

## HALLMARK CARDS CONTINENTAL EUROPE STANDARD TERMS AND CONDITIONS OF ORDER

### 1. Definitions

In these Conditions 'the Buyer' shall mean Hallmark Cards Continental Europe and 'the Seller' shall mean the recipient of an order from the Buyer.

### 2. Contract

(1) When made the contract shall bind the Seller to these conditions and no goods shall be supplied by the Seller except in accordance therewith. Any conditions incorporated in any acceptance form, delivery form, letter, or other document emanating from the Seller shall (whether or not they conflict with these Conditions) be wholly void and inapplicable.

(2) The Buyer will not be liable for any goods supplied otherwise than pursuant to an order issued on the Buyer's printed order form duly signed on behalf of the Buyer, or an order issued in some other form approved by the Buyer.

### 3. Rejection

The Buyer reserves the right to reject any goods which are faulty or do not confirm to the quality, standard or description specified in an order. Any goods which are rejected will be held at the Seller's risk and may be returned to the Seller at its risk and expense.

### 4. Price

(1) The price quoted and ordered quantities shall not be subject to change without the written consent of the Buyer and shall include such packing as is acceptable to the Buyer's needs and the costs of delivery. In the event that the goods are found by the Buyer not to comply fully with the Buyer's specification or requirements as notified to the Seller, the Seller shall make such alterations as may be necessary so as to comply, without any extra charge to the Buyer.

(2) The statutory and any express or implied right of the Seller to a lien over the goods and to any rights of stoppage in transit are hereby expressly excluded.

### 5. Cancellation

The Buyer reserves the right at any time (without prejudice to any claim for damages or other remedy of the Buyer) to cancel an order or any part thereof forthwith by notice in writing to the Seller:

(1) on default by the Seller in making delivery or deliveries as specified herein, or in complying with shipping instructions given subsequently or on failure by the Seller to conform to any of the terms and conditions specified herein:

(2) on failure of the Seller to comply with any relevant customs and excise regulations currently in force in the The Netherlands:

(3) on the occurrence of any event beyond the Buyer's control, which may or might in the Buyer's judgement, adversely affect the manufacture or sale of the Buyer's finished products. Including (but without prejudice to the generality of the foregoing) any acts, demands or embargoes of any government, war, hostilities, fires, strikes and lock-outs;

(4) if the goods tendered or any part thereof are not in accordance with approved samples or specifications, or are defective in workmanship or materials, or are not in accordance with the Seller's guarantees and warranties implied or referred to in these Conditions or in any special conditions applicable thereto;

(5) If the Seller, not being a company, dies or becomes bankrupt or commits any act of bankruptcy, or being a company has a receiver, administrator or liquidator appointed or passes a resolution for winding-up or has a petition presented against it for its winding-up or if the Seller (whether a company or not) enters into any arrangement or composition with the Seller's creditors.

(6) There is a breach of Clause 17 with respect to the Seller's modern slavery obligations.

The Buyer shall not be liable for any loss to the Seller including consequential loss resulting from any cancellation of an order pursuant to this Condition.

## **6. Defects**

Goods delivered and/or received for under an order, are accepted contingently only upon their being in full conformity with the specifications and such receipt shall not prejudice the Buyer's rights in respect of hidden defects:

- (1) which could be observed only after use of close inspection (which inspection may not take place until time subsequent to actual receipt): or
- (2) which may not be apparent or discovered by inspection at the time of delivery, but which may be discovered at a later date.

## **7. Warranties**

(1) The Seller warrants that goods supplied pursuant to an order shall be of satisfactory quality, fit for the purpose for which they are intended, to have been produced in a competent manner of sound materials and to be of the nature, substance and quality described in the order, and to conform in every respect with the requirements of any Acts and regulations relating to the manufacture, marketing and sale of such goods.

(2) In performing the contract, the Seller, as a person supplying goods in the course of his business, shall exercise proper skill and judgement so as to ensure that the goods shall be fit for the purposes of the Buyer and it is agreed that the Buyer is relying upon this provision. The Seller shall satisfy himself that he understands the Buyer's requirements so as to be in a position to comply with his obligations and also so as to prevent delay on account of any modifications which may be necessary to meet the Buyer's needs. The costs of any modification shall be deemed to be included in the price. All relevant Dutch and International Standards shall be deemed to have been specified unless expressly excluded.

(3) Nothing in these Conditions shall operate to exclude any warranty, guarantee or condition on the part of the Seller as to quality, fitness for a particular purpose or any other matter implied by common law, statute, custom of the trade or otherwise, all of which warranties, guarantees and conditions shall accordingly apply unless expressly excluded by the terms of the order. The Buyer may assign to its successors, assignees, customers and users of the Buyer's products which incorporate any of the goods the benefit of the above warranties.

