

GENERAL TERMS AND TERMS for UK SALES by TRADELINENS LTD.

Issue date: April 2019

These are the terms and condition upon which Tradelinens Ltd supplies traders.

By placing an Order you warrant that you are acting in the course of your trade, business or profession and that are not a consumer (within the meaning of the Consumer Rights Act 2015).

The customer's attention is drawn in particular to the provisions of clause 10.

1. INTERPRETATION

1.1 Definitions:

"Business Day"		a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
"Contract"		the contract between Tradelinens and the Customer for the sale and purchase of the Products in accordance with these Terms.
"Customer"		the person or firm who purchases the Products from Tradelinens.
"Customer's Branding"		means the customers branding, including its registered and unregistered trade marks, trade names, design rights and copyright.
"Delivery Location"		has the meaning given in clause 5.2.
"Force Event"	Majeure	has the meaning given in clause 12.
"Intellectual Property Rights"		all copyright, database rights, topography rights, design rights, trade marks, trade names, utility models, patents, domain names and any other intellectual property rights of a similar nature (whether or not registered) subsisting anywhere in the world in or associated with the Products.
"Losses"		any losses, claims, judgements, costs (including costs of enforcement and reasonable and properly incurred legal costs), damages, awards, charges, demands, customs duties, taxes, proceedings, penalties, fines, expenses and/or any other liabilities incurred or sustained.
"Minimum Quantity"	Order	the minimum quantity of Products that may be manufactured/ ordered by Tradelinens as communicated to the Customer (whether in writing or verbally).
"Order"		the Customer's order for the Products, whether made verbally or in writing, and whether placed by phone, email exchange, online, through EDI, by way of a purchase order form or through the Customer's written acceptance of Tradelinens' quotation, as the case may be.
"Products"		the Products (or any part of them) set out in the Order.
"Retail Products"		those Products containing the prefix "RP."
"Sales Acknowledgment"	Order	Tradelinens' acceptance of an Order as set out in a form issued to the Customer by Tradelinens headed "Sales Order Acknowledgement".
"Specification"		any specification for the Products, including any related designs and drawings, that is agreed by the Customer and Tradelinens.

"Terms" the terms and Terms set out in this document as amended from time to time in accordance with clauses 2.4 and 13.4.

"Tradelinens" Tradelinens Limited, having its registered office at Unit 1 Petre Road Clayton Business Park, Clayton Le Moors, Accrington, Lancashire, BB5 5JB, United Kingdom (Company registration number 05065746).

1.2 Interpretation

- (a) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (b) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (c) A reference to **writing** or **written** includes emails.

2. BASIS OF CONTRACT

- 2.1 These Terms apply to all sales and/or deliveries by Tradelinens (and to all offers and negotiations for the same) of Products to Customers whose Delivery Location is situated within the United Kingdom.
- 2.2 These Terms apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.3 Deviations from or supplements to these Terms only apply if Tradelinens has confirmed the same in writing.
- 2.4 Tradelinens is entitled to, at any time and at its sole discretion, amend these Terms without notice to the Customer. Any amendments shall become effective immediately upon the publication thereof on the Tradelinens website <http://www.tradelinens.co.uk/UKterms.pdf>. Amendments do not apply to Orders that have been accepted by Tradelinens, as described in clause 2.7, before the date on which the amendment becomes effective.
- 2.5 The Customer is not authorized to resell any Products which are Retail Products for commercial or other purposes.
- 2.6 The Order constitutes an offer by the Customer to purchase the Products in accordance with these Terms. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 2.7 The Order shall only be deemed to be accepted when Tradelinens issues a Sales Order Acknowledgment, at which point the Contract shall come into existence. Tradelinens may, at its sole discretion, accept amendments to an Order after acceptance.
- 2.8 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Terms.
- 2.9 Any samples, drawings, descriptive matter or advertising produced by Tradelinens and any descriptions or illustrations contained in Tradelinens' catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Products referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.10 A quotation for the Products given by Tradelinens shall not constitute an offer and is only valid for the term stated in the quotation. If no term is stated, the quotation is valid for 30 (thirty) days from its date of issue.
- 2.11 These Terms shall apply to all future arrangements between the parties for Tradelinens to supply and the Customer to buy Products unless the parties agree otherwise in writing.
- 2.12 All Orders placed by the Customer, including verbal Orders, are irrevocable. If the Customer wishes to cancel an Order it shall reimburse Tradelinens for the costs incurred by Tradelinens in connection with the fulfilment of the order, which can include labour, production costs, administrative and storage costs.
- 2.13 Tradelinens always has the right to reject an Order, and the Customer shall not have any rights or claims in any Order, unless and until Tradelinens has accepted the Order, as described in clause 2.7.

