



# Terms and Conditions for Distributors

Last updated November 2018

These Terms and Conditions apply to the supply of Products by Lonely Planet to you if you are located in the Asia Pacific region (excluding Australia) and resupply the Products to resellers.

## 1. Credit, discounts and distribution rights

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- 1.1 **New accounts.** If you do not have a credit account with us you may apply for credit via our Customer Credit Application. Credit will not be given unless and until your application is approved. You will need to provide us with satisfactory credit references and we reserve the right to require financial statements and/or other reasonably requested information. Unless and until your application is approved, we will sell Products to you on a pro forma basis (cash paid with order).
- 1.2 **Credit limit and changes.** If your application is approved, we will determine a credit limit for you. In the event new orders exceed your limit, we reserve the right to put your account on hold while we re-evaluate your credit limit and/or pending your pay down of the credit account below the limit. We also reserve the right to change or terminate your credit terms, limit and availability at any time without notice to you, and all such requirements and/or decisions shall be at our sole discretion. We are not liable for any loss or damage suffered by you as a result of a change in, or termination of, your credit terms, limit or availability.
- 1.3 **Discounts.** We will determine the discount applicable to you, based on our discount schedule, which we reserve the right to amend from time to time at our sole discretion.
- 1.4 **Geographic territory.** Unless you have otherwise received Lonely Planet's written approval (including via email), you must only distribute the Products in the country in which your business is registered. You understand that you are Lonely Planet's non-exclusive distributor.
- 1.5 **Exclusive supply.** You must obtain all of your requirements for the Products exclusively and directly from us, unless we otherwise agree with you in writing.
- 1.6 **Right to resell to end consumers.** You may also resell the Products directly to end consumers.

## 2. Orders and pricing

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- 2.1 **Pricing.** We may change the Product prices from time to time. You may sell the Products at any price you determine. However, this price must not exceed any maximum Recommended Retail Prices directed by Lonely Planet from time to time.
- 2.2 **Orders.** All orders are subject to our acceptance. Publication dates, retail prices, titles and product specifications are subject to change without notice. Your acceptance of Products shipped by us constitutes acceptance of these Terms.
- 2.3 **Manner of Ordering:** When ordering from Lonely Planet you must send all orders to Lonely Planet via facsimile or email, using Lonely Planet's standard order form (or in the form and manner otherwise specified by Lonely Planet in writing). You must place all orders in reasonably good time if they are to be delivered by the end of any month. Lonely Planet will advise you as to the timing for delivery of Products.
- 2.3 **Backorders.** Unless and until you request otherwise, if the Products that you order are out of stock but expected to be available at a future date, we will backorder your order and supply the Products when they are available. You must inform us in writing if you wish to have backorders automatically expire after a specific time period.
- 2.4 **Small Order Charge.** A \$USD20 small order charge will apply to orders for less than \$USD200 net value of Products.
- 2.5 **Terms of Sale.** All Products will be sold to you on a firm sale basis with the exception of returns allowed in accordance with Section 5 or otherwise at our sole discretion. Please note that a signed distribution agreement between you and us is required to secure returns rights additional to those set out in Section 5.

## 3. Delivery, property and risk

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- 3.1 **Delivery dates.** We will deliver the Products to the address of your freight forwarder as supplied by you FCA (Free Carrier), Singapore "(Incoterms 2000)". We accept no liability for delays or failure of delivery, including your failure to deliver the Major Export Scheme documentation relating to the export of Products in the manner and time frame specified by us.
- 3.2 **Products refused.** If you refuse delivery of Products that conform to your order, we are entitled to require you to pay an amount reasonably determined by us to recover our administration and other costs together with our loss of profits.
- 3.3 **Initial inspection and notice.** You will carry out an initial inspection of any Products delivered to ensure they conform to your order and are not Damaged or Defective. You must make any request for returns or credits within 14 days of Delivery in accordance with Section 5. After this period the Products will be deemed to have been accepted and you are obligated to pay for them in full.
- 3.4 **Risk and property.** Risk in the Products will pass on Delivery. You should maintain adequate insurance to cover any loss or damage to the Products. Property in the Products will pass on receipt by us of payment in full for those Products.
- 3.5 **Retention of title.** Until we have received payment in full for all Products we have supplied to you:
  - (a) we retain ownership of the Products and you agree to hold the Products as our bailee and fiduciary agent;
  - (b) you must not permit any third party charge, lien, encumbrance or other third party right to be created over the Products;

