

CONDITIONS OF SUPPLY

1. DEFINITIONS AND INTERPRETATION:

- 1.1 The following terms as used herein shall have the meaning as stated:
- "Commencement Date"** means the date on which the Hire Term begins, said date being such date as shall be agreed with the Company;
- "Company"** means Glover Bros Limited, registered in England and Wales under company number 3726130 with its registered office and main trading address at Unit 1 Broadgauge Business Park, Bishops Lydeard, Taunton, Somerset, TA4 3RU United Kingdom. The Company's VAT number is 991 2911 02.
- "Conditions"** means these Conditions of Supply;
- "Confidential Information"** means any information disclosed by one (the disclosing party) to another (the receiving party) if the disclosing party has notified the receiving party that the information is confidential or the information could reasonably be supposed to be confidential;
- "Confirmation of Acceptance"** means confirmation of the Company's acceptance of the Customer's order pursuant to the provisions of Clause 2;
- "Contract"** means any contract between the Company and the Customer for the supply of any Goods, incorporating these Conditions;
- "Customer"** means any person, firm, company or other organisation who is the addressee of the Company's acceptance of order and shall include any successor-in-title of the Customer and any company of entity arising (wholly or partly) by way of any merger, amalgamation, reorganisation or acquisition of the Customer;
- "Delivery Point"** means the place where delivery of any Goods is to take place under Clause 5;
- "Goods"** means any goods or materials to be supplied by the Company to the Customer (including any part or parts of them);
- "Hire Charge"** means the price for (the hire of) the Hire Goods, as applicable from time to time, calculated on a weekly basis and payable through the Hire Term;
- "Hire Goods"** means any goods which the Company has agreed to hire to the Customer (including any part or parts of them);
- "Hire Term"** means the period between the Commencement Date and the Termination Date during which the Hire Goods are to be held by the Customer in return for payment of the Hire Charge to the Company;
- "Input Material"** means any documents, plans, drawings, designs or other materials, and any instructions, specification, data or other information provided by the Customer to the Company relating to the Goods;
- "Intellectual Property Rights"** means any design rights, utility models, patents, inventions, logos, business names, trademarks, domain names, copyright, moral rights, rights in databases, source codes, reports, drawings, specifications, know how, trade secrets, rights in software, rights in the nature of unfair competition and the right to sue for passing off and any other equivalent or similar rights to any of the foregoing in any jurisdiction, whether registered or unregistered;
- "Output Material"** means any documents, plans, drawings, designs or other materials, and any data or other information provided by the Company to the Customer relating to the Goods;
- "Termination Date"** means the date on which the Hire Term ends, said date being such date as shall be agreed with the Company, subject always to earlier termination of the Contract under clause 15.
- 1.2 Clause headings shall not affect the interpretation of these Conditions.
- 1.3 All references to "Goods" shall include Hire Goods except where otherwise indicated.
- 1.4 **These Conditions apply only to Customers who are business customers and not consumers. A Customer is a business customer if the Customer purchases or hires Goods from the Company for the purposes of the Customer's business, trade or profession, rather than for private use. All other Customers are consumers.**

2. ORDERS:

- 2.1 Orders for the supply of any of the Goods may be placed by the Customer by telephone, email, post or fax. For orders placed by telephone, the Customer's order may be verbally accepted by the Company at the time that it is placed. If received by email, post or fax, the Customer will normally receive a telephone call, email or fax from the Company confirming acceptance of the order.

- 2.2 All custom made orders (e.g. made to measure cushions) will be acknowledged in writing to the Customer by the Company, and the Customer must confirm acceptance of the order before it is placed. All Goods are offered by the Company subject to availability and the Company reserves the right to cancel any order placed by the Customer if the Company has insufficient stock to deliver the Goods that the Customer has ordered.
- 2.3 The Customer shall ensure that the terms of its order and any Input Material are complete and accurate.
- 2.4 Any quotation given is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.
- 3. PRICE:**
- 3.1 Unless otherwise agreed in writing between the Customer and the Company, the price of the Goods shall be the price which appears in the Company's price list, the current version of which may be obtained by sending a written request therefor with evidence of trading to Glover Bros Ltd, Unit 1 Broadgauge Business Park, Bishops Lydeard, Taunton, Somerset, TA4 3RU. The Hire Charge for any Hire Goods will be quoted to the Customer upon request.
- 3.2 The Company reserves the right to increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, any increase in the cost of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate, accurate or complete information or instructions.
- 3.3 Unless otherwise stated, the price for the Goods will be exclusive of Value Added Tax which will be charged at the rate which is applicable at the date of dispatch of the Goods.
- 4. PAYMENT:**
- 4.1 Subject only to any special terms agreed in writing between the Company and the Customer, the Company shall be entitled to invoice the Customer for the price of the Goods on or at any time after acceptance of the Customer's order.
- 4.2 Payment for Goods shall be made in advance by credit or debit card, by bank transfer (Account Number: 10064090, Sort Code: 16-33-16) or on delivery of the Goods. Credit accounts may be applied for and given at the discretion of the Company. Payment for approved accounts shall be due on the 21st day of the month following delivery.
- 4.3 A 75% deposit may be required for custom made Goods.
- 4.4 Failure by the Customer to pay any invoice by its due date shall entitle the Company to:
- (a) at its option, charge interest at the rate of five percent (5%) per annum above Royal Bank of Scotland's base lending rate from time to time calculated on a daily basis (whether before or after any judgment) until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest);
 - (b) charge the Customer with any costs incurred by the Company in the course of collecting outstanding monies due to the Company from the Customer, including the cost of taking legal action against the Customer in order to obtain payment;
 - (c) suspend any warranty for the Goods or any other goods supplied by the Company to the Customer, whether or not they have been paid for;
 - (d) appropriate any payment made by the Customer to such of the Goods as the Company may think fit;
 - (e) set off any amount owed by the Company to the Customer against any amount owed by the Customer to the Company on any account whatsoever;
 - (f) suspend or cancel any future delivery of Goods;
 - (g) cancel any discount (if any) offered to the Customer; and
 - (h) if the Customer has an approved credit account, withdraw or reduce its credit limit or bring forward its due date for payment without notice.
- 4.5 The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 4.6 The Company shall be under no obligation, notwithstanding any agreement to the contrary, to supply the Goods if the Company has any doubts as to the Customer's solvency and the Company may in such circumstances (without any liability on the Company's part) withhold Goods due to be sold to the Customer.

