

# Terms & Conditions 2009/2010

## 1. TERMS OF CONTRACT

Samurai International Sportswear Ltd, "the Company", sells the goods listed in this catalogue ("Goods", which expression shall as the context admits refer to all or any of such Goods) exclusively upon the terms set out below (the "Terms"). The "Customer" shall refer to any person, firm, company or other organisation placing an order for any goods. The placing of an order or acceptance of the goods is deemed to constitute an agreement to observe and be bound by the terms and any concession, latitude or waiver that may be or may have been allowed by the company at any time shall not prevent the Company subsequently exercising its full rights under the Terms. "Time will not be the essence of the contract". Part and late deliveries will not, therefore, be a justification for withholding payment in any case.

## 2. ORDERS

All orders should be sent direct to Samurai, House of Samurai, Salamanca Road, Long Stratton, Norwich, NR15 2PF.

## 3. PRICES

Goods will be invoiced at the price ruling at the date of despatch. All prices given by the Company are "delivered mainland UK" which includes cost of packing cases where applicable. Prices given by the Company exclude Value Added Tax, package and carriage, which will be charged to the customer in addition. Carriage paid goods will be delivered to the customer by the cheapest reasonable method and route unless otherwise requested. The customer shall bear all additional costs invoiced by the Company in respect of any other agreed method of delivery.

## 4. DISCOUNT, PAYMENT TERMS AND OVERDUE ACCOUNTS

- Cleared payment for Goods is due in full within 30 days of the date of the invoice.
- Without prejudice to any other right of Company, interest will be charged both before and after any judgement on all sums owing to the Company which are overdue at the rate of 2% per month or part month from the date such sums became overdue until the Company receives payment in full thereof together with such interest.
- Without prejudice to any other right of the Company, the Company reserves the right to withhold delivery of all goods to the customer if any sum owing to the Company from the Customer is overdue until such sum is paid in full together with any interest due thereon.
- The Company reserves the right to negotiate independent settlement terms for any new accounts or where special circumstances prevail. These terms to be confirmed in advance and confirmed in writing.

## 5. SHORTAGES, DAMAGE, RETURNS

- If upon delivery any Goods ordered by the Customer are found to be missing or damaged the Company will use its reasonable endeavours to assist the Customer in making a claim against the carrier by showing that the relevant Goods were delivered to the carrier in sound condition provided that the Customer notifies the Company and the carrier of all relevant details in writing within 3 days of such delivery. Failure to take action within such time will render such assistance by the Company entirely discretionary.
- If upon receipt of any invoice from the Company the Customer finds that any consignment of Goods covered by such invoice was not received by the Customer then the Company will use its reasonable endeavours to assist the Customer in making a claim against the carrier by showing that such consignment of Goods was delivered to the carrier provided the Customer notifies the Company and the Carrier of all relevant details in writing within 7 days of the date of such invoice. Failure to take action within such time will render such assistance by the company entirely discretionary.
- The Company shall be under no obligation to accept returned Goods (unless such Goods breach any warranty given at clause 8 a but may in its absolute discretion do so by prior agreement with the Customer. If the Company does so agree then the Customer must return such Goods carriage paid and provide to the Company under separate cover the date and the number of the relevant invoice and (if possible) return the relevant delivery note. The Company reserves the right to impose a handling charge of 30% of the invoiced value of returned goods and (if the Customer has not already paid the relevant invoice) such handling charge (if imposed) must be paid forthwith upon return of the Goods and the Company's acceptance of such returned Goods shall be conditional upon prompt payment thereof.
- For the avoidance of doubt the company shall not be responsible for the acts or omissions of any carrier.

## 6. EXPORT

Goods are sold to the Customer on the express condition that the Customer will not (directly or indirectly) export them to any country outside the European Economic Community.

## 7. FORCE MAJEURE

The Company shall not be liable to the Customer for any inability to perform or delay in performing any of its obligations hereunder where such inability or delay as aforesaid is caused (directly or indirectly) by any event or circumstance beyond the Company's reasonable control including (but without Limitation) any trade dispute, strike or lock-out involving its own employees or the employees of any supplier or carrier.

