

## fashioncheque – General Terms and Conditions for Partners – Resellers / Participants Netherlands –

### 1. Definitions

In these General Terms and Conditions, the following capitalized terms shall have the meanings assigned to them below:

<b>Activation:</b>	The conversion of a <b>fashioncheque</b> from inactive to active in the central database of the Bank. Activation occurs by means of an electronic link with the central database, and involves registration of the following data: the <b>fashioncheque</b> code, the date of sale, and the Balance.
<b>Agreement:</b>	The aforementioned agreement between the Partner Company, FCH and the Bank for the resale of <b>fashioncheques</b> and/or the acceptance of <b>fashioncheques</b> for the purchase of Products and services for the amount of the Balance.
<b>Balance:</b>	The initial monetary value that is linked to (the unique code of) a <b>fashioncheque</b> and registered in the Bank central database, which the Holder can use to purchase Products against the Credit Balance registered in the Bank database.
<b>Buyer:</b>	Any natural or legal person who seeks or has sought to purchase a <b>fashioncheque</b> from a Reseller in order to become a Holder.
<b>Clearing:</b>	The settlement of E-money transactions as performed by the Bank.
<b>Clearing Central:</b>	The Bank central database in which the (card) numbers of the <b>fashioncheques</b> are recorded together with the relevant current Balance (i.e. the Credit Balance).
<b>Clearing Fee:</b>	The clearing fee as referred to in the Agreement.
<b>Combination Product:</b>	A Product to be supplied by FCH for sale in combination with a <b>fashioncheque</b> . However, the E-money represented by the <b>fashioncheque</b> is not part of the Combination Product.
<b>Credit Balance:</b>	The current Balance on a <b>fashioncheque</b> , i.e. a claim by a Holder against the Bank as issuer of the E-money, with as equivalent value the portion of the initial Balance not yet spent on purchases at Participants.
<b>E-money:</b>	Any electronically stored monetary value in the form of a claim on an issuer of E-money (here: the Bank) which is issued in return for payment of a sum of money and which may be used to make payments to a Participant (e.g. to purchase Products or services) .
<b>fashioncheque:</b>	A plastic card or other medium provided by FCH or a Reseller to a Holder, to which a Balance issued by the Bank is linked upon Activation. A Balance on an the Bank <b>fashioncheque</b> is a form of electronic money (E-money) within the meaning of the European Payment Services Directive and the applicable Dutch and German legislation on supervision.
<b>The Bank:</b>	An authorized credit institution supervised by the German Federal Financial Supervisory Authority ( <i>Bundesanstalt für Finanzdienstleistungsaufsicht</i> , BaFin), and is authorized to issue electronic money.
<b>FCH:</b>	Abbreviation of 'fashioncheque holding B.V.', a company having its registered office and principal place of business at Kruisweg 801-C, NL-2132 NG Hoofddorp, The Netherlands. FCH provides technical services to the Bank and supports the Bank.
<b>General Terms and Conditions for Partners:</b>	The General Terms and Conditions applicable to FCH, the Bank and Partner Companies in the Netherlands as published on <a href="http://www.fashioncheque.com">http://www.fashioncheque.com</a> , where they may be viewed, downloaded and printed at any time. These General Terms and Conditions form an integral part of all Agreements, and are appended to all Agreements in the most recent version. FCH shall send the most recent version of the General Terms and Conditions to Resellers and Participants upon request. The aforementioned General Terms and Conditions may also be requested by sending an e-mail to <a href="mailto:info@fashioncheque.nl">info@fashioncheque.nl</a> .
<b>Holder:</b>	Any natural or legal person who has purchased a <b>fashioncheque</b> , or to whom a <b>fashioncheque</b> has been duly transferred in accordance with the General Terms and Conditions for <b>fashioncheque</b> card holders in the Netherlands.
<b>Participant:</b>	A retailer or webshop that undertakes, in accordance with an Agreement concluded with the Bank and/or FCH, to accept the <b>fashioncheque</b> of a <b>fashioncheque</b> holder as valid means of payment for the purchase of goods and services for the amount of the Balance recorded by <b>fashioncheque</b> .
<b>Partner Company:</b>	Collective term for Resellers and Participants. The status of a Partner Company (Reseller, Participant or both) is laid down in the Agreement.
<b>Product:</b>	Any product that can be purchased from a Participant using a <b>fashioncheque</b> . At present this concerns fashion and lifestyle products.
<b>Sales Provision:</b>	The provision for Resellers stipulated in the Agreement, being a percentage of the Balance and a provision for the sale of Combination Products (if applicable). The provision for the sale of Combination Products is specified in the information for Resellers available on the website <a href="http://www.fashioncheque.com">http://www.fashioncheque.com</a> .

