

# TERMS AND CONDITIONS

These terms and conditions govern the purchase of any products ("Ruffwear Products") from Ruff Wear, Inc., an Oregon corporation d/b/a Ruffwear® ("Ruffwear"). By submitting a dealer application and/or any purchase order, you (hereinafter, "Dealer") agree to be bound by these terms and conditions, as amended from time to time as provided herein.

## 1. AGREEMENT

These terms and conditions, together with the purchase order and any other documents specifically adopted by reference in any such documents (the "Agreement"), constitute the entire agreement between the parties and supersede any previous oral or written representations, including but not limited to provisions in Ruffwear's quotations, proposals, acknowledgments or other documents. No course of dealing or usage of trade shall be applicable unless expressly incorporated in this Agreement. The terms of this Agreement may not be varied or modified in any manner, unless in a subsequent writing signed by an authorized representative of Ruffwear. In the event the terms and conditions of any purchase order or any other agreement conflict with this Agreement, this Agreement shall control.

## 2. PURCHASE; PRICES; TERMS OF PAYMENT; SHIPPING

2.1 Purchase; Prices. Dealer agrees to purchase from Ruffwear the Ruffwear Products described, and for the price set forth, on any purchase order submitted by Dealer to Ruffwear. No substitution of Ruffwear Products may be made without Dealer's consent and approval. Orders are subject to minimum quantity requirements, if any, listed on Ruffwear's current purchase order form.

2.2 Terms of Payment. The purchase price for the Ruffwear Products purchased by Dealer from Ruffwear shall be due and payable prior to the date the Ruffwear Products are shipped unless Ruffwear and Dealer have, subject to an approved credit application, agreed to alternative credit terms in writing. Any payments not received by Ruffwear by the due date will be considered past due, and finance charges will be assessed and payable on all past-due accounts at the lesser of 1.5% per month or the maximum rate permitted by applicable law. In the event Dealer fails to make timely payment, Dealer will be responsible for all reasonable expenses (including attorneys' fees) incurred by Ruffwear in collecting such amounts. Ruffwear reserves the right to suspend performance of its obligations hereunder (or under any other agreement with Dealer) in the event Dealer fails to make timely payment hereunder or under any other agreement with Ruffwear. Ruffwear retains a security interest in the purchased Ruffwear Products until the purchase price has been paid in full.

2.3 Taxes. Ruffwear's prices shall be exclusive of all federal, state or local sales, use or excise taxes levied upon, or measured by, the sale, the sales price, or use of goods required in the performance of this Agreement. Ruffwear shall list separately on its invoice any such tax lawfully applicable to any such goods, and payable by Dealer, with respect to which Dealer does not furnish to Ruffwear lawful evidence of exemption.

2.4 Terms of Shipment. All shipments are made F.O.B. origin (Ruffwear's facility), and all risk of loss or damages to the Ruffwear Products shall pass to Dealer when Ruffwear

delivers the Ruffwear Products to an authorized carrier for shipment to Dealer. Partial and/or installment shipments are authorized and shall be paid for when due. Shipment schedules are approximate and Ruffwear will use commercially reasonable efforts to complete shipment as indicated. Shipments are made in a commercially reasonable manner as determined by Ruffwear; provided, however, that if Dealer has a preferred carrier and if carrier account number, carrier name and contact numbers is noted on any purchase order, Ruffwear will use commercially reasonable efforts to use such carrier.

## 3. INSPECTIONS; RETURNS

3.1 Inspections. All goods provided hereunder shall be subject to inspection at the point of destination, notwithstanding prior payment therefore by Dealer within five (5) business days of receipt. If, in Dealer's judgment, acting reasonably and in good faith, any of the Ruffwear Products are defective or otherwise not in conformity with the Dealer's purchase order (including shipping discrepancies, shortages and/or invoice errors), Dealer shall notify Ruffwear in writing within such five (5) business day period and, if applicable, may return the Ruffwear Products as provided under Section 3.2 below. Failure to give timely notice, as provided above, shall be deemed irrevocable acceptance of the Ruffwear Products. Claims for damage occurring during shipping shall be submitted by Ruffwear directly to the shipping carrier if Ruffwear was responsible for shipping, otherwise Dealer will submit any claims for damages during shipping directly to the shipping carrier used by Dealer.