## 8. LIABILITY

- The Provisions of Section 12 to 15 inclusive of the Sale of Goods Act 1979 (as may from time to time be re-enacted updated or amended) shall apply to and be incorporated into these Terms so that such provisions shall apply to the Goods at the time that the risk in such Goods passes to the Customer under Clause 9.
- The Company does not limit or exclude liability for death or personal injury resulting from its negligence of any servant or agent (but not independent contractor) of the Company.
- Subject to Clause 8 b, the warranty referred to in Clause 8a is in substitution for and shall replace all conditions and warranties on the part of the Company implied by statute, common law otherwise all of which are expressly excluded. The Company does not make or give, nor has any servant or agent of the Company authority to make or give any representation or undertaking as to the quality of the Goods or their correspondence with any description or as to their fitness for any particular purpose.
- Subject to the Clause 8 b, in the event that, notwithstanding the preceding provisions of the Clause 8, the Company is found liable for any loss or damage suffered by the Customer, that liability should in no event exceed the amount paid by the Customer to the Company hereunder excluding Value-Added Tax.
- Notwithstanding anything else contained in these Terms, in no circumstances shall the Company be liable to the Customer, their sub-contractor, sponsor or any third party, either in contract or in tort, for any indirect, incidental or consequential loss suffered by the Customer on account of any faulty goods, act or omission on the part of the Company. "Consequential loss" shall include loss of profit, goodwill or any other financial loss, any payment made or due to the third party, and any loss or damage caused to any property belonging to the Customer or any third party.

## 9. RISK AND TITLE

- Risk in the Goods shall pass to the customer at the time the Goods are consigned to the carrier for delivery to the Customer.
- Until the Company has received full payment from the Customer for all Goods delivered to the Customer and of all other sums due from the Customer the following terms shall apply:
  - The property in the Goods supplied by the Company shall remain in the Company as legal and equitable owner thereof and the Customer shall be entitled to possession of the Goods only which shall be held by the Customer as a bailee on behalf of the Company and the Customer shall store the Goods in such a way as to be identifiable as the property of the Company.
  - The Customer shall keep the Goods insured against all risks in their full replacement value and if requested by the Company shall execute an assignment in favour of the Company of all rights of the Customer to claim against the insurers in respect of the Goods covered by such insurance and shall join the Company in notifying such insurers of the Company's interest in any policy effected hereunder.
  - Notwithstanding the provisions of (i) above the Customer shall have a licence to sell the Goods supplied by the Company to the Customer which licence may be immediately terminated by the Company at any time upon giving the Customer written notice thereof provided that (without prejudice to any other rights of the Company) such licence shall automatically terminate if the Customer (being an individual) becomes bankrupt or if the Customer (being a Company) adopts a resolution for its winding up or of any petition is presented for the appointment of an administrator or a receiver or an administrative receiver as appointed in respect of any part of the Customer's undertaking or assets or if the Customer is unable to pay its debts within the meaning of section 123 of the insolvency Act 1986 (or any re-enactment or further enactment thereof) unless the Company otherwise agrees to the continuation of such licence.
  - The proceeds of any such sale and the benefit of any such contract of sale shall to the extent of the sums referred to above owing to the Company from the Customer be held in trust for the Company absolutely and the Customer shall pay all proceeds of such sales into a bank account in the name of the Customer separate from all other monies of the Customer and shall notify the Company thereof and the bank of the Company's interest in such account. On receipt of notice in writing from the Company all proceeds of sales made by the Customer shall (to the extent of sums referred to above owing to the Company from the Customer) immediately be paid to the Company.
  - At any time after the termination of the above licence the Company may repossess the Goods and for this purpose the Customer grants to the Company an irrevocable licence to enter upon any premises of the Customer and to use such measures as may be reasonably necessary to gain access to such premises and recover possession of the Goods.

## 10. GENERAL

- The Customer shall not assign any benefit or burden of these Terms.
- The Clause headings in these Terms are for ease of reference only and shall not affect their interpretation.
- The Company shall be entitled to despatch goods comprised in an order by one or more instalments and to issue an invoice in respect of each such instalment.
- No variation or addition to the conditions will be recognised by the Company unless accepted and confirmed by the Company in writing.

## 11. LAW

These terms shall be governed and constructed in accordance with the laws of England to the non-exclusive jurisdiction of whose courts the Customer agrees to submit.



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