2.14 Verbal commitments by or with its personnel do not bind Tradelinens unless Tradelinens has explicitly confirmed this in writing.

3. PRODUCTS AND SAMPLES

3.1 The Products may be described in any applicable Quotation, in any email exchanges between the parties or on Tradelinens' retail website, as modified by any applicable Specification.

3.2 Tradelinens reserves the right to amend the description or specification of the Products:

- (a) if required by any applicable statutory or regulatory requirements; or
- (b) provided that the alteration does not materially adversely affect the performance or quality of the Products.

3.3 Tradelinens may, on giving written notice to the Customer, elect to alter the description of any of the Products otherwise than in accordance with clause 3.2. Where the Customer has placed an Order and Tradelinens has accepted that Order under clause 2.7, and the description of any of the Products contained in that Order are varied in accordance with this clause 3.3, the Customer may cancel the part of the Order that relates to the varied Products only.

3.4 Tradelinens may at any time amend its Product list to exclude one or more of the Products as it thinks fit provided that where the Customer has placed an Order and Tradelinens has accepted that Order using a Sales Order Acknowledgement, and any of the Products contained in that Order have been, subsequent to Order and prior to despatch, excluded under this clause 3.4, the Order shall automatically be varied to exclude such excluded Products.

3.5 Subject to clause 3.6, Tradelinens may, in its absolute discretion provide the Customer with samples of the Products tailored to the Customers' Specification at no cost.

3.6 If the Customer confirms that it does not wish to proceed with an Order for Products or the Customer has not placed an Order for Products or communicated with Tradelinens the status of its Order/ sign off process within 12 weeks from receipt of the sample(s), Tradelinens shall be entitled (in its absolute discretion) to invoice the Customer for the samples at the price detailed on the Sales Order Acknowledgment, or were none is stated, at the following rates:

- (a) £30 per robe;
- (b) £50 for duvet covers; and
- (c) £10 for all other Products.

3.7 The Customer shall make payment of all invoices for samples in full and cleared funds within 30 days of the date of the invoice.

4. ORDER VOLUMES

4.1 The Customer accepts, acknowledges and agrees that where its Order is for Products to be tailored to the Customers' Specification, a Minimum Order Quantity may apply.

4.2 Where the Customer's initial Order for such Products is for a quantity of Products which is less than the Minimum Order Quantity, Tradelinens shall store the excess Products and the Customer shall be required to place an order for such excess Products (and make payment in full and cleared funds for such Products) no later than 24 months following the date of the initial Order.

5. DELIVERY

5.1 Tradelinens shall ensure that:

- (a) each delivery of the Products is accompanied by a delivery note that shows the date of the Order, the relevant Customer and Supplier reference numbers, the type and quantity of the Products (including the code number of the Products, where applicable) and, if the Products are being delivered by instalments, the outstanding balance of Products remaining to be delivered; and
- (b) if Tradelinens requires the Customer to return any packaging materials to Tradelinens, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as Tradelinens shall reasonably request. Returns of packaging materials shall be at Tradelinens' expense.

5.2 Tradelinens shall deliver the Products to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after Tradelinens notifies the Customer that the Products are ready.

