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Terms and conditions for contracting with a consumer

AGREED TERMS

1. INTERPRETATION

The definitions in this clause apply in the terms and conditions set out in this document:

1.1

Design: includes badges, logos, emblems, lettering, numbering, stripes, or any other application to the Goods

Goods: the products that we are selling to you as set out in the order, which shall primarily be garments.

Terms: the terms and conditions set out in this document.

we or us or our: the seller of the Goods - **Banner Ltd**, a private company limited by shares and registered in England and Wales with number **07464584**, registered office **Kennet Way, Trowbridge, Wiltshire, BA14 8BL**.

writing or written includes faxes and e-mail.

you: the consumer who is the buyer of the Goods.

1.2 Headings do not affect the interpretation of these terms.

1.3 These Terms are for use in a sale by us of Goods to an individual who is a consumer.

2. BASIS OF SALE

2.1 These Terms, our written acceptance of your order, if any, and our price list are considered by us to set out the whole agreement between you and us for the sale of the Goods. Please check that the details in the Terms or on your order are complete and accurate before you commit yourself to the contract. If you think that there is a mistake, please make sure that you ask us to confirm any changes in writing, as we only accept responsibility for statements and representations made in writing by our authorised employees. Please ensure that you read and understand these Terms before you send the order, because you will be bound by the Terms once a contract comes into existence between us, in accordance with clause 2.5.

2.2 Any samples, drawings, descriptions or advertising which we issue, and any descriptions or illustrations contained in our catalogues or brochures, are issued or published solely to

provide you with an approximate idea of the Goods they describe. They do not form part of the contract between you and us or any other contract between you and us for the sale of the Goods.

- 2.3 If any of these Terms are inconsistent with any aspect of your order, the Terms shall prevail.
- 2.4 The order is an offer by you to enter into a binding contract, which we are free to accept or decline at our absolute discretion, and which may be made on our website or by phone, fax or post.
- 2.5 These Terms shall become binding on you and us when:
- (a) we issue you with written acceptance of an order; or
 - (b) we notify you that the Goods are ready,

whichever is the earlier, at which point a contract shall come into existence between you and us.

- 2.6 Any quotation for the Goods is given on the basis that a binding contract shall only come into existence in accordance with clause 2.5. A quotation shall be valid for a period of 30 calendar days from its date of issue, unless we notify you in writing that we have withdrawn it during this period.
- 2.7 We shall assign an order number to the order and inform you of it in the order acceptance. Please quote the order number in all subsequent correspondence with us relating to the order.
- 2.8 You may at any time within 7 calendar days of placing an order amend or cancel an order by providing us with written notice. If you amend or cancel an order, your liability to us shall be limited to payment to us of all costs we reasonably incur in fulfilling the order until we receive your amendment or cancellation, except that where the amendment or cancellation results from our failure to comply with these Terms you shall have no liability to us for it.
- 2.9 We have the right to revise and amend these Terms from time to time to reflect changes in market conditions affecting our business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in our system's capabilities. You will be subject to the policies and terms in force at the time that you order the Goods from us, unless any change to those policies or these Terms is required by law or government or regulatory authority (in which case, it will apply to orders you have previously placed that we have not yet fulfilled).

3. THE GOODS

- 3.1 We warrant that on delivery the Goods shall:
- (a) conform in all material respects with their description, subject to any qualification or representation contained in the brochures, advertisements or other documentation;

- (b) be of satisfactory quality;
- (c) be fit for any purpose which we say the Goods are fit for or for any reasonable purpose for which you use the Goods;
- (d) be free from material defects in design, material and workmanship; and
- (e) comply with all applicable statutory and regulatory requirements for selling the Goods in the United Kingdom.

3.2 This warranty is in addition to your legal rights in relation to Goods which are faulty or which otherwise do not conform with these Terms. Advice about your legal rights is available from your local Citizens' Advice Bureau or trading standards office.

