

## **1. DEFINITIONS**

"**Company**" - means Vogue Distribution Limited.

"**Customer**" - means the Customer of the Company.

"**Contract**" - means the contract entered into for the sale of Goods by the Company to the Customer whether in writing or not.

"**Goods**" - means goods the subject of the Contract and shall include any part or parts of them and any materials incorporated in them.

"**Order**" - means an order (howsoever made) by the Customer to the Company to buy Goods.

"**Conditions**" - means the 'Terms of Trading & Conditions of Sale' set out herein.

"**Supplier**" - means the Supplier of the goods to the Company.

## **2. BASIS OF CONTRACT**

2.1 Unless otherwise expressly agreed in writing by the Company these Conditions, which supersede all earlier conditions of the Company, shall override any terms or conditions stipulated or referred to by the Customer. By placing an Order with the Company the Customer acknowledges that these Conditions will apply to any resulting Contract Acceptance by the Company may be oral, by written acknowledgement, by telephone or other electronic communication or failing such by delivery of all or part of Goods to the Customer pursuant to an Order.

## **3. VARIATION OF CONDITIONS**

3.1 The company will not be bound by any proposed variation of these Conditions by the Customer unless agreed by the Company in writing. Any variation or modification of these conditions made by the Company shall be notified to the Customer in writing and shall apply to all Goods ordered by the Customer following issue of such notification.

## **4. DESPATCH AND DELIVERY**

4.1 Although the Company endeavours to despatch Orders accepted by it on the same day, subject to Goods availability, any times or dates for despatch or delivery quoted by the company or assumed by the Customer, whether pursuant to these conditions or otherwise, shall not form part of the Contract and the Customer acknowledges that in the performance expected by the Company no regard shall be paid to such times or dates.

## **5. PRICES AND PAYMENT**

5.1 Unless otherwise agreed, prices exclude carriage to destination in mainland UK and the Company reserves the right to make an additional charge for any special delivery or other requirements of the Customer. For destinations outside mainland UK, the Company may make an additional charge for packing, insurance and carriage.

5.2 Prices will be those ruling at the date of despatch of Goods. VAT will be charged where applicable at the date of despatch.

5.3 Credit for Goods given to the Customer by the Company in respect of the contract or any other Contract made between the Customer and the Company in one month may only be set off against the invoice(s) in respect of that month. No deductions for returned Goods may be made until the same have been authorised by the Company in accordance with the Company's returns procedure, a copy of which is available on request. The Company reserves the right to make an additional charge for freight on returned Goods.

5.4 All invoices are payable by the payment date specified on the invoice or as otherwise agreed in writing by the Company. Unless otherwise agreed in writing all invoices are payable to 'Vogue Distribution Limited' and are to be sent to the Company's premises at 24 Edison Road, St Ives, Cambs, PE27 3LF or such other address as the Company shall from time to time notify to the Customer.

5.5 If the Customer fails to pay the invoice value of Goods by the due date it shall pay interest on the amount unpaid from the date on which payment was due to that on which it is made (whether before or after judgement) at the rate of 3 per cent per annum over the base rate from time to time of HSBC Bank plc.

5.6 The minimum value of any Order shall be such sum as the Company may from time to time specify except that if the Customer requests delivery of Goods below such minimum value the Company shall deliver such Goods subject as herein provided and to the Customer paying an additional charge of such Goods.

5.7 Unless otherwise agreed in writing by the Company Goods supplied to the Customer are not subject to any "sale or return", "sale or exchange", "returns allowance" or similar arrangements.

5.8 Where the Company is purchasing goods from the Supplier, the Company reserves the right to cancel the entire purchase order or any part of it thereof, if the delivery date is not met. Time is of the Essence in the case of any and all purchases by the Company.

## **6. TITLE**

6.1 For the purpose of Section 12 of the Sale of Goods Act 1979 the Company shall transfer only such title as the company has in Goods and in the case of material purchased from a third party had and has transferred to the Company.

6.2 Title in Goods shall remain with the Company and shall not pass to the Customer until the amount due under the invoice for them and all other monies due to the Company have been paid in full as the Company otherwise agrees in writing.

