

SCOOTBOOT PTY LTD
WHOLESALE TERMS OF TRADE

| Item | Detail | | | | | | | | | | |
|---------------------------------------|--|---------------------------|-------------|---|-------|----|-------|-----|-------|-----|-------|
| 1. Scoot Boot | Scootboot Pty Ltd, trading as Scoot Boot, ABN: 90 603 015 167 4/205 KENNEDY DRIVE, CAMBRIDGE, TASMANIA, AUSTRALIA, 7170 | | | | | | | | | | |
| 2. You | Scoot Boot Stockist | | | | | | | | | | |
| 3. Quantity purchased per pair | <p>Wholesale prices (AUD)</p> <p>RRP: \$269 (per pair)</p> <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>Quantity purchased (pair)</th> <th>Price (AUD)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>\$192</td> </tr> <tr> <td>2+</td> <td>\$171</td> </tr> <tr> <td>10+</td> <td>\$157</td> </tr> <tr> <td>25+</td> <td>\$142</td> </tr> </tbody> </table> <p>If delivery address is in Australia: Wholesale price includes GST and delivery to agreed address</p> <hr/> <p>If delivery address is in NZ: Wholesale price includes delivery with DDP service (delivered duties paid) to agreed address.</p> | Quantity purchased (pair) | Price (AUD) | 1 | \$192 | 2+ | \$171 | 10+ | \$157 | 25+ | \$142 |
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| 1 | \$192 | | | | | | | | | | |
| 2+ | \$171 | | | | | | | | | | |
| 10+ | \$157 | | | | | | | | | | |
| 25+ | \$142 | | | | | | | | | | |

4. Acceptance and variation to Terms of Trade

- a. Upon placement of Your first order after receiving these Terms of Trade (**Terms**), You become bound by these Terms and Scoot Boot agrees to supply the Boots on, and subject to, these Terms.
- b. A contract incorporating these Terms will be formed between You and Scoot Boot each time when an order from You is accepted by Scoot Boot in writing, or by execution of the order by Scoot Boot.
- c. Scoot Boot can vary any aspect of these Terms by notice to You. These Terms (as varied) will form part of each contract made following the variation.

5. Ordering

- a. Scoot Boot requires You to order a minimum of six pairs of Boots every 12 months to retain a stockist account.
- b. Scoot Boot may determine the accepted method and process for ordering Boots by notice to You.

6. Cancellation

- a. Orders received and accepted by Scoot Boot cannot be cancelled without Scoot Boot's written consent.
- b. Scoot Boot may decline to supply Boots without notice where You are in breach of these Terms.

7. Delivery

- a. Scoot Boot will be responsible for arranging delivery of the Boots. Unless otherwise agreed all costs associated with delivery will be borne by Scoot Boot.

- b. Scoot Boot will only be required to dispatch Boots once a contract is formed and the Purchase Price for the relevant order has been fully paid in clear funds to Scoot Boot.
- c. Scoot Boot will use reasonable endeavours to effect delivery in a reasonable time but if Scoot Boot fails to do so by reason of:
 - i. inability to obtain supplies of materials or parts from approved sources;
 - ii. any strike, shortage of labour or lockout;
 - iii. war, riots, accident, civil commotion, fire, Act of God;
 - iv. disruption to transport; or
 - v. any other event whatsoever beyond the reasonable control of Scoot Boot,

Scoot Boot may at its option cancel the contract or any unfulfilled part. Scoot Boot will not be liable for any loss incurred by You as a result of a delay or failure to supply.
- d. Unless otherwise agreed in writing, Scoot Boot will deliver the Boots to Your premises during business hours.
- e. A proof of delivery docket listing the quantity and type of Boots delivered will accompany each delivery and must be signed by You.
- f. Delivery is deemed to occur when the Boots are unloaded at Your premises (or other premises agreed by the parties). If You fail or refuse, or indicate to Scoot Boot that You will fail or refuse, to take or accept delivery, then (unless Scoot Boot

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otherwise agrees) the Boots will be deemed to have been delivered when Scoot Boot was ready, willing and able to deliver them.

