Standard Chartered

Vendor Prepay Agreement (Automatic purchase) Hong Kong

Vendor Prepay agreement entered into by and Between Standard Chartered Bank (Hong Kong) Limited
and [Insert Company Name]
on [Insert Sign Date e.g. dd/mm/yyyy]

It is hereby agreed as follows:

1. AGREEMENT

1.1 **Agreement:** We agree to buy from You receivables based on Your Standing Request to Purchase and on the terms of this Agreement (including the Schedules) (**"Agreement"**).

2. DEFINITIONS

"Authority" means a government, quasi-government, administrative, regulatory or supervisory body or authority, court or tribunal.

"**Banking Day**" means a day when banks are open for general banking business in Hong Kong

"Buyer" means any of the Buyers specified in Schedule 2 or as agreed in writing between the parties hereto from time to time. **"Contract of Sale"** means a contract for Your supply or provision of goods and services to the Buyer evidenced in writing and in a form acceptable to Us in all respects.

"Hong Kong" means the Hong Kong Special Administrative Region of the People's Republic of China.

"**Personal Information**" means any data relating to an individual, including name, address, contact details, taxpayer identification number, other form of identification and other details We hold or collect relating to any Relevant Data Subjects.

"Purchase Price" means the amount We will pay as purchase price for the Trade Receivable that We agree to purchase, calculated in accordance with the formula set out Schedule 2.

"Relevant Data Subject" means any individual:

(a) who is Your direct or indirect beneficial owner;
(b) named in or who executes any document submitted by You to Us;
(c) who is Your director or officer; or
(d) as specified by Us.

"Service" refers to any service We provide to You under this Agreement.

"Standing Request to Purchase" means You agree that We may purchase all the Trade Receivables posted on Our electronic instruction system by a Buyer from time to time, in our sole and absolute discretion.

"Tax" means any tax, levy, impost, duty or other charge or withholding of a similar nature including any associated penalty or interest payable required by law.

"Trade Receivable" means a receivable (including any Tax or duty payable) and any other obligation incurred by the Buyer under a Contract of Sale together with its related rights.

3. INTERPRETATION

Unless expressly stated otherwise a reference to a law includes (A) any agreement with an Authority; and (B) any law, regulation, rule, official directive, request, guideline, sanction, embargo or restrictive measure (whether or not having the force of law) of any Authority and any interpretation, application or enforcement of such law.

4. PURCHASE OF TRADE RECEIVABLES

4.1 **Purchase of Trade Receivables**: We may at Our discretion agree to purchase, a Trade Receivable which is received by Us not less than 3 Banking Days before the due date for payment of that Trade Receivable.

4.2 **Acceptance**: If We elect to purchase a Trade Receivable appearing pursuant to a Standing Request to Purchase, We purchase from You and You assign to Us that Trade Receivable.

4.3 **Passing of Title**: Ownership of a Trade Receivable that We agree to purchase from You shall vest in Us when We make a Purchase Price for that Trade Receivable.

4.4 **Purchase Price:** We will credit the Account which details are set out in Schedule 2, with applicable Purchase Prices for all Trade Receivables that We purchase from You.

4.5 **Trust**: If the ownership of any Trade Receivable fails to vest in Us, You will hold that Trade Receivable on trust for Us.

4.6 **Notice of Assignment**: You shall sign and provide us a Notice of Assignment in such form as We shall require and, upon Our request, deliver the same to the Buyer. You authorise Us to deliver any such notice of assignment at such time as We in Our absolute discretion think appropriate

5. RECOURSE

We have no recourse against You for any Trade Receivable We purchase.

6. REPRESENTATIONS AND WARRANTIES

6.1 **Representations and Warranties**: You represent and warrant to Us and each Assignee that now and throughout the term of this Agreement:

(a) each Trade Receivable is valid and enforceable and represents a bona fide sale of goods which have been delivered and is not subject or capable of being subject to any rights of set-off or counter claim or dispute;
(b) You are the sole legal and beneficial owner of all Trade Receivables offered to Us for purchase free from any third party rights, claims, security or encumbrance;
(c) You have the legal capacity and power to execute and perform this Agreement and if You are a limited company, You are duly incorporated and validly existing under the laws of Your jurisdiction of incorporation;
(d) the Trade Receivables may be assigned or transferred on the terms of this Agreement;
(e) The goods sold by You to the Buyer do not include any military equipment, arms or weapon components, the origin of goods and their subsequent transportation including vessels do not involve an entity or location sanctioned by the European Union/ United States or Your country;
(f) the Trade Receivables arise from deliveries or shipments made with all necessary licences and which are not in violation of any applicable law or in violation of the terms of the relevant Contract of Sale.

