

ROOKIE USA

TERMS AND CONDITIONS

1. INTRODUCTION

- 1.1 This website can be accessed at www.rookieusa.co.za (the **Website**). The Website is owned and managed by Skye Distribution (Pty) Ltd (**'Skye'**).
- 1.2 These terms and conditions (the **Terms**) are binding on any person who accesses or uses the Website (the **User**). By entering the Website and/or ordering products through the Website, the User agrees to be bound by and shall be deemed to have accepted these Terms, which the User acknowledges to have read and understood. If the User does not agree to any of the Terms, the User should not enter, view or conduct any transaction on the Website.
- 1.3 The Website enables a User to shop online for an extensive range of items, including clothes, shoes and accessories and have them delivered door-to-door within South Africa. All Users will be able to view the products on offer, but only those Users who have registered an account are able to purchase products on the Website.

2. PLACING AN ORDER

- 2.1 Only persons aged 18 years and over, who are legally entitled to do so, are permitted to place orders on the Website.
- 2.2 Skye will not deliver goods to addresses outside South Africa.
- 2.3 By placing an order, the User represents and warrants that:
- 2.3.1 the User is legally capable of entering into binding contracts;
 - 2.3.2 the User is at least 18 years of age; and
 - 2.3.3 the User agrees to be bound by these Terms.

By doing so, the User accepts that Skye will rely on the User's representation that the User has unfettered legal capacity to contract and that the User is over 18 years of age.

- 2.4 Before proceeding to finalise an order, the User will be given an opportunity to review and, if required, correct the contents of the User's order as well as any information or addresses provided. Upon finalising this process, notification thereof will be sent to Skye and the User's order will only be deemed to be accepted once Skye has processed such order and sent the User a confirmatory email.

- 2.5 The products and prices displayed on the Website are only valid while stocks last.
- 2.6 Skye will in no way be held liable to provide a product at an expired price or where the product concerned is no longer in stock or available.
- 2.7 The products described or graphically represented on the Website may differ in colour, shape, form, design, contents and appearance from the final product delivered.

3. DELIVERY

- 3.1 Orders will only be shipped once Skye has received payment of the full purchase price for the goods and all charges and costs relating to the products.
- 3.2 Skye offers free delivery on orders that exceed the minimum limit published on the Website from time to time. In respect of orders that are less than such limit, Skye shall charge a non-refundable delivery fee. The delivery fee is dependent on the User's delivery address and will be displayed during checkout.
- 3.3 Every reasonable effort is taken to ensure that the delivery costs displayed on the Website are correct at the time of purchase. However, if a delivery fee is incorrectly displayed, Skye will not be obliged to deliver products at an incorrect delivery fee. Skye shall only be liable to return payment already made by the User in the case they choose to cancel the sale once they have been made aware of the correct delivery fee.
- 3.4 Skye will not deliver any products to postal addresses (such as Post Office box addresses).
- 3.5 The User acknowledges that Skye outsources delivery and collection services to a third-party courier company. Accordingly, Skye cannot be held liable for any loss or damage caused by the courier company on delivery and/or collection.
- 3.6 Unless otherwise agreed or stipulated in the User's order or on the Website, the User's order will be delivered by the courier company within 7 – 14 Business Days, to the address provided by the User during the order process. In order to receive delivery of an order, the User must ensure that someone will be available at the delivery address between 8:00 and 17:00 on Business Days. (A **Business Day** is any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa.) The User will be responsible for any additional fees that may be charged by the courier if no one was available to receive delivery of the order at the address specified by the User.
- 3.7 The User acknowledges that Skye shall rely on the accuracy of the delivery address as provided by the User. Skye does not verify the accuracy of any particulars of a delivery address provided by the User. The User shall check the accuracy of the delivery address every time when placing an order. Skye shall not be liable for any costs, loss, damages or

claims incurred by the User relating to an inaccurate or incorrect delivery address provided by the User.

