Terms & Conditions

Effective from 28 May 2023

Part A: General Terms

1. Overview

a) These terms and conditions form a legal agreement between Verein DIFFAIR ("DIFFAIR", "us", or "we") and the legal entity or natural person ("you", or "your") who registers on the designer signup page and lists one or more products for sale.

b) You agree to adhere to all statutory obligations for the sale of goods to customers, if not specifically stated otherwise in these terms.

2. Profile

a) To represent your brand (also "label"), you are required to provide some images, your logo and a description of your brand.

b) You must hold the right to use all photos which you upload to our website.

c) The images and descriptions must not be offensive to any individual or group.

d) We will approve all new profiles and certain modifications before they appear online. Further terms for your chosen plan apply which can be found below.

3. Products

a) Products must not be illegal, banned or morally reprehensible items.

b) You must hold the right to sell the products you list.

c) You are required to provide at least one image of each product and a description of the product.

d) You must hold the right to use all photos which you upload to our website.

e) The product images and descriptions must not be offensive to any individual or group.

f) Changes to product photographs and descriptions are possible at any time until it is sold. Once a product is sold, only limited changes are possible.

g) We will approve all new products and certain modifications before they appear online. Further terms for your chosen plan apply which can be found below.

h) You must specify a reserved quantity of each stock keeping unit (SKU) for the marketplace "DIFFAIR Market" or private store. This can be changed at any time provided all outstanding orders are honored.

i) You may change the status of each product at any time. The different options are defined as follows:

   i. Available: product is available for immediate sale, all approved images and descriptions appear online.
   ii. Preorder: product is only available for shipping from some future date, but orders can be taken now. All approved images and descriptions appear online.
   iii. Test: product not for sale and does not appear online, but the latest version of images and descriptions (whether approved or not) will appear in your test store.
   iv. Hidden: product is not available for sale and does not appear online.

j) Once a product is sold out, it will be delisted and will not appear in searches. You can increase the stock available at any time to relist the product.

4. Pricing

a) The final price for a product including discounts but excluding shipping must be at least CHF 3.00.

b) If the price of a product after discounts is less than CHF 3.00, it will be set to CHF 3.00.

c) Prices can be given to the nearest five cents, however, for style and ease of understanding, we encourage all prices to be rounded off to the nearest whole frank.

5. Discounts

a) You may apply a storewide discount on all products you list.

b) You may apply separate discounts to each product and/or each stock keeping unit (SKU).

c) Discounts must be a percentage off up to 50% with no minimum order and have an expiry date of 2 months or less.

d) Discounted prices will be rounded off to the nearest whole frank.

e) Products must be at their normal price for twice the period of the discount before the discount period, or after the discount period if it is an introductory discount.

f) The highest valid discount on a particular SKU applies (including storewide, product, colour and size discounts).

6. Shipping

a) All products must be shipped to the customer from Switzerland, or otherwise all customs duties and processing fees are to be born by you, they must not be charged to the customer.

b) You must specify the shipping cost for each product, unless you offer free shipping as a default.

c) You must specify the maximum shipping cost for each order, where zero indicates free shipping as a default.

d) You may specify a minimum order amount to qualify for free shipping. If the extra amount required to qualify for free shipping is less than the calculated shipping cost, then only the extra amount will be charged for shipping.

e) You must specify a default delivery time in which all products are expected to be delivered within Switzerland and Liechtenstein.

f) You may specify a different delivery time for each product.

g) You may use any reliable shipping method.

h) You agree to send all ordered products in time to arrive for the stated delivery time.

i) Delays in shipping are to be notified immediately, either to us or to the customer, in accordance with the specific terms for your listing option below.

j) For the purpose of your statutory obligations to the customer, the legally binding delivery term for a product will be twice the period you have indicated.

k) You may choose to offer international shipping to certain countries or regions. In this case, you must specify a flat-rate shipping cost per order for each country or region. You are not liable to collect VAT on international orders nor are you liable for any customs fees the customer may incur.

