



Wholesale Terms + Conditions

AS AT 4 JANUARY 2019

INTRODUCTION

1. These wholesale terms and conditions (Wholesale Terms and Conditions) apply to every contract of sale between SHANTI OM PTY LTD AS TRUSTEE FOR THE SHANTI OM TRUST T/AS TAME THE SUN [ABN 97 794 217 189] (**TAME THE SUN**) and a retailer approved by TAME THE SUN to resell its products through its retail outlet (Approved Retailer).
2. **TAME THE SUN** is a childrenswear brand selling its own label brand clothing and accessory products in Australia and Internationally through its own website tamethesun.com.au (**Website**) and through approved retail outlets within Australia and Internationally.
3. By requesting **TAME THE SUN** supply products to an Approved Retailer, the Approved Retailer acknowledges and agrees (or is deemed to acknowledge and agree) to these Wholesale Terms and Conditions and any other terms, conditions and policies published by **TAME THE SUN** on its website from time to time, which the Approved Retailer may be subject to as a user of **TAME THE SUN'S**.
4. No other terms, agreements or contracts whatsoever govern the relationship between **TAME THE SUN** and an Approved Retailer, for example agreements or contracts with sale representatives or agents of either the Approved Retailer or **TAME THE SUN**.
5. All amounts expressed in this agreement are in Australian dollars.
6. Any questions regarding these Wholesale Terms and Conditions should be directed to **TAME THE SUN**.

APPROVED RETAILERS

7. **TAME THE SUN** sells only to Approved Retailers for resale through their respective approved retail outlets.
8. Approval is required from **TAME THE SUN** for each individual outlet operated by a retailer, whether bricks and mortar or an online store. Applications for approval should be made in the name of the individual retail outlet, even if a retailer operates multiple retail outlets.
9. Retailers wishing to become an Approved Retailer should apply by completing a Wholesale Application Form for each retail outlet they wish to resell through. The Wholesale Application Form is available upon request.



10. All information requested on the Wholesale Application Form must be completed and provided. Incomplete Wholesale Application Forms will not be processed and will be returned for full completion. **TAME THE SUN** may, at its absolute discretion, require further information after receiving a completed Wholesale Application Form.
11. **TAME THE SUN** may decide, in its own absolute discretion, whether to approve or not to approve, an applicant. **TAME THE SUN** may decide to grant an approval subject to conditions in which case the approval will only become effective if the applicant agrees to all conditions in writing.
12. **TAME THE SUN** does not permit the sale of its products via Facebook, Ebay, Gumtree, TradeMe or their equivalent.
13. Approved Retailers may promote, advertise and list **TAME THE SUN** products through Facebook, Instagram and other social media outlets, however **TAME THE SUN** does not permit sale of its products on social media.
14. Under no circumstances will **TAME THE SUN** process new orders or ship existing orders for any existing Approved Retailer who has an outstanding account.

APPROVED RETAIL OUTLETS

15. An Approved Retailer is only authorised to resell **TAME THE SUN** products through its approved retail outlet. If an Approved Retailer wishes to resell **TAME THE SUN** products through any different or additional outlet, including an online store, in addition to its approved retail outlet, then the Approved Retailer must complete a new Wholesale Application Form in the name of the other retail outlet, as individual approvals are required for each individual outlet.
16. As a general rule **TAME THE SUN** will not approve resale through an outlet in a geographic location it considers **TAME THE SUN** is already adequately represented.
17. A retailer will only be approved by **TAME THE SUN** if it is satisfied that the retailer will ensure that at all times **TAME THE SUN'S** products are displayed, promoted and sold in accordance with **TAME THE SUN'S** standards for approved retail store outlets, set out below.

CONTRACT OF SALE; MINIMUM ORDER REQUIREMENTS

18. A contract of sale exists between **TAME THE SUN** and an Approved Retailer, for the supply of products only once **TAME THE SUN** has accepted the order in writing and the Approved Retailer has paid **TAME THE SUN** its deposit referred to below. Once an order has been placed **TAME THE SUN** will send the Approved Retailer an email notifying them that **TAME THE SUN** has accepted its order and will issue an invoice to the Approved Retailer for the order deposit. The email will include a copy of the Approved Retailer's order which either confirms the order or notifies the Approved Retailer of any changes which have been applied.
19. By placing an order with **TAME THE SUN** the Approved Retailer agrees to accept and be bound by **TAME THE SUN'S** policies contained in the Wholesale Terms and Conditions current at the time of placing the order.
20. **TAME THE SUN** does not accept credit accounts in any circumstances.



