

# CONDITIONS OF SALE AND/OR SUPPLY

## 1 Interpretation

### 1.1 In these Conditions:

'BUYER' means the legal entity who wishes to purchase the Goods and whose order for the Goods has been accepted by the Seller in accordance with these Conditions.

'CONDITIONS' means the standard terms and conditions of sale and/or supply set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

'CONTRACT' means each contract for the sale and/or supply of Goods between the Buyer and the Seller which shall come into force when the Seller accepts an order for Goods from the Buyer in accordance with these Conditions.

'GOODS' means the goods (including any instalment of the goods), which the Seller is to sell or supply to the Buyer as described in the applicable order which has been accepted by the Seller in accordance with these Conditions.

'SELLER' means the relevant legal entity within the Mask4Life t/a Stirling Equity Holdings Ltd corporate group (of Tarnfield House, Moorfield Road, Yeadon, Leeds, LS19 7BN) who fulfils an order for Goods from the Buyer which has been accepted in accordance with these Conditions.

'WRITING' includes posted letters, email, facsimile transmission and comparable means of communication.

1.2 In these Conditions and any Contract: Clause headings are inserted for convenience only and shall not affect construction or interpretation; references to conditions are to the relevant paragraph of these Conditions; words denoting the singular shall include the plural and vice versa; words denoting any gender shall include all genders; any reference to any law, statute, statutory provision, statutory instrument, directive, subordinate legislation, code of practice or guideline shall be construed as a reference to the same as may be amended, consolidated, modified, extended, re-enacted or replaced from time to time; and use of words such as "include", "including" and "in particular" shall not limit the generality of any preceding or following words which are not intended to be exhaustive.

## **2 Basis of the Sale**

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any order of the Buyer, which is accepted by the Seller, subject to these Conditions, which shall govern the Contract. Each such order shall be deemed accepted on the earlier of: the Seller issuing a written acceptance of any order placed; or the Seller commencing delivery of any Goods which are the subject of the order in question.

2.2 These Conditions shall override any terms or conditions which the Buyer purports to incorporate into the Contract. No variation to these Conditions shall be binding unless agreed in Writing by the authorised representative of the Seller. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller. The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim or breach of, any such representations which are not so confirmed. Nothing in this Condition 2.2 shall though limit or exclude any liability of the Seller for fraud or fraudulent misrepresentation.

2.3 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed. Nothing in this Condition 2.3 shall though limit or exclude any liability of the Seller for death or personal injury caused by its negligence.

### 3 Orders and Specifications

3.1 Any Quotations or estimates of the Seller are provided without commitment and can be withdrawn or varied by the Seller at any-time without liability. No order submitted by the Buyer shall be binding on the Seller unless and until the Seller accepts it in accordance with these Conditions. The Seller does not guarantee that it will accept any or all orders which may be placed by the Buyer and the Seller shall be entitled to reject any order for any reason.

3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to Perform the Contract in accordance with its terms.

3.3 Except where the Seller specifically otherwise agrees in Writing, the selection and choice of the Goods and (except as to compliance with specific technical specifications contained in the Seller's current literature) the assessment of the Good's suitability and fitness for the Buyer's purpose is the Buyer's sole responsibility.

3.4 Any specifications, formulations, data, literature and statements as to content, suitability, performance or otherwise issued and descriptions and samples given, by the Seller in connection with the Goods are offered in good faith but are intended to be approximate only and shall be deemed not to constitute representations. In particular, but without prejudice to the generality of the foregoing, the Seller shall not be bound to reproduce designs outside the accepted tolerance of weaving and deviations from dimensions or quality which are technically unavoidable shall not be faulted by the Buyer.

3.5 Without prejudice to condition 3.4 above where the Seller is requested to reproduce designs supplied by or referred to by the Buyer the Seller makes no and there shall be implied no representation that the reproduction shall match the original designs although the Seller will make every reasonable effort to effect a close match. It is the buyer's responsibility to ensure that the goods ordered are in every way accurate, correct and suitable for the purpose for which they are required notwithstanding that such purpose may be known to the Seller. If, for reasons of speed or otherwise the Buyer wishes the Seller to proceed with an order prior to formal confirmation from the Buyer the Seller cannot accept responsibility for an error due to a misunderstanding of the order as placed. Where the Buyer provides any such designs then the Buyer shall ensure that it holds all necessary rights in the same (including the right to authorise the Seller to reproduce such designs) and that the use of such designs by the Seller in accordance with these Conditions will not result in any claim or allegation being made that the Seller has infringed the rights of any third party.