- 5.3 Delivery is completed on the completion of unloading of the Products at the Delivery Location.
- 5.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.
- 5.5 If Tradelinens fails to deliver the Products, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement Products of similar description and quality in the cheapest market available, less the price of the Products. Tradelinens shall have no liability for any failure to deliver the Products to the extent that such failure is caused by a Force Majeure Event, the withdrawal of the United Kingdom from the European Union or the Customer's failure to provide Tradelinens with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 5.6 If the Customer fails to accept delivery of the Products within 5 Business Days of Tradelinens notifying the Customer that the Products are ready, then, except where such failure or delay is caused by a Force Majeure Event or Tradelinens' failure to comply with its obligations under the Contract:
- (a) delivery of the Products shall be deemed to have been completed at 9:00 am on the third Business Day after the day on which Tradelinens notified the Customer that the Products were ready; and
 - (b) Tradelinens shall store the Products until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 5.7 If 10 Business Days after the day on which Tradelinens notified the Customer that the Products were ready for delivery the Customer has not taken delivery of them, Tradelinens may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Products or charge the Customer for any shortfall below the price of the Products.
- 5.8 If Tradelinens delivers up to and including 7.5% more or less than the quantity of Products ordered the Customer may not reject them, but on receipt of notice from the Customer within 10 Business Days of receipt of the Products that the wrong quantity of Products was delivered, a pro rata adjustment shall be made to the Order invoice.
- 5.9 Tradelinens may deliver the Products by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 6. QUALITY**
- 6.1 Tradelinens warrants that on delivery, and for a period of 12 months from the date of delivery (warranty period), the Products shall:
- (a) conform in all material respects with their description and any applicable Specification; and
 - (b) be free from material defects in design, material and workmanship
- (‘the Warranty’)**
- 6.2 The Customer shall be obliged to inspect the condition of the Products and to give written notice of rejection to Tradelinens on account of any defect by reason of which the Customer alleges that the Products delivered do not comply with the Warranty and which was apparent on reasonable inspection within 7 (seven) days after completion of delivery. Such written notice must be made by e-mail to sales@tradelinens.co.uk and must contain a clear, detailed and accurate report, as well as clear images of such defects. Any complaints must be received by Tradelinens within the aforementioned period and with the aforementioned detail, failing which, except in respect of any defect which is not one which would be apparent on reasonable inspection, the Products shall conclusively be presumed to comply with the Warranty and, accordingly, the Customer shall be deemed to have accepted the delivery of the Products in question and Tradelinens shall have no liability to the Customer with respect to that delivery (except in relation to liability for any latent defects).
- 6.3 Where the Customer alleges that the Products delivered do not comply with the Warranty and any such defect was not apparent on reasonable inspection then, subject to the remaining provisions of this clause 6 and the limitations set out in clause 10, if:
- (a) the Customer gives notice in writing to Tradelinens during the warranty period and within a reasonable time of discovery of such defect;
 - (b) Tradelinens is given a reasonable opportunity of examining such Products; and

- (c) the Customer (if asked to do so by Tradelinens) returns such Products to Tradelinens' place of business at the Customer's cost (and the Customer shall not return the rejected Product to Tradelinens without the prior written approval of Tradelinens and only on conditions to be determined by Tradelinens),

and Tradelinens agrees that the Products do not comply with the Warranty and such defect was not apparent on reasonable inspection, Tradelinens shall have no obligation other than:

- (d) to replace the rejected Products, costs to be borne by Tradelinens, in which event Tradelinens shall be deemed not to be in breach of the Contract or have any liability to the Customer for the rejected Products; or
- (e) (at Tradelinens' sole discretion) to credit or refund the Customer for the paid price of the rejected Products.

6.4 The Customer must keep any Product, to which a complaint applies, available to Tradelinens for the purpose of inspection and/or examination and in the condition the Product was in at the time when the defects were discovered. The Customer must give Tradelinens the opportunity at all times to assess the complaint.

6.5 Tradelinens' decision as to whether the Products comply with the Warranty shall be final.

6.6 Complaints or defects do not give the Customer the right to suspend payment obligations or other existing obligations towards Tradelinens.

6.7 Where the Customer, or someone on its behalf, signs a proof of delivery note (or note of a similar nature) without caveat then Tradelinens shall under no circumstances whatever be liable to the Customer in respect of a claim for damage to the Products, and the Customer may not reject any Products on the basis of damage, where such damage was apparent on normal visual inspection.