8. Acceptance of Boots

- a. You must notify Scoot Boot of any shortages in any delivery of Boots within 48 hours after receipt. Failure to so notify Scoot Boot will result in the loss of any rights You may have against Scoot Boot for the shortage.
- b. Subject to clause 10, You must within seven days of each delivery of Boots give notice to Scoot Boot of any matter or thing not in accordance with the conditions of these Terms. Failing such notice the Boots delivered will be deemed to be in all respects in accordance with these Terms and You will be bound to accept and pay for the same.

9. Returns

Scoot Boot will not be liable for:

- a. any unsold Boots purchased by You; and
- b. any return of Boots sold by You to your customer.

10. Title and risk

- a. The Boots will be at Your risk after delivery has been, or has deemed to have been effected, notwithstanding that delivery of the Boots may be staggered or that You may not have signed a receipt for the Boots.
- b. Scoot Boot will not be liable for any loss or deterioration of, or damage to, the Boots:
 - i. where a carrier is engaged by Scoot Boot to deliver the Boots to You, from such time as You or the carrier commences unloading the Boots or You acknowledge receipt of the Boots, whichever occurs first; and
 - ii. in all other cases, from such time as the Boots are loaded onto the carrier's vehicle at the place of dispatch.

11. Invoicing and payment

- a. The Unit Prices for Boots may be amended by Scoot Boot at any time by notice to You.
- b. The references to recommended retail prices or RRP are recommendations only and do not bind You.
- c. Scoot Boot reserves the right to vary selling prices to take account of any change to the costs of manufacture or supply prevailing at the time of quotation and to take into account currency fluctuation.
- d. Scoot Boot reserves the right to correct any significant errors or omissions of any kind in its offers, quotations, order confirmations or invoices, and the correction will be binding on Scoot Boot and You.
- e. All payments must be made as a condition precedent to the delivery of the Boots. The failure of You to make payments in accordance with these Terms and the contract will entitle Scoot Boot to treat such failure as a repudiation of the whole of

the balance of the contract by You. This repudiation will entitle Scoot Boot to elect, without prejudice to any other rights of Scoot Boot, to continue with or to terminate the contract and in either case, to recover damages for the breach of contract and it will not be necessary for Scoot Boot to tender to You the Boots or any portion or portions thereof before bringing action for damages.

- f. If a dispute arises, You acknowledge that You are not entitled to withhold payment of any undisputed balance then due to Scoot Boot for the Boots, and agree that You must pay the whole of any undisputed amount in accordance with clause 8.

12. GST

- a. Terms used in this clause have the same meanings given to them in the GST Act. Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with these Terms are exclusive of GST.
- b. If GST is imposed on any supply made under or in accordance with these Terms, the recipient of the taxable supply must pay to the supplier an amount equal to the GST payable on or for the taxable supply subject to the recipient receiving a valid tax invoice in respect of the supply at or before the time of payment. Payment of the GST amount will be made at the same time as payment for the taxable supply is required to be made.

13. Liability

- a. Nothing in these Terms operates to exclude, restrict or modify the application of any implied condition or warranty, the exercise of any right or remedy (including a right to indemnity), or the imposition of any obligation, right or liability, implied or conferred under the ACL or any other statute, the exclusion, restriction or modification of which would:
 - i. contravene that statute; or
 - ii. cause any term of these Terms to be void,

(Non-excludable Obligation).

