

Terms of Sale

GENERAL

These conditions shall cover the contract for the sale of goods entered into by Evans Textile (sales) Ltd ,Bridstock Gate Limited trading as Portfolio Home and William Clark & Sons Limited ('the Company') and shall supersede and cancel all such previous conditions.

INTERPRETATION

In these Conditions the following expressions shall carry the following meaning in so far as the context shall admit:

Buyer: the person who has permission to place the order for goods on behalf of the purchasing company
Conditions: the terms and conditions set out in this document

Contract: the contract between the buyer and seller for the purchase and sale of goods

Force Majeure Event: an event or circumstance beyond the Seller's reasonable control.

Goods: the Goods (or any part of them) which the seller is to supply

Order: the buyer's order for goods as set out in the buyer's purchase order or written approval

Seller: either:

Portfolio Home, a trading style of Bridstock Gate Limited (Part of the Evans Group of Companies), a company registered in England and Wales with company number 1216234

Evans Textile (Sales) Limited, a company registered in England and Wales with company number 06186585

William Clark & Sons Limited, a company registered in England and Wales with company number NI054740

Website: Portfolio Home website (www.portfoliohome.com). Evans website (www.evans-textiles.com)

Interpretation:

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.

any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

a reference to **writing** or **written** includes emails.

BASIS OF SALE

These Conditions shall apply to all contracts for the 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 may purport to apply under any purchase order, confirmation of order or similar document. Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable and shall not bind the Seller unless agreed in writing by the Seller.

An order is an offer to purchase Goods in accordance with these Conditions. The contract becomes binding only when an order is accepted by the seller. In any event, a quotation shall only remain valid for a period of 30 days from date of issue, unless otherwise stated.

The buyer is responsible for ensuring that the terms of the order are complete and accurate.

Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.

GOODS

The quantity and description of the Goods shall be as set out in the Seller's quotation (where applicable).
Quotations shall not be binding with regard to price, quantity or delivery although all reasonable efforts will be made to adhere to them.

Any samples, drawings or advertising produced by the Seller is for illustrative purposes only. They shall not form part of the Contract.

All Goods sold in packaging may be resold by the Buyer only in the packaging supplied by the Seller. In no case should the intellectual property of the Seller in or attaching to the Goods, including logos, designs or trademarks, be altered without the Seller's written permission. The Buyer may promote the sale of Goods under product names or branding associated with the Buyer.

Use by the Buyer of any registered trade name or collection name of the Seller is at the Seller's discretion and shall be in accordance with any conditions imposed by the Seller in connection with such use and may be subject to withdrawal if deemed inappropriate by the Seller.

Any variation of these Terms and Conditions will only bind the Seller if agreed in writing between authorised representatives of the Seller and the Buyer.

The Buyer warrants that it is purchasing the Goods in the course of its business and is not a consumer as defined in the Consumer Rights Act 2015.

PRICE OF GOODS

The price of Goods shall be the price set out in the Seller's list price or quotation.

Goods will be satisfactory quality with meaning of the Sale of Goods Act 1994

Prices quoted exclude VAT (unless otherwise stated). VAT will be charged at the rate applying at the time of delivery.

Whilst it is the Seller's intention to maintain its prices for as long as possible, they are subject to fluctuation due to raw material, transport cost, import duties, tariffs, and excise increases beyond the Seller's control. The Seller therefore reserves the right to change prices at any time without notice.

The Seller's quotations shall not constitute an offer and shall lapse after 30 days unless otherwise stated.

Any prices quoted in any list price, catalogue or website of the Seller shall only be for the guidance of the Buyer and shall not constitute an offer to sell at those prices. The price for the Goods, unless otherwise specifically agreed in writing by the Seller, shall be calculated in accordance with the Seller's price list and payment terms in force on the date of dispatch of the Goods, which may be altered by the Seller at any time without notice.

The Buyer will pay each invoice in full and cleared of the Seller's due date. If the Buyer fails to make payment by the due date then, without prejudice to any other right or remedy available, the seller will be entitled to; (a) terminate the contract; (b) suspend any further deliveries to the Buyers; (c) seek legal solicitation.

