

# STANDARD TERMS AND CONDITIONS FOR PURCHASES OF GOODS AND SERVICES

## 1. INTERPRETATION

1.1 In these Conditions:

"**Contract**" means the Purchase Order, which incorporates these Conditions;

"**Goods**" means any goods, materials, articles, services or work or any other thing (including any part or parts of them) to be supplied to the Purchaser by the Supplier (or Supplier's sub-contractors);

"**Intellectual Property Rights**" means all inventions, patents, patentable rights, registered designs, design rights, database rights, and copyrights, know-how, utility models and trademarks (whether registered or not) trade names, rights in inventions, rights in data, rights in know-how and confidential information and all other intellectual and industrial property and similar or analogous rights existing under the laws of any country, and the goodwill attaching to any of them, and applications for any of them or the right to apply for or register any one of them (present, future and contingent, and including all renewals, extensions, revivals and all accrued rights of action) and any other right or form of protection of a similar nature and having equivalent or similar effect which may subsist anywhere in the world;

"**Purchase Order**" means the Purchaser's written instruction to supply the Goods, which shall incorporate and be subject to these Conditions.

## 2. APPLICATION OF TERMS

2.1 Unless otherwise agreed by both parties in writing, the parties shall be bound by these Conditions and these Conditions and Purchase Order shall form the entire agreement between the parties in relation to the subject matter contained herein.

2.2 Each Purchase Order for Goods shall be an offer by the Purchaser to purchase Goods subject to these Conditions and no Purchase Order shall be accepted until the Supplier either expressly, by giving notice of acceptance, or impliedly, by fulfilling the Purchase Order in whole or in part, accepts the offer.

2.3 These Conditions apply to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

## 3. QUALITY OF GOODS

3.1 The Goods shall conform in all respects with the Purchase Order (including any variations thereto) and any specifications and other requirements or descriptions supplied or advised in writing, including email by the Purchaser to the Supplier.

3.2 The Goods shall be safe, durable, free from defects, fit for the purpose for which they are supplied and for any particular purpose made known to the Supplier by the Purchaser, of the best available design, quality, materials and workmanship and, where the Goods include services or other work, such work will be performed with reasonable skill and care.

3.3 The Purchaser's rights under these Conditions are in addition to any conditions implied by statute in favour of the Purchaser from time to time.

3.4 The Goods shall conform to all British, European and international standard specifications, as applicable and with the requirements of any applicable statutes, orders, regulations or by laws from time to time in force.

## 4. PRICE

4.1 The price of the Goods shall be as stated in the Purchase Order and shall be exclusive of Value Added Tax but inclusive of all other charges.

4.2 No increase in the price of the Goods will be accepted by the Purchaser unless a person authorised by the Purchaser has agreed to such increase in writing.

## 5. DURATION

The duration of the Contract shall be as specified in the Purchase Order, or otherwise agreed in writing between the parties, subject to earlier termination of the Contract pursuant to Condition [15](#).

## 6. DELIVERY

6.1 The Goods shall be delivered by the Supplier carriage paid to the place stated in the Purchase Order or such other place of delivery as is specified by the Purchaser in writing prior to delivery of the Goods and in accordance with any additional instructions stated on the Purchase Order.

6.2 The Goods shall be delivered on the date stated on the Purchase Order or, if no such date is stated, within 28 days of the date of the Purchase Order.

6.3 Goods shall be delivered to the Purchaser, at the time specified by the Purchaser.

6.4 If the Purchaser provides any access to premises, labour or equipment in connection with the delivery of, or the performance of any services forming the whole or part of, the Goods, such access shall be provided subject to the exclusion by the Purchaser of any liability whatsoever that is capable of being excluded in law and the Supplier shall indemnify the Purchaser in respect of any actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of, or in connection with any liability, loss, damage, injury, death, cost or expense occurring in the course of delivery, performance or installation to the extent that such damage or injury is attributable to any act or omission of the Supplier or any of the Supplier's sub-contractors.

6.5 Where any access to the Purchaser's premises is necessary in connection with delivery, performance or installation, the Supplier and its sub-contractors shall at all times comply with any security and health and safety regulations currently in force, which may include obtaining security clearance from the Purchaser.

6.6 Time for delivery shall be of the essence.

6.7 Failure to deliver the Goods by the due date shall, without prejudice to any other rights and remedies which the Purchaser may have, entitle the Purchaser to:

- a) cancel the Contract in whole or in part;
- b) refuse to accept or pay for any subsequent delivery of the Goods which the Supplier attempts to make;
- c) recover from the Supplier any expenditure reasonably incurred by the Purchaser in obtaining the Goods in substitution from another Supplier; and/or
- d) claim damages for any additional costs, loss or expenses incurred by the Purchaser which are in any way attributable to the Supplier's failure to deliver the Goods on time.