5. DELIVERY:

- 5.1 The Customer's order will be fulfilled by the delivery date notified by the Company to the Customer in the Confirmation of Acceptance or, if no delivery date has been so specified, then delivery will take place within a reasonable time from the date of the Confirmation of Acceptance.
- 5.2 Whilst the Company will reasonably endeavour to deliver the Goods in accordance with the Customer's requirements, the Company will not be liable for any consequences of any delay in the delivery of the Goods, howsoever caused.
- 5.3 Unless otherwise agreed, the delivery of the Goods shall take place at the Customer's place of business.
- 5.4 If delivery involved difficult access to or at the Delivery Point and/or the Delivery Point is located at an unreasonable distance from any feasible vehicular access point, the Company reserves the right to levy an extra delivery charge.
- 5.5 The Company may deliver the Goods by separate instalments, as agreed between the Customer and the Company.
- 5.6 The Hire Charge for any Hire Goods will be quoted to the Customer upon request.
- 5.7 If for any reason the Customer fails to accept delivery of any of the Goods, or the Company is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, the Company may charge the Customer an abortive delivery charge.
- 5.8 Claims for non-delivery of Goods must be made within 10 days of the dispatch date of the Goods.

6. RETURNS:

- 6.1 Goods may not be returned by the Customer to the Company without prior notification. A restocking charge may be payable on each order which will be outlined in full to the Customer. Any Goods returned will be examined by the Company and the Customer will be notified within a reasonable time of any refund to which the Customer is entitled. Any special order or custom made Goods may not be returned unless the Goods are found to be damaged and/or faulty. The return of Goods is entirely at the Company's discretion.
- 6.2 The Company will normally refund any money received from the Customer using the same method originally used by the Customer to pay for the purchase.

7. APPLICATION OF CONDITIONS AND DESCRIPTION OF GOODS:

- 7.1 All quotations are made and all orders are accepted by the Company subject only to these Conditions of Supply, which shall prevail to the exclusion of any other terms including any conditions, warranties or representations written or oral, express or implied, even if contained in any of the Customer's documents which purport to provide that the Customer's own terms shall prevail. Any representations about any Goods shall have no effect unless expressly agreed in writing and signed by an authorised signatory of the Company.
- 7.2 Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.
- 7.3 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's website, catalogues or brochures or otherwise issued by the Company are issued or published for the sole purpose of giving an approximate idea of the Goods described in them.
- 7.4 The Company does not give advice or recommend any Goods for a particular use.

8. OBLIGATIONS OF THE CUSTOMER:

- 8.1 The Customer shall provide the Company with all information, co-operation and support that may be required to enable the Company to carry out its obligations to the Customer.
- 8.2 If any Goods are to be manufactured, ordered, designed, built, configured, altered, adapted, or subjected to any process by or on behalf of the Company for the Customer, in each case in accordance with any Input Material submitted by the Customer, the Customer shall hold the Company harmless and shall fully indemnify the Company against any and all loss, damage, costs and expenses awarded against or incurred by the Company in connection with, or paid or agreed to be paid by, the Company in settlement of any claim:
- (a) for infringement of any Intellectual Property Rights of any other person resulting from the Company's use of any Input Material so submitted;
 - (b) that any Input Material so submitted contravenes any applicable safety or other statutory or regulatory requirement; and

(c) that any Goods supplied in accordance with any Input Material so submitted are defective, insofar as the defect or alleged defect in the Goods is attributable to the design of the Goods.

