

## **Terms of Sale (businesses and consumers)**

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### **(1) Introduction**

Please read these terms of sale carefully.

You will be asked to expressly agree to these terms of sale before you place an order for products from our website.

### **(2) Interpretation**

In these terms of sale, "we" means Molly Coddle Childrenswear (and "us" and "our" will be construed accordingly); and "you" means our customer or potential customer for products (and "your" will be construed accordingly).

### **(3) Order process**

The advertising of products on our website constitutes an "invitation to treat"; and your order for products constitutes a contractual offer. No contract will come into force between you and us unless and until we accept your order in accordance with the procedure detailed below.

In order to enter into a contract to purchase products from us, you will need to take the following steps: "(i) you must add the products you wish to purchase to your shopping cart, and then proceed to the checkout; (ii) if you are a new customer, you may then create an account and log in; if you are an existing customer, you must enter your login details; (iii) once you are logged in, you must select your preferred method of delivery and confirm your order and your consent to these terms of sale; (iv) you will be transferred to the PayPal website, and PayPal will handle your payment; (v) we will then send you an initial acknowledgement; and (vi) once we have checked whether we are able to meet your order, we will either send you an order confirmation (at which point your order will become a binding contract) or we will confirm by email that we are unable to meet your order."]

We will not file a copy of these terms of sale specifically in relation to your order. We may update the version of these terms of sale on the website from time to time, and we do not guarantee that the version you have agreed to will remain accessible. We therefore recommend that you download, print and retain a copy of these terms of sale for your records.

The only language in which we provide these terms of sale is English.

Before you place your order, you will have the opportunity of identifying whether you have made any input errors.

### **(4) The products**

Babies and children's wear; babies and children's clothing accessories (bibs, hats, scarfs, footwear, hosiery); maternity wear; male and female fashions; male and female clothing accessories (bags, hats, scarfs, lingerie).

### **(5) Price and payment**

Prices for products are quoted on our website. The website contains a large number of products and it is always possible that some of the prices on the website may be incorrect. We will verify prices as part of our sale procedures so that a product's correct price will be stated [when you pay for the product].

In addition to the price of the products, you may have to pay a delivery charge, which will be as stated when you pay for the product.

Payment must be made upon the submission of your order. We may withhold the products and/or cancel the contract between us if the price is not received from you in full in cleared funds.

The prices on the website include all value added taxes where applicable).

Payment for all products must be made by any method detailed on the website.

Prices for products are liable to change at any time, but changes will not affect contracts which have come into force.

If you are a business customer, then from time to time we may agree to open an account for you, enabling you to pay in arrears. Where you hold an account, then upon or following the dispatch of products, we will send to you an invoice for payment of the price of those products, and you will pay such invoice within 30 days of the date of the invoice. Accounts will be subject to such credit limits as we may notify to you from time to time. If you do not pay any amount properly due to us under or in connection with these terms of sale on time, we may: charge you interest on the overdue amount at the rate of 8% per year above the base rate of HSBC Bank Plc from time to time (which interest will accrue daily until the date of actual payment, be compounded quarterly, and be payable on demand); or claim interest and statutory compensation from you pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.]

If you dispute any payment made to us you must contact us immediately and provide full details of your claim. If you submit an unjustified credit card, debit card or other charge-back then you will be liable to pay us, within 7 days following the date of the charge-back: (i) an amount equal to the amount of the charge-back; (ii) all third party expenses incurred by us in relation to the charge-back (include charges made by our or your bank or payment processor or card issuer); (iii) an administration fee of GBP £10.00 including VAT; and (iv) all our reasonable costs, losses and expenses incurred in recovering the amounts referred to in this paragraph (including without limitation legal fees and debt collection fees).]

Without prejudice to our other rights, if you submit an unjustified credit card, debit card or other charge-back, then we may terminate any contracts between you and us under these terms of sale by giving you written notice of termination.

For the avoidance of doubt, if you fail to recognise or fail to remember the source of an entry on your card statement or other financial statement, and make a charge-back as a result, this will constitute an unjustified charge-back.

## **(6) Your warranties**

You warrant to us that:

- (a) you are legally capable of entering into binding contracts, and you have full authority, power and capacity to agree to these terms of sale;
- (b) the information provided in your order is accurate and complete; and
- (c) you will be able to accept delivery of the products.

## **(7) Delivery policy**

We will arrange for the products to be delivered to the address for delivery indicated in your order.

We will use reasonable endeavours to deliver products on or before the date for delivery set out in our order confirmation or, if no date is set out in our order confirmation, within 5 days of the date of our order confirmation. However, we cannot guarantee delivery by the relevant date. We do however guarantee that unless there are exceptional circumstances all deliveries of products will be dispatched within 30 days of the later of receipt of payment and the date of our order confirmation.

