for the avoidance of doubt time is not of the essence in the Agreement save in respect of payments due from the Buyer.
- 10.5 Should expedited Delivery be agreed and necessitate overtime or other additional costs the Buyer shall pay as an addition to the Price the said costs and overtime expenses.
- 10.6 The Seller will mark Goods in accordance with the Buyer's lawful instructions and pack Goods in the Seller's normal way. The Buyer shall pay the additional cost of any additional packaging required by it.

## **11 ACCEPTANCE OF THE GOODS**

- 11.1 Where a sample has been submitted by the Seller to the Buyer, and the Buyer has

approved the sample, the Buyer shall be deemed to have accepted the Goods to the extent that Goods correspond with the Specification and the Buyer shall not be entitled to reject any Goods which correspond with the Specification.

11.2 Notwithstanding the above and without prejudice to the generality of clause 7, the Buyer shall be deemed to have accepted any Goods in the absence of any written complaint 48 hours after Delivery to the Buyer and after acceptance, the Buyer shall not be entitled to reject any Goods. At the expiry of that period, the Goods shall be deemed to have been accepted by the Buyer and the Buyer's only remedy shall be under clause 7 where it applies. If delivery is not refused and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Buyer shall be bound to pay the price as if the Goods had been Delivered in accordance with the Agreement.

### 11.3 Defective Goods

11.3.1 If the Buyer notifies the Seller of any defect in Goods upon Delivery the Seller shall be entitled to take all necessary steps to ascertain the cause of the defect and in the event that it determines that the defects are inherent or due to loss or damage occurring before the risk of loss or damage passed to the Buyer, the Buyer will co-operate with the Seller in taking whatever steps are necessary to bring the Goods up to Specification.

11.3.2 If the Seller shall fail to remedy any defect for which it is responsible within 2 weeks of notification by the Buyer of the defect the Buyer shall be entitled to reject the defective Goods but not satisfactory Goods being comprised in the same order or consignment.

11.4 The Seller cannot accept the subsequent cancellation of orders however communicated and if the Buyer refuses to accept Delivery of Goods after notification by the Seller that the Goods are ready, then the Seller reserves the right to invoice the Buyer for the Goods in question. In this instance, the full Price or the remainder of it will become immediately due and payable.

11.5 This clause 11 shall be without prejudice to any other claim that the Seller may have in respect of the Buyer's failure to take Delivery.

11.6 Where the Buyer places an order for Goods to be Delivered to schedule, the Seller reserves the right to Deliver and invoice any Goods on the order which have not been called off by the Buyer within 12 months of the date of the order.

11.7 In the event of any Goods being rejected in accordance with this clause 11, the Seller shall in its absolute discretion either replace such Goods (and Delivery of such replacement Goods shall be at the cost of the Seller as to transportation but otherwise on the same terms as set out above) or grant an appropriate credit to the Buyer.

## 12 VARIATIONS IN QUANTITY

12.1 The Seller will endeavour to Deliver the correct quantity of Goods ordered, but quotations are conditional upon stocks being available and the Seller shall have no liability to the Buyer in respect of any shortfall less than 2% unless the Buyer gives the Seller notice of the excess or shortfall within 10 days of delivery. If the Buyer does give such notice the Seller may at its own discretion either:

12.1.1 make good the shortfall by one or more further deliveries; or

12.1.2 reduce the Price by the same proportion as the shortage is a proportion of the entire amount ordered.

12.2 Where the Seller delivers a greater quantity of Goods than that ordered by the Buyer the Seller shall be entitled to increase the Price by the same proportion of the overage provided always that the Seller shall not be entitled to any increase in excess of 2% pursuant to this clause and provided that the Buyer shall not acquire any title in or right to retain or sell any Goods in excess of 2% of the volume ordered and shall return such

excess Goods forthwith to the Seller.

- 12.3 The Buyer shall not be entitled to reject any Delivery on the grounds of any excess or short delivery but shall pay the Price or the Price as adjusted in accordance with this clause 12.
- 12.4 Save as provided in clause 12.1 above, the Seller shall not be liable for any losses caused by excess or short Delivery.