3.8 Skye will make an effort to ensure that delivery takes place within the time period specified on the Website in relation to the User's order. However, the size and quantity of an order as well as the distance between Skye and the delivery address provided, amongst other circumstances, may require a longer period for delivery. The User will be notified from time to time of any anticipated delays with delivery and, in such circumstances, the updated delivery time will substitute and take preference over the delivery time stipulated in the confirmatory email or reflected on Skye's invoice.

3.9 Ownership of products ordered will pass to the User upon Skye receiving full payment for such products. Risk in respect of ordered products will pass to the User once they have been collected from Skye's premises by the relevant courier. If products are lost or damaged in transit, Skye will not be liable for such loss or damage. Despite this, Skye may, in its sole discretion, choose to refund or replace lost or damaged products. However, such refund or replacement will not cause Skye to be liable for the loss or damage or create any obligations for Skye in relation to the damage or loss.

4. **CANCELLATION AND RETURNS**

4.1 The User is responsible for inspecting ordered products upon arrival. If, upon delivery, it appears that a product has been opened and/or is clearly damaged, the User must bring this to the attention of Skye by logging a return online. Upon inspection and subject to Skye's sole discretion, Skye may repair or replace the product should the User request same.

4.2 The User is entitled to return an order within 30 (thirty) days after receiving delivery thereof, provided that the product has not been used, is still saleable and/or is in its original condition with all labels and/or swing tags still intact. Underwear, swimwear, bodysuits, earrings and intimate wear cannot be returned.

4.3 In order to receive a refund, a User must log a return on the Website.

4.4 If a product is returned in accordance with these Terms, Skye will, following receipt and examination of such product, and within 7 – 14 Business Days, reimburse the User with the purchase price paid by the User for the product, excluding any applicable delivery costs and/or charges. The User will be responsible for the costs of returning the products to Skye. The risk of loss of or damage to the products will remain with the User until they products have been received by Skye. No provision stated in these Terms regarding Skye's cancellation and returns policy will affect or be interpreted to deny the User any of the User's unalterable statutory rights, to the extent applicable. If and to the extent that the Consumer

Protection Act, 2008 (**CPA**) applies, Users shall be entitled to return products that have material defects in accordance with the CPA's provisions.

5. **PRICES**

- 5.1 The price of any product will be the price quoted on the Website in respect of any particular product. All prices shall apply during the validity period stated on the Website and shall only be valid once the order has been processed and confirmed by Skye in accordance with the provisions of clause 2.4. If the price for a product no longer appears on the Website, such product shall no longer be available for purchase at that price.
- 5.2 All prices quoted on the Website are listed in South African Rands (**ZAR**) and will be inclusive of value added tax imposed in terms of the Value Added Tax Act, 1991 (**VAT**) and any other applicable taxes, but will exclude delivery charges.
- 5.3 Delivery charges, fees and other related costs will be quoted and added to the total amount owing during the order process and the User will be given an opportunity to review and, if necessary, edit the products to be purchased, the listed quantities of such products before proceeding to finalise the order.
- 5.4 Discounts apply to marked items only and are valid while stocks last.
- 5.5 Discounts cannot be used in conjunction with any other discounts or special offers.
- 5.6 Under no circumstances will Skye be held liable to provide a product which is out of stock or at an outdated or expired price.
- 5.7 Price changes shall not affect a User who has already received a confirmatory email from Skye pursuant to his order.
- 5.8 All errors and omissions are excepted.
- 5.9 Prices displayed for products on the Website only apply to products sold through the Website.
- 5.10 Although every effort will be made to ensure that products are correctly priced on the Website, in the unlikely event that a product is incorrectly priced, the following provisions will apply:
- 5.10.1 Where the incorrect price is lower than the correct price, Skye will not be bound to sell the product concerned at such a price and a representative of Skye will contact the User when the order is being processed in order to inform such User of the higher price to be paid for such product and will await instructions from the User as to

whether the User still wishes to purchase the product concerned at the higher price or to cancel the order and receive a full refund.