21. **NEW ORDERS WILL NOT BE ACCEPTED, AND STOCK WILL NOT BE RESERVED FOR ANY CURRENT APPROVED RETAILERS WITH OUTSTANDING ACCOUNTS OR WHO OWE MONIES TO TAME THE SUN. ALL OUTSTANDING PREVIOUS SEASON'S ACCOUNTS MUST BE PAID IN FULL BEFORE A NEW SEASON'S ORDER WILL BE ACCEPTED AND PROCESSED BY TAME THE SUN.**
22. For each season **TAME THE SUN** will publish a seasonal clothing look book and wholesale price list with an order form.
23. Orders must be placed within the timeframe specified in the season's look book and order form, as determined by **TAME THE SUN** or its sale representatives. If an order is not made by an Approved Retailer during this time **TAME THE SUN** reserves the right to approach and/or sell to another retail outlet the Approved Retailer's geographic location.
24. Orders that are submitted after the designated timeframe will only be approved at **TAME THE SUN'S** absolute discretion.
25. Orders that do not comply with the minimum quantity requirements or do not comply for any other reason will only be accepted at **TAME THE SUN'S** absolute discretion.
26. **TAME THE SUN** is not obliged to accept any order, whether it complies with minimum ordering requirements or not.
27. For the first order an Approved Retailer places for products in a seasonal clothing catalogue or price list published by **TAME THE SUN**, the minimum order spend is \$750.00 excluding GST.
28. For top up orders during the same season after a seasonal order, the minimum order spend is \$500.00 excluding GST.
29. International Approved Retailers are not required to pay GST. All Approved Retailers are responsible for delivery charges, this will be allocated at the time of the order being approved. International Approved Retailers are able to use their own shipping account to book shipments once they are ready to be shipped, occasionally if **TAME THE SUN** is arranging International Delivery the Approved Retailer may need to be invoiced for additional costs if shipping charges exceed the estimated amount. [We will always try to use the most economical means to ship your items]

PAYMENT + DEPOSITS

30. **TAME THE SUN** has committed to paying its manufacturers for products prior to shipment of the goods. To create and maintain a seamless production timeline **TAME THE SUN** requires the Approved Retailer to adhere strictly to its payment terms and conditions set out in this section, each of which is an **ESSENTIAL TERM** of the contract between the Approved Retailer and **TAME THE SUN**.
31. All new Approved Retailers are required to pay a 50% deposit on the full purchase price of the products ordered (excluding GST and delivery charges) at time of their first order. The Approved Retailer has the option to pay via credit card (Visa or MasterCard), Paypal or bank transfer. If bank transfer is selected **TAME THE SUN** will not process the order until cleared funds are available in **TAME THE SUN'S** bank account. If Paypal is used, the Approved Retailer must pay an additional amount of \$50.00 at the time of payment to cover Paypal transaction fees.
32. For subsequent orders, Approved Retailers must pay a 30% deposit on the full purchase price of the products ordered (excluding GST and delivery charges) at time of order. The Approved



Retailer has the option to pay via credit card (Visa or MasterCard), Paypal or bank transfer. If bank transfer is selected **TAME THE SUN'S** will not process the order until cleared funds are available in **TAME THE SUN'S** bank account. If Paypal is used, the Approved Retailer must pay an additional amount of \$50.00 at the time of payment to cover Paypal transaction fees.

