



## STANDARD TERMS AND CONDITIONS OF SALE 2021

### DESCRIPTION OF THE PARTIES

#### AirWair

COMPANY NAME	AirWair International Limited
COMPANY NUMBER	03009359
ADDRESS	Cobbs Lane, Wollaston, Northamptonshire NN29 7SW

#### Buyer

COMPANY NAME	
COMPANY NUMBER	
ADDRESS	

SCHEDULES	Schedule 1 – Marketplaces Schedule 2 – Trade Marks Schedule 3 – Trade Dress Guide Schedule 4 – Quality Issue Report Form
-----------	---



## 1. DEFINITIONS & INTERPRETATION

### 1.1 Definitions

- (a) **AirWair** means Airwair International Limited, Cobbs Lane, Wollaston, Northamptonshire NN29 7SW;
- (b) **Approved Materials** means any promotional/advertising aids, fixtures and/or advertising materials produced for, by or on behalf of the Buyer that have, in each case, been approved in writing by AirWair (in its absolute discretion and subject to AirWair's right to withdraw such approval at any time) in advance of their use;
- (c) **Associate** means, in relation to a corporation, such corporation's Holding Company, any Subsidiary of such Holding Company, a Subsidiary of such corporation and any person who has Control of such corporation or, in relation to an individual or partnership, the husband, wife or relative of that individual, or the husband or wife of that relative, each of the partners and each partner's husband, wife or relative or any Connected Person of the individual or any of the partners;
- (d) **Brand Guidelines** means the manual produced by AirWair from time to time containing mandatory requirements for the correct usage of the Branding;
- (e) **Branding** means the Dr. Martens brand (including name and logos) owned by or licensed to AirWair and/or its Associates including all Intellectual Property therein;
- (f) **Buyer** means the purchaser of the Goods as set out on the front page of these Conditions;
- (g) **Commercial Terms Agreement** has the meaning given to it in clause 2.3;
- (h) **Conditions** means these terms and conditions together with any additional terms provided by AirWair to the Buyer at any time during the life of the Contract;
- (i) **Confirmation** means AirWair's written confirmation of an Order (and Confirmed shall be interpreted accordingly);
- (j) **Connected Person** has the meaning given to it by sections 1122 and 1123 of the Corporation Tax Act 2010;
- (k) **Contract** means the contract between the Buyer and AirWair for the sale and purchase of the Goods, to which these Conditions apply;
- (l) **Control** has the meaning given to it by sections 1122 and 1123 of the Corporation Tax Act 2010;
- (m) **Default Event** has the meaning given to it in Condition 10;
- (n) **Delivery** means completion of unloading of the Goods at the Delivery Address (subject to clause 10);
- (o) **Delivery Address** means the location for delivery specified in the Order, as furnished by the Buyer to AirWair;
- (p) **Description** means the description of the Goods in AirWair's catalogue(s) in use at the date of the Order;
- (q) **E-Commerce Standards** means the standards (as amended from time to time) which must be complied with by the Buyer in relation to marketing and sale of goods online or in any digital medium and which are supplied to the Buyer by AirWair;
- (r) **Forward Orders** means Orders placed with AirWair at least one (1) month in advance of Delivery. Forward Order invoices are subject to the applicable Price List(s) in use at the date of Confirmation of the Forward Order;
- (s) **Goods** means Dr. Martens products (including packaging), or any instalment or part of them, as set out in the Buyer's Order or as sold by AirWair to the Buyer and including, without limitation, those goods for which payment in full has not been received by AirWair;
- (t) **Holding Company and Subsidiary** have the meanings given to them by Section 1159 Companies Act 2006;
- (u) **Immediate Orders** means Orders placed with AirWair for Goods to be Delivered as soon as possible. The price of Goods payable by the Buyer for Immediate Orders are that of the Price List(s) in use at the time of Delivery;
- (v) **Information** has the meaning given to it in clause 19.7;



- (w) **Intellectual Property** means all industrial and intellectual property rights (whether registered or unregistered) owned by or licensed to AirWair and/or its Associates from time to time including but without limitation any patents, design rights or registered designs, trade dress, trade marks (including the Trade Marks) whether registered or unregistered (and any applications throughout the world or the right to apply therefor for any of the foregoing), copyright (including moral rights), the distinctive features of 'Dr. Martens' footwear (including the distinctive features identified in the Trade Dress Guide), Know-how, trading names, domain names and any internet identification (including user names and handles), confidential information, any business name, trading name or style or brand name and any merchandising rights or equivalent rights and any domain name;
- (x) **Order** means an Immediate Order or Forward Order for Goods placed by the Buyer with AirWair in accordance with these Conditions and for which AirWair has issued a Confirmation in accordance with clause 4;
- (y) **Payment** means cleared funds received into AirWair's bank account;
- (z) **Price List** means AirWair's price list for the Goods as varied from time to time;
- (aa) **Promotional Materials** means any promotional/advertising aids and/or equipment, fixtures and/or advertising materials provided by AirWair to the Buyer from time to time which remain the property of AirWair;
- (bb) **Retail Standards** means the published standards (as amended from time to time) issued to the Buyer by AirWair which must be complied with by the Buyer in relation to the marketing and sale of the Goods in stores;
- (cc) **Specifications** means any samples, drawings, advertising, specifications, instructions in relation to the Goods or other materials provided or contained in any Dr. Martens brochure, promotional or other literature provided to the Buyer;
- (dd) **Terms & Conditions for Use of Dr. Martens Marketing Materials** means the published terms and conditions (as amended from time to time) issued to the Buyer by AirWair which must be complied with by the Buyer in relation to use of the Promotional Materials and the Approved Materials;
- (ee) **Trade Dress Guide** means the guide in Schedule 3, as updated by AirWair from time to time;
- (ff) **Trade Marks** the registered and unregistered trade marks set out in Schedule 2;

## 1.2 Interpretation

- (a) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (b) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (c) a reference to a **clause** is a reference to a clause of these Conditions; and
- (d) a reference to **writing** or **written** includes fax and email.