## **(8) Risk and ownership**

The products will be at your risk from the time of delivery. Ownership of the products will only pass to you upon the later of:

- (a) delivery of the products; and
- (b) receipt by us of full payment of all sums due in respect of the products (including delivery charges).

Until ownership of the products has passed to you, you will possess the products as our fiduciary agent and bailee, and if you are a business customer you must store the products separately from other goods and ensure that the products are clearly identifiable as belonging to us.

We will be entitled to recover payment for the products even where ownership has not passed to you.

## **(9) Consumers: returns policy**

This Section applies to consumers, not business customers. If you are a business customer, the applicable returns policy is set out in Section [12].

Under the Distance Selling Regulations, you may cancel a distance contract to purchase a product or products from us at any time within 7 working days after the day you received the relevant products or products (subject to the limitations set out below).

In order to cancel a contract in this way, you must give to us written notice of cancellation.

You will not have any such right insofar as a contract relates to: (i) the supply of goods made to your specifications or clearly personalised; or (v) the supply of goods which by reason of their nature cannot be returned or are liable to deteriorate or expire rapidly.

If you cancel a contract on this basis, you must promptly return the products to us, in the same condition in which you received them.

If you cancel a contract on this basis, you will be refunded in full (including the cost of sending the products to you). However, you will be responsible for paying the cost of returning the product to us.

If you cancel a contract on this basis and you do not return the products to us, we may recover the products and charge you for the costs we incur in doing so. Similarly, if you return the products at our expense, we may pass that expense on to you.

## **(10) Consumers: statutory rights**

If you are a consumer, any statutory rights which you have, which cannot be excluded or limited, will not be affected by the terms of sale.

## **(11) Business customers: limitation of warranties**

This Section applies only to business customers, not consumers.

We warrant to business customers that the products purchased from our website will:

- (a) conform in all material respects to any applicable specification of such products published on our website / issued by us; and
- (b) be free from material defects in materials and workmanship.

These terms of sale set out the full extent of our obligations and liabilities in respect of the products supplied to business customers hereunder. To the maximum extent permitted by applicable law and subject to the first paragraph of Section 15, all conditions, warranties or other terms concerning the products which might otherwise be implied into a contract with a business customer under these terms of sale are expressly excluded.

## **(12) Business customers: returns policy**

This Section applies to business customers, not consumers. If you are a consumer, the applicable returns policy is set out in Section 9.

Products may only be returned to us with our prior agreement, at your expense, and according to our directions. Any products returned in contravention of this Section will not be the subject of any refunds or replacements and you will continue to be liable for payment of the price of such products.

Where you return products to us in accordance with the provisions of this Section, and in our reasonable opinion those products do not conform with the warranties set out in Section 11, then you will be entitled to replacement products (where replacements are available) or, where we agree, a refund of the price paid in respect of those products (including all delivery charges).

## **(13) Refunds**

If you cancel a contract and are entitled to a refund, we will usually refund any money received from you using the same method originally used by you to pay for your purchase. We will process the refund due to you as soon as possible and, in any event, within 30 days of the day we received your valid notice of cancellation.

## **(14) Force majeure**

In this Section and Section 15 below, "force majeure event" means:

- (a) any event which is beyond our reasonable control;
- (b) the unavailability of raw materials, components or products; and/or
- (c) power failure, industrial disputes affecting any third party, governmental regulations, fires, floods, disasters, civil riots, terrorist attacks or wars.

Where a force majeure event gives rise to a failure or delay in us performing our obligations under these terms of sale, those obligations will be suspended for the duration of the force majeure event.

If we become aware of a force majeure event which gives rise to, or which is likely to give rise to, any failure or delay in us performing our obligations under these terms of sale, we will notify you forthwith.

We will take reasonable steps to mitigate the effects of the any force majeure event.

### **(15) Limitations and exclusions of liability**

Nothing in the terms of sale will: (a) limit or exclude the liability of a party for death or personal injury resulting from negligence; (b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party; (c) limit any liability of a party in any way that is not permitted under applicable law; or (d) exclude any liability of a party that may not be excluded under applicable law. If you are a consumer, any statutory rights which you have, which cannot be excluded or limited, will not be affected by the terms of sale.

The limitations and exclusions of liability set out in this Section [and elsewhere in the terms of sale]: (a) are subject to the preceding paragraph; (b) govern all liabilities arising under the terms of sale or in relation to the subject matter of the terms of sale, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty.

We will not be liable to you in respect of any losses arising out of a force majeure event.

We will not be liable to you in respect of any business losses, such as loss of or damage to profits, income, revenue, use, production, anticipated savings, business, contracts, commercial opportunities or goodwill.

