

PURCHASE AGREEMENT TERMS AND CONDITIONS

This purchase agreement states the terms and conditions upon which vendors of merchandise (each a "Vendor") offer to sell merchandise to Lord & Taylor, LLC, operating as Lord & Taylor. Lord & Taylor shall be deemed to accept a Vendor's offer when Lord & Taylor issues a specific identification or reference number with respect to the Vendor's offer.

SCOPE OF AGREEMENT

- A1. Any supplemental sheets attached hereto, and all other documents and/or records issued or acknowledged by Lord & Taylor in connection with the Vendor's offer, are part of this purchase agreement and, together, constitute the final, complete and exclusive expression of the agreement of the parties regarding the subject matter hereof. The foregoing is referred to collectively as the "Purchase Agreement".
- A2. The terms and conditions in this Purchase Agreement apply in lieu of those in any other document or record including, without limitation, any Vendor form or invoice. No signature on behalf of Lord & Taylor that appears on any Vendor form or invoice that responds to or fulfills this Purchase Agreement constitutes Lord & Taylor's agreement to any terms or conditions that differ from, or add to, those in this Purchase Agreement.

SHIPPING, INSPECTION AND REJECTION OF MERCHANDISE: LORD & TAYLOR'S OPTIONS REGARDING NONCONFORMING MERCHANDISE; CANCELLATION BY LORD & TAYLOR

- B1. Lord & Taylor reserves the right to reject all or any part of merchandise shipped that: (a) is shipped before or after the shipping date specified in this Purchase Agreement, time of shipment being a material and essential term hereof, and any nonconformity with the shipping date is expressly not subject to cure by an offset in price; (b) fails to conform to this Purchase Agreement in any manner including, without limitation, quantity or size; (c) fails to conform to any of the warranties set forth in this Purchase Agreement; (d) fails to be packaged, labeled, and marked properly; (e) is not shipped or delivered as required herein; (f) is defective in any manner; (g) fails to have properly completed Country of Origin declarations as required by applicable laws; or, (h) fails to have those quota allocations and, where required, a valid export visa setting forth the correct quota category and quantity in category units as may be necessary to secure importation of the merchandise to the United States.
- B2. Lord & Taylor shall not be deemed to have accepted any merchandise until Lord & Taylor has had an adequate time after receiving it to inspect it. Any unpacking or handling of merchandise incident to Lord & Taylor's inspection shall not indicate Lord & Taylor's acceptance. At Lord & Taylor's discretion, such inspection may

include preliminary, final and/or random inspections to ensure that the merchandise is in order and in accordance with Lord & Taylor's instructions and specifications.

- B3. If Lord & Taylor accepts merchandise and later determines that it should have rejected all or part of it, Lord & Taylor did so in reliance on the Vendor's warranties and representations; therefore, Lord & Taylor reserves the right to revoke its acceptance of such merchandise whenever it discovers any nonconformity, even if the time for inspection has passed. In no event shall any payment to Vendor by Lord & Taylor constitute acceptance of nonconforming merchandise.
- B4. At Lord & Taylor's request, Vendor shall remedy or cure immediately, to Lord & Taylor's satisfaction, any nonconformity in the merchandise and/or any failure of the merchandise to comply with the terms of this Purchase Agreement. If Vendor fails to remedy or cure any such default Lord & Taylor may terminate this Purchase Agreement with respect to such merchandise without any liability to Vendor including, without limitation, any payment to Vendor provided under Section B6 of this Purchase Agreement. Alternatively, Lord & Taylor reserves the right, with or without notice to Vendor, to remedy all or any part of any such defect or non-conformity by selling or liquidating the merchandise at prices determined by Lord & Taylor, and/or by making repairs of such merchandise, and by charging Vendor for Lord & Taylor's actual labor costs, material costs, overhead, and costs of liquidation including, without limitation, the cost of retail price markdowns.
- B5. Lord & Taylor has the right to cancel all or any part of the undelivered portion of the merchandise covered by this Purchase Agreement, or to refuse to accept delivery thereof, if Vendor (a) breaches any of the terms of this Purchase Agreement with respect to merchandise, whether it is delivered or not, or (b) does not make any delivery as specified in this Purchase Agreement or in Lord & Taylor's Routing Guide. In any case, any such cancellation by Lord & Taylor shall be without any liability to Vendor including, without limitation, any payment to Vendor provided under Section B6 of this Purchase Agreement. Lord & Taylor also reserves the right to cancel all or any part of this Purchase Agreement in case of strike, fire, or other casualty or circumstance beyond Lord & Taylor's reasonable control that, in Lord & Taylor's sole judgment, has materially affected its premises or business, without any charge or penalty including, without limitation, any payment to Vendor provided under Section B6 of this Purchase Agreement.
- B6. Lord & Taylor has the right to cancel this Purchase Agreement for any reason with respect to merchandise that has not been shipped, by giving Vendor reasonable notice of cancellation. Lord & Taylor shall have no obligation or liability to