<b>Reseller:</b>	A party that is authorized to offer and sell <b>fashioncheques</b> to interested customers under an agreement concluded with FCH and the Bank. The sales agreement applies only to the physical <b>fashioncheque</b> (i.e. the plastic card) without Balance, in combination with a gift wrapping.
<b>Technical Link:</b>	The connection between the Clearing Central on the one hand and on the other, the payment terminal at the point of sale or the cash register system of the retailer or webshop payment service provider.

## 2. Conclusion of Agreement

- 1) The Agreement is concluded by and between the Partner Company, FCH and the Bank. In accordance with the terms and conditions set out below, the Bank is responsible for issuing, revoking and performing other actions relating to the Balance on the **fashioncheque** card. All other contractual relations are entered into between the Partner Company and FCH. In particular, FCH is responsible for the technical and administrative implementation of the Agreement and for communicating with Partner Companies. When an agreement is concluded between FCH and the Partner Company, certain rights and obligations are also granted to the Bank in accordance with these General Terms and Conditions.
- 2) Statements about the **fashioncheque** made by FCH and/or the Bank in advertisements, in outdoor advertising, on websites or in any other medium shall constitute a non-binding offer, guaranteeing nothing with regard to the quality to be provided by FCH and/or the Bank, and shall apply subject to changes and availability.
- 3) An Agreement shall be deemed to have been concluded exclusively with the Bank and FCH, and not with any individual FCH or the Bank employee.
- 4) FCH and the Bank have the right to have the agreed services performed by third parties. These General Terms and Conditions for Partners also apply to the services to be performed by these third parties.
- 5) Partner Companies are obligated to do everything that is reasonably necessary and/or desirable to enable the exercise of rights and fulfilment of obligations by FCH and the Bank. FCH and the Bank shall have the right to suspend performance of the Agreement if the other party concerned does not provide FCH and the Bank with all the items and data necessary for the performance of the Agreement.
- 6) Agreements may be concluded for the sale of **fashioncheques**, for their acceptance, or for both activities. The scope is defined in the applicable Agreement.

## 3. Delivery to Resellers

- 1) Resellers transmit orders of **fashioncheques** (i.e. blank gift cards), packaging materials and Combination Products to FCH via the website intended for this purpose, which FCH shall make available to the Reseller. Access to this website may be obtained by entering a user name and access code which will be provided following conclusion of the Agreement. All deliveries shall be made to the delivery address registered in the ordering system.
- 2) FCH has the right to refuse orders from a Reseller, e.g. if in the past the Reseller did not (fully) comply with its payment obligations to FCH or if insolvency of the Reseller is imminent.
- 3) Unless expressly confirmed, the (delivery) dates listed by FCH are never binding. The mere failure to meet the specified or agreed (delivery) date does not lead to default on the part of FCH.
- 4) The Reseller is solely responsible for ensuring that access to user names and access codes is restricted to authorized individuals, in order to prevent abuse of user names and access codes. All orders placed using the Reseller's user name and access code are binding on the Reseller, unless the order was placed due to improper use and/or fraudulent use attributable to deliberate intent or gross negligence on the part of FCH.
- 5) FCH has the right to verify by phone any orders it has received.
- 6) FCH also has the right to improve the efficiency of the ordering system by making technical modifications. The Reseller shall be informed in a timely fashion of any necessary changes and improvements to the ordering procedure and of any resulting temporary restrictions on system availability.
- 7) At no time shall the Reseller become the owner of the **fashioncheques** and packaging materials delivered to the Reseller. Ownership of the packaging materials shall be transferred directly to the Buyer upon purchase and the ensuing delivery, and to the Holder upon receiving the **fashioncheque**. The **fashioncheque** itself shall remain the property of FCH until the Credit Balance of the relevant **fashioncheque** is €0.00, without prejudice to the rights of the Holder of the **fashioncheque** by virtue of the Credit Balance of the **fashioncheque** in question. Ownership of the **fashioncheque** concerned shall transfer to the Holder when the Credit Balance is €0.00.
- 8) FCH transfers ownership of Combination Products to the Reseller on the condition precedent that the Reseller has fulfilled all its payment obligations to FCH under the Agreement for the supplied Combination Products and packaging materials. The Reseller shall be authorized to sell and transfer the Combination Products in the normal course of business in accordance with Article 5 of these General Terms and Conditions.

