



Terms and Conditions for the Supply of Goods (Consultants)

These are the terms and conditions on which Joanne James trading as Jo James (the **Supplier, we, us or our** as the context requires) supplies the goods, including but not limited to the Made with Love by Jo James jewellery range, to you (the **Consultant, you, or your** as the context requires).

We are a sole trader established in England and Wales. To contact us please write to Jo James, 24 Powderham Road, Plymouth PL3 5SG; or email us at info@madewithlovebyjojames.com.

Agreed terms

1. Interpretation

The following definitions and rules of interpretation in this clause apply in this agreement.

1.1 Definitions:

Affiliate: any third party who purchases our products from you with the intention to resell the Products and make a profit in accordance with the terms of this agreement.

Business Day: a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Confidential Information: any information of a confidential nature concerning the business, affairs, customers, clients or suppliers of the Supplier, including but not limited to the personal data of your customers acquired in the course of selling our Products under the licence in clause 9, such as a Facebook group or other similar social media database in the name of the Supplier whether operated by you or your Affiliate.

Data Protection Legislation: means the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

Intellectual Property Rights: patents, copyright and neighbouring and related rights, moral rights, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including the content in Facebook Groups subject always to Facebook terms of use), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, any rights and all similar or equivalent rights or forms of protection that subsist or will subsist now or in the future in any part of the world.

Minimum Discount Price: The minimum order amount that triggers a discount published by the Supplier from time to time and **Discount** means the reduced price offered by us from time to time through the issue of a discount code and will be calculated by a percentage.

Order: an order for Products submitted by you in accordance with clause 2 and may be submitted to us through the Website or by post to the address at the beginning of this Agreement.

Products: the jewellery products including bracelets, necklaces, anklets, earrings and sets thereof manufactured and sold by the supplier from time to time.

Supplier's Content: all marketing material provided by the Supplier to the Consultant for the purposes of promoting parties from time to time in accordance with the licence in clause 9 and includes text, photos, pictures, graphics, and the Jo James name and logo.

Website: www.madewithlovebyjojames.com

- 1.2 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 1.3 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.4 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.5 A reference to **writing** or **written** includes email.
- 1.6 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.7 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Basis of Contract

- 2.1 Our products will be made available to you through the Website from time to time. You may submit your Order to us, along with any Discount where applicable, online through the Website or by post. The Order that you submit will constitute an **offer** to buy the goods under the terms of this agreement.
- 2.2 Once you have submitted your Order we shall process your request within 2 Business Days. If we are unable to accept your order, we will inform you of this in writing and will not charge you for the product. If we are able to process your Order then we shall give you notice in writing and this will constitute **acceptance** of your offer to purchase goods from us. At the point you receive notice of our acceptance of the Order, you will be bound by the terms of this agreement and a legally enforceable contract will come into existence.
- 2.3 There may be other terms that apply to you under this agreement such as policies and procedures published by us from time to time on our Website. You accept that by entering into this Agreement you will be bound by those terms. If any change to those policies or procedures materially change the terms of this agreement we will notify you of this change in writing. In the event of any conflict, these terms shall take precedence

3. Your Obligations

- 3.1 By submitting your Order to us you warrant that:
 - (a) You intend to resell the Products in the course of a business;
 - (b) You have complied with the insurance obligations set out in clause 10;
 - (c) You will not alter the Products or pass them off as your own creations and you will only deal with our Products under the terms of the licence granted in clause 9;
 - (d) You will ensure (including any Affiliate) that the Supplier has full administrative rights to amend any social media pages (such as a Facebook Group) used solely for the purpose of marketing the Products and you accept that the Supplier reserves all rights over such pages; and
 - (e) Any Affiliate selling our Products on your behalf will only do so within the terms of this Agreement and that you shall be wholly liable for any breach of this agreement by an Affiliate.

4. Our Products

- 4.1 The images of the products on our Website are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that a device's display of the colours accurately reflects the colour of the products. Your product may vary slightly from those images. Although we have made every effort to be as accurate as possible, because our products are handmade, all sizes, weights, capacities, dimensions and measurements indicated on our website have a 2% tolerance and we aim to deliver our products to you within that tolerance.

- 4.2 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from this agreement.

