

IKON FOOTWEAR LTD.

GENERAL TERMS AND CONDITIONS OF SALE

1. INTERPRETATION

In these conditions where the context admits the following expressions have the following meanings:-

“**Contract**” means the contract for the sale and purchase of the Goods;
“**Customer**” means the person so described in the Order;
“**Delivery**” means delivery in accordance with these conditions;
“**Delivery Address**” means the delivery address stated in the Order;
“**Goods**” means the goods described in the Order;
“**Order**” means the purchase order made by the Customer strictly in accordance with a written confirmation of order made by the Seller.

2. BASIS OF SALE

All contracts for the sale of goods made by or on behalf of IKON FOOTWEAR LTD (“the seller”) are subject to these terms and conditions (“the Conditions”). The Seller shall sell and the Customer shall purchase the Goods in accordance with the Order which is only accepted by the Seller subject to these Conditions, which shall govern the Contract to the exclusion of any other terms. Orders are in all cases subject to written confirmation of order by the Seller.

Any typographical, clerical or other error or omission whatsoever in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to amendment without any liability on the part of the Seller but if the amendment is of a substantial nature and the Customer is dissatisfied at the amendment the Customer may give notice to cancel that part of the Order within 7 days of learning of it and if the goods are returned in good and saleable condition at the Customer’s expense to the Seller within 14 days thereafter that part of the Order shall be cancelled.

3. TERMS OF PAYMENT

The Seller’s invoice is raised when the Goods are despatched. The Customer shall pay the Seller’s invoice within 30 days of the date it was raised. Any discount for quick payment or other applicable discount which may be applicable from time to time shall be only as set out in the Seller’s invoice and the Seller’s confirmation of order form and the Customer shall not take any other discount. Payment shall be made by cheque payable to IKON FOOTWEAR LTD or direct to the Seller’s bank account (details of which are set out below) or such other method of payment as the parties may agree from time to time.

Seller’s bank account details:
Barclays Bank plc, PO Box 96, Ilford, Essex, IG2 6BU
Sort Code: 20-44-22 Account No. 50133485

4. FAILURE TO MAKE PAYMENT

If the Customer does not pay on the date specified above the Seller shall be entitled without prejudice to any other right or remedy it may have, to terminate this Contract, recover the Goods, appropriate any credit due or other payment made by the Customer to such Goods (or the Goods supplied under any other contract between the Customer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Customer), cancel or suspend any further deliveries to the Customer under any Order and/or charge the Customer interest on the amount unpaid from the due date until payment is made in full at the rate of 4% above Barclays Bank Plc base lending rate for the time being in force.

5. PRICES

Prices of the Goods shall be those contained in the Seller’s list prices from time to time. The Seller shall have the right at any time to change its prices and/or to withdraw the Goods from the range of products offered by the Seller. All prices for the Goods are the current list price exclusive of any applicable value added or any other sales tax. Insurance and delivery is free within the United Kingdom and Eire for deliveries of the Goods exceeding 12 pairs. On deliveries of 12 pairs

or fewer the Customer shall pay the actual delivery cost of the Seller and the delivery cost shall be added to and for all purposes deemed to be part of the invoice.

6. DELIVERY

THE SELLER SHALL ENDEAVOUR TO COMPLY WITH DELIVERY DATES QUOTED BY IT BUT TIME FOR DELIVERY SHALL NOT BE OF THE ESSENCE AND THE SELLER SHALL NOT BE LIABLE FOR ANY FAILURE, DELAY OR ERROR IN DELIVERY, NOR SHALL IT BE LIABLE FOR ANY CONSEQUENTIAL LOSS ARISING THEREFROM HOWEVER CAUSED.

The Customer shall specify in its Order whether delivery is requested at the Seller’s premises or to a Delivery Address. The Seller shall specify when appropriate in the Seller’s confirmation of order the address of the Seller’s premises for delivery. Delivery shall take place in the case of delivery at the Seller’s premises as soon as the Goods are collected by the Customer or its agent or other representative at the Seller’s premises and in the case of delivery to the Delivery Address as soon as the Goods are physically delivered there, whether or not a delivery note is signed by the Customer.