- 5.10.2 If the incorrect price is higher than the correct price, a representative from Skye will advise the User of the lower price but will proceed to process and confirm such order.

6. PAYMENT

- 6.1 The User can make payment for products using the payment methods that are available on the Website from time to time. The User must use a single payment method in order to pay for an order and multiple payment methods cannot be used (for example, a User may not pay by credit card and a voucher).
- 6.2 When making payment, the User undertakes to pay the final purchase price (including VAT and any and all courier costs and other charges reflected in the confirmatory e-mail). Skye will not accept any payment by cheque.
- 6.3 Notwithstanding any other clause contained in these Terms, Skye shall have no duty to deliver any product until the User's payment has been cleared by the relevant bank and has become available in Skye's bank account.
- 6.4 The User's order will be cancelled immediately where payment is not processed by the relevant bank and credited to Skye's bank account.

7. ONLINE PAYMENTS

- 7.1 Online payments are processed by third party payment service providers. Skye has no involvement in or control over the payment service provided by them. To the fullest extent permitted by law, Skye shall not be liable to the User for any damage or loss suffered or incurred by the User relating to the actions or omissions of such service providers or through the use of their payment services.
- 7.2 By making online payments relating to the Website, Users consent to the use and retention of their card details.
- 7.3 Skye is the merchant of record and responsible for the contents of these Terms and the processing and fulfilment of orders, customer service, resolution of disputes.

8. PROMOTIONAL VOUCHERS

- 8.1 Promotional vouchers may be issued electronically in Skye's sole discretion. Users do not have a right to promotional vouchers, and promotional vouchers cannot be earned. Promotional vouchers are issued under specific terms and conditions regulating when and how they may be used. Promotional vouchers are issued for limited validity time periods.

Promotional vouchers can be used to secure a discount on the Website, provided that the promotional voucher is valid and has not expired.

- 8.2 Some promotional vouchers may be subject to a minimum spend requirement or other conditions, as communicated in the information accompanying the promotional voucher.
- 8.3 To utilise a promotional voucher and claim the applicable discount in respect thereof, a User must insert the relevant discount code into the promotional voucher code box provided at check out.
- 8.4 Returns will be refunded at the actual rand value paid per item after the respective promotional voucher discount is applied.
- 8.5 Promotional voucher codes are not valid on any discounted items and promotional voucher codes may not be used in conjunction with any other offers on the Website.
- 8.6 Promotional vouchers cannot be exchanged for cash and the full value must be utilised by a User.

9. **GIFT CARDS**

- 9.1 Skye may from time to time make electronic gift cards available for use on the Website towards the purchase of Skye products. Gift cards can only be redeemed while they are valid and an expiry date cannot be extended.
- 9.2 Gift cards cannot be:
 - 9.2.1 used to purchase other gift cards or promotional vouchers;
 - 9.2.2 exchanged for cash; or
 - 9.2.3 transferred to any other person.
- 9.3 A gift voucher cannot be used to purchase a cart that is of higher value than the voucher. If the cart is of lower value than the voucher, the residual amount will be a balance on the voucher.
- 9.4 Skye shall not be held liable for the loss, theft or illegibility of gift vouchers, and gift vouchers will not be replaced.

10. **PRODUCT WARRANTIES AND LIABILITY**

- 10.1 Skye makes no warranties or representations in respect of products sold to Users, unless the CPA applies. If the CPA does apply, the warranties are limited to those set out in the CPA and are subject to the CPA's provisions.
- 10.2 To the fullest extent permitted by law, Skye shall not be liable for any damages, injury, loss, cost or expense suffered or incurred by Users as a result of products sold by Skye.
- 10.3 To the extent permitted by law, the User indemnifies and holds Skye, its officers, licensors, employees, agents and contractors harmless against all claims, liability, injury, losses, costs, expenses and penalties arising from or related to the products sold by Skye or the use of such products.