6.8 Following the UK's departure from the EU on 1 January 2021, the Incoterms 2020 DDP are applicable for all orders and deliveries to New Look's Republic of Ireland stores i.e., the Supplier will be responsible for arranging carriage and delivering the Goods at the named place, cleared for import, and paying all applicable taxes and duties.

## **7. PROPERTY AND RISK**

Risk and title in the Goods shall pass to the Purchaser on delivery.

## **8. INSPECTION AND REJECTION**

8.1 The Purchaser shall have the right to inspect and test the Goods prior to or within a reasonable time after their delivery.

8.2 If the Goods do not conform or, in the Purchaser's reasonable opinion, are unlikely to conform with the Purchase Order or with any specifications, requirements or descriptions supplied or advised by the Purchaser, the Purchaser may inform the Supplier and the Supplier, at the Supplier's expense, shall immediately take such action as is necessary to ensure conformity to the reasonable satisfaction of the Purchaser.

8.3 Any omission by the Purchaser to undertake such inspection or testing or any failure by the Purchaser to make a complaint at the time of such inspection or testing and any approval given by the Purchaser during or after inspections or tests shall not constitute a waiver by the Purchaser of any of the Purchaser's rights or remedies in respect of the Goods and, notwithstanding any such inspection or testing, the Supplier shall remain responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under the Contract.

## **9. PAYMENT**

9.1 The Supplier shall render a single invoice in respect of the total consignment or (as the case may be) performance of the Goods delivered and not rejected.

9.2 Payment of invoices will be made within 60 (sixty) days from the end of the month to which the invoice is received, provided always that New Look receives a valid and proper VAT invoice in the correct format (such format to be agreed with New Look) clearly stating the relevant New Look Order number s at the invoice address given on the Purchase Order provided delivery has occurred and the Goods have not been rejected. Time for payment shall not be of the essence.

9.3 Without prejudice to any other rights or remedies, the Purchaser reserves the right to set off any amount owing at any time from the Supplier to the Purchaser against any amount due to the Supplier under the Contract or any other agreement or contract with the Purchaser.

## **10. QUALITY**

10.1 Unless otherwise agreed in writing, the warranty period applicable to the Goods shall be 12 months from putting into service or delivery, as applicable.

10.2 If the Purchaser, within the warranty period, gives written notice to the Supplier of any defect in any of the Goods arising during the warranty period under proper and normal use, the Supplier, without prejudice to any other rights or remedies which the Purchaser may have, shall immediately take such action as is necessary to remedy the defects (whether by repair, replacement or re-performance as the Purchaser shall elect) at the Supplier's expense.

## **11. LABELLING AND PACKING**

11.1 Immediately on dispatch of any consignment of Goods, the Supplier shall send notification to the Purchaser at the address for delivery of the Goods as specified on the Purchase Order and such notification shall specify the date and place of dispatch, the means of transport, the number of packages and the net, gross and tare weight of the Goods.

11.2 The Supplier shall ensure that each delivery is accompanied by a delivery note which shows the Purchase Order number, date of order, number of packages, the net, gross and tare weights of the goods and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.

11.3 The Goods shall be packed and marked in a proper manner and in accordance with the Purchaser's instructions and in accordance with any statutory requirements and any requirements of the carriers.

11.4 The details of the contents shall be clearly marked on each container and all containers of hazardous materials shall bear prominent and adequate warnings in English and must be accompanied by emergency information in English, in the form of written instructions, labels or similar markings.

11.5 The Supplier shall indemnify the Purchaser against all actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser may incur as a result of or in connection with any breach of this Condition.

11.6 All packaging materials will be considered non-returnable and will be suitably disposed of unless the Supplier's delivery note states that the Purchaser will be charged for any packaging material not returned in which circumstances any such packaging material will only be returned to the Supplier at the Supplier's cost.

11.7 If Goods are delivered to the Purchaser in excess of the quantities ordered the Purchaser shall not be bound to pay for the excess and any excess will be, and will remain at, the Supplier's risk and will be returnable at the Supplier's expense.

## **12. INTELLECTUAL PROPERTY**

12.1 The Supplier represents and warrants that the Goods shall not infringe any Intellectual Property Rights of any third party.