7. Temporary closure

a) You may specify your next closure period (e.g. for holidays) of not more than 60 days within the next six months during which orders will not be shipped.

b) For products ordered within or on the day before the closure period, the delivery shall occur within the stated time following the end of the closure period.

c) Products ordered at least two days before the start of the closure period are expect to be shipped in time for the stated delivery time.

d) A closure period cannot be extended within or one day before the period.

e) A closure period cannot be deleted and a new closure period cannot be set until 7 days after the end of the previous closure period.

f) The start date of a closure period cannot be changed within or one day before the period.

g) A closure period may be shortened to at least one day at any time.

8. Payment

a) DIFFAIR will collect the money paid for all products ordered in a given month and, after subtracting the commission, payment processing fees and any outstanding returns, will transfer the balance to your nominated bank account on the 7th day of the following month or, if this day is not a business day, the next business day.

b) We will withhold payment for any products in dispute until a resolution is reached.

9. Returns

a) You must choose one of the return policies offered by DIFFAIR. The different options are defined as follows:

   i. Free return shipping: you should include a return shipping label with the product or provide a shipping label to the customer upon requesting the return.

   ii. Customer pays for return shipping: the customer must bear the cost of returning the article by their chosen method.

   iii. Returns accepted for a fee: we will charge the customer your requested fee and then you must provide a return-shipping label.

   iv. No returns: returns not accepted except under warranty claim.

b) You may choose a different return policy for each product.

c) DIFFAIR will process returns made in accordance with your chosen return policy and immediately reserve the funds.

d) Funds reserved for refunds will be credited back to the customer upon confirmation from you that you have received the products in accordance with your chosen return policy. No commission is payable on returns, however the payment processing fee applies.

e) If it can be confirmed that the customer has not sent back the product within 7 days of the stated return period (not the date of requesting the return), the return will be cancelled and reserved funds less the commission will be credited to you and included in your next monthly payment.

f) Disputes over returned products shall be handled according to the dispute resolution process for your listing option below. Reserved funds will be withheld until the dispute is resolved, and then disbursed according to the agreed resolution.

g) The balance of funds reserved for refunds at the end of a month will be subtracted from your monthly payment.

h) Negative monthly balances will be carried over and subtracted from the next monthly payment.

10. Payment processing fee

a) DIFFAIR incurs fees when using our external payment provider, which are currently CHF 0.30 plus 2.9% of the transaction value.

b) Prepayments to our bank account will be offered for a 2.0% discount to the customer. This 2.0% is considered a payment processing fee.

c) These fees are generally not passed on to you as they are covered by our commission. However, whenever our commission is not charged, the payment processing fee is passed on to you.

d) In the case of returns in which only part of the order is returned, then only the variable part of the payment processing fee, and not the fixed part (if any), is passed on to you.

11. Commission

a) DIFFAIR charges you a percentage of the sale price of each product sold through our marketplace or private online store.

b) The rate of commission is defined for each listing option below.

12. Value Added Tax (VAT)

a) We will collect VAT on the sale price and shipping from the customer on your behalf if you are registered to collect VAT.

b) The product price and shipping costs must be shown including VAT.

c) Any discounts offered by DIFFAIR will reduce the total order value and the corresponding VAT amount will be reduced.

d) DIFFAIR does not charge VAT to the customer.

e) Any VAT that DIFFAIR is required to collect will be included in the commission.

13. Warranty

a) You warrant that all products offered are as described in the text and photos.

b) All products must be delivered in new condition unless specifically stated in the product description.

c) Products with defects or damage upon delivery and reported within 7 days of delivery are to be repaired, replaced, or refunded at your expense.

d) In accordance with the statutory warranty, products with defects that are reported upon discovery and within two years from delivery are to be repaired, replaced, or refunded at your expense.

e) To the extent allowed by the law, the warranty relating to defects on Artworks is excluded, however clauses 13.a and b still apply.

f) You may specify a longer, legally binding warranty period in the product description.

