



Stella Designs – Trading as Little Swagger

A.B.N 498 910 567

Po Box 218, Branxton NSW 2335

TRADE AND WHOLESALE CUSTOMERS TERMS AND CONDITIONS OF SALE

These conditions relate to all Trade businesses, wholesale and distribution. Sales related to and made by Individuals for personal use are covered by our consumer terms and conditions on our website.

1. About us

1.1 **Stella Designs PTY LTD (Trading as Little Swagger)**, is a company registered in Australia with Australian Business Number 498 910 567, whose contact address is PO BOX 218, Branxton, New South Wales, 2335, Australia.

Stella Designs operate the website www.littleswagger.com.au

1.2 To contact us: Telephone 0458219555 or by writing to us at PO Box 218, Branxton, New South Wales, 2335, Australia or e-mail us at sales@littleswagger.com.au

2. Interpretation

2.1 The following definitions shall have the following meanings:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in Australia are open for business;

Brand Guidelines: the brand guidelines as may be issued by Stella Designs from time to time to give guidance as to merchandising and display of Products;

Stella Designs IPR: all IPR owned or licensed to Stella Designs now or in the future, including but not limited to all IPR in and to; (a) the Products; (b) Stella Designs' website (including the rights subsisting therein); (c) any photographs or images produced by Stella Designs; (d) any specifications for the Products; (e) packaging; (f) Stella Designs' trading styles name and logos; (g) Brand Guidelines; (h) Product Brochures (i) any marketing or promotion material authored by Stella Designs; (f) and designs owned by Stella Designs;

Conditions: the terms and conditions set out in this document as amended from time to time;

Contract: the contract between Stella Designs and the Customer for the sale and purchase of the Products in accordance with these Conditions;

Customer: the business which purchases the Products from Stella Designs;

Delivery Note: a document produced by the appointed carrier of the relevant Products to the Customer at the Delivery Location;

Force Majeure Event: an event or circumstance beyond a party's reasonable control including, without limitation: (a) acts of God, flood, drought, earthquake or other natural disaster; (b) epidemic or pandemic; (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom; (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; (f) collapse of buildings, fire, explosion or accident; (g) any labour or trade dispute, strikes, industrial action or lockouts [(other than in each case by the party seeking to rely on this clause, or companies in the same group as that party)]; (h) non-performance by suppliers or subcontractors; and (i) interruption or failure of utility service;

IPR means all copyright, database rights, topography rights, design rights, rights in software, trademarks, trade names, trade dress and rights in get up, rights to sue for passing off, utility models, patents, domain names and any other intellectual property rights of a similar nature (whether or not registered) subsisting anywhere in the world;

List Price: the prices for the Products, being the recommended price guide as advised by Stella Designs from time to time;

Order: an order for Products submitted by the Customer;

Order Confirmation: a document or notification sent by Stella Designs, to the Customer, agreeing to fulfil the Order and identifying the relevant Order by its Order Reference;

Order Reference: the reference applied to an Order by Stella Designs, on receipt of the Order;

Personal Data: has the meaning set out in the Data Protection Legislation.

Personal Data Breach: has the meaning set out in the Data Protection Legislation.

Processing: has the meaning set out in the Data Protection Legislation (and Processing and Processed when used in relation to the Processing of Personal Data shall be construed accordingly).

Processor: has the meaning set out in the Data Protection Legislation.

Products: Products offered for sale by Stella Designs from time to time;

Product Range: the range of Products offered for sale by Stella Designs from time to time;

Security Requirements: the requirements regarding security of Personal Data, as set out in the Data Protection Legislation.

Specification: any specification for the Products notified to the Customer by Stella Designs by email or on Stella Designs 's website.

Warranty: the warranty given in clause 8.1 of these Conditions.

2.2 Interpretation:

(a) a reference to writing or written includes emails.

3. Our contract with the Customer

3.1 Our contract. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing unless otherwise expressly agreed in writing by Stella Designs.

3.2 Entire agreement. The Contract is the entire agreement between the Customer and Stella Designs in relation to its subject matter. The Customer acknowledges that it has not relied on any statement, promise or representation or assurance or warranty that is not set out in the Contract.