3.3 This warranty does not apply to any defect in the Goods arising from fair wear and tear, wilful damage, accident, negligence by you or any third party, if you use the Goods in a way that we do not recommend, your failure to follow our instructions, or any alteration or repair you carry out without our prior written approval.

3.4 We will take reasonable steps to pack the Goods properly and to ensure that you receive your order in good condition.

3.5 These Terms apply to any repaired or replacement Goods we supply to you in the unlikely event that the original Goods are faulty or do not otherwise conform with these Terms.

3.6 In instances where we have problems sourcing the Goods, we reserve the right to supply substitute Goods of an equivalent quality to those indicated in clauses 2.1 and 2.2.

4. DELIVERY

4.1 We will deliver the Goods within a reasonable time of the date set out in our acceptance of the order or on which we notify you that the Goods are ready.

4.2 Delivery of the order shall be completed when we deliver the Goods to you or to another agreed location.

4.3 We will take reasonable steps to meet the delivery date in clause 4.1. However, occasionally delivery may be affected by factors beyond our control and so cannot be guaranteed. We will let you know if we become aware of an unexpected delay and will arrange a new delivery date with you.

4.4 If you fail to take delivery of the Goods within 14 calendar days of the date on which we notify you that the Goods are ready, then, except where this failure is caused by our failure to comply with these Terms or by an event beyond your control:

- (a) we will store the Goods until delivery takes place and may charge you a reasonable sum to cover expenses; and
- (b) we shall have no liability to you for late delivery.

4.5 If we are not able to deliver the whole of the order at one time due to operational reasons or shortage of stock, we will deliver the order in instalments. We will not charge you extra delivery costs for this. If you ask us to deliver the order in instalments, we may charge you extra delivery costs. Each instalment shall constitute a separate contract. If we are late delivering an instalment or one instalment is faulty, that will not entitle you to cancel any other instalment.

5. DEFECTIVE GOODS AND RETURNS

5.1 In the unlikely event that the Goods do not conform with these Terms, or you otherwise wish to return the Goods, please let us know within 30 days after delivery. We will ask you to return the Goods to us at our cost. In the case of faulty Goods, the 30 day limit is extended to returns of the Goods made to us within a reasonable time after delivery. In any event, we will:

- (a) provide you with a full or partial refund; or
- (b) replace the Goods; or
- (c) repair the Goods, if possible.

5.2 These Terms will apply to any repaired or replacement Goods we supply to you.

5.3 Subject to clause 5.1, please note that the cancellation, or “cooling off”, period of 7 days from receiving the Goods under regulations 10 and 11 of the Consumer Protection (Distance Selling) Regulations 2000, as amended, does not apply to a contract for the purchase of Goods from us, as under regulation 13(c) the products supplied by us to you are specifically produced or sourced for your sole use, including by the application of a Design or by the alteration of the base garment or special order from our suppliers.

5.4 The Goods will be your responsibility from the time of delivery.

5.5 Ownership of the Goods will only pass to you when we receive payment in full of all sums due for the Goods, including delivery charges, if any.

6. PRICE AND PAYMENT

6.1 The price of the Goods will be as set out in the quotation we provided to you or, if we have not provided a quotation or the quotation has expired, in our price list in force at the time we accept your order. Prices are liable to change at any time, but price changes will not affect orders that we have confirmed in writing.

6.2 These prices include VAT. However, if the rate of VAT changes between the date of acceptance of your order and the date of delivery, we will adjust the VAT you pay, unless you have already paid for the Goods in full before the change in the rate of VAT takes effect.