## 2. APPLICATION OF CONDITIONS

- 2.1 These Conditions shall apply to the Contract and form part of all Orders and other contracts for the sale or supply of the Goods by AirWair to the Buyer.

- 2.2 Unless specifically agreed in writing by the parties, these Conditions together with all documents and schedules referred to in these Conditions contains the entire agreement of the parties with respect to the subject matter hereof and shall apply to the exclusion of all other terms and conditions contained or referred to in any Order, enquiry, letter, form of contract, specification, computer program, software, portal, interface, electronic communication or other document or communication put forward by the Buyer (unless otherwise expressly agreed in writing signed on behalf of AirWair by a director) or which may otherwise be implied by custom and practice or course of dealing.
- 2.3 The parties may enter into a written agreement setting out, in respect of Orders submitted in a specified timeframe, the agreed discount rate, payment term and/or such other commercial variables as the parties may decide (a "Commercial Terms Agreement"). Where a Commercial Terms Agreement has been executed by the parties, it shall form part of these Conditions for the duration of its term.
- 2.4 The Buyer confirms that in entering into the Contract it has not relied upon any representation, warranty, statement, undertaking or matter not set out in these Conditions and acknowledges that, except in relation to fraudulent misrepresentation, AirWair shall not have any liability for pre-contract statements, representations, warranties, undertakings or similar.
- 2.5 To the extent that any other conditions may claim to cancel these Conditions they shall be ineffective and shall not be deemed to constitute a counter offer for the purpose of interpreting the terms of any resulting contract.

### **3. PASSING OF PROPERTY AND RISK**

- 3.1 From the time of Delivery, the Goods shall be at the Buyer's risk who shall be solely responsible for their custody and maintenance but title will not pass until Payment in full in respect of the Goods is received by AirWair.
- 3.2 Whilst AirWair's ownership continues, the Buyer, as fiduciary bailee and agent for AirWair, shall:
- (a) store the Goods (at no cost to AirWair) separately and identifiable from all other goods in its possession, and shall not destroy, deface or obscure any identifying mark or packaging (including serial numbers and notices that a patent, trade mark, design or copyright relating to the Goods is owned by AirWair or a third party) on or relating to the Goods; and
  - (b) ensure that the Goods are properly maintained in the condition in which they were delivered and shall make good any damage or deterioration to them as directed by AirWair; and
  - (c) keep the Goods (and any Promotional Materials) comprehensively insured against all risks in an amount at least equal to their full price from the date of Delivery. The Buyer shall, whenever requested by AirWair, produce a copy of the policy of such insurance together with evidence of payment of the relevant premiums in respect of the same.
- 3.3 The Buyer may sell the Goods in the ordinary course of its business before title in the Goods has passed to it, provided that any sale is a sale of AirWair's property on the Buyer's own behalf and is made by the Buyer acting as principal. Where the Buyer sells the Goods in accordance with this clause 3.3, the Buyer shall be deemed to have sold such Goods in the order in which they were invoiced to the Buyer.
- 3.4 The Buyer's right to possession of the Goods and any Promotional Materials and its authority to sell the Goods shall terminate immediately if:
- (a) there is a Default Event; or
  - (b) AirWair invokes its rights to remove Goods from any premises or land occupied, controlled or owned by the Buyer pursuant to clause 3.7.



- 3.5 The Buyer shall not pledge, charge or encumber by way of security for any indebtedness any of the Goods which are the property of AirWair. Without prejudice to the other rights of AirWair, if the Buyer does so, all sums owing by the Buyer to AirWair shall forthwith become immediately due and payable.
- 3.6 In the event of failure by the Buyer to pay the price in accordance with the Contract, AirWair shall have the power to resell the Goods, such power being in addition to (and not in substitution for) any other power of sale arising from operation of law or implication or otherwise, and may require the Buyer to deliver up the Goods at any time for this purpose.
- 3.7 The Buyer grants AirWair and its servants, agents and representatives an irrevocable licence at any time on reasonable notice to enter upon any premises or land occupied, controlled or owned by the Buyer (or where AirWair reasonably believes the Goods are situated) to remove and/or inspect the Goods and any Promotional Materials). The Buyer shall provide any assistance reasonably required by AirWair in making use of the licence under this provision, including, without limitation, assisting in locating and removing the Goods (and any Promotional Materials).
- 3.8 On termination of the Contract, howsoever caused, AirWair's (but not the Buyer's) rights contained in this clause 3 shall remain in effect.

#### **4. ORDERS**

- 4.1 All orders for the Goods shall be deemed to be an offer by the Buyer to purchase the Goods in accordance with these Conditions. No request for products, information about product, or quotations received by the Buyer will constitute an offer.
- 4.2 Acceptance of orders shall be at the entire discretion of AirWair and no order is binding until AirWair has issued a Confirmation, at which point it becomes an Order.
- 4.3 The Buyer is responsible for the accuracy and completeness of the terms of the Order. If there are any obvious errors in any sales literature, quotations, price lists, Confirmations, invoices, delivery notes or other documents or information issued by AirWair, then these can be corrected without any liability for AirWair.
- 4.4 AirWair shall be entitled:
- (a) to accept all or part only of any order submitted to it by the Buyer; and/or
  - (b) (notwithstanding the acceptance of any Order or part thereof) to reduce the quantity of Goods delivered to the Buyer to reflect the demand of the retail fascia AirWair believed the Goods were originally intended for at the time the Order was placed. If AirWair reduces the quantity supplied to the Buyer in accordance with this clause 4.4(b), the Buyer shall keep AirWair regularly informed of its sales of the Goods.
- 4.5 AirWair reserves the right to impose a minimum order requirement (by unit quantity or by value) or standard carton quantities in respect of the Goods which, if imposed, will be communicated to the Buyer from time to time. In the case of Goods which are so specified by AirWair as having a minimum order requirement or a standard carton quantity, AirWair reserves the rights to:
- (a) impose on the Buyer a surcharge, which will be communicated to the Buyer from time to time for any Orders which are below such minimum order requirements or do not comply with the standard carton quantities; and/or
  - (b) reject any orders which are below such minimum order requirements or do not comply with the standard order quantities.