- b. Except to the extent of the Non-excludable Obligations, all conditions, warranties, guarantees, rights, remedies, liabilities or other terms implied or conferred by statute, custom, or the general law that impose any liability, or obligation on, Scoot Boot are expressly excluded under these Terms.
- c. Except to the extent of the Non-excludable Obligations, Scoot Boot' liability to You arising, directly or indirectly, under or in connection with these Terms, and whether arising under any indemnity, statute, in tort (for negligence or otherwise), or on any other basis in law or equity is limited to an amount not exceeding consideration for the Boots paid by You under these Terms.
- d. To the extent permitted by law, and without limiting any other rights of Scoot Boot, You must indemnify, and on demand reimburse, Scoot Boot and keep Scoot Boot indemnified against all claims, suits, actions, demands, loss, costs, expenses (including legal expenses on a full indemnity basis), judgments and awards made against Scoot Boot or

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incurred by Scoot Boot to the extent that such liability, cost, expense or loss is caused by:

- i. a breach of these Terms or any contract by You; or
- ii. any negligent act or omission, by You or any of its officers, employees, contractors or agents.

14. Intellectual Property Rights

- a. You must leave in position and not cover, deface or erase any notices or other marks which Scoot Boot may place on or affix to the Boots.
- b. All patents, trademarks, copyrights and any other intellectual property in the Boots remains the sole property of Scoot Boot at all times and You agree that You will not infringe any of Scoot Boot's intellectual property rights.

15. Compliance with policies

- a. You acknowledge that ensuring the correct sizing and fit of a Boot is critical to the customer's enjoyment of the Boot and that incorrect fitting procedures may cause damage to Scoot Boot's reputation.
- b. You must, and must ensure that Your officers, employees, contractors or agents, comply with any policies notified to You in writing by Scoot Boot which relate to Your re-supply of the Boots, including but not limited to recommended customer fitting procedures.

16. Online sales

- a. Scoot Boot agrees to supply the Boots to You, on, and subject to, these Terms, on the condition that You must not re-supply, or offer to re-supply, the Boots to a third party via a third party's website or other online platform without Scoot Boot's prior written consent in respect of such website or online platform.
- b. Scoot Boot reserves the right to withdraw, at any time, a consent provided by Scoot Boot to You for the purposes of clause 16(a).

17. Customs Duties and Charges

Unless otherwise agreed, customs duties and charges are included in the Purchase Price.

18. Company or Trade Names

You must not:

- a. incorporate, use or register the words 'Scoot Boot' in any domain name unless prior written consent is obtained from Scoot Boot; and
- b. incorporate the words 'Scoot Boot' in any meta tag or other hidden text in a web page.

Contravention of this clause may result in termination of Your account and/or legal action.

19. Posts by Scoot Boot on social media

You must not place any comment on a post by Scoot Boot on social media which advertises or otherwise promotes Your business.

20. General

- a. These Terms are governed by, and are to be construed in accordance with, the law in force in Victoria, Australia. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria.
- b. These Terms are valid from 9 January 2020 and supersede all previous versions of our Terms of Trade. These Terms and any confirmation in writing from Scoot Boot constitute the entire agreement between the parties in connection with its subject matter and supersede all previous agreements, purchase orders, or understandings between the parties in connection with its subject matter, including any inconsistent terms in any order.
- c. Any term of these Terms by its nature intended to survive expiry of these Terms, survives termination of these Terms, including 10, 13 and 14.
- d. A provision or part of a provision of these Terms that is illegal or unenforceable may be severed from these Terms and the remaining provisions continue in force.
- e. A party's rights under these Terms can only be waived by that party in writing.
- f. Except as expressly provided in these Terms, a party may conditionally or unconditionally in its absolute discretion give or withhold any consent or approval required under these Terms.

21. Interpretation

In these Terms, unless the context otherwise requires:

- a. **ACL** means the Australian Consumer Law set out in Schedule 2 to the *Competition and Consumer Act 2010* (Cth), and under the same or similar provisions of the *Australian Consumer Law and Fair Trading Act 2012* (Vic), as amended or replaced from time to time;
- b. **Boots** means all boots, accessories and merchandise supplied by Scoot Boot to You (or a third party nominated by You).
- c. **Delivery Point** means the location or address to which the Boots are to be delivered.
- d. **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- e. **Purchase Price** means the sum ascertained by multiplying the Unit Price for the applicable Boots by the number of units to be delivered.
- f. **Unit Price** means the price per item of each of the Boots.

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