3.3 Changes to these Conditions. Stella Designs reserve the right to change these Conditions from time to time, and such changes will be notified to the Customer.

3.4 Where we sell Products. We sell Products all over the world. The Products we supply to the Customer will only comply with Australia/New Zealand laws and we do not make any statements or representation that the Products we supply will be compliant with the laws of the relevant country where they are delivered to or the country where the Products are installed and utilised. It is the Customer's responsibility to ensure that they can bring the Products into the Customer's country and the country of installation and use, and that the Products will comply with all applicable laws.

3.5 Installation of Products. Stella Designs recommend that all Products are installed, fitted and checked by a suitably qualified and certified tradesperson. Stella Designs accept no liability for the installation or fitting of the Products.

3.6 Compliance with laws. In performing its obligations under the Contract, the Customer shall comply with all applicable laws, statutes, regulations from time to time in force. Stella Designs may terminate the Contract with immediate effect by notice if the Customer commits a breach.

4. Order process

4.1 How to place an Order with Stella Designs. Stella Designs shall direct the customer on the ordering process.

4.2 How we accept the Customer's order. An Order will be treated as an offer by the Customer to contract with Stella Designs. If Stella Designs accept an Order, we will issue an Order Confirmation to the Customer. Stella Designs will apply an Order Reference to each Order. Each party will use the Order Reference to identify the Order from the time from which it is known. The Customer must also tell us if it intends to incorporate the Products into a display.

4.3 Credit Checks. Stella Designs reserve the right to undertake such credit checks as it sees fit.

5. Our Products

5.1 Products may vary slightly from their pictures and samples. The images of the Products on our website or in our sales literature, are for illustrative purposes only and do not form part of Stella Designs 's agreement with the Customer. Although Stella Designs make every effort to be as accurate as possible, all sizes, weight, capacities, dimensions and measurements indicated on our website have a 5% tolerance.

5.2 Products packaging may vary. The packaging of the Products may vary from that shown in images on our website or in our other sales literature.

5.3 Making sure the Customer's measurements are accurate. It is the Customer's responsibility to ensure that the measurements it takes are accurate and that the Products ordered are suitable and fit for purpose.

5.4 Resale of our Products. If the Customer intends to resell our Products the Customer must notify us in advance of the Order Confirmation being issued. Stella Designs may impose additional conditions where Products are intended for resale.

5.5 Product Recall. If the Customer is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Products from the market (Recall Notice) it shall immediately notify Stella Designs in writing enclosing a copy of the Recall Notice. Unless required by law, the Customer may not undertake any recall or withdrawal without the written permission of Stella Designs and only then in strict compliance with Stella Designs instructions about the process of implementing the withdrawal.

6. Our rights to make changes

6.1 Minor changes to the Products. Stella Designs may make minor changes to the Products to reflect changes in relevant laws and regulatory requirements in Australia.

6.2 More significant changes to the Products or the Order. Stella Designs may make more significant changes to the Products or the Order, but if so, it will notify the Customer and the Customer may accept the changes or contact Stella Designs within 7 Business Days of such notification in order to end the Contract and receive a refund for any Products paid for but not received. Such changes may include the following:

- (a) the Products being no longer available due to levels of stock, technical and/or quality issues;
- (b) changes to the Product Range;
- (c) no longer being able to manufacture or distribute the Products;
- (d) recall of the Products due to regulatory or other compliance issues;
- (e) it being no longer practicable, commercially viable or reasonable to offer the Products for sale.

6.3 When we are unable to supply the Products. If Stella Designs is unable to supply the Products to the Customer, it may offer the Customer an alternative. The Customer is not obliged to accept any alternative offered and if the Customer chooses not to do so, the Contract will come to an end and Stella Designs will refund the monies that the Customer has paid in full. Notwithstanding any other term of these Conditions, Stella Designs shall have no further liability to the Customer.

7. Delivery and Returns

7.1 Arrangements for delivery. Stella Designs shall ensure that:

- (a) each delivery of the Products is accompanied by a delivery note that shows the Order Reference; and
- (b) if Stella Designs requires the Customer to return any packaging materials to Stella Designs, that fact is clearly stated on the delivery note. For the avoidance of doubt, all Customers are required to return the pallets on which the Products are delivered, title to which remains with Stella Designs at all times.