## 4. Transfer of risk

The risk of loss of or damage to **fashioncheques**, packaging materials and Combination Products shall pass to the Reseller upon delivery to the location in the Netherlands indicated by the Reseller.

## 5. Sale of fashioncheques by Reseller

- 1) As soon as the Technical Link between the Reseller and the Bank is established, the Reseller shall be authorized to sell **fashioncheques** (possibly together with Combination Products) in accordance with the Agreement and the General Terms and Conditions for **fashioncheque** card holders in the Netherlands. For this purpose, the aforementioned General Terms and Conditions will be published or made available.

- 2) Resellers are obligated to ensure that the General Terms and Conditions for **fashioncheque** card holders are available to customers at their points of sale in the Netherlands. In the case of a webshop, the General Terms and Conditions must be posted on the relevant website and customers must be able to view, download and print them at any time, particular prior to concluding an agreement.
- 3) The Reseller sells the **fashioncheque** gift card in combination with a gift wrapping for payment of a fee in accordance with the Agreement. At the same time, the Reseller deducts the value of the Holder's desired **fashioncheque** balance for the benefit of the Bank. If the **fashioncheque** is sold together with a Combination Product, the Reseller must also pay the price set by FCH for the Combination Product.
- 4) The Activation of the Balance, the management of the Balance and the money received in return, and the authorization of payment transactions chargeable to the Balance shall be performed exclusively by the Bank.
- 5) For the Activation of a **fashioncheque**, the Reseller shall be paid a Sales Provision equal to the percentage of the activated Balance as specified in the Agreement. If a **fashioncheque** is sold together with a Combination Product, the Reseller receives an additional Sales Provision on the sales price of the Combination Product. The percentage to be used in calculating this provision and the applicable terms and conditions of payment may be found on the website section for Resellers on <http://www.fashioncheque.com>.
- 6) When a **fashioncheque** is sold, the Reseller must perform the following actions:
  - a) Transfer the **fashioncheque** in its packaging to the Holder, including the General Terms and Conditions for card holders, the receipt or other proof of payment, and the Combination Product if applicable
  - b) Request the Holder to make a payment equal to the Balance plus the payment for the packaging and the price of the Combination Product, if the **fashioncheque** is purchased together with a Combination Product
  - c) After payment by the Holder, immediately proceed to proper Activation of the **fashioncheque** in the Clearing Central, for an amount equal to the Balance
- 7) The Reseller shall not be authorized to hire and/or retain sub-resellers of **fashioncheques**, unless FCH and the Bank have given explicit written permission to do so.

## 6. Financial settlement of sale between the Bank and Reseller

- 1) For every sale made in accordance with Article 5, Reseller shall be obligated to pay the following:
  - a) To FCH: a sum equal to the value of the (blank) **fashioncheque** and the packaging and, if the **fashioncheque** is sold together with a Combination Product, the price of this Combination Product minus the provision due for it
  - b) To the Bank: a sum equal to the Balance of the **fashioncheque** minus the Sales Provision due in accordance with the Agreement
- 2) The payments referred to in paragraph 1 of this article must always be made within five calendar days following Activation of the **fashioncheque** concerned.
- 3) The amounts owed under paragraph 1 of this article are collected by the Bank, at their discretion by means of settlement pursuant to Article 5 of these General Terms and Conditions for Partners, or by means of direct debit collection based on the authorization provided.
- 4) When the Agreement is concluded, the Reseller shall be obligated to provide the Bank with a direct debit authorization for any sums owed under this article in the future. The Reseller shall be obligated to always maintain a sufficient balance on the indicated Bank account, for collection of the amounts owed under paragraph 1 of this article. If said balance is insufficient at the time of collection, FCH and the Bank shall have the right to immediately terminate the Agreement.