5. Delivery

- 5.1 We shall ensure that the Products are properly packed and secured in a manner to enable them to reach you in good condition and once Delivery of your Order has completed, you will assume all risk for those Products.

- 5.2 **Delivery** of your Order is completed when either:

- (a) we notify in writing that the Order is ready for collection; or
- (b) 3 Business Days from the postage date of your Order

- 5.3 If there is a delay in Delivery of your Order, you shall **not** be entitled to:

- (a) refuse to take delivery of the Order;
- (b) claim damages; or
- (c) terminate this agreement, subject always to clause 19 (**Force Majeure**).

In the event that we notify you that your Order has been delivered under clause 5.2(a) and you fail to collect your Order within 3 Business Days, then, except where that failure or delay is caused by the us, we shall store the Order until you collect the goods and shall charge you for all related storage costs and expenses (including insurance).

6. Acceptance and defective products

- 6.1 You will be entitled to reject any Products delivered to you under clause 5.2(b) (by post only), provided that you give notice to us within 2 Business Days from Delivery and only if those Products are defective or do not comply in all material respects with your Order subject to clause 6.5 and 4.1. If you fail to give notice under this clause 6.1, then you will have been deemed to have accepted Delivery of the Order.

- 6.2 If you are collecting a Delivery, you will be invited to visually inspect the goods at the place of collection and you may reject any part of the Delivery if upon that inspection the Products are defective or do not comply in all material respects with your Order subject to clause 4.1. If you fail to give notice of rejection and remove the goods from the place of collection, then you will have been deemed to have accepted Delivery of the Order.

- 6.3 In the case of a latent defect that is not discoverable upon visual inspection, you must within a reasonable time of the latent defect having become apparent notify us of that defect.

- 6.4 Provided none of the events in clause 6.6 apply and subject to the safe receipt of any defective goods by us, we shall offer to you a replacement, repair or reimbursement of any goods rejected by you in accordance with this clause 6.

- 6.5 If any Products are to be returned to us, we will issue you with a Returns Authorisation (RA) number. We will be unable to accept the return of any Products in any event unless that return is accompanied by a valid RA number.

- 6.6 We shall not be liable for a Products' failure to comply with the warranty set out in clause 4.1 in any of the following events:

- (a) You make any further use of those Products after giving notice in accordance with clause 6.1, 6.2 and 6.3;
- (b) the defect arises because you failed to follow the our oral or written instructions for the storage, use and maintenance of the Products or (if there are none) good trade practice regarding the same;
- (c) if you alter or repair those Products;
- (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions;
- (e) the Products differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or

(f) you breach any of your obligations in clause 3.

6.7 The terms of this agreement shall apply to any repaired or replacement Products supplied by the Supplier.

7. Pricing and Payment

7.1 All prices of Products are exclusive of VAT. You shall, on receipt of a valid VAT invoice from us, pay to us any additional amounts in respect of VAT as are chargeable on a supply of Products.

7.2 All prices are exclusive of packaging, insurance and delivery costs, which shall be paid by you in accordance with our Delivery and Returns policy available on the Website.

7.3 If you submit an Order that is above the Minimum Discount Price and you provide to us a Discount code for your Order, you shall qualify for a Discount to the price of the Product only.

7.4 We reserve the right to adjust our prices, including the Minimum Discount Price and any Discount available from time to time under this Agreement.

7.5 Our acceptance of your Order will confirm the details of the payment due to us (by bank transfer and to the bank details set out in our acceptance) and each acceptance where applicable shall constitute an invoice for payment. You shall pay invoices in full and in cleared funds within 5 Business Days of receipt and your Order will not be processed for Delivery until we are in receipt of those funds. We reserve the right to cancel your Order if Payment is not received within 5 Business Days.

8. Insurance

8.1 During this agreement you shall maintain in force the following insurance policies with reputable insurance companies:

(a) public liability insurance; and

(b) product liability insurance for claims arising from a single event or series of related events in a single calendar year.

8.2 You shall ensure that any Affiliate also maintains adequate insurance having regard to their obligations under this agreement.

8.3 Either party's liabilities under this agreement shall not be deemed to be released or limited by that party taking out the insurance policies referred to in clause 8.1.