12.2 All Intellectual Property Rights in any specifications, instructions, plans, drawings, patterns, models, designs or other material furnished to or made available to the Supplier by the Purchaser shall, subject to the rights of third parties, remain vested solely in the Purchaser and the Supplier shall not (except to the extent necessary for the implementation of the Purchase Order) without the prior written consent of the Purchaser use or disclose any such specifications, plans, drawings,

patterns, models or designs or any information which the Supplier may obtain and the Supplier shall not refer to the Purchaser, the Contract or the Purchase Order in any advertisement without the Purchaser's prior written consent.

12.3 The Supplier hereby assigns to the Purchaser all Intellectual Property Rights generated in the course of providing services or work pursuant to the Contract and undertakes at the Purchaser's request to execute all documents and to do any and all other things reasonably necessary to further assure the Purchaser's title to Intellectual Property Rights vesting in the Purchaser and to allow the Purchaser to enforce its rights in respect of the same.

12.4 The Supplier acknowledges that any rights granted by the Purchaser to use or exploit any of the Purchaser's Intellectual Property Rights are in the form of a non-exclusive, non-perpetual, non-sub licensable, non-assignable, revocable forthwith on written notice licence that will terminate immediately upon the termination of this Contract for any reason. All goodwill in respect of the Purchaser's Intellectual Property Rights shall remain vested with the Purchaser at all times.

## **13. INDEMNITY AND INSURANCE**

13.1 The Supplier shall keep the Purchaser indemnified in full against all liability, actions, suits, claims, demands, losses, charges, costs and expenses (including legal and other professional fees and expenses on a full indemnity basis) incurred by the Purchaser as a result of or in connection with:

- a) any loss, destruction of or damage to property caused by, relating to or arising from the Goods;
- b) any breach of the warranties contained in the Contract;
- c) Supplier's breach or negligent performance or non-performance of the Contract;

- d) defective workmanship or quality of the Goods;
- e) any infringement or alleged infringement of any Intellectual Property Rights caused by the use, manufacture or supply of the Goods; and
- f) any claim made against the Purchaser in respect of any liability, loss, damage, injury, death, cost or expense sustained by the Purchaser's employees, agents or customers or any third party to the extent that such liability, loss, damage, injury, death, cost or expense was caused by, relates to or arises from any defect in the Goods or the negligent or wrongful act or omission of the Supplier.

13.2 The Supplier shall maintain the following insurances for the duration of this Contract and make available the certificates to the Purchaser within 7 days of request:

- public liability insurance in the amount of at least £5,000,000 for any one occurrence; and
- product liability insurance in the amount of at least £10,000,000 for any one occurrence.

#### **14. QUALITY MANAGEMENT**

The Supplier shall at all times during the term of the Contract maintain a suitable quality management system for example ISO 9001.

#### **15. TERMINATION**

15.1 The Purchaser shall have the right at any time to terminate the Contract in whole or in part without cause by giving the Supplier written notice whereupon all work on the Contract shall be discontinued and, save in respect of termination for breach, the Purchaser shall pay the Supplier fair and reasonable compensation for work-in-progress at the time of termination but excluding any loss of anticipated profits or any indirect or consequential loss.

15.2 The termination of the Contract, however arising, will be without prejudice to the rights and obligations of the Parties which have accrued prior to termination. The provisions of Conditions [10](#), [12](#), [13](#), [16](#), [17](#), [18](#) and [21](#) to [27](#) inclusive shall survive termination of this Contract.

#### **16. REMEDIES**

16.1 Without prejudice to any other rights or remedies which the Purchaser may have in equity or in law, or under the Conditions of this Contract, or otherwise, if any Goods are not supplied in accordance with, or the Supplier fails to comply with, any term of the Conditions of this Contract, the Purchaser shall be entitled to avail itself of one or more of the following remedies at its sole discretion, whether or not any part of the Goods have been accepted by the Purchaser:

- a) to rescind the Contract;
- b) to reject the Goods (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods so returned shall be paid forthwith by the Supplier;
- c) to give the Supplier the opportunity, at the Supplier's expense, either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
- d) to refuse to accept any further deliveries of the Goods but without any liability to the Supplier;
- e) to carry out at the Supplier's expense any work necessary to make the Goods comply with the Contract; and
- f) to claim such damages from the Supplier as may have been sustained in consequence of the Supplier's breaches of the Contract.

#### **17. WAIVER**

17.1 Failure or delay by the Purchaser in enforcing or partially enforcing any provision of the Conditions will not be construed as a waiver of any of the Purchaser's rights under the Contract.