3.6 Goods are sold or supplied on condition that the Buyer undertakes at all times to take and comply with (and to draw to third parties' attention and require them to take and comply with) all (if any) instructions and recommendations issued with or contained on or relating to the goods or the Seller's relevant literature and all responsible and prudent precautions, as to use, cleaning and otherwise.

3.7 Pursuant to the Seller's policy of continuous improvement in relation to changes which may be made in safety or other statutory requirements the Seller reserves the right without notice and without affecting the validity of the Contract, to make such changes in materials, dimensions and design as the Seller thinks for reasonable or desirable in all the circumstances.

3.8 The copyright and all other industrial and intellectual property rights in the Seller's designs, packaging and literature shall remain the Seller's property and no licence thereunder (except as to the use for which the Goods are sold or supplied) shall be implied.

3.9 Subject to the provisions to the contrary contained in these Conditions and subject to any stipulations specifically made by the Seller prior to the Contract sections 13 to 15 (inclusive) Sale of Goods Act 1979 shall apply.

3.10 The Buyer shall not at any time alter or deface the Seller's name or any of the Seller's trademarks or juxtapose with them any other mark likely to cause confusion or use them or any mark likely to cause confusion either on or in connection with goods other than the Goods in the form supplied by the Seller or as part of, any name or trading style.

3.11 In placing any order the Buyer agrees to indemnify the Seller against any claim or demand which may be made against the Seller, in respect of the infringement of copyright or of a Trade Mark or of a registered design or of any other intellectual property rights as a result of the manufacture and/or sale of the Goods ordered in accordance with any specifications or designs provided by or on the behalf of the Buyer hereby and also against any costs incurred by the Seller in relation to such claim.

3.12 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller (which may be withheld for any reason whatsoever) and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation, including all preparatory costs.

#### 4 Price of the Goods

4.1 Subject to the provisions of this Condition 4, the price of the Goods shall be the Seller's quoted price or where no price has been quoted (or a quoted price is no longer valid) the price listed in the Seller's published price list current at the date of acceptance of the order. Unless withdrawn or varied by the Seller before, all prices quoted are valid for 30 days only after which time they shall automatically lapse without notice.

4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller of supplying the Goods (including without limitation, increase in the costs of labour, materials or increase in the costs of carriage and insurance) any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

4.3 Except as otherwise stated under the terms of any quotation or in any current price list the Seller, and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on the following basis. 4.3.1 The price of orders shall not include the seller's charge for carriage or packing which shall accordingly be payable in addition by the Buyer; and

4.3.2 The price is exclusive of any applicable value added tax, duty, customs charges or other taxes as applicable which the Buyer shall be additionally liable to pay.

## 5 Terms of Payment

5.1 Subject to Condition 11 and unless the Seller otherwise agrees in Writing the Seller's terms of payment are for sales in UK and Ireland that each of the Seller's invoices is payable in full within 30 days of the date of the invoice and (for other international sales) that payment is made in full in cleared funds in Great British Pounds (GBP) without any deduction in advance, in each case notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

5.2 If the Buyer fails to make payment of the amount due in full on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:

5.2.1 Cancel the Contract and/or suspend any further deliveries to the Buyer (whether under the Contract in question or under any other Contracts from time to time in force);

5.2.2 Appropriate any payment made by the Buyer to such Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and

5.2.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 8 per cent per annum above the Bank of England base rate from time to time, from the due date until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest)

5.3 The Seller reserves a lien on all property or money of the Buyer in the possession of the Seller for all amounts due or accruing on any account; the Seller may sell property which is subject to lien if it is not satisfied in 28 days and apply the proceeds to discharge the lien and Sale expenses.

## 6 Performance and Delivery/Consignment Stock

6.1 Delivery of the Goods shall be made by the Seller placing the Goods in the post or collection of the Goods by the carrier for onward transport to the Buyer.

6.2 Any dates quoted for delivery of the Goods or performance of the Contract by the Seller are approximate only and the Seller shall not be liable for any delay in delivery of the Goods or performance of the Contract howsoever caused. Time for delivery or performance by the Seller shall not be of the essence unless previously agreed by the Seller in Writing. The Goods may be delivered or the Contract performed by the Seller in advance of the quoted delivery date.