If you are a business customer, we will not be liable to you in respect of any loss or corruption of any data, database or software.

If you are a business customer, we will not be liable to you in respect of any special, indirect or consequential loss or damage.

If you are a business customer, our aggregate liability to you under the terms of sale will not exceed the greater of: (a) *amount*; and (b) the total amount paid and payable by you to us under the terms of sale.

### **(16) Business customers: indemnity**

If you are a business customer, you hereby indemnify us and undertake to keep us indemnified against all and any liabilities, losses, damages, expenses and costs (including legal expenses and amounts paid in settlement of any demand, action or claim) arising, directly or indirectly, out of a breach by you of any of your obligations under these terms of sale.

### **(17) Contract cancellation**

We may cancel a contract to supply products made under these terms of sale immediately by written notice to you if you fail to pay, on time and in full, any amount due to us under the contract, or commit any material breach of your obligations to us under the contract.

If you are a business customer, we may cancel a contract to supply products made under these terms of sale if:

- (a) you cease to trade;
- (b) you become insolvent or unable to pay your debts within the meaning of the insolvency legislation applicable to you;
- (c) a person (including the holder of a charge or other security interest) is appointed to manage or take control of the whole or part of your business or assets, or notice of an intention to appoint such a person is given or documents relating to such an appointment are filed with any court;
- (d) the ability of your creditors to take any action to enforce their debts is suspended, restricted or prevented, or some or all of your creditors accept, by agreement or pursuant to a court order, an amount of less than the sums owing to them in satisfaction of those sums; or
- (e) any process is instituted which could lead to you being dissolved and your assets being distributed to your creditors, shareholders or other contributors (other than for the purposes of solvent amalgamation or reconstruction).

#### **(18) Consequences of cancellation**

Upon the cancellation of a contract in accordance with Section 17:

- (a) we will cease to have any obligation to deliver products which are undelivered at the date of cancellation;
- (b) you will continue to have an obligation where applicable to pay for products which have been delivered at the date of cancellation (without prejudice to any right we may have to recover the products); and
- (c) all the other provisions of these terms of sale will cease to have effect, except that Sections 8, 11, 12, 15, 16, 18 and 20 will survive termination and have effect indefinitely.

#### **(19) Scope of these terms of sale**

These terms of sale do not constitute or contain any assignment or licence of any intellectual property rights, do not govern the licensing of works (including software and literary works) comprised or stored in products, and do not govern the provision of any services by us or any third party in relation to the products.

#### **(20) General terms**

We will treat all your personal information that we collect in connection with your order in accordance with the terms of our [privacy policy](#); use of our website will be subject to our website [terms of use](#)].

Contracts under these terms of sale may only be varied by an instrument in writing signed by both you and us. We may revise these terms of sale from time-to-time, but such revisions will not affect the terms of any contracts which we have entered into with you.

If any provision of these terms of sale is held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions will remain in full force and effect, and

such invalid or unenforceable provisions or portion thereof will be deemed omitted.

No waiver of any provision of these terms of sale, whether by conduct or otherwise, in any one or more instances, will be deemed to be, or be construed as, a further or continuing waiver of that provision or any other provision of these terms of sale.

You may not assign, charge, sub-contract or otherwise transfer any of your rights or obligations arising under these terms of sale. Any attempt by you to do so will be null and void. We may assign, charge, sub-contract or otherwise transfer any of our rights or obligations arising under these terms of sale, at any time – providing where you are a consumer that such action does not serve to reduce the guarantees benefiting you under these terms of sale.

Each contract under these terms of sale is made for the benefit of the parties to it and is not intended to benefit, or be enforceable by, any other person. The right of the parties to terminate, rescind, or agree any amendment, variation, waiver or settlement under such contracts is not subject to the consent of any person who is not a party to the relevant contract.

Subject to the first paragraph of Section 15: these terms of sale contain the entire agreement and understanding of the parties in relation to the purchase of products from our website, and supersede all previous agreements and understandings between the parties in relation to the purchase of products from our website; and each party acknowledges that no representations not expressly contained in these terms of sale have been made by or on behalf of the other party in relation to the purchase of products from our website.

These terms of sale will be governed by and construed in accordance with English law, and the courts of England and Wales will have non-exclusive jurisdiction to adjudicate any dispute arising under or in relation to these terms of sale.

## **(21) About us**

Our full name is Molly Coddle Childrenswear Ltd.

Our registered office is

41b Beach Road, Littlehampton, West Sussex, BN17 5JA  
and our principal trading address is  
PO Box 4820, Worthing, United Kingdom, BN11 9RL.

Our company registration number is 07475655.

Our email address is [info@mollycoddlechildrenswear.co.uk](mailto:info@mollycoddlechildrenswear.co.uk)

Our VAT number is 126 6710 20.