

CHAMPION SPORTS PTY LTD

Terms of Trading Agreement ("Agreement")

Revised 26/5/16

In this Agreement:

- (a) "Supplier" means Champion Sports Pty Ltd ACN 110 740 620 or any subsidiary, related company, division or business of that company.
 - (b) "Customer" means the persons, firm or company with whom the Supplier is entering into contractual relations.
 - (c) "Product(s)" means the products supplied to the Customer by the Supplier.
 - (d) "Brand" includes any name, brand, trade mark, logo or device of the Supplier and any name, brand, trade mark, logo or device in respect of any Product or other product supplied by the Supplier.
 - (e) "Account Application" means the account application completed and signed by the Customer and to which this Agreement is annexed.
 - (f) "Invoice" means each and any invoice issued by the Supplier to the Customer which details the Products and the price of the Products.
 - (g) "Order" means an order placed by the Customer to the Supplier for Products.
 - (h) "Australia Only Products" means all Bushnell and SuperStroke Products and any other Products as notified by the Supplier to the Customer in writing as being Australia Only Products for the purpose of this Agreement.
1. The Customer warrants that the information comprised in the Account Application is true, accurate and correct and acknowledges that it is supplied for the purpose of obtaining credit.
 2. The Customer warrants that the persons whose signatures appear on the Account Application are duly authorised by the Customer to apply for credit and bind the Customer to the terms and conditions of this Agreement.
 3. The Customer agrees to adhere to the terms and conditions of this Agreement.
 4. If the Supplier grants credit facilities to the Customer, the Customer agrees that the following terms apply:
 - (a) Payment of all accounts must be made on the date and in the manner set out in the Invoice. Any allowance to the Customer of additional time to pay any Invoice will not constitute a waiver by the Supplier of any of the terms of this Agreement.
 - (b) The Customer must ensure that the Customer's account always remains within the credit limit authorised.
 - (c) The Supplier may charge and the Customer will pay interest on all amounts not paid by the due date for payment. Late payment interest will be charged on a monthly basis at the rate equal to the Supplier's current overdraft rate which may vary from time to time.
 - (d) Any expense, costs or disbursements incurred by the Supplier in recovering any outstanding monies from the Customer, including but not limited to debt collection agency fees and solicitor's costs will be paid by the Customer. The Supplier may terminate any credit arrangement with the Customer by providing prior written notice to the Customer in the event of the Customer defaulting on any of the terms and conditions of this Agreement.
 5. The Customer acknowledges that the Products supplied by the Supplier remain the property of the Supplier until the Supplier receives payment of all monies owing by the Customer to the Supplier for such Products. The Supplier agrees to allow the Customer to deal, sell or trade with the Products in the normal course of business and for the Customer to retain the sale proceeds of such sale or dealing provided that the Customer complies with the terms and conditions of this Agreement. If the Customer defaults on any of the terms of this Agreement including but not limited to the payment of any monies due under this Agreement then the Supplier has the right by giving prior written notice to retake possession of and/or resell the Products supplied to the Customer by the Supplier and the Customer warrants to the Supplier that it will at all times maintain adequate insurance on the Products and maintain them in as new condition. The Customer authorises and allows the Supplier or its representatives, servant, agent or employee to enter the premises upon which the Products are housed or stored for the purposes of retaking possession of the Products. The Supplier will not be liable for, and the Customer will indemnify and keep indemnified the Supplier against, any costs, losses, damages, expenses or any other monies or losses suffered by the Customer as a result of the Supplier retaking possession of or reselling the Products.
 6. The Customer will be deemed to have accepted the Products as being in accordance with its Order unless it notifies the Supplier in writing within 14 days of receipt of the Products to the contrary. The Customer will be liable to pay to the Supplier a restocking fee of 10% of the original wholesale purchase price for Products returned to the Supplier. Proof of purchase showing the date and price paid must accompany all credit claims. Return of Products for credit will not be accepted without a return authorisation number from the Supplier who reserves the right to reject any credit claim if Products are not returned in their original condition.
 7. The signatories to the Account Application and guarantors (as applicable), hereby authorise the Supplier to carry out credit checks and to obtain credit reports in respect of their credit worthiness.
 8. Where the Customer is a trustee, the Customer warrants that the assets of the trust of which it is a trustee shall be available to meet payment of the Customer's account.
 9. The Customer must provide to the Supplier at least 14 days' prior written notice of any proposed changes to the directors, shareholders or senior management of the Customer. The Supplier reserves the right to terminate this Agreement as a result of the change of any director, shareholders or other senior management of the Customer.

