

# General terms and conditions of supply

Of JGMK Sales for Fashion International B.V. with its registered office in Bunschoten, the Netherlands, hereinafter referred to as "Seller"

"Purchaser" includes: the party to whom Seller makes an offer and/or the party with which Seller concludes an agreement.

## 1 Article Offer and agreement

- 1.1 These general terms and conditions apply to all offers and agreements between Purchaser and Seller. Deviations from these general terms and conditions will only be valid if these have been expressly agreed in writing.
- 1.2 Every order given verbally or in writing by Purchaser to Seller is an offer to conclude an agreement.
- 1.3 Purchaser has the right, without stating reasons, to withdraw an order within 8 days from providing it.
- 1.4 An agreement between Purchaser and Seller comes into effect by an order confirmation in writing from Seller.
- 1.5 The contents of the order confirmation from the Seller determine the contents of the agreement concluded between parties.
- 1.6 The contents of the order confirmation will, insofar as they are technically and commercially achievable, be in accordance with the contents of the order from Purchaser. However, Seller retains the right to deviate from the specifications stated by Purchaser in Purchaser's order form (such as colours, sizes, etcetera). Seller also retains the right not to deliver specified items.
- 1.7 Every order from Purchaser will apply as a new offer and will only result in a new separate agreement in accordance with the provisions of this article. If it is established by operation of law that nevertheless a continuing performance contract has arisen between Purchaser and Seller, then Purchaser is entitled, at its discretion, without any obligation of payment of compensation, to terminate the relevant agreements wholly or in part, with a notice period of three months.
- 1.8 These general terms and conditions also apply to offers and agreements with regard to goods which must be delivered from stock if these offers and/or agreements are made or concluded after the formation of a previous agreement whereby these General Terms and Conditions are provided.
- 1.9 Cancellation by the Purchaser, outside the period stated in article 1.3, can only take place with the prior permission in writing from the Seller. If Seller agrees to the cancellation the Purchaser will owe compensation to Seller of at least 50% of that which Purchaser would have had to pay to Seller in case of performance of the agreement, without prejudice to the right of Seller to full compensation of costs and damage.

## 2 Article Manner of performance of the agreement

- 2.1 Purchaser must inform Seller in writing about inaccuracies (including errors of writing and printing or calculation errors) within 7 working days from the signing of the order form and/or the order confirmation. Seller will correct, within a reasonable period, any inaccuracies found to be valid.
  - 2.2 Seller has the right to, after the formation of the agreement, within reasonable limits and if justified by commercial or technical reasons, make alterations to the specifications (such as colours, sizes, etcetera). Seller also has the right not to deliver specified items in those circumstances.
  - 2.3 The items of Seller are sold separately and independently from each other. Purchaser can only require the delivery of sets (items to be combined with each other), when it is evident from the order form and the order confirmation that the items concerned are sold as a set to Purchaser. If Seller nevertheless does not deliver a set, then Purchaser can, after it has appeared from consultation with the Seller that a suitable solution is not possible, terminate the agreement insofar as these items are concerned.
- ## 3 Article Payment
- 3.1 Payment must take place within 30 days from the invoice date.
  - 3.2 If the credit insurer does not provide a credit (limit) or withdraws this then Seller will be entitled to require advance payment.
  - 3.3 In case of exceeding of the payment term, Purchaser will be in default by operation of law and Seller will be entitled to charge the statutory interest + 2% over the outstanding amount from the due date, without prejudice to the right of Seller to claim full compensation on the basis of the law.
  - 3.4 In case of delivery in parts each part can be charged for separately. The provisions of subclause 1 up to and including 3 of this article will in that case remain in full force.
  - 3.5 A payment by Purchaser will be applied to settlement of the longest outstanding invoice, regardless of what Purchaser states with his payment.
  - 3.6 Seller retains the right, at all times, to require advance payment for delivered, or to be delivered goods, prior to Seller proceeding with any (further) delivery, in particular if it appears that Purchaser does not fulfil Purchaser's payment obligations or Purchaser has not fulfilled Purchaser's payment obligations toward a (different) company forming part of JGMK Sales for Fashion B.V.
  - 3.7 Payment must take place in the currency as stated in the agreement and without reduction or setoff by Purchaser.

## 4 Article Consumer prices

Seller will apply exclusively recommended retail prices with regard to the consumer prices applied by Purchaser.

