

JOHN SMEDLEY

TERMS & CONDITIONS OF

SALE

DOCUMENT VALID FROM 19/06/2009

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Important legal notice

This page (together with the documents referred to on it) sets out the terms and conditions ("conditions") upon which we supply any of the goods ("goods") listed on the John Smedley web shop to consumers.

Please read these conditions carefully before ordering any goods from the web shop.

In ordering any goods from the web shop "you" as the consumer purchasing goods agree to be bound by these conditions.

Please tick the box by the link to these conditions if you accept them. Please understand that if you refuse to accept the conditions, you will not be able to order any goods from the website.

You should print a copy of these conditions for future reference.

1. Information about us

www.johnsmedley.com ("website") is a site operated by John Smedley Limited. We are registered in England with company number 00040000 and with our registered address at Lea Mills, Matlock, Derbyshire DE4 5AG. Our VAT number is GB 125 6154 85

2. Service Availability

2.1 Our site is only intended for use by people resident in the Serviced Countries. We do not accept orders from individuals outside those countries. Some restrictions are placed on the extent to which we accept orders from specific countries. These restrictions can be found on WorldPay's Serviced Countries page. Please review WorldPay's Serviced Countries page before ordering Products from us

3. Your status

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

3.1 you are legally capable of entering into binding contracts; and

3.2 you are at least 18 years old; and

3.3 you are not impersonating any person or misrepresenting your identity; and

3.4 you are resident in one of our Serviced Countries; and

3.5 you are accessing our site from that services country; and

3.6 you are purchasing the goods as a consumer. If you wish to purchase any goods for business purposes then you should contact us at enquiries@johnsmedley.com.

4. Opening hours

4.1 You may place orders online at any time; order processing will take place during week day working hours (Monday to Friday excluding UK public holidays and company shutdowns).

4.2 Company shutdowns for 2009 are as follows:

10/04/09 - 14/04/09
04/05/09
23/05/09 - 31/05/09
25/07/09 - 09/08/09
31/08/09
24/10/09 - 01/11/09
23/12/09 - 03/01/10

5. How the contract is formed between you and us

5.1 The contract for the sale of the goods by us to you ("contract") will only be formed in accordance with this condition. These conditions apply to the sale by us to you of all and any goods purchased through the website or by telephone and govern each contract to the exclusion of any other terms and conditions introduced or submitted by you.

5.2 How to use the Web Shop

The John Smedley web shop comprises various categories for quick navigation. Select the appropriate category by clicking on the menu situated at the top, then click on any garment image within the category to see a larger image, full description, price and size/colour options. Then select the colour, size and quantity of the goods you require.

Add to Cart: clicking on this button allows you to begin the purchasing process. The goods will then be placed into your virtual shopping basket and you will return to the first item page ready to continue shopping.

Basket: allows you to check or amend the contents of your virtual shopping basket.

Proceed to checkout: the first process of this section is to register your details with us. You only need to do this once as your details are held in our customer database in accordance with our [Privacy Policy](#). Any subsequent purchases will only require your username (or e-mail address) and password to be entered. You will be requested to enter the delivery details for your order unless they are the same as the billing address.

Checkout: The checkout screen will confirm those items in your basket ready to be purchased. You will be invited to review and accept the conditions by ticking the box along side the link to our conditions in order to proceed to place an order.

Once complete click on **PLACE ORDER** to enter a secure environment where you will be asked for credit card information for payment purposes.

5.3 After placing an order through the website and once payment is authorised, you will receive an e-mail from us acknowledging that we have received your order and comprising a description of the goods, the price of the goods, the delivery costs (where applicable) and your unique order number for reference. Please note that this does not mean that your order has been accepted. Your order constitutes an offer to us to buy the goods. All orders (whether through the website or by telephone) are subject to acceptance by us. We will confirm such acceptance to you by sending you a further email that confirms that the goods have been despatched (the "Despatch Confirmation") and the contract will only be formed when we send you a Despatch Confirmation.

5.4 The contract will relate only to goods whose despatch we have confirmed in the Despatch Confirmation. We will not be obliged to supply any other goods which may have been part of your order until the despatch of such goods has been confirmed in a separate Despatch Confirmation.

5.5 Any descriptions or illustrations of the goods do not form part of the contract and any typographical error or omission in any sales literature, quotation, price list, e-mail confirmation, invoice or other document or information issued by us are subject to correction without any liability on our part.

5.6 Any advice or recommendation given by us to you as to the storage, application or use of the goods which is not confirmed in writing by us is followed or acted upon entirely at your own risk.

5.7 You will take responsibility for retaining a copy of any e-mail confirmation received in accordance with condition above.

