

fashioncheque – General Terms and Conditions for Cooperating Partners – Point of Sale / Acceptance in Switzerland –

fashioncheque holding BV, Kruisweg 801-C, 2132 NG Hoofddorp, the Netherlands, (hereinafter: 'FCH') is the technical service provider of the fashioncheque voucher card (hereinafter: 'fashioncheque') for fashioncheque Schweiz AG (hereinafter: 'FCCH'), the cooperation partner for fashioncheque in Switzerland with registered office at Vorderi Böde 6, 5452 Oberrohrdorf. FCCH is responsible for issuing fashioncheques, operating fashioncheque in Switzerland. FCCH is a member of the Polyreg self-regulation organisation, in Zurich. fashioncheque is a card or other medium that can be credited with a monetary amount and used by participating retailers to pay for clothing and shoes. The fashioncheque can be purchased from participating (online) retailers.

For the sake of readability and clarity of these general terms and conditions, both parties shall collectively be referred to by the abbreviation "FCH". This abbreviation is used solely to enhance the structure and consistency and does not affect the individual rights, obligations, or responsibilities of each party.

The contracting party, as the point of sale, wishes to act as FCH's commercial agent in a second job in order to arrange contracts between FCH and the merchant's customers (hereinafter referred to as 'Purchasers') about the issuing and crediting of fashioncheques. In addition, the contracting party would like to function as a payment point and accept fashioncheques for payment purposes. For this purpose the contracting party and FCH have concluded the fashioncheque cooperation agreement (hereinafter 'the Agreement').

The above-described legal relationships between the contracting party and FCH are governed by the following contractual conditions, whereby the provisions in Section A apply to the entire contractual relationship, the provisions in Section B to the arrangement of contracts for the issuing and crediting of fashioncheques, and the provisions in Section C to the acceptance of fashioncheques for payment purposes.

A. General provisions

I. Responsibilities and involvement of subcontractors

- (1) The parties to the Agreement are the contracting party and FCH. The issue, return and other processing of the fashioncheque credit balance as well as all other contractual relations are between the contracting party and FCH. FCH is in particular responsible for technical and administrative implementation of the Agreement and cooperation with the contracting party.
- (2) The Agreement can either be concluded simultaneously for sale and acceptance of fashioncheques, or just for sale or acceptance of fashioncheques only. The scope ensues from the arrangement in the Agreement.
- (3) FCH is entitled to make use of third parties as vicarious agents in performing the Agreement. These General Terms and Conditions for Cooperating Partners shall also apply to the services to be rendered by these third parties. In accordance with the following conditions, FCH is the contracting party for customer service on behalf of FCH and is operating the online shop (<http://fashioncheque.com>).

II. Obligations of the contracting party

- (1) The contracting party must, at its own expense, immediately provide FCH with all the information necessary for the execution of the Agreement.
- (2) The contracting party must ensure, at its own expense, that it creates the necessary technical conditions for the execution of the Agreement. These include, in particular, the acquisition and provision of suitable payment terminals in accordance with the requirements of FCH.
- (3) The contracting party must immediately report errors, defects, damage and the assertion of rights by third parties to FCH.
- (4) The contracting party must immediately review all statements submitted to it and verify the correct crediting of sales transacted by FCH and to immediately assert any objections, i.e. no later than five banking days following the respective invoicing date.
- (5) The contracting party must respond to all the Purchasers' inquiries and complaints regarding the contractual services.
- (6) The contracting party has to provide FCH with a list of all its participating branches and to report changes immediately.
- (7) The contracting party agrees to the publication of its business name and address in written form or electronically on the internet for the purpose of publicising and promoting all sales and acceptance points of fashioncheques.

III. Remuneration / invoicing / offsetting

- (1) All fees are exclusive of statutory VAT.
- (2) FCH shall invoice the mutually payable amounts under the Agreement.

