

Terms of Use

www.DVF.com

Updated: December 17, 2019

Welcome to www.DVF.com (the "Website"), operated by DVF Studio, LLC, a Delaware limited liability company ("DVF", "we", "our", or "us"). The Website enables anonymous visitors to the Website ("Visitors") to browse the Website, and Visitors who are at least eighteen (18) year of age and not a minor in their state or residence, and who affirmatively indicate their agreement to abide by these Terms of Use (this "Agreement") by means of a click-through consent where this option is made available by DVF ("Registrants"), to purchase our products through the Website. The terms "you", "your" and "yours" when used herein refer to either Registrants or Visitors, or to both Registrants and Visitors collectively, as applicable; provided that such terms will refer collectively to both Registrants and Visitors unless the context of this Agreement indicates otherwise. This Agreement sets forth the terms and conditions that govern your use of the Website.

Please note the arbitration provision set forth in Section 16, requiring you to arbitrate any claims you may have against us on an individual basis. **ARBITRATION ON AN INDIVIDUAL BASIS MEANS THAT YOU WILL NOT HAVE, AND YOU WAIVE, THE RIGHT FOR A JUDGE OR JURY TO DECIDE YOUR CLAIMS, AND THAT YOU MAY NOT PROCEED IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE CAPACITY.**

1. This Agreement.

1.1 Acceptance. Please read this Agreement carefully before accessing the Website. In order to use the Website, you must first agree to be bound by the terms and conditions set forth in this Agreement. By accessing the Website, Visitors indicate that they have read, understood and agree to be bound by the terms and conditions set forth in this Agreement. Registrants indicate that they have read, understood and agree to be bound by the terms and conditions set forth in this Agreement by means of a click-through consent, where provided by DVF. If you do not agree to be bound by this Agreement, you are not authorized to use the Website. Furthermore, you are not authorized to use the Website if (i) you are not of legal age or otherwise do not have the legal capacity to form a binding contract with DVF, or (ii) you are a person barred from using the Website either (a) under the laws of the country in which you reside or from which you are attempting to access the Website, or (b) due to prior violations of this Agreement.

1.2 Modification. We reserve the right to modify this Agreement at any time. You shall periodically review this Agreement to be aware of such modifications. You further agree that your continued use of the Website after any such modifications have been made shall be deemed to be your conclusive acceptance of any modified version of this Agreement. We will indicate that changes to this Agreement have been made by updating the date indicated after "Updated" at the beginning or end of this Agreement. We will be happy to provide you with prior versions of this Agreement upon your written request to us. If you do not agree to abide by the initial version and any modified version of this Agreement, then you are not authorized to use the Website. A current version of this Agreement is accessible through the footer of the Website's homepage.

2. Registration.

2.1 Profile;Password. You will only be able to use certain functionality of the Website if you register with us. If you decide to register with us, you will receive a user ID and password ("Profile") to access your Registrant account ("Account"). You shall not allow any third party to use your Profile or Account to access the Website and you shall strictly safeguard all information that would enable any individual or entity to access the Website by using your Profile. You are fully responsible for your failure to safeguard information and/or to permit any other person to access or use the Website using your Profile and/or Account, and for all activities that occur under your Profile and/or Account. You may not sell or otherwise transfer your Profile or Account or any portion thereof. You shall notify DVF immediately of any unauthorized use of your Profile or Account or any other unauthorized use of the Website.

2.2 Accurate Information. You shall provide us with accurate, complete and current information about yourself during registration and at all other times, and you shall update all information provided to us or requested by us if and as soon as such information changes.

2.3 Suspension or Cancellation of Account. We have the right to suspend or cancel your registration if we believe you have violated this Agreement. If we suspend or cancel access to your Account, you may be prevented from accessing the Website (temporarily or permanently), your Account details and/or any files or other various Website materials, including all text, comments, icons, images, messages, tags, links, photographs, audio, video and other content (collectively, "Content") that are contained in or accessible through your Account, all of which may be deleted by us. Such suspension or cancellation of your Account will mean that you may lose access to all Content submitted by you.

