

STANDARD TERMS & CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES TO HOLLAND & BARRETT RETAIL LIMITED AND HOLLAND & BARRETT INTERNATIONAL LIMITED (“H&B”)

1. INTERPRETATION

1.1 DEFINITIONS:

- **Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- **Conditions:** these terms and conditions.
- **Confidential Information:** information in whatever form (including without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, products, affairs and finances of either party to this Contract, which is confidential to that party and any trade secrets including, without limitation, technical data and know-how relating to either Party or any of its suppliers, customers, agents, distributors, shareholders, management or business contacts, and including (but not limited to) information that the Supplier creates, develops, receives or obtains in connection with this Contract, whether or not such information (if in anything other than oral form) is marked confidential
- **Contract:** the contract between H&B and the Supplier for the supply of the Goods and Services in accordance with these Conditions, the Supplier Code of Conduct and any Schedules.
- **H&B Materials:** all materials, equipment and tools, drawings, specifications and data supplied by H&B to the Supplier.
- **Deliverables:** all documents, products and materials developed by the Supplier or its agents, subcontractors and personnel as part of or in relation to the Services in any form, including without limitation computer programs, data, reports and specifications (including drafts).
- **Goods:** the goods (or any part of them), as set out in the Contract Details or Purchase Order
- **Group:** in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.
- **Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or

extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

- **Price:** the price for the Goods and the fees for the Services, as set out in the Contract Details or the Purchase Order.
- **Purchase Order** an order for the Goods submitted by the Customer in accordance with this Contract.
- **Services:** the services, including without limitation any Deliverables, to be provided by the Supplier pursuant to the Contract or the Purchase Order.
- **Start Date:** the day on which the Supplier is to start provision of the Services and/or supply of the Goods.

1.2 INTERPRETATION

- (a) A reference to legislation or a legislative provision:
 - (i) is a reference to it as amended, extended or re-enacted from time to time; and
 - (ii) shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- (b) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to **writing** or **written** includes email.

2. ORDERING

- 2.1 A Purchase Order constitutes the exclusive statement of H&B's offer to Supplier to purchase the Goods and/or Services subject to these Conditions and any additional contract terms.
- 2.2 These Conditions shall apply to this Contract to the exclusion of any additional or different terms and conditions stated by Supplier in any quotation, confirmation of order, specification or other document.
- 2.3 A Purchase Order shall be deemed to be accepted on the earlier of (i) by a written confirmation or acceptance issued and executed by the Supplier's authorised representative; or (ii) by the Supplier providing the Goods and/or Services.
- 2.4 The Supplier shall be responsible to H&B for ensuring the accuracy of the terms of any order submitted by H&B, so far as the quantity, quality, description of, delivery date and any specification shall be those set out in the Supplier's order acknowledgement.
- 2.5 H&B reserves the right to make final inspection of the Goods or Services upon receipt/delivery (notwithstanding any prior payment or acceptance of the Goods thereof) and, in addition to any other right and remedies available

under law, to cancel the Purchase Order and reject the Goods or Services upon any default by the Supplier in meeting or satisfying the terms of the Purchase Order including but not limited to quantity, quality, delivery dates or specifications.

2.6 The Supplier shall be liable to H&B for any and all losses, costs and expenses sustained as a result of the Supplier's failure to perform.

3. PRICE AND PAYMENT

3.1 The Supplier shall be entitled to raise an invoice upon delivery of the Goods and/or Services to H&B.

3.2 Unless otherwise agreed to in writing by H&B, payment shall be made to the Supplier sixty (60) days after receipt of the Supplier's valid invoice provided that payment (i) shall not constitute acceptance of the Goods and/or Services; or (ii) impair H&B's right to inspection.

3.3 All applicable taxes, charges, delivery and transportation costs (if any) must be stated separately on the Supplier's invoice.

3.4 Without prejudice to any other right or remedy, H&B reserves the right to set off any amount owing at any time from the Supplier to H&B against any amount payable by H&B to the Supplier.