CUSTOM MADE ORDERS & CONTRACT ORDERS

Custom made Goods are made to the Buyer's individual requirements and will be manufactured and provided under a no refund or cancellation policy.

The Buyer warrants that it is purchasing the Goods in the course of its business and is not a consumer as defined in the Consumer Rights Act 2015.

The Seller only accepts liability and responsibility in respect of Orders received in writing and confirmed by the Seller in writing. Order forms can be supplied on request.

Colour samples of hardware products are available free of charge, it is the buyer's responsibility to ensure colour compatibility as photographs and brochure images are not representative.

Where a sample submitted by the Buyer does not conform with written particulars supplied by the Buyer, the written particulars shall prevail.

The Buyer is fully responsible for ensuring that the order and its measurements, diagrams, dimensions and other content and information included within the custom/contract order is complete and accurate. The seller shall accept no liability in respect thereof.

After project acceptance, initial design concepts will be free of charge and include a set of up to 3 amendments. However, where there is a change of brief, fees for design services will be incurred and issued by the Seller. Fees will be issued in a written estimate or quotation provided to the Buyer. Work on the project will not recommence until the Seller has received written acceptance of the design fees. Fees will be charged at £50 per hour.

By supplying text, images and/or other data to the Seller for design and print reproduction, the Buyer declares that it holds the appropriate copyright and/ or trademark permissions. The ownership of such materials will remain with the Buyer.

The Seller shall retain ownership of all intellectual property rights in the goods, unless the parties have otherwise agreed in writing that the Buyer shall require certain intellectual property rights in bespoke goods.

If the Seller prepares goods in accordance with the Buyers specifications or instructions the Buyer must ensure that the specifications and instructions are accurate, the goods will be fit for purpose for which the buyer intended to use them and the Buyers specifications do not result in infringement of intellectual property rights of a third party, or are in breach of any applicable law or regulation.

The precise fibre content of custom made Goods shall be provided in writing by the Buyer to the Seller. The Seller shall have no liability in respect of inaccuracies in this description.

The Seller shall not be responsible for any claim arising from inaccurate descriptions of the finished goods applied at the customer's request and the buyer shall indemnify the seller against any claims so arising. This clause shall survive termination of the contract.

DELIVERY

The Seller shall deliver the Goods to the location set out in the Order. The Seller may decline delivery if the delivery location or access to it is unsuitable for the Seller's vehicle.

Even though we take extreme care to protect our goods in transit on the odd occasion damage or loss will occur. Please ensure that you sign for the correct number of items and check the good condition prior to accepting the delivery. Any discrepancies must be acknowledged at the point of signature and advised in accordance with our terms and conditions.

All delivery dates quoted by the Seller are approximate only and time of delivery is not of the essence.

The Seller shall not be liable for any failure to deliver or for any delay in delivery that is caused by a Force Majeure Event or by the Buyer's failure to provide adequate delivery instructions.

In the event of any complaint in respect of Goods damaged in the course of delivery or incomplete deliveries or missing Goods, Goods must be signed for accordingly with the carrier and notice given within 24hrs to the Seller. Failure to do so could negate any claim.

Without prejudice to clause 6.3, the Seller will take care to protect Goods in transit, however from time to time damage or loss may occur. The Buyer shall ensure all parties within its organisation are aware of the need to check and sign for the correct amount of Goods for each delivery and for the condition of the Goods, including in relation to deliveries to third party locations and delivery addresses.

If any non-delivery related defect or fault is found in the goods, notice must be given within 14 days of delivery and a reasonable opportunity for the Seller to examine the goods/claim before any claim can be entertained. If any defect is found to exist we will replace those goods or the defective part free of charge subject to warranty but we accept no liability for any consequential loss, damage or injury attributed to the use of such goods.

No claims will be considered after the goods have been cut up, treated, processed or resold. Any recommendations or suggestions relating to the use of the goods made by us is given in good faith but it is for you to satisfy the suitability of the goods for sale purpose.