2.4 Cessation of Services. The form and nature of the products or services offered through the Website may change from time to time without prior notice to you. As part of our continuing innovation, DVF may stop (permanently or temporarily) providing certain Website features to you in our sole discretion, without prior notice to you.

3. Transactions.

3.1 Products. Various of our products are offered for sale through the Website. If you wish to purchase any of these products, you will be asked by DVF or an authorized third party on DVF's behalf to supply certain information to us or to an agent, including your full name, address and credit card information. DVF is not responsible for processing any payments made through the Website, and DVF does not have access to your credit card information. This information is maintained by a third party. You shall provide DVF or any third party acting as our agent with accurate, complete and current information at all times, and to comply with the terms and conditions of any ancillary agreement that you may enter into that governs your purchase of any product.

3.2 Payments. Your right to any product that is available for purchase through the Website is conditional on our receipt of the appropriate full payment and related costs for such product. If such payment and costs cannot be charged to your credit card or if a charge is refunded for any reason, including chargeback, we reserve the right to cancel your order. If we suspect that a fraudulent transaction has been initiated from your Account, we reserve the right to suspend or cancel your Account. You are responsible for all charges made under your Account.

3.3 Taxes. You are responsible for paying all applicable taxes arising out of any purchase made under your Account or otherwise made by you.

3.4 Shipping. Please review our shipping rates at <https://www.DVF.com/clientservices/article/?fid=cs-shipping-returns>. You are responsible for paying all such applicable rates.

3.5 Product Descriptions. We attempt to be as accurate as possible in describing products (including pricing) offered for purchase through the Website; however, we do not warrant or represent that all

such descriptions are complete, current or error-free. If we have shipped to you a product that you purchased through the Website and you determine that such product was not accurately described or depicted on the Website, you may return such product to us within (30) days of your receipt thereof for a full refund (including your reasonable return shipping costs), so long as the product is unused. If we determine that a product that you purchased through the Website was not accurately described or depicted on the Website, we reserve the right to cancel or refuse your order before shipment. We will, if practical, notify you of our reasons for cancelling or refusing the order through the e-mail and/or billing address/phone number provided at the time the order was made. We change our product descriptions and pricing from time to time, so you must check these details before ordering from us.

3.6 Product Availability; Bulk Sales. We cannot guarantee product availability. From time to time, DVF may have to cancel or refuse an order placed by you. We may, in our sole discretion, limit or cancel quantities purchased per person, per household or per order. We will, if practical, notify you of our reasons for cancelling or refusing the order through the e-mail and/or billing address/phone number provided at the time the order was made. We reserve the right to limit or prohibit orders that, in our sole judgment, appear to be placed by dealers, resellers or distributors.

3.7 Returns. If you have purchased and received a product offered through the Website that you wish to return to us, you must adhere to our Return Policy: <https://www.DVF.com/clientservices/article/?fid=cs-shipping-returns>. If there is any failure, delay or interruption with respect to the delivery of our products ordered by you through the Website, you may request that your order be cancelled and that we provide a refund for such products.

4. Intellectual Property.

4.1 Copyright. The Website contains various Content that is protected by copyright and other intellectual property laws of the United States and other jurisdictions. As between you and DVF, DVF owns all rights, title and interest (including all copyright, trademark, patent, trade secret and other intellectual property rights) in and to the Website (including all Content appearing therein), and you have no rights in and to the Website other than as expressly set forth in this Agreement. Except for information that is in the public domain or for which you have been given express written permission by DVF, no Content may be sold, leased, copied, reproduced, republished, uploaded, displayed, posted, transmitted, distributed, modified, publicly performed, used in any derivative works based thereon or otherwise used for any public or commercial purpose without the prior written consent of DVF or, where applicable, our licensors. However, you may print copies of materials on the Website for your personal, noncommercial use only, provided that (a) you must keep intact all copyright, trademark, and

other proprietary notices appearing therein and (b) you use such materials solely in the manner permitted by this Agreement and not in any manner that competes with us.

