

## HD SPORTS LTD – CONDITION OF SALES

### 1. INTERPRETATION

- 1.1 These conditions the following expressions shall have the following meanings
- |         |                           |   |
|---------|---------------------------|---|
| 1.1.1.1 | 'Company'                 | HD Sports Ltd whose registered office is at 2,Bells Square, Sheffield S1 2FY                  |
| 1.1.1.2 | 'Conditions'              | the terms and conditions of sale set out in this document                                     |
| 1.1.1.3 | 'Contract'                | the contract for the sales of goods (defined below) to the customer subject to the conditions |
| 1.1.1.4 | 'Customer'                | the person, firm or company to whom the company is selling                                    |
| 1.1.1.5 | 'Goods'                   | the goods, materials or services (as applicable) or any other                                 |
| 1.1.1.6 | item of whatsoever nature | which is to be sold of supplied by the Company to the Customer                                |
| 1.1.1.7 | 'Writing'                 | email, facsimile transmission and comparable means of communication                           |
- 1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time
- 1.3 The heading use bold type underlining in these conditions are for the only and shall not affect their interpretation
- 1.4 Words importing the singular meaning where the context so admits includes the plural meaning and vice versa
- 1.5 Words of a masculine gender include the feminine and neater genders and words denoting actual persons includes corporations and firms and all such words shall be construed interchangeable in that manner

### 2. BASIS OF SALES

- 2.1 The Company shall sell and the Customer shall purchase the Goods in accordance with any written order of the Customer which is accepted by the Company subject to these Conditions which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such order is made or purported to be made by the Customer
- 2.2 No variation to these Conditions shall be binding unless agreed in writing by an authorised representative of the Company
- 2.3 The Company's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Company in writing. In entering into the Contract the Customer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not confirmed

### 3. ORDERS OF SPECIFICATION

- 3.1 No order submitted by the Customer shall be deemed to be accepted by the Company unless and until confirmed in writing by the Company
- 3.2 The Customer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms
- 3.3 The quantity, quality and description of and any specification for the Goods shall be those set out in the Customer's order (if accepted by the Company)
- 3.4 Where the Goods are to be manufactured or any process is to be applied to the Goods by the Company in accordance with a specification submitted by the Customer the Customer shall indemnify the Company in full against all loss (including loss of profit) costs (including the cost of all labour and materials used) damages, charges and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim for infringement of any patent, copyright registered, design right, trade mark, service mark or any other intellectual property rights whatsoever of any person which results from the Company's use of the Customer's Specification
- 3.5 The Company reserve the right to make any change in the specification of the goods which are required to conform with any applicable statutory or EU regulation
- 3.6 No order that has been accepted by the Company may be cancelled by the Customer except with the agreement in writing of the Company and on term that the Customer shall indemnify the Company in full against all loss (including loss of Profit) costs (including the cost of labour and materials used) damages, charges and expenses incurred by the Company as a result of the cancellation.

### 4. PRICE OF GOODS

- 4.1 The price of the goods shall be the price listed in the Company's published price list current at the date of acceptance of the order
- 4.2 The Company reserve the right by giving notice to the Customer at any time before delivery to increase the price of the goods to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as without limitation any foreign exchange fluctuation currency regulation alteration of duties significant increase in the cost of labour, materials or other costs of manufacturing) any change in delivery date, quantities or specification of the Goods which is requested by the Customer or any delayed caused by instruction of the Customer or failure of the Customer to give the Company adequate information or instruction
- 4.3 Unless otherwise stated under the price list of the Company and unless otherwise agreed in writing by the Company all prices are given by the Company ex-works basis and where the Company agrees to deliver the Goods otherwise than at the Company's premises the Customer shall be liable to pay the Company charges for transportation, packaging and insurance
- 4.4 The price of the goods is exclusive of any applicable Value Added Tax which the Customer shall be additionally liable to pay the Company

### 5. PAYMENT TERMS

- 5.1 Subject to any special terms agreed to in writing by the Company the Company shall be entitled to invoice the Customer for the price of the Goods on or at any time after delivery of the Goods unless the Goods are to be collected by the Customer or the Customer wrongly fails to take delivery of the Goods in which event the Company shall be entitled to invoice the Customer for the price at any time the Company has notified the Customer that the Goods are ready for collection or (as the case may be) the Company has tendered delivery of the Goods