6.8 Except as provided in this clause 6, Tradelinens shall have no liability to the Customer in respect of the Products' failure to comply with the Warranty.

6.9 The terms implied by sections 13 to 15 of the Sale of Products Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

6.10 These Terms shall apply to any repaired or replacement Products supplied by Tradelinens.

7. TITLE AND RISK

7.1 The risk in the Products shall pass to the Customer on completion of delivery.

7.2 Title to the Products shall not pass to the Customer until the earlier of:

- (a) Tradelinens receives payment in full (in cash or cleared funds) for the Products and any other Products that Tradelinens has supplied to the Customer in respect of which payment has become due, in which case title to the Products shall pass at the time of payment of all such sums; and
- (b) (subject to clause 7.6) the Customer resells the Products, in which case title to the Products shall pass to the Customer at the time specified in clause 7.4.

7.3 Until title to the Products has passed to the Customer, the Customer shall:

- (a) store the Products separately from all other Products held by the Customer so that they remain readily identifiable as Tradelinens' property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
- (c) maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (d) notify Tradelinens immediately if it becomes subject to any of the events listed in clause 9.1; and
- (e) give Tradelinens such information relating to the Products as Tradelinens may require from time to time.

7.4 Subject to clauses 7.5 and 7.6, the Customer may resell or use the Products in the ordinary course of its business (but not otherwise) before Tradelinens receives payment for the Products. However, if the Customer resells the Products before that time:

- (a) it does so as principal and not as Tradelinens's agent; and

- (b) title to the Products shall pass from Tradelinens to the Customer immediately before the time at which resale by the Customer occurs.
- 7.5 If before title to the Products passes to the Customer the Customer becomes subject to any of the events listed in clause 9.1, or the Contract terminates and the Customer does not pay all outstanding amounts under the Contract within 30 days then, without limiting any other right or remedy Tradelinens may have:
- (a) any right the Customer may have to resell the Products, possess them or use them in the ordinary course of its business ceases immediately; and
- (b) Tradelinens may at any time:
- (i) require the Customer to deliver up all Products in its possession that have not been resold, or irrevocably incorporated into another product; and
- (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.
- 7.6 The Customer may not resell any Products which are Retail Products.
- 7.7 The Customer grants to Tradelinens an irrevocable licence for Tradelinens, its agents and employees to enter any premises where the goods of the Customer are stored to ascertain whether any Products are stored there and to inspect, count and recover them.
- 7.8 The Customer shall promptly and at its own cost register any necessary charge over money or goods and take such other steps as are necessary to give effect to this clause 7 at Tradelinens' request.
- 8. PRICE AND PAYMENT**
- 8.1 The price of the Products shall be the price agreed between the parties and set out in the Sales Order Acknowledgement.
- 8.2 Tradelinens may, by giving notice to the Customer at any time before commencement of delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to:
- (a) any factor beyond Tradelinens' control (including the withdrawal of the United Kingdom from the European Union, foreign exchange fluctuations, increases in taxes and duties (including the imposition of import and export tariffs) and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Products ordered, or the Specification; or
- (c) any delay caused by any instructions of the Customer or failure of the Customer to give Tradelinens adequate or accurate information or instructions.
- 8.3 The price of the Products:
- (a) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to Tradelinens at the prevailing rate, subject to the receipt of a valid VAT invoice; and
- (b) excludes the costs and charges of packaging, insurance and transport of the Products, which shall be invoiced to the Customer.
- 8.4 Subject to clause 8.5(c), Tradelinens may invoice the Customer for the Products on or at any time after despatch of the Products.
- 8.5 The Customer shall make payment for the Products and any other applicable charges in full and in cleared funds within the applicable timescales set out below:
- (a) where the Customer which has an approved credit account with Tradelinens;
- (i) in respect of Orders placed by a Customer within that Customer's approved credit limit- within 30 days of the date of the invoice or such other credit period as may be agreed in writing by Tradelinens;
- (ii) in respect of Orders placed by a Customer in excess of that Customer's approved credit limit (and provided that the value of the Order is less than £20,000 (excluding VAT)) - 50% of the total amount shall be payable at the time of placing the Order and the remaining balance within 30 days of the date of the invoice or such other credit period as may be agreed in writing by Tradelinens;

- (b) in respect of Orders in excess of £20,000 (excluding VAT) – 50% of the total amount shall be payable at the time of placing the Order and the remaining balance prior to despatch of the Products; and
- (c) for all other Orders not dealt with in clause 8.5(b), or (ii) above - 100% of the total amount payable at the time of placing the Order

and payment shall be made to the bank account nominated in writing by Tradelinens. Time for payment is of the essence.