14. Changes to your listing status

a) You may change your listing status at least 14 days before the end of a month for effect from the first day of the following month. This can be done directly from your account.

15. Termination

a) You may terminate your agreement with us at any time, with 7 days notice. Please send us an email or contact us via our contact form with your desired end date.

b) We may terminate this agreement with you at any time by email with 30 days notice. We reserve the right to terminate this agreement immediately after the third time you cancel a sold item for any reason that you are

reasonably expected to avoid (e.g. not updating a sold-out product, or listing the wrong price).

c) Both parties may terminate this agreement immediately upon violation of these terms by the other party.

d) Neither your profile, nor your products will appear on our marketplace or your private shop on or after your termination date.

e) Your final payment will occur on the usual schedule after all return periods have expired and all open disputes have been resolved.

f) Any negative monthly balances (deriving from returned items) shall be paid to us within 30 days of termination.

g) All your uploaded data will be deleted from our servers within 30 days after the last payment. Details of orders from you and payments made to you will be kept for record keeping.

16. Changes to these Terms

a) We reserve the right to make modifications to these terms and conditions at any time with at least 30 days notice.

b) Any such modifications will be communicated to you via email.

c) We will also make an archive of previous versions of these terms and conditions available on our website.

17. Applicable law

a) These terms and conditions apply to the extent allowed by law.

b) The definitive version of these terms and conditions is the English version.

c) A German translation is provided for guidance only.

d) These terms and conditions are governed by the laws of Switzerland and the place of jurisdiction is Zurich.

Part B: Specific Terms for Labels Listed on DIFFAIR Market

1. Products

a) You must be the right holder of the brand of each product you list.

b) The brand must be located in Switzerland and each listed product must be designed in Switzerland.

c) Products must be of a high design standard. DIFFAIR reserves the right to refuse listing of any products that we believe do not fit the concept of DIFFAIR.

d) The images of your products must be professional photographs.

e) You grant us the nonexclusive right to market your products and to use your photos online to market our marketplace and your label.

f) Any special conditions to the sale, price or product must be explained in the product description or communicated to us when the product is uploaded.

g) You must list all of your available products on DIFFAIR Market. Exceptions to this condition can be made in the following circumstances:

   i. The product is no longer being manufactured and is superseded by another product listed on DIFFAIR Market.

   ii. The majority of the SKUs for the product (colours and sizes) are sold out.

   iii. You are actively subscribed to Marketplace PLUS and have at least 5 products listed on DIFFAIR Market.

h) For the purpose of clause 1. g), a listed product means uploaded and in complete status. If you do not have sufficient products listed, we may hide your profile and all products from the marketplace.

2. Approvals

a) All new profiles and products require approval before appearing online.

b) We may make changes to your descriptions for style improvements and translate them into German and/or English.

c) These changes and translations will not be confirmed with you, however if you notice some changes that concern you, please let us know.

d) We endeavor to have all text modifications and translations of new profiles and products completed within 7 days, but may take up to 14 days.

e) Profiles and products breaching these terms will not be approved. In these cases, we will notify you and ask for the required changes.

f) Replacing images and modifying certain descriptive elements requires approval. Until approved, the old images and descriptions will appear online.

g) We endeavor to approve all modified profiles and products within 7 days, but may take up to 30 days.

3. Pricing

a) Each product must not be available for sale in physical or online stores at a price lower than the current list price, including discounts but excluding shipping.

b) Exceptions to the pricing restriction are allowed for storewide discounts in other stores of not more than 14 days.

4. Shipping

a) If an unexpected delay for a product occurs, you agree to notify us at least 1 day before the stated delivery time.

b) You must not include any promotional material for your own online store or any other retail channel other than DIFFAIR Market on or in the packaging, unless you are actively subscribed to Marketplace PLUS.

c) If provided by us, you must include promotional material for DIFFAIR Market in the packaging for all orders placed through DIFFAIR Market.