## 7. Acceptance of fashioncheques by Participant

- 1) As soon as the Participant's Technical Link with the **fashioncheque** system has been established, the Participant shall be obligated to accept as a valid means of payment the E-money issued by the Bank and registered on the **fashioncheque**.
- 2) **fashioncheques** are accepted by Clearing them with the Bank.
- 3) For every amount for which a **fashioncheque** is submitted for Clearing and accepted for Clearing by the Bank, the Participant shall owe the Bank a Clearing Fee equal to the percentage specified in the Agreement.
- 4) The Bank shall reimburse the Participant for the value of every **fashioncheque** submitted by the Participant for Clearing, up to the amount for which it has been submitted for Clearing and accepted for Clearing by the Bank, while settling the Clearing Fee.
- 5) Once every two weeks, FCH shall send the Participant an invoice on behalf of the Bank. The invoice shall include an overview of the Clearing Fees due and of all transactions conducted in the previous two weeks. Any questions or complaints concerning these invoices must be submitted to FCH.
- 6) The Bank shall pay the balance of the invoice by transferring the amount due to the Bank or giro account specified by Participant in the Agreement, and shall do so not later than two weeks after the date of the invoice issued in accordance with paragraph 4 of this article.

## 8. Records clause

Subject to proof to the contrary to be provided by Reseller or Participant, an extract from the Bank's records authenticated by the Bank shall serve as proof of:

- (a) The existence and the amount of the monetary claims of the Bank against Reseller or Participant by virtue of the Agreement, and
- (b) The amount of the monetary claims of the Reseller or Participant against the Bank

## 9. Payments

- 1) Unless indicated otherwise, the payments specified in Agreements and in these General Terms and Conditions for Partners shall be exclusive of sales tax (VAT). The Balances of the **fashioncheques** (E-money) are legally exempt from VAT.
- 2) Every Reseller and Participant shall be obligated to settle invoices in accordance with the payment terms indicated on the invoice and – if no specific payment conditions are given – within five days of the invoice date.
- 3) If the payment term is exceeded, a default monthly interest rate of 1% shall be payable on the outstanding amount. In calculating the default interest owed, part of a month counts as a full month.
- 4) If the services of a lawyer or debt collection agency need to be retained due to payment arrears, then the Reseller or Participant liable for the payment arrears shall be obligated to pay the statutory extrajudicial costs connected with the claim.
- 5) FCH and the Bank are entitled to use payments made by Resellers or Participants or sums collected from them first to pay interest (Article 9, paragraph 3) and debt collection costs (Article 9, paragraph 4), and then to settle other outstanding pecuniary claims. The longest outstanding pecuniary claim shall be settled first, irrespective of any instructions to the contrary provided by the Reseller or Participant concerned.

## 10. Settlement of amounts payable; suspension of Agreement

- 1) Resellers and Participants shall not be permitted to settle amounts payable by FCH and the Bank with amounts payable to FCH and the Bank, unless these claims are recognised or legally established counterclaims.
- 2) FCH and the Bank shall have the right to settle outstanding claims of Partner Companies with existing counterclaims against the Partner Company concerned.
- 3) Every attributable breach or shortcoming on the part of a Reseller or Participant in the fulfilment of its obligations under the Agreement shall give FCH the right to fully or partially suspend the performance of the Agreement, without prejudice to FCH's other suspension rights and without prejudice to its right to full compensation.