- 8.6 If the Customer fails to make any payment due to Tradelinens under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate which is the greater of the rate in force pursuant to the provisions of the Late Payment of Commercial Debts (Interest) Act 1998 or 4% above the Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 8.7 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Tradelinens may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Tradelinens to the Customer.
- 8.8 The Customer must inform Tradelinens of any queries or complaints with regard to any invoice in writing and in no event later than 14 days after the invoice date. Where no written complaints against an invoice have been submitted within this period, such invoice is deemed to fully and correctly represent the relevant transaction. Where any dispute arises as to the contents of any invoice, the parties shall enter into good faith discussions to resolve such dispute but, for the avoidance of doubt, the Customer shall not be relieved of its obligation to pay the disputed invoice in full and on time.

9. TERMINATION

- 9.1 Without limiting its other rights or remedies, Tradelinens may terminate this Contract or (at its option) cancel any existing Orders or suspend any future deliveries which have not yet been delivered to the Customer with immediate effect by giving written notice to the Customer if:
 - (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of the Customer being notified in writing to do so;
 - (b) the Customer 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), 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;
 - (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
 - (d) the Customer's financial position deteriorates to such an extent that in Tradelinens' opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 9.2 Without limiting its other rights or remedies, Tradelinens may suspend provision of the Products under the Contract or any other contract between the Customer and Tradelinens if the Customer becomes subject to any of the events listed in clause 9.1(a) to clause 9.1(d), or Tradelinens reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 9.3 Without limiting its other rights or remedies, Tradelinens may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 9.4 On termination of the Contract for any reason the Customer shall immediately pay to Tradelinens all of Tradelinens' outstanding unpaid invoices and interest.
- 9.5 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.

9.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

10. LIMITATION OF LIABILITY

10.1 Nothing in these Terms shall limit or exclude Tradelinens' liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Products Act 1979;
- (d) defective products under the Consumer Protection Act 1987; or
- (e) any matter in respect of which it would be unlawful for Tradelinens to exclude or restrict liability.

10.2 Subject to clause 10.1:

- (a) Tradelinens shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:
 - i. any indirect, special or consequential loss or damage; or
 - ii. economic loss or damage; or
 - iii. incurring of liability for loss or damage of any nature whatsoever suffered by third parties (including in each case incidental and punitive damages); or
 - iv. any loss of actual or anticipated profit, interest, revenue, anticipated savings or business or damage to goodwill,even if Tradelinens is advised in advance of the possibility of any such losses or damages; and
- (b) Tradelinens' total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the price of the Products to which the issue or claim relates.

10.3 Tradelinens shall not be liable to the Customer under the Warranty or otherwise for any losses arising from the Customer's subsequent use or misuse of the Products including (without limitation) in any of the following events:

- (a) the Customer makes any further use of such Products after giving notice in accordance with clause 6.1(b) or 6.3;
- (b) the defect arises because the Customer failed to follow Tradelinens' oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Products or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of Tradelinens following any drawing, design or Specification supplied by the Customer;
- (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions;
- (e) the defect arises as a result of any washing or other chemical treatment process performed by a commercial laundry or similar;
- (f) the Products differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements;
- (g) the defect arises as a result of the Customer's negligence, or that of its agents or employees; or
- (h) where the Customer alters or repairs the Products by any manufacturing process or otherwise, save for any latent defect which means that the Product did not comply with its description.

10.4 Tradelinens is not liable for a defect in the Products unless it is notified to Tradelinens in accordance with clauses 6.2 or 6.3 (as applicable).