#### **5. PRICES**

- 5.1 Published prices are subject to change upon notice.



- 5.2 Except in the case of Forward Orders, prices payable by the Buyer for the Goods will be as set out in the Price List of AirWair at the date of Delivery.
- 5.3 Any Goods that are part of an Order can be delivered by AirWair in installments, and each Order will be a separate and binding contract.
- 5.4 In the case of an Order for Delivery by instalments the price payable on each instalment shall be the agreed list prices of AirWair at the date of Order of such instalment, in respect of Forward Orders, and date of Delivery in respect of Immediate Orders.
- 5.5 Unless otherwise stated in writing, all prices are exclusive of value added tax, insurance charges and other applicable taxes, duties or levies, all of which will be charged by AirWair and will be payable by the Buyer at the prevailing rate, in addition to the price of the Goods.

## **6. DESCRIPTION**

- 6.1 The Specifications are approximate only and, in keeping with its policy of continual development, AirWair reserves the right to alter such Specifications and to supply Goods to the Buyer reflecting such altered Specifications without prior notice to the Buyer provided that such alterations do not materially affect the characteristics of the Goods or, if materially affecting the characteristics of the Goods, are by way of upgrade or required by law.

## **7. VALUED ADDED SERVICES**

- 7.1 Buyers requiring special handling for the Goods shall promptly notify AirWair of such requirements and, if AirWair agrees to comply with such request (at AirWair's absolute discretion), the special handling service shall be provided subject to additional terms and conditions which shall be issued by AirWair to the Buyer and the Buyer shall be charged a fee determined by AirWair depending on the Buyer's individual requirements. Such fee shall be added to the price of the Goods after any applicable discounts have been calculated.

## **8. TERMS OF PAYMENT**

- 8.1 Terms of payment shall be communicated to the Buyer by AirWair on successful completion of a credit assessment. Such terms shall be subject to regular review and may be amended at any time at the discretion of AirWair by notice in writing to the Buyer. In the absence of formal written confirmation of the terms of payment by AirWair, the Buyer shall pay invoices in full and in cleared funds within 30 days of the date of invoice. AirWair may invoice the Buyer for the Goods on or at any time after the completion of Delivery.
- 8.2 AirWair may, without prejudice to any other rights or remedies it may have, charge interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 on any amounts outstanding from the Buyer from the due date of payment until the actual day of Payment.
- 8.3 The time of Payment is of the essence of the Contract.
- 8.4 All amounts due from the Buyer to AirWair shall be paid by the Buyer in full without any setoff, counterclaim, deduction or withholding. The Buyer shall not be entitled to exercise any lien or any other similar right or claim.
- 8.5 It is the Buyer's responsibility to ensure all invoices received are accurate and any discrepancy in an invoice must be brought to AirWair's attention by the Buyer within 5 days of the date of such invoice.
- 8.6 If the Goods are delivered by instalments AirWair shall be entitled to invoice each instalment as and when delivery thereof has been made and payment shall be due in respect of each instalment for which delivery has been made notwithstanding non-delivery or other default on AirWair's part.



- 8.7 If the parties agree that the price shall be payable by instalments, or where the Goods are to be delivered in instalments, in the event of a default by the Buyer in the payment of any due instalment, or the failure by the Buyer to give delivery instructions in respect of any instalment of the Goods, the balance of the price shall become immediately due and payable to AirWair.
- 8.8 AirWair shall be entitled to allocate Payments received from the Buyer against any invoice issued to the Buyer that is due for payment.
- 8.9 AirWair may at any time, without notice to the Buyer set off any liability of the Buyer to AirWair against any liability of AirWair to the Buyer or an Associate of the Buyer, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement. Any exercise by AirWair of its rights under this clause shall not limit or affect any other rights of remedies available to it under this agreement or otherwise.
- 8.10 All Payments to AirWair shall be made by bank transfer (at the Buyer's cost).

## **9. DELIVERY & CARRIAGE**

- 9.1 For the purposes of these Conditions, Goods shall be deemed delivered to the Buyer in the following circumstances:
- (a) on completion of the unloading of the Goods at the Buyer's premises;
  - (b) on completion of the unloading of the Goods at the Buyer's nominated premises (including the premises of a nominated third party);
  - (c) where the Goods are collected by the Buyer (or Buyer's nominee) from AirWair, on completion of the loading of the Goods.
- 9.2 All times or dates given for Delivery of the Goods are estimations only given in good faith but without any responsibility on the part of AirWair. Time of Delivery shall not be of the essence of the Contract.
- 9.3 AirWair shall be entitled to delay or cancel Delivery or to reduce the amount delivered if it is prevented from, or hindered in or delayed in manufacturing, obtaining or delivering the Goods by normal route or means of Delivery through any circumstances beyond its reasonable control, including, without limitation, strikes, lock-outs, accidents, war, fire, floods, the actions of any third party, reduction in or unavailability of power at manufacturing plant, breakdown of plant or machinery or shortage or unavailability of raw materials from supply sources.
- 9.4 Where Goods are handed to a carrier for carriage to the Buyer, any such carrier shall be an agent of AirWair and not of the Buyer for the purposes of sections 44, 45, and 46 of the Sale of Goods Act 1979.
- 9.5 AirWair shall have the right to make Delivery by instalments of such quantities and at such intervals as it may decide and any express provision as to instalments in the Contract shall be in addition to and not in derogation of this right. Where AirWair exercises its right under this clause 9.5, each instalment shall constitute a separate contract and any failure or defect in Delivery of any one or more instalments shall not entitle the Buyer to repudiate the Contract as a whole nor to cancel any subsequent instalment.
- 9.6 If for any reason the Buyer is unable to accept Delivery of the Goods at the time when the Goods are due and ready for delivery, AirWair may at its sole discretion, by whatever means it thinks most appropriate, without prejudice to its other rights and for such period as AirWair may determine, store the Goods at the Buyer's risk and cost, and take all reasonable steps to safeguard and insure them at the Buyer's cost. For the avoidance of doubt, AirWair may store Goods under this clause 9.6 at its own storage facilities and charge the Buyer a fee in respect of such storage, carriage, and/or redelivery.
- 9.7 AirWair shall be permitted (without prejudice to its other rights) to treat such failure or refusal as a breach of the contract by the Buyer if the Buyer:



- (a) fails to provide AirWair with appropriate facilities at the Buyer's premises to enable AirWair to make Delivery of the Goods; or
- (b) fails to provide AirWair with a slot in its delivery schedule to enable AirWair to make Delivery of the Goods; or
- (c) refuses to accept Delivery of the Goods.

9.8 All Goods, unless otherwise agreed by AirWair in writing, will be delivered to the Buyer's nominated premises (subject to those premises having been approved in advance by AirWair in writing) and the price of the Goods is inclusive of carriage.

9.9 All Goods despatched by airfreight, or any other special service, at the request of the Buyer shall be subject to a surcharge. In addition, AirWair reserves the right to pass on to the Buyer any supplementary charges incurred in arranging special delivery through its normal carriers at the Buyer's request.

9.10 It is Buyer's responsibility to inspect the Goods on Delivery and any errors must be communicated to AirWair in writing within 48 hours of Delivery.

## **10. DEFAULT BY OR INSOLVENCY OF THE BUYER**

10.1 "Default Event" means:

- (a) any default or breach of any of the Buyer's obligations under the Contract including, without limitation, any failure to make any Payments due to AirWair;
- (b) any default or breach of any of the Buyer's obligations under any other contract between the Buyer and AirWair, its Associates or trading divisions, including, without limitation, any failure to make any payments due to AirWair, its Associates or trading divisions;
- (c) a bankruptcy order being made against the Buyer;
- (d) an arrangement or composition being made with the Buyer's creditors;
- (e) the Buyer otherwise taking the benefit of any statutory provision for the time being in force for the relief of insolvent debtors;
- (f) being a body corporate, the Buyer convening a meeting of creditors (whether formal or informal) or entering into liquidation (whether voluntary or compulsory) except a solvent liquidation, or the Buyer having a receiver and/or manager, administrator or administrative receiver appointed over its undertaking or part thereof, or documents being filed with the court for the appointment of an administrator of the Buyer, or a notice of intention to appoint an administrator being given by the Buyer, its directors or a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution being passed or a petition being presented to any court for the winding-up of the Buyer or an application being issued by the court for the granting of an administration order in respect of the Buyer, or the Buyer ceasing to trade or being unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or any proceedings being commenced relating to the insolvency or possible insolvency of the Buyer, or, being an individual is deemed unable to pay its debts and has no reasonable prospect of doing so within the meaning of section 258 of the Insolvency Act 1986, or being a partnership, has any partner to which the foregoing apply;
- (g) the Buyer suffering any proceedings analogous to those in (c) to (f) above or any insolvency process under foreign law;
- (h) the Buyer suffering or allowing any distress or execution, whether legal or equitable, to be levied on its property or obtained against it;
- (i) a material change in the Control or ownership of the Buyer;





- (j) AirWair having the opinion that a reason for doubt has arisen as to the future or present solvency of the Buyer;
- (k) the Buyer suspends or ceases, or threatens to suspend or cease, carrying on all or any part of its business.

For the purposes of this clause 10.1 each reference to the Buyer shall be deemed to include the Buyer's Associates.

10.2 If a Default Event occurs then (without prejudice to any other rights or remedies AirWair might have):

- (a) the Buyer's right to resell Goods in which property has not passed to it shall immediately terminate;
- (b) any outstanding unpaid invoices rendered by AirWair whether under the Contract or any other contract with the Buyer shall become immediately Payable by the Buyer;
- (c) invoices in respect of Goods ordered and delivered prior to the Default Event but for which an invoice has not been submitted shall be Payable immediately upon submission of the invoice to the Buyer;
- (d) AirWair shall be entitled to refuse to make Delivery of any further consignment of any Goods agreed to be supplied, including cancelling any outstanding Delivery or stopping any Goods in transit;
- (e) AirWair shall be entitled to terminate the Contract and/or any other contract between the Buyer and AirWair and/or to cancel or suspend (for as long as AirWair deems reasonable) performance of any current or Forward Order or other contract to which these Conditions apply (either in whole or part) by notice in writing to the Buyer;
- (f) AirWair shall be entitled to sell or otherwise dispose of to a third party any Goods which are the subject of any Order by the Buyer and which have not yet been delivered and AirWair shall be entitled to retain any and all proceeds from the same.

10.3 In the event that the Contract, or any other contract between the Buyer and AirWair is terminated by AirWair under this Condition, the Buyer shall:

- (a) indemnify AirWair against all costs, losses or expenses arising out of such termination. Such costs, losses or expenses shall be deemed to include (without limitation) loss of profits, the cost of work in progress, penalties, legal and other reasonable professional costs and expenses, logistical costs, labour costs and the cost of any materials or components purchased by AirWair for use in manufacturing the Goods for the Buyer which were not so used; and
- (b) if requested by AirWair, at the Buyer's cost, promptly return to AirWair (to a UK address notified by AirWair to the Buyer) all Promotional Materials.

