TERMS & CONDITIONS

PLACING YOUR ORDER

When placing your order, please have the following information available:

- The name your account is billed under, along with your address and phone number.
- Your customer account number, which is located above your account name and address on all invoices.
- Your purchase order number, if applicable.
- Ordering details (style number, sizes, widths, number of pairs)

TERMS OF SALE

As used herein, "Dealer" shall refer to the retailer | reseller | distributor that is purchasing directly from SureWerx Footwear Division ("SW") and "Consumer" shall mean the individual who purchases goods from Dealer for personal | family | household use | business or other usage, but not to resell.

- Credit approval: Acceptance of all orders is subject to final approval by the SW Credit Department. Approval is subject to Dealer's acceptance of these Terms and Conditions as well as their credit worthiness and suitability as determined in the sole judgment of the SW Credit Department. SW reserves the right to reject any order, in whole or in part, at any time.
- Minimum opening order and minimum annual business: A minimum opening order of $2,000.00 is required to open an account and minimum annual business of $25,000.00 is required to maintain an account. SW reserves the right to hold or cancel pending orders for accounts with past due balances.
- Prices and/or specifications and materials are subject to change without notice. SW must be advised, in writing and in advance, of any changes in Dealer's ownership.
- Dealer will notify SW in writing for any claim for breach of warranty, for failure of or delay in delivery or performance, or any other claim under Dealer's purchase order within sixty (60) days after Dealer's receipt or failure to receive product (the "Claim Period"). Dealer may notify SW of a claim after the expiration of the Claim Period; provided, however, that 1) SW will not be liable for any loss or damage claimed by Dealer after expiration of the Claim Period, and 2) SW may offset from any amount otherwise owed to Dealer hereunder any loss, damage, or expense of SW attributable to Dealer's delay in making their claim. SW does not research (post audit) claims that are more than one year old. Claims older than one year will be denied.
- Dealer agrees that its relationship with SW shall be governed by the laws of the State of Oregon. Dealer and SW agree that the exclusive jurisdiction and venue of any action with respect to their relationship shall be in the state courts of Multnomah County, Oregon, or if there is federal jurisdiction, in the United States District Court for Northern District of Oregon.
- Dealer and Guarantor further agree that in the event SW retains an attorney to enforce any portion of this Credit Application, any invoice from SW; of any agreement between SW and Dealer or SW and Guarantor, or to recover goods sold, Dealer and/or Guarantor shall, jointly and severally, reimburse SW for its reasonable attorney fees and related costs and expenses.

PAYMENT

- All invoices shall be due and payable within terms specified on invoice, from date of invoice, until SW, in its sole discretion, at any time revokes credit approval, at which time all amounts shall become immediately due and payable.
- Accounts unpaid when due shall accrue a late charge of one and one-half percent (1.5%) per month or, if lower, the maximum rate allowed by applicable law. All payments received will be credited to the oldest outstanding invoice.
- SW reserves the right at any time, for any reason, or no reason, to require payment in advance or otherwise to modify, suspend or terminate any credit terms previously extended to a Dealer. If SW believes in good faith the Dealer's ability to make any payment required hereunder is or may be impaired, SW may cancel the order (or any remaining balance thereof), and Dealer shall remain liable to pay for all products previously shipped.
- Unearned discounts or unearned freight deductions will be charged back accordingly.
- In the event that the Dealer's account is placed for collection, all product warranties, guarantees, and return privileges are canceled.

SPECIAL HANDLING

- Small Shipment Fee: For all shipments of less than three pair a flat processing fee of $6.00 will be charged.
- Back orders will be cancelled 180 days from requested ship date unless a different cancel date or "do not cancel" is requested. SW reserves the right to cancel any style without notice or obligation to deliver unfulfilled demand.
- Value Added Services (VAS): Value added services such as special packaging, tagging, pre-ticketing, stuffing, and labeling will be priced accordingly when requested by the dealer.

SHIPPING TERMS

- All shipments are F.O.B. (Free On board). Dealer assumes all insurance and delivery risks of loss or damage From F.O.B. origin as provided by common Law.
- The responsibility for providing shipping instructions is that of the Dealer. If the Dealer has specific routing instructions these must be provided to SW in writing and in their entirety upon placement of an order. Non-specified shipping will be sent "best way" at SW sole discretion and charges added to the invoice. SW will exercise reasonable care and diligence to determine the lowest cost alternative but assumes no responsibility to do so.
- Other applicable fuel and handling charges that are industry standard and related to Collect and Prepay/Charge shipments will be applied to the order invoice. (i.e., Surcharges for UPS shipments, booking fees, PO Box address surcharge, power tailgate charges.)
- Back orders from Prepaid shipments will be shipped Prepaid when they arrive in the local shipping warehouse. All backorders are shipped in the terms (Prepaid, Prepay & Charge, Collect) the original order was processed.

