



## TERMS AND CONDITIONS OF SALE KEYA AUSTRALIA / SOUTH WEST PACIFIC REGION

Orders for SV Imports Pty Ltd., known as Keya Australia / South West Pacific (KASWP) goods (the "Goods") are subject to the following terms and conditions of sale (the "Sale Agreement"). This Sale Agreement shall govern the sale of Goods from KASWP to you and/or the company you are authorized to represent ("you"). By issuing a purchase order for Goods from KASWP, you accept and agree to the terms of this Sale Agreement. KASWP's performance is expressly made conditional upon your agreement to the terms of this Sale Agreement. Any provisions or conditions of any purchase order or other document, which are inconsistent with or in addition to the terms of this Sale Agreement are hereby rejected and shall be inapplicable and not binding upon KASWP.

### 1. ORDERING

All orders placed with KASWP are required in writing on either a completed KASWP order form which is then forwarded by email and / or an official company letterhead / Purchase order, clearly stating the customer's name, ABN, address, phone number, product code/name, colour, quantity, unit price, delivery address, date required and other applicable information.

To enable you to place an order with KASWP to purchase its Goods through the KASWP web site, you are required to have first registered with KASWP by phone or through the KASWP web site to be an approved on-line buyer.

KASWP shall make commercially reasonable efforts to meet any shipment date stated on the face of any accepted order. However, you understand and agree that shipment of Goods is subject to availability. Delivery dates are not guaranteed due to outsourced freight suppliers and may be subject to matters outside of our control. KASWP EXPRESSLY DISCLAIMS LIABILITY FOR ANY FAILURE TO MEET SUCH DELIVERY DATES. KASWP shall have the right to deliver Goods at one time or in portions from time to time, and to invoice for those portions delivered. Payment will not be considered final until all shipping and/or freight charges and taxes billed to you have been paid.

### 2. PAYMENT

All orders are subject to prepayment prior to your order being packed and dispatched, unless prior terms have been arranged and you have received confirmation in writing from KASWP. An invoice will be forwarded to you once your order has been received by the Customer Service team. Remittance is required for confirmation prior to your order being forwarded to our warehouse for dispatch. Personal or Company cheques will have a waiting period until funds are showing as cleared.

You shall purchase Goods in accordance with KASWP price list in effect at the time of the order (less other discounts, if any). Prices are exclusive of all taxes, tariffs, customs, duties and other governmental charges. You shall pay or reimburse KASWP for any and all such charges. Late payment of any amount will be grounds for KASWP to discontinue performance under this Sale Agreement. Any amounts not paid by the due date will be subject to a finance charge at a rate equal to the lesser of 1% per month or the maximum rate allowed by law. However, payment of such finance charge will not excuse or cure a breach or default for late payment. Returned cheques will be subject to a \$40.00 per cheque charge. You remain responsible for all shipping and handling charges including, without limitation, failure by the consignee to pay shipping charges, failure by any third party to pay shipping charges, or an incorrect or invalid delivery address. KASWP accepts Visa and MasterCard (please ask our Customer Service Team for details). Payments via this form may be subject to fees and charges. If you have any questions regarding payment terms, contact our credit department.

Net Terms: Open terms are granted to customers with excellent credit references. Financial statements may also be required. Open terms are net from date of invoice. A finance charge of 1% per month (12% per annum) will be charged on balances beyond established terms. We reserve the right to revoke credit terms.

### 3. SHIPPING/PICK-UP

No orders will be forwarded to dispatch for shipping without confirmation of payment being made or prior arrangements being made. All interstate orders over 500 pieces have an order process cut off time of 10.00am (EST) each day to ensure same day shipping. Local delivery orders and interstate orders under 500 pieces, placed before 1:00pm will be shipped the same day. Orders received after 1:00 pm will be

shipped the following day. Shipments will include shipping and handling. KASWP will not be responsible for any delay in the delivery or shipment of goods, or for any damages suffered by reason of such delay. You may pick up your order between 8:00am and 5:00pm Monday through Thursday or 8.00am until 2.00pm Friday at the KASWP facility. Please allow 2 hours for processing order. Orders placed after 3:00pm will be ready at 9:00am the following business morning. These cut off times are subject to change without notice and seasonal freight requirements.