6.3 Until title passes to the Customer, Goods shall be held by the Customer as the Company's fiduciary agent and bailee and shall be stored or marked so that they can be identified as the property of the Company. The Company shall be entitled at any time without notice or demand to repossess Goods and for that purpose or for purpose of inspecting Goods to enter any premises where Goods are stored. In the event of such repossession the Company shall have the right to dispose of Goods in such manner as in its sole discretion it thinks fit. The proceeds from any such disposal shall be applied by the Company towards all amounts due to it by the Customer.

6.4 If Goods are wholly or partly resold before such monies are paid, the Company shall be entitled to the proceeds thereof or the claim to such proceeds and the Customer shall hold such proceeds separate from all other funds and in trust for the Company.

## **7. RISK AND DELIVERY OF GOODS**

7.1 All sales by the Company to the Customer are on an ex-works Inco terms basis. For the sake of clarification, this is regardless of the delivery method, the cost of delivery or how any delivery costs are divided between Company and Customer.

7.2 Unless otherwise agreed in writing Goods will be delivered by the Company to the Customer at the place specified in the invoice.

7.3 The company may deliver Goods by instalments and no default or failure by the Company in respect of any one or more instalments shall vitiate the Contract in respect of Goods previously delivered or undelivered Goods.

7.4 If the Company is unable to deliver all Goods stated in the Order, the Company may deliver to the Customer (and the Customer shall accept in satisfaction of the Contract) a lesser number of Goods than the number of Goods stated in the Order.

## **8. CLAIMS NOTIFICATION**

8.1 Any claim that Goods have not been delivered to the Customer shall be notified by the Customer to the Company by telephone within 24 hours and in writing within five days of the Company's acceptance of the Order.

8.2 Any claim that Goods have been delivered damaged, are not of the correct quality or do not comply with their description shall be notified by the Customer to the Company in writing within 24 Hours of delivery of Goods.

8.3 Any claim that Goods are defective shall be notified by the Customer to the Company in writing as soon as practicable and in any event within 14 days of delivery of Goods. The Company reserves the right to refuse the return of any goods reported faulty whether within this timescale or otherwise. This will be decided at the Company's discretion.

8.4 The written notifications required by Conditions 8.1-8.3 shall be in such form as the Company may from time to time specify.

8.5 The Company reserves the right to charge for providing a proof of delivery. The rate of charge shall be such amount for each package (for which proof of delivery is required) as the Company may from time to time specify.

8.6 The Company shall be afforded a reasonable opportunity and facilities to investigate any claims made under Conditions 8.1-8.3. The Customer shall, if so authorised in writing by the Company (but not otherwise) promptly return Goods, securely packed, to the Company for examination. Carriage shall be for the Company's account in respect only of such returned goods to an invoice value greater than such sum as the Company shall from time to time specify and in respect of which the return was in the Company's opinion, justified.

8.7 The Company shall have no liability whatsoever with regard to any claim in respect of which the Customer has not complied with the provision of Conditions 8.1-8.6.

8.8 All decisions regarding any claim by the Customer that goods have been delivered damaged, are not of the correct quality or quantity or do not comply with their description will be made at the Company's discretion and will take account of the fact that all sales are on an ex-works Inco terms basis.

## **9. EXTENT OF LIABILITY**

9.1 If the Customer establishes to the satisfaction of the Company that Goods have not been delivered, have been delivered damaged, are not of the correct quantity, do not comply with their description or are defective the Company shall replace with similar Goods, any such Goods or allow the Customer credit for their invoice value. This will be decided at the Company's discretion.

9.2 The delivery of any replacement Goods shall be at the point of delivery agreed for the original Goods and at the discretion of the Company.

9.3 If the Customer is entitled to return only some Goods the Contract shall remain in full force and effect in respect of the other Goods supplied and no set-off or other claim shall be made by the Customer against or in respect of such other Goods.

9.4 No claim against the Company under Condition 9.1 shall be entertained in respect of any damage or defect not resulting exclusively from faulty materials or workmanship in manufacture or from handling prior to delivery of Goods.

9.5 In no circumstances shall the liability of the Company to the Customer under this Condition 9 exceed the invoice value of Goods concerned.

9.6 In no event shall the Company be liable to the Customer for loss of profit, loss of use, loss of revenue or interest, loss of goodwill, damages, costs or expenses or any other economic, indirect or consequential loss arising out of breach of contract, tort of any kind or otherwise.