- (c) despite that all or any of the Products remain our property, you may in the ordinary course of business sell or use any or all of the Products before we have received payment. Any sale will be as our fiduciary agent (without any right to create any liability of us to any third party except any liability under statute which cannot be excluded) and:
- (i) you will hold the proceeds of sale received on trust for us up to the amount you owe us in respect of all Products we have supplied to you; and
  - (ii) you must pay to us the amount held on trust, up to the amount you owe us in respect of all Products we have supplied to you, in accordance with the payment terms specified in Section 4; and
- (d) we, or our agent or representative, will be entitled to retake possession of any or all of the Products at any time whilst payment in respect of Products is outstanding and you undertake to deliver up those Products to us, our agent or representative upon request.

Despite anything else in this Section 3.5, we may enter your premises at all reasonable hours and remove Products you hold for us.

#### 4. Payment

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- 4.1 Payment terms.** You must pay in full, by Electronic Funds Transfer (**EFT**) for Products supplied by us on credit within 90 days of the end of the month appearing on the invoice, or as otherwise agreed in writing. Payment must be accompanied by the remittance advice in order to be processed. You may not deduct returns claim amounts from your payments unless and until you have been issued a credit note from us.
- 4.2 Statements.** We will send statements to you each month. You are responsible for the reconciliation of your monthly payments to the relevant statement.
- 4.3 Non-payment and default.** If any of your accounts become overdue, we reserve the right to place your account on credit hold without notice until all monies owed are paid in full. If you are placed on credit hold on two or more occasions, we reserve the right to indefinitely suspend or terminate your line of credit. Also, we reserve the right to require immediate payment of all outstanding amounts where any of the following occur:
- (a) you breach any of these Terms, our credit arrangements, or you make any misrepresentation to us;
  - (b) if you are an individual, you become a debtor in any bankruptcy or other insolvency proceeding; or
  - (c) if you are a company, you suffer an Insolvency Event.
- 4.4 Collection costs.** You must reimburse any costs we incur to collect overdue amounts, including collection agents' or solicitors' fees.
- 4.5 Taxes.** You are responsible for collecting, remitting and paying all taxes, levies, customs duties, clearance charges and other fees imposed by governmental authorities in respect of your importation, purchase and distribution of the Products. **You will comply with all tax laws that apply to you and indemnify us against any liability arising from your failure to do so.**

#### 5. Returns

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- 5.1 Damaged and Defective Products.** We will accept returns of Damaged, and Defective Products from you provided:
- (a) you lodge a detailed written request for the return within 14 days of delivery of the Products (including the title, invoice number, ISBN and quantity) and details of the type of damage or defect. Please be sure to include the Purchase Order/Invoice number and your Lonely Planet Account number;
  - (b) we authorise the return by issuing you a RAN; and
  - (c) you return the front and back covers and title pages of the Damaged or Defective Products within 1 month of receipt of shipment. You must destroy the remaining parts of that stock.
- We will either replace the Damaged or Defective Products or credit your account for the Damaged or Defective Products.
- 5.2 Over-Supplied Products.** We will accept the return of Over-Supplied Products however you may elect to keep Over-Supplied Products in which case we will invoice you for those Over-Supplied Products. If you do not want to keep Over-Supplied Products, we will issue a RAN for the over-supply to be returned at our cost.
- 5.3 Short Supply.** We will credit you for any Short Supply of Products if you notify us in writing with details of the shortage within 14 days of Delivery. We will resend the missing Products and re-invoice you as soon as possible at your request.
- 5.4 Out of Print Products.** You must not sell any Out-of-Print Products unless authorised to do so in writing by us. We may accept the return of Out of Print Products at our sole discretion.
- 5.5 No returns.** You agree that we are not required to accept the return of any Products or provide credit to you unless and until you comply in full with these Terms.
- 5.7 Credits.** The Purchase Order/Invoice number, your Lonely Planet Account number and, if relevant, the RAN must be quoted on all paperwork relating to returns of any type, including your claim for credit. Where you fail to provide this information we will only credit you for the cost of the Products after applying the highest customer discount given to you in any previous order made by you. Where the Purchase Order/Invoice number, your Lonely Planet Account number and, if relevant, the RAN are included, returns will be credited against your account balance at the original invoice cost except stationery items which will be credited at 50% of invoice cost or some other percentage as determined by us. We will endeavour to credit in the month that we receive the return. Credit is applied to your account balance, no cash refunds are given