7. UNDERTAKINGS

You undertake to Us that You will:

(a) pay or procure the payment of all such taxes, duties or fees as We may request and, in such form as We may specify.
(b) ensure that the consent of Relevant Data Subjects to Our collection, holding, storing, use, processing, transfer, disclosure, and reporting (directly or indirectly)

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to any Authority of their Personal Information is obtained;

(c) provide Us with information along with supporting documentation in relation to any change in constitution of Your organisation and a change in Your name; and

(d) give Us any information or document in relation to this Agreement or a Trade Receivable and other information We request within a reasonable time and notify Us immediately of any changes.

8. Charges and Expenses

8.1 **Discounting Charge**: You will pay Us the discounting charge at the rate specified in Schedule 2.

8.2 **Service Charge**: A service charge as specified in Schedule 2 is payable for each Trade Receivable We Purchase and We will deduct the service charge from any payment to You.

9. Termination

9.1 **Effectiveness:** This Agreement is effective only upon Our confirmation that We are satisfied that each of the conditions precedent in Schedule 1 has been met, and will continue until terminated by either party hereto giving not less than 30 days notice. We may terminate this Agreement with immediate effect without prior notice if complying with this Agreement may cause Us to breach a regulatory requirement or Our policy associated to any applicable order or sanction of any Authority.

9.2 **Suspension:** We may suspend a Service at any time. If We do, We will Notify You as soon as practicable.

9.3 **Surviving provisions**: The provisions relating to clawbacks, indemnities, limitation of liability, disclosure of information, provision of documents, set-off, currency conversions, taxes, governing law and jurisdiction and the provisions under the heading, "General" survive termination of this Agreement.

10. Power of Attorney and Further Assurance

You irrevocably and severally appoint Us, and any person We nominate as Your attorney (with full power of delegation and substitution) in Your name. You shall upon Our request, do all such further acts and things and execute such documents as may be required by Us (and in such form as We may specify) in order to give effect to the provisions and intentions of the Agreement or to facilitate the exercise of the rights and powers conferred on Us under the Agreement (including, without limitation, granting Us a power of attorney to perfect the purchase of any Trade Receivable by Us.

11. Indemnities

You indemnify Us on demand against any loss arising from or incurred in connection with You not complying with any obligation under this Agreement.

12. Amounts, Expenses and Debiting Accounts

12.1 **Amounts and Expenses**: You must pay Us any amount payable by You without set-off, deduction or counterclaim;

12.2 **Clawbacks:** We may cancel, reverse or debit any payment We make under this Agreement:

(a) to correct a mistake; or

(b) where We are legally obliged to return the funds

and You agree to render all possible assistance in the recovery of such payments.

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13. Notices and Confirmations

13.1 **Contact Information**: Please verify Your address, fax number and email address for any communication or document to be made or delivered to You are set out in Schedule 2.

13.2 **When notices and communications to You are effective:** Unless otherwise provided, Our notices and communications to You are effective if:

(a) sent by fax, at the time shown on the transmission report as being successfully sent;

(b) delivered personally, at the time of delivery;

(c) sent by post, 5 Banking Days after posting; and

(d) sent by email, at the time We send it.

13.3 **When notices and communications to Us are effective:** Your communications are effective when We actually receive them.

13.4 **Recording of telephone conversations:** Subject to any applicable law, We may record Our telephone conversations with You and use the recorded conversations or transcripts in any dispute in connection with this Agreement.