## **8. Substitutions**

In the event that goods, materials or parts specified by the Buyer are not likely to be available at the time required for fulfilment of an order at such a time as will prevent the order from being fulfilled on time, the Seller shall notify the Buyer as soon as reasonably practicable of such unavailability. No substitutes shall be used without the written consent of the Buyer.

## **9. Intellectual Property Rights**

The Seller shall indemnify the Buyer and keep the Buyer fully and effectively indemnified against all costs, demands, expenses and liabilities (including legal fees on a full indemnity basis) arising out of any claim that the sale, use or possession of the Seller's goods infringes the intellectual property rights (including with limitation any patent, utility model, copyright, registered design, registered or unregistered trademark or trading style or right relating to any confidential information or secret process of manufacture) of any third party.

## **10. Buyer's Designs and Materials**

(1) The Seller covenants that goods and materials produced to the Buyer's design or formula or by the Buyer's own process shall not be sold or offered for sale or otherwise made available to any other person, firm or company without the express consent of the Buyer in writing.

(2) All tools, patterns, designs, formulae, specifications and other materials supplied by the Buyer for the execution of any order of the Buyer are to be used exclusively for the purpose of the Buyer's orders and shall remain the property of the Buyer.

(3) The intellectual property rights in all patterns, designs, formulae, specifications and other materials produced by the Seller in the fulfilment of any order placed by the Buyer and which are based on or derived from patterns, designs, formulae, specifications or other materials supplied by the Buyer shall automatically rest in the Buyer upon the creation and the Seller shall upon the request and at the expense of the Buyer execute all such further documents as may be necessary to rest such intellectual property rights in the Buyer.

### **11. Delivery**

The Hallmark Cards Continental Europe terms of delivery are applicable:

- (1) The goods shall be delivered on the day agreed and at the place specified in the order during the Buyer's normal business hours.
- (2) Time of delivery shall be of the essence of the contract. In case of exceeding the agreed terms for (partial) delivery or failure to comply with the agreed time slot, the Seller shall be in default and a penalty clause can be applied.
- (3) Delivery in instalments shall be permitted only with the written consent of the Buyer and such permission if given shall not entitle the Seller to claim payment prior to completion of the contract unless otherwise expressly agreed in writing.
- (4) If the goods are to be delivered in instalments and the Seller makes late deliveries or deliveries of goods which are not in accordance with the warranty contained in Condition 7 (1), to a material degree, in respect of one or more instalments the Buyer may, at its option, treat such defective delivery as a repudiation of the whole contract. Hallmark Cards Continental Europe relies on the right to claim compensation.
- (5) In the event that the Buyer is not able to accept delivery when due for any reason whatsoever, save the fault of the Buyer, the Seller shall cancel any allocation of specific goods to the contract and shall await the Buyer's further instructions.
- (6) A delivery note must accompany each delivery. Failure to do so will delay payment of invoices.
- (7) The Seller will notify the Buyer if and as soon as it becomes apparent that it will be unable to deliver the goods on the agreed date.

The full document of the Hallmark Cards Continental Europe terms of delivery can be supplied by request.

### **12. Packing**

All goods supplied pursuant to an order must be packed in such a manner as to reach the Buyer in good condition, carriage paid. Should any of the goods supplied be toxic, inflammable or otherwise hazardous this should be clearly marked by the Seller on all packages and containers containing such goods, in accordance with all relevant statutes, regulations and international codes and conventions. Packing cases, boxes, reels and drums will not, except under special arrangement, be paid for, but if marked as returnable they will be returned to the Seller subject to the Seller paying the cost of carriage.

### **13. Payment**

- (1) Payment shall be due 30 days after the end of the calendar month in which delivery is made (except where otherwise agreed in writing between the Buyer and the Seller or as stated in the order itself) and the Buyer shall be entitled to set off against the sum shown to be due all agreed claims for breach of contract between the parties due from the Seller and any other sums due from the Seller to the Buyer in respect of any other contract or transaction between the Buyer and Seller whether in conjunction with other persons or not.
- (2) The Buyer's purchase order number must be quoted on every invoice. Failure to do so may delay payment of invoices.
- (3) When an invoice subject to discount is not posted on the day of despatch or shipment, the discount period shall commence from the date of receipt by the Buyer of such invoice.
- (4) Payment will be made without prejudice to the Buyer's rights if the goods prove to be unsatisfactory or not in accordance with specification or approved sample.

### **14. Title and Risk**

- (1) Title to the goods shall pass at the time of delivery.
- (2) The risk in the goods shall remain with the Seller until delivered to the Buyer in accordance with Condition 11 above or, where appropriate, unloaded at the place specified on the face of the order. The Seller shall be responsible for insuring the goods until risk passes to the Buyer.