- (3) The contractual party shall be obliged to settle statements in accordance with the payment terms mentioned on the statement and - unless regulated otherwise - within five days of the statement date.
- (4) If the payment deadline is exceeded, interest will be charged on the outstanding amount at 1% per month. Part of a month shall be deemed a full month when calculating the default interest incurred.
- (5) If it is necessary to involve a lawyer or a debt collection company due to the defaulted payment, the defaulting contractual party must pay extra-judicial costs to the value of the legal fees for the amount of the outstanding debt.
- (6) Regardless of any instructions to the contrary by the contracting party and FCH shall have the right to first use the payments made by the contracting party or the sums collected from it to settle interest (Section III(4)) and collection costs (Section III(5)) and thereafter to settle another monetary claims due, with the monetary claim outstanding for longest being settled first.
- (7) The contracting party may only set off undisputed or legally established claims against the claims of FCH. The right of FCH to set-off shall remain unaffected.
- (8) Regardless of its other rights to suspend the Agreement and regardless of its right to full compensation, FCH shall have the right to suspend implementation of the Agreement in part or in full for every violation of fulfilment of a contractual obligation for which the contractual party is responsible.

IV. Term of the Agreement

- (1) The contract is concluded for an indefinite period and can be terminated by either party with a notice period of 6 months.
- (2) The right of the parties to extraordinary termination remains unaffected. Material reasons justifying the extraordinary termination include, in particular,
 - (a) if the contracting party violates an essential provision of the Agreement and, despite a reminder, the breach of contract is not rectified after a reasonable period, or
 - (b) if enforcement actions are instituted against the contracting party or if an application is filed to open insolvency proceedings, or
 - (c) if the contracting party terminates a substantial part of its business.
- (3) On termination of the Agreement, the contracting party must return all materials and equipment provided to it or to destroy them as instructed by FCH and, in such case, to provide proof of destruction.

V. Liability of FCH

- (1) FCH is fully liable to the contracting party for intent and gross negligence. In the event of other negligent acts, FCH is only liable for:
 - (a) Personal injury
 - (b) Damages for which it is liable due to mandatory statutory provisions, and
 - (c) Damages due to the breach of essential duties that jeopardise the achievement of the purpose of the Agreement or whose fulfilment makes the proper implementation of the Agreement possible and on which the contracting party may rely (material contractual obligations).
- (2) In the case of breach of material contractual obligations, the liability of FCH for simple negligent acts is limited to damages that are typical for this kind of contract and are foreseeable on entry into the Agreement.
- (3) With regard to the internet facilities, telecommunications provider, service provider and access provider to be used for implementing the Agreement, FCH is neither responsible nor liable for errors that cannot be ascribed to it or for factors outside its sphere of influence. FCH exclude any liability in this regard.

VI. Confidentiality, privacy

- (1) The parties agree to maintain confidentiality with regard to trade and business secrets and other confidential facts that become known to them in the context of the conclusion and execution of the Agreement. This obligation continues to apply for a period of three years after the termination of the Agreement. The parties will obligate their employees accordingly.
- (2) The parties must also comply with the applicable data protection regulations vis-à-vis the other party.

VII. Changes to these contractual conditions

Changes to these contractual conditions, including the annexes applicable thereto, will be communicated in writing to the contracting party. They shall be deemed approved if the contracting party does not object within six weeks following notification of the changes (timely dispatch is sufficient). FCH will draw this consequence to the party's attention in the notification.

VIII. Act to prevent money laundering and the financing of terrorism

- (1) Outlets must not sell fashioncheques to people who want to purchase fashioncheques with a cash value exceeding CHF 1,500, unless the contracting party carried out the following procedure to identify the holder:
 - (a) The contracting party's employees collect the following details from the prospective purchaser: name, place of birth, date of birth, nationality and address.
 - (b) The contracting party's employee obtains assurance by means of a valid photo identity document (personal identity card or passport) that the data obtained according to paragraph (1)(a) are correct.