3.2 Returns. Product returns will be authorized for mis-shipments or defective goods by contacting Ruffwear. To submit a return, Dealer must obtain a Return Authorization Number (RMA#) from Ruffwear within 30 days of invoice date. To receive proper credit, the RMA# must be included with Dealer's returned merchandise. Returned merchandise must be received within 90 days of the issued return authorization. If the return is because the Ruffwear Products are defective or otherwise not in conformity with the Dealer's purchase order, Dealer will receive full merchandise credit and reimbursement for return shipping charges. If a return authorization is granted for any other reason, Dealer covenants and agrees to pay Ruffwear a 20% restocking fee and Dealer will be responsible, at Dealer's sole cost and expense, for return shipping charges.

## 4. WARRANTY; LIMITATION OF LIABILITY

4.1 Limited Warranty. Ruffwear Products come with a limited warranty limited to the replacement of any defective product (the "Limited Warranty"). Dealer shall pass the Limited Warranty on to the original purchaser of any Ruffwear Products. The Limited Warranty applies only to the original purchaser and is nontransferable. Dealer covenants and agrees to comply with any reasonable requests from Ruffwear for processing warranty claims, including for any

warranty claims relating to Ruffwear Products not sold by Dealer.

4.2 No Other Warranties. EXCEPT FOR THE LIMITED WARRANTY DESCRIBED IN SECTION 4.1, TO THE FULLEST EXTENT ALLOWED BY LAW, RUFFWEAR MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTIES REGARDING CONSUMER PRODUCTS AS DEFINED IN THE MAGNUSSON-MOSS WARRANTY ACT OR THE UNIFORM COMMERCIAL CODE, WITH RESPECT TO THE RUFFWEAR PRODUCTS.

4.3 Limitation of Liability. RUFFWEAR SHALL NOT BE LIABLE TO DEALER UNDER ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, EVEN IF RUFFWEAR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND  
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NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS AGREEMENT.

## 5. TERMINATION

5.1 Termination. Ruffwear shall have the right, in its sole and absolute discretion, with or without cause, to terminate this Agreement and any relationship with Dealer hereunder and cancel, suspend and/or withhold shipments of Ruffwear Products.

5.2 Effect of Termination. On termination of this Agreement for any reason, (a) any amounts owed to Ruffwear under this Agreement before the termination will be immediately due and payable, (b) all rights and obligations of the parties under this Agreement shall immediately terminate, and (c) each party shall return to the other all property and confidential information of the other party in its possession or control. The termination of this Agreement, regardless of how it occurs, will not relieve Dealer of any obligations that have accrued before the termination. In addition, Ruffwear shall have the right, in its sole and absolute discretion, to elect to repurchase any Ruffwear Products previously purchased by Dealer that are unsold as of the date of the termination for an amount equal to the original purchase price of such products plus shipping.

## 6. PRESENTATION OF BRAND; REVOCABLE LICENSE

6.1 Presentation of the Brand. Dealer agrees that all Ruffwear products presented online or in print advertising must show, clearly and in focus, the current product images and the Ruffwear logo, all of which are provided on the Ruffwear website at <http://dealers.ruffwear.com/Image-Bank>. All Ruffwear products must be identified with the Ruffwear brand name and the current product name.

6.2 Revocable License. Ruffwear hereby grants to Dealer a revocable, non-exclusive, non-transferable license to use, solely for purposes contemplated under this Agreement, the Ruffwear name and images.