9. Intellectual Property Rights

9.1 By purchasing goods from us under the terms of this agreement, we will grant to you and your Affiliates a limited, worldwide, non-exclusive, royalty-free, fully paid up, license to use, copy, repost, transmit or otherwise make available to the public, the Supplier's Content made available to you from time to time.

9.2 You acknowledge and agree that we own and reserve all proprietary rights in the Supplier's Content and any Confidential Information obtained through the use of the Supplier's Content in the promotion of the Products. For the avoidance of doubt you acknowledge that all Facebook Groups established in the name of the Supplier will remain the intellectual property of the Supplier to the extent that any rights exist and any revocation of this licence shall include a revocation of your administration rights in any such Facebook Group or any other materially similar social media marketing device.

9.3 You must not upload, distribute, or otherwise make available, any content to which you do not hold the necessary rights. Any such infringement may result in termination of this licence and your right to resell our Products using the Supplier's Content. An infringement may also result in civil litigation or criminal prosecution. You agree to hold the Supplier free of any liability arises from a breach of this clause 9.3.

9.4 Any breach of your obligations under clause 3 will revoke the licence to use the Supplier's Content and you will no longer have a right to resell the Products under that licence. An infringement of this clause may also result in civil litigation or criminal proceedings.

10. Limitation of liability

- 10.1 This clause 10 sets out the entire financial liability of the parties (including any liability for the acts or omissions of their respective employees, agents and subcontractors) to each other for:
- (a) any breach of this agreement however arising;
 - (b) any use made or resale of the Products by the Consultant, or of any product incorporating any of the Products; and
 - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.
- 10.2 Nothing in this agreement shall limit or exclude the liability of either party for:
- (a) death or personal injury resulting from negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - (d) breach of section 2 of the Consumer Protection Act 1987;
- 10.3 Without prejudice to clause 10.2, the Supplier's total liability arising under or in connection with this agreement, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall not in all circumstances exceed the total amount of Orders from the Consultant under this agreement in the preceding 12 months.

11. Assignment and other dealings

- 11.1 Neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of the other party.

12. Confidentiality

- 12.1 Each party undertakes that it shall not at any time during this agreement and for a period of two years after termination disclose to any person any Confidential Information, except as permitted by clause 12.2.
- 12.2 Each party may disclose the other party's Confidential Information:
- (a) to its employees, officers, agents, consultants, sub-contractors or Affiliates (**Representatives**) who need to know this information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement, provided that the disclosing party takes all reasonable steps to ensure that its Representatives comply with the confidentiality obligations contained in this clause 13 as though they were a party to this agreement. The disclosing party shall be responsible for its Representatives' compliance with the confidentiality obligations set out in this clause 13; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3 Subject to clause 13.4 each party reserves all rights in its Intellectual Property Rights. No rights or obligations in respect of a party's Intellectual Property Rights other than those expressly stated in this agreement are granted to the other party or to be implied from this agreement. In particular, no licence is hereby granted directly or indirectly under any patent, invention, discovery, copyright or other intellectual property right held, made, obtained or licensable by either party now or in the future.
- 12.4 For the avoidance of doubt Confidential Information includes all Personal Data of a Client acquired under the brand of the supplier and the Supplier reserves all rights to use, procure, retain and access or delete in accordance with Data Protection Legislation any Client's Personal Data or database containing such data, where **Client** shall mean any consumer that has purchased Products of the Supplier through the Consultant or its Affiliates.