THE SW WARRANTY

All SW products have a one-year limited warranty in normal use, against any manufacturing flaw(s), defective materials, or workmanship. Products with all other waterproof construction are guaranteed waterproof for six months from the date of purchase. The SW warranty does not cover damage due to holes worn in toes, burn marks, punctures, cuts and abrasions from outside causes, normal wear, or misuse and/or abuse by the Consumer/wearer. The warranty may also be void if the Consumer/wearer applies any materials not recommended for footwear, such as polishes, oils or other chemicals that result in damage to the materials of the footwear or apparel. This limited warranty does not cover, and SW makes no warranty regarding, defects or failures caused by accident or improper handling, or defects or failures caused by the failure to use or maintain the products according to SW's recommendations. Unless prohibited by law, the SW Warranty shall not apply to products purchased from unauthorized sellers or through unauthorized channels, including unauthorized Internet sites. SW makes no other warranty or representation, express or implied. Without limiting the foregoing, SW makes no warranty of merchantability or fitness for a particular purpose, which are hereby expressly disclaimed. In case of SW's breach of the limited warranty set forth above, SW shall, at its election and in its sole discretion, either replace the product or issue a credit memo for the full or prorated wholesale cost of the product. The remedy set forth in this paragraph shall be the Dealer's sole and exclusive remedy for SW's breach of the limited warranty set forth above. Under no circumstances shall SW be liable to the Dealer or any other party for any consequential, incidental, economic, direct, indirect, general, or specific damages, whether arising out of contract or tort, whether arising out of negligence or strict liability, arising out of, based upon or relating to the sale or use of the products.

DEALERSHIP RETURNS GOODS POLICY:

SW does not sell or supply products on a sale or return, guaranteed sales, or consignment basis. Sales representatives do not have the authority to guarantee sales or accept return products for credit. Regarding worn and/or damaged returned goods, SW Return Goods Department shall have the sole and final decision as to the cause of damage and replacement judgment. SW requires proof of purchase from an authorized SW Dealer when sending products back for inspection. Products must be cleaned before being returned to SW for inspection. SW DOES NOT ACCEPT PRODUCTS DIRECTLY FROM THE CONSUMER. This is the Dealer's responsibility and is the standard practice in the industry.

A Return Authorization Number (RA Number) is required for ANY return. Any unauthorized returns will be returned to the sender at his or her expense. Should SW receive more product back than what was originally approved on the RA, dealer will incur a minimum overage fee of 25% of the wholesale cost of the over and above items. In addition, should unworn, resalable product be authorized for return, dealer will incur a minimum re-stocking charge of $5.00 per pair. If approved resalable product is returned without a box or in a damaged box, dealer will incur a minimum charge of $2.50 per pair.

An RA Number may be obtained in any of the following ways:

1. Email requests to: footwearorders@surewerx.com
2. Fax requests to: (800) 638-6241

The Dealer must provide the company name, account number, style, size, width, and specific manufacturing defect along with a request for account credit. These terms and conditions are subject to change without notice.

TAXES

SW's charges are exclusive of the following: (a) all applicable federal, state, local, and foreign sales, use, excise, utility, gross receipts, sales, value added or other taxes ("Taxes"). The consumer shall be responsible for the payment of any Taxes. SW may elect to impose and collect such Taxes, unless otherwise constrained by court order or applicable laws. If the consumer provides a valid and duly authorized exemption certificate and/or other evidence acceptable to the applicable state or other taxing authority, SW will exempt the consumer in accordance with applicable laws, effective on the date SW receives the certificate. Upon request, and including during audit by the State, local or other governmental agency, the consumer shall provide an exemption certificate or other additional evidence that is satisfactory under the applicable laws to exempt the transaction from the applicable tax. For any assessment of taxes by a governmental jurisdiction that are properly chargeable to the consumer, the consumer will be liable for the tax as well as the interest and will pay the tax and interest to the seller under the normal terms of payment between the parties.

DEALER TERMS AND CONDITIONS

By purchasing SW Branded products, including "AVENGER", "NAUTILUS®", "MEGAComfort", "NEOS", "NEW BALANCE", "AIRWALK", and other acquired licensed/owned brands (hereinafter, the "Products") for retail sale, you agree to adhere to the following terms.

1. **MANNER OF SALE**. Dealer may only sell the Products as set forth herein. Sales in violation of these terms are strictly prohibited, are considered a material breach of these Terms, and may result in SW's immediate termination of Dealer's account, in addition to other remedies. Products sold to unauthorized persons or through unauthorized channels, including unauthorized Internet sites, shall not be eligible for certain SW promotions, services, and/or benefits, including, unless prohibited by law, coverage under any SW warranty or product guarantee.