Vendor on account of such cancellation except that, if Vendor has not breached any term or condition of this Purchase Agreement or any other agreement with Lord & Taylor, Lord & Taylor shall, at Lord & Taylor's option, either (i) purchase any merchandise that Vendor produced under this Purchase Agreement prior to such cancellation that was specially manufactured for Lord & Taylor and is not suitable for sale to any other buyer, or (ii) compensate Vendor for reasonable and unrecoverable costs actually incurred by Vendor to obtain or produce merchandise that Vendor had obtained or produced solely for this Purchase Agreement prior to such cancellation. In no event will Lord & Taylor's compensation to Vendor for reasonable and unrecoverable costs incurred exceed twenty-five percent (25%) of the total amount of this Purchase Agreement.

- B7. Vendor's performance under this Purchase Agreement may be suspended to the extent it is prevented or delayed by strike, fire or other casualty or circumstances beyond Vendor's reasonable control that materially affects Vendor's premises or business, so long as Vendor gives Lord & Taylor immediate written notice of any such circumstances or delays. Upon receipt of such notice Lord & Taylor shall have the right, in its sole discretion, to cancel all or part of the merchandise affected without any liability to Vendor including, without limitation, any payment to Vendor provided under Section B6 of this Purchase Agreement.
- B8. If Lord & Taylor cancels this Purchase Agreement, or returns any merchandise covered by this Purchase Agreement to Vendor for any reason, Vendor shall not resell merchandise that was labeled, packaged or otherwise associated with Lord & Taylor's name or other intellectual property right without first removing or obliterating any such label, package and other association.
- B9. Lord & Taylor may return rejected merchandise to Vendor or hold it pending direction from Vendor, both at Vendor's risk and expense. Vendor shall accept any merchandise returned by Lord & Taylor and shall reimburse Lord & Taylor for costs incurred in connection therewith including, without limitation, Lord & Taylor's costs to store and ship the rejected merchandise.
- B10. Lord & Taylor may cancel this Purchase Agreement without any liability to Vendor including, without limitation, any payment to Vendor provided under section B6 of this Purchase Agreement, if Vendor becomes insolvent, makes an assignment for the benefit of creditors, or is the subject of a petition in bankruptcy.
- B11. LORD & TAYLOR SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY/PUNITIVE DAMAGES RELATED (a) IN ANY WAY TO THIS PURCHASE AGREEMENT, (b) TO ANY CANCELLATION OR TERMINATION OF THIS PURCHASE AGREEMENT BY LORD & TAYLOR, OR (c) TO VENDOR'S PERFORMANCE HEREUNDER, WHETHER OR NOT LORD & TAYLOR KNEW OR SHOULD HAVE**

KNOWN OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES.

REGULATORY COMPLIANCE

C1. Vendor represents, warrants and guarantees that all merchandise sold to Lord & Taylor complies with all federal, state and local laws, statutes, rules, regulations, ordinances and codes relating to its manufacture, packaging, labeling, transportation, quality and sale. Without limiting the foregoing Vendor represents, warrants and guarantees that:

(a) All merchandise is manufactured in compliance with the Fair Labor Standards Act and all applicable regulations hereunder;

(b) The employment practices of Vendor and all third-party contractors or suppliers utilized by Vendor conform with all applicable labor, safety and health laws, codes, rules and regulations, including laws relating to the employment of children.