13. Data Protection

- 13.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 14 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 13.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Supplier is the data controller and the Consultant is the data processor of Client Personal Data (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation). Our privacy policy sets out the scope, nature and purpose of processing under this agreement, the duration of the processing, the types of Personal Data and categories of data subject.
- 13.3 Without prejudice to the generality of clause 14.1, each party will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the other to enable processing of Personal Data for the duration and purposes of this agreement.
- 13.4 Without prejudice to the generality of clause 14.1, the Consultant shall, in relation to any Personal Data processed in connection with the performance of this agreement:
- (a) process that Personal Data only on the written instructions of the Supplier unless the processing is required by the laws of any member of the European Union or by the laws of the European Union applicable to the processing party to process Personal Data (Applicable Laws). Where either party is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, that party shall promptly notify the other of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit that party from so notifying the other;
 - (b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - (c) ensure that all Affiliates, agents or employees who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
 - (d) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Supplier has been obtained and the following conditions are fulfilled:
 - (i) appropriate safeguards have been provided in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) demonstrated compliance with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) complied with reasonable instructions notified to it in advance by the Supplier with respect to the processing of the Personal Data;
 - (e) assist the Supplier, at the Supplier's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify the Supplier without undue delay on becoming aware of a Personal Data breach;
 - (g) at the written direction of the Consultant, delete or return Personal Data and copies thereof to the Consultant on termination of the agreement unless required by Applicable Law to store the Personal Data; and

- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 14 and allow for audits by the Supplier or the Supplier's designated auditor.

13.5 The Supplier consents to the Consultant appointing an Affiliate as a third-party processor of Personal Data under this agreement subject to the Consultant's confirmation in writing that it has entered or (as the case may be) will enter into an agreement with the third party processor that incorporates terms that are substantially similar to those set out in this clause 14. As between the Supplier and the Consultant, the Consultant shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 14.5.

13.6 Either party may, at any time on not less than 30 days' notice, revise this clause 14 by replacing it with any applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

14. Commencement and term

This agreement shall begin on the date of acceptance and shall continue, unless terminated earlier in accordance with clause 15, until the third anniversary of that acceptance date, when it shall terminate automatically without notice (**Term**).

15. Termination and suspension

15.1 Without affecting any other right or remedy available to it, either party may terminate this agreement on giving not less than one months' written notice to the other party, provided that any notice to terminate served under this clause 15.1 shall not expire before the third anniversary of the date of acceptance.

15.2 Without affecting any other right or remedy available to it, the Supplier may terminate this agreement with immediate effect by giving written notice to the Consultant if any of the obligations set out in clause 3 are breached.

16. Obligations on termination

On termination of this agreement, the Consultant shall promptly:

- (a) return to the Supplier all equipment, materials and property belonging to the Supplier including the Supplier's Content that the Supplier had supplied to it or an Affiliate in connection with the supply and purchase of the Products under this agreement;
- (b) return to the Supplier all documents and materials (and any copies) containing the Supplier's Confidential Information;
- (c) erase all the Supplier's Confidential Information from its computer systems (to the extent possible); and
- (d) on request, certify in writing to the Supplier that it has complied with the requirements of this clause 16.

17. Consequences of termination

17.1 On termination of this agreement the following clauses shall continue in force:

- (a) clause 8 (Insurance);
- (b) clause 10 (Limitation of liability);
- (c) clause 12 (Confidentiality);
- (d) clause 16 (Obligations on termination);
- (e) clause 28 (Governing law); and
- (f) clause 29 (Jurisdiction).

17.2 Termination of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages for any breach of the agreement that existed at or before the date of termination.

18. Force majeure

18.1 Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 6 weeks, the party not affected may terminate this agreement by giving 7 days' written notice to the affected party.

19. Costs

Except as expressly provided in this agreement, each party shall pay its own costs incurred in connection with the negotiation, preparation, and execution of this agreement.

20. Severance

20.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If that modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to, or deletion of, a provision or part-provision under this clause 22 shall not affect the validity and enforceability of the rest of this agreement.

20.2 If any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend that provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

21. Further assurance

At its own expense, each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this agreement.

22. Variation

No variation of this agreement shall be effective unless it is in writing and signed by both parties (or their authorised representatives).

23. Waiver

23.1 A waiver of any right or remedy under this agreement or by law shall only be effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

23.2 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

24. Notices

24.1 Any notice given to a party under or in connection with this agreement shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

(b) sent by email to info@madewithlovebyjojames.com

24.2 Any notice shall be deemed to have been received:

(a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

(b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or

(c) if sent by email, at 9.00 am on the next Business Day after transmission.

24.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

25. Entire agreement

25.1 This agreement constitutes the entire agreement between the parties, and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

25.2 Each party acknowledges that in entering into this agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

25.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

26. Third party rights

Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

27. Counterparts

This agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

28. Governing law

This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

29. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.