33. Once stock has arrived at **TAME THE SUN'S** warehouse **TAME THE SUN** will contact the Approved Retailer and issue an invoice for the remaining balance of the payment price of the products, GST and delivery charges. **TAME THE SUN WILL NOT SHIP AN ORDER UNTIL THE INVOICE FOR THE REMAINING BALANCE OF THE PAYMENT PRICE IS PAID IN FULL.** The Approved Retailer has the option to pay via credit card (Visa or MasterCard), Paypal or bank transfer. If bank transfer is selected **TAME THE SUN'S** will not process the order until cleared funds are available in **TAME THE SUN'S** bank account. If Paypal is used, the Approved Retailer must pay an additional amount of \$50.00 at the time of payment to cover Paypal transaction fees.
34. **TAME THE SUN** endeavors to deliver products ordered by Approved Retailers as fast as possible however Approved Retailers should allow 3-5 days at a minimum, for orders to be picked, packed and prepared for dispatch after payment of the outstanding balance owed by the Approved Retailer is received by **TAME THE SUN**. **TAME THE SUN** will then notify the Approved Retailer of the delivery tracking details.
35. **TAME THE SUN** picks, packs and prepares all orders on a first paid first shipped basis.
36. **TAME THE SUN** shall retain and set aside products ordered by an Approved Retailer for 30 days only after the Approved Retailer has been notified that their stock is ready to ship. If an Approved Retailer fails to pay the outstanding balance of their order **TAME THE SUN** may in its absolute discretion, retain all or any part of the deposit paid by the Approved Retailer and may retain all or any part of the products ordered. In this situation, **TAME THE SUN** may terminate its approval and the retailer must complete a new Wholesale Application Form if they then wish to place future orders with **TAME THE SUN** for another season and this request will likely be denied.

STANDARDS FOR APPROVED RETAILERS

37. **TAME THE SUN** products must be displayed in accordance with our standards.
38. **TAME THE SUN** products must be well presented and displayed in a prominent position in the store.
39. Any show cards provided to the Approved Retailer by **TAME THE SUN** must be displayed prominently.
40. Staff must be familiar with the **TAME THE SUN** brand and be able to describe its qualities confidently and appropriately.

USE OF TAME THE SUN IMAGES

41. Each season **TAME THE SUN** shall provide Flatlay and campaign images with specific release dates to the Approved Retailer. Images may be used for all full priced garments and also later in the season for sale garments.



42. **TAME THE SUN'S** images, photographs, logos and all other material created by **TAME THE SUN** are the subject of copyright. They must not be used, reproduced or disseminated without the prior express approval of **TAME THE SUN** and then only in accordance with the terms of such approval.
43. Unless **TAME THE SUN** specifies otherwise, an approval remains current for the season in which they are issued.
44. All photos posted on the **TAME THE SUN** Instagram account may be screenshot and reposted by the Approved Retailer on the condition that **TAME THE SUN** is tagged in the photo and specifically mentioned in the comment. Where a photo is provided by an Approved Retailer via their Instagram page, all effort must be made to credit the original photographer.

RECOMMENDED RETAIL PRICES; SALE EXCLUSIONS; LAUNCHES; NO PRE-SALE

45. **TAME THE SUN** will usually issue recommended retail prices for its products. These are recommendations only and there is no obligation upon an Approved Retailer to comply with the recommendations.
46. The prices at which an Approved Retailer sells, offers for sale or advertises **TAME THE SUN** products is entirely a matter for the Approved Retailer.
47. **TAME THE SUN** may agree to do a repost or 'shout out' on both our Instagram and Facebook pages for any Approved Retailer during the season. An Approved Retailer should contact **TAME THE SUN** via email to arrange this either before or during the season if there is something in particular an Approved Retailer wishes **TAME THE SUN** to focus on.
48. **TAME THE SUN** often sells out of certain styles. If at the end of the season an Approved Retailer has stock left of certain items **TAME THE SUN** may if requested, direct buyer enquiries to the Approved Retailer.
49. Whilst being mindful of retail stores sale periods **TAME THE SUN** reserves the right to decide, in its absolute discretion, to place any or all of its products on sale, collaborate with influencers or run % off campaigns at any given time from its own stock.
50. **TAME THE SUN** does not permit pre-sale of its products by Approved Retailers under any circumstances. Approved Retailers may only sell **TAME THE SUN** products in their actual possession, following their order being checked on the delivery from **TAME THE SUN**.

CANCELLATION

51. An order placed by an Approved Retailer is binding on the Approved Retailer once it is accepted by **TAME THE SUN** in writing and the deposit is paid by the Approved Retailer.
52. An Approved Retailer may change or cancel an order no later than 7 days after the date of placing the order. The Approved Retailer must notify **TAME THE SUN** in writing of its intention to change or cancel its order.
53. If an approved order is cancelled within this time period, **TAME THE SUN** will return the Approved Retailer's deposit in full within 7 days. If an order is changed, **TAME THE SUN** may require, in its absolute discretion, the Approved Retailer increase its deposit so that it meets the deposit requirements contained above. If an order is changed to reduce the number of products, **TAME**



THE SUN will not adjust the deposit already received, however the remaining balance due will be decreased accordingly.