## 5 Article Termination

- 5.1 Seller is entitled to terminate, wholly or in part, every agreement without prior notice of default, or to - at Seller's discretion - suspend the (further) performance of that agreement, without obligation to payment of compensation, if:
    - The credit insurer does not provide credit for the Purchaser or withdraws credit provided for Purchaser.
    - Moratorium, insolvency, liquidation or guardianship order of Purchaser has been applied for or granted or an offer has been made or agreement has been concluded with regard to an (extrajudicial) debt settlement;
    - There is cessation of the activities of the business of the Purchaser;
    - The activities of Purchaser are wholly or in part taken over by a third party;
    - Prejudgement attachment or attachment under a warrant of execution is attached to a considerable part of the assets of Purchaser;
    - Purchaser does not, not in time or not in conformity with the requirements of Seller provide security as stated in article 12 with regard to the fulfillment of Purchaser's obligations.
  - 5.2 Seller is entitled to terminate or suspend every agreement if Purchaser is in default with regard to Purchaser's payment obligations or any other substantive obligation on the basis of any agreement with Seller or on the basis of one or more of the other companies forming part of JGMK Sales for Fashion B.V.
  - 5.3 If Seller terminates the agreement on the basis of attributable failure in the fulfillment of any payment obligation or other substantive obligation then Purchaser will owe, in addition to the obligation to cooperate in the undoing of the goods already received, compensation to the amount of 50% of the order value of the goods, without prejudice to the right of Seller to claim full compensation.
- ## 6 Article Force majeure
- 6.1 Force majeure within the meaning of these general terms and conditions includes circumstances which prevent the fulfillment of any obligation attached to a party and which cannot be attributed to this party, because they cannot be blamed for their fault, neither pursuant to the law, nor legal act, nor according to generally accepted standards can be on the account of that party, such as war, threat of war, civil war, riot, government measures, industrial action, transport problems, fire, illness, incapacity for work or insolvency of third parties engaged by Seller, the not, or not in time delivering of goods by suppliers of Seller, disruption in the arranged supply of goods to be delivered by third parties, including water and electricity and other serious breakdowns in the company of Seller or the third parties engaged by Seller.
  - 6.2 Seller is not obliged to the fulfillment of any obligation ensuing from any agreement if Seller is prevented from this as a result of force majeure.
  - 6.3 If Seller, through force majeure or other exceptional circumstance is not able, or not able in time, to fulfil Seller's obligations on the basis of any agreement, the Seller will have the right to perform this agreement within a reasonable period, or - if performance within a reasonable period is not possible - to suspend the agreement wholly or in part, without Seller being obliged to pay any compensation to the Purchaser.
  - 6.4 In the event of force majeure Purchaser will not be entitled to proceed with termination of the agreement and/or to claim compensation.
  - 6.5 If one of the parties to an agreement is unable to fulfil any obligation under that agreement then the one party is obliged to inform the other party thereof as soon as possible in writing.

## 7 Article Delivery

- 7.1 Delivery will take place:
  - 7.1.a If the goods are collected by or on behalf of Purchaser: by delivery of the goods to Purchaser or the person who will take receipt thereof on behalf of Purchaser;
  - 7.1.b In case of dispatch through the intervention of a road haulier: by delivery of the goods to this road haulier;
  - 7.1.c In case of dispatch by means of a means of transport of Seller: by delivery to the address designated by the Purchaser.
- 7.2 The risk with regard to the goods will transfer to the Purchaser from the time of delivery.
- 7.3 Unless agreed otherwise, delivery will take place carriage paid, in a manner of dispatch to be determined by Seller. For orders of less than € 250. - excl. VAT, shipping and handling costs will be charged.
- 7.4 In case of order from stock the Seller will be entitled to charge freight costs, in addition to the purchase price.
- 7.5 Seller has the right to store goods, which have unjustifiably not been accepted or collected in time, on the account and risk of Purchaser. The storage costs (to be reasonably determined) will be charged to Purchaser and are forthwith due and payable.

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## 8 Article Delivery dates

- 8.1 "Delivery date" means the date of delivery as stated in 7.1.
- 8.2 Agreed delivery dates will be adhered to as much as possible by Seller, but apply as indicative and never as final deadlines.
- 8.3 Seller is entitled, if necessary, to adjust the delivery dates insofar as the delivery from Seller depends on performance by third parties, such as suppliers, hauliers and customs authorities.
- 8.4 Purchaser acknowledges that the delivery dates are based on the circumstances known by the Seller at the time of the concluding of the agreement and, insofar as dependent on performances to be delivered by third parties, on the data provided by those third parties to Seller.
- 8.5 If no delivery date has been agreed, Seller will deliver the goods within a period reasonable in Seller's opinion.

## 9 Article Complaints

- 9.1 Purchaser must report complaints with regard to visible defects within eight working days in writing and including substantiation to Seller.
- 9.2 Complaints with regard to defects, which could not have been discovered by conducting random checks, must be reported in writing to Seller within eight days from discovery and in all events within six months from the delivery of the goods.
- 9.3 If Seller deems a claim to be valid, then Seller has the choice to repair or replace the goods within a reasonable period, to credit the value of the goods, or deal with the complaint in another suitable manner.
- 9.4 Complaints about minor and/or deemed suitable in the trade, or technically unavoidable deviations in quantity, quality, size, colour finish etc., as well as complaints about the fact that specified items have been removed from the product range, will not be deemed to be valid by Seller.