## 11. Liability

- 1) Unless the damage/loss is the result of an intentional act or gross negligence on the part of FCH and/or the Bank, FCH and the Bank shall not be liable for damage/loss caused by:
  - a) Improper or fraudulent use of **fashioncheques**
  - b) Improper or fraudulent use of user names, passwords or other login details issued by FCH and/or the Bank to Resellers and/or Participants
  - c) Changes in the composition of the group of Resellers or Participants
  - d) Inaccurate and/or incomplete data provided by the Reseller and/or Participant and/or by any third parties engaged by them
  - e) Non-compliance on the part of Resellers or Participants with the provisions of these General Terms and Conditions and/or instructions provided by FCH and/or the Bank
- 2) Without prejudice to the provisions of paragraph 1, any liability of FCH and the Bank shall be limited to direct damage/loss, which shall be interpreted as including only the following:
  - a) The reasonable costs that the Participant and/or Reseller would need to incur to ensure that the performance of FCH and the Bank would comply with the Agreement. However, this loss is not compensated if the Participant and/or Reseller has terminated the Agreement.
  - b) The reasonable costs incurred in determining the cause and scope of the damage/loss, insofar as it concerns direct damage/loss within the meaning of these General Terms and Conditions
  - c) The reasonable costs incurred in preventing or limiting damage/loss, insofar as the Participant and/or Reseller is able to demonstrate that these costs have resulted in limited direct damage/loss within the meaning of these General Terms and Conditions
- 3) FCH and the Bank exclude any and all liability for indirect damage, consequential damage, profit losses, damage due to loss or corruption of data or databases, unrealized savings, damage due to interruption of operations, damage due to operational or administrative failures, and damage due to failure to meet a deadline.
- 4) Without prejudice to the provisions of the other paragraphs in this article, the liability of FCH and the Bank shall be limited to:
  - (i) The amount paid by the insurer of FCH and the Bank in the case in question, or
  - (ii) If the damage/loss is not covered by an insurance policy taken out by FCH or the Bank: an amount equal to the maximum amount of the commission stipulated for the relevant Agreement (excluding VAT), with the stipulated Clearing Fee or provision set at the total Clearing Fee or provision (excluding VAT) that FCH and the Bank would owe to the Reseller or Participant over a period of six months prior to the event causing the damage/loss.
- 5) If the previous paragraphs of this article do not apply due to the circumstances of the case at hand, the compensatory damages shall never exceed €10,000.
- 6) Any liability on the part of FCH and/or the Bank due to an attributable shortcoming in fulfilling their obligations under the Agreement shall only arise if the Participant and/or Reseller has provided FCH and/or the Bank with prompt written notice of default, stating a reasonable term for resolving the shortcoming, and if FCH and/or the Bank demonstrably fail to fulfil their obligations after expiry of the term. The notice of default must describe the shortcoming in as much detail as possible to enable FCH and/or the Bank to respond adequately.
- 7) The Participant and/or Reseller must report the damage/loss in writing to FCH and/or the Bank as soon as possible after its occurrence in order to have any right to compensation of damages.

- 8) In all cases, claims for compensation of damages must be submitted to FCH and the Bank within six months.
- 9) The limitations on the liability of FCH and the Bank under the preceding paragraphs of this article shall not apply if and insofar:
  - (i) The damage/loss arose due to deliberate intent or gross negligence on the part of FCH or the Bank, or
  - (ii) Such limitations are not permitted under the applicable mandatory statutory provisions
- 10) Parties mutually undertake to take out liability insurance for financial loss and to submit an insurance policy at the request of the other party to prove that they have done so.
- 11) The Participant or Reseller shall hold FCH and the Bank harmless against all claims by third parties (including Holders of **fashioncheques**) with regard to damage/loss that:
  - (a) Would be for the account of the Participant and/or Reseller under the provisions of this article if the third party in question were to submit a claim to the Participant and/or Reseller
  - (b) Is imputable to the Participant and/or Reseller in connection with the performance of this Agreement