14. Disclosure of Information

14.1 We will keep information provided by You or relating to You confidential except that We may disclose such information to:

(a) Our head office, any of Our subsidiaries or subsidiaries of Our holding company, affiliates, representative and branch offices in any jurisdiction (together with Us, the "**Permitted Parties**");

(b) any of the Permitted Parties' service provider, insurer or insurance broker or professional advisor who is under a duty of confidentiality to the discloser;

(c) any actual or potential participant, sub-participant or transferee of Our rights or obligations under any transaction between the Parties (or any of its agents or professional advisors);

(d) any rating agency, or direct or indirect provider of credit protection;

(e) as required by law or any Authority; or

(f) the Buyer.

15. Dealings

15.1 **No dealings by You**: You may not assign, novate, transfer or otherwise deal with Your rights or obligations under this Agreement without Our consent.

15.2 **Dealings by Us**: We may assign, novate, transfer or otherwise deal with all or any of Our rights and/or obligations under this Agreement without any person's consent. You must comply with Our reasonable requests to give effect to the same including giving Your consents and signing documents.

16. Set-Off

We may set-off any amount You owe Us (whether or not due for payment) against any amount We owe You under this Agreement or any amount in any account You hold with Us. We may do anything necessary to effect any set-off under this Clause (including varying the date for payment of any amount by Us to You and making currency exchanges).

17. Taxes

17.1 **Payments by You requiring deduction for Taxes**: If a law or any Authority requires You to deduct any Tax from a payment to Us, You must increase the amount payable so that, after making the deduction, We receive the amount We would have received if no deduction had been required. You agree to deduct the amount for the Tax, pay that amount to the relevant Authority in accordance with applicable law and give the original receipts to Us.

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17.2 **Indemnity for payments by Us in respect of Taxes:** You will indemnify Us against any loss arising from or incurred in connection with any Tax payable by Us on, or calculated by reference to, any amount paid or payable by You under this Agreement (excluding any Tax payable by Us by reference to Our net income received or receivable by Us).

18. Third Party Rights

18.1 **Third Party Rights**: Any of Our affiliates may enforce any term of this Agreement directly against You. Other than as set out in the preceding sentence or unless expressly provided to the contrary in the Agreement:

(a) a person not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Ordinance (Chapter 623 of the Laws of Hong Kong) to enjoy or enforce any benefit of any terms under this Agreement; and

(b) notwithstanding any term of this Agreement, the consent of any person not a party to this Agreement is not required to rescind or vary this Agreement at any time.

19. General

19.1 **Records and certificates being conclusive**: Unless there is an obvious mistake:

(a) Our records (whether in paper, electronic, date or other form) of an Instruction, report or other communication or of a transaction are conclusive of their contents or Our receipt or non receipt of them; and

(b) any certificate or decision We make of an Exchange Rate, other rate, price or an amount owing to or by You is conclusive.

19.2 **Entire agreement and non reliance**: This Agreement is the entire agreement between the parties hereto about its subject matter and replaces all previous agreements between the parties hereto on that subject matter and You have not relied on any oral or written representation or warranty made, or purportedly made, by Us or on Our behalf except as set out in this Agreement.

19.3 **Changes**: We may change this Agreement and will notify You of such change and the effective date of such changes.

19.4 **Severability**: If any term of this Agreement is invalid, unenforceable or illegal in a jurisdiction, that term is severed only for that jurisdiction. All other terms continue to have effect in that jurisdiction.

19.5 **Cumulative Rights**: The parties' rights under this Agreement are in addition to any other rights, independent of this Agreement.

19.6 **Exercise of Rights**: If We do not exercise a right or remedy fully under this Agreement, We may still exercise it later.

19.7 **Counterparts**: This Agreement may consist of a number of copies, each signed by one or more parties to this Agreement. Such signed copies form one document.

19.8 **No breach**: Nothing in this Agreement obliges Us to do or omit to do anything if it would or might in Our reasonable opinion constitute a breach of Our policy or any applicable law or sanction of any Authority.

19.9 **Revenue and Information Sharing**: We may in Our discretion, share the information and any part of the revenues earned in connection with this Agreement or the transactions contemplated by it with any third party for any reason, including where:

(a) the third party (including the Buyer) introduces You to Us;

(b) Our partners or affiliates, internal or external service providers and third party platform providers who provide support, services and assistance; or

(c) We have introduced You to the third party after You have consented to the introduction. Upon Your request, We will give you details of such sharing arrangements. You agree that We may disclose information relating to You to such third party.

