



## Terms of Use

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### Overview

This page informs you of the terms and conditions on which we supply any of the products listed on our website [www.cairnssport.com.au](http://www.cairnssport.com.au) (our site) to you. Please read these terms and conditions carefully before ordering any products from our site. You should understand that by ordering any of our products, you agree to be bound by these terms and conditions. Please check the box on the “Checkout Page” to confirm your acceptance of these terms and conditions.

Please understand that if you do not accept these terms and conditions, you will not be able to order products or services from this site.

### 1 About Us

[www.cairnssport.com.au](http://www.cairnssport.com.au) is a site operated by Alistair Burge (ABN 84 295 289 536) with our registered office at Coleambally, NSW, 2707, Australia.

### 2 Service Availability

Our site is intended for use by people worldwide, however delivery can only be made in the following states throughout Australia: Victoria (Vic), New South Wales (NSW), ACT, Queensland (QLD), Northern Territory (NT), Western Australia (WA), South Australia (SA) & Tasmania (Tas). At this stage, we do not accept orders from individuals outside these states or countries.

### 3 Your Status

By placing an order through our site, you warrant that:

**3.1.1** You are legally capable of entering into binding and purchasing contracts; **3.1.2** You are at least 18 years old;

### 4 How the Contract is Formed Between You and Us



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**4.1** Your order constitutes an offer to us to buy a product. All orders are subject to acceptance by us in accordance with these terms and conditions. After placing an order, you will receive an email from us acknowledging that we have received your order (Order Acknowledgement). Please note that this does not mean that your order has been accepted. Acceptance of your order will take place and the sale contract between us (Contract) will be formed when we despatch the ordered products to you unless we have notified you that we do not accept your order or you have canceled it. **4.2** The Contract will relate only to those products which we despatch. We will not be obliged to supply any other products which may have been part of your order unless and until we despatch such products.

## **5 Consumer Rights**

**5.1** If you are contracting as a consumer, you may cancel a Contract at any time within seven working days, beginning on the day after you received the Products. In this case, you will receive a full refund of the price paid for the Products in accordance with our refunds policy (set out in paragraph 9 below). **5.2** To cancel a Contract, you must inform us in writing and return the Product(s) to us immediately, unopened, in the same condition in which you received them, and at your own cost and risk. **5.3** Details of this statutory right, and an explanation of how to exercise it, are provided in the Order Acknowledgement. This provision does not affect your statutory rights.

## **6 Delivery**

Our delivery charges and estimated delivery timescales are specified in our “Shipping” section. We make every effort to deliver goods within the estimated timescales, however delays may occasionally occur due to unforeseen circumstances and we shall not be liable for any delay or failure to deliver within such timescales.

## **7 Risk and Title**

**7.1** The Products will be at your risk from the time of delivery. **7.2** Ownership of the Products will only pass to you when we receive full



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payment of all sums due in respect of the Products, including delivery charges.

## **8 Price and Payment**

**8.1** The price of any Products will be as quoted on our site from time to time, except in cases of obvious error. **8.2** These prices include GST but may exclude delivery costs, which will be added to the total amount due as set out in our “Delivery Policy” section. **8.3** Prices are liable to change at any time, but changes will not affect orders which we have already taken. **8.4** Our site contains a large number of products and it is always possible that, despite our best efforts, some of the products listed on our site may be incorrectly priced. We will normally verify prices as part of our dispatch procedures so that, where a product’s correct price is less than our stated price, we will charge the lower amount when dispatching the product to you. **8.5** We are under no obligation to provide the product to you at the incorrect (lower) price if the pricing error is obvious and unmistakable and could have reasonably been recognised by you as a mis-pricing. **8.6** Payment for all products must be by credit or debit card through our Eway payment gateway. We accept payment with Visa Credit and Debit, MasterCard, and Amex (inshore only) only. We take payment from your card at the time we receive your order, once we have checked your card details. Products are subject to availability. In the event that we are unable to supply any product we will inform you as soon as possible. A full refund will be given where you have already paid for the product.