7.2 Where we will deliver the Products. Stella Designs will arrange delivery of the Products to the location set out in the Customers Order or such other location as the parties may agree in writing (Delivery Location) at any time after Stella Designs notifies the Customer that the Products are ready. Delivery is completed on the completion of unloading the Products at the Delivery Location.

7.3 Deliveries by instalments. Stella Designs may at its option effect delivery in one or more instalments (each an Instalment). Each instalment shall be deemed to be a separate Contract and the Contract is divisible. The Customer may request delivery of the Products in instalments. If, Stella Designs at its sole discretion, accepts such a request then additional fees may apply which Stella Designs shall communicate to the Customer prior to the delivery of the Products.

7.4 Dates for delivery. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Stella Designs shall not be liable for any delay in delivery of the Products that is caused by a Force Majeure Event or the Customer's failure to provide Stella Designs with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.

7.5 Failure to accept delivery. If the Customer fails to accept delivery of the Products within three Business Days of Stella Designs notifying the Customer that the Products are ready, then, except where such failure or delay is caused by a Force Majeure Event or Stella Design's failure to comply with its obligations under the Contract:

- (a) delivery of the Products shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which Stella Designs notified the Customer that the Products were ready; and

(b) Stella Designs shall store the Products until delivery takes place and charge the Customer for all related costs and expenses (including insurance).

If ten Business Days after the day on which Stella Designs notified the Customer that the Products were ready for delivery the Customer has not accepted delivery of them, Stella Designs may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Products or charge the Customer for any shortfall below the price of the Products.

7.7 Inspection of the Products. The Customer shall;

(a) Within 10 Business Days of the delivery of the Products to the Customer's Delivery Location inspect the Products for quality and quantity; and

(b) In any event within 10 days following delivery to the Customer's Delivery Location, give written notice of rejection if applicable (Warranty Notice) to Stella Designs if any of the Products do not comply with the specification. The Warranty Notice shall, where applicable, include images of the defects of the Products, to be send by e-mail to sales@littleswagger.com.au

7.8 Failure to give a Warranty Notice. If the Customer fails to give a Warranty Notice within the requisite time period, except in respect of any defect which is not one which would be apparent on reasonable inspection (in accordance with provisions of clause 7.7), Products shall be deemed to be accepted by the Customer and Stella Designs will have no liability to the Customer with respect to the defective Products.

7.9 Issuance of Warranty Notice. Following issuance of a Warranty Notice, the Customer shall (if so requested by Stella Designs), return the Products (unaltered and unrepaired) to Stella Designs for inspection no later than 10 Business Days following issuance of the Warranty Notice at its own risk and expense.

7.10 Compliance with the Warranty. Stella Designs shall decide in its reasonable opinion whether the Products comply with the Warranty. If Stella Designs determine that the Products do not comply with the Warranty it shall, entirely at its own election:

(a) Supply replacement Products; or

(b) Notify the Customer that Stella Designs is unable to supply replacement Products in which case Stella Designs shall grant to the Customer, at its discretion a refund equal to the net price paid by the Customer for the Products, in either case (and subject to the provisions of clause 16 below) the remedies set out in this clause 7.10 shall be the Customer's sole and exclusive remedies and Stella Designs shall have no further liability to the Customer in respect of the Products whatsoever and howsoever arising.

7.11 Returns. Refer to www.littleswagger.com.au for Stella Design's return, refund and exchange policy.

7.12 Cancellation of Order. A customer may only cancel an order by notice, in writing, provided to Stella Designs at least 60 days before the intended delivery date and Stella Designs agree to the cancellation.

7.13 Stella Designs are not liable to the Customer or any associated party for any loss or damage arising directly or indirectly from any delay in delivery of, or failure to deliver, the Goods. If Stella Designs are not able to deliver the Goods to the customer, then they will be notified as soon as possible.

7.14 Stella Designs are not liable to the Customer or any associated party for any loss or damage of goods during delivery to the Customer. It is the Customer's responsibility to arrange and bear any costs associated with insuring the goods during delivery.

8. Quality and Specification of the Products

8.1 **Warranty.** Stella Designs warrants that on delivery, the Products shall:

- (a) conform in all material respects with their description and any applicable Specification; and
- (b) be of satisfactory quality.