The Seller will use its reasonable endeavours to deliver within the time specified or requested in any order, all delivery dates stated are approximate and in no circumstances will delivery dates form part of the contract/sale. The Seller will not be responsible for any onward costs associated with the arrival of goods should they be delayed/lost/damaged in transit.

Subject to stock availability and wherever possible, goods ordered will be dispatched according to the date required.

As a consequence of the Seller's low pricing policy, UK mainland orders below £150 will be subject to an additional charge of £8.50 for a next day delivery service. To exceed the £150 carriage charges please contact the Seller's office to discuss the complete range of products available. Offshore deliveries below £500 will be subject to an additional charge quoted at the time of ordering. Guaranteed timed deliveries are available and will be subject to additional charges. The Seller may decline delivery if the premises or access to them are unsuitable for Seller vehicles.

6.10.1. The Seller, William Clark & Son Limited operate on Buyer specific carriage agreements on orders. Please contact our office to discuss details.

6.10.2. The seller reserves the right to use dedicated vehicles for irregular and oversized parcels. Charges for this service will be the responsibility of the buyer and be quoted on an individual order basis. Dedicated vehicles will be used when the Seller deems regular network hauliers will not be able to deliver the items successfully or in a satisfactory condition.

6.10.3. The Buyer agrees that the Seller accepts no liability for the insurance of goods delivered direct to locations which are not the Buyers default business location such as work sites and third-party destinations.

Please arrange collection of faulty goods with our office. We may request a sample/photograph to be sent to our offices for assessment prior to agreeing a return or credit, this process can often eliminate the need for a collection. To help us process the credit with the minimum of delay, please ensure that the goods are suitably protected for transit and all tickets/labels are attached. Credit notes will be issued when goods are returned to our warehouse for inspection. Our standard terms and conditions apply and your statutory rights are not affected. Replacement orders will be charged at standard rates and credits issued against returned goods.

Notwithstanding the Sale of Goods Act 1979 Section 35A(1), acceptance of some of the Goods by the Buyer, whether conforming to the Contract or not, shall deprive the Buyer of the right to reject the rest of the Goods, whether they conform to the Contract or not.

Goods ordered in error will be subject to a £25 handling charge plus carrier collection costs for returns and only permitted with approval from the Seller. Credits will be issued subject to the condition and approval of returned goods. Goods made to order (Contract) may not be returned under any circumstances.

TITLE AND RISK

The risk in the Goods shall pass to the Buyer on completion of delivery.

In spite of delivery having been made, title to the Goods shall not pass to the Buyer until:

the Seller receives payment plus VAT in full (in cash or cleared funds) for the Goods, in which case title to the Goods shall pass at the time of payment; and no other sum whatever shall be due from the buyer to the seller.

The Goods shall remain the property of the Seller until the invoice price has been paid in full or until Goods have been resold by the Buyers, in which event the beneficial entitlement of the Sellers shall attach to the proceeds of sale. If the Goods are incorporated into other products while they are the property of the sellers all the sellers rights in the Goods shall extend to other products and the proceeds of sale thereof. Until the property in the goods shall pass to the buyers the sellers shall be entitled to retake the goods at the Buyers expense in the event of the Buyer failing to pay for the goods or commencing liquidation or ceasing or threatening to cease to trade or if serious doubts arise as to the Buyers solvency.

The Buyer must store the goods so that they are clearly identifiable as the seller's property.

Buyers must inform the Seller (in writing) immediately of becoming insolvent and if the right to use and sell the goods ends you must allow the Seller to remove the goods

8 WARRANTIES

- 8.1. The Seller warrants that on delivery the Goods shall: (a) conform to their description and any applicable specification; (b) be free from material defects; and (c) be of satisfactory quality.
- 8.2. Unless otherwise stated the standard product liability is 1 year.
- 8.3. The warranty will cover any defective part. Parts will be replaced free of charge but we accept no liability for add on costs such as additional fitting charges
- 8.4. Replacement parts covered under this warranty may be charged pending inspection by the seller of any claimed defective part. The warranty is firstly a "repair or replace" at the Seller's discretion. If complete replacement of goods are required the seller reserves the right to charge for these products pending inspection of any goods claimed under the warranty.
- 8.5. The Seller shall not be liable for the Goods' failure to comply with the warranty if the defect arises because the Buyer failed to follow the Sellers written or oral instructions as to storage, installation, commissioning, operation, cleaning or maintenance of the goods.