6.3 Where delivery of the Goods is to be made by the Seller in bulk, the Seller reserves the right to deliver up to 20 per cent more or 20 per cent less than the quantity ordered without any adjustment in the price and the quantity so delivered shall be the quantity ordered. These tolerances apply to each individual label order. Every difference ordered in size, text or fibre type shall be regarded as a separate label order. Goods will be supplied within the limits or tolerance as agreed by the Ribbon and Label Manufacturers Association Ltd.

6.4 Where the Goods are delivered in instalments either in accordance with the Contract with reasonable justification, as a departure therefrom, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as whole as repudiated.

6.5 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.5.1 Charge the Buyer for the Seller's abortive delivery costs and may store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

6.5.2 Sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

6.6 If the Goods are to be exported from the United Kingdom, the Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and the payment of any duties thereon.

6.7 In the event that the Buyer has failed to place orders which have been accepted by the Seller for any Consignment Stock which is held by the Seller from time to time within the time period for purchasing that Consignment Stock as provided for in the relevant Consignment Stock Agreement then at any-time after the expiry of such time period, the Seller shall be entitled at its option to deliver that Consignment Stock to the Buyer in accordance with these Conditions and then invoice the Buyer for such Consignment Stock (and the Buyer shall pay such invoice) in accordance with these Conditions.

6.8 Each order placed by the Buyer for any Consignment Stock which is accepted by the Seller shall constitute a separate Contract and any failure or delay by the Seller to fulfil any individual order for any Consignment Stock shall not lessen or negate the Buyer's obligation to purchase all of that Consignment Stock and/or the Seller's rights under condition 6.7 with respect to any Consignment Stock which the Buyer fails to purchase within the required time period.

6.9 For the avoidance of doubt, ownership of all Consignment Stock which may be held by the Seller from time to time shall pass in accordance with condition 7 and shall not pass to the Buyer at any earlier point in time.



## 7 Risk and Property

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:

7.1.1 In the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or

7.1.2 In the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

7.2 Notwithstanding delivery and/or the passing of risk in the Goods or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and Bailee and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds and shall keep all such proceeds separate from any moneys or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

7.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold) the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods (and the Buyer hereby grants to the Seller an irrevocable licence to enter onto any of its premises for such purposes and, in the case of any premises under the control of a third party shall procure that such a licence is granted to the Seller).

7.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

## **8 Claims**

8.1 Any claims affecting goods should be made within seven days of the actual delivery and will only be considered if the goods can be examined and providing that no part of the consignment has been used. Claims for non-delivery must be advised in writing within 7 days from the date of the invoice. In the event that no such claims are notified by the Buyer to the Seller then the Goods in question shall be deemed to have been delivered to the Buyer in accordance with these Conditions and accepted by the Buyer.

## **9 Limitation of Liabilities and Indemnity**

9.1 The Seller maintains public and product liability insurance to a limit of not less than £2 million in respect of any one occurrence and copies of the policy or policies are available for inspection on request.

9.2 Neither party seeks to limit or exclude in any way its liability for death or personal injury caused by negligence; for fraud or fraudulent misrepresentation; in respect of any breach of any condition implied under section 12 of the Sale of Goods Act 1979; and/or for any other matter or liability which cannot be lawfully limited or excluded. Each provision of each Contract shall be read as subject to this condition 9.2 and no provision of any Contract is intended to nor shall be interpreted as seeking to limit or exclude any of the foregoing types of liability.

9.3 Subject at all times to condition 9.4, the maximum liability of the Seller to the Buyer for all claims under any Contract howsoever arising (including under any indemnity) shall be limited in aggregate to price actually paid by the Buyer to the Seller under the Contract in question.

9.4 The Seller shall not be liable (whether under the terms of any Contract under any indemnity or otherwise) for: loss of business; loss of use; loss of profit; loss of anticipated profit; loss of contracts; loss of revenues; loss or damage to goodwill or brand; loss of anticipated savings; loss of data or use of data; product recall costs; damage to reputation; and/or any consequential, special or indirect loss or damage in any case, regardless of whether or not the Seller was aware or had been made aware (or ought reasonably to have been aware) at the time of the relevant Contract being formed of the risk that such loss or damage might occur.