4.2 Trademarks. The trademarks "DVF" and "Diane von Furstenberg" and all names, graphics, designs, logos, page headers, button icons, scripts, commercial markings, trade dress, and service names appearing on the Website and which indicate a source of goods or services (collectively, the "Trademarks") belong exclusively to DVF or to our licensors, sponsors, suppliers or other third parties, as indicated. Trademarks are protected by the trademark laws of the United States and other applicable jurisdictions. You may not use, copy, reproduce, republish, distribute or modify any Trademark in any way, including distributing Content for advertising or publicity or otherwise, without our prior written consent or the consent of such third party Trademark holder, as applicable.

4.3 Removal of Notices. You shall not remove, obscure, or alter any proprietary rights notices (including copyright and Trademark notices) that may be affixed to or contained within any Content, and you shall abide by all such notices.

5. Usage Restrictions.

You shall not use the Website in any manner that:

(a) is designed to interrupt, destroy or limit the functionality of, any computer software or hardware or telecommunications equipment (including by means of software viruses or any other computer code, files or programs);

(b) interferes with or disrupts the Website, services connected to the Website, or otherwise interferes with operations or services of the Website in any way;

(c) infringes any copyright, trademark, trade secret, patent or other right of any party, or defames or invades the publicity rights or the privacy of any person, living or deceased (or impersonates any such person);

(d) consists of any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;

(e) causes us to lose (in whole or part) the services of our internet service providers or other suppliers;

(f) links to materials or other content, directly or indirectly, to which you do not have a right to link;

(g) is false, misleading, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable, as determined by DVF in its sole discretion;

(h) copies, modifies, creates a derivative work of, reverse engineers, decompiles or otherwise attempts to extract the source code of the software underlying the Website or any portion thereof;

(i) violates, or encourages anyone to violate this Agreement, any ancillary terms and conditions listed on the Website, or the Privacy Policy; or

(j) violates, or encourages anyone to violate, any applicable local, state, national, or international law, regulation or order.

6. Third Party Links & Websites.

The Website provides links to third party websites that we believe may be of possible interest to you. Because we do not endorse or otherwise have control over such websites, we are not responsible or liable, directly or indirectly, for (i) the availability of such websites, (ii) any content, data, text, software, music, sound, photographs, video, messages, tags, links, advertising, services, products, or other materials on or available from such websites, (iii) your participation, correspondence or business dealings with any third party found on or through the Website regarding payment and delivery of specific goods and services, and any other terms, conditions, representations or warranties associated with such dealings, which are solely between you and any such third party, or (iv) any damage or loss caused or alleged to be caused by or in connection with your interaction with any such third party. Your use of any website linked to from the Website is subject to the policies and procedures of the owner of such website, and your use of all such websites is subject to such policies and procedures and not to the terms and conditions of this Agreement. You understand that by using any third party website linked to from the Website, you may be exposed to content or other materials that are offensive, indecent, defamatory or otherwise objectionable.

7. Linking to this Website & Framing.

Creating or maintaining any link from another website to any page on this Website without DVF's prior written permission is prohibited. Running or displaying this Website or any material displayed on this Website in frames or through similar means on another website without DVF's prior written permission is also prohibited. Any permitted links to this Website must comply will all applicable laws, rules and regulations.

