

General Terms and Conditions of Sale
Accolade Portugal Unipessoal Limitada

Article 1 – General

1. The General Terms and Conditions of Sale contained herein (“General Conditions”), shall apply to (i) all offers, quotations, order confirmations issued by Accolade Portugal, Unipessoal Limitada, or any affiliate thereof (“Supplier”) and (ii) all Agreements as hereinafter defined between Supplier and any (prospective) buyer (“Buyer”).
2. “Order Confirmation” shall mean the written confirmation by Supplier to sell or supply to Buyer the products and/or services described therein. “Purchase Order” shall mean the written or verbal order by Buyer to purchase from Supplier any products and/or services.
3. An agreement (“Agreement”) shall be entered into if and when (i) the Supplier has confirmed the Agreement in writing by means of an Order Confirmation, or (ii) if Supplier did not send an Order Confirmation, Supplier has begun with providing the products and/or services and the Buyer did not immediately object to this in writing. Until such time as specified herein, a Purchase Order shall not be binding on Supplier.
4. Supplier may withdraw its offers and quotations without notice at any time before an Agreement between Supplier and the Buyer comes into existence.
5. Cancellation of a Purchase Order and products and/or services returned for credit shall not be accepted. Purchase Order shall be deemed binding on the Buyer and open for acceptance by Supplier for the validity period specified therein, or if not specified therein, for a period of 90 days from the issue date. Unilateral cancellation by Buyer within such period shall not be valid, without prejudice to the provisions of article 235.º n.º 2 of the Portuguese Civil Code..
6. Upon entering into an Agreement with Supplier, Buyer is deemed to have accepted the General Conditions as an integral part of the Agreement. Unless Supplier expressly agrees otherwise in writing, the General Conditions prevail over any conflicting or additional terms or conditions stipulated or referred to by Buyer. No variations or waivers relating to the Order Confirmation, Agreement or General Conditions shall be valid unless agreed to in writing by Supplier.

Article 2 – Prices

1. At any time before the conclusion of an Agreement, all of Supplier’s offered, quoted, published or notified prices may be subject to alteration at any time and in particular may be altered to reflect any increase in cost to Supplier caused by the imposition or levying by any governmental or other authority of any country of any import or other duty, tax or charge, by prior notice to the Buyer who shall confirm its acceptance of such terms to Supplier in writing within five (5) days of receipt.
2. Unless expressly described otherwise in the Agreement, all prices are quoted exclusive of taxes, packaging and carriage and based upon delivery per Article 4 below.
3. All sales shall be invoiced inclusive of all applicable duties, taxes, levies and other charges as well as the costs of carrying out customs formalities payable upon export.

Article 3 – Terms of Payment

1. All payments shall be made in the currency stated on the invoice, within the agreed time period, without any deduction for any reason whatsoever, unless specified otherwise in the invoice. Supplier reserves the right to require full or partial payment in respect of any products and/or services. Buyer shall not be entitled to suspend its payment obligations.
2. Without prejudice to any other contractual or statutory rights of Supplier, Supplier may charge interest on any overdue payments at a rate equivalent to the interest rate on the main refinancing operations applied by the European Central Bank plus five percentage points (5%) from the due date until the actual date of payment. Buyer shall also be liable for all judicial and extra judicial collection costs. Supplier may also withhold or delay the supply of products and/or services to Buyer until any overdue payments have been paid by Buyer.
3. If Buyer fails to make payment within the agreed time period, Buyer shall be in default by operation of law without any notice of default being required. The date reported on Supplier’s bank statements shall be deemed to constitute the effective date of payment.

Article 4 – Delivery, Title and Risk

1. Products and/or services shall be delivered Ex Works, Supplier’s facility (Incoterms 2010), except to the extent any specific product delivery conditions are stated in the Agreement. In case of any conflict between Incoterms and any terms of the Agreement the latter shall prevail.
2. Supplier will make every reasonable endeavor to deliver products and/or services within the agreed delivery time, but to the fullest extent permitted by applicable law, Supplier shall not be liable for failure to do so for any reason. Supplier is entitled to make partial deliveries.
3. Supplier’s weights and measurements shall govern unless proven to be incorrect.
4. Buyer shall inspect the products and/or services immediately on quality and quantity upon delivery thereof by Supplier. Notwithstanding otherwise expressly provisions of applicable mandatory law, any complaints about the products and/or services, or a shortage thereof, shall be notified to Supplier within five working days after the delivery date. If no such notification is received by Supplier within such time limit, all products and/or services shall be deemed delivered in the agreed quantity, free from visual damage.
5. Title to the products supplied by Supplier shall pass to Buyer in accordance with the Incoterms, provided that Supplier shall retain a security interest in the products until such time Buyer pays the full amount of sales price and all other sums due to Supplier in respect of all products and/or services supplied hereunder. If for any reason, the Buyer does not pay all sums, title, but not risk, in the products shall revert to the Seller.
6. Risk of loss of, and damage to, the products shall pass to Buyer upon delivery in accordance with the Incoterms. Buyer assumes all risks and liabilities and agrees to comply with all applicable laws and regulations arising out of or related to its use, storage, handling and resale of the Products. Buyer warrants that it has independently determined the suitability of the products and/or services for Buyer’s use.