54. If an Approved Retailer wishes to change an order after the time specified in clause (52), **TAME THE SUN** may in its absolute discretion, charge the Approved Retailer a fee of 10% of the order value (excluding GST), to cover **TAME THE SUN'S** administration costs. This fee will be added to the outstanding balance to be invoiced and payable by the Approved Retailer at the time of shipment and delivery of the order.
55. If an Approved Retailer wishes to cancel an order after the time specified in clause (52) above, **TAME THE SUN** may in its absolute discretion, retain all or any part of the deposit paid by the Approved Retailer.
56. **TAME THE SUN** may in its absolute discretion, decide to cease wholesaling all or part of its product range at any time, without cause and without having to provide any reason. In such circumstances, an Approved Retailer's order shall be deemed to be cancelled when **TAME THE SUN** notifies an Approved Retailer in writing. Any deposit paid to **TAME THE SUN** will be returned to the Approved Retailer.
57. In addition to any additional rights **TAME THE SUN** may have at law, **TAME THE SUN** is not obliged to supply goods in relation to any contract of sale and may cancel any contract at any time if:
 - a. an Approved Retailer is in breach of any term of these Wholesale Terms and Conditions;
 - b. an Approved Retailer has provided any false or misleading information to **TAME THE SUN**, including information contained in the Wholesale Application Form or correspondence;
 - c. being an individual, the Approved Retailer is made bankrupt; and/or being a company, the Approved Retailer is placed in liquidation or receivership, and **TAME THE SUN** may in its absolute discretion, retain all or any part of the deposit paid by the Approved Retailer;
 - d. **TAME THE SUN** ceases wholesaling all or part of its product range.

DELIVERY

58. For orders within Australia: unless otherwise agreed in writing, **TAME THE SUN** shall arrange delivery of the Goods to the Approved Retailer and the Approved Retailer will be responsible for the costs associated with delivery. While the delivery service utilized by **TAME THE SUN** may include insurance for the Goods during transit, **TAME THE SUN** makes no representations and gives no warranties in respect to such insurance and the Approved Retailer will be responsible for obtaining any specific insurance that may be required in respect of the Goods during transit. Risk in respect of the Goods shall pass to you when the Goods are delivered to the carrier.
59. For international orders: the purchase price shall be Ex GST and unless otherwise agreed in writing the Approved Retailer shall be responsible for the cost of and in certain circumstances for arranging transportation of the Goods from the premises of **TAME THE SUN** or other named place of delivery. Risk in respect of the Goods shall pass to the Approved Retailer when the Goods are made available at the place of delivery. The Approved Retailer is responsible for obtaining insurance in respect to the Goods from the time they are made available at the place of delivery.
60. All export and import documentation, licences, duties, taxes or other obligations or costs relating to the delivery of International orders shall be the responsibility of the Approved Retailer.



61. **TAME THE SUN** uses its best endeavours to supply the entirety of an order in one shipment. Occasionally there will be unforeseen manufacturing delays with certain styles or items, in which case **TAME THE SUN** reserves the right to deliver orders to Approved Retailers in multiple shipments. The Approved Retailer remains responsible for delivery charges, notwithstanding orders may be delivered in multiple shipments. Approved Retailers will be notified by **TAME THE SUN** as soon as it is known that there will be items delayed (see also section 7 below).
62. **TAME THE SUN** shall not be liable for any loss or damage the Approved Retailer may suffer as a result of non-delivery or late delivery of any order for any reason whatsoever, including negligence on the part of **TAME THE SUN**, its agents or contractors.
63. **TAME THE SUN** uses its best endeavors to supply exactly what has been ordered. If however, an order is delivered incorrectly, an Approved Retailer should contact **TAME THE SUN**. **TAME THE SUN** may at its discretion, either supply missing items, replace incorrect items or give a refund, provided that, in the case of incorrect items, the Approved Retailer makes them available for collection by **TAME THE SUN**. For this reason we ask Approved Retailers to double check their stock upon arrival to ensure any mistakes are picked up immediately and rectified as quickly as possible.
64. **TAME THE SUN** uses its best endeavors to produce products exactly as per samples which have been shown in the seasonal look books. However, from time to time the colour, design or pattern of a product may be modified in production. Such changes are usually made by **TAME THE SUN'S** manufacturers, contractors or suppliers and are out of **TAME THE SUN'S** control. In this instance **TAME THE SUN** will notify Approved Retailers of any changes to a product, however **TAME THE SUN** shall not be liable for any loss or damage incurred by an Approved Retailer as a result of such modifications.
65. If modifications to a product are significant, **TAME THE SUN** may supply new images to the Approved Retailer.
66. If an Approved Retailer is unhappy with any production modifications to a product **TAME THE SUN** will accept a return of the item(s) and either refund the wholesale price paid or offer a credit or replacement item (of the same value) to the Approved Retailer. No compensation will be paid.