**5.8 Risk and cost of returns delivery.** Returns are at your risk until we acknowledge receipt and credit your account. The costs of all returns, including packaging, transportation and delivery, will be borne by you (other than for authorised returns of Damaged, Defective or Over-Supplied Products pursuant to Sections 5.1 or 5.2).

## 6. Termination for breach

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**6.1 Lonely Planet may cancel for your breach or otherwise.** If you breach any of these Terms, Lonely Planet may (without prejudice to any other rights and remedies of Lonely Planet under contract or otherwise), cancel your credit account and stop supplying Products to you. In addition, Lonely Planet may cancel your credit account and stop supplying Products to you in Lonely Planet's sole discretion, provided Lonely Planet gives you no less than 30 days written notice of termination.

**6.2 Sale back of Products.** Upon request, you must sell back to Lonely Planet or another distributor or retailer (at Lonely Planet's discretion) and deliver at your cost all Products which you hold at the time of termination at the original invoice cost, unless Lonely Planet otherwise directs you to destroy such Products.

**6.3 Other consequences of cancellation.** You must cease distributing all Products immediately upon termination and you must either sell back or destroy all Products in your possession and control within a reasonable time after termination.

**6.4 No claims** You will have no claim against Lonely Planet for compensation for loss of distribution rights, loss of goodwill or any other similar loss as a result of termination of these Terms.

## 7. Use of Lonely Planet trade marks

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**7.1 Lonely Planet brand.** By Lonely Planet brand, we mean the Lonely Planet name, the letters "LP" and any Lonely Planet logos along with any other trade marks we provide you with.

**7.2 Use subject to written permission.** You may use our trade marks to promote the Products in point-of-sale material, catalogues, brochures and other marketing material. You must always obtain our permission in advance regarding the size and placement of our brand and comply with any guidelines and instructions we may give you. You may not combine any other trade marks with the Lonely Planet brand in relation to the Products.

**7.3 No Deception.** You must not (or allow others to) use any names, trade marks, domain names, business names or anything else that is substantially identical with, or deceptively similar to the Lonely Planet brand.

**7.4 No Modification.** You must not (or allow others to) modify the Products, packaging or any other material provided by Lonely Planet in any way.

**7.5 All use to enure to Lonely Planet.** All use of the Lonely Planet brand by you and any goodwill resulting from that use, enures solely to the benefit of us.

**7.6 Notification.** If you become aware of any infringing use of the Lonely Planet brand, you must promptly notify Lonely Planet in writing.

## 8. Record keeping and compliance

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**8.1 Compliance with Policies.** You and agree that you will comply with the Policies and all laws, statutes, regulations and codes relating to anti bribery and anti-corruption applicable to you or Lonely Planet, including without limitation the Anti-Fraud Requirements.

**8.2 Breach of Policies.** You will not do or omit to do any act that will cause or lead Lonely Planet to be in breach of any of the Anti Fraud Requirements.

**8.3 Indemnity.** You indemnify Lonely Planet against any losses, liabilities, damages, fines, penalties, costs (including without limitation, legal fees) and expenses incurred by or awarded against Lonely Planet as a result of any breach of this clause by you and/or any breach of provisions equivalent to this clause by any of your sub-contractors, agents or associates.

**8.4 Material breach.** A breach of this clause by you will be a material breach of these Terms which (without prejudice to any other rights and remedies of Lonely Planet under contract or otherwise), will entitle Lonely Planet to cancel your credit account and stop supplying Products to you.