This Agreement is to be governed and interpreted in accordance with the laws of the State of South Australia. The parties agree to submit themselves to the non-exclusive jurisdiction of the courts of South Australia and any competent appellate courts.
 10. The Supplier will make all reasonable efforts to have the Products delivered to the Customer on the date agreed between the parties as the delivery date, but the Supplier will not be liable for any claim or costs arising should delivery not be made on this date. The Supplier reserves the right of supplying any Order in full or in part.
 11. The price charged for the Products will be set out in each Invoice. Prices shown on the price list are subject to change. The Supplier will notify the Customer in writing of any changes in the prices shown on the price list. Prices quoted are exclusive of GST. Prices are subject to GST. Delivery, handling and freight charges are applied on the following basis: Prices are F.I.S. on all orders of \$400.00 (excluding GST) and above. For such orders less than \$400.00, a flat \$15.00 freight and handling charge (plus GST) will apply. For urgent priority courier service as requested by the Customer, an additional charge at cost to cover such a service will apply.
 12. Unless otherwise agreed to in writing by the Supplier and notwithstanding any terms appearing in documentation provided by or on behalf of the Customer the terms and conditions of this Agreement will apply to the supply of the Products.
 13. Products sold by the Supplier are guaranteed against defects in workmanship or materials for 12 months from the date of original retail purchase. To the maximum extent permitted by law, the Supplier reserves the right to inspect returned merchandise for evidence of misuse and to determine whether, replacement, repair or adjustment is due. Returns of alleged defective Products will not be accepted without a return authorisation number from the Supplier. Proof of purchase showing date and price paid must accompany all warranty claims. To the maximum extent permitted by law, the Supplier's liability will not exceed the original wholesale purchase price of the Products.
 14.
 - (a) The Customer agrees that it must not market, promote or advertise any Product or Brand without the prior written consent of the Supplier.
 - (b) The Customer agrees that it will provide all sales, advertising or promotional material proposed to be used by the Customer in respect of all Products or Brands to the Supplier for its approval. The Customer will not use any sales, advertising or promotional material which has not been approved in writing by the Supplier.
 - (c) The Customer agrees that, upon request by the Supplier, the Customer will furnish the Supplier with any or all sales, advertising or promotional material used by the Customer in connection with any Product or Brand.
 - (d) The Customer acknowledges and agrees that:
 - (i) the Supplier is under no obligation to supply any product to the Customer;
 - (ii) the Customer may be a non-exclusive recipient of any Product; and

- (iii) the Supplier may supply products exclusively to other customers of the Supplier.
 - (e) The Customer acknowledges that the Supplier's right to sell the Australia Only Products is limited to Australia and that the Supplier cannot sell the Australia Only Products or use the Brand in respect of any Australia Only Products, either directly or through the Customer, in any country outside Australia. The Customer acknowledges and agrees not to sell or distribute the Australia Only Products to any party located outside of Australia.
 - (f) The Customer agrees that it will act faithfully and honestly in its dealings with the Supplier and in its promotion of any Product or Brand. The Customer must not cause or allow anything which may damage, infringe or endanger the reputation, goodwill or any other rights of the Supplier in respect of a Brand.
- 15.
- (a) If a Customer breaches a term of this Agreement, the Supplier may at its election:
 - (i) suspend the supply of Products to the Customer until such breach is remedied in the reasonable opinion of the Supplier;
 - (ii) terminate the Customer's right to sell any Product, including any Australia Only Product, immediately by notice to the Customer; or
 - (iii) terminate this Agreement immediately by notice to the Customer.
 - (b) Either party may terminate this Agreement by giving the other party at least 30 days' prior written notice.
 - (c) To the maximum extent permitted by law, the Customer indemnifies, and will keep indemnified, the Supplier against any claim, loss or damage suffered or incurred by the Supplier arising out of the Customer's breach of this Agreement or the Customer's breach of any laws.
16. Where Products are consigned by the Supplier to the Customer, the Products are deemed to be delivered when placed on the transport vehicle. Risk in the Products passes from the Supplier to the Customer on delivery.
17. Other than in accordance with the terms and conditions of this Agreement and to the maximum extent permitted by law, the Supplier will not be responsible directly or indirectly for loss or damage of any kind arising out of or resulting from the sale, possession, maintenance, use or operation of the Products by the Customer or any third party, or from any failure of the Products whether defective or not.
18. All taxes (including GST), duties or other levy imposed or assessed at any time on or in respect of the Products will be charged to the Customer unless a signed exemption form is received in the approved prescribed manner by the Australian Taxation Office. The signed exemption is to be received by the Supplier before the Products are delivered or at the time of delivery.
19. If the Customer operates a franchised store, the Supplier reserves the right to make contact with the franchisor to discuss matters relating to the Customer's store.
- 20.
- (a) Where the Supplier has supplied Products to the Customer but where title in the Products has not yet passed to the Customer, the Customer acknowledges and agrees that:
 - (i) this Agreement constitutes a Security Agreement for the purposes of the *Personal Property Securities Act 2009* (PPSA);
 - (ii) the Customer will grant the Supplier a purchase money security interest ("PMSI") under the PPSA in the Products and their proceeds to secure all amounts owed to the Supplier by the Customer;
 - (iii) the Supplier may register the PMSI on the Personal Property Securities Register ("PPSR");
 - (iv) it will undertake to do all things necessary and provide the Supplier on request all information the Supplier requires to register a financing statement or financing change statement on the PPSR;
 - (v) it undertakes not to change its name in any form or other details on the PPSR without first notifying the Supplier; and
 - (vi) it will, if required by the Supplier, pay to the Supplier the cost of registering and maintaining registration of the Customer's PMSI on the PPSR, within 14 days of the request.
 - (b) The Supplier need not give any notice under the PPSA (including a verification statement or a financing change statement) unless the notice is required by the PPSA and cannot be excluded.
 - (c) No party may disclose information of the kind referred to in section 275(1) of the PPSA (except where the parties may do so and where required due to the operation of section 275(1) of the PPSA) and the Customer must not authorise the disclosure of such information.
 - (d) The Customer appoints the Supplier as its attorney to sign in the Customer's name all documents which the Supplier considers necessary to enforce and to protect its rights under this Agreement.
 - (e) The Customer agrees that to the maximum extent permitted by law, it waives any rights it may have pursuant to, and the parties contract out of, sections 95, 118, 123, 125, 128, 129, 130, 132(1), 132(4), 135, 142 and 143 of the PPSA.
 - (f) The Customer acknowledges that unless otherwise defined in this Agreement, the terms and expressions used in this clause 20 have the meanings given to them, or by virtue of, the PPSA.
21. The Supplier may amend this Agreement from time to time. Any amendments to this Agreement will be notified to the Customer by posting the amended Agreement on the Supplier's website at www.championsports.com.au. The Supplier recommends that the Customer review the Supplier's website frequently.