## 10 Article Returns

- 10.1 Seller will credit to Purchaser the transport costs and the purchase price charged with regard to validly returned goods.
- 10.2 Seller must provide permission in writing and in advance for return consignments. Seller will inform Purchaser in writing if Seller will collect (has collected) the items or that Purchaser must return the items.
- 10.3 In the event of return consignment by Purchaser the items will be on the account and risk of Purchaser until Seller has received the items.
- 10.4 No approval or acceptance can be derived from the receipt by Seller of the returned items.
- 10.5 Seller will store invalidly returned items on the account and risk of Purchaser.

## 11 Article Collection charges

- 11.1 All costs of judicial as well as extrajudicial measures which Seller must take against Purchaser will be on the account of Purchaser.
- 11.2 The collection charges to be paid by Purchaser amounts at the first payment reminder or demand to 15 % of that which Purchaser owes to Seller and are set at least at € 150.= for each following payment reminder or demand.
- 11.3 When Seller refers a debt for collection, Purchaser must pay the costs of extrajudicial legal assistance of Seller, which will be calculated in accordance with the Collection Rates of the Netherlands Bar Association, however this is with a minimum of € 150.=.
- 11.4 The amounts stated in this article will be due and payable by the single fact that Seller feels necessitated to send a demand to Purchaser or to take further (legal) measures.

## 12 Article Security

- 12.1 Seller is entitled to stipulate that Purchaser provides a security (right) for the fulfillment of the payment obligations of Purchaser. Seller is also entitled to stipulate the period for the establishing of this security.
- 12.2 The absent, incomplete or late fulfillment of the required securities results in an attributable failure of performance (breach of contract) which will justify suspension or termination of the agreement.

## 13 Article Guarantees

Guarantee obligations are only attached to Seller, if this has been expressly agreed in writing.

## 14 Article Retention of title

- 14.1 Seller retains the ownership of all delivered or to be delivered items, until Seller has integrally fulfilled:
  - 14.1.a The performances and (payment) obligations owed by Purchaser for all items delivered or to be delivered pursuant to any agreement;
  - 14.1.b Claims due to failures on the part of Purchaser in the performance of such agreements.
- 14.2 As long as the ownership of the delivered items has not been transferred to Purchaser, Purchaser may not pledge the items or grant a third party any right thereto, excluding the provisions of subclause 6 of this article.
- 14.3 Purchaser is obliged to insure the items for the duration of the retention of title against damage, including fire and water damage, as well as theft, and to provide these insurances to Seller for inspection on request.
- 14.4 If Purchaser fails to fulfil Purchaser's payment obligations or the obligations on the basis of this article toward Seller, or if Seller has a valid basis to fear that Purchaser will fail to fulfil these obligations, then Seller will be entitled to take back the items delivered subject to retention of title.
- 14.5 Seller will, after taking back the items as referred to in subclause 4, credit the market value of the items to Purchaser (which amount will under no circumstances be higher than the purchase price charged to Purchaser) less the costs of the recovery.
- 14.6 Purchaser is permitted to sell or transfer the items delivered under retention of title to third parties, within the context of the usual exercise of his business.
- 14.7 All the promotional material that Seller makes available to Purchaser for the promotion of Seller's products and/or brands remain the property of Seller and must, on first request from Seller, immediately be returned. The promotional material may not be sold and/or transferred to third parties.

## 15 Article Prohibition of alteration of delivered products

Purchaser is not permitted to make alterations to the (statement on) the products and packaging delivered to Purchaser.

## 16 Article Liability

- 16.1 Seller will not be liable for direct or indirect damage which Purchaser suffers on the basis of an agreement whether or not caused by an employee/worker or by third parties engaged by Seller, unless the damage is caused by intention or gross negligence of the board of directors of Seller or its superior employees.
- 16.2 Seller will under no circumstances be liable for immaterial damage or resulting damage which Purchaser suffers on the basis of an agreement.
- 16.3 Seller will not be liable for damage suffered by third parties related to infringement of rights accruing to these third parties, expressly including industrial and intellectual property rights.
- 16.4 With due regard to the provisions of this article every liability of Seller is limited to the amount which the business liability insurer pays out with regard to the damage caused.
- 16.5 Seller is, with regard to items delivered by Seller which originated from third parties, only liable toward Purchaser insofar as the third party has not limited or excluded his liability.

## 17 Article Intellectual property rights

The Purchaser will subject all advertising activities, including seasonal actions, conducted by Purchaser with regard to items from Seller, to the approval of Seller; this approval can only be withheld if the advertising activities threaten to harm the reputation and the brand image of Seller and of the items sold under that brand. This does not affect the right of Purchaser to determine the resale price.

## 18 Applicable law, right of choice of forum and election of an address for service

- 18.1 The agreements between Purchaser and Seller are governed by Dutch law.
- 18.2 The disputes which may arise between Purchaser and Seller as a result of an agreement concluded by Purchaser with Seller will be settled by the court of competent jurisdiction in Utrecht.

## 19 Article Invalid provisions

If any provision of these terms and conditions were to appear to be invalid, then remaining provisions of these terms and conditions will remain nevertheless unimpaired. The invalid provision must be interpreted as, or converted to, a valid provision to, as far as is possible, the same effect.