10.4 Termination of any Contract to which these Conditions apply shall be without prejudice to any rights accrued in favour of either party prior to the date of such termination.

## 11. CANCELLATION

11.1 AirWair reserves the right to cancel (in whole or in part) any Order and/or terminate any Contract to which these Conditions apply, at any time without giving any reason therefor.

11.2 Without prejudice to this, AirWair reserves the right to cancel any Order and/or terminate any Contract to which these Conditions apply, at any time in the event that:

- (a) the actions of any third party prevent AirWair from delivering the Goods to the Buyer; or
- (b) the Buyer no longer has access to the Goods pursuant to AirWair's distribution trading policy.

## 12. GOOD STOCK RETURNS

12.1 All requests for the return of non-defective Goods shall be made to AirWair in writing within 5 days of Delivery of the Goods. The Buyer shall not be permitted to request a return after such 5-day period, except at AirWair's sole and absolute discretion.



- 12.2 When applying to return the non-defective Goods, the Buyer must submit the reason for the return, details of the number of articles, style numbers, delivery note numbers and the number of cartons.
- 12.3 AirWair shall provide a "Goods Return Authorisation Document" to the Buyer and the Buyer shall ensure such document is placed inside the carton(s) containing the Goods to be returned. AirWair shall also provide "Authorised Return Labels" to the Buyer and the Buyer shall ensure that such labels are affixed to the outer carton(s) containing the non-defective Goods to be returned. Where the return is agreed by AirWair, AirWair may arrange for an uplift of the relevant non-defective Goods, at the Buyer's expense. Any and all non-defective Goods which are returned but do not display Authorised Returns Labels shall be refused by AirWair. All returns authorised by AirWair must be made available for collection or return in a re-saleable condition ensuring that any identifying mark or original packaging (including serial numbers or barcodes) on or relating to the Goods have not been destroyed, removed, defaced or obscured and ensuring that the Goods are returned to AirWair without any identifying mark (including serial numbers or barcodes) of the Buyer.
- 12.4 AirWair shall not have any liability for the returned Goods until AirWair's designated carrier has delivered the duly authorised returned Goods to AirWair. AirWair shall not have liability for loss or damage to Goods returned by a carrier which has not been designated by AirWair.
- 12.5 Without prejudice to this clause 12, should there be a return of non-defective Goods not in accordance with this clause 12, AirWair:
- (a) shall store the returned Goods at the Buyer's risk and shall notify the Buyer that the Goods have been returned without authorisation and that the Buyer should make arrangements to collect them. If the Buyer fails to collect the returned Goods within 30 days of being notified by AirWair, then title to the returned Goods shall be deemed to have passed back to AirWair on expiry of that 30 day period for collection and AirWair shall have the right to dispose of such Goods (by sale or gift or such other means as at AirWair's discretion); and
  - (b) AirWair reserves the right to apply a handling charge in respect of the returned Goods.
- 12.6 AirWair cannot be held responsible for lost returns in any circumstances.

### **13. SHORTAGES, DEFECTS, AND LIABILITY**

- 13.1 AirWair expects the Buyer to examine all Goods immediately after Delivery, including checking the description of the Goods on the delivery note and product labels and checking the quantity of received Goods is correct. In the event of any discrepancy whatsoever, the Buyer must notify AirWair within 5 days of Delivery and before the Goods are processed in any way. No responsibility will be accepted for any deviations against the Order in the absence of such notification. If there has been an error in the product SKU or sizes supplied or if the number of Goods actually delivered is less than stated in the Order, AirWair will (at its option):
- (a) supply the missing Goods free of charge;
  - (b) direct that the Buyer retains the Goods and AirWair will reduce the invoice accordingly; or
  - (c) reduce the invoice accordingly (and the Buyer return the corresponding Goods that were not ordered by the Buyer).

If the number of Goods delivered is greater than stated in the Order, the Buyer shall notify AirWair who may, at its option:

- (a) invoice the Buyer for the additional Goods delivered; or
- (b) require that the Buyer returns the additional Goods at AirWair's cost.