8.2 Stella Designs shall not be liable for the Products' failure to comply with the Warranty set out in clause 8.1 in any of the following events:

- (a) the Customer makes any further use of such Products after giving notice in accordance with clause 7.9;
- (b) the defect arises because the Customer has failed to follow Stella Designs oral or written instructions as to the storage, installation, or use of the Products and/or good trade practice regarding the same;
- (c) the defect arises as a result of the Customer's act or omission;
- (d) the Customer alters or repairs those Products;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (f) the Products differ from their description or the Specification as a result of changes made to ensure they comply with all applicable statutory or regulatory requirements.

8.3 Except as provided in this clause 8, Stella Designs shall have no liability to the Customer in respect of the Products' failure to comply with the warranty set out in clause 8.1.

8.4 The terms implied by sections 13 to 15 of the Sale of Products Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

8.5 **Replacement Products.** These Conditions shall also apply to any replacement Products supplied by Stella Designs.

9. Data

9.1 Stella Designs shall only process the Customer employees' personal data to the extent necessary for the performance of the Contract.

9.2 The information provided by the Customer to Stella Designs will be used by Stella Designs primarily to accept Orders and provide Products to the Customer. This will include updating and enhancing customer records, analysis to help Stella Designs manage their business, statutory returns and legal and regulatory compliance.

9.3 Stella Designs may make a search of a credit reference agency and keep a record of that search. Stella Designs may also make enquiries about the Customers' principal directors.

9.4 Stella Designs may monitor and record information relating to the Customer's trade credit performance and such records may be made available to credit reference agencies and other organisations who will share that information with other businesses to assess applications for credit.

9.5 The Customer's information will be kept confidential and secure. Stella Designs use of this information is subject to the Data Protection Legislation (under which Stella Designs is a Data Controller)

9.6 Notwithstanding the provisions of clause 9.1, both parties will comply with all applicable requirements of the Data Protection Legislation and put and maintain all appropriate measures in place to protect Personal Data security, including but not limited to: firewalls, network-based security and password authentication. This clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

9.7 Each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data or its accidental loss, destruction or damage.

9.8 Stella Designs may occasionally like to send the Customer information about additional products they offer. If the Customer no longer wishes to receive such information and be removed from the Stella Designs mailing list, then the Customer should write to Stella Designs at sales@littleswagger.com.au

9.9 Stella Designs may, at any time, revise this clause 9 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

9.10 For further information as to how Stella Designs protects and respects the Customer's privacy and ensures the security of their personal data, the Customer should read Stella Designs Privacy Notice as published on their website at www.littleswagger.com.au

10. Title and risk

10.1 The title in the Products shall pass to the Customer on receipt of payment. Risk in the Products shall pass to the Customer on completion of delivery or collection.

10.2 Until title passes to the Customer, the Customer shall hold the Products as bailee for Stella Designs. Notwithstanding that the Customer may sell the Products in its ordinary course of business (as principal and not as Stella Designs agent with title to those Products passing to the Customer immediately before the time at which resale by the Customer occurs), any proceeds of sale shall be held on trust for Stella Designs in a separately designated bank account. In addition, Stella Designs may at any time: (a) require the Customer to deliver up all Products in its possession that have not been resold, or irrevocably incorporated into another product; and (b) if the Customer fails to do so promptly, enter any premises of the Customer or any third party where the Products are stored in order to recover them.

11. Price and Payment

11.1 The Price of the Products. For Wholesale agreements, the price of the Products shall be in accordance with the Recommended Retail Price / List Price as notified by Stella Designs from time to time. In addition, for all agreements:

(a) All prices are in AUD and are subject to any applicable taxes according to state and local laws.

(b) All Trade Prices exclude amounts in respect of Goods and Services Tax (GST), which the Customer shall additionally be liable to pay to Stella Designs at the prevailing rate.

(c) Availability, prices and delivery rates are subject to change. There may be errors in the prices, descriptions or images of certain merchandise, and Stella Designs reserve the right to restrict orders of those items and correct any errors, inaccuracies or omissions, and

(d) Product prices excludes the costs and charges of packaging, insurance and transport of the Products, which shall be invoiced to the Customer. Alternatively, the Customer may utilise their preferred transport contractor, at their cost to arrange pick up and delivery of the products. The transport contractor shall be able to load and unload products independently, without Stella Designs needing to provide a loading tool (ie forklift).