### 4. PRICING

All prices are subject to change without notice. KASWP assumes no responsibility and shall incur no liability whatsoever if price change notices are not received. Customers will be charged the prices that are in effect at the time merchandise is shipped. In the event of new federal or state taxes or legislation affecting the costs of products or items, KASWP reserves the right to increase prices as it deems appropriate or necessary. Merchandise is subject to change or withdrawal, or may be temporarily or permanently out of stock. We assume no liability for delays or failure to deliver due to our inability to obtain supplies. Please call for current pricing when ordering apparel to learn about our competitive pricing.

Price structure is based on price per piece of the same style, colour, and size when ordering.

### 5. RETURNS AND CANCELLED ORDERS

It is your responsibility to check immediately for discrepancies or defects in an order before any alterations or embellishments are made. If you have a problem or discrepancy with an order, contact our Help Desk within 5 days after date of shipment. Returns must be authorized by KASWP in advance.

KASWP will absolutely not accept returns of printed, washed or decorated merchandise. You are responsible for inspecting the garments before performing any printing, washing or decorating.

All claims for shortages, damages, etc., must be made within 72 hours of receipt of merchandise.

All returned or refused shipments are subject to a 20% or \$25 (whichever is greater) restocking charge in addition to both outbound freight charges, return freight charges and any adhoc charges incurred.

No returns will be accepted by our warehouse without a valid return authorization number (RAN).

Defective merchandise must be returned to us with a piece of tape indicating the location of the flaw.

Merchandise over 30 days old and discontinued styles cannot be returned.

Please include a copy of the invoice to ensure proper credit in a timely manner.

### 6. EXPORT SHIPMENTS

Many Goods that have been imported into Australia and the South West Pacific region cannot be exported to other countries. It is your responsibility to check with your freight forwarder to confirm foreign documentation requirements and verify that items to be exported will be released by customs at the final destination. KASWP is not responsible for providing this information or any documentation required to export goods purchased from KASWP or for re-importation to Australia or the South West Pacific region.



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### 7. USE OF KASWP MARKETING MATERIAL

KASWP will allow customers and end-users alike to obtain and use a vast selection of images, such as logos, photography and product information. Written request must be made to sales@keya.com.au with the inclusion of your company name, contact person, contact number, website, and type of product content you wish to use and what purpose you will be using the marketing material for. Your request will then be assessed and if approved a marketing package will be put together for you and forwarded which may include images, logos, and photography and will include our terms and conditions of use.

### 8. WARRANTIES AND DISCLAIMER

KASWP warrants only that the Goods shall be free from material defects as of the delivery date, provided, you store and handle the delivered Goods in such a manner that meets or exceeds the storage and handling procedures utilized by KASWP.

You must provide KASWP with written notice of any warranty claims no later than thirty (30) days after receipt of the applicable order of Goods. Failure to provide written notice within such 30-day period shall void KASWP's warranties in their entirety. As KASWP sole responsibility and liability, and YOUR ONLY AND EXCLUSIVE REMEDY for any breach or breaches of such warranties, KASWP shall, upon written notice from you, either (at KASWP's option) replace the defective portion of the Goods, or accept return thereof and refund the price paid by you for the defective portion. Any misuse, improper handling, storage, use, modification or alteration of the Goods by any third party shall void the forgoing warranty. You shall remain entirely responsible for any shipments by you or your company for purposes of returning defective products or packages hereunder to KASWP, and all risk of loss or damage during shipment shall be borne by you. KASWP will pay (or reimburse you) for reasonable shipping and handling charges limited to valid warranty claims.