## 12. Force majeure

- 1) FCH and the Bank shall not be obligated to fulfil any obligation if they are prevented from doing so as a result of a situation or circumstance for which they are not responsible, either under the law, due to a legal action, or under generally accepted market practice.
- 2) In addition to its meaning in legislation and jurisprudence, 'force majeure' in these General Terms and Conditions includes all foreseeable and unforeseeable external causes which cannot be influenced by FCH and the Bank, and as a result of which they are unable to fulfil their obligations. These causes include:
  - a) Strikes/walkouts/stoppages at FCH or the Bank
  - b) International conflicts
  - c) Violent or armed actions
  - d) Measures taken by a national, foreign or international authority
  - e) Interruption of operations as result of fire, burglary, sabotage or natural phenomena
  - f) Cyber crime
  - g) Internet or power failures
  - h) Boycotts
- 3) Parties may suspend their obligations under the Agreement during the force majeure period. If this period lasts longer than three months, each party shall have the right to terminate the Agreement without being obligated to pay compensatory damages to the other party.
- 4) FCH and the Bank shall have the right to demand payment for services supplied as part of the performance of the respective Agreement prior to the force majeure event.
- 5) Insofar as, at the time the force majeure event occurred, FCH and the Bank had already partially fulfilled their obligations under the Agreement or will be able to fulfil them and the obligations already fulfilled or to be fulfilled have independent value, FCH and the Bank shall be entitled to collect separate payment from the Reseller and/or Participant for the obligations already fulfilled or to be fulfilled. Each Reseller and/or Participant shall be obligated to pay this invoice as if it were a separate agreement.

## 13. Equipment and telecommunications facilities

- 1) After the Agreement has been signed, FCH shall commission a third party to make the Partner Company's cash register system or payment terminal suitable for:
  - (a) The Technical Link to the Clearing Central,
  - (b) Activation (in the case of Resellers), or
  - (c) Recognition of **fashioncheques** and the processing of **fashioncheque** transactions
 If the Participant (also) runs a webshop, the Technical Link required for the webshop may also be put into operation.
- 2) Each Partner Company shall be responsible for the proper functioning of its payment terminals, cash register systems and other computer equipment and telephone and/or computer connections that are required for communications between its affiliates and the Clearing Central and, in the case of a webshop, the link between the payment service provider and the Clearing Central. The associated costs and the costs for the technical and software-related services that are required to link the Reseller's and/or Participant's systems with the Clearing Central shall be for the account of and borne by the Partner Company concerned.
- 3) The Partner Company shall be obligated to provide full cooperation for the installation and preparation of the cash register system or payment terminal and, in the case of a webshop, the link between the payment service provider and the Clearing Central.
- 4) With regard to the Internet facilities, telecommunications providers, service provider(s) and/or access provider(s) to be used for the performance of the Agreement, FCH and the Bank shall not be responsible and/or liable for any shortcomings that are not attributable to them and/or circumstances that are beyond their control. FCH and the Bank exclude all liability in this respect.

## 14. Term and termination of Agreement

- 1) The Agreement shall enter into effect on the date of signature and shall be concluded for the term of one calendar year. At the end of the term, the Agreement shall be automatically extended each time by one calendar year. Without prejudice to the provisions of Article 15, the Agreement may be terminated subject to one month's notice.

- 2) Notice must be given in writing at the end of a calendar month. No reasons have to be given.
- 3) If there is an attributable shortcoming and/or default on the part of FCH or the Bank relating to a payment obligation towards a Reseller, the Reseller shall have the right to terminate the Agreement with immediate effect.

## 15. Termination by FCH and the Bank

- 1) FCH and the Bank may terminate the Agreement with immediate effect if the Reseller or Participant has not fulfilled, not fulfilled in a timely manner, not fulfilled properly or not fulfilled completely one or more of its obligations under this Agreement, without prejudice to the right of FCH and the Bank to full compensatory damages.
- 2) FCH shall have the right, also on behalf of the Bank, to terminate the Agreement with immediate effect, without notice of default or court intervention, if the Reseller and/or Participant files for Bankruptcy, if Bankruptcy is petitioned for them, if they are declared Bankrupt, if a moratorium on payments has been requested or obtained, or if they have otherwise lost the ability to freely control their assets.
- 3) If services have already been provided to the Partner Company under the Agreement at the time of its termination, these services and the associated payment obligations shall not be cancelled, unless FCH or the Bank has defaulted in providing these services. Sums invoiced by FCH prior to the termination of the Agreement in connection with past services or deliveries under the Agreement, shall remain payable and shall become immediately due and payable at the time of termination.
- 4) In the event of early termination, the claims of FCH and the Bank against the Partner Company shall immediately become due and payable.

