

## Universal Terms and Conditions

**Introduction** All purchase orders placed by Kate Spade & Company, or any of its affiliated entities (each, a “Purchaser”), whether written or electronic or otherwise, for any articles, materials merchandise or other goods (“goods”) or services (each, an “Order”) to be delivered by any seller of such goods or services (“Seller”) shall be governed by and subject to the terms and conditions set forth below (“Terms and Conditions”), and such Terms and Conditions, along with the express terms of an Order, shall constitute the entire agreement between Purchaser and Seller with respect to such Order.

### Scope of Contract

**Terms and Conditions** If any shipment is made with respect to any goods subject an Order, or if any services subject to an Order are commenced, or any other method of acceptance of an Order is made, the parties expressly agree and confirm that such Order and the Terms and Conditions will be deemed accepted and shall govern the transaction with respect to such goods or services.

If any Term or Condition conflicts with any term or condition specified by Seller or affixed to or contained in any form used by Seller or Purchaser, then Purchaser and Seller each agree that Purchaser’s Order is made only upon the express understanding and condition that these Terms and Conditions shall govern and control the contract between Purchaser and Seller with respect to such Order, irrespective of whether Seller accepts these Terms and Conditions by a written acknowledgement, by implication or by delivery of the goods pursuant to the order.

### Price; Invoices

No.	Terms and Conditions
1	<p>The price(s) set forth in an Order (the “Quoted Price(s)”) include all taxes, duties paid or payable in the country of origin, boxing, packing, cartage and other charges, and shall in no event be increased except as provided in clause (2) below.</p> <p>If any Quoted Price is incorrect, Seller must immediately notify Purchaser in writing before processing any goods or commencing any services.</p>
2	<p>Purchaser shall be entitled at any time to require deviations or omissions from, or additions to, said services, provided that if such changes shall make the performance of such services more or less expensive than if performed in accordance with Purchaser’s original requirements, then Purchaser and Seller will use good faith efforts to agree on a fair and reasonable addition or deduction shall be made in the Quoted Price(s) in respect thereof.</p> <p>No claim shall be allowed for extra labor, material, or the like above the Quoted Price(s) unless same has been agreed to in writing by Purchaser. Acceptance of payment of the Quoted Price(s) shall constitute Seller’s waiver of all claims for additional services performed.</p>
3	<p>Seller’s invoice(s) shall:</p> <ul style="list-style-type: none"> <li>a. Be written in the English language;</li> <li>b. State the Purchaser order number and Purchaser style number;</li> <li>c. Separately state all discounts on the face of the invoice;</li> <li>d. If applicable, separately state all charges for boxing, packing, and cartage;</li> <li>e. State each carrier used and each bill of lading number, if known; and</li> <li>f. State the name by, which each item is known, quantities and prices.</li> </ul> <p>Regardless of value, a commercial invoice signed by Seller shall accompany each shipment of goods. Seller’s records relating to shipment, invoices, and payments may be audited by Purchaser and its agents upon reasonable notice and at reasonable times for a period of three years after delivery of goods or performance of services.</p>
4	<p>Seller must provide Purchaser’s warehouse with reasonable advance notice as to the shipment of goods pursuant to an Order.</p>

## Rejection

No.	Terms and Conditions
1	<p>Purchaser may reject any goods delivered to it by Seller and return such goods to Seller, or reject any services performed by Seller in the event (each a "Rejection Event") that:</p> <ul style="list-style-type: none"> <li>a. Any of such goods or services are of inferior or improper workmanship or quality,</li> <li>b. Any goods or services are defective, not according to sample specifications or standards or are delivered or performed late, or fail to comply strictly with any representation, warranty or covenant contained in any Order or these Terms and Conditions or</li> <li>c. Seller shall fail to strictly comply with all of the terms and conditions contained in any Order or with these Terms and Conditions. Upon the occurrence of a Rejection Event, all expenses incident to such rejection and/or return, including, without limitation, insurance and transportation (both ways), preparation and storage costs, to be borne solely by Seller.</li> </ul>
2	<p>In addition, in the event of any Rejection Event, Purchaser may, in addition to any other rights and remedies available to it:</p> <ul style="list-style-type: none"> <li>a. Cancel any Order placed with the Seller in whole or part, and/or</li> <li>b. Require Seller to replace or repair any goods or services and/or</li> <li>c. Require Seller to grant Purchaser a full refund.</li> </ul> <p>In the event Purchaser returns goods to Seller, the risk of loss with respect to returned goods shall be upon Seller.</p> <p>In the event of Purchaser's rejection of any performance by Seller under an Order, Purchaser will notify Seller in writing thereof.</p>