11. **LIABILITIES REGARDING USE OF THE WEBSITE**

- 11.1 The User makes use of this Website at their own risk.
- 11.2 The Website and all information, content, materials and services included or otherwise made available to the User therein are provided on an "as is" and an "as available" basis. Skye makes no warranties or representations of any kind, express or implied, as to the operation of this Website or the available information, content, materials or services included on or otherwise made available to the User.
- 11.3 To the extent permitted by law, the liability of Skye for losses suffered as a result of any breach of these Terms shall be strictly limited to the purchase price of the product or products purchased by any User.
- 11.4 Notwithstanding anything to the contrary contained in these Terms, Skye shall not have any liability for any loss, damage, cost, claim or penalty of whatsoever nature including, but not limited to, indirect and consequential loss or damage and loss of profits, however arising out of or in connection with these Terms or the Website, whether caused by latent or patent defects in the Website, the use of the Website and/or information contained on the Website or otherwise.
- 11.5 The User assumes all responsibility and risk for the use of the Website. The User hereby indemnifies Skye and holds them harmless against any and all liability, loss, damage, penalty, cost or claim of any nature whatsoever suffered by them or any third party in relation to any act or omission by the User or, where applicable, the User's shareholders, members, directors, officers, employees, representatives, agents or assigns or any third party in relation to the Website and the use thereof by the User, and/or arising from the provisions of these Terms.

11.6 Skye will not be held liable for any delay, failure, breach or non-compliance with its obligations under these Terms if such delay, failure, breach or non-compliance is beyond the reasonable control of Skye.

11.7 These Terms do not intend to, nor shall they be interpreted to, limit the liability of Skye or in any way which would be illegal for Skye to exclude or attempt to exclude or where such exclusion is prohibited by the Consumer Protection Act, 2008 or the Electronic Communications and Transactions Act, 2002, or any other law in force from time to time in the Republic of South Africa.

12. **WEBSITE USE**

12.1 The User may not use, reproduce, adapt, distribute, publish or in any other way deal or interfere with the Website's contents without the prior written consent of Skye.

12.2 Skye reserves the right to make any changes to the Website, its content and/or products offered through the Website at any time and without prior notice.

12.3 Content published on the Website reflects the views of the author and does not necessarily constitute the official opinion of Skye unless otherwise stated.

12.4 No content that is illegal, unlawful, obscene, defamatory, discriminatory, disparaging of others, derogatory, inflammatory, harassing, insulting, offensive or likely to promote violence or hatred against others or that contains abusive, offensive or profane language may be posted on the Website nor may such content be associated in linking to the Website.

12.5 Any material uploaded by the User to the Website will be deemed to be non-confidential and in uploading such material the User cedes and assigns all rights in such material to Skye. Skye shall be free to copy, adapt, distribute and disclose to third parties any such material for any purpose in any form throughout the world in perpetuity. The User waives any moral rights that it may have in such material.

12.6 The Website may contain links to other websites. Skye has no control over such websites, does not review their content and will not be liable for their content or accuracy. The User accesses such websites at the User's own risk and discretion.

12.7 The User may link to this Website, provided that the User will not replicate any particular page, including the homepage. When linking to this Website, the User confirms and agrees that it will comply and ensure compliance with the requirements of this clause 12.

12.8 Although every effort will be made to have this Website available at all times, the Website may become unavailable for reasons including (without limitation) maintenance or repairs, loss of connectivity or some other form of interruption. Skye does not warrant against nor

will it be held liable for such downtime and the User indemnifies Skye against any loss, damage, claims, costs or penalties incurred as a result of such unavailability.