9.7 The Company will use reasonable endeavours to extend to the Customer the benefit of any guarantee, condition or warranty which may have been granted to the Company by any manufacturer or supplier of Goods. No conditions or warranty is given by the Company in relation to Goods and all conditions or warranties as to fitness, description, suitability, quality or state, whether expressed or implied, whether statutory or otherwise, are hereby expressly excluded.

9.8 Except as provided in this Condition 9 the Company shall have no liability to the Customer (other than liability for death or personal injury resulting from the Company's negligence) for any loss or damage of whatsoever nature arising in any way whatsoever.

## **10. MARKETING AND RELATED SERVICES**

10.1 The Company may from time to time while the Contract subsists be willing to provide the Customer with certain marketing and related services in connection with the Customer's business. The Customer accepts that the same shall be supplied solely at the Company's discretion and may be withdrawn at any time. The Company shall not be liable for any loss, damage or expenses which the Customer may suffer or incur as a result of any default by the Company in the provision of or any failure by it to provide such services.

## **11. DATA PROTECTION ACT**

11.1 We may transfer information about you to our bankers, in order for them to provide their services to us and other customers of theirs and to help them a) obtain credit insurance b) undertake credit control c) undertake assessment and analysis (including credit scoring, market, product and statistical analysis) d) securitise debts and e) protect their interests.

11.2 We or our bankers may make credit reference agency searches in respect of your business and its principals. Please note that credit reference agencies make a record of searches which may be used to prevent fraud or money laundering or by other subscribers to make credit decisions about you.

11.3 Our bankers may give information about you and your indebtedness to the following for the purposes stated:  
a) any other divisions or associated companies of theirs – for the business purposes of such divisions or companies;  
b) our or their insurers – to quote for and issue any credit policy or to deal with any claims;  
c) any advisers acting on our or their behalf- so the advisers can carry out their services;  
d) any business to whom your indebtedness or our financing arrangement with them may be transferred – to facilitate such transfer;  
e) to any person to whom they have a duty of disclosure or to whom the law permits disclosure.

11.4 Our bankers may make decisions about you solely using an automated decision making process, such as credit scoring; however, they will tell us (and in turn we will tell you) if they make a significant decision only using such a process. Through us you can then request a review of their decision using others means.

11.5 Our bankers may monitor and/or record your phone calls to them for training and/or security purposes.

11.6 We will provide you details of our bankers on request, including a contact telephone number from where you can obtain details of the credit reference agencies used by them and any third parties to whom information is transferred.

## 12. GENERAL

12.1 The Contract shall not be assignable by the Customer without the prior written consent of the Company.

12.2 The Company may, at its discretion, postpone or terminate the supply of Goods if the Customer defaults in any of its obligations under the Contract, or any other contract with the Company, becomes insolvent, has a receiver, administrator, administrative receiver or manager on behalf of a creditor appointed for its business or is compulsorily or voluntarily wound up or if proceedings are instituted against it seeking a re-organisation or an arrangement under any relevant insolvency laws and on the occurrence of such an event all sums due to or to become due by the Customer to the Company shall be or be deemed to be an immediate debt to the Company.

12.3 Any opinion, advice or technical information given by the Company is supplied only on the basis that its employees and agents shall be under no liability in respect thereof.

12.4 The Company shall not be liable for any delay or other failure to perform the whole or any part of the Contract caused by factors outside the Company's control.

12.5 The invalidity of the whole or any part of these Conditions shall not affect the validity of the remaining part of that particular Condition or these Conditions.

## 13. NOTICES

13.1 Any notice to be given under the Contract shall be in writing and forwarded by first class prepaid letter post or facsimile copy to the receiving party at its business address as last notified in writing to the other party and shall be deemed to have been given 24 hours after the date of posting or on the date of despatch if sent by facsimile.

## 14. LAW AND JURISDICTION

14.1 The Contract shall be governed by English law and the parties consent to the exclusive jurisdiction of the English Courts in all matters regarding the Contract.

I, the undersigned hereby confirm that I have read and agree to these Terms of Trading and  
Conditions of Sale:

Signed

Date

Name

Position