- (c) The contracting party notes (i) the method, (ii) the time, (iii) the place of transaction, (iv) the number of cards, (v) the card value, (vi) the card numbers, (vii) the value of the cash sum and (viii) destination and origin of the cash sum.
- (2) If a sum exceeding CHF 1,500 is paid for two or more transactions that appear to be separate when viewed in isolation but which appear to have an economic or temporal connection, the contracting party shall be obliged to identify the customer within the terms of paragraph (1) of this Section VIII, or to refuse the sale.
- (3) The contracting party must go through the procedure according to paragraphs (1) and (2) even for sums below CHF 1,500 if facts are present that either indicate that the assets for purchase represent money laundering or concealment of illegally obtained assets, or the assets are associated with financing of terrorism or, in the event of doubt, whether the details obtained are relevant to the identity of the contracting party or the beneficial owner.
- (4) Redemption of several fashioncheques at a Purchaser in an economic and temporal context is possible only to a maximum total value of CHF 1,500.
- (5) The contracting party shall be obliged to report a transaction within the terms of paragraphs (1) and (2) of this Section VIII to FCH within 24 hours. As part of this reporting, the contracting party shall notify FCH of the details collected according to paragraph (1) of this Section VIII and also, if paragraph (3) of this Section VIII pertains, the circumstances under which the transaction is deemed to be unusual.

IX. Miscellaneous provisions

- (1) Application of the general terms and conditions of the contracting party is expressly refuted. By signing the Agreement, the contracting party declares that it has noted these General Terms and Conditions for Cooperating Partners and acknowledged them as an integral part of the Agreement.
- (2) Statements by FCH in an advertisement, external advertising and on a website, or other statements about fashioncheque, are merely a non-binding offer, do not constitute a guarantee with regard to the quality to be supplied and apply subject to any modifications and availability.
- (3) The contracting party shall not be authorised to transfer all or part of its rights arising from this contractual relationship to a third party without the prior written consent of FCH.
- (4) Should the Agreement's provisions be or become invalid, the validity of the remaining provisions shall remain unaffected. In this case, the parties will consensually replace the invalid provision with a valid provision whose purpose most closely approaches the purpose of the invalid provision.
- (5) The Agreement shall supersede any previous oral or written agreements between the parties.
- (6) In the event of a contradiction between the provisions of the Agreement and the provisions of these General Terms and Conditions for Cooperating Partners, the arrangements in the Agreement shall take precedence.
- (7) FCH shall be bound by amendments or supplements to the Agreement and the General Terms and Conditions for Cooperating Partners if they are recorded in a document signed by FCH.

X. Final provisions

- (1) Swiss law applies to the business relationship between FCH and the contracting party to the exclusion of the UN Sales Convention.
- (2) The exclusive place of jurisdiction for all legal disputes arising out of or in connection with the Agreement is the seat of FCH.
- (3) Amendments or additions to the Agreement, including the annexes to the Agreement, must be made in writing and may not be submitted by e-mail. This also applies to any waiver of this requirement of written form.
- (4) Should individual provisions of the Agreement, including the appended annexes, be or become invalid, the remaining provisions shall remain unaffected. The ineffective provisions shall be replaced or supplemented by effective provisions that most closely approximate the economic purpose pursued by the parties. This applies analogously to any omissions in the Agreement.

B. Special rules on arranging contracts between FCH and Purchasers for the issuing and crediting of fashioncheques

I. Duties and powers of the contracting party

- (1) The contracting party has the task of arranging contracts between FCH and Purchasers for the issuing and crediting of fashioncheques.
- (2) In connection with the above, FCH hereby authorises the contracting party, to conclude the contracts referred to in paragraph 1 in the name and for the account of FCH and under the conditions stipulated by FCH. The contracting party is prohibited from subcontracting.

II. Ordering fashioncheque carrier media

- (1) The contracting party may order fashioncheque carrier media from FCH using a website provided by FCH. Access to this website occurs by means of a user name and an access code sent to the contracting party after conclusion of The Agreement.