- 12.9 If the User chooses or is provided with identification codes, usernames, passwords or any similar form of identification information as part of the Website's security systems, the User must keep this information secret and confidential and must not permit anyone else to use it. The User shall be responsible for all access to the Website with the User's username and password. When the User's username and password have been used in order to gain access to the Website, Skye shall be entitled to assume that such use and all related communications emanate from the User. Skye shall not be liable for any loss or damage arising from unauthorised use of the User's identification information.
- 12.10 In the event that the User becomes aware of a breach of the confidentiality of the User's username and password, the User must immediately communicate this to Skye with subsequent confirmation in writing. The compromised username and password will be deactivated as soon as reasonably possible and a new username and password will be issued to the User. Skye may, in its sole and absolute discretion and for any reason whatsoever, require the User to change his username and password at any time.
- 12.11 If the User commits any breach of these Terms or in any other way interacts with or uses the Website in an unlawful or unauthorised manner, Skye shall be entitled, in its sole and absolute discretion, to terminate the User's access to the Website immediately, without prior notice, without any liability on Skye's part and without prejudice to Skye's rights in terms of these Terms or at law. Following such termination, the User will forfeit the right to link to this Website as described in clause 12.7.
- 12.12 By accessing the Website, the User represents and warrants that he owns and/or otherwise controls all of the rights to the content that the User posts and/or uploads. Furthermore, the User represents and warrants that the content submitted to the Website is accurate, usable; and will not cause injury, defame any person or breach any clause of these Terms or any law. The User shall indemnify Skye from and against any and all loss by any person which results from a breach of these representations or warranties.

13. **DISCLAIMER**

Any commentary, advice, information, suggestions, opinions, answers or any other information posted on the Website is not intended to nor shall it be interpreted to amount to advice on which reliance should be placed and are posted merely for guidance purposes only. The User makes use of any such information at their own risk and in their own discretion and disclaims and indemnifies Skye from and against any and all liability and responsibility arising from any reliance placed on such information whether posted on the Website or by any other person visiting the Website.

14. PROPRIETARY RIGHTS

- 14.1 The User acknowledges that Skye or its licensors are the proprietors of any and all intellectual property subsisting in, pertaining to or used on the Website including, without limitation, patents, inventions, copyright, trade marks, goodwill and/or trade secrets (**Intellectual Property**) associated with, related to or appearing on the Website.
- 14.2 The content of the Website, including but not limited to any pictures, photos, text, presentations, names, titles, brands, drawings, models and associated software are protected by South African and international law. The owners of such content reserve all such rights therein unless provided otherwise in these Terms.
- 14.3 The User undertakes:
- 14.3.1 not to use or register any trade marks, trade names or other devices which are or incorporate marks which are the same as or confusingly similar to the Trade Marks or which marks are likely to be associated with the Trade Marks or where such use would take unfair advantage of or be detrimental to the distinctive character or the repute of the Trade Marks;
- 14.3.2 not at any time to do or cause to be done any act or thing in any way impairing or tending to impair any part of the rights, title and interest in and to the Intellectual Property; and
- 14.3.3 not in any way to make unauthorised use of the Intellectual Property or to represent that the User has any rights of any nature in the Intellectual Property or any registrations thereof.
- 14.4 Without limiting the generality of the provisions of clause 14.3, the User undertakes not to make any unauthorised use, reproductions or copies of any work or material displayed or made available on the Website and agrees to adhere to and comply with all policies, conditions of use and rules that may apply to the use of such work or material.
- 14.5 Rookie graphics, logos, page headers, button icons, scripts and service names are the property of The Haddad Apparel Group Ltd (**Haddad**) or their licensors as the case may be. Rookie trade marks and trade dress may not be used without prior written authorisation, in any manner that is likely to cause confusion among customers or in any manner that disparages or discredits the relevant proprietors. All other trade marks not owned by Haddad that appear on the Website are the property of their respective owners who may or may not be affiliated with, connected to, or sponsored by us. The User may not use such trade marks without prior written consent from the relevant owners.