9 RETURNS

- 9.1. Returns are subject to the above if the Buyer gives notice in writing to the Seller within a reasonable period of time (14 days of goods received).
- 9.2. Where the Buyers returns goods, the Buyer must return the goods in a saleable condition (with packaging intact). Failure to do so will result in the claim being rejected.
- 9.3. The Seller, at its discretion, may repair or replace defective goods.
- 9.4. The Seller may request a sample to be sent to their offices for assessment prior to agreeing a return or credit, this process can often eliminate the need for a collection. To help the Seller process the credit with the minimum of delay, please ensure that the Goods are suitably protected for transit and all tickets/labels are attached. Credit notes will be issued when Goods are returned to the Seller's warehouse for inspection. The Seller's standard terms and conditions apply and your statutory rights are not affected. Replacement orders will be charged at standard rates and credits issued against returned goods.
- 9.5. Goods ordered in error will be subject to a £25 handling charge plus Glider collection costs for returns and only permitted with the written approval of the Seller. Credits will be issued subject to the good condition and approval of returned Goods. Custom made Goods may not be returned under any circumstances.
- 9.6. The Seller will not be liable to accept returns if; (a) defects arise because the Buyer failed to follow instruction of storage or use of goods, (b) the defect arises as a result of a brief or instruction provided by the Buyer (c) the Buyer alters the product without written permission by the Seller, (d) the defect arises from general wear and tear (e) the goods deviate from the specification due to regulatory requirements.

10 LIABILITY

- 10.1. Nothing in these Conditions shall limit or exclude the Seller's liability for:
 - 10.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - 10.1.2. fraud or fraudulent misrepresentation;
 - 10.1.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - 10.1.4. defective products under the Consumer Protection Act 1987;
 - 10.1.5. any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.
- 10.2. Under or in no connection with any contract will the Seller be liable to exceed the amount payable to the Buyer in respect to the order value. The Buyer accepts the Seller is not liable for any loss of profit or consequential loss arising from the contract of sale of goods.

11 PAYMENT AND THE CREDIT APPLICATION PROCESS

- 11.1. The Buyer shall pay the Seller in cash or in cleared funds on or prior to delivery, unless approved credit has been agreed in writing by the Seller. Proforma orders must be paid within 7 days of the date of the Order.
- 11.2. Subject to clause 12.1, all invoices are due for payment within 30 days unless alternative terms have been agreed. If the Buyer fails to pay the Seller in full on the due dates, the Seller reserves the right to suspend or cancel any future deliveries and cancel any discount offered to the Buyer.
- 11.3. Where the Buyer is making payment by way of credit or debit card, the Buyer warrants it will not use a non-commercial card as defined Interchange Fee (Amendment) (EU Exit) Regulations 2019 (the 'UK IFR') and the seller will not be liable for any interchange fees or other amounts.
- 11.4. All invoices are due for payment within 30 days unless alternative terms have been agreed. In the event of failure to pay by the due date, the whole debt becomes payable with interest chargeable at the rate set under the section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 before and after any judgement (unless the court orders otherwise). Future credit facilities will be affected if these terms are ignored.
- 11.5. Please note that the Seller may transfer personal data about the Buyer and its staff to those persons the Seller may appoint to administer the Buyer's account, insure the Buyer's account or recover amounts owing to the Seller. Details of data processing carried out by the Seller are available at www.evans-textiles.com, bespokebyevans.com and portfoliohome.com.