11.2 Time for payment. Full payment, including any transport related costs shall be made prior to delivery unless advised otherwise by Stella Designs.

11.3 Failure to pay on time. If the Customer fails to make any payment due to Stella Designs under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 3% per annum above Stella Designs banker's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgement. The Customer shall pay the interest together with the overdue amount

11.4 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Stella Designs may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Stella Designs to the Customer.

12. Advertising, Marketing and PR

12.1 The Customer shall not:

- (a) carry out any public relations, e-commerce or advertising activity, using Stella Designs website or promotional material, without the express written consent of Stella Designs; or
- (b) run any “pay per click” campaigns using Stella Designs website; or
- (c) purchase the words “Stella Designs” “Little Swagger” or any other trading style brand owned or licensed exclusively to Stella Designs or words similar to that of Stella Designs or Little Swagger or any Products, sold, promoted or advertised by Stella Designs as a key word (including but not limited to Google Add Words, Yahoo, Bing network and 7 search).

12.2 Subject to clause 12.1, the Customer shall and shall ensure that third parties within its control shall, promote the Products and Stella Designs name and brand and:

- (a) shall only use the trading style “Little Swagger” as directed and no other variation or representation thereof; and
- (b) use its own store advertising, social media accounts, website and customer newsletter; and
- (c) shall not make any written statement as to the quality or manufacture of the Products without the prior written approval of Stella Designs; and
- (d) shall not distribute nor resell any Products on third party marketplaces (e.g. eBay, Amazon), without Stella Designs express written consent; and
- (e) shall comply with all reasonable instructions issued by Stella Designs from time to time as to the marketing, promotion and sale of the Products; and
- (f) shall only use any images or marketing material issued by Stella Designs or on its behalf, in compliance with its obligations under the Contract and in particular, and without limitation, this clause 12.2 and clause 13. (collectively referred to as Customer Marketing)

12.3 Stella Designs is hereby granted a royalty free, exclusive licence in perpetuity to use the Customer Marketing for its own purpose.

13. Intellectual Property Rights

13.1 All Stella Designs IPR shall on creation vest in Stella Designs.

13.2 The Customer is hereby granted a non-exclusive, non-transferrable licence to use Stella Designs IPR as directed by Stella Designs solely for the purpose of the Customer performing its obligations in accordance with this Agreement. Save as set out in this clause 13.2, nothing in this Agreement shall be construed as conferring any further licence or granting any further rights in favour of the Customer in relation to Stella Designs IPR.

13.3 Stella Designs may immediately withdraw or terminate the Customer’s right to use the Stella Designs IPR (including without limitation any images or marketing material it may licence for use by the Customer), if the Customer is in breach of any of its obligations under the Contract and/or fails to comply with Stella Designs reasonable instructions

13.4 The Customer shall not repackage Products and/or remove any copyright notices, confidential or proprietary legends or identification from Products.

13.5 The Customer shall not use, other than pursuant to these Conditions, or seek to register, anywhere in the world, any trade mark or trade name, including any company name, which is identical to, confusingly similar to or incorporates any trade mark or trade name which Stella Designs owns or claims rights in anywhere in the world.

13.6 If at any time it is alleged, or in Stella Designs' reasonable opinion it is likely to be alleged that the Products infringe any third party's rights, Stella Designs may at its option and its own cost: (i) modify or replace Products to avoid the infringement; (ii) procure for the Customer the right to continue using Products; or (iii) repurchase the offending Products at the price paid by the Customer.

13.7 The Customer shall promptly notify Stella Designs of: (i) any actual, threatened or suspected infringement of any IPR which comes to the Customer's notice; and (ii) any claim by any third party that comes to the Customer's notice that the sale or advertisement of Products infringes the rights of any person.

13.8 The Customer agrees (at Stella Designs' request and expense) to do all such things as may be reasonably required to assist Stella Designs in taking or resisting any proceedings in relation to any infringement or claim referred to in clause 13.7.