## Purchaser's Materials

No.	Terms and Conditions
1	<p>If an Order covers goods fabricated by Seller using Purchaser's materials, Purchaser may cancel such Order at any time as to goods not yet shipped by giving written cancellation notice to Seller, including by email, facsimile transmission or express overnight mail. Upon Seller's initial receipt of such notice, Purchaser shall have no further responsibility or liability to Seller with respect to such Order, except with respect to goods previously shipped and accepted, and</p>
2	<p>Seller shall promptly deliver to Purchaser all of Purchaser's goods and materials, including, without limitation, any Design Item (as defined in section 5), in Seller's possession.</p>

## Representations, Warranties, and Covenants

No.	Terms and Conditions
1	Seller represents, warrants and covenants, to Purchaser, in addition to all warranties provided or implied by law, that: all goods supplied and services performed by Seller or by any subcontractor of Seller shall strictly comply with all of the terms and conditions of each applicable Order, including, without limitation, these Terms and Conditions and as to quantity, color, time of delivery, style, SKU or other identifying number, markings, labeling and legending, and the terms and conditions contained herein and any other specifications or requirements listed herein or provided by Purchaser;
2	All goods to be delivered under an Order shall be new, first quality, merchantable and fit for the purposes intended and free from all defects in design, workmanship or materials and all services to be rendered shall be first quality and of the highest industry standards;
3	The manufacture, sale, packaging and shipment of goods, and all labels, markings and other materials affixed to such goods and the packaging thereof, and the performance of the services covered by an Order, and all invoices and other documentation in connection therewith, will at times conform and comply with all applicable federal, international, state and local statutes, laws, treaties, orders, rules and regulations issued or promulgated by any governing or regulatory body and all applicable trade agreements in effect from time to time, including, without limitation, the Fair Labor Standards Act of 1938, as amended, and the regulations and orders of the United States Department of Labor issued there under, the trade practice rules and regulations of the Federal Trade Commission, the Endangered Species Act, the Flammable Fabrics Act, and all applicable laws, regulations and rules of the country of destination in effect from time to time;
4	All goods covered by an Order will be manufactured in accordance with the provisions contained in Section 202 of the Federal Government's Executive Order No.11.246 of September 24, 1965, unless exempted;
5	Use of any design, model sample, label, pattern or similar item (each, a "Design Item") made available by Purchaser to Seller will be confined to goods ordered by Purchaser only, and Seller agrees that it will not copy, reproduce, adapt, or modify any Design Item, acting diligently to ensure that each Design Item is used solely for the benefit and account of Purchaser, and no Design Item, nor any adaptation or modification thereof will be used in any way, directly or indirectly, for the benefit or account of Seller, any affiliate or customer of Seller, or any other person (the Seller agreeing and acknowledging that all rights, title and interest in each such Design Item shall be the property of Purchaser);
6	Seller shall strictly adhere to Purchaser's policy with respect to seconds and damaged goods, as such policy is communicated to Seller and as the same may be amended, from time to time;
7	Seller is not now paying, offering, conferring, or agreeing to pay, offer or confer and will not at any time in the future pay, offer or confer or agree to pay, offer or confer any benefit, gift, sum of money or other thing of value, to or upon any employee or agent or other person acting for or on behalf of Purchaser;
8	Seller shall obtain all necessary or appropriate licenses and permits and shall not take any action which would cause either Seller or Purchaser to be in violation of any law, including, without limitation, the U.S. Foreign Corrupt Practices Act of 1977, as amended from time to time;
9	Seller shall not engage any subcontractor in connection with an Order unless approved in advance by the Purchaser and unless any such subcontractor provides any written certification required from time to time by Purchaser;
10	No goods to be sold or services to be performed by Seller shall infringe, violate or encroach in any way upon any third party's personal, corporate, contractual or proprietary rights, including, without limitation, patents, trademarks, trade names, copyrights, right of privacy or publicity or trade secrets, except that Seller shall not be responsible for any goods made in strict accordance with designs specifically furnished by Purchaser for such purpose;
11	All of Seller's employees, agents, subcontractors and others under Seller's control performing services at Purchaser's premises or on behalf of Purchaser at other premises shall comply with all rules and regulations of such premises, and all such persons shall keep all materials, and the premises at which services are to be performed, free and clear of all liens for materials and labor incident to the performance of such services hereunder;