**8.5 Records.** You must maintain, in a secure and orderly manner:

- (a) all documentation relating to the supply of the Products to you under these Terms;
- (b) copies of all invoices in relation to sale of our Products;
- (c) all documentation relating to the steps taken by you to comply with the Anti Fraud Requirements; and
- (d) such other documentation as Lonely Planet reasonably directs from time to time.

(collectively **Records**).

**8.6 Audit.** You must, from the date your Application for Credit is approved, and for a period of 6 years after Lonely Planet stops supplying Products to you, permit Lonely Planet or its representative to:

- (a) carry out an inspection or audit of the Records and your information to determine whether you have properly complied with your obligations under these Terms; and
- (b) access and take copies of your records and to meet with your personnel to audit your compliance with the Anti Fraud Requirements.

**8.7 Audit assistance.** You must provide reasonable access and assistance to Lonely Planet or its representative in an inspection or audit.

- 8.8 Costs of audit.** Lonely Planet is to cover its costs (and the cost of any representative) incurred in the conduct of any audit or inspection, except where the inspection or audit reveals a breach by you of these Terms, in which case the you must pay the costs incurred by Lonely Planet (including the costs incurred by any representative) in connection with the inspection or audit.

## 9. Limitation of liability

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To the extent permitted by law:

- (a) all statutory and implied conditions and warranties are excluded; and
- (b) if we are liable under any condition or warranty that cannot be excluded, our liability will be limited (in our discretion) to replacement of the Products or the supply of equivalent products.

## 10. Privacy acknowledgments and consents

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- 10.1 Authority for us to obtain certain credit information.** To enable us to assess your application for credit or your credit worthiness, you authorize us to obtain from a credit-reporting agency or a business which provides information about credit worthiness: a credit report containing personal information about you, information about your commercial activities or credit worthiness or any other information in relation to your commercial credit activities.
- 10.2 Authority to provide credit information to credit-reporting agencies.** You authorise us to give a credit-reporting agency certain personal information about you including: the fact that you have applied for credit and the amount, the fact that we are a credit provider to you, payments which become overdue more than 60 days, advice that payments are no longer overdue, that we consider you have committed a serious credit infringement, and that the credit we provided to you has been discharged.
- 10.3 Authority to exchange information with other credit providers.** You authorise us to give and obtain from credit providers named in your Customer Credit Application and any credit providers named in a credit report issued by a credit reporting agency information about your credit arrangements. This information can include any information about your credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other. You understand the information may be used to assess an application by you for credit, assist you to avoid defaulting on your credit obligations, notify other credit providers of a default by you, and assess your credit worthiness.
- 10.4 Continuing authority.** You agree that if we approve your application for credit, all authorities in this Section 10 remain in force until cancelled by us.

## 11. Confidentiality

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- 11.1 Confidentiality of Lonely Planet Information.** You acknowledge that Lonely Planet's Confidential Information is secret and valuable so you agree, subject to Section 11.2 below, to keep Confidential Information confidential and only to use it for the purposes of these Terms. Do not disclose or permit the disclosure of Confidential Information to any person, except your employees, officers, contractors or agents who require access to it for the purposes of these Terms, or to your professional advisors, provided they are informed of any comply with the same obligations of confidentiality as you. You will remain responsible for any misuse of Confidential Information by your employees, officers, contractors agents or professional advisors.
- 11.2 Permitted Disclosures.** The obligations of confidentiality in Section 11.1 above do not apply if a disclosure is required by law or regulation, but you must first notify Lonely Planet and Lonely Planet may act to object to that disclosure.
- 11.3 Announcements and Press Releases.** You or Lonely Planet may issue announcements and press releases in connection with these Terms but only with the other party's prior written consent to the wording of the announcement or release, not to be unreasonably withheld or delayed.