13.9 In the event of any claim, proceeding or suit by a third party against the Customer alleging an infringement of any IPR connected with Products, Stella Designs shall defend the Customer at Stella Designs' expense PROVIDED ALWAYS THAT the Customer has acted in accordance with the terms of these Conditions and, subject to: (i) the Customer promptly notifying Stella Designs in writing of any such claim, proceeding or suit; and (ii) Stella Designs being given sole control of the defence of the claim, proceeding or suit.

13.10 Stella Designs shall reimburse the Customer with an amount equal to any cost, expense or legal fees (subject to any assessment) incurred at Stella Designs' written request or authorisation pursuant to this clause 13 and shall indemnify the Customer against any liability assessed against it.

14. Confidentiality

14.1 Each party undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other which it has obtained or received as a result of discussions leading up to entry into the Contract, or which it has obtained during the course of the Contract, except any information that is: (i) subject to an obligation to disclose under law, or that is required to be disclosed by any competent regulatory authority, by notice or otherwise; or (ii) already in its possession or the public domain other than as a result of a breach of this clause 14.

14.2 Each party undertakes to the other to take all steps that are necessary from time to time to ensure compliance with the provisions of this clause 14 by its employees, agents and subcontractors.

15. Termination

15.1 Without limiting its other rights or remedies, Stella Designs may terminate the Contract with immediate effect by giving written notice to the Customer if:

(a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 days of that party being notified in writing to do so;

(b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

(c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or

(d) the Customer's financial position deteriorates to such an extent that in Stella Designs' opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

15.2 Without limiting its other rights or remedies, Stella Designs may suspend provision of the Products under the Contract or any other contract between the Customer and Stella Designs if the Customer becomes subject to any of the events listed in clause 15.1(a) to clause 15.1(d), or Stella Designs reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under the Contract on the due date for payment.

15.3 Without limiting its other rights or remedies, Stella Designs may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

15.4 On termination of the Contract for any reason, the Customer shall immediately pay to Stella Designs all of Stella Designs' outstanding unpaid invoices and interest (if any).

15.5 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract that existed at or before the date of termination.

15.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

16. Limitation of liability

16.1 Nothing in these Conditions shall limit or exclude Stella Designs' liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); or
- (b) fraud or fraudulent misrepresentation; or
- (c) any matter in respect of which it would be unlawful for Stella Designs to exclude or restrict liability.

16.2 Subject to clause 16.1:

(a) Stella Designs shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of sales or business, loss of or damage to goodwill, or any indirect or consequential loss arising under or in connection with the Contract; and

(b) Stella Designs' total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price the Customer paid for the Products (net of any discounts).

17. Force majeure

Stella Designs shall not be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from a Force Majeure Event and the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for [four] weeks, either party may terminate the Contract by giving the other four weeks written notice.

18. Disputes

18.1 All disputes, differences or questions arising out of or in relation to this Agreement should be referred in the first instance to the customer service team at Stella Designs. The representative from the Customer and the Stella Designs representative shall meet or discuss the issues in good faith in an attempt to resolve them.

18.2 If the parties fail to resolve the matter within 28 days following the discussion between the parties (or the Customer's representative fails to agree to meet) then, either party may refer the matter to a mediator appointed by the Centre for Effective Dispute Resolution (CEDR). The mediation should be conducted by a single mediator. Costs shall be borne as the mediator directs.

19. General

19.1 Assignment and other dealings.

(a) Stella Designs may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

(b) The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Stella Designs.

19.2 Entire agreement

(a) The Contract 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

(b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

19.3 Variation. No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

19.4 Waiver. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19.5 Severance. If any provision or part-provision of the Contract 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 such 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 shall not affect the validity and enforceability of the rest of the Contract.

19.6 Notices.

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its Stella Designs place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post or other next working day delivery service, commercial courier, or email.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 19.6(a); 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

19.7 Third party rights. No one other than a party to the Contract have any right to enforce any of its terms.

19.8 Governing law. The Contract, 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 Australia

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

20. Signing Page

The parties, intending to be legally bound, have caused their proper and duly authorised office to agree and execute and deliver this agreement as of the day and year written below.

Stella Designs (Trading as Little Swagger)

Date: _____

By: _____

Thomas Griffiths

Director – Stella Designs

Date: _____

By: _____