- 10.5 Tradelinens does not accept any claims for damage or defects in whole or in part caused by freezing, corrosion, overheating, flooding, moisture intrusion or any other condition caused by or related to weather or climate conditions.
- 10.6 If Tradelinens' performance of its obligations under these Terms is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees or failure by the Customer to perform any relevant obligations (Customer Default) Tradelinens shall not be liable for any Losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.
- 10.7 The Customer shall be liable to pay to Tradelinens, on demand, all Losses sustained or incurred by Tradelinens (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence or Customer Default or arising from Tradelinens carrying out the Customer's instructions.
- 10.8 If the performance by Tradelinens of any of its obligations under the Contract is prevented or delayed by any Customer Default then Tradelinens shall, without limiting its other rights or remedies, have the right to suspend performance of its obligations under the Contract until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the performance of Tradelinens of any of its obligations.
- 10.9 Where Tradelinens is unable to make delivery of Products as requested by the Customer Tradelinens shall take all reasonable steps to notify the Customer of non-delivery and seek the Customer's further instructions. Pending such instructions, Tradelinens shall hold the non-delivered Products at the sole risk and expense of the Customer.
- 10.10 The Customer acknowledges and agrees that the prices of the Products reflect the limitations of liability contained in these Terms.
- 10.11 The Customer warrants and presents that the measurements, requirements, specifications, the Customer's Branding and other data and intellectual property rights notified by it or a third party on its behalf to Tradelinens are correct and complete and do not infringe a third party's intellectual property rights and indemnifies Tradelinens against all Losses Tradelinens may suffer where the Customer is found to be in breach of the aforementioned warranty and representation.
- 11. INTELLECTUAL PROPERTY**
- 11.1 The Intellectual Property Rights are Tradelinens (or its licensor's) property and shall never be transferred to the Customer.
- 11.2 The Customer acknowledges that:
- (a) nothing in these Terms shall be construed as conferring any licence or granting any rights in favour of the Customer in relation to the Intellectual Property Rights. Tradelinens asserts its full rights to control the use of its trade marks within the EEA or elsewhere in the world and the Customer shall assist Tradelinens as reasonably required in preventing parallel importers from diluting Tradelinens' rights; and
 - (b) any reputation in any trade marks affixed or applied to the Products shall accrue to the sole benefit of Tradelinens or any other owner of the trade marks from time to time.
- 11.3 The Customer may not (a) use its relationship with Tradelinens, Tonrose Group companies, or the existence of any offer issued by Tradelinens or Contract, for any marketing purposes; (b) refer to Tradelinens, Tonrose Group companies or any offer issued by Tradelinens or the Contract in any company presentation or press release; or (c) use in any way (whether on the internet or in any other communication to the public) or seek to register any trade name, business name, logotype or trade mark of Tradelinens (including the trademark "Tielle love luxury") or which is identical to, confusingly similar to or incorporates any trade mark or trade name which Tradelinens or any associated company of Tradelinens owns or claims rights in anywhere in the world.
- 11.4 The Customer shall not repackage the Products and/or remove any copyright notices, confidential or proprietary legends or identification from the Products.
- 11.5 If at any time it is alleged that the Products infringe the rights of any third party or if, in Tradelinens' reasonable opinion, such an allegation is likely to be made, Tradelinens may at its option and its own cost:
- (a) modify or replace the Products in order to avoid the infringement; or