12	Notwithstanding the means of shipment of goods indicated on an Order, Seller shall provide at its sole cost and expense, expedited routing, including, without limitations, international air express or air freight services, if necessary, to ensure timely delivery as specified herein (in the event expedited routing is so required, Seller shall reduce the F.O.B. cost of the goods so routed by the difference in cost between expedited and normal routing, and shall specify such reduction on any invoice covering such goods); and
13	<p>Seller is required to comply with Purchaser’s <b>Conflict Mineral Policy (Click Here For Policy)</b> and disclose on an annual basis, any Goods Seller delivered under this contract that contain Conflict Minerals (Tin, Tungsten, Tantalum or Gold) in a Conflict Mineral Notice (the “CM Notice”). The notice should be in the format of the EICC/ GeSI Conflict Mineral Reporting Template (for more information see <a href="http://www.conflictreesourcing.org/conflict-minerals-reporting-template/">http://www.conflictreesourcing.org/conflict-minerals-reporting-template/</a>). Seller shall provide the CM Notice no later than thirty (30) days following each calendar year in which Seller has delivered Goods to Purchaser.</p> <p>For those Conflict Minerals disclosed under this clause, Seller shall:</p> <ol style="list-style-type: none"> <li>(1) Conduct a reasonable country of origin inquiry and advise Purchaser whether Seller knows or has reason to believe any of such Conflict Minerals may (a) may have originated in the Democratic Republic of the Congo (“DRC”) and adjoining countries (as defined in SEC Release No. 34-67716), (b) are from recycled or scrap sources, (c) for Goods delivered in 2013 and 2014 ONLY, are DRC Conflict Free Undeterminable.</li> <li>(2) If the Conflict Minerals in Seller’s Goods are not DRC Conflict Free, or are DRC Conflict Free Undeterminable, Seller shall disclose to Purchaser in the CM Notice, the steps it has taken or will take to mitigate the risk that any Conflict Minerals included in its Goods benefit armed groups in the DRC and adjoining countries, including steps to improve Seller’s due diligence.</li> </ol> <p>Seller shall maintain complete and accurate records showing its reasonable country of origin inquiry of Conflict Minerals in its Goods. Such records shall be available for verification by Purchaser.</p>
14	<p>Seller shall, and shall ensure that each of its subcontractors, manufacturers and agents and each person or entity from which any goods or services are received, strictly comply in all respects with all restrictions, compliance standards, certifications and other matters as Purchaser may require from time to time by notice to Seller, including, without limitation, the Kate Spade &amp; Company Standards of Engagement, as the same may be amended from time to time; and the other restrictions, standards, certifications and materials included in the Supplier Manual delivered to Seller by Purchaser, as the same may be supplemented, modified or amended from time to time; the Kate Spade &amp; Company Standards of Engagement and the other materials contained in the Supplier Manual being incorporated herein by reference. Seller recognized that it is a subcontractor under Executive Order 11246, as amended, the Rehabilitation Act of 1973 and the Vietnam Era Veterans Readjustment Assistance Act of 1974. In accordance with United States federal law, Purchaser and Seller hereby incorporate by reference the equal employment opportunity clauses at 41 C.F.R. Sec. 60-1.4 (a) and 41 C.F.R. Sect. 60-741.5 (a) and the affirmative action clauses at 41 C.F.R. Sec. 60-250.4 such that the obligation imposed by such clauses are binding upon Seller.</p>