### **13 FORCE MAJEURE**

- 13.1 Both parties will be released from their respective obligations save in respect of payment for Goods Delivered in the event of national emergency war prohibitive governmental regulations or any other cause beyond the reasonable control of the parties rendering performance of the Agreement impossible provided that this clause shall only have effect at the discretion of the Seller except when such event renders performance impossible for a continuous period of 3 calendar months.
- 13.2 The Seller shall have the right to cancel any order whether or not accepted by it without penalty or liability if it is not able to secure sufficient supplies to meet the order or can only do so at a cost that is in the Seller's opinion excessive.

### **14 LAW**

- 14.1 These Terms and all other express terms of contract shall be governed and construed in accordance with the laws of England.
- 14.2 The parties agree to submit to the non-exclusive jurisdiction of the courts of England.

### **15 TERMINATION**

- 15.1 The Seller may terminate this Agreement immediately without further notice if:
  - 15.1.1 the Buyer goes into either compulsory or voluntary liquidation or a resolution is passed for such liquidation (save for the purpose of reconstruction or amalgamation) or if a receiver or administrator is appointed in respect of the whole or any part of its assets or if Buyer makes an assignment for the benefit of or composition with its creditors generally or makes any application for a moratorium pursuant to section 1A or schedule A1 of the Insolvency Act 1986 as amended by the Insolvency Act 2000 or threatens to do any of these things or any judgement is made against the Buyer or any similar occurrence under any jurisdiction affects the Buyer.
  - 15.1.2 the Buyer is declared bankrupt or a petition is presented for his bankruptcy or (where the Buyer is a partnership) any partner in it is declared bankrupt or a petition is presented for his bankruptcy;
  - 15.1.3 any distress is levied or threatened against any of the assets of the Buyer;
  - 15.1.4 the Buyer being a natural person dies or becomes mentally incapable; or
  - 15.1.5 the Buyer fails to make any payment required by the Agreement on the due date and the Buyer shall inform the Seller immediately of the occurrence of any of the circumstances referred to in this clause 15.

### **16 INTEREST**

- 16.1 The Seller may charge interest on any overdue sum at 4% above the base rate in force from time to time of National Westminster Bank plc.

## **17 NOTICES**

- 17.1 Any notice to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post or by facsimile transmission and shall be deemed to have been received by the addressee within 72 hours of posting if posted to the correct address or 24 hours if sent by facsimile transmission to the correct facsimile number (with correct answerback) of the addressee unless such deemed delivery would take place on a date that is not a Working Day in which case delivery shall be deemed to occur on the next Working Day.
- 17.2 The correct address for the Buyer shall be such address as the Buyer shall have given to the Seller or its registered office provided that the Buyer shall immediately notify the Seller of any change of address.

## **18 WAIVER**

- 18.1 The failure of the Seller at any time or times to require performance of any provision of the Agreement shall not affect the Seller's right to enforce such provision at a later time. No waiver by the Seller of any conditions or the breach of any term covenant representation or warranty contained in these Terms in any one or more instances shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or be deemed to be or construed as a waiver of the breach of any other term covenant representation or warranty in these Terms.

## **19 SEVERANCE**

- 19.1 In the event that any provision of the Agreement or any part of any such provision is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable the parties shall amend that provision in such reasonable manner as achieves as closely as possible the intention of the parties as evidenced by this Agreement without illegality or at the Seller's discretion it may be severed from the Agreement in which event the remaining provisions of the Agreement and (as the case may be) the remaining parts of the affected provision shall remain in full force and effect.

## **20 THIRD PARTIES**

- 20.1 It is the intention of the parties that no person not a party to the Agreement shall have any rights in relation to it under the Contracts (Rights of Third Parties) Act 1999

## **21 CONSUMER RIGHTS UNAFFECTED**

- 21.1 If the Buyer deals with the Seller as a consumer (as defined in the Consumer Protection Act 1987) its statutory rights will remain unaffected by the Agreement.