9.5 The Seller shall not be liable for any failure or delay in complying with any of its obligations under any Contract in the event that the failure or delay in question is attributable to any event beyond the reasonable control of the Seller.

## 10 Insolvency of Buyer

10.1 This condition 10 applies if:

10.1.1 the Buyer makes any voluntary arrangements with its creditors or becomes subject to an administration order or (being an individual or firm) becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

10.1.2 An encumbrancer takes possession, or a receiver administrative receiver or administrator is appointed, of any of the property or assets of the Buyer;

10.1.3 The Buyer ceases, or threatens to cease to carry on business;

10.1.4 Any other event analogous to any of the foregoing occurs to the Buyer whether in the United Kingdom or in any other jurisdiction in which the Buyer may be based; or

10.1.5 The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

10.2 If this condition 10 applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:

10.2.1 cancel any or all outstanding Contracts or suspend any further deliveries under any Contract in either case without any liability to the Buyer; and if any Goods have been delivered but not paid for the price shall become immediately due and payable;

10.2.2 immediately invoice the Buyer for the price of any Consignment Stock being held by the Seller at that time (although the Seller shall not be obliged to deliver that Consignment Stock to the Buyer unless and until such time as that invoice together with all other amounts referred to in condition 10.2.1 have been paid by the Buyer to the Seller in full) regardless of whether or not at such time the Buyer has placed orders for that Consignment Stock and/or the period during which the Buyer is obliged to buy that Consignment Stock within (as stated in the applicable Consignment Stock Agreement) has expired. In either case, notwithstanding any previous agreement or arrangement to the contrary.

## 11 General

11.1 The Seller may assign any of its rights or obligations under the Contract to any other person.

11.2 Any notice required permitted to be given by either party to the other under these Conditions shall be in Writing addressed to the other party at 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.

11.3 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

11.4 The failure to exercise or delay in exercising any right or remedy under these Conditions or any Contract shall not be regarded as a waiver of such right or remedy, or a waiver of other rights or remedies. No single or partial exercise of any right or remedy under these Conditions or any Contract shall prevent any further exercise of the right or remedy or any other right or remedy.

11.5 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby.

11.6 The parties are with respect to each other independent contractors and nothing in these Conditions or any Contract and no actions taken by the parties under any these Conditions or any Contract shall be deemed to constitute any agency, partnership, association, joint venture or other co-operative enterprise between the parties.

11.7 Each Contract represents the entire agreement between the parties relating to the supply of the Goods in question and supersedes all previous presentations made and/or agreements, negotiations and discussions between the parties relating to the same.

11.8 Save only to the extent as may be specifically provided for otherwise under these Conditions, no variation or amendment of any Contract shall be binding unless made in writing and signed by or on the behalf of each of the parties.

11.9 The Seller may sub-contract the performance of any of its obligations under any Contract without the prior consent of the Buyer but shall remain primarily liable to the Buyer for the acts and omissions of any of its sub-contractors as if those were the acts or omissions of the Seller itself under the applicable Contract.

11.10 Any Seller group companies or other legal entities shall be entitled to rely upon the benefit of any Contract and to enforce any Contract pursuant to the Contracts (Rights of Third Parties) Act 1999. Subject to the foregoing, a person who is not a party to a Contract shall have no right to enforce any term of that Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

11.11 These Conditions, any Contract and any dispute or claim arising out of or in connection either of those or their subject matter or formation (including any non-contractual disputes or claims) shall be governed by English law and, save in respect of the enforcement of any judgment, the parties agree to submit to the exclusive jurisdiction of the English courts.

11.12 The Buyer agrees that the Seller may process data held regarding the Buyer as necessary to provide Goods, administer its business relationship with the Buyer (including for billing, customer

11.13 The Seller reserves the right to charge any sampling/tooling costs from bespoke orders.

## **12 Returns Policy**

12.1 The Seller will accept returns for standard stock products that have been unopened and unused within 14 days.

12.2 The Seller will not accept returns for Bespoke/Branded Products.

12.3 The Buyer is required to bear all carriage costs incurred for return of goods.

12.4 The Seller will not refund any carriage charges, the cost of goods will only be refunded.

12.5 In the event of a faulty product, the seller will offer exchange of goods if possible or a refund will be offered.