## Indemnification and Insurance

No.	Terms and Conditions
1	<p>Seller unconditionally covenants and agrees to assume full liability for and indemnify Purchaser and its affiliates, and their respective employees, officers, directors, agents and customers against, and hold each of them harmless from, any and all liabilities, expenses, (including, without limitation, reasonable attorney fees and expenses) fees, claims, penalties, profits, losses or damages (including, without limitation, consequential damages) of any nature whatsoever (collectively "Claims") relating to, resulting from, or arising out of any breach of any representation, warranty or covenant contained herein, of any injury or damage to any person (including, without limitations, employees of Seller) or property caused by or arising in connection with any sale or use by anyone of any goods sold by Seller or any services performed by Seller for any reason whatsoever, except if such injury or damage is solely a direct result of Purchaser's gross negligence or willful misconduct.</p>
2	<p>In the event any Claim based upon any of the matters referred to in subparagraph (1) above is brought against Purchaser, any of its subsidiaries or affiliated companies, any of their directors, officers, employees, or agents, Purchaser shall promptly notify Seller and Seller shall defend such Claim by reputable counsel retained at Seller's expense and shall obtain Purchaser's prior approval of any counsel employed to defend such Claim.</p> <p>In the event Purchaser does not approve counsel to be employed by Seller, or Seller fails to comply with the foregoing, Purchaser shall have the right to retain its own counsel at Seller's expense. Purchaser shall have the right to participate fully in all proceedings, including without limitation, settlement discussions; shall be provided copies of notices, orders and all other papers; and shall be given prior written notice by Seller of all meetings, hearings and other discussions involving such claim.</p> <p>Seller shall consult with Purchaser and keep Purchaser fully advised of the progress of any such Claim, shall make no admissions or otherwise act in a manner which might be prejudicial to Purchaser's rights in connection with any such claim, and shall have no right to Settle or discuss settlement of any such Claim, without the prior written approval of Purchaser.</p>
3	<p>Seller hereby represents and warrants that it has, and covenants that it shall maintain in full force and effect for so long as any Claim may be asserted, comprehensive general liability, including products and/or completed operations coverage and umbrella liability insurance policies, with reputable licensed insurers, having policy limits of a minimum of Five Million U.S. Dollars (U.S. \$5,000,000) and otherwise generally in form and scope equivalent to that maintained by other similarly situated sellers of goods and services equivalent to those provided by Seller hereunder.</p> <p>In addition, if any of Seller's employees, agents, subcontractors or others under Seller's control perform services under or in connection with an order at Purchaser's premises or at other premises on behalf of Purchaser. Seller shall cause the following insurance policy coverage (with minimum limits as specified), to be maintained in full force and effect:</p> <ul style="list-style-type: none"> <li>a. Worker's compensation (statutory minimal); and</li> <li>b. Automobile liability (Five Million U.S. Dollars) \$5,000,000, per person, accident or occurrence);</li> </ul> <p>All such insurance policies shall provide that they may not be cancelled or modified without at least thirty (30) days prior written notice thereof of Purchaser.</p> <p>Seller shall name Purchaser, its affiliates, subsidiaries and vendors as additional insured under each such policy, and upon Purchaser's request, shall promptly furnish Purchaser with appropriate evidence, including, without limitation, insurance certificates, satisfactory in form and substance to Purchaser, in respect of such insurance.</p>

## Additional Provisions Regarding; International Goods

No.	Terms and Conditions
1	<p>If an Order covers any goods fabricated or shipped from outside the United States, the following additional provisions shall also apply to such order:</p> <p>The order is expressly conditioned upon and subject to the timely procurement by Seller of such quota and other allocations, and otherwise timely compliance with all requirements, as may be necessary to import all of the goods into the United States or other country of destination.</p> <p>In any instance where an <u>export visa, export license or exempt certification</u> issued by the government of the country of origin is required for importation of the goods under bilateral trade agreements or United States regulations. Seller shall supply same.</p> <p>In the event that, subsequent to shipment, the importation of said goods is prohibited by virtue of Seller's failure to procure any such quota, allocations, visas or export licenses, Seller shall, upon demand, reimburse Purchaser and hold it harmless for all fees, expenses, charges and exactions of whatever nature in connection with the subsequent entry of the goods into the United States or other country of destination if such is permitted or, if entry is not effected, all expenses incurred in the original shipment of the goods, as well as the return of the goods to the manufacturer and/or exporter.</p> <p>In the event that any applicable government sanctions, decrees or other orders prohibit Seller from delivering goods to Purchaser, Seller shall, upon demand, be required to return to Purchaser or its agent, any piece goods or trim (or the value thereof) supplied to Seller or any of its agents or subcontractors in connection with the manufacturing of any goods for Purchaser and reimburse Purchaser and its agents for any cost and expenses, including, without limitation, any commissions, incurred or paid in connection with any Order placed by Purchaser.</p> <p>Seller shall not engage in the transshipping of any goods.</p>
2	<p>The Order is expressly conditioned upon and subject to the submission by Seller of properly executed country of origin textile declarations as required by United States Customs regulations and the laws, regulations and policies of the country of destination in effect from time to time.</p> <p>In all instances where such declarations are required by United States regulations, same will be supplied by Seller and forwarded to Purchaser, together with original commercial invoice and textile visa or export license (where applicable).</p> <p>In addition, Seller shall supply Purchaser with any additional information or documents as Purchaser may reasonably request. No goods will be accepted unless an acceptable, appropriate, signed inspection certificate from a purchasing agent precedes or accompanies delivery of the goods to Purchaser.</p> <p>Purchaser's examination, processing, altering or otherwise dealing in goods received from Seller, shall not be deemed an acceptance which would in any manner limit or modify any rights of Purchaser hereunder.</p>