- (b) procure for the Customer the right to continue using the Products; or
 - (c) repurchase the Products at the price paid by the Customer, less depreciation at the rate Tradelinens applies to its own equipment.
- 11.6 The Customer shall promptly and fully notify Tradelinens of:
- (a) any actual, threatened or suspected infringement of any Intellectual Property Rights which comes to the Customer's notice; and
 - (b) any claim by any third party that comes to the Customer's notice that the sale or advertisement of the Products infringes the rights of any person.
- 11.7 The Customer agrees (at Tradelinens' request and expense) to do all such things as may be reasonably required to assist Tradelinens in taking or resisting any proceedings in relation to any infringement or claim referred to in clause 11.6.
- 11.8 In the event of any claim, proceeding or suit by a third party against the Customer alleging an infringement of any Intellectual Property Right connected with the Products, Tradelinens shall defend the Customer at Tradelinens' expense, subject to:
- (a) the Customer promptly notifying Tradelinens in writing of any such claim, proceeding or suit; and
 - (b) Tradelinens being given sole control of the defence of the claim, proceeding or suit,
- and provided that Tradelinens shall not be liable for infringements to the extent that they arise out of or in connection with modifications to the Products made by anyone except Tradelinens or its authorised representative, or out of use or combination of the Products with products or third party materials not specified or expressly approved in advance in writing by Tradelinens, or where the claim, proceeding or suit arises from Tradelinens' adherence to the Customer's requested changes to the description of the Products or from infringing items of the Customer's origin, design or selection, including but not limited to the Customer's Branding.
- 11.9 Subject to clause 10, Tradelinens shall reimburse the Customer with an amount equal to any cost, expense or legal fees incurred at Tradelinens' written request or authorisation and shall indemnify the Customer against any liability assessed against the Customer by final judgement on account of an infringement described in clause 11.8.
- 11.10 The Customer hereby licences Tradelinens (or, where required, shall procure that Tradelinens is licenced) to use the Customer's Branding in connection with the marketing, advertisement and promotion of Tradelinens' business and the Products.
- 11.11 Tradelinens acknowledges and agrees that all rights in the Customer's Branding shall remain in the Customer, and that Tradelinens has and will acquire no right in them by virtue of the discharge of its obligations under the Contract, except for the right to use the Customer's Branding as expressly provided in these Terms.

12. FORCE MAJEURE

- 12.1 Tradelinens shall not be liable to the Customer, or be deemed to be in breach of these Terms, by reason of any delay in performing, or failure to perform, any of its obligations under the Contract if the delay or failure was beyond Tradelinens' reasonable control (including without limitation fire, flood, explosion, epidemic, riot, civil commotion, any strike, lockout or other industrial action, act of God, war, warlike hostilities or threat of war, terrorist activities, accidental or malicious damage and any prohibition or restriction by any government or other legal authority which affects the Contract and which is not in force on the date of the Contract).
- 12.2 Where Tradelinens claims to be unable to perform its obligations under a Contract (either on time or at all) in accordance with clause 12.1 it shall notify the Customer of the nature and extent of the circumstances in question as soon as practicable.
- 12.3 This clause 12 shall cease to apply when such circumstances have ceased to have effect on the performance of the Contract and Tradelinens shall give notice to the Customer that the circumstances have ceased.
- 12.4 If any circumstance relied on by Tradelinens for the purposes of this clause 12 continues for more than 2 weeks, the Customer shall be entitled to terminate any (including part of a) Contract affected by such circumstances by giving one weeks' notice.

13. GENERAL

- 13.1 **Assignment and other dealings.**

- (a) Tradelinens may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Tradelinens.

13.2 **Confidentiality.**

- (a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by clause 13.2(b). For the purposes of this clause, group means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause 13.2; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

13.3 **Entire agreement.**

- (a) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

13.4 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.5 **Remedy.** Each right or remedy of the parties under these Terms is without prejudice to any other right or remedy of the parties, whether or not such rights or remedies are set out in these Terms.

13.6 **Cumulative rights.** The rights and remedies arising under, or in connection with, these Terms are cumulative and, except where otherwise expressly provided in these Terms, do not exclude rights and remedies provided by law or otherwise.

13.7 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

13.8 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

13.9 **Notices.**

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or by email to sales@tradelinens.co.uk and marked for the attention of James Davolls in relation to Tradelinens and to an email address as notified, or last used, by the Customer in relation to the Customer.

- (b) Any notice or document shall be deemed served:
 - (i) if delivered by hand, at the time of delivery unless delivered after 5.00 pm in which case they shall be given on the next day Business Day;
 - (ii) if posted, two Business Days after posting (five Business Days if sent by airmail post); and
 - (iii) if sent by email, one hour after transmission or at the time of the electronic "read receipt" whichever is the earliest, provided no notice of delay by the server is received.
 - (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 13.10 **Third party rights.** No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.
- 13.11 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 13.12 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.