- 5.2 The Customer shall pay the price of the Goods (without any deduction) within (30) thirty days of the date of the Company's invoice and the Company is entitled to recover the price notwithstanding that delivery may not have taken place and the property of the Goods has not passed to the Customer. The time of the payment shall be of the essence of the Contract. Receipts for the payment shall be issued only upon request.
- 5.3 If the Customer fails to make payment on the due date then without prejudice to any other right or remedy available to the Company the Company shall be entitled to
- 5.3.1 Cancel the Contract or suspend any further deliveries to the Customer
- 5.3.2 Appropriate any payment made by the Customer to such of the Goods (or any Goods supplied under any other Contract between the Customer and the Company) as the Company may think fit; and
- 5.3.3 Charge the Customer interest (both before and after any judgement) on the unpaid amount at the rate of 2% above HSBC plc's base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest)

## 6. DELIVERY

- 6.1 The seller will arrange delivery of the Goods by means, at the seller's discretion, of ordinary goods transport, unless the buyer otherwise requires. The cost of such transport shall be the cost of the buyer.
- 6.2 Any dates quoted for the delivery of the Goods are approximate only and the Company shall not be liable for any delay in the delivery of the goods however caused. Time of delivery shall not be of the essence of the Contract. The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Customer.
- 6.3 Unless otherwise stated and agreed goods will be despatched within 3 working days of the receipt of the payment of for the goods if such goods have not already been delivered.
- 6.4 When the Goods are to be delivered in instalments each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole repudiated.
- 6.5 If the Company fails to deliver the Goods for any reason other than any caused beyond the Company's reasonable control or the Customer's fault and the Company is accordingly liable to the Customer the Company's liability shall be limited to any excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 6.6 If the Customer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than be reason of any cause beyond the customer's reasonable control or by reason of the Company's fault) then without prejudice to any other right or remedy available to the Company the Company
- 6.6.1 may store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage or
- 6.6.2 Sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the contract or charge to the Customer for any shortfall below the price under the contract
- 6.7 Any claims for charges or loss of Goods in transit must be submitted in writing by the Customer to the carrier and to the Company within three (3) days of delivery. The packing and the content should be retained for inspection. Any claim for non delivery of the whole of any consignment must be submitted in writing to the carrier and to the Company within ten (10) days of your receiving the Company's invoice or advise of despatch whichever is the earlier. Any claim in respect of discrepancy in numbers must be submitted in writing with seven (7) days from the receipt of the Goods. Claims made after seven days will not be recognised and the Goods will then be deemed to be in all aspects in accordance with the Contract.

## 7. RISK AND PROPERTY

- 7.1 Risk of damage to or loss of the Goods shall pass to the Customer
- 7.1.1 In the case of Goods to be delivered at the Company's premises at the time when the Company notifies the Customer that the Goods are available for collection or
- 7.1.2 In the case of the Goods to be delivered otherwise than at the Company's premises at the time of delivery or if the Customer wrongfully fails to take delivery of the Goods the time when the Company has tendered delivery of the Goods
- 7.2 Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions the property in the Goods shall not pass to the Customer until the Company has received in cash or cleared funds payment in full of the price of the Goods and all other Goods agreed to be sold by the Company to the Customer for which payment is then due
- 7.3 Until such time as the property in the Goods passes to the Customer the Customer shall hold the Goods as the Company's fiduciary agent and bailee and shall keep the Goods separate from any other Goods of the Customer and third parties and property stored protected and insured and identified as the Company's property. Until such time as property in the Goods passes to the Customer (and provided the Goods are still in existence and have not been resold) the Company shall be entitled at any time to require the Customer to deliver up the Goods to the Company or (at the Company's option) the Company shall be entitled (and the Customer hereby irrevocably authorises the Company) to enter upon any address or premises of the Customer where the Goods are located and repossess the Goods
- 7.4 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness of any of the Goods for which remain the property of the Company but if the Customer does so all monies owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable

## 8. LIABILITY

- 8.1 Subject to the conditions set out below Goods sold by the Company are guaranteed against defective materials or faulty workmanship to a period of twelve (12) months from the date of their delivery
- 8.2 The guarantee given by the Company in condition 8.1 above is subject to the following conditions
- 8.2.1 The Company shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification by the customer