## **9 Our Refunds Policy**

**9.1** When you return a product to us (for instance, because you have canceled the contract between us, or have notified us in accordance with paragraph 19 that you do not agree to any change in these terms and conditions or in any of our policies, or because you claim that the product is defective), we will examine the returned product and will notify you of your refund via e-mail within a reasonable period of time. We will usually refund any money received from you using the same method originally used by you to pay for your purchase. We will usually process the refund due to you as soon as possible and, in any case, within 30 days of the day we



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received your cancellation or the day we confirmed to you via e-mail that you were entitled to a refund for delivery of the defective product. **9.2**

Products returned by you because of a defect will be refunded in full, including a refund of the delivery charges for sending the item to you and the cost incurred by you in returning the item to us. **9.3** Products returned by you within the seven-day cooling-off period (see paragraph 5.1 above) will be refunded in full, including the cost of sending the item to you.

However, you will be responsible for the cost of returning the item to us. **9.4** Products returned under our trading terms can only be refunded if you have had a consultation with our Head Office.

## **10 Our Liability**

**10.1** We warrant to you that any product purchased from us through our site is of satisfactory quality. **10.2** Our liability in connection with any product purchased through our site is strictly limited to the purchase price of that product. **10.3** This does not include or limit in any way our liability:

**10.3.1** for death or personal injury caused by our negligence; **10.3.2** for fraud or fraudulent misrepresentation; or **10.3.3** for any matter for which it would be illegal for us to exclude, or attempt to exclude, our liability. **10.4**

We accept no liability for any loss of income or revenue, loss of business, loss of profits or contracts, loss of anticipated savings, loss of data, waste of management or office time or for any indirect or consequential loss or damage of any kind however arising and whether caused by tort (including negligence) or breach of contract.

## **11 Written Communications**

Applicable laws require that some of the information or communications we send to you should be in writing. When using our site, you accept that communication with us will be mainly electronic. We will contact you by e-mail or provide you with information by posting notices on our website. For contractual purposes, you agree to this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing.



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This condition does not affect your statutory rights.

## 12 Notices

All notices given by you to us must be given to head office via [www.cairnssport.com.au](http://www.cairnssport.com.au). We may give notice to you at either the e-mail or postal address you provide to us when placing an order, or in any of the ways specified in paragraph 12. Notice will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

## 13 Transfer of Rights and Obligations

**13.1** The contract between you and us is binding on you and us and on our respective successors and assigns. **13.2** You may not transfer, assign, charge or otherwise dispose of a contract, or any of your rights or obligations arising under it, without our prior written consent. **13.3** We may transfer, assign, charge, sub-contract or otherwise dispose of a contract, or any of our rights or obligations arising under it, at any time during the term of the contract.

## 14 Events Outside our Control

**14.1** We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a contract that is caused by events outside our reasonable control (Force Majeure Event). **14.2** A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following: **14.2.1** Strikes, lock-outs or other industrial action. **14.2.2** Civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war. **14.2.3** Fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster. **14.2.4** Impossibility of the use of railways, shipping,



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aircraft, motor transport or other means of public or private transport. **14.2.5** Impossibility of the use of public or private telecommunications networks.

**14.2.6** The acts, decrees, legislation, regulations or restrictions of any government. **14.3** Our performance under any contract is deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under the contract may be performed despite the Force Majeure Event.

## **15 Waiver**

**15.1** If we fail, at any time during the term of a contract, to insist upon strict performance of any of your obligations under the contract or any of these terms and conditions, or if we fail to exercise any of the rights or remedies to which we are entitled under the contract, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations. **15.2** A waiver by us of any default shall not constitute a waiver of any subsequent default. **15.3** No waiver by us of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with paragraph 13 above.

## **16 Severability**

If any of these terms and conditions or any provisions of a contract are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

## **17 Entire Agreement**

**17.1** These terms and conditions and any document expressly referred to in them represent the entire agreement between us in relation to the subject matter of any contract and supersede any prior agreement, understanding or arrangement between us, whether oral or in writing.