6.3 These prices exclude delivery costs, which will be added to the total amount due.

- 6.4 It is always possible that, despite our best efforts, some of the Goods we sell may be incorrectly priced. We will normally check prices as part of our dispatch procedures so that, where the Goods' correct price is less than our stated price, we will charge the lower amount when dispatching the Goods to you. If the Goods' correct price is higher than the price stated on our site, we will normally, at our discretion, either contact you for instructions before dispatching the Goods, or reject the order and tell you. If the pricing error is obvious and unmistakable and could have reasonably been recognised by you as a mis-pricing, we do not have to provide the Goods to you at the incorrect (lower) price.
- 6.5 Payment for all Goods must be made in advance by credit or debit card if bought through the website.
- 6.6 Subject to clause 6.5, if you do not make any payment due to us by the due date as indicated on any invoice sent to you, we may charge interest to you on the overdue amount at the rate of 6% a year above the base lending rate of Nat West Bank PLC. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with the overdue amount.
- 6.7 Without limiting any other remedies or rights that we may have, if you do not pay us on time, we may cancel or suspend any other outstanding order until you have paid the outstanding amounts.
- 6.8 Clauses 6.6 and 6.7 shall not apply for the period of the dispute if you dispute the payment owing in good faith and let us know promptly after you have received the invoice that you dispute it.

7. LIMITATION OF LIABILITY

- 7.1 Subject to clause 7.2, if either of us fails to comply with these Terms, neither of us shall be responsible for any losses that the other suffers as a result, except for those losses which are a foreseeable consequence of the failure to comply with these Terms.
- 7.2 Neither of us shall be responsible for losses that result from our failure to comply with these Terms including, but not limited to, losses that fall into the following categories:
- (a) loss of income or revenue;
 - (b) loss of business;
 - (c) loss of anticipated savings;
 - (d) loss of data; or
 - (e) any waste of time.

However, this clause 7.2 shall not prevent claims for foreseeable loss of, or damage to, your physical property.

- 7.3 This clause does not include or limit in any way our liability for:
- (a) death or personal injury caused by our negligence; or
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
 - (d) losses for which it is prohibited by section 7 of the Consumer Protection Act 1987 to limit liability; or
 - (e) any other matter for which it would be illegal or unlawful for us to exclude or attempt to exclude our liability.

8. EVENTS OUTSIDE OUR CONTROL

We reserve the right to defer the date of delivery or to cancel the order or reduce the volume of the Goods ordered by you (without liability to you) if we are prevented from or delayed in the carrying on of our business due to circumstances beyond our reasonable control including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 30 days, you shall be entitled to give notice in writing to us to terminate the contract.

9. ASSIGNMENT

You may not transfer any of your rights or obligations under these Terms to another person without our prior written consent, which we will not withhold unreasonably. We can transfer all or any of our rights and obligations under these Terms to another organisation, but this will not affect your rights under these Terms.

10. NOTICES

All notices sent by you to us must be sent to us, **Banner Ltd**, at the above address. We may give notice to you at either the e-mail or postal address you provide to us in the order. Notice will be deemed received and properly served 24 hours after an e-mail is sent or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that the letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that the e-mail was sent to the specified e-mail address of the addressee.

11. GENERAL

- 11.1 If any court or competent authority decides that any of the provisions of these Terms are invalid, unlawful or unenforceable to any extent, the term will, to that extent only, be severed from the remaining terms, which will continue to be valid to the fullest extent permitted by law.

- 11.2 If we fail, at any time while these Terms are in force, to insist that you perform any of your obligations under these Terms, or if we do not exercise any of our rights or remedies under these Terms, that will not mean that we have waived such rights or remedies and will not mean that you do not have to comply with those obligations. If we do waive a default by you, that will not mean that we will automatically waive any subsequent default by you. No waiver by us of any of these Terms shall be effective unless we expressly say that it is a waiver and we tell you so in writing.
- 11.3 A person who is not party to these Terms shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.
- 11.4 We reserve the right to send you marketing material by post or email, including for special offers on our products, and you have the right at any time to unsubscribe from such mailings.
- 11.5 These Terms shall be governed by English law and we both agree to the non-exclusive jurisdiction of the English courts.