6. Stock availability

Whilst every effort is taken to ensure all items are in supply, occasionally some items may be temporarily out of stock. Orders can only be accepted subject to availability of the goods in question. In the unlikely event of an item being unavailable at the time of despatch we will advise you immediately by notice in writing (including by email), offer you alternative goods or colour or refund accordingly.

7. Colours and sizes

7.1 Whilst every reasonable care has been taken in producing the John Smedley web shop, we cannot guarantee that the colour reproduction is an exact match with the goods sent to you. Monitors, graphics cards and lighting conditions mean that slight variations may occur.

7.2 Whilst we endeavour to be as accurate as possible, all sizes quoted are approximate.

8. Price and payment

8.1 Payments must be made when you place an order. John Smedley payment pages are held on WorldPay secure servers and we do not deal with, or on telephone orders, we do not retain any of, your credit card information. WorldPay will carry out the necessary card verification processes and we will check your contact details and availability of the goods on receipt of your order. For more information about the WorldPay system and our checks for fraud protection and credit risk reduction, [click here](#). If we are unable to supply any goods for any reason, we will inform you as soon as possible and we will provide you with a refund for these goods within 14 days.

8.2 The price to be paid by you is the price displayed on the website at the time when your order is received by us except in cases of obvious error.

8.3 If we discover an error in the price of the goods ordered by you, we will notify you as soon as possible providing you with the option of either reconfirming the order at the correct price or cancelling the order. If we are unable to contact you for the purposes of this condition 8.3, the order will be deemed cancelled and where you have already made payment for the goods this will be refunded in full.

8.4 We are under no obligation to provide goods to you at an incorrect (lower) price, even after we have issued a Despatch Confirmation if the pricing error is obvious and unmistakable and could have reasonably been recognised by you as a mis-pricing.

8.5 We accept payment made by Visa, Mastercard, Delta, Maestro and American Express cards. Only if your credit card has been authorised will your credit card be debited. You will receive confirmation of card payment and your unique order number via email. If your card is not authorised, you may be given the opportunity to try again or use a different card. No payment will be deemed to have been received until we have received cleared funds. Payment may be charged before we despatch your order.

8.6 The prices for the goods are inclusive of any value added tax but do not include delivery charges unless expressly stated otherwise.

9. Packaging

We will use reasonable endeavours to ensure the goods are appropriately packaged prior to despatch but the packaging of the goods is at our discretion and we have the right to pack all the goods in such manner, and in such quantities as we think fit and we are not obliged to comply with any packaging requests or instructions from you.

10. Delivery

10.1 Unless otherwise agreed, we will deliver the goods to the cardholders address provided to us by you at the time of order. If it is more convenient for you to have goods delivered to a workplace or any other suitable location, please give us this information when you will complete order delivery details.

10.2 UK Delivery

Charges: The price quoted online includes delivery to any UK destination.

Delivery date: Subject to condition 10.4 we will use reasonable endeavours to deliver the goods within 4 working days of your payment. Within the UK goods are guaranteed for delivery via our chosen courier before 1.00pm of the next working day following despatch. **PLEASE NOTE** this is following despatch and not from the time of order placement.

In any event, if we cannot fulfil your order within 14 days of your payment we will notify you of this situation and you will be entitled to a refund if you do not wish to wait any longer for the goods.

10.3 International Delivery

Charges: All orders for international delivery will be subject to an extra delivery charge per garment ordered. Please note that where more than one garment is ordered, this charge applies to each item.

The additional charge per garment for an international order is GBP 10.00. This charge will be calculated and displayed at the bottom of the short invoice within the checkout section of the John Smedley web shop prior to payment processing.

Delivery date: For international orders, transit time will vary accordingly to destination; generally delivery should be made within 7 days of despatch, although customers should allow up to 14 working days for goods to arrive after despatch from John Smedley. John Smedley ask international customers to note that we cannot be held responsible for delays in transit caused by customs and import procedures.

10.4 Any delivery dates given by us are estimates only. Time of delivery is not of the essence of the contract.

10.5 Subject to the other provisions of these conditions, we will not be liable to you for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the goods (even if caused by our negligence), nor will any delay entitle you to terminate or rescind the contract unless such delay exceeds 90 days.

10.6 If for any reason you fail to accept delivery of any of the goods when they are ready for delivery, or we are unable to deliver the goods on time because you have not provided appropriate instructions, documents, licences or authorisations:

10.6.1 risk in the goods will pass to you (including for loss or damage caused by our negligence);

10.6.2 the goods will be deemed to have been delivered; and

10.6.3 we may store the goods until delivery, whereupon you shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

10.7 We may deliver the goods to you by separate instalments. Each instalment is a separate contract and no cancellation or termination of any one contract relating to an instalment shall entitle you to cancel any other contract or instalment.