## 16. Consequences of termination of Agreement

- 1) Upon termination of this Agreement, all debts between parties shall immediately become due and payable.
- 2) Upon termination of this Agreement, the Partner Company shall be obligated to immediately stop accepting or selling **fashioncheques** and immediately transfer to FCH any **fashioncheques** still in its possession. The costs of transporting **fashioncheques** to the delivery address indicated by FCH shall be borne by the Partner Company if the Agreement is terminated at the request of the Partner Company or as a result default on the part of the Partner Company.
- 3) Upon termination of the Agreement, the Partner Company shall be obligated to immediately hand over to FCH all documents and records that are the property of FCH or the Bank, and to remove/delete from its points of sale / branches / offices all advertising materials and any other **fashioncheque** promotional materials.

## 17. Performance of Agreement

- 1) The Reseller or Participant shall ensure that **fashioncheques** are activated or cleared as quickly as possible. If the start date is postponed by FCH due to unforeseen circumstances, FCH or the Bank shall not be liable for any damage incurred by the Reseller and/or Participant and/or any loss of earnings.
- 2) FCH and the Bank shall have the right to unilaterally postpone the agreed start date, including in the event of force majeure. Force majeure shall include in any case, but shall not be limited to: circumstances of a technical nature; and circumstances resulting from government actions, such as enforcement of any applicable laws, thereby preventing the fulfilment of obligations by FCH or the Bank.
- 3) The Partner Company itself shall be responsible for obtaining and maintaining any software, hardware (including peripheral equipment) and/or Internet connections required to be able to use **fashioncheques**; such software, hardware and Internet connections shall not be provided by FCH and/or the Bank.

## 18. Property and intellectual property rights

- 1) **fashioncheques** are transferable and not linked to the identity of the Holder. The Bank and FCH shall retain ownership of the **fashioncheques** at all times up to the moment of purchase by the Holder and up to the time when the Balance on the **fashioncheque** is €0.00 (in words: zero euro), without prejudice to the provisions in this Agreement concerning retention of title by FCH.
- 2) All intellectual and/or industrial property rights relating to the **fashioncheque** and its design, including rights relating to materials for promoting the sale of **fashioncheques**, are vested in FCH.
- 3) The Partner Company undertakes to notify FCH when the former has found that a third party has infringed the intellectual property rights relating to the **fashioncheque** and its design and the aforementioned promotional materials. The Partner Company shall provide all reasonable support to FCH and the Bank in enforcing their intellectual property rights, whether in legal proceedings or otherwise.
- 4) The Partner Company shall not add any annotations or designations or make any changes to the **fashioncheque** and accompanying gift wrapping, or add or remove any components.
- 5) FCH and the Bank on the one hand and the Partner Company on the other hand undertake to provide each other full cooperation for the identification, investigation and prevention of any cases of improper use, fraud, theft or similar involving **fashioncheques**.

## 19. Exclusivity

During the term of the Agreement, each Partner Company shall collaborate exclusively with FCH and the Bank in the area of inter-company fashion gift cards.

During the term of the Agreement, Resellers shall refrain from trading in any redeemable fashion gift vouchers or gift cards which are commonly used and can be exchanged between companies in the fashion industry (other than **fashioncheques**).

During the term of the Agreement, Participants shall refrain from accepting any redeemable fashion gift vouchers or gift cards which are commonly used and can be exchanged between companies in the fashion industry (other than **fashioncheques**). This provision does not apply to company cheques and gift cards that can only be purchased and redeemed within the companies of the Reseller and/or Participant.

## 20. Confidentiality

Any and all information and data that is exchanged between parties or that parties have cognizance of by virtue of this Agreement shall be treated confidentially during the term of this Agreement and after its termination. Parties undertake not to disclose such information or data to third parties without written permission from the other party, unless and insofar as they are obligated to do so pursuant to a statutory provision.

## 21. Questions and complaints

Questions and/or complaints about **fashioncheque** must be addressed exclusively to FCH by sending an e-mail [info@fashioncheque.nl](mailto:info@fashioncheque.nl), stating the question and/or complaint and the name of the person submitting it. In the case of questions and/or complaints concerning the sale or Activation of **fashioncheques**, the Partner Company shall provide FCH with immediate access to the available sales or transaction data upon first request. If a shortcoming at the Partner Company has resulted in damage/loss for FCH, the Bank or the Holder, then the Partner Company concerned must provide compensation for this damage/loss.