8. DISCLAIMER OF WARRANTIES.

YOUR USE OF THE WEBSITE IS "AS IS" AND "AS AVAILABLE," AND AT YOUR SOLE RISK. NEITHER DVF NOR ANY OF ITS PAST, CURRENT OR FUTURE AFFILIATES NOR ANY OF THEIR RESPECTIVE PAST, CURRENT OR FUTURE EQUITY HOLDERS, DIRECTORS, OFFICERS, LICENSORS, AGENTS, EMPLOYEES, CONSULTANTS OR REPRESENTATIVES (COLLECTIVELY, THE "DVF PARTIES") SHALL HAVE ANY LIABILITY, OBLIGATION OR RESPONSIBILITY TO YOU OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE, COST, EXPENSE, LIABILITY, OR OTHER ADVERSE CONSEQUENCE ALLEGED TO HAVE HAPPENED OR WHICH HAS HAPPENED, DIRECTLY OR INDIRECTLY, THROUGH YOUR USE OF THE WEBSITE. DVF FURTHER DOES NOT MAKE ANY GUARANTY OF THE ACCURACY, CORRECTNESS, USEFULNESS OR COMPLETENESS OF, AND IS NOT LIABLE FOR LOSSES OR DAMAGES ALLEGED TO ARISE FROM OR ARISING FROM, ANY USE OF THE WEBSITE, AND DVF IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS ALLEGED TO ARISE FROM OR ARISING FROM THE USE OF THE WEBSITE. SPECIFICALLY, DVF DISCLAIMS (I) ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR ANY PARTICULAR PURPOSE REGARDING THE WEBSITE, AND (II) ALL WARRANTIES NOT EXPRESSLY MADE IN THIS AGREEMENT. FURTHER, UNDER NO

CIRCUMSTANCES SHALL DVF BE LIABLE IN ANY WAY FOR ANY LOSS OR DAMAGE ALLEGED TO ARISE OR ARISING IN ANY WAY OUT OF YOUR USE OF THE WEBSITE, OR YOUR INTERACTION WITH ANY THIRD PARTY WEBSITE, WHETHER LINKED TO FROM THE WEBSITE OR OTHERWISE, INCLUDING YOUR USE OF ANY (A) PRODUCT OR SERVICE, OR (B) CONTENT, INCLUDING ANY ERRORS OR OMISSIONS IN ANY CONTENT, OR ANY OFFENSIVE, INDECENT, DEFAMATORY OR OTHERWISE OBJECTIONABLE NATURE OF ANY CONTENT.

9. LIMITATION OF LIABILITY.

9.1 GENERALLY. IN NO EVENT SHALL ANY DVF PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH, DIRECTLY OR INDIRECTLY, YOUR USE OF THE WEBSITE (INCLUDING YOUR USE OF ANY CONTENT APPEARING THEREON), REGARDLESS OF WHETHER DVF HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2 JURISDICTIONAL LIMITATIONS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS IN SECTIONS 8 OR 9 HEREOF MAY NOT APPLY TO YOU.

10. Representations and Warranties.

You represent and warrant that (a) you have all rights, power and the full legal authority to enter into this Agreement on your own and that this Agreement is enforceable against you in accordance with its terms and conditions (b) you have carefully read this Agreement and shall comply with all of your obligations under this Agreement, (c) all purchases made through the Website are not intended for resale and are for personal use or for use as a gift, and (c) you accept and will abide by the terms of this Agreement (including the disclaimer of warranties provisions set forth in Section 8), the Privacy Policy (as hereinafter defined) and any other ancillary terms and conditions posted on the Website.

11. Indemnity.

You shall indemnify, defend and hold harmless each of the DVF Parties from all claims, demands, actions, causes of action and/or lawsuits (each, a "Claim" and collectively, "Claims") and all resulting costs, liabilities, losses, expenses, and damages, actual and consequential, direct and indirect, of every