The Seller reserves the right to part deliver. Where the Goods are to be delivered in installments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more installments in accordance with these Conditions or any claim by the Customer in respect of any one or more installments shall not entitle the Customer to repudiate the Contract as a whole nor to cancel any subsequent installments.

7. REFUSAL OR FAILURE TO TAKE DELIVERY

If the Customer does not take delivery of the Goods or fails to give the Seller adequate delivery instructions in its Order then, without prejudice to any other right or remedy available to the Seller, the Seller may store the Goods until actual delivery and charge the Customer for the reasonable costs of storage or 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 Seller’s invoice price or charge the Customer for any shortfalls below the Seller’s invoice price or terminate this Contract with immediate effect and recover from the Customer any loss and additional costs incurred as a result.

8. INSPECTION

It shall be the responsibility of the Customer to inspect and check the Goods as soon as reasonably practicable after delivery and in any event within 7 days to ensure that the quality, condition, quantity and specification of the Goods conform to the instructions contained in the Order and this shall apply equally in the case of Goods which are delivered to a third party on the instructions of the Customer. Any nonconformity will only be the responsibility of the Seller if it brought to the Seller’s attention in writing within 8 days after the delivery. If Goods are returned by the Customer to the Seller on the basis that they are defective and are later found by the Seller not to be defective such Goods shall be returned to the Customer at the Customer’s expense and the Customer shall in addition pay to the Seller a handling charge which shall represent 20% of the Seller’s invoice price of the Goods to cover the cost of inspection and checking of the Goods by the Seller. The Customer shall notify the Seller in writing and obtain the Seller’s approval in writing (which is not to be unreasonably withheld) before making any return of Goods to the Seller.

9. RISK AND INSURANCE

The risk in the Goods shall pass to the Customer on delivery in accordance with these Conditions. The Customer shall be responsible for taking out and maintaining appropriate insurance cover for loss or destruction to the Goods after delivery.

10. TITLE

10.1 Notwithstanding delivery and the passing of risk, property and title in all or any Goods supplied by the Seller including full legal and beneficial ownership shall not pass to the customer and shall remain in the Seller until the

Seller receives payment in full, by cash or by cleared funds, of all sums due, owing or incurred in respect of the Goods and all other Goods agreed to be sold by the Seller to the Customer for which payment is then due, but which has not been paid at the full price (which shall include the amount of any interest or other sum payable under the terms of all Contracts between the Seller and the Customer). Property in the Goods shall pass to the Customer at the time when such payment is received by the Seller (and not earlier).

10.2 Until property in the Goods passes to the Customer, the Customer shall be the bailee of the Goods for the Seller and shall store the Goods securely, safely and separately from the Customer’s own goods or those of any other person and in a manner which makes them readily identifiable as the goods of the Seller. The Customer shall ensure that the Goods can be identified by a reference to corresponding invoice numbers. The Seller’s consent to the Customer’s possession of the Goods and any right the Customer may have to possession of the Goods shall cease at whichever is the earliest of the following events:-

(i) if any sum due, owing or incurred in respect of the Goods is not paid to the Seller on or before the date when it is due;

(ii) if the Customer does or fails to do anything so as to entitle any person to appoint a receiver of the whole or any part of the Customer’s assets or so as to entitle any person to present a petition for an administration order or the winding up of the Customer or if the Customer makes any composition with its creditors or suffers any execution to be levied upon its property or ceases or threatens to cease to carry on business.

10.3 The Seller may for the purpose of inspecting or recovering the Goods enter upon any premises where they are stored or where the Seller reasonably believes them to be stored.

11. WARRANTIES

Goods are sold with the benefit of the following warranties:

(i) that they will in all material respects comply with any relevant current sample or specification made available to the Customer by the Seller;

(ii) that they will be fit for their purpose as fashion footwear.

