

## TERMS AND CONDITIONS OF SALE

BROOKWOOD GOODS ARE SOLD ONLY ON THE TERMS AND CONDITIONS STATED HEREIN AND ON THE FACE HEREOF, WHICH TERMS AND CONDITIONS CANNOT BE ALTERED OR AMENDED WITHOUT BROOKWOOD'S EXPRESS WRITTEN CONSENT. THE TERMS AND CONDITIONS OF THIS SALE CONFIRMATION SUPERSEDE ANY TERMS AND CONDITIONS IN ANY PURCHASE ORDER OR OTHER DOCUMENTS OF BUYER, AND BROOKWOOD OBJECTS TO THE INCLUSION OF ANY DIFFERENT OR ADDITIONAL TERMS PROPOSED BY BUYER IN ANY PURCHASE ORDER OR OTHER DOCUMENTS. ANY ACT BY BROOKWOOD IN MANUFACTURING OR DELIVERING ANY GOODS FOR OR TO BUYER SHALL NOT CONSTITUTE AN ACCEPTANCE OF ADDITIONAL OR DIFFERENT TERMS IN BUYER'S PURCHASE ORDER OR ANY OTHER DOCUMENT AND ANY SUCH ADDITIONAL OR DIFFERENT TERMS SHALL BE NULL AND VOID AGAINST BROOKWOOD. IF A CONTRACT IS NOT EARLIER FORMED BY AGREEMENT IN WRITING, ACCEPTANCE OF ANY GOODS FURNISHED HEREUNDER SHALL BE DEEMED TO BE AN ASSENT TO ACCEPTANCE OF ALL THE TERMS AND CONDITIONS STATED HEREIN. ACCEPTANCE OF THE FOLLOWING TERMS AND CONDITIONS SHALL BE BINDING UPON BUYER AND BUYER'S PERMITTED SUCCESSORS AND ASSIGNS.