kind and nature, including without limitation reasonable attorneys' fees and disbursements (collectively, "Losses"), made by any third party due to or arising out of your (a) breach by you of the terms of this Agreement or (b) your misuse of this Website. You shall immediately provide all applicable DVF Parties with prompt written notice of any Claim or potential Claim of which you become aware. Upon the assertion or commencement of any Claim against one or more of the DVF Parties by any third party that may give rise to liability of any such DVF Party hereunder, you shall assume the control of the defense of such Claim at your sole expense with counsel reasonably acceptable to each such applicable DVF Party; provided, however, that each such DVF Party may take part in and/or fully assume such defense, in its sole discretion and at its own expense, after you assume the control thereof. You shall not enter into any settlement of any Claim which any of the DVF Parties believes is adverse to its interests, without receiving the prior written consent of each of the DVF Parties affected by such Claim. In no event shall any of the DVF Parties be obligated to participate in any settlement which any such party reasonably believes would have an adverse effect on such party's business interests.

12. Privacy.

DVF views the protection of your privacy as an important responsibility. The terms regulating the handling of personally identifiable information ("PII") and other information by you in connection with the Website is described in our Privacy Policy, which can be found at <https://www.dvf.com/privacy-policy.html>. By using the Website, you consent to the collection and use of your PII by us as described in the Privacy Policy.

13. No Endorsement.

DVF is neither affiliated with, nor sponsored or endorsed by, any specific product, service, methodology or person. The owners of any third party Trademark or copyright appearing on the Website are not sponsors of DVF or the Website and have not endorsed and are not affiliated with DVF or the Website, and DVF is not a sponsor and does not endorse any such third parties.

14. No Agency.

No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created between you and DVF by this Agreement.

15. Notices.

Unless otherwise provided in this Agreement, all notices hereunder shall be given by certified mail, postage prepaid and return receipt requested, to: DVF Studio, LLC, Attn: DVF Ecommerce Dept., 440 West 14th Street, New York, NY 10014 and to a Registrant at the address listed in such Registrant's Account. Notice shall be deemed given three (3) business days after the date of such mailing.

14. AGREEMENT TO ARBITRATE; Governing Law

16.1. AGREEMENT TO ARBITRATE. PLEASE READ THIS SECTION CAREFULLY. By visiting the Website or otherwise making a purchase from the Website, you and DVF agree that, if there is any controversy, claim, action or dispute arising out of or related to any transaction conducted on the Website, or the breach, enforcement, interpretation, or validity of this Agreement or any part of it other than disputes qualifying for small claims court and disputes relating to DVF's intellectual property or licensed intellectual property rights, ("Dispute"), both parties shall first try in good faith to settle such Dispute by providing written notice to the other party describing the facts and circumstances of the Dispute and allowing the receiving party 30 days in which to respond to or settle the Dispute.

Notice shall be sent:

(1) to DVF in accordance with the Notices provision at Section 15 above, or

(2) to you at: your last-used billing address or the billing and/or shipping address in your online profile.

Both you and DVF agree that this dispute resolution procedure is a condition precedent that must be satisfied before initiating any litigation or filing any claim against the other party.

IF ANY DISPUTE CANNOT BE RESOLVED BY THE ABOVE DISPUTE RESOLUTION PROCEDURE, YOU AGREE THAT THE SOLE AND EXCLUSIVE JURISDICTION FOR SUCH DISPUTE WILL BE DECIDED BY BINDING ARBITRATION ON AN INDIVIDUAL BASIS. ARBITRATION ON AN INDIVIDUAL BASIS MEANS THAT YOU WILL NOT HAVE, AND YOU WAIVE, THE RIGHT FOR A JUDGE OR JURY TO DECIDE YOUR CLAIMS, AND

THAT YOU MAY NOT PROCEED IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE CAPACITY. Other rights that you and we would have in court will not be available or will be more limited in arbitration, including discovery and appeal rights. All such Disputes shall be exclusively submitted to Judicial Arbitration and Mediation Services, Inc. for binding arbitration under its rules then in effect in the New York, New York, USA area, before one arbitrator to be mutually agreed upon by both parties.