12 WEBSITE USEAGE

- 12.1. Use of the Website; the Buyer is responsible for ensuring the confidentiality of account and password details and for restricting access to computer systems to prevent unauthorised access to the Portfolio Home, Evans Textiles or William Clark & Sons Website.
- 12.2. The Buyer agrees to accept responsibility for all activities that occur under the Buyer's account or password.
- 12.3. The Buyer shall inform the Seller immediately if there is any reason to believe passwords have been compromised or if the password is being used without authorisation.
- 12.4. All information and descriptions (including particulars of weights and dimensions) given or specified by the Seller in respect of Goods sold online are approximate only.
- 12.5. All electronic communications, brochures, websites and other promotional materials are to be treated as illustrative only. Shades may vary from batch to batch but the Seller guarantees a commercial match for trade orders from the Seller's website.
- 12.6. Use of the Website is subject to acceptance of the Seller's Cookie Policy and Privacy Policy which can be found online at www.portfoliohome.com, www.evans-textiles.com, www.bespokebyevans.com, www.wmclark.co.uk or requested in print for a nominal administration charge.
- 12.7. These Conditions shall apply to Orders of Goods which are placed through the Website.

13 THIRD PARTIES

- 13.1. To the extent permitted by applicable law, these Terms of Sale do not create or confer any rights or benefits enforceable by any person that is not a party to this Agreement

14 FORCE MAJEURE

- 14.1. The Seller shall not be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 6 weeks, the Seller may terminate this Contract by giving written notice to the Buyer.
- 14.2. Either party may suspend delivery due to any stoppage of machinery through fire, Queens enemies, explosion, breakdown, strike, drought, flood, lockout or any cause whatsoever beyond control. Neither party will be held responsible for any damage cause thereby to the other party.
- 14.3. The Buyer shall be responsible for complying with all applicable laws and regulations in the relevant international delivery location. The Seller does not warrant that the Goods or their sale,

delivery, packaging, labelling will be compatible with any international delivery location and will not be liable for any breach of such laws by the Buyer or in relation to the goods, their sale, delivery, labelling and/or packaging.

15 COPYRIGHT & INTELLECTUAL PROPERTY RIGHTS

- 15.1. All content including product designs, logos and text is the exclusive property of Evans Textile (Sales) Ltd, William Clark & Sons Limited, Bridstock Gate Ltd and is protected by United Kingdom copyright and database right laws.
- 15.2. Copyright of all design work is retained by Evans Textile (Sales) Ltd, William Clark & Sons and Bridstock Gate Ltd including text, concepts, proofs and illustrations unless specifically released in writing.

16 AMENDMENTS

- 16.1. The Seller reserves the right to make changes to these Terms of Sale at any time. The Buyer will be subject to the Conditions in force at the time of placing an Order with the seller, unless any change to these Terms of Sale is required to be made by law or regulatory requirements (in which case such changes shall apply to any Orders previously placed by the Buyer).

17 COMMUNICATION

- 17.1. The Seller may record telephone calls for training and quality purposes. For full details of our compliance with GDPRUK and how the Seller protects customers data please see website for the Sellers' Privacy Policy

18 MARKETING DISCOUNTS & INCENTIVES

- 18.1. Any discounts or incentives are at the sole discretion of the Seller.
- 18.2. The Seller reserves the right to withdraw or amend any offers without prior notice.
- 18.3. Discounts are non-transferable, non-negotiable and no cash or credit alternatives will be offered.
- 18.4. All Discounts and Incentives are subject to availability. E&OE.

19 LAW AND DISPUTES

- 19.1. The Seller shall sell and the Buyer shall purchase the goods in accordance with this contract.
- 19.2. Any disputes relating to this Order shall be referred to the Tribunal of Manchester Chamber of Commerce for Arbitration. All goods or services are bought on these conditions only.
- 19.3. These Terms of Sale and all matters arising from it are governed by and construed in accordance with the laws of the United Kingdom without regard to conflict of law provisions thereof and whose courts shall have exclusive jurisdiction over all disputes arising in connection with these Terms of Sale.
- 19.4. Evans Group of Companies includes Evans Textile (Sales) Ltd t/a Evans Textiles and Bespoke by Evans, Bridstock Gate Ltd t/a Portfolio Home and Kids Club by Portfolio and William Clark & Sons Limited trading as William Clark & Sons and Earthed by William Clark & Sons.

Revised April 2022.