- Prices.** Brookwood's prices specified in this Sale Confirmation are subject to the following: (a) Unless otherwise stated in writing by Brookwood, all prices are exclusive of transportation from the F. O. B. point, insurance, taxes (including without limitation any sales, use or similar tax, and any tax levied on or assessed to Brookwood after delivery by reason of Brookwood's security interest in the goods), license fees, customs fees, duties and other charges related thereto. If Brookwood pays any such shipping charges, premiums, taxes, fees, duties, or other charges, Buyer will promptly reimburse Brookwood therefor. Buyer shall report and pay any and all such shipping charges, premiums, taxes, fees, duties, and other charges related thereto, and shall hold Brookwood harmless therefrom. (b) Typographical and clerical errors are subject to correction. (c) Prices are for the goods specified only and do not include technical data or proprietary rights of any kind. (d) Prices are subject to increase based on dyer increases.
- Terms of Payment.** Terms of payment are set forth on the reverse side hereof. Only with the written approval of Brookwood's Credit Department may payment be on any other terms. Past due balances will be subject to a service charge of 1.5% per month (18% per annum), but not more than the amounts allowed by law. Partial shipments will be billed as made and payments therefor are subject to the above terms. Prices on any undelivered portion of the goods covered by this Sale Confirmation are subject to adjustment by the amount that Brookwood's costs on said portion are increased as a result of any federal, state or local legislation, government rule, regulation or order enacted after the date hereof. If Brookwood determines in its sole discretion that Buyer's credit has deteriorated since the date hereof, Brookwood may defer future shipments under any order then pending from Buyer to Brookwood until all outstanding amounts due from Buyer have been paid and its credit has improved, and/or require cash payment on or before future deliveries.
- Delivery.** Transportation will normally follow Buyer's shipping instructions, but Brookwood reserves the right to select the means of transportation and routing when Buyer's instructions are deemed unsuitable. Unless notified to the contrary by Buyer, Brookwood may insure to the full value of the goods or declare full value thereof to the transportation company at the time of delivery and all such freight and insurance costs shall be for Buyer's account. All shipments are F.O.B. the finishing plant or F.O.B. warehouse unless otherwise specified on the face hereof. Risk of damage or loss is Buyer's responsibility after delivery by Brookwood to a carrier for shipment. Goods invoiced and held by Brookwood ("Bill and Hold Goods") shall be at Buyer's risk, and Buyer shall be deemed, by accepting the terms of this sale confirmation, to have requested Brookwood to handle the goods on the following basis if Buyer has not arranged for immediate shipment of such goods by the date of payment of such invoice: (i) Buyer hereby designates Brookwood, at one of the following locations: Kenyon, RI, Wauregan, CT, Gardena, CA; as its receiving and warehouse location; (ii) Buyer acknowledges that title to the goods shall pass to Buyer upon payment of the invoice related to such goods; (iii) Buyer agrees that the goods must be shipped to Buyer no later than nine (9) months following the date of the invoice relating to such goods, unless extended in writing; (iv) Buyer shall accept the goods in their then-current, existing condition; and (v) the purchase price quoted by Brookwood to Buyer for such goods shall include the price for the goods themselves as well as warehousing services for the goods. Delivery dates are subject to timely delivery from Brookwood's suppliers. Subject to the foregoing, a delivery specified as "complete by" a stated date may be delivered at Brookwood's option at any time up to and including such date. A delivery specified as "during" or "through" a stated period or specified for a standard period may be delivered at Brookwood's option at any time during such period. Unless specified in one or an agreed minimum number of shipments, delivery may be made in two or more shipments at Brookwood's option. Buyer shall accept at the stated unit price deliveries of ten percent (10%) more or less than the amount set forth herein.
- Bill and Hold Goods.** Notwithstanding any terms to the contrary herein, with respect to any factored Bill and Hold Goods, Buyer acknowledges and agrees: (i) that any such Bill and Hold Goods are the property of the Buyer and the Buyer accepts title for the Bill and Hold goods as invoiced and the Buyer agrees to remit full payment for the Bill and Hold Goods as invoiced when payment is due whether or not the Bill and Hold Goods are in the possession of Buyer; (ii) that Buyer shall bear all risk of loss with respect to the Bill and Hold Goods notwithstanding that they remain in the possession of Brookwood and, to the extent Buyer desires insurance coverage with respect thereto, Buyer shall obtain such insurance at its own cost and expense; (iii) that Buyer shall pay the full amount invoiced regardless of whether or not Brookwood is holding, per Buyer's instructions, any Bill and Hold Goods presented by such invoice for account; (iv) that Buyer shall not interpose any defense, offset or counterclaim to such invoice based upon Brookwood's retention or delay in shipment to Buyer of the Bill and Hold Goods previously sold to Buyer by Brookwood on a "Bill and Hold" arrangement; (v) Buyer consents to the Bill and Hold payment agreement as set forth in this paragraph and will notify the factor, if any, in writing at least thirty (30) days prior to the effective date of such withdrawal of consent. Buyer further acknowledges that Brookwood fully retains its rights to any liens it may have under applicable law or industry standard, including but not limited to Title 34, Chapter 34-29 of the Rhode Island General Laws, "Textile Processors' Liens." (See 34 R.I. Gen. Laws § 34-29); all said rights remain fully enforceable.
- Acceptance of Goods.** Before any rejected goods are returned to Brookwood, Brookwood's prior written authorization and Brookwood's instructions regarding how and where goods should be returned must be obtained. No credit or replacement will be issued on any goods which have been cut, processed or otherwise altered or defaced in any way.

No claims regarding the quality of goods will be allowed unless such goods are promptly made available to Brookwood for examination in the same condition as when delivered to Buyer. No claim will be considered unless made in writing within (i) ninety (90) days for latent defects, or (ii) thirty (30) days for all other claims, in both cases measured from the invoice date. Buyer shall not assert any claim or defense it may have against Brookwood against any assignee of Brookwood's right to payment hereunder or under any invoice.

- Shipping & Billing.** Goods will be shipped and customer billed within 30 days of purchase order requested delivery date or actual completion date, whichever is later.

- Security Interest.** Brookwood reserves and Buyer grants to Brookwood a purchase money security interest in all goods which are the subject of this Sale Confirmation and the contract of sale entered into pursuant hereto (and proceeds thereof) as security for the payment by Buyer of the full purchase price for such goods. Buyer agrees to execute such documents as Brookwood requests to perfect such security interest.
- Indemnity.** Brookwood assumes no obligation or liability with respect to infringements of patents, copyrights, trademarks or other proprietary rights arising out of goods sold hereunder. Buyer shall defend, indemnify and hold Brookwood harmless from and against any and all claims, demands, liabilities, losses, damages, injuries, costs, and expenses of whatever nature, including reasonable attorneys' fees, relating to or in any way arising from (i) the use of the goods supplied hereunder, (ii) the use of any products made from such goods, and (iii) Buyer's failure to pay any taxes payable by it.
- Limitation of Liability, Warranties.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN OR ELSEWHERE BROOKWOOD'S RESPONSIBILITY FOR LOSSES OR LIABILITIES ARISING OUT OF OR RELATED TO THE GOODS COVERED HEREUNDER AND THE CONTRACT OF SALE ENTERED INTO PURSUANT HERETO SHALL NOT EXCEED THE PURCHASE PRICE HEREUNDER. BROOKWOOD'S OBLIGATION WITH REGARD TO DEFECTIVE GOODS SHALL BE LIMITED TO (i) REPLACEMENT OF SUCH GOODS AGAINST RETURN OF THE DEFECTIVE GOODS; (ii) ISSUANCE OF A CREDIT THEREFORE AGAINST RETURN OF THE DEFECTIVE GOODS; OR (iii) ISSUANCE OF AN AGREED-UPON ALLOWANCE, WITHOUT RETURN OF THE DEFECTIVE GOODS, ALL AT BROOKWOOD'S OPTION. IN NO EVENT SHALL BROOKWOOD BE LIABLE FOR (i) NORMAL MANUFACTURING DEFECTS, VARIATIONS IN COLOR OR SHADE, OR VARIATIONS FROM SPECIFICATIONS, OR (ii) FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER, WHETHER SUFFERED BY BUYER OR A THIRD PARTY.

EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN WRITING FROM BROOKWOOD TO BUYER, BROOKWOOD MAKES NO WARRANTIES WITH RESPECT TO THE GOODS COVERED HEREUNDER, AND BROOKWOOD EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS, STATUTORY OR IMPLIED, INCLUDING THOSE OF MERCHANTABILITY AND OF FITNESS FOR ANY PARTICULAR PURPOSE AND OF NON-INFRINGEMENT.

- Cancellation.** Buyer shall have no right to cancel all or any portion of its order unless it pays Brookwood for all costs already incurred by Brookwood, including the price of any goods or services required to fill the order already committed to by Brookwood, and a reasonable allowance for overhead and profit.
- Nylon Dye Stuffs.** Nylon dye stuffs have a tendency to migrate from dark shades to light shades during washing or dry cleaning. Therefore, Brookwood will not guarantee that color transfer will not occur if light and dark shades are mixed together in the same end item. In addition, all neon shades and some high intensity shades are not fast to light.
- Seconds.** Goods ordered or purchased as "merchantable seconds" will be cuttable, although defects may be present in the goods. If Buyer believes that the goods are not merchantable for any reason, Buyer must notify [Brookwood's] First Performance Fabrics [Division] ("FPF") within thirty (30) days of the invoice date of the goods. FPF reserves the right (i) to require Buyer to supply Brookwood with samples representative of any claimed problem, and (ii) to inspect the goods in question prior to settling any claim of non-merchantability. NO CLAIMS WILL BE ALLOWED AND NO CREDIT WILL BE GIVEN ON ANY GOODS THAT HAVE BEEN CUT.
- Samples.** Buyer shall pay for all samples requested at prices established by Brookwood. Sample colors may not precisely match Buyer requirements. Samples shall be deemed approved and accepted by Buyer if written notice of rejection is not received by Brookwood within 10 days after date of delivery.
- Taxes.** Buyer represents that it is purchasing the goods for resale and agrees to pay all sales, use and property taxes payable by it with respect to the goods, and further agrees to provide Brookwood evidence of any exemption from such taxation claimed by Buyer.
- Arbitration.** Any controversy arising out of this Sale Confirmation and the contract of sales entered into pursuant hereto shall be settled by arbitration held in the City of New York, New York in accordance with the rules then in effect of the General Arbitration Council of the Textile and Apparel Industries, a division of the American Arbitration Association. In any arbitration proceeding, no arbitrator shall have authority or power to (a) modify or alter any express condition or provision hereof by an award or otherwise; or (b) award punitive damages or exemplary damages for or against any party to any proceeding.
- Assignment.** This Sale Confirmation is issued only to the Buyer named on the face hereof. Any assignment by Buyer of this Sale Confirmation and the sales contract entered into pursuant hereto is void without the prior written consent of Brookwood.
- Liability.** Brookwood shall not be liable for loss or damage of any kind resulting from delay or inability to deliver on account of acts of God, fire, labor troubles, accidents, acts of civil or military authorities, fuel, labor or materials shortages, or any other conditions beyond Brookwood's control. Performance shall be deemed suspended during and extended for such time as any such circumstances or causes delay its completion.
- Severability.** Any provision herein which is prohibited by the laws of any state or other jurisdiction applicable hereto shall be ineffective to the extent of such prohibition, without invalidating the remaining provisions of the contract between the parties.
- Survival.** All provisions of this Sale Confirmation that by their sense and context are intended to survive until performance thereof shall survive any termination of the contract of sale entered into pursuant hereto.