- 13.2 In the event of a valid claim for shortages or non-delivery of the Goods notified in accordance with this clause 13, the sole liability of AirWair shall be, at its option, to either credit the Buyer with the price paid by the Buyer to AirWair for the item of Goods concerned or replace it.
- 13.3 If the Buyer fails to notify AirWair in accordance with this clause 13, the items delivered shall be deemed to be in all respects in accordance with the Contract and all claims for shortages or non-delivery (save as set out below) shall thereafter be wholly barred.
- 13.4 The Buyer must notify AirWair in writing of any patent (not hidden) nonconformities or defects in the Goods within 5 days of Delivery. The Buyer must notify AirWair in writing of any latent (hidden) nonconformities or defects in the Goods within 5 days of discovery, provided, however, that any notice of such latent nonconformities or defects must be given no later than six (6) months from Delivery of the Goods.
- 13.5 The Buyer must complete and submit a 'Quality Issue Report Form' as set out in Schedule 4 to these Conditions for new or used Goods that are suspected defective including clear photographs (a "**Report**"). On receipt of a completed Report, AirWair may direct the Buyer to return the relevant Goods, in which case the Buyer will return the Goods within 5 days of AirWair's request. AirWair will inspect the Goods and/or the Report, and if AirWair agrees such Goods are defective, will, at AirWair's option, issue a credit for the Goods or provide a replacement for the Goods, provided the procedural requirements of this clause 13 have been met by the Buyer. Credits will be applied to the Buyer's account at the lowest price paid by the Buyer less any discounts that may have been awarded with purchase. Buyers will not be allowed to deduct the value of a return from an invoice payment without receiving a credit memo from AirWair. After six (6) months from the date of Delivery, returns will not be accepted.
- 13.6 Any Goods agreed to be faulty, defective, or sub-standard by AirWair may be authorised by AirWair and either, at the discretion of AirWair:
- (a) arranged for collection by AirWair at AirWair's cost;
  - (b) returned to AirWair by the Buyer at AirWair's cost; or
  - (c) destroyed using the most sustainable method by the Buyer (to be approved by AirWair) at AirWair's cost.
- 13.7 Where the Goods are delivered by instalments, defect(s) in any instalment shall not be a ground for cancellation of the remainder of the instalments and the Buyer shall be bound to accept Delivery thereof and to pay for the Goods in accordance with the Contract.
- 13.8 Save as expressly provided in this clause 13 AirWair shall not be liable for:
- (a) any delays in Delivery;
  - (b) any slight variations in colour, texture, shade of the Goods;
  - (c) any loss of profit or goodwill suffered or incurred by the Buyer or any third parties;
  - (d) any indirect, special or consequential loss of any kind whatsoever;
  - (e) the cost of substitute goods;
  - (f) any claims or actions of any kind whatsoever for damages, losses to persons and property which may be sustained in connection with the Promotional Materials and/or any Approved Materials.
- 13.9 All Conditions or warranties or other terms express or implied by statute or otherwise as to the quality of the Goods or their fitness for purpose or as to the correspondence of the Goods with any Description or sample are hereby excluded.
- 13.10 The aggregate liability of AirWair, whether in contract or for negligence or otherwise howsoever to the Buyer for any loss or damage of whatsoever nature and howsoever caused, shall be limited to and in no circumstances shall exceed the price of the Goods.
- 13.11 AirWair shall not be liable for any defect in the Goods arising out of:



- (a) AirWair's compliance with any instructions, alterations or additions (including, without limitation, embellishments of logos) requested or made by the Buyer or the Buyer's nominated third party service supplier and/or any specifications supplied and/or approved by the Buyer;
  - (b) fair wear and tear, wilful damage, abnormal working conditions, failure to follow AirWair's instructions regarding the Goods and their storage and/or display, misuse, alteration and/or repair of the Goods without AirWair's prior approval;
  - (c) the Buyer's continued use or sale of defective Goods after the defect has become apparent or suspected or should reasonably have been apparent or suspected by the Buyer; or
  - (d) the acts, omissions or negligence of the Buyer.
- 13.12 Save for Dr. Martens products that are specifically part of its Industrial range of products, all recommendations, instructions and advice given by or on behalf of AirWair to the Buyer as to methods of storing, using or altering the Goods, the purposes for which the Goods may be used and/or the suitability of using of the Goods in any process or in connection with any other materials or products are given for guidance only and AirWair shall have no liability to the Buyer in respect of such guidance.
- 13.13 In the event that any logo and/or any other mark of any kind is applied by or on behalf of the Buyer (with or without AirWair's consent) to any Goods, notwithstanding any of the other provisions of these Conditions, irrespective of the condition of the Goods, AirWair shall be under no obligation to accept the return of such Goods following such application.
- 13.14 Nothing shall have the effect of excluding or restricting the liability of AirWair:
- (a) for death or personal injury resulting from its negligence; or
  - (b) for any fraudulent misrepresentation made by AirWair;

#### **14. ADDITIONAL OBLIGATIONS OF THE BUYER**

- 14.1 The Buyer shall comply with AirWair's Brand Guidelines, E-Commerce Standards, Retail Standards, and Terms & Conditions for Use of Dr. Martens Marketing Materials.
- 14.2 The Buyer shall use the Promotional Materials or Approved Materials exclusively to market, promote, advertise, display or sell the Goods.
- 14.3 In addition to its obligations in respect of all Promotional Materials and/or Approved Materials, the Buyer shall:
- (a) follow any instructions given to it by AirWair;
  - (b) only use the Promotional Materials to retail such of AirWair's Goods as determined by AirWair in its sole discretion;
  - (c) not to alter or amend the Promotional Materials;
  - (d) insure the Promotional Materials, to their full replacement value from time to time, with a reputable insurance company against risk of loss or damage for all usual risks (including, without limitation, fire, water damage, vandalism and theft);
  - (e) notify AirWair immediately if any part of any of the Promotional Materials have sustained damage and/or could be classed as posing a potential health and safety hazard;
  - (f) clean the Promotional Materials and ensure that the Promotional Materials and the areas surrounding the Promotional Materials are kept at all times in clean, neat and tidy conditions;
  - (g) be responsible for the cost of maintaining the Promotional Materials;
  - (h) not remove, alter or cover any mark or logo of AirWair;
  - (i) not display the logo of any third party; and
  - (j) not add to or remove any material part or parts of the Promotional Materials or Approved Materials.



- 14.4 In the event that the Buyer recovers any sums in respect of the Promotional Materials pursuant to the insurance policy referred to in clause 14.3(d) above, the Buyer shall pass on the proceeds of the same to AirWair within 7 days of receipt of funds from the relevant insurance company.
- 14.5 AirWair retains the right, at any time, to withdraw its approval of the Buyer's use of the Promotional Materials and/or the Approved Materials.
- 14.6 The Promotional Materials shall at all times remain the property of AirWair and the Approved Materials shall (other than in respect of any intellectual property rights owned or licensed by AirWair) at all times remain the property of the Buyer.
- 14.7 The Buyer shall upon termination of the Contract (howsoever caused) at the discretion of AirWair either destroy the Promotional Materials or return them to AirWair at the Buyer's own cost.
- 14.8 Where the Buyer sells the Goods via a catalogue or on its internet site, clause 14.1 shall apply as if it related to the presentation and Description of any of the foregoing Goods in the Buyer's catalogue or on its internet site.
- 14.9 The Buyer may not repackage or relabel the Goods.
- 14.10 In connection with any arrangements the Buyer may have with AirWair and/or the sale of the Goods, the Buyer will not do anything which would be infringing of any relevant anti-bribery and anticorruption laws, including, without limitation, anything which may amount to an offence under the Bribery Act 2010.