RETURNS

67. In the case of any customer returns Approved Retailers should contact **TAME THE SUN** directly so that **TAME THE SUN** can assess the returned item before a refund is offered to customers.
68. The Approved Retailer acknowledges that **TAME THE SUN** products must be washed only in accordance with the washing instruction on the Care Label of the item and must not be bleached or soaked.
69. If an item is defective, either in workmanship or materials, **TAME THE SUN** will accept a return of the item and either repay the wholesale price in full or offer a credit or replacement (of the same value) to the Approved Retailer.
70. **TAME THE SUN** will not under any circumstances, accept returns on its products for poor sell through or non-performance.



LIMITATION OF LIABILITY

71. To the extent permitted by law, **TAME THE SUN** excludes any liability or obligation, whether arising under a statute or the general law and whether or not resulting from negligence on the part of **TAME THE SUN**, its agents or contractors or otherwise.
72. **TAME THE SUN** shall not be liable for any indirect or consequential loss of any kind.
73. Notwithstanding the above, Approved Retailers and their customers may have rights under the Trade Practices Act or other Commonwealth, State or Territory laws that cannot be excluded, varied or limited as above.

CHANGES TO WHOLESALE TERMS AND CONDITIONS

74. **TAME THE SUN** may change these Wholesale Terms and Conditions and any other terms and conditions appearing on its Website, at any time and from time to time.
75. The Wholesale Terms and Conditions will be sent to wholesale applicants when they request a Wholesale Application Form from **TAME THE SUN** to sell its products.
76. By submitting a Wholesale Application Form to **TAME THE SUN** retailers are deemed to agree to these Wholesale Terms and Conditions.
77. By placing orders with **TAME THE SUN**, Approved Retailers are deemed to have read and agree to be bound by the Wholesale Terms and Conditions.
78. All orders will be supplied by **TAME THE SUN** in accordance with these Wholesale Terms and Conditions.

TERMINATION

79. In addition to the circumstances set out in these Wholesale Terms and Conditions **TAME THE SUN** may, in its absolute discretion, terminate the approval of a retailer and its retail outlet at any time upon notice in writing to an Approved Retailer without cause and without having to provide any reason.

RIGHT OF SET OFF

80. **TAME THE SUN** may at any time, without limiting any other rights or remedies, set off any amount owed to **TAME THE SUN** by an Approved Retailer, against any amounts payable by **TAME THE SUN** to an Approved Retailer, including but not limited to any deposit paid by an Approved Retailer.

FORCE MAJEURE

81. **TAME THE SUN** will not be liable for any failure to perform or delay in performance of its obligations under these Wholesale Terms and Conditions caused by any events beyond the reasonable control of **TAME THE SUN**.



NOTICES

82. Notices will be deemed to be delivered when sent by email to the email address of the Approved Retailer provided to **TAME THE SUN** in the Wholesale Application Form.
83. These notices will be kept as proof of **TAME THE SUN** attempting to communicate with an Approved Retailer, especially in regard to late payments.
84. It is the responsibility of the Approved Retailer to provide correct email addresses. Approved Retailers are required to inform **TAME THE SUN** in writing if contact or delivery details change.
85. **TAME THE SUN** takes no responsibility whatsoever for orders shipped to incorrect addresses if **TAME THE SUN** has not been notified in writing of a change of address.
86. All notices to **TAME THE SUN** must be sent via email to: shop@tamethesun.com.au

CONFIDENTIALITY

87. All personal information given to **TAME THE SUN** will be dealt with in a confidential manner.

GOVERNING LAW

88. The laws of Queensland, Australia shall apply to these Wholesale Terms and Conditions.