## 22. Prevention of Money Laundering and Financing of Terrorism Act

- 1) A Reseller may not sell **fashioncheques** to persons wishing to purchase **fashioncheques** for an amount higher than €2,000 (two thousand euro), unless the Reseller adheres to the following procedure for identifying the Holder:
  - a) The relevant Reseller employee records the following information about the Buyer: name, place and date of birth, nationality, address.
  - b) The employee then checks the accuracy of the information listed above under item 1 a) by inspecting a valid identity document with photograph (i.e. an ID card or passport).
  - c) The Reseller employee records the following data: (a) nature of transaction, (b) time of transaction, (c) location of transaction, (d) number of cards, (e) total value of cards, (f) card numbers, (g) cash sum, and h) origin and intended use of the cash sum.
- 2) If two or more apparently independent transactions involving a total payment of more than €2,000 nevertheless seem to be connected commercially or temporally, then the Reseller is obligated to instruct the customer to provide proof of identity in accordance with paragraph 1 of this article, or to refuse the sale.
- 3) The Reseller must also follow the procedure described in paragraphs 1 and 2 of this article for amounts below €2,000, if circumstances indicate that the assets used to purchase a Product may be the result of money laundering, have been obtained unlawfully, or may be related to the financing of terrorism. The aforementioned procedure must also be followed if there is any doubt concerning the accuracy of the personal details of the counterparty or the ultimate beneficial owner.
- 4) Multiple **fashioncheques** may be redeemed at a Participant up to a maximum of €2000 if the transactions are connected commercially or temporally.
- 5) The Reseller shall be obligated to report to the Bank within 24 hours any transaction of the type referred to in paragraphs 1 and 2 of this article. For this purpose, the Reseller shall provide to the Bank the data obtained in accordance with paragraph 1 of this article, as well as the reasons for designating the relevant transaction as 'unusual' if paragraph 3 of this article applies.

## 23. Other provisions

- 1) The applicability of the Reseller's and/or Participant's own General Terms and Conditions is expressly rejected. By signing the Agreement, the Participant or Reseller declares that it has taken note of these General Terms and Conditions for Partners and accepts them as an integral part of the Agreement.
- 2) The Partner Company shall not transfer its rights under this Agreement to a third party, either in part or in full, without the prior written permission of FCH and the Bank.
- 3) If any provisions in this Agreement are or become invalid, this shall not affect the validity of the other provisions. In that event, parties shall consult in order to replace the invalid provision by a valid provision that approximates as closely as possible the intent of the invalid provision.
- 4) The Agreement shall replace all previous verbal or written agreements concluded between the parties.
- 5) In the event of any discrepancy between the provisions of the Agreement and these General Terms and Conditions for Partners, the provisions of the Agreement shall always take precedence.
- 6) FCH and the Bank shall only be bound to any changes or additions to the Agreement and the General Terms and Conditions for Partners if these are set out in a document signed by FCH and the Bank.
- 7) FCH and the Bank shall have the right to unilaterally amend or make additions to these General Terms and Conditions for Partners. The Partner Company shall be notified by e-mail of any changes to these General Terms and Conditions for Partners, not later than two months prior to the proposed date when such changes enter into effect. The Partner Company shall be deemed to have consented to the amended General Terms and Conditions if it has not made its objections known before the proposed date when the changes enter into effect. When announcing the amended General Terms and Conditions, FCH and the Bank shall expressly refer to the consent procedure described above. If the Reseller and/or Participant does not accept the amended General Terms and Conditions, the Reseller and/or Participant may terminate the Agreement to which the changes relate, free of charge and with immediate effect, prior to the date when

said changes enter into effect. FCH and the Bank will expressly refer to this option when notifying the Reseller and/or Participant of any proposed changes to the General Terms and Conditions.

- 8) This Agreement shall be governed by Dutch law. The applicability of the Vienna Convention on Contracts for the International Sale of Goods is expressly excluded.
- 9) Any disputes that cannot be settled amicably shall be submitted to the competent court in Amsterdam, the Netherlands.