4. DELIVERY OF THE GOODS

4.1 The Supplier shall ensure that each delivery of Goods is accompanied by a delivery note that shows the order number, the type and quantity of Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the relevant Purchase Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

4.2 The Supplier shall endeavour to deliver Goods to the Delivery Location on the relevant date set out in the Purchase Order.

4.3 Delivery is completed on the completion of unloading of the Goods at the Delivery Location. Time and date of deliveries are of the essence. The Supplier shall not be allowed additional time outside of the time stated for delivery without the express written consent of H&B.

4.4 Unless otherwise specified on the Purchase Order, all Goods shall be delivered DDP.

4.5 The Supplier shall bear all risks and expenses for returning any rejected Goods or Goods requiring correction after notice of rejection including, but not limited to storage, freight, insurance, packing, materials and labour.

4.6 Delivery of the Goods must equal exact amounts ordered unless otherwise agreed in writing by H&B. If the Goods are delivered to H&B in excess of the quantities ordered, H&B shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be returnable at the Supplier's expense.

4.7 On delivery, the Supplier (or its appointed carrier) shall provide H&B with (i) such export or import licences and consents and documents as are required; (ii) certificates of

origin as H&B may reasonably request; (iii) such other certificates or documentation as are specified on the Order; and (iv) a delivery note.

5. QUALITY AND FITNESS FOR PURPOSE OF THE GOODS

5.1 The Supplier warrants that, for a period of 12 months from the date of delivery (**warranty period**), the Goods shall:

- (a) conform in all material respects with their description and any specification;
- (b) be free from material defects in design, material and workmanship; and
- (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- (d) be fit for any purpose held out by the Supplier.
- (e) be in full compliance with all applicable statutory and regulatory requirements relating to their manufacture, labelling, packaging, storage, handling, shipment and delivery and not infringe any Intellectual Property Rights.
- (f)

5.2 Such warranty shall (i) be in addition to any other warranties implied or expressly given by the Supplier, (ii) survive inspection, delivery, acceptance of and payment for the Goods and/or Services and (iii) extend to H&B, its successors and assigns.

5.3 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under this Contract.

5.4 H&B shall have the right to inspect and test the Goods/Services at any time before or after delivery.

- 5.5 If:
- (a) H&B gives notice in writing to the Supplier promptly after discovery that some or all of the Goods/Services do not comply with the warranties set out in this clause 5;
 - (b) the Supplier is given a reasonable opportunity of examining such Goods; and
 - (c) H&B (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost,

the Supplier shall repair or replace any Goods that are found to be defective, or reperform the Services, or refund the price of such defective Goods/Services in full.

5.6 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under this Contract, and H&B shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

5.7 H&B may, at its option, either return for full credit or require prompt correction or replacement of defective or non-conforming Goods or parts thereof, or re-performance of the defective or non-conforming Services, which rights shall be in addition to such other rights H&B may have under applicable law.

5.8 Any Goods so replaced, or repaired, or Services re-performed, will be subject to the same warranties outlined in this clause.

5.9 If the Supplier shall fail to repair or replace such defective Goods, or fail to re-perform defective Services, H&B has the right to have the work of repair or replacement or re-performance undertaken by a third party and recover the costs incurred from the Supplier.

5.10 In the event that H&B brings a claim against the Supplier to enforce performance of any section of these Conditions, or should H&B be forced to defend a claim brought against it by the Supplier, the Supplier shall be liable for all costs and expenses incurred by H&B including but not limited to legal fees.

5.11 The Supplier shall not be liable for Goods' failure to comply with the warranties set out in this clause 5 if:

- (a) the defect arises because H&B failed to follow the Supplier's written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (b) the defect arises as a result of the Supplier following any drawing, design or specification supplied by H&B;
- (c) H&B alters or repairs such Goods without the written consent of the Supplier; or
- (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.