1.1. Dealer shall sell Products solely to Consumers of the Products. Dealer shall not sell to anyone a quantity of the Products greater than that generally purchased by an individual for personal use or gifting.
1.2. Dealer shall not sell or transfer any of the Products to any person or entity for re-sale without the prior written consent of SW. This includes sales to B2B accounts, wholesalers, freight forwarders/drop shippers for other retailers, or any other person Dealer knows or has reason to know intends to re-sell the Products.
1.3. Dealer shall not sell Products to customers outside the United States of America and its territories without obtaining SW's prior written consent.
1.4. Dealer shall not market for sale or sell the Products or fulfill Dealer's sales of Products on or through any website (including any online marketplace site such as Amazon or eBay) without the prior written consent of SW, which is granted solely through execution by SW. Domestic E-Business Agreement. Execution by SW of the SW Brands, Inc. Domestic E-Business Agreement constitutes the only means of providing consent to sell the Products online. No SW employee or agent may authorize online sales through oral statements, other written agreement, or by any other means.
2. **PRODUCT INSPECTION**. Upon receipt of SW products, Dealer shall immediately inspect the products for damage, defect, or other non-conformance. If any defect is identified, Dealer must not offer the product for sale and must report the defect to FSI.
3. **CUSTOMER SERVICE**. Dealer and Dealer's sales personnel shall familiarize themselves with the features of all Products kept in inventory and must obtain sufficient product knowledge to advise Consumers on how to select, properly fit, and care for the Products. Dealer must make itself available to respond to customer questions and concerns both before and after the sale of the Products and should endeavor to respond to customer inquiries within 24 hours. At all times, Dealer and Dealer's agents must represent the Products in a professional manner and refrain from any conduct that is or could be illegal, gives or could give the appearance of impropriety, or otherwise is or could be detrimental to the reputation of the SW brand.
4. **PRODUCT STORAGE AND HANDLING**. Dealer shall store the products in accordance with any storage guidelines specified by SW.
5. **ALTERATIONS PROHIBITED**. Dealer shall sell the products in their original packaging and refrain from altering any product or removing or altering any label or literature on or accompanying the product. Dealer shall not alter, deface, or remove any serial number, UPC code, or other identifying information on any product or product packaging.
6. **RECALL AND CONSUMER SAFETY**. Dealer shall cooperate with SW with respect to any product recall or other consumer safety information dissemination efforts.
7. **COMPLIANCE WITH APPLICABLE LAW**. Dealer shall comply with all applicable laws, regulations, policies, and procedures associated with the marketing and sale of SW products.
8. **CONSUMER CONFUSION**. Dealer shall not advertise, offer for sale, or sell any products as genuine that in fact are not, or falsely or inaccurately represent the features or functionality of any products.
9. **CONTACT INFORMATION**. Dealer shall maintain accurate and up-to-date company information and shall promptly notify SW of any change in Dealer's telephone number, mailing address, email address, or other contact information.
10. **INTELLECTUAL PROPERTY**. Dealer acknowledges and agrees that SW owns all proprietary rights in and to the SW family of brands, brand names, logos, trademarks, service marks, trade dress, copyrights, and other intellectual property related to the Products (the "SW IP"). Dealer shall refrain from questioning or challenging the rights claimed by SW in the SW IP or assisting any others in doing so. Dealer is granted a limited, non-exclusive, nontransferable, revocable license to use the SW IP solely for purposes of marketing and selling the Products as set forth herein. This license will cease immediately upon termination of this Agreement. SW reserves the right to review and approve, in its sole discretion, Dealer's use or intended use of the SW IP at any time, without limitation. Dealer's use of the SW IP shall be in conformance with any guidelines that may be provided by SW and must be commercially reasonable as to the size, placement, and other manners of use. All goodwill arising from Dealer's use of the SW IP shall inure solely to the benefit of SW.
11. **TERMINATION**. If Dealer breaches or threatens to breach any of these Terms, SW reserves the right to terminate Dealer's account in addition to all other available remedies. Upon termination of Dealer's account, Dealer shall immediately cease selling the Products, representing itself as an Authorized Dealer of SW Products, and all use of anything that may give the impression that Dealer is an Authorized Dealer of SW Products or has any affiliation whatsoever with SW.
12. **AVAILABILITY OF INJUNCTIVE RELIEF**. If there is a breach or threatened breach of paragraphs 1 through 11 of these Terms, it is agreed and understood that SW shall have no adequate remedy in money or other damages and accordingly shall be entitled to injunctive relief and other equitable remedies; provided, however, no specification in these Terms of any particular remedy shall be construed as a waiver or prohibition of any other remedies in the event of a breach or threatened breach of these Terms. Except as otherwise provided or as the Dealer and SW may otherwise agree in writing, no failure, refusal, neglect, delay, waiver, forbearance, or omission by SW to exercise any right(s) herein or to insist upon full compliance by Dealer with Dealer's obligations herein shall constitute a waiver of any provision or otherwise limit SW 's® right to fully enforce any or all provisions and parts thereof.
13. **MODIFICATION**. SW reserves the right to update, amend, or modify these Terms at any time. Unless otherwise provided, such amendments will take effect immediately and Dealer's continued use, advertising, offering for sale, or sale of the Products, use of the SW IP, or use of any other information or materials provided by SW to Dealer following notice of the amendments will be deemed Dealer's acceptance of the amendments.
14. **MAP POLICY**. SW has a unilateral Minimum Advertised Price Policy ("MAP Policy") that applies to all Authorized Dealers located in the United States and its territories. This paragraph is intended to inform you of the MAP Policy. It does not constitute consideration for any part of this agreement between you and SW and does not separately constitute an agreement between you and SW regarding the price you will charge your customers for the Products. SW does not seek, nor will it accept, from Dealer any assurance of compliance with the MAP Policy.

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