

# Terms and Conditions

## General

The whole of the agreement between Fashionability Pty Ltd A.C.N.085 690 660 Trading as Associated Fashion Distributors ("AFD") and the applicant referred to in the Credit Application ("Customer") are those set out in these Terms and Conditions and those, if any, which are implied and which cannot be excluded by law ("Terms"). Any other contractual terms of the Customer (Whether upon the Customer's order or elsewhere) which are contrary to or inconsistent with these Terms shall not apply nor shall they constitute a counteroffer. By receiving delivery of all or a portion of the goods, the Customer shall be deemed to have accepted these terms and to have agreed that they shall apply to the exclusion of all others.

### 1. Credit Terms

Payment is COD or 7 days from the invoice date, other than the 1st Order, where payment will be required before delivery, or unless otherwise agreed. AFD may charge liquidated damages at a rate equivalent to five percent (5%) in excess of the rate of interest for the time being fixed under section 2 of the Penalty Interest Rates Act 1983 and calculated daily if payment is not made by the due date. The customer is liable for all reasonable expenses and legal costs incurred by AFD on a solicitor and own client basis for enforcement of obligations and recovery of monies due from the Customer to AFD.

### 2. Delivery & Supply

Any times quoted for delivery are estimates only and AFD shall not be liable for failure to deliver, or for delay in delivery. The Customer shall not be relieved of any obligation to accept or pay for goods, by reason of any delay in delivery or dispatch. AFD reverses the right to stop supply at any time if the Customer fails to comply with the Terms.

### 3. Possession and Title - Romalpa Clause

Notwithstanding anything herein contained the property in the goods does not pass to the Customer until the price of such goods are paid to AFD. The Customer acknowledges that he/she holds the goods as bailee of AFD until payment of the price thereof shall be made. AFD shall be entitled but not obliged to enter the Customers premises to retake possession of the goods if payment is not made within the terms set out on the face hereof. Notwithstanding the provisions hereof the Customer is entitled to sell the goods the subject of this order in ordinary course of carrying on its business but acknowledges that they hold the proceeds of such sale in trust for AFD until the purchase price of such goods shall be paid in full. Notwithstanding anything herein contained the Customer is responsible for the payment of the price of the goods upon delivery or otherwise in accordance with the terms set out on the face hereof and shall bear the risk of damage to or loss of the goods from the date of delivery.

### 4. Cancellations

No Cancellation or partial cancellation of an order by the Customer shall be accepted by AFD after 14 days from the written date of the order and only then if AFD has first consented in writing to such cancellation and unless a cancellation charge has been paid which, as determined by AFD, will indemnify AFD against loss, without limitation. Cancellation will not be accepted on goods that are not regular stock which are in the process of manufacture or ready for shipment.

### 5. Privacy Act

To enable AFD to assess the Customers application for credit, the Customer authorises AFD:

6.1 To obtain from a credit reporting agency a credit report containing personal information about the Customer and its guarantors pursuant to Section 18K(1)(b) of the Privacy Act:

6.2 To obtain a report from a credit reporting agency and other information in relation to the Customer's commercial activities.

AND in accordance with Section 18K(1)(b) of the Privacy Act the Customer authorizes AFD to give and obtain from any credit provider named in the accompanying credit application and credit providers that may be named in a credit report issued by a credit reporting agency information about the Customer's credit arrangements. The Customer understands that this information can include and information about its credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the Privacy Act.

### 7 Notification

The Customer must notify AFD in writing within seven (7) days of:

7.1 Any alteration of the name or ownership of the Customer.

7.2 The issue of any legal proceedings against the Customer.

7.3 The appointment of any provisional liquidator, liquidator, receiver, receiver manager or administrator to the Customer.

7.4 Any change in the ownership of the business name of the Customer. The Customer agrees that it shall be liable to AFD for all goods supplied to the new owners by AFD until notice of any such change is received.

### 8 Warranties

8.1 All Customers warrant that they have received the goods for the purpose of a business and / or for re-supply in trade and:-

8.1.1 AFD gives no warranty that goods are fit for any other purpose and all other conditions, warranties and representations whether expressed, implied or statutory are excluded.

8.1.2 AFD shall not be liable for any consequential indirect or special damage or loss of any kind whatsoever.

8.1.3 No Claims or return of goods in respect of such a sale need be recognized unless by AFD within 14 days of delivery to the Customer.

### 9 Legal Construction

These Terms shall be governed and interpreted according to the law of Queensland and AFD and the Customer consent and submit to the jurisdiction of the Courts of Queensland. Notwithstanding that any provisions of the Terms may prove to be illegal or unenforceable pursuant to any statute or rule of law or for any other reason that provision is deemed omitted without affecting the legality of the remaining provisions and the remaining provisions of the Terms shall continue in full force and