The arbitrator, and not any federal, state or local court or agency, shall have exclusive authority to resolve any dispute arising under or relating to the interpretation, applicability, enforceability or formation of this Agreement, including any claim that all or any part of this Agreement is void or voidable.

16.2 Governing Law. This Agreement and any Dispute will be governed by the laws of the State of New York without regard to any conflict of laws provisions.

17. Choice of Forum.

Any disputes or claims not subject to the arbitration requirement of Section 16 shall be resolved by a court located in New York and you agree and submit to the exercise of personal jurisdiction of such courts for the purpose of litigating any such claim or action.

18. Notice and Procedure for Making Claims of Copyright Infringement.

Pursuant to Title 17, United States Code, Section 512(c)(2), if you believe that your work has been copied in a way that constitutes copyright infringement on the Website, notification may be sent to DVF's Designated Agent. To be effective, the notification must be a written communication that includes the following:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;

2. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material;
4. Information reasonably sufficient to permit us to contact the complaining party, such as an address, telephone number and, if available, an e-mail address at which the complaining party may be contacted;
5. A statement that the complaining party has a good-faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent or the law; and
6. A statement that the information in the notification is accurate and, under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

We may give notice to any users responsible for content removed or disabled pursuant to a copyright infringement notification by means of a general notice on any of our websites, electronic mail to a user's e-mail address in our records, or written communication sent by first-class mail to a user's physical address in our records. If you receive such a notice, you may provide counter-notification in writing to the Designated Agent that includes the information below. To be effective, the counter-notification must be a written communication that includes the following:

1. Your physical or electronic signature;
2. Identification of the material that has been removed or to which access has been disabled, and the location at which the material appeared before it was removed or access to it was disabled;
3. A statement from you, under penalty of perjury, that you have a good-faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled; and
4. Your name, physical address and telephone number, and a statement that you consent to the jurisdiction of a federal district court for the judicial district in which your physical address is located, or if your physical address is outside of the United States, for any judicial district in which we may be found, and that you will accept service of process from the person who provided notification of allegedly infringing material or an agent of such person.

19. Assignment.

You shall not resell or assign your rights, duties or obligations under this Agreement, and any attempted assignment or delegation will be void and of no force or effect whatsoever. This Agreement may be automatically assigned by DVF, in our sole discretion, to a third party, and such an assignment will inure to the benefit of our successors, assigns and/or licensees. Without limiting the foregoing, we may sell, transfer or otherwise share some or all of our assets, including your personal information, with any parent company, subsidiary, joint venture, and a company under our common control, as well as with a potential acquirer, lender, or investor, including in connection with a merger, reorganization, or sale of assets, or in the event of bankruptcy. In each such event, the PII we have collected from you may be one of the assets transferred.

20. No Waiver.

Our failure to act with respect to a breach by you or others does not waive our right to act with respect to a subsequent or similar breach or breaches. If DVF does not exercise or enforce any legal right or remedy which is contained in this Agreement (or which DVF has the benefit of under any applicable law or regulation), such action or inaction shall not be taken to be a formal waiver of DVF's rights, and all such rights or remedies shall still be available to DVF.

21. General.

If any provision of this Agreement is held to be invalid by a court having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Agreement, which shall remain in full force and effect. Section headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section. This Agreement and any ancillary terms and conditions referenced herein or included in the Website sets forth the entire understanding and agreement between us with respect to the subject matter hereof. The provisions of this Agreement shall survive suspension or cancellation of your account to the extent necessary to carry out the obligations of you and DVF hereunder.

22. Contact Us.

If you have any questions or concerns regarding the Website, please contact us by e-mail at clientservices@DVF.com, write to us at DVF Studio, LLC, Attn: DVF Ecommerce Dept, 440 West 14th Street, New York, NY 10014, or call our client services number at 1-888-472-2383 California residents may reach the Complaint Assistance Unit of the Division of Consumer Services of the California

Department of Consumer Affairs by mail at 1625 North Market Blvd., Sacramento, CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.