- (2) FCH shall have the right to technically optimise the ordering process. The contracting party shall be given timely advance notice of necessary modifications and improvements to the ordering process and associated short-term restrictions to system availability, as applicable.
- (3) FCH can refuse orders for material reason, in particular if the contracting party failed, to a considerable extent, to (fully) meet past payment obligations or if the contracting party is in danger of becoming insolvent.
- (4) The contracting party must ensure that only authorised persons have access to the username and access code in order to avoid their misuse.
- (5) Unless otherwise expressly confirmed, (delivery) deadlines stated by FCH are non-binding. FCH shall not be in default merely by exceeding a stated or agreed (delivery) deadline.
- (6) The contracting party will, at no time, become the owner of the fashioncheque carrier media and packaging supplied to it.

III. Transfer of risk

The risk of loss or damage to fashioncheques, packaging shall pass to the contracting party at the time at which they were delivered to the place in Switzerland designated by the contracting party.

IV. Acceptance of purchase prices

- (1) The contracting party is only entitled to conclude contracts for FCH if it has previously accepted payments from Purchasers owed to FCH under concluded contracts. Payment terms and instalments may not be granted to Purchasers by the contracting party.
- (2) The contracting party is required to forward collected payments to FCH.
- (3) The contracting party is obliged to cause due and proper activation of the credit balance for the fashioncheque immediately after the Purchaser has paid.

V. Sales commission

For the sale of a fashioncheque, FCH shall pay a sales commission to the contracting party amounting to the percentage of the capitalised credit, as stipulated in the Agreement.

V. Payment

The collected funds within the meaning of Section IV(2) and sales commissions within the meaning of Section V shall be paid within 5 calendar days following the sale of the relevant fashioncheque. The contracting party has issued a SEPA direct debit mandate to FCH for the purpose of paying the collected funds. The contracting party must maintain a sufficient balance in the bank account specified on the mandate to enable the collection of amounts payable by the contracting party.

C. Special rules for accepting fashioncheques for payment purposes

I. Acceptance of fashioncheques by the contracting party

- (1) The contracting party is entitled to accept fashioncheques for payment purposes in accordance with the terms of the Agreement.
- (2) The contracting party is prohibited from:
 - (a) making the use of a fashioncheque subject to any restrictions or conditions and
 - (b) applying charges or surcharges for the use of fashioncheques.
- (3) The contracting party shall pay the clearing fee agreed in the Agreement for the acceptance of fashioncheques.

II. Obligation to refund fashioncheque payments

- (1) FCH is required to reimburse the contracting party for the amount of a transaction initiated by a fashioncheque and carried out for the payment of services of the contracting party, providing all of the following conditions are met, subject to offsetting of the clearing fee.
 - (2) FCH's obligation to pay exists only if all of the conditions set out in items (a) to (f) (condition precedent) prevail.
 - (a) The contracting party completes the respective transaction in compliance with all technical and organisational procedural requirements that FCH has communicated to the contracting party prior to the commencement of the Agreement.
 - (b) The present owner of the fashioncheque informs the contracting party that a fashioncheque will be used as the means of payment for a service of the contracting party, and payment for the respective service of the contracting party has not occurred in another manner.
 - (c) The contracting party's service to be paid by means of a fashioncheque exclusively involves clothing and shoes.
 - (d) The transaction is electronically authorised by FCH or a third party authorised by FCH.
 - (e) The sales data has been correctly and completely transmitted to FCH or to a third party engaged by FCH within a maximum of 7 days from the date of purchase.
 - (f) The fashioncheque used for payment purposes has not been discernibly manipulated or falsified.
- Failure to comply with any of the conditions set out in this paragraph 2 exempts FCH from the obligation to pay. Payments that are nevertheless made to the contracting party are subject to reversal.

- (3) FCH will draw up a biweekly statement of all transactions and clearing fees incurred over the preceding two weeks. FCH shall pay the statement balance no later than two weeks after the statement date by means of bank transfer to the payment account specified in the fashioncheque cooperation agreement.