You agree and acknowledge that any benefits derived from use or resale of the Goods will depend on factors which vary from business to business and which are not within KASWP's control. You are responsible for the selection of the goods to meet your, your company's or its customers' needs, and KASWP makes no warranty as to the results to be obtained from the use or sale of the goods in your business. KASWP expressly disclaims all warranties of any kind with respect to the goods whether express or implied including implied warranties of merchantability, fitness for a particular purpose and non-infringement. The warranties set forth in this section are the only warranties made by KASWP.

### 9. LIMITATION OF LIABILITY AND EXCLUSIONS

In no event will KASWP be liable for any indirect, special or consequential damages arising out of or resulting from the performance or breach of this agreement, or the use or sale of goods by you, or any other party, or from the manufacture, sale or use of anything made based on the goods, even if KASWP is aware of the possibility of such damages, except for injuries to consumers due to the gross negligence or wilful misconduct of KASWP. You agree that, regardless of the form of action, whether in contract or tort, including negligence, KASWP's liability for damages claimed by you with respect to the Goods shall not exceed fees received by KASWP from you for the applicable Goods hereunder. Regardless of the form of action, whether in contract or tort, including negligence, KASWP's liability for damages claimed by third parties with respect to the Goods, as between KASWP and you shall not exceed fees paid to KASWP hereunder. No action, regardless of form, arising under this Sale Agreement (other than an action for non-payment of any purchase prices or other amounts owed by you to KASWP), may be brought by either party more than one (1) year after the date of the alleged breach. KASWP shall not be liable for any failure to perform under this Sale Agreement where such failure is due to any cause beyond KASWP's control. You hereby release and shall defend and hold KASWP and its owners and agents harmless from and against any actual or threatened claims, losses, liabilities (including without limitation any punitive damages and fines), costs and expenses (including without limitation reasonable costs of litigation and attorneys' fees) related to third party actions (a) in which it is determined that KASWP is not at fault; and/or (b) arising from or relating to any acts or omissions by you, your company or your customers.

You hereby release and shall defend and hold KASWP and its owners and agents harmless from and against any actual or threatened claims, losses, liabilities (including without limitation any punitive damages and fines), costs and expenses (including without limitation reasonable costs of litigation and attorneys' fees) related to third party actions (a) in which it is determined that KASWP is not at fault; and/or (b) arising from or relating to any acts or omissions by you, your company or your customers.

### 10. GENERAL

Our relationship is one of independent contractors. No agency, employment, partnership or joint venture shall be created by or founded upon this Sale Agreement. You shall not make or assign, or represent to any party, that it may make or assign, any warranty or representation by or for KASWP, nor shall you attempt, or represent that it is entitled, to make any commitment, waiver or settlement on behalf of KASWP or to pledge the credit of KASWP. This Sale Agreement shall be governed by and construed under the laws of Victoria and / or Federal Australia, without regard to any conflicts of law principles to the contrary. Any notice or request hereunder shall be made in writing delivered in person to an authorized officer of the respective party or mailed or transmitted by cable or telecopier, for KASWP, to the current contact information on our website at www.keya.com.au, and, for you, to the address KASWP has on file for you in your most recent approved credit application (unless changed by written notice of a different address). Your rights hereunder are personal to you and the company you represent, and may not be assigned or transferred in whole or in part by you, nor may any benefit hereunder ensure to any trustee in bankruptcy, receiver, or successor, whether by operation of law or otherwise, without the prior written consent of KASWP, and any attempted assignment or transfer without such consent shall constitute a breach hereunder and shall be void. No omission or delay on the part of either party hereto in requiring due and punctual fulfilment of the obligations of the other party shall be deemed to constitute a waiver of any of the rights of the omitting or delaying party unless such rights are waived in the particular instance in a writing delivered to the other party, and no such waiver shall apply to any other instance or obligation. If any provision of this Sale Agreement is held to be invalid or unenforceable to any extent in any context, it shall nevertheless be enforced to the maximum extent allowed by law and the parties' fundamental intentions in that and other contexts, and the remainder of this Sale Agreement shall not be affected thereby.