20. Governing Law and Jurisdiction

20.1 **Governing law**: This Agreement shall be governed by Hong Kong law.

20.2 **Jurisdiction**: The parties to this Agreement submit to the non-exclusive jurisdiction of the courts of Hong Kong.

Signatures - Important notice

1.By executing this Agreement, You acknowledge that:

(a) You have received and read Our Notice to Customers and Other Individuals relating to the Personal Data (Privacy) Ordinance and the Code of Practice on Consumer Credit Data (the "**Notice**"); and

(b) You have notified, or will, notify each of Your Relevant Individuals, that We may, in the course of any transaction, receive Your information in respect of that Relevant Individual. You agree to inform Us immediately if You become or are aware that any person is or has become a Relevant Individual from time to time.

For the purposes of the above, a "**Relevant Individual**" is defined as being one of the following (but not limited to): Chief Executive Officer, Chief Financial officer, Chief Operating Officer, department heads, corporate officers (eg authorised signatories, company secretary etc), directors, major shareholders, beneficial owners and guarantors (where applicable).

You agree that all personal data relating to You collected by Us or any Bank Member from time to time may be used and disclosed for such purposes and to such persons as set out in the Notice, which You have received.

2. The Banking (Exposure Limits) Rules and Module GR-G-9 (Exposures to Connected Parties) of the Supervisory Policy Manual issued by the Hong Kong Monetary Authority ("SPM") imposes on Us certain limitations on advances to persons (including firms, partnerships and companies) related to Our or Our subsidiaries' or affilitates' directors, controllers or employees with lending authority ("Related Person"). When You execute this Agreement, please inform Us if You are, or any of Your directors, shareholders, partners or managers is, a Related Person within the meaning of the Banking (Exposure Limits) Rules or or SPM. If You are subsequently aware that You, or any of Your directors, shareholders, partners or managers is or becomes a Related Person, You must inform Us in writing immediately.

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[Execution Page for a Limited Company/Sole Prop/Partnership]

Executed and Delivered as a deed by:

[Insert Company Name]
(Name of Seller)

acting by

[Insert Authorized Signer1] _____
(Name of Signatory) (Signature)

and [Insert Authorized Signer2] _____
(Name of Signatory) (Signature)

Witness:

Signature:_____

Name :[Insert Witness Name]

Address :[Insert Witness Address]

SIGNED for and on behalf of
Standard Chartered Bank (Hong Kong) Limited by:

_____
Signature of representative

_____
Name of representative

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SCHEDULE 1

CONDITIONS PRECEDENT

(a) a copy of this Agreement, executed by You;

(b) a certified true copy of a resolution of Your board of directors authorising:

(i) the acceptance and execution of this Agreement;

(ii) an appointment of authorised signatory(ies) to execute on Your behalf all notices, Instructions, Request to Purchase and any other document or instrument required to be executed or given by You in connection with this Agreement and the transactions contemplated by this Agreement; and

(iii) the affixing of Your common seal to all documents that may be required in accordance with Your constitutional documents;

(c) Copy of your certificate of incorporation, or other publicly registered organizational document, as in effect on the date hereof.

(d) a copy of the bank statements or advice from such account bank into which the proceeds of the Purchase Price will be paid

(e) such other documents as We may require in connection with this Agreement and the transactions contemplated by this Agreement.

(f) Documentation and evidence as requested by Us to conduct "know your customer" or other similar procedures.

SCHEDULE 2

OPERATIVE PROVISIONS

For the purposes of this Agreement: **[words/ expressions]**	**Means**
Buyer	[Insert Buyer Entity 1] [Insert Buyer Entity 2] [Insert Buyer Entity 3] [Insert Buyer Entity 4] [Insert Buyer Entity 5] [Insert Buyer Entity 6] [Insert Buyer Entity 7] [Insert Buyer Entity 8]
Purchase Price	Invoice amount less Service Charge and Discounting Charge
Service Charge	[***] per cent of the invoice amount; or a specific amount per period
Discounting charge	[Insert]
Account	The Account You designate for Purchase Price to be credited is account no [[Insert Account No.]] maintained by You with [Insert Name of Bank] [Insert Branch Name& Address] [Insert SWIFT code& Currency]
Standing Request to Purchase	Yes
Your notice details	Address: [Insert Address] Fax No.: [Insert Fax No.] Password for Encrypted Reports*: [Insert PW] Email: [Insert Email Address] Attention: [Insert Att. Name]

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Vendor Account Details

Supplier's Information (Vendor)

Name of Supplier : [Insert Company Name]

Registered Address : [Insert Registered Address]

Telephone Number : [Insert Tel. No.]