5.12 These terms shall apply to any repaired or replacement Goods supplied by the Supplier.

6. TITLE AND RISK IN THE GOODS

6.1 Risk of loss shall pass to H&B upon delivery of the Goods in an undamaged condition.

6.2 Title to Goods shall pass to H&B once the Supplier receives payment in full (in cash or cleared funds) for the relevant Goods.

7. SUPPLY OF SERVICES

7.1 The Supplier shall supply the Services to H&B from the Start Date in accordance with these terms.

7.2 In performing the Services the Supplier shall meet, and time is of the essence as to, any performance dates specified in the Purchase Order.

- 7.3 In supplying the Services, the Supplier shall:
- (a) perform the Services with the highest level of care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - (b) co-operate with H&B in all matters relating to the Services, and comply with all instructions of H&B;
 - (c) appoint or, at the request of H&B, replace without delay a manager, who shall have

authority to contractually bind the Supplier on all matters relating to the Services;

- (d) only use personnel who are suitably skilled and experienced to perform the tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled;
- (e) ensure that it obtains, and maintains all consents, licences and permissions (statutory, regulatory, contractual or otherwise) it may require and which are necessary to enable it to comply with its obligations in the Contract;
- (f) ensure that the Services and Deliverables shall conform in all respects with the service description set out in the Purchase Order and that the Deliverables shall be fit for any purpose that H&B expressly or impliedly makes known to the Supplier;
- (g) provide all equipment, tools, vehicles and other items required to provide the Services;
- (h) ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Services are of the best quality and are free from defects in workmanship, installation and design;
- (i) comply with all applicable laws, statutes, regulations from time to time in force;
- (j) hold all H&B Materials in safe custody at its own risk, maintain H&B Materials in good condition until returned to H&B, and not dispose of or use H&B Materials other than in accordance with H&B's written instructions or authorisation; and
- (k) not do or omit to do anything which may cause H&B to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business.

8. CARRYING OUT WORKS TO OR ON H&B'S PREMISES

8.1 The Supplier must carry out any works to or on any of H&B's premises ("the Works"):

- (a) using good quality, new materials which are fit for the purpose for which they will be used;
- (b) in a good and workmanlike manner and in accordance with good building and other relevant practices, codes and guidance; and
- (c) to H&B's satisfaction.

8.2 In carrying out the Works the Supplier must comply with all laws and the terms of all other licences and consents, the requirements and recommendations of all relevant utility suppliers and those of the insurers of H&B's property.

8.3 The Supplier must take all proper steps to ensure that carrying out the Works does not make any of the following unsafe: the structure of H&B's property and the building of which H&B's property forms part, any plant or machinery at the property, and any neighbouring land or building.

8.4 The Supplier must cause as little disturbance and inconvenience as reasonably possible to the owners and occupiers of the building or estate of which the property forms part and of any neighbouring land. The Supplier must not infringe any of their rights nor the rights of any other person in relation to H&B's property.

8.5 The Supplier must immediately make good, to the reasonable satisfaction of H&B, any damage (including decorative damage) to any land or building or any plant and machinery which is caused by carrying out the Works.

8.6 The Supplier must allow H&B's landlord and its surveyors access to the property, both while the Works are being carried out and afterwards, and will give H&B the information it reasonably requests to establish that the Works are being and have been carried out in accordance with this licence.

9. THE CDM REGULATIONS

9.1 The Supplier must comply with its obligations contained in the Construction (Design and Management) Regulations 2015 ("CDM Regulations"), including if necessary preparing and maintaining the health and safety file for the Works.

9.2 The Supplier must ensure that all relevant documents relating to the Works are placed in the health and safety file for the Property in accordance with the CDM Regulations.

10. H&B'S OBLIGATIONS

10.1 H&B shall:

(a) provide such access to H&B's premises and data, and such office accommodation and other facilities as may reasonably be requested by the Supplier and agreed with H&B in advance, for the purposes of providing the Services; and

(b) provide such necessary information for the provision of the Services as the Supplier may reasonably request.