## 15. RETAIL PRICES

- 15.1 AirWair may publish suggested or recommended retail prices for its products. The Buyer is, however, entirely free to resell the Goods at whatever price it considers appropriate.

## 16. THIRD PARTY MARKETPLACES

- 16.1 The Buyer and any companies under its direction or control must not promote, list or sell any of the Goods on any third party branded online marketplaces ("Marketplaces"). This includes but is not limited to those Marketplaces set out in Schedule 1 to these Conditions.
- 16.2 The Buyer must require any of its own customers who act as resellers to adhere to the restriction set out in clause 16.1.
- 16.3 The Buyer and its customers remain free to sell the Goods through its or their own website, or through any website hosted by a third party which does not carry any third party brand.

## 17. INTELLECTUAL PROPERTY

- 17.1 The Buyer acknowledges that all Intellectual Property in the Goods, any Promotional Materials and any Approved Materials (to the extent that such materials contain or reference any Intellectual Property owned or licensed by AirWair) belong and shall continue to belong to AirWair and the Buyer agrees that it shall notify AirWair of any infringement of AirWair's Intellectual Property immediately upon it coming to the Buyer's notice.
- 17.2 Airwair hereby grants to the Buyer the limited, revocable right to use the Trade Marks and to use the other Intellectual Property in any materials provided by Airwair to the Buyer for the purpose of the sale and advertisement of the Goods, provided that:
- (a) the Buyer will always comply with the requirements communicated to the Buyer by Airwair regarding the size, design, proportions, colouration and appearance of the Trade Marks as used by the Buyer;
  - (b) the Buyer may use any materials provided by AirWair only in accordance with the undertakings given by the Buyer under clause 17.4; and



- (a) the Buyer will accompany each reference to and use of any of the Trade Marks with the following acknowledgement which may be updated by AirWair from time to time: "Dr. Martens is a registered and licensed trade mark".
- 17.3 From time to time, AirWair may require the Buyer to produce evidence of advertisement, sale or delivery of the Goods or particular Goods in a country where the Buyer has advertised, sold or delivered the Goods. If requested by AirWair for the purpose of proof of use of the Trade Marks, and subject to AirWair paying the Buyer's reasonable cost of out of pocket expenses, the Buyer will assist AirWair with such a request by production of the proof of advertisement, sale or delivery and shall comply within a reasonable period taking into account the urgency of the request from AirWair.
- 17.4 The Buyer undertakes with AirWair that it will not:
- (a) remove from the Goods or their packaging any of the Trade Marks without AirWair's consent or alter, remove or tamper with any of the Trade Marks, numbers or other means of identification used on or in relation to the Goods;
  - (b) use any of the Intellectual Property in any way which may prejudice its distinctiveness, aura, repute or validity or the reputation or the goodwill of AirWair in it;
  - (c) sell any product that uses, adapts or copies any of the Intellectual Property;
  - (d) use in relation to the Goods any trade marks other than the Trade Marks without obtaining the consent of AirWair;
  - (e) use in relation to the Goods any trade marks or trade names so resembling any Trade Mark or trade names of AirWair as to be likely to cause confusion or deception;
  - (f) use or authorise any third party including, without limitation, the Buyer's customers or website operators to use any of the Trade Marks or any trade names of AirWair or any of AirWair's Associates as part of any trading or company name or style or as part of any domain name;
  - (g) use any of the Intellectual Property in any manner which risks causing consumer confusion as to whether products not of AirWair's manufacture or design are manufactured or designed by AirWair or with Airwair's consent;
  - (h) use the Intellectual Property except in the normal course of the sale and advertisement of the Products; and or
  - (i) apply to register any trade mark or apply to register, use or maintain any URL, social media account, "hash tag" or other identifier which incorporates any of the Intellectual Property or any phonetically similar words (whether for use in conjunction with the Goods or otherwise);
- 17.5 The Buyer will have no rights in respect of the Intellectual Property in relation to the Goods or of the goodwill associated with them and the Buyer hereby acknowledges that, except as expressly provided in these Conditions, it will not acquire any rights in respect of the Intellectual Property and goodwill and that all such rights and goodwill are, and will remain, vested in AirWair.
- 17.6 The Buyer will, at AirWair's cost, take reasonably required steps to assist AirWair or any of its Associates in maintaining the validity of the Intellectual Property and the Trade Marks and will not do anything which detracts from the Intellectual Property and affects the enforcement rights of AirWair or any member of its Associates.
- 17.7 The Buyer will promptly notify AirWair fully of any actual, threatened or suspected infringement of any of the Intellectual Property of which the Buyer becomes aware, (including any suspected copying of the Goods or parts thereof or attempt by a third party to register an infringing domain name) which comes to the Buyer's notice.
- 17.8 Nothing in these Conditions will prevent AirWair or any member of its Associates from freely assigning, licensing or sub-licensing or otherwise disposing of the Intellectual Property.



- 17.9 If any of the Goods is held by a court of last resort or court of lower jurisdiction from which no appeal has been taken to constitute an infringement of any intellectual property, AirWair or any of its Associates will at its own cost and without prejudice to anything in this clause 17 either (at its discretion):
- (a) procure for the Buyer or any subsequent purchaser the right to continue using the relevant Goods; or
  - (b) replace it with a comparable non-infringing product; or
  - (c) modify it so that it becomes non-infringing; or
  - (d) accept the return of the relevant Goods and refund the purchase price plus actual freight charges and duty (if any) paid thereon by the Buyer; or
  - (e) in the case of Orders where the Goods have not been delivered, declare the Order cancelled without any liability on the part of either party thereby arising.