10.8 It is your responsibility to check the goods for any damage and that they are what you ordered upon receipt and you must inform us of such damage within 14 days of delivery. If you fail to inform us of any such damage, you are deemed to have accepted the goods.

11. Risk/Title

11.1 The goods will be at your risk from the time of delivery (or deemed delivery).

11.2 Ownership of the goods will pass to you when we have received payment for the goods from you in full and the goods have been delivered to you.

12. Consumer rights

12.1 You are legally entitled to cancel the contract at any time within seven working days beginning on the day after you receive the goods (the "cooling-off period"). In the event that the contract is cancelled in this way within the cooling-off period you will receive a full refund of the price paid for the goods in accordance with our returns and refund policy set out in condition 14

12.2 In order to exercise your right of cancellation you must provide us with written notice by email of your cancellation within the cooling-off period. The goods must then be returned to us in accordance with condition 14.2. You have a legal obligation to take reasonable care of the goods while they are in your possession. If you fail to do so, we may have a right of action against you for compensation.

12.3 You shall not have any right to cancel a contract for the supply of any goods which are personalised or made for your specification in any way. Due to the intimate nature and hygienic standards of certain John Smedley items, we adopt a special policy regarding the return of underwear garments. If you have a reason for return of any underwear garment please telephone us on 01629 534571 (international no. +44 1629 534571) or send a fax on 01629 534691 (international no. +44 1629 534691).

12.4 You will be entitled to reject any goods within six months of delivery if it becomes apparent during this time that the goods did not conform with their description in the contract when they were delivered to you. Unless we are able to demonstrate that the goods did conform to their description at the time of delivery, we will offer to repair or replace the goods, or reduce or refund the price of the goods in accordance with condition 13.

12.5 Details of how to return goods to John Smedley will be contained in the parcel of your goods.

13. Liability

13.1 If the goods we deliver are damaged or defective or the delivery is of an incorrect quantity, we shall have no liability to you unless you notify us in writing at our contact address of the problem within 14 days of the delivery of the goods in question.

13.2 If you do not receive goods ordered by you within 30 days of the date on which you ordered them, you must notify us in writing at our

contact address of the problem within 40 days of the date on which you ordered the goods.

13.3 If you notify a problem to us under this condition, our only obligation will be, at your option:

13.3.1 to make good any accepted shortage or non-delivery;

13.3.2 to replace or repair any goods that are damaged or defective; or

13.3.3 to refund to you the amount paid by you for the goods in question in whatever way we choose.

13.4 Save as precluded by law, we will not be liable to you for any indirect or consequential loss, damage or expenses (including loss of profits, business or goodwill) howsoever arising out of any problem you notify to us under this condition and we shall have no liability to pay any money to you by way of compensation other than to refund to you the amount paid by you for the goods in question under condition 13.3 above.

13.5 Nothing in these conditions is intended to limit any rights you might have as a consumer under applicable local law or other statutory rights that may not be excluded nor in any way to exclude or limit our liability to you for any death or personal injury resulting from our negligence or fraud.

14. Returns and refund policy

14.1 In the event that you return goods to us:

14.1.1 because you have cancelled the contract within the cooling-off period (under condition 12.1), we will process the refund due to you as soon as possible and, in any case, within 14 days of the day you gave notice of cancellation. In such circumstances we will refund the price of the goods in full, including the cost of sending the goods to you. For the cost of returning the goods to us see conditions 14.3 and 14.4 below; or

14.1.2 for any other reason (under condition 13; for instance, because you claim that the goods are defective or do not conform to their description) we will examine the returned goods and will notify you of the results of such examination within a reasonable period of time. In the event that the goods are found to have been defective then we will offer to repair or replace the goods, or reduce or refund the price the goods (at your option). We will usually process any refund due to you as soon as possible and, in any case, within 30 days of the confirmation to you that you are entitled to a refund for the defective goods. Goods 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.

14.2 The goods must be returned to us at your own risk, unworn, in their original packaging, in the same condition in which you received them together with a Goods Return Form which will be included in your parcel or can be downloaded below. This must be printed off and completed by you.

14.3 For UK Orders

John Smedley will provide you with a returns label; this should be attached to the outside of the box and taken to a post office. Within the United Kingdom this service is free.

Important: please ensure that you obtain a proof of posting certificate from the post office for your returned goods. We regret that we cannot be held responsible for loss of returned goods without proof of posting.