10.2 A failure by H&B to comply with the terms of the Contract can only relieve the Supplier from complying with its obligations under the Contract with effect from the date on which the Supplier notifies H&B in writing and in reasonable detail of H&B's failure and its effect or anticipated effect on the Services.

11. TITLE TO DELIVERABLES / H&B MATERIALS

11.1 Title to any Deliverables that are goods or in any physical media on which Deliverables are stored and title to any goods or materials transferred to H&B as part of the Services shall pass to H&B on the earlier of their delivery to H&B or payment for them. The Supplier transfers the Deliverables and all such goods and materials to H&B free from all liens, charges and encumbrances.

11.2 All H&B Materials are the exclusive property of H&B.

12. INTELLECTUAL PROPERTY

12.1 Where H&B appoints the Supplier to provide Goods or Services embodying H&B's intellectual property, H&B grants the Supplier a non-exclusive royalty-free licence to use H&B's intellectual property for the purpose only of providing the Goods or Services.

12.2 All existing and future rights, titles and interests in any and all inventions or discoveries arising, or to arise from such Goods or Services shall vest in H&B to the fullest extent permissible by law.

12.3 The Supplier fully and irrevocably assigns to H&B, with full title guarantee and free from all third party rights, the Intellectual Property Rights and all other rights, titles and interests in all works written, drawn or otherwise recorded, originated, conceived or made by the Supplier in connection with the Goods or Services (the "IPR Works") including all documents, products and materials developed by the Supplier or its agents, subcontractors, consultants and employees in relation to the Goods or Services in any form, including computer programs, data, reports and specifications (including drafts).

12.4 Insofar as they do not so vest automatically by operation of law or under this Contract, the Supplier holds legal title in such Intellectual Property Rights and all other rights, titles and interests in all such IPR Works on trust for H&B. As and when requested by H&B, the Supplier will execute such assignment/transfer documents as H&B requires in order to transfer legal title to H&B and to record such transferred title at any relevant official intellectual property office.

12.5 The Supplier waives any moral rights to which it is now or may at any future time be entitled in any of the IPR Works, and shall obtain waivers of any moral rights in any and all such IPR Works to which any individual is now or may at any future time be entitled, under Chapter IV of the Copyright and Designs and Patents Act 1988 or any similar provision of law in any jurisdiction.

12.6 The Supplier shall indemnify H&B against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other [reasonable] professional costs and expenses) suffered or incurred by H&B arising out of or in connection with any claim brought against H&B for actual or alleged infringement of a third party's rights (including any Intellectual Property Rights) arising out of, or in connection with, the receipt, use or onward supply of the Goods or Services by H&B and its licensees and sub-licensees. This clause shall survive termination of the Contract.

13. INDEMNIFICATION

13.1 The Supplier shall indemnify and hold harmless H&B, its successors and assigns and their respective officers, directors, employees, agents and customers from all

claims, demands, liabilities, costs and expenses (including legal fees) arising from any actual or alleged:

- (a) defect in the Goods and/or Services provided by the Supplier hereunder;
- (b) failure of the Goods and/or Services to comply with all specifications;
- (c) failure of the Goods and/or Services to comply with the express or implied warranties of the Supplier;
- (d) failure of the Goods and/or Services to comply with all applicable laws, rules and regulations;
- (e) bodily injury or death, direct or indirect damage to property or any loss of use of any tangible or intangible property (including loss of business profits) caused by the Goods and/or Services and/or the Supplier's negligence;
- (f) infringement of any Intellectual Property Rights;
- (g) failure by the Supplier to provide import or export documents, certificates of origin or other certificates required or the provision of false or inaccurate documents or certificates;
- (h) Goods and/or Services supplied that do not conform with any export or import documents, certificate of origin or other certificates supplied by the Supplier in relation to those Goods and/or Services; or
- (i) any breach by the Supplier of these Conditions.

13.2 The indemnification and hold harmless obligations of this section shall survive delivery of the Goods and/or Services supplied under this Contract.