## 12. General

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- 12.1 Assignment.** You may not assign, license or otherwise deal with any right under these Terms without our written consent.
- 12.2 Change in business structure or financial condition.** If your business or corporate structure changes (including a change of ownership or Board composition), you must inform us in writing within 7 days. If you experience a significant change in your financial condition, you must inform us in writing immediately. Also, you agree to provide us with updated financial statements or other reasonably requested information upon our request.
- 12.3 Amendment.** We reserve the right to amend these Terms from time to time at our sole discretion. Please check these Terms from time to time to familiarise yourself with any changes as they will apply automatically to you. The date of these Terms is in the footer below.
- 12.4 Entire agreement.** You agree that these Terms supersede any previous written or oral agreements and understandings with us and embody your entire agreement with us in relation to its subject matter unless we have specifically agreed otherwise by written agreement signed by you and Lonely Planet.
- 12.5 Force Majeure.** We will not be responsible for failure to fulfill our obligations under these Terms due to causes beyond our reasonable control, including without limitation acts of God, acts of omissions of civil or military authority, fire, strikes, floods, riots, acts of terrorism, or wars.
- 12.6 Severability.** If any provision of these Terms is found to be invalid or unenforceable, such provision will be severed and the remainder of these Terms will be interpreted so as best to reasonably affect our intent.
- 12.7 Governing law.** These Terms and the contract entered into between Lonely Planet and you incorporating these Terms shall be governed by and construed in accordance with the laws of the Republic of Ireland. The parties irrevocably submit to the

non-exclusive jurisdiction of the courts of the Republic of Ireland. A person who is not a party to the contract entered into between Lonely Planet and you incorporating these Terms shall not have any right to enforce any of its terms.

### 13. Definitions

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**Confidential Information** means any information relating to or disclosed by Lonely Planet which is in fact, or is reasonably regarded as, or is marked as, confidential or proprietary to Lonely Planet, including information regarding technical processes and formulae, product designs, sales, costs, financial information, product and business plans, strategy, operations, customers, suppliers, competitors, projections, and marketing data. Confidential Information does not include information that is in the public domain (unless it entered the public domain through breach of confidentiality), is already known by you, or is obtained lawfully from a third party without any breach of confidentiality.

**Customer Credit Application** means the form of that name supplied by us to enable you to apply for credit.

**Damaged** means damaged and unfit for sale prior to Delivery.

**Defective** means unfit for sale due to a printing or manufacturing error.

**Delivery** means delivery to the address of your freight forwarder as specified on your Credit Account Application or otherwise agreed in writing.

**Insolvency Event** means:

- (a) an order is made to wind up or liquidate your company, a receiver or administrator is appointed to your company, your company is declared bankrupt or insolvent, your company ceases to carry on business, or your company suspends or is unable to meet payment of its debts as they become due;
- (b) your company becomes, or threatens, applies or resolves to become, subject to any form of bankruptcy or insolvency proceeding or administration, dissolution or winding up; or
- (c) any event similar to those set out in paragraphs (a) and (b) in any relevant jurisdiction.

**Lonely Planet, "we", "us"** means Lonely Planet Global Limited of Unit F, Digital Depot, The Digital Hub, Rainsford Street, Dublin 8, Ireland, its employees, agents and representatives.

**Out-of-Print** means travel guidebook Products that have been replaced by a new edition or title (that is, the new edition or replacement title is delivered to the Distributor) or Products which have been withdrawn from publication.

**Over-supplied Products** means Products delivered to you which were not ordered by you and which you received in error.

**Products** means any product supplied by us.

**RAN** means the returns authorisation number allocated to a shipment of Products we have authorised for return.

**Recommended Retail Price** means the price recommended by Lonely Planet for the sale of the Products, exclusive of any applicable tax or duty.

**Short Supply** means a Delivery of Products which falls short of the amount of Products requested by you in an order.

**Terms** means these Terms and Conditions that constitute our agreement with regard to our sale of Products to you.

**You / your** means the individual or company receiving Products from Lonely Planet.

**Anti-Fraud Requirements** means the UK Anti-Bribery Act 2010 and the Anti-Fraud and Corruption Code of Conduct, and any other applicable anti-bribery, anti-fraud or corruption legislation.

**Policies** means the Anti-Fraud and Corruption Code of Conduct and the Lonely Planet Code of Ethical Policy, as provided by Lonely Planet to you.