Facsimile (Fax) Number : [Insert Fax. No.]

Contact Information (Vendor's contact person)

Name of Contact : [Insert Name of Contact]

Contact Email : [Insert Contact Email]

Contact Telephone Number : [Insert Tel No.] Ext : [Insert Ext.]

Supplier's Beneficiary Bank details

Bank Name :[Insert Bank Name]

Bank Address/Branch : [Insert Bank Address/ Branch]

Account No/ IBAN :[Insert Bank Acccount No.]

Swift Code/ Other codes* :[Insert SWIFT code]

* Chips ID/ Australia BSB Code/ USA Fed Wire/ USA ABA/ UK Sort Code

Authorisation

(Director)/(Authorised Signatory)

For and on behalf of [Insert Company Name]

Note:
1. For any changes to the above mentioned details, please resubmit this form with the relevant changes and the authorised signatures.
2. Limit amount is indicative in nature and subject to change based on buyer's requirement

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CONFIDENTIAL

[Print on company letter head]

To: **H & M HENNES & MAURITZ GBC AB**
Master Samuelsgatan 46A 106 38 Stockholm, Sweden
Attention: Andersson Martin P
Email: Martin.P.Andersson@hm.com

From: [Insert Company Name]
(**"We", "Us"** and **"Our"**)

Date: [Insert Date]

Notice of Assignment of Trade Receivable(s)

Dear Sir / Madam,

Under Our Vendor Prepay Agreement (the "**Agreement**") with Standard Chartered Bank (Hong Kong) Limited ("SCB"), We have assigned or will assign to SCB the Trade Receivable(s) from time to time arising. As part of these arrangements, payment of an invoice has to be made to SCB only and SCB is the assignee of Our rights to the Trade Receivable(s) You owe Us under the relevant invoice. Please note that only payment to SCB will constitute full discharge of Your payment obligation.

Payment of any amount due must be made to SCB in accordance with the following instructions:

For payment in USD:

Beneficiary account number	:	44700979045
Beneficiary bank BIC code	:	SCBLHKHHXXX
Beneficiary bank name	:	Standard Chartered Bank (Hong Kong) Limited

For payment in EUR:

Beneficiary account number	:	44700979614
Beneficiary bank BIC code	:	SCBLHKHHXXX
Beneficiary bank name	:	Standard Chartered Bank (Hong Kong) Limited

For payment in GBP:

Beneficiary account number	:	44700979622
Beneficiary bank BIC code	:	SCBLHKHHXXX
Beneficiary bank name	:	Standard Chartered Bank (Hong Kong) Limited

You are therefore requested to act on the irrevocable authority in this notice unless otherwise advised in writing by SCB.

Yours faithfully,

_____ (Director) / (Authorised Signatory)

For and on behalf of [Insert Company Name]

[Print on company letter head]

Acknowledgment of Notice of Assignment of Trade Receivables

To: [Insert Company Name]

(**"You"** and **"Your"**)

For the attention of: [Insert Company Contact]

Copy: Standard Chartered Bank (Hong Kong) Limited ("SCB")
12/F, Standard Chartered Tower, 388 Kwun Tong Road, Kwun Tong, Hong Kong

For the attention of:

Jack Qian (email: JackHao.Qian@sc.com)
Johnny Hu (email: Johnny.Hu@sc.com)

From: **H & M HENNES & MAURITZ GBC AB**
Master Samuelsgatan 46A 106 38 Stockholm, Sweden

Date: [Insert Date]_____

We acknowledge receipt of the Notice of Assignment of Trade Receivables dated ____[Insert Date]_____ and confirm that We will make all payments of the Trade Receivables to SCB in accordance with the instructions set out in that notice.

Yours faithfully,

_____ (Director) / (Authorised Signatory)

For and on behalf of **H & M HENNES & MAURITZ GBC AB**