17.2 Any waiver by the Purchaser of any breach of, or any default under, any provision of the Contract by the Supplier will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

#### **18. SEVERABILITY**

If any provision of these Conditions is held by any competent authority to be illegal, void, voidable, invalid, unenforceable or unreasonable in whole or in part it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

#### **19. HEALTH AND SAFETY**

The Supplier represents and warrants to the Purchaser that the Supplier has satisfied himself that all necessary tests and examinations have been made or will be made prior to delivery of the Goods to ensure that the Goods are designed and constructed so as to be safe and without risk to the health and safety of persons using the same, and the Supplier represents and warrants that the Supplier has made available to the Purchaser adequate information about the use for which the Goods have been designed and have been tested and about any conditions necessary to ensure that when put to use the Goods will be safe and without risk to health. The Supplier shall indemnify the Purchaser against all actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser may incur as a result of or in connection with any breach of this Condition.

## **20. CONFIDENTIALITY AND PRIVACY**

20.1 Save for information which is in the public domain (otherwise than by a breach of this Condition), the Supplier shall keep secret and not disclose any technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by the Purchaser or its agents and any other information concerning the Purchaser's business or its products which the Supplier may obtain and the Supplier shall restrict disclosure of such confidential material to such of the Supplier's employees, agents, contractors or sub-contractors as need to know the same for the purpose of discharging the Supplier's obligations to the Purchaser and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Supplier.

20.2 This Condition shall apply during the continuance of the Contract and for 3 years after its termination howsoever arising.

20.3 If the Supplier processes any Personal Data (as defined by any applicable data protection legislation) on behalf of the Purchaser, the Supplier warrants that it will:

- a) comply with all applicable data protection and privacy legislation, including the Data Protection Act 2018, the General Data Protection Regulation 2016 (the GDPR) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any successor or amending legislation;
- b) only act on the Purchaser's instructions in relation to the processing of such Personal Data and only for the purpose of fulfilling its obligations to the Purchaser;
- c) only retain the Personal Data for as long as necessary for these purposes and securely destroy or return all Personal Data to the Purchaser at the conclusion of such processing;
- d) implement and operate appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data;
- e) not transfer or store any Personal Data outside of the UK, EU or EEA without the prior written consent of the Purchaser;
- f) provide reasonable assistance to the Purchaser to comply with its obligations under any applicable data protection legislation as they apply to this agreement including providing such information as reasonably required to demonstrate the Supplier's compliance with this clause;
- g) notify the Purchaser without undue delay when it becomes aware of any data breach affecting the Personal Data or any other breach of this clause.

## **21. Anti-Tax Evasion Facilitation**

21.1 The Supplier shall:

- a) not engage in any activity, practice or conduct which would constitute either:
  - (i) a UK tax evasion offence or foreign tax evasion offence within the meaning of Part 3 of the Criminal Finances Act 2017 and guidance published under it; or
  - (ii) a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or
  - (iii) a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017.
- b) comply with the Purchaser's criminal facilitation of tax evasion – prevention policy as may be updated from time to time;
- c) have and shall maintain in place such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Supplier Group Companies, your Personnel and any Authorised Sub-Contractors) and to ensure compliance with- **Clause 21.1(0)** of this Agreement;
- d) promptly report to the Purchaser any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017; and
- e) provide such supporting evidence of compliance to the Purchaser as may reasonably be requested.

21.2 A breach of this Clause 21 shall be deemed a material breach of the Agreement which shall allow the Purchaser to terminate this Contract on written notice to the Supplier with immediate effect.

21.3 For the purposes of this Clause 21, the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with you, the Supplier Group Companies, your Personnel and any Authorised Sub-Contractors.

## **22. ASSIGNMENT AND SUB-CONTRACTING**

22.1 The Supplier shall not be entitled to assign, transfer, sub-licence or charge any or all of the Supplier's rights or obligations under the Contract or any part of it without the prior written consent of the Purchaser.

22.2 The Purchaser may assign or sub-licence any of its rights or obligations under the Contract or any part of it to any person, firm or company.

22.3 Sub-contracting by the Supplier shall not in any way affect any of the Supplier's responsibilities or liabilities under the Contract.

22.4 Where any Goods are supplied by the Supplier's sub-contractors, the Supplier shall procure that such sub-contractors shall comply with and be bound by these Conditions.

## **23. DISPUTE RESOLUTION**

23.1 Nothing in these Conditions shall prevent or prohibit either party's right to seek interlocutory, injunctive or other non-monetary equitable remedies in the Courts of England and Wales.