## Bankruptcy

Terms and Conditions Purchaser shall have the right to cancel an Order in whole or in any part without any obligation whatsoever in the event Seller fails to pay its debts as and when due, files a voluntary petition in bankruptcy or similar action is filed against Seller and such petition or action remains unstayed for a period of thirty (30) days.

## Confidentiality

Terms and Conditions Except as otherwise required by law, Seller shall not disclose the existence or terms of an Order or any oral or written information relating to Purchaser, its business or products and shall not otherwise identify itself as a seller of goods to or performer of services for Purchaser.

## Governing Law, Jurisdiction, and Service

### Terms and Conditions

1. Each Order shall be governed by and interpreted under the laws of the State of New York applicable to contracts made in and to be wholly performed within such state without regard to the conflict of laws and by no other law, regulation or treaty, including, without limitation, the 1980 United Nations Convention on Contracts for the International Sale of Goods.

2. Seller hereby consents to the jurisdiction of the Supreme Court of the State of New York and of the United States District Court of the Southern District of New York for all purposes arising out of or relating to an Order.

3. The parties further consent that any process or notice of motion or other application to or with respect to either of said Courts may be served outside the State of Southern District of New York by registered mail or by personal service, or in such other manner as may be permissible under the rules of said Courts.

## Miscellaneous Terms and Conditions

No.	Terms and Conditions
1	All of Seller's representations, warranties and covenants shall be binding upon Seller, its successors and assigns, and shall inure to the benefit of Purchaser, its successors, assigns and customers, and to the benefit of the users or customers of Purchaser's goods.
2	All representations, warranties and covenants of Seller hereunder, including, without limitation, Seller's indemnification obligations, shall survive the delivery of any goods to, and any payment by, Purchaser.
3	<p>Any waiver by Purchaser of any term or default or other breach of an Order must be in writing and signed by Purchaser and shall not constitute a waiver of any other term or any other subsequent default or breach.</p> <p>All rights and remedies hereunder shall be cumulative, and neither the exercise of any right or remedy, nor the failure or delay in exercising and right or remedy, shall preclude or limit any other or further exercise of any right or remedy.</p> <p>Neither any failure to exercise nor any delay in exercising any right or power shall constitute a waiver by Purchaser of any rights or terms hereunder.</p>
4	<p>No Order, nor the performance of any of Seller's rights, duties or obligations under any Order, may be assigned, delegated, subcontracted or transferred by Seller, in whole or in part, without the prior express written consent of Purchaser, and any attempt to so assign it, without such prior express written consent shall be absolutely void and of no effect.</p> <p>Purchaser may, at any time, assign any Order or any of Purchaser's rights or obligations there under, to any person or entity without the consent of Seller.</p>
5	If any term or condition contained herein or with respect to an Order is or at any time becomes unenforceable or invalid, no other term or condition contained herein or in such Order shall be affected hereby, and the remaining terms and conditions of such Order shall continue with the same effect as if such unenforceable or invalid provision were not part of these terms and conditions or such Order.
6	No amendment or modification of an Order or any of the terms and conditions contained herein, shall be valid unless in writing and signed by Purchaser.