(c) All merchandise is:

- (i) packaged, marked, labeled, placarded, tagged and/or invoiced,
- (ii) accompanied by warranty information and/or shipping papers,
- (iii) shipped and otherwise delivered, and
- (iv) manufactured

in compliance with and meets the standards and requirements of all applicable federal, state, and local laws, rules and regulations and requirements including, without limitation, the Consumer Product Safety Act, Fair Packaging and Labeling Act, Magnuson Moss Warranty-Federal Trade Commission Improvement Act, Federal Hazardous Substances Act, Hazardous Materials Transportation Act, Toxic Substances and Control Act, Federal Insecticides, Fungicides and Rodenticides Act, and the Occupational Safety and Health Act of 1970;

(d) All fees or assessments in connection with the manufacture of all merchandise have been paid;

(e) All packaging and product labels accurately and fairly describe the merchandise and, if applicable, the constituent components in the merchandise;
and

(f) In the case of merchandise that is imported to the United States,

- (i) the price(s) of the merchandise do(es) not violate United States Anti-Dumping laws. If a preliminary determination is made by the administering authority pursuant to 19 U.S.C. § 1673(b) that an

industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of the merchandise or merchandise similar to the merchandise, Lord & Taylor may cancel this Purchase Agreement at any time without penalty or costs including, without limitation, any payment provided in Section B6 of this Purchase Agreement. Vendor shall reimburse Lord & Taylor for any dumping duties Lord & Taylor is required to pay on, or with respect to, merchandise sold by Vendor. Lord & Taylor shall have the right to cancel this Purchase Agreement prior to taking delivery of merchandise, without any liability whatsoever to Vendor, if merchandise covered by this Purchase Agreement becomes subject to any embargo, quota restrictions prohibiting export or import, or there is any boycott of the merchandise within the United States; and

- (ii) in accordance with 18 U.S.C. § 1761, 19 U.S.C. § 1307 and 19 C.F.R. 12.42, the merchandise is not manufactured, mined or produced by prison, convict, forced or indentured labor.

- C2. Vendor represents, warrants and guarantees that all merchandise sold to Lord & Taylor is accompanied by a copy of the required Material Safety Data Sheet, if any, and by a written description of any special safety requirements relating to the merchandise including, without limitation, any product application recommended by the manufacturer and/or required by law. Vendor further represents, warrants and guarantees that Vendor will notify Lord & Taylor of (a) any future special safety requirements relating to any of the merchandise sold to Lord & Taylor and (b) any changes relating to any Material Safety Data Sheet provided to Lord & Taylor or of any special safety requirements recommended by the manufacturer and/or required by law.

WARRANTIES

D. Vendor represents, warrants and guarantees that:

1. All statements made by Vendor regarding, and all descriptive literature about, the merchandise provided to Lord & Taylor are warranties.
2. The prices charged for merchandise do not exceed the prices charged to other purchasers for similar quantities of like items under similar delivery requirements, and all such prices include any applicable taxes.
3. All merchandise sold or provided to Lord & Taylor:
 - i. Is (a) fit and safe for the purposes for which the merchandise may

forseeably be used and for the ordinary purposes for which the merchandise is manufactured, (b) merchantable, (c) free from defects in workmanship and materials, (c) of good quality and adequately packaged and labeled and, (e) meets any specification, sample or description used by Vendor or Lord & Taylor for merchandise covered by this Purchase Agreement;

- ii. Conforms to the terms of any applicable express or implied warranty under the laws of the state or states in which Lord & Taylor sells the merchandise;
- iii. Does not and will not infringe any United States or foreign patent, trademark, trade-name, copyright, or other similar statutory or common law right; and
- iv. Transfers and conveys good title; that such transfer is lawful, and that merchandise is delivered free from any security interest or other lien or encumbrance.