14. INSURANCE

During the term of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance and product and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall produce to H&B on request both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

15. HEALTH AND SAFETY

15.1 When on H&B's premises, the Supplier shall observe all health and safety rules and regulations (including H&B's policies outlined in H&B's most current edition of 'H&B HEALTH AND SAFETY MANUAL') and any other reasonable security requirements that apply at any of H&B's premises from time to time.

16. COMPLIANCE WITH RELEVANT LAWS AND POLICIES

16.1 In performing its obligations under the Contract, the Supplier shall:

(a) comply with all applicable laws, statutes, regulations and codes from time to time in force; and

(b) comply with the Mandatory Policies.

provided that the Supplier shall not be liable under this Contract if, as a result of such compliance, it is in breach of any of its obligations under this Contract.

16.2 H&B may immediately terminate the Contract for any breach of this clause by the Supplier.

16.3 The Supplier shall be directly liable to H&B for any breach by such persons of any of the Relevant Terms.

17. COMPLIANCE WITH CODE OF CONDUCT

17.1 In performing its obligations under the Contract, the Supplier shall at all times comply with the Supplier Code of Conduct and such policies contained in it that are applicable and have and maintain throughout the term of this Contract its own policies and procedures to ensure its compliance.

17.2 The Supplier shall indemnify H&B against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by H&B or awarded against H&B as a result of any breach of the Supplier Code of Conduct.

18. CONFIDENTIALITY & PUBLICITY

18.1 Both Parties acknowledge that in the course of this Contract, they will have access to Confidential Information. The Parties shall not during the course of this Contract or any time after its expiry or termination, use, disclose to any third party (and shall use its best endeavours to prevent the disclosure and or publication of) any Confidential Information.

18.2 This restriction does not apply to any necessary disclosure of Confidential Information by either Party to its affiliates, employees and officers, professional advisors, agents and subcontractors, or to any disclosure of Confidential Information by either Party which is required by law.

The Supplier shall not publish orally or in writing any matter concerning this Contract, or its existence, or the internal affairs of H&B or any associated company, whether Confidential or not, for publicity or any other purpose, without the written approval of the H&B Board.

19. TERMINATION

19.1 In addition to any rights to terminate this Contract for convenience and without affecting any other right or remedy available to it, H&B may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier's financial position deteriorates to such an extent that in H&B's reasonable opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (b) the Supplier commits a breach of clause 7.3.
- 19.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 20 days after being notified in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business [or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction]; or
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.
- 19.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 19.4 Termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 19.5 On termination or expiry of the Contract for whatever reason the Supplier shall, if so requested by H&B, provide all assistance reasonably required by H&B to facilitate the smooth transition of the Services to H&B or any replacement supplier appointed by it.
- 20. WAIVER**
- 20.1 Any failure or delay on the part of H&B to exercise any right, power or privilege hereunder shall not operate as a waiver thereof.
- 20.2
- 20.3 Any waiver by H&B of any breach of, or any default under, any provision of these Conditions shall not be deemed a waiver of any subsequent breach or default of the same or any other provision and shall in no way affect the other terms of these Conditions.
- 21. GOVERNING LAW**
- 21.1 The rights and obligations of the parties hereunder shall be governed by and construed in all respects in accordance with the Laws of England and Wales
- 21.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).
- 21.3 ASSIGNMENT**
- 21.4 The Supplier shall not be entitled to assign, subcontract, charge or otherwise deal with this Contract or any part of it without the prior written consent of H&B. H&B may assign this Contract or any part of it to any other party.
- 22. GENERAL**
- 22.1 Each right or remedy of a party under these Conditions is without prejudice to any other right or remedy of that party whether under these Conditions or not.
- 22.2 If any provision of these Conditions is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of these Conditions and the remainder of the provision in question shall continue in full force and effect.
- 22.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to the other party or its Registered Office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 22.4 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Contract.
- 22.5 In the event that H&B is to disclose any personal data to the Supplier, the Supplier agrees to enter into a separate Data Protection agreement with H&B.