5. Commission

a) We charge 25% commission on the sale price of each product

b) No commission and no payment processing fee is charged on VAT collected on your behalf.

c) No commission and no payment processing fee is charged on shipping costs, provided they do not exceed 20% of the order value (excluding shipping, but including VAT if applicable). The applicable commission will be charged on shipping costs in excess of 20%.

d) We may offer discount coupons of up to 20% for limited use or duration.

e) We may hold up to four sales per year in which all listed products are discounted by up to 20% for up to 7 days.

f) Any discounts we offer customers will come from our commission and do not affect your proceeds, which will remain 75% of the original listing price (after your own discounts).

6. Customer enquiries

a) DIFFAIR will receive all customer enquires about your label and products and attempt to respond based on the information you have provided.

b) If the information available to us does not allow a suitable response to the customer we will contact you for more information.

c) You must respond to a request for information from us within 5 days, unless it is during your closure period, in which case you must respond within 5 days following the end of the closure period.

7. Dispute resolution

a) If you have any dispute with a customer you must first raise this with us and we will pass your request or concern on to the customer.

b) Customers will raise disputes regarding your label or product with us and we will pass this on to you.

c) If the dispute arises from a breach of these terms and conditions, we will enforce these terms and withhold funds if necessary.

d) DIFFAIR will pass on up to one further message for each side in the dispute, and may recommend a solution to both you and the customer.

e) If after a total of 3 messages, a resolution is not reached, we will connect you with the customer and ask you to resolve the dispute directly.

8. Subscription to premium listing (Marketplace PLUS)

a) You must pay a monthly or annual fee in advance in order to be actively subscribed to the plan.

b) The monthly fee is displayed on our homepage and in your account. If they are different, the fee shown in your account shall apply.

c) The annual fee is 10 times the monthly fee.

d) Your profile and products will only appear on DIFFAIR Market if you are actively subscribed to the plan and have listed at least 5 products.

e) A link to your own website or online store is shown on your public profile and on each product page.

Part C: Specific Terms for Private Online Stores

1. Products

a) Any special conditions to the sale, price or product must be explained in the product description or communicated to us when the product is uploaded.

2. Approvals

a) All new profiles and products require approval before appearing online.

b) We will not make any changes to your descriptions for style improvements nor provide any translations.

c) All images, your profile tagline and product titles need to be approved whenever they are modified.

d) We endeavor to have all approvals of new and modified profiles and products completed within 2 days, but may take up to 7 days.

e) Profiles and products breaching these terms will not be approved. In these cases, we will notify you and ask for the required changes.

3. Shipping

a) If an unexpected delay for a product occurs, you agree to notify the customer on or before the stated delivery time.

4. Commission

a) We charge 10% commission on the sale price of each product, capped at CHF 49 per month.

b) Once the monthly cap has been reached, then the payment processing fee is passed on in full.

c) No commission is charged on VAT collected on your behalf. Once the monthly commission cap has been reached, the payment processing fee is charged on VAT.

d) No commission is charged on shipping costs, provided they do not exceed 20% of the order value (excluding shipping, but including VAT if applicable). Normal commission will be charged on shipping costs in excess of 20%, which contributes to the monthly cap. Once the monthly commission cap has been reached, the payment processing fee is charged on the full shipping cost.

5. Customer enquiries

a) All customer enquiries about your label and products will be sent directly to you.

b) You are responsible for replying to all customer enquires within a reasonable timeframe

c) Customers will receive a notification of your temporary closure if they contact you during or in the two days before your closure period.

6. Dispute resolution

a) Any disputes between you and the customer shall be handled directly.

b) If a customer makes a request for a refund in accordance with your return policy or for a warranty claim, we will withhold the funds for the products in question until confirmation that the return has been accepted or the dispute has been resolved.