INDEMNIFICATION

E1. Vendor shall defend, indemnify and hold Lord & Taylor, its affiliates, parent, subsidiaries, licensees, agents and contractors and all of their respective employees, directors, officers and customers (collectively, the "Indemnified Parties") harmless from and against any and all claims, actions, suits, investigations, governmental actions, liabilities, judgments, demands, losses, damages, costs and expenses (including, without limitation, fees and costs of in-house and retained legal counsel) that:

(a) Are asserted against or incurred by any Indemnified Party by reason of any actual or alleged breach of any one or more of the representations, warranties, guarantees or agreements set forth in this Purchase Agreement; or

(b) May have been caused, or are alleged to have been caused, directly or indirectly, by any act of omission or commission of Vendor, negligent or otherwise, or by Vendor's failure to comply with any term or condition of this Purchase Agreement including, without limitation, the representations relating to regulatory compliance set forth above in Section C1, or by reason of the use of Vendor's merchandise by any customer of Lord & Taylor or any other person, or by reason of any governmental action relating to the Vendor or to the Vendor's merchandise or services.

E2. The indemnification obligation set forth in this Section E shall survive until the applicable statutes of limitation fully and finally bar all claims, actions or causes of action respecting the above.

PRICE

- F1. Vendor shall deliver all merchandise covered by this Purchase Agreement at the prices, with the discounts, and on the terms appearing in this Purchase Agreement, or at any lower prices, better terms or discounts prevailing or quoted by Vendor at any time before Lord & Taylor's receipt of Vendor's invoice. Vendor will not assess to Lord & Taylor any increase in price or any extra charges.
- F2. Any loss of, or damage to, merchandise, increased transportation charges, freight charges, cancellations, duplications, and any other costs and expenses related to the merchandise shall be the sole responsibility of the Vendor. Vendor shall pay Lord & Taylor's handling and/or service charges(s), if any, for non-adherence to Lord & Taylor's billing, shipping and handling policies as they may be established or modified at any time and from time to time in Lord & Taylor's Routing Guide or similar documents.
- F3. Vendor hereby authorizes and directs Lord & Taylor to set-off any funds the Vendor owes to Lord & Taylor against any funds Lord & Taylor owes to Vendor under this Purchase Agreement or otherwise. Any objection by Vendor to any set-off made or taken by Lord & Taylor shall be made to Lord & Taylor in writing not later than three (3) months after the set-off has been made or taken by Lord & Taylor. Failure to make such written objection within the three (3) month period shall forever bar and foreclose any objections, challenges, suit or any other attempt to nullify or reverse such set-off made by Lord & Taylor.

CONFIDENTIALITY: INSURANCE

- G1. Information relating to Lord & Taylor's business activities including, without limitation, Lord & Taylor's methods of doing business and the cost of merchandise purchased hereunder (the "Proprietary Information") is proprietary to Lord & Taylor and Vendor shall hold all such Proprietary Information for the exclusive benefit of Lord & Taylor. Vendor shall not permit any disclosure of any Proprietary Information to any third party and shall inform its affiliates, subsidiaries, directors, officers, employees who may have access to Proprietary Information of the terms of this subparagraph and shall be strictly liable for their compliance herewith. Vendor agrees that any breach of this section will cause irreparable harm to Lord & Taylor for which money damages alone would not be an adequate remedy and therefore Lord & Taylor shall be entitled to obtain specific performance, injunctive relief or any other remedy available at law or in equity for any breach. Information supplied by Vendor shall not be treated as confidential, and Vendor shall have no rights against Lord & Taylor with respect thereto, except such rights as may exist under applicable patent, trademark and copyright law.
- H1. Vendor shall obtain, not later than ten days prior to the first shipment of merchandise hereunder, and shall maintain for at least two years thereafter,