Refunds will be made to your account via the secure WorldPay system within 2 working days of satisfactory receipt of goods.

14.4 For International Orders

We will enclose a returns form and address label within the box. Please ensure that forms are filled out correctly and included with the goods.

Important: please ensure that you obtain a proof of posting certificate from the delivery service used for your returned goods. We regret that we cannot be held responsible for loss of returned goods without proof of posting.

Following receipt and checking of goods, John Smedley will credit the full value of returned goods and any original extra delivery charge paid (per item) back to the nominated credit/debit card.

Please note that goods returns charges are the responsibility of the sender and we regret that we cannot be held liable for any extra returns delivery charges unless goods are defective.

14.5 We will refund any money received from you using the same method originally used by you to pay for the goods. Credits for returned goods can only be processed back to the original card used for payment.

15. Import duty

15.1 If you order goods from our site for delivery outside the UK, they may be subject to import duties and taxes which are levied when the delivery reaches the specified destination. You will be responsible for payment of any such import duties and taxes. Please note that we do not have control over these charges and cannot predict their amount. Please contact your local customs office for further information before placing your order.

15.2 Please also note that you must comply with all applicable laws and regulations of the country for which the goods are destined. We will not be liable for any breach by you of any such laws.

16. Complaints policy

16.1 We are committed to providing a quality service to you and value your views, opinions and feedback on any goods which have been supplied to you or the service which we have provided to you. If we have not performed any of our duties to a satisfactory standard please contact us and we shall endeavour to put right any problems.

16.2 If the complaint relates to the quality or specification of goods please refer to our refund policy at condition 14. For any other complaints, queries or to provide us with feedback, please contact us at enquiries@johnsmedley.com. We shall endeavour to contact you within 7 working days of receiving your email and shall work closely with you in trying to resolve any problems fairly and quickly and to ensure that both our goods and the services which we have provided to you are to your satisfaction.

17. Written communications

Applicable laws require that some of the information or communications we send to you should be in writing. When using the website, 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 the website. For contractual purposes, you agree to this electronic means of communication and acknowledge that all contracts, notices, information and other communications that you provide to us electronically comply

with any legal requirement that such communications be in writing. The provisions set out in this condition do not affect your statutory rights.

18. Notices

All notices given by you to us must be sent either by e-mail to enquiries@johnsmedley.com or by post at the address set out in condition 21. We may give notice to you at either the e-mail address or postal address you provide to us when placing an order, or in any of the ways specified in condition 17 above. Notice will be deemed received and properly served immediately when posted on the website, 24 hours after an email is sent, or three days after that 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.

19. Our right to vary these terms and conditions

19.1 We have the right to revise and amend these terms and conditions from time to time to reflect changes in market conditions affecting our business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in our system's capabilities.

19.2 You will be subject to the policies and terms and conditions in force at the time that you order goods 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 send you the Despatch Confirmation (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 goods).

20. General

20.1 We may assign the contract or any part of it to any person, firm or company. You may not be entitled to assign the contract or any part of it without our prior written consent.

20.2 We may defer the date of delivery or cancel the contract or reduce the volume of the goods ordered by you (without liability) if we are prevented from or delayed in the carrying on of our business due to circumstances beyond our reasonable control including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to our workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

20.3 If any provision of the contract or these terms are found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable (including any provision in which we exclude our liability to you) it will to that extent be severed and the remaining provisions of the contract or these conditions and the remainder of such provision shall continue in full force and effect.

20.4 Failure or delay by us in enforcing or partially enforcing any provision of the contract shall not be construed as a waiver of any of our rights under the contract.

20.5 Any waiver by us of any breach of, or any default under, any provision of the contract by you shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the contract.

20.6 No term of the contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

20.7 These conditions, together with our current website prices, delivery details, contract details and privacy policy, set out the whole of our agreement relating to the supply of the goods to you by us. Nothing said by any sales person on our behalf should be understood as a variation of these terms and conditions or as an authorised representation about the nature or quality of any goods offered for sale by us. Save for fraud or fraudulent misrepresentation, we shall have no liability for any such representation being untrue or misleading.

20.8 The formation, existence, construction, performance, validity and all aspects of the contract shall be governed by English law and any disputes shall be resolved exclusively in the English Courts.

21. Contact details

Should you wish to contact us regarding your purchase of goods or these terms and conditions, please contact us at enquiries@johnsmedley.com or John Smedley Limited, Lea Mills, Matlock, Derbyshire, DE4 5AG. Alternatively, you can telephone us on 01629 534571 (international no. +44 1629 534571) or send a fax on 01629 534691 (international no. +44 1629 534691).