Article 5 – Packages

If under the Agreement packaging of products remains property of Supplier or is to be returned to Supplier, Buyer must return them, at Buyer’s risk and account, clean and empty to the destination indicated by Supplier and must advise Supplier on date of dispatch. Any packages not returned in good order and condition within a reasonable period shall be paid for by Buyer at Supplier’s standard replacement costs.

Article 6 – Health Risk and Safety

1. Buyer acknowledges that the products to be supplied under any Agreement may be hazardous to the human health and/or the environment.
2. Buyer shall familiarize itself with and shall be responsible to keep itself as well as all persons involved in the handling of the products as from delivery thereof by Supplier, fully informed with regard to the nature of any such health and/or environmental risks and with regard to the proper and safe handling of the products.

Article 7 – Warranty

1. Supplier warrants that the products and/or services supplied shall at the time of delivery conform to the technical specifications of the Supplier or its manufacturer or as otherwise set forth in the Agreement. Supplier gives no other warranties, express or implied, with respect to any products or services.
2. Where the products do not conform to the specifications at the time of the delivery and Buyer notifies Supplier in accordance with Article 4, Supplier shall at its expense either replace any quantity of returned non-conforming products by a corresponding quantity of products meeting the specifications, or, at Supplier’s option, credit Buyer for the invoice value of the non-conforming products.

Article 8 – Liability

1. Any liability on the part of the Supplier, contractual or otherwise, shall be limited to the remedies set forth in Article 7 if the Agreement solely relates to the delivery of products.
2. The Buyer shall indemnify and hold harmless the Supplier from any third party claims made in connection with any Agreement.
3. To the fullest extent permitted by applicable law, Supplier shall not in any circumstances be liable for any indirect, consequential or incidental loss or damage of any kind whatsoever (including without limitation loss of profit or revenue).
4. Nothing shall restrict Supplier’s liability for death or personal injury caused by the gross negligence or willful misconduct of Supplier or its employees.

Article 9 – Force Majeure

Supplier will not be responsible for any delay or failure to fulfil any term or condition of any offer, quotation, Order Confirmation, Agreement or other obligation to the extent such delay or failure is caused by or results from any other event which is beyond the control of Supplier, including but not limited to: (i) strikes, labor disturbances, (ii) unavailability or shortage of raw materials or auxiliary materials, (iii) transportation problems, (iv) in cases, where Supplier itself is not the manufacturer of any product, or provider of any service, sold to Buyer, failure by its regular supplier for any reason to supply such product or service as well as modification of such product by the manufacturer which could not have been reasonably foreseen by Supplier at the time of the offer, quotation, or Order Confirmation.

Article 10 – Confidentiality

Any technical, commercial, economic and other information and data concerning Supplier’s business, including without limitation its formulas, product specifications, services, plans, programs, processes, products, costs, operations and customers, which may come within the knowledge of Buyer, its affiliates, officers or employees in the performance of the Agreement shall be treated as confidential property of Supplier and shall not be used by Buyer except for the benefit of Supplier in the furtherance of the Agreement; and shall not be disclosed to others, including governmental agencies or other authorities during or subsequent to the term of the Agreement without in each instance securing the prior written consent of Supplier. Any such information provided by Supplier to Buyer in writing or other tangible media shall be returned to Supplier either upon Supplier’s first request or upon termination of the Agreement.

Article 11 – Governing Law / Disputes

1. Any agreements and documents to which these General Conditions apply shall be exclusively governed by the laws of Portugal. International Conventions or any European applicable laws, without regard to conflicts of laws provisions.
2. Any disputes arising from any agreements or documents to which these General Conditions apply shall be exclusively submitted to the Courts of Lisbon, Portugal.
3. Applicability of the United Nations Convention on the International Sale of Goods (CISG, 1980) is explicitly excluded.

Article 12 – Miscellaneous

1. Any Agreements will be binding upon and inure to the benefit of the respective successors and permitted assigns of each party. Buyer may not assign in whole or in part any Agreement without Supplier’s written consent.
2. Either party’s waiver of any breach or failure to enforce any of the terms and conditions of any Agreement at any time shall not be in any manner a limit or waiver of such party’s right thereafter to enforce or compel strict compliance with any Agreement. Waiver of any default at any given time shall not act to waive the same or any other default.
3. If any section, subsection, sentence or clause of any Agreement shall be adjudged illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of any Agreement as a whole or of any section, subsection, sentence or clause hereof not so adjudged, if the essential terms and conditions of any Agreement for each party remain valid, binding, and enforceable.
4. This Agreement contains all of the representations and agreements between the parties and is intended to be the final expression of their agreement, notwithstanding any representation, course of conduct, or performance or statement to the contrary made by either party, and this Agreement may only be amended or modified through written agreement of the parties.