12. REPUTATION

The Customer shall not display, promote, advertise or refer to the Goods in any way which detracts from the character or repute of the Goods or of any trade marks, trade names, copyright, words or designs associated with the Goods.

13. INSOLVENCY AND DEFAULT

If the Customer does or fails to do anything so as to entitle any person to appoint a receiver of the whole or any part of the Customer’s assets or so as to entitle any person to present a petition for an administration order or the winding up of the Customer or if the Customer makes any composition with its creditors or suffers any execution to be levied upon its property or ceases, or threatens to cease, to carry on business or commits any breach of this or any other contract between the Seller and the Customer, the Seller may without prejudice to any of its other rights under these Conditions stop any goods in transit and/or suspend further deliveries forthwith and/or by notice in writing to the Customer terminate the Contract and if Goods have been delivered but not paid for payment shall become immediately due notwithstanding any previous agreement or arrangement to the contrary.

14. LIABILITY

(i) The Seller shall not be liable to the Customer for any shortfall in the quantity of Goods delivered unless the Customer inspects the Goods and notifies the Seller of any claim in accordance with Condition 8 and where any such valid claim is made the Seller shall supply the shortfall free of charge or at the Seller’s sole discretion, reduce the Seller’s invoice by

the sum equivalent to the shortfall but the Seller shall have no further liability to the Customer.

(ii) The Seller shall execute the following procedures in respect of goods that are defective in quality, condition or specification:-

(a) a 2% “no claims credit” will be allowed by the Seller against all invoices to cover occasional defects (whether they arise or not) in lieu of any specific credit for defective goods.

(b) in the event of a major line fault developing, this will be dealt with separately, and subject to this Condition 14 the Seller will credit the Customer with the price of the defective goods or (at the Seller’s sole discretion) replace the goods free of charge.

(iii) EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT NO WARRANTY, CONDITION, UNDERTAKING OR TERM, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO THE CONDITION, QUALITY, PERFORMANCE, MERCHANTABILITY, DURABILITY OR FITNESS FOR PURPOSE OF THE GOODS IS GIVEN OR ASSUMED BY THE SELLER AND ALL SUCH WARRANTIES, CONDITIONS, UNDERTAKINGS AND TERMS ARE HEREBY EXCLUDED IN SO FAR AS PERMITTED BY LAW.

(iv) THE SELLER SHALL NOT IN ANY CASE BE LIABLE TO THE CUSTOMER OR TO ANY OTHER PARTY FOR DIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SIMILAR LOSS OR DAMAGES (INCLUDING ALL MANNER OF COSTS, FEES AND EXPENSES) ARISING FROM BREACH OF CONTRACT, NEGLIGENCE OR ANY OTHER CAUSE HOWSOEVER, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT AND IN SO FAR AS PERMITTED BY LAW.

(v) The performance of any Contracts is subject to variation or cancellation by the Seller at the Seller’s option if as a result of force majeure the Seller is unable to perform the Contract as envisaged, and the Seller shall not be held responsible for any non-performance of a Contract arising from any such cause. If a Contract is so varied it shall be performed by the Seller in a manner as close as reasonably possible to the original Contract. If the Contract is so cancelled the Customer shall be entitled to a refund of any moneys paid in respect of the Goods but shall have no other claim against the Seller. “Force majeure” means any Act of God, war, strike, lockout, fire, flood, drought, tempest or any other cause whatsoever beyond the control of the Seller.

15. WAIVER

No waiver by the Seller of any breach of contract by the Customer shall be valid or enforceable by the Customer unless it is made in writing and signed by a director of the Seller nor shall any such waiver be construed as a waiver of any subsequent breach of the same of any other provision.

16. SEVERANCE

If any provision of these Conditions or any part thereof 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 provision in question shall not be affected thereby.

17. GOVERNING LAW AND JURISDICTION

These Conditions shall be governed by and construed in accordance with the laws of England and the parties hereby submit to the non-exclusive jurisdiction of the English courts.

18. TERRITORY

Customers situated in the European Economic Area shall not directly or indirectly sell or otherwise supply the Goods to any third party outside the European Economic Area.