### **15. Indemnity**

The Seller shall indemnify the Buyer fully and effectively against any injury (including death) to any person which may arise out of any act, omission, default or negligence of the Seller, as employees, sub-contractors or agents and against any claims, costs, expenses, demands, fines, liability. Loss (including consequential loss) and damage

of whatever nature (including professional advisors' fees) incurred or suffered by the Buyer, its officers, agents and employees or any of them arising directly or indirectly:

- (1) as a result of any of the goods supplied pursuant to an order failing to comply with the specifications, warranties or guaranties contained or implied in the order of these Conditions;
- (2) out of any breach or dispute as to breach of these Conditions by the Seller;
- (3) out of any breach or dispute as a breach of any warranty, guarantee or condition implied by any legislation or statutory regulation applicable in respect of an order;
- (4) as a result of goods supplied, services provided or material published by the Seller or by or on behalf of the Buyer on the Seller's behalf in pursuance to an order.
- (5) from any breach of clause 17 with respect to the Seller's modern slavery obligations.

#### **16. Claims**

Upon service of any notice to the Buyer of any claim to which any of the indemnities contained in these Conditions may relate, the Buyer shall take such action as the Seller may reasonably request to avoid, dispute, resist, appeal, compromise or defend the claim in relation to any relevant third party but subject to the Buyer being indemnified and secured to its reasonable satisfaction by the Seller against all losses, costs, damages and expenses incurred. If the Seller does not request the Buyer to take any such action, or shall fall to indemnify and secure the Buyer to its reasonable satisfaction within seven days of the notice of claim, the Buyer shall be free to pay or settle the claim in relation to the third party on such terms as it may in its absolute discretion think fit.

#### **17. Modern Slavery**

- (1) For the purposes of this contract "Modern Slavery Practice" encompasses but is not limited to (a) slavery, servitude, forced, compulsory and bonded labour (b) child labour (that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development) (c) human trafficking including where victims are coerced, deceived and forced against their free will into providing work or services (d) practices which violate other similar laws and conventions including but not limited to the International Labour Organisation's Forced Labour Convention 1930 (No. 29) and Protocol.
- (2) The Seller shall ensure that it does not engage in any Modern Slavery Practice. The Seller shall further ensure that there are no Modern Slavery Practices anywhere in its supply chain whether that be by tier one contractors, agents, suppliers of goods or services or other parties further down the Seller's supply chain.
- (3) The Seller shall and shall procure that all Supply Chain Parties shall at all times comply with the Buyer's Ethical Performance & Code of Conduct and Supplier Code of Conduct.
- (4) The Seller shall immediately notify the Buyer in writing if it becomes aware of a breach or suspected breach of any of its obligations under this Clause 17 including but not limited to the occurrence of Modern Slavery Practices within the Seller or any Supply Chain Parties. Without prejudice to the Buyer's other rights under this contract the Seller agrees to take all reasonable steps requested by the Buyer to address any instances of Modern Slavery Practices in the Seller's operations or the operations of Supply Chain Parties.

**18. Law**

- (1) These Conditions shall be construed and enforced under and in accordance with Dutch Law.
- (2) The Seller, by acceptance of an order, submits to the exclusive jurisdiction of the Dutch Courts.

**19. Miscellaneous**

- (1) The headings to the clauses of these Conditions are for ease of reference only and shall in no way affect the interpretation or construction of these Conditions.
- (2) All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in the order or to such other address as the parties hereto may designate by notice given in accordance with the provisions hereof. Any such notice may be delivered personally or by first class prepaid letter or by e-mail and shall be deemed to have been served if by delivery when delivered, if by first class post 48 hours after posting and if by e-mail when dispatched.
- (3) No forbearance, delay or indulgence by the Buyer in enforcing the provisions of these Conditions shall prejudice or rectify the rights of the Buyer nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for the Buyer is exclusive of any other right, power or remedy available to the Buyer and each such right, power or remedy shall be cumulative.
- (4) The Seller shall not assign or transfer an order whether in whole or in part without the prior written consent of the Buyer.
- (5) The Seller shall not without the prior written consent of the Buyer sub-let an order whether in whole or in part. Any such consent shall not relieve the Seller from any of its obligations hereunder.
- (6) No variation or cancellation of any of these Conditions shall be effective unless such variation or cancellation is expressly confirmed in writing by the Buyer.
- (7) Unless the context otherwise requires words importing the singular number shall include the plural number and vice versa, words importing the masculine gender shall include the feminine gender and words importing persons shall include corporations.

A PERSON IN A RESPONSIBLE POSITION AT THE SUPPLIER'S COMPANY MUST SIGN THIS FORM BEFORE DETAILS ARE LOGGED ON HALLMARK SYSTEMS AND PAYMENTS MADE:

Signature (New supplier):

Print Name:

Position:

Date:

**Hallmark Cards Continental Europe**

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