17.10 AirWair has invested significant time and monies in developing the Trade Marks and marketing and selling under the Trade Marks, with the result that they now attract a substantial reputation and goodwill, which is associated with high quality standards. In order to maintain such reputation, goodwill and standards, it is essential that both the Buyer and, if applicable, its own business customers that act as resellers of the Goods (“Resellers”) support AirWair’s brand protection activities. In recognition of clause 17.10, where the Buyer sells the Goods to any Resellers, in its terms and conditions with such Resellers, the Buyer will include terms which are substantially similar to those contained in this clause 17. The Buyer will enforce its terms with such Resellers so far as reasonably practicable.

## **18. REPRESENTATIONS**

18.1 Unless by agreement in writing explicitly referencing these Conditions, no statement, description, information, warranty, condition or recommendation contained in any catalogue, price list, advertisement, or communication or made verbally by AirWair shall be construed to enlarge, vary or override in any way these Conditions.

## **19. GENERAL**

19.1 The paragraph headings of these Conditions are not intended to affect their interpretation.

19.2 Each of the provisions and separable parts of these Conditions shall be construed as independent and standing on its own. Should any part of these Conditions be or become partially or totally invalid or for any reason unenforceable such part shall be deemed deleted and none of the other provisions or parts thereof shall be invalidated or affected in any way and shall remain in full force and effect. Without prejudice to the foregoing, the parties shall attempt to substitute any such invalid or unenforceable provision or sub-provision with a valid or enforceable provision, which achieves to the greatest extent possible, the commercial expectations of the parties as at the commencement date of the Contract.

19.3 A failure by AirWair to enforce any right conferred upon it by these Conditions shall not be deemed to be a waiver of such right or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.

19.4 AirWair may assign or transfer the whole or part of any Contract to which these Conditions apply to any person, firm or company. The Buyer may not assign or transfer or purport to assign or transfer any contract to which these Conditions apply or the benefit thereof to any person whatsoever.

19.5 These Conditions shall not confer any benefit upon any person who is not a party to the Contract, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise, provided that any of AirWair’s Associates shall be able to enforce the terms of these Conditions.



- 19.6 If one party needs to give a formal notice to the other it shall do so in writing, sent by pre-paid first class post to the recipient's registered office address. A notice given in this way shall be deemed to have been received 48 hours after despatch. In proving service it shall be sufficient to prove despatch.
- 19.7 Unless otherwise notified by AirWair in writing, the Buyer shall keep confidential at all times any and all information, data and other items ("Information") received from AirWair. This obligation shall not however apply to Information which is in or, without break of this obligation, comes into the public domain or which is already in the Buyer's possession without obligation of confidence.
- 19.8 References in these Conditions to statutory provisions shall be construed as references to those provisions as amended, consolidated or re-enacted or as their application is modified by other provisions from time to time, and shall also include references to past provisions (as from time to time amended, consolidated, re-enacted or modified) of which they are re-enactments.
- 19.9 These Conditions, the Contract and any other contract between AirWair and the Buyer shall be deemed in all respects as being performed and construed according to the laws of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

SIGNATURES	
Signed by duly authorized representatives of  <b>Airwair International Limited</b>	Signed by duly authorized representative of the Buyer
Signature: _____	Signature: _____
Name: _____	Name: _____
Position: _____	Position: _____
Date: _____	Date: _____





## SCHEDULE 1 – Marketplaces

This Schedule is subject to amendment from time to time by AirWair at its discretion. The list below is not exhaustive but merely illustrative.

1688  
Alibaba  
Allegro  
Amazon  
Bol.com  
Carrefour  
CDiscount  
CDON.com  
Dawanda  
Ebay  
Etsy  
Flubit  
Fnac  
Fruugo  
Go Sport  
Jd.com  
Le Redoute  
Line  
Newegg  
Onbuy  
Pixmania  
Price Minister  
Rakuten  
Real.de  
TMall  
Tokopedia  
Vente Privee  
VK  
Xiaohongshu  
Yoyobuy.com  
Zulily

## SCHEDULE 2 – Trade Marks

The following registered and unregistered trade marks for use in relation to classes 3, 18, 25, 35:

- 'Dr. Martens'
- 'AirWair'



### SCHEDULE 3 – Trade Dress Guide



Trade Dress  
Guide.pdf



Trade Dress Guide  
Sandals.pdf



**SCHEDULE 4 – Quality Issue Report Form**

		<b>Quality Investigation Request</b>				
<b>Date</b>		<b>Returning Channel</b>		<b>Region</b>		
<b>Issue Detail</b>						
Brief description of issue -						
<b>Style Name</b>		<b>Total Pairs</b>				
<b>PO. Number</b>		or	<b>Customer Order No.</b>			
<b>Manufacturing Code</b>		or	<b>Product Code</b>			
<b>Picture Of Issue</b>	Further pictures on attached sheet					
All enquiry will reply within 2 weeks from the day received						
Please send email to Quality Assurance Manager; <a href="mailto:simon.chatwin@drmartens.com">simon.chatwin@drmartens.com</a> , <a href="mailto:man.cheng@drmartens.com">man.cheng@drmartens.com</a>						
		<b>Quality Assurance Dept Only</b>				
<b>Quality Ref</b>	<b>Action</b>	<b>Inform Regional Quality manager</b>	<b>Grade</b>	<b>Defects Sample Requested?</b>	<b>C.A.N Requested</b>	<b>Claim Generated</b>
Claim details						