Commercial General liability insurance written on an occurrence basis that includes, without limitation, product, completed operations, and contractual liability coverage. Each policy shall be endorsed to name the Indemnified Parties as additional insured's and shall cover all claims for bodily injury, personal injury and property damage arising out of merchandise purchased pursuant to this Purchase Agreement. The policy or policies shall provide, at a minimum, combined single limits of not less than \$5,000,000 per occurrence and \$5,000,000 aggregate. All insurance required hereunder shall be provided on a "primary" basis and shall not be subject to any "excess" or "pro rata" type of other insurance clause regardless of any other insurance Lord & Taylor may elect to purchase and maintain. A reputable United States insurer shall underwrite all insurance required hereunder. Vendor shall provide Lord & Taylor with certificates evidencing such insurance, and shall give Lord & Taylor thirty (30) days notice prior to any cancellation of all or any portion of such insurance.

MISCELLANEOUS

- I.1 The relationship of Vendor to Lord & Taylor is that of an independent contractor engaged in the operation of Vendor's business. Nothing in this Purchase Agreement shall be deemed to create an agency, partnership, or joint venture between the parties. Neither party will hold itself out as an agent of the other party nor have any authority to bind the other party for any purpose. Each party will remain responsible for the supervision, management and control of its employees.

- J.1 Vendor shall not delegate, assign or sub-contract any obligation it has under this Purchase Agreement. Any attempted delegation, assignment or sub-contract without Lord & Taylor's written permission shall be void for all purposes. Lord & Taylor may assign its rights and obligations under this Purchase Agreement at any time to any person, firm or corporation.

- K.1 All terms and conditions of this Purchase Agreement are governed by the law of the State of New York, which, as Lord & Taylor's principal place of business, bears a direct and reasonable relationship to this transaction, governs all terms and conditions of this Purchase Agreement. The courts of New York, as Lord & Taylor's principal place of business, shall have exclusive jurisdiction over litigation arising out of this Purchase Agreement and all other matters relating to the Vendor's sale of merchandise to Lord & Taylor.

- L.1 Except as provided in Section E, no action for breach of this Purchase Agreement can be commenced more than one (1) year after the accrual of the cause of action. Lord & Taylor shall be entitled to recover its costs (including the fees and costs of in-house and retained legal counsel) incurred in enforcing the terms of this Purchase Agreement.

- M.1 In the event that Lord & Taylor, expressly or impliedly, waives any right or fails

to strictly enforce any term(s) of this Purchase Agreement, such waiver shall not operate as or be deemed to be a waiver of any other or subsequent right, breach or term of this Purchase Agreement. The remainder of this contract will not be voided by the invalidity of one or more of the terms hereof. All rights or remedies Lord & Taylor has under this Purchase Agreement are cumulative, non-exclusive, in addition to, and are not in lieu of any other rights and remedies that Lord & Taylor has hereunder, at law or in equity.

- N.1 Any notice or consent required or permitted under this Purchase Agreement shall be given in writing and shall be deemed effective, despite any such notice or consent being refused, unclaimed or otherwise undeliverable: (i) upon receipt when transmitted by facsimile machine and acknowledged by a return facsimile, (ii) upon receipt when personally delivered or (iii) three (3) days after its deposit in the mail with the U.S. Postal Service, postage prepaid.

- O.1 Vendor shall maintain copies of this Purchase Agreement, together with payment and other records related hereto, for at least two (2) years following Lord & Taylor's acceptance of merchandise provided hereunder. All such records shall be made available to Lord & Taylor for inspection and audit upon Lord & Taylor's request. Such books and records will be made available during regular business hours of Vendor not less than one (1) business day following receipt of any such request.

- P.1 Lord & Taylor shall have the right to take discounts on the basis of the date the merchandise or the invoice was received, whichever is later. End of Month terms mean payment is due the specified number of days after the end of the month the merchandise or invoice was received.

- Q.1 If Lord & Taylor advises or suggests that Vendor use a certain supplier for source materials and/or assists, Vendor shall make its own inquiry and decision regarding such supplier and, accordingly, Vendor hereby releases Lord & Taylor from any liability for defects in such source materials and assists.