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## **18 Our Right to Vary These Terms and Conditions**

**18.1** We have the right to revise and amend these terms and conditions from time to time. **18.2** You will be subject to the policies and terms and conditions in force at the time that you order products from us, unless any change to those policies or these terms and conditions is required to be made by law or governmental authority (in which case it will apply to orders previously placed by you), or if we notify you of the change to those policies or these terms and conditions before we despatch the relevant products to you (in which case we have the right to assume that you have accepted the change to the terms and conditions, unless you notify us to the contrary within seven working days of receipt by you of the products).

## **19 Law and Jurisdiction**

Contracts for the purchase of products through our site will be governed by Australian law. Any dispute arising from, or related to, such contracts shall be subject to the non-exclusive jurisdiction of the courts of Australia.

## **ACADEMY PROGRAMS**

By authorising Cairns Sport to process payment for any academy program, or if you are under the age of 18, by your parent or guardian authorising payment, you / they, hereby acknowledge that you / they have read and understood these terms and conditions and are entering an agreement by conduct.

## **Cancellation**

Except for compassionate circumstances with approval from Cairns Sport Head Office (or specific management staff), we are unable to provide a refund for cancellation after your payment has been made. However, subject to your particular circumstances, we may provide you with a credit for use at a future event / program.

## **Behaviour at event**

At Cairns Sport, we place a high value on the character of participants and expect a high standard of behaviour. We will not tolerate anyone who



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behaves in an inappropriate manner, by disrupting session / program activities, ignoring group instructions or mistreating other people in any way. Anyone who does behave in such a way will receive one verbal warning and, if that behaviour continues, may be asked by the Head Coach (or specific management staff) to leave the session / program immediately. Under such circumstances, there will be no refund or credit.

### **Injury / illness**

If serious injury or illness threatens your continued participation in the program / camp, you must immediately consult the Head Coach (or specific management staff). If you have to leave the session / camp permanently to seek appropriate medical treatment, you will be provided with a credit which can be used on a subsequent Cairns Sport program.

A monetary refund will not be available in this circumstance. If you suffer a minor injury at a Cairns Sport session / program, we will, if necessary, provide you with alternative instructions to allow for your injury. We will also direct you to seek treatment and rehabilitation advice from a qualified practitioner. A monetary refund will not be available in this circumstance.

### **Coaches**

Cairns Sport reserves the right to use a replacement coach for all or any part of the program if circumstances prevent one of the original coaches from attending the session.

### **Release of images**

By participating in this program you give permission for your image to be used in perpetuity for marketing and promotional purposes and reproduced on any Cairns Sport (or associate) website and promotional material.

### **Weather**

Cairns Sport reserves the right to reschedule any part of the program that is unable to be carried out due to weather conditions. If you are unable to attend the rescheduled session / program, we are unable to provide a monetary refund.





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### **Indemnity release & warranty**

You hereby acknowledge that Cairns Sport program activities may be, by their nature, quite arduous and demanding and that there is an inherent risk of serious physical injury associated with such activities. Furthermore, you hereby declare that you are physically capable of and there is no medical reason to prevent you from taking part in the Cairns Sport program without risking your health. Cairns Sport is reliant on the above warranties in allowing you to undertake this program. You acknowledge that whilst participating in the Cairns Sport program your person and your property are at your own risk and that as a condition of your participation in a Cairns Sport activity you release and indemnify Cairns Sport including its employees, volunteers, coaches or members in respect of, and Cairns Sport hereby excludes, to the extent permitted by law, all liability for an injury, loss or damage to person or property (whether direct, indirect, special or consequential) suffered by you while you are participating in the Cairns Sport program, howsoever that injury, damage or loss is caused. This agreement shall be binding upon and insure to the benefit of the parties, their successors, administrators, assigns and personal representatives. By signing this document or, if you are under the age of 18, by your parent or guardian signing this document, you / they, hereby acknowledge that you / they have read and understood this warning and indemnity and agree to release and forever hold harmless Cairns Sport and their respective officers, employees, representatives, agents, volunteers, coaches, members, servants or associates from any liability, suit or action howsoever arising, including acts of negligence, to the fullest extent permitted by the law.