## 7. AUTHORIZED DEALER POLICY; MAP POLICY

7.1 Authorized Dealer Policy. Dealer covenants and agrees to refrain from selling Ruffwear Products outside of its physical brick and mortar store(s), or from a URL not owned by Dealer, or outside Dealer's country of residence, without prior written authorization from Ruffwear, which Ruffwear may withhold or condition in its sole and absolute discretion. Dealer shall disclose to Ruffwear all URLs from which it sells Ruffwear Products. Trans-shipping of Ruffwear Products to retailers, wholesalers or e-commerce companies and/or selling products over online auction sites is strictly prohibited. Dealer is prohibited from advertising, marketing and/or selling Ruffwear Products on any third party storefronts (i.e., Amazon, Ebay, Google, etc.) without prior written authorization from Ruffwear, which Ruffwear may withhold or condition in its sole and absolute discretion. Ruffwear reserves the right to perform an audit of Dealer's financial statements pertaining to sales of Ruffwear Products to ensure compliance with this policy.

7.2 Minimum Advertised Price (MAP) Policy. Dealer acknowledges that Ruffwear has adopted a Minimum Advertised Price (MAP) Policy. Dealer further acknowledges that Ruffwear, in its unilateral discretion, may choose not to do business with Dealer as to the products covered by the MAP Policy if Dealer advertises below the MAP price. Current lists of MAP products are provided on the Ruffwear website at <http://dealers.ruffwear.com/site/dealer-resources/Tools/Ruffwear-MAP-Policy.pdf>

## 8. GENERAL

8.1 Assignment; Binding Effect; Third-Party Beneficiaries. Dealer may not assign its rights or delegate its duties under this Agreement without Ruffwear's prior written consent, and any purported attempt to do so without that consent is null and void. Subject to the foregoing, this Agreement will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit. The parties do not intend to confer any right or remedy on any third party.

8.2 Amendment. No addition, modification, amendment, or alteration to this Agreement shall be effective against the parties unless specifically agreed upon in writing and signed by the parties. Notwithstanding the foregoing, Ruffwear shall be entitled, in its sole and absolute discretion, to modify these Terms and Conditions on the Ruffwear website at <http://www.ruffwear.com/Privacy-Security>, which shall constitute written notice to Dealer.

8.3 Notices. All notices, requests, consents, and other communications required or permitted under this Agreement to Ruffwear shall be in writing and shall be sent by registered or certified mail, postage prepaid, or transmitted via facsimile if confirmed by such in mailing, to Ruffwear at its principal place of business or address set forth on this Agreement or any purchase order.

8.4 Nonwaiver. No waiver will be binding on a party unless it is in writing and signed by the party making the waiver. A party's waiver of a breach of a provision of this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision.

8.5 Severability. If a provision of this Agreement is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Agreement will not be impaired.

8.6 Survival. All provisions of this Agreement that would reasonably be expected to survive the termination of this Agreement will do so, including without limitation Section 8.9.

8.7 Time of Essence. Time is of the essence with respect to all dates and time periods set forth in this Agreement.

8.8 Governing Law. This Agreement shall be enforced and interpreted in accordance with the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement.

8.9 Indemnification. Each party each agrees to indemnify and save harmless each other party from and against any and all losses, liabilities, expenses (including reasonable attorneys' fees and other costs and expenses), claims, liens, damages or other obligations whatsoever that may actually and reasonably be payable by virtue of or which may actually and reasonably result from the inaccuracy of any of their respective representations or the breach of any of their respective warranties, covenants or agreements made in this Agreement or in any certificate, schedule or other instrument delivered pursuant to this Agreement.

8.10 Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in Deschutes County, Oregon and administered by the Arbitration Service of Portland, Inc., or by any other arbitrator mutually agreed upon between the parties to the dispute. The determination of the arbitrator(s) shall be final and binding on the parties, and judgment on the award may be entered in any court having jurisdiction thereof. The arbitrator(s) shall award to the prevailing party, if any, as determined by the arbitrator(s), all of the prevailing party's costs and fees incurred in connection with the arbitration. For this purpose, "costs and fees" mean all reasonable pre-award expenses of the arbitration, including the arbitrators' fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees and attorneys' fees.

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