- 8.2.2 The Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, abnormal working conditions failure to follow the Company's instructions (whether oral or in writing) misuse or alteration or repair of the Goods without the Company's approval
- 8.2.3 The Company shall be under no liability under the guarantee given in condition 8.1 above if the total price of the Goods has not been paid by the due date for payment
- 8.2.4 The guarantee in condition 8.1 does not extend to parts, material or equipment not manufactured by the Company in respect of which the Customer shall only be entitled to benefit of such guarantee of warranty as is given by the manufacturer to the Company
- 8.3 Subject as expressly provided in these conditions and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law
- 8.4 Where the Goods are sold under the consumer transaction (as defined by the Consumer Transactions (Restrictions on Statement) Order 1976) the statutory rights of the customer are not affected by these conditions
- 8.5 Any claim by the Customer which is based on any defect in quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Customer) be notified to the Company within seven (7) days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) with a reasonable time after discovery of the defect or failure. If the delivery is not refused and the customer does not notify the Company accordingly the Customer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure and the Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract
- 8.6 Where any valid claim in respect of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Company in accordance with these conditions the Company shall be entitled to replace the Goods (or the part in question) free of charge or at the Company's absolute discretion refund to the Customer the price of the Goods (or a proportionate part of the price) but the Company shall have no further liability to the Customer
- 8.7 Except for in respect of death or personal injury caused by the Company's negligence the Company shall not be liable to the Customer by reason of any representation or any implied warranty condition or other term or any duty at common law or under the express terms of the contract for any consequential loss or damage (whether for loss of profit or otherwise) costs expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with the supply of Goods or their use or resale by the Customer except as expressly provided in these Conditions
- 8.8 The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the Company's obligations in relation to the Goods if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as caused beyond the Company's reasonable control
- 8.8.1 Act of God explosion flood tempest fire or accident
- 8.8.2 War or threat of War, sabotage, insurrection, civil disturbance or requisition
- 8.8.3 Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any government parliamentary or local authority
- 8.8.4 Import or export regulations or embargoes
- 8.8.5 Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or third parties)
- 8.8.6 Difficulties in obtaining raw materials, labour, fuel parts or machinery
- 8.8.7 Power failure or breakdown in machinery
- 8.8.8 Any act or omission on the Customer's or Company's behalf caused directly or indirectly by problems associated with Year 2000 Conformity problem. The 'Year 2000 Conformity' shall have the meaning set out in the document published by the British Standards Institute – DISC – entitled 'A Definition of Year 2000 Conformity Requirements' and published under reference number DISC PD 2000-1

## 9. INSOLVENCY

- 9.1 The conditions implies if
- 9.1.1 the Customer make any voluntary arrangements with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction) or
- 9.1.2 encumbrancer take possession or receiver is appointed of any of the property or assets of the Customer. Or
- 9.1.3 the Customer ceases or threatens to cease to carry on businesses. Or
- 9.1.4 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the customer accordingly
- 9.2 If this Condition 9 applies then without prejudice to any other right or remedy available to the Company the Company shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary

## 10. EXPORT TERMS

- 10.1 In these conditions 'incoterms' means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force as the date the contract is made. Unless the context otherwise requires any term or expression which is defined in or given particular meaning by the provisions of the incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of incoterms and these Conditions the later shall prevail.
- 10.2 Where the Goods are supplied for export from the United Kingdom the provisions of this clause 10 shall (subject to any of the special terms agreed in writing between the Customer and the Company) apply notwithstanding of any other provision of these Conditions

- 10.3 The Customer shall be responsible for complying with any legislation or regulation governing the importation of the Goods into the country of destination and for the payment of any duties on them
- 10.4 Unless otherwise agreed in Writing between the Customer and the Company, the Goods shall be delivered FOB the air or sea port of shipment and the Seller shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979
- 10.5 The Customer shall be responsible for arranging for testing and inspection of the Goods at the Company's premises before shipment. The Company shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection which is made after shipment, or in respect of any damages during transit.

11. GENERAL

- 11.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principle place of businesses or such other address as may at the relevant time have been notified pursuant to this condition to the party giving the notice
- 11.2 No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other Condition
- 11.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby
- 11.4 The Contract shall be governed by the laws of England and the Customer agrees to submit to the non-exclusive jurisdiction of the English Courts