23.2 If any dispute arises out of or in connection with this Contract ("Dispute") the parties undertake that, prior to the commencement of a reference to mediation, they will in good faith seek to have the Dispute resolved amicably by use of internal management escalation. Either party will be entitled to initiate the process by written notice to the other.

23.3 If the Dispute has not been resolved to the satisfaction of either party within 14 days of initiation of the procedure or if either party fails or refuses to participate in or withdraws from participating in that procedure, then either party may refer the Dispute to mediation in accordance with the provisions of CEDR.

## **24. PUBLICITY**

Neither the Supplier nor the Purchaser shall use the others name for publicity or marketing purposes, without the prior written consent of the other party:

## **25. NOTICES**

25.1 A notice given under or in connection with the Contract must be in writing and delivered personally or sent by pre-paid recorded delivery or registered post or first class post or by facsimile or electronic communication to the address of the Purchaser or (as the case may be) to the address of the Supplier shown on the Purchase Order or to such other address as either the Supplier or the Purchaser (as the case may be) may substitute by notice to the other party.

25.2 Notice shall be deemed received:

- a) if sent by pre-paid recorded delivery or registered post or first class post: two business days after posting exclusive of the day of posting;
- b) if delivered personally: at the time of delivery;
- c) if sent by facsimile or electronic communication: at the time of transmission;

## **26. THIRD PARTY RIGHTS**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Contract.

## **27. GOVERNING LAW AND JURISDICTION**

These Conditions shall be governed by and construed in accordance with the laws of England and Wales and the parties hereto irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales.

## **28. SUSTAINABILITY**

The Supplier shall work with the Company to identify opportunities to improve sustainability in the delivery of Goods. This shall include identifying and implementing practices, where reasonably possible, to reduce environmental impact by, for example (but not limited to) reducing packaging, making delivery frequency and scheduling more efficient, reducing energy consumption, reducing co2 emissions and minimising hazardous material content in products.

## **29. BUSINESS ETHICS**

29.1 Each Party shall comply with the Bribery Act 2010 and any other anti-corruption and anti-bribery laws, legislation, regulations or directives which create offences in respect of fraudulent acts ("Anti-corruption

Legislation”) which apply to its business or which apply in the place where the Contract is performed including New Look’s policies relating to anti-corruption and bribery as may be amended from time to time. Each Party will not, and will procure that its employees, subcontractors, agents and representatives will not, engage in any activity, practice or conduct which would constitute an offence under any Anti-Corruption Legislation or at common law.

29.2 A breach of this clause shall be deemed to be a material breach of the Contract in which circumstances the Purchaser may terminate the Contract with immediate effect.

### **30. MODERN SLAVERY**

30.1 The Supplier will comply with all applicable laws, regulations, codes and sanctions relating to modern slavery, forced labour and human trafficking including the Modern Slavery Act 2015 or any equivalent legislation in any other jurisdiction in which the Supplier operates and not do anything which would constitute an offence under the Modern Slavery Act 2015 if it had been done in the UK.

30.2 The Supplier warrants that the Supplier, any of its officers, employees, agents or subcontractors will comply with the Purchaser’s policy on modern slavery as may be amended from time to time.

30.3 The Supplier warrants that neither the Supplier nor any of its officers, employees, agents or subcontractors has:

- a) committed an offence under any modern slavery legislation; or
- b) been notified that it is subject to an investigation relating to an alleged offence or prosecution under any modern slavery legislation; or
- c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged offence or prosecution under any modern slavery legislation.

30.4 The Supplier shall notify Purchaser immediately in writing if it becomes aware or has reason to believe that it or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the Supplier’s obligations under Clause 30. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Supplier’s obligations.

## **SCHEDULE 1**

### **PCI**

“**PCI Standards**” means those versions currently in force of the Payment Card Industry Standards incorporating: the Payment Card Industry Data Security Standard; the Payment Application Data Security Standard; Payment Card Industry Personal Identification Number Transaction Security and Point of Interaction Requirements and stated at:

[https://www.pcisecuritystandards.org/security\\_standards/documents.php?document=pci\\_dss\\_v2-0#pci\\_dss\\_v2-0](https://www.pcisecuritystandards.org/security_standards/documents.php?document=pci_dss_v2-0#pci_dss_v2-0).

#### **1. PCI STANDARDS**

The Supplier represents and warrants that it has and will procure that all agents or sub-contractors will only use, transmit, process, store and otherwise deal with credit/debit card data in accordance with the PCI Standards to the extent they are applicable.