15. MALICIOUS SOFTWARE AND OFFENSES

- 15.1 The User warrants that:
- 15.1.1 the User will not use the Website in any way that causes, or is likely to cause, the Website and access to the Website to be interrupted, damaged or impaired in any manner;
 - 15.1.2 no form of virus, Trojans, worms, logic bombs, or other malicious coding, virus or software will be introduced onto the Website or into Skye's systems which may cause any form of technological harm or any other form of harm in any manner or respect;
 - 15.1.3 the User will not attempt to gain unauthorised access to the Website, including through the theft of any third party's username and password; and
 - 15.1.4 the User will not attempt to gain unauthorised access to the Website's server, databases, computers or any other device associated with the Website and will not attack the Website through a denial-of-service attack or a distributed denial-of-service attack.
- 15.2 Any breach of these Terms regarding malicious software and offenses will be reported to the relevant law enforcement agencies and Skye will co-operate in all respects with those law enforcement agencies, including by way of disclosure of the identity and identification information of the User.
- 15.3 Although Skye and their representatives will use reasonable efforts to ensure that no malicious content can be received from the Website, Skye does not warrant that the Website is free of malicious content or viruses and Skye will not be held liable for any loss resulting from a distributed denial-of-service attack, or any malicious content as described in clause 15.1.2. which may infect any User's computer or device, computer equipment, data or any other propriety material where such loss is or may be attributed to the User's use of the Website or downloads received from the Website.
- 15.4 The User warrants that they will not use the Website in any manner that will break any law enforceable in South Africa or cause any annoyance, unnecessary anxiety or inconvenience to any person.

16. SUSPENSION AND DEREGISTRATION

- 16.1 Skye reserves the right to, at any time, suspend or terminate the Website or any activity on the Website for any reason, including (without limitation) any misconduct or unlawful use of the Website by any User or for any reasons relating to any law, legislation or regulation.

- 16.2 In the event that the Website, any activity or event on the Website or any person's purchase of any of the products offered for sale on the Website is suspended or terminated, a person shall have no claim against Skye for whatever reason.

17. ADDRESSES

- 17.1 Each Party chooses the addresses set out opposite its name below as its addresses to which all notices and other communications must be delivered for the purposes of this Agreement and its *domicilium citandi et executandi* ("*Domicilium*") at which all documents in legal proceedings in connection with this Agreement must be served:

17.1.1 Skye: As per clause 20:

17.1.2 The User: As per the address supplied when the User registered as a user of the Website.

- 17.2 Any notice or communication required or permitted to be given to a Party pursuant to the provisions of this Agreement shall be valid and effective only if in writing and sent to a Party's chosen address in accordance with the provisions of clause 17.1, provided that documents in legal proceedings in connection with this Agreement may only be served at a Party's *Domicilium*.

18. GENERAL

- 18.1 If at any time there is a failure by Skye to insist on strict performance of any of the User's obligations under these Terms and related contracts, this shall not be construed to be a waiver of such rights and shall not relieve the User from compliance with such obligations. A waiver of any one default is not to be interpreted as a condonation of any other or further defaults.

18.2 Skye reserves the right to amend or delete any part of the Website, the related Terms and/or Privacy Policy at any time and without prior notice. The User must review the Terms on a continual basis and remain up-to-date in respect of any changes.

18.3 Any and all communications between the parties, whether legal or merely for notification purposes, correspondence or for any other reason will only satisfy any legal requirement if it is reduced to writing whether electronic or otherwise.

19. CONTACT DETAILS

Skye's Customer Service Centre can be contacted on 087 940 4664 or at:

customerservice@skye.co.za

20. **DISCLOSURE OF INFORMATION**

Merchant: Skye Distribution (Pty) Ltd

Registration number: 1955/002635/07

Physical address: Cnr Renaissance and Prelude Avenues, Crown Mines, Gauteng, 2092

Postal address: PO Box 43229, Industria, 2042

Telephone number: 087 940 4664

E-mail address: customerservice@skyedistribution.co.za

Website address: www.rookieusa.co.za

Place of registration: Republic of South Africa.

Skye will receive service of documents in legal proceedings at the above physical address.

[updated: January 2021]