8.3 Where the Company supplies Hire Goods to the Customer:

- (a) the Hire Goods must not be altered, modified, repaired or tampered with in any way and must be used and cared for in accordance with the Company's instructions. Any Hire Goods that are lost, stolen, disposed of, destroyed or damaged will render the Customer liable for the costs of replacement or repair (as applicable);
- (b) the Company expressly reserves the right to levy an additional Hire Charge in the event that any Hire Goods are returned after the Termination Date.
- (c) all Hire Goods shall remain the Company's sole and exclusive property. The Customer undertakes not to sell, offer to sell, assign, charge, pledge, or otherwise deal with any Hire Goods in any manner which is inconsistent with the Company's sole and exclusive ownership of the Hire Goods, in any circumstances; and
- (d) the Customer assumes complete responsibility for loss of or damage to the Hire Goods (other than fair wear and tear) arising from any circumstances, from the time the Goods are delivered, up until the time that they are received back by the Company. It is recommended that the Customer takes out appropriate insurance to cover the Customer against these risks.

9. CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY RIGHTS:

9.1 The Customer and the Company agree that in the course of the Company supplying Goods to the Customer, the parties may disclose to each other certain Confidential Information. The Customer and the Company agree that neither party will use the Confidential Information for any purpose other than to discharge the parties' respective obligations. The parties also agree that each party will maintain the Confidential Information's confidentiality and not disseminate it to any third party without the disclosing party's prior written consent, save that this obligation shall not apply to any Confidential Information that either party has a duty (whether legal or otherwise) to communicate or that is in the public domain or is already in the receiving party's possession through no fault of the receiving party.

9.2 As and between the Company and the Customer, the Customer acknowledges the Company's ownership of any Intellectual Property Rights in any Output Material and in any Goods supplied to the Customer pursuant to the Contract and agrees not to contest the Company's ownership or use of any such Intellectual Property Rights. Without limitation, the Customer shall not acquire any such Intellectual Property Rights or any licence or grant of rights therein, nor shall the Customer register or attempt or permit to be registered, any such Intellectual Property Rights or any licence or grant of rights therein. The Customer further acknowledges that, without limitation, any and all Intellectual Property Rights developed by the Company in supplying any Goods shall become vested and shall vest in the Company absolutely and shall also be subject to the other provisions of this clause 9.2.

10. FORCE MAJEURE:

The Company reserves the right to defer the date of delivery of the Goods, or to cancel or reduce the volume of the Goods ordered by the Customer (without liability to the Customer) if it is prevented from, or delayed in, the carrying on of its business (wholly or in part) due to circumstances beyond the reasonable control of the Company 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 either party's workforce), or restraints or delays affecting carriers, or any inability or delay in obtaining Goods of adequate or suitable materials, or the failure or demise of any source of supply.

11. WARRANTY:

11.1 The Company will endeavour to transfer to the Customer the benefit of any manufacturer's warranty or guarantee given to the Company and the Company warrants (subject to the other provisions of these Conditions) that:

- (a) on delivery, the Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
- (b) if the Customer has made it expressly known to the Company in the Customer's order that the Goods shall be suitable for a particular purpose and the Company has expressly stated in its written acceptance of the Customer's order that it will supply Goods suitable for that purpose, then the Goods shall be reasonably fit for the purpose so stated.

- 11.2 The Company's liability pursuant to clause 11.1 shall be limited to the replacement of any part of the Goods found to be defective and notified to the Company within the period set forth in clause 11.3 (or, if the claim is on any manufacturer's warranty, within the relevant manufacturer's warranty period).
- 11.3 Any defect or deficiency in, or malfunction or shortage or failure to correspond to specification of the Goods shall be notified to the Company within 3 days of the time when the Customer discovers or ought to have discovered the defect or deficiency, or malfunction or shortage or failure to correspond to specification, as applicable; otherwise, the Goods shall be deemed to be satisfactory and a charge will be made for additional rectification work.
- 11.4 The Company shall not be liable for any breach of any warranty in clause 11.1, if:
- (a) the Customer makes any further use of any Goods which the Customer has alleged to be defective after giving notice of any such defect;
 - (b) the Customer modifies, adjusts, alters or repairs the Goods without the prior written consent of the Company;
 - (c) the defect arises because the Customer failed to follow any oral or written instructions as to the Storage, installation, use or maintenance of the Goods or (if there are none) good trade practice;
 - (d) the defect arises from any Input Material supplied by the Customer, or from fair wear and tear, wilful damage, negligence, abnormal working conditions, misuse of the Goods or from any other cause which is not due to the neglect or default of the Company;
 - (e) the defect arises by virtue of any act or omission of the Customer relating to the operation of the Goods, or by subjecting the Goods to any unusual physical or other stress or adverse environmental conditions, or by use of the Goods in excess of any performance or load-bearing specifications stated in the Company's price list or on the website or otherwise stated by the Company.
 - (f) the full price for the Goods has not been paid by the time for payment stipulated in clause 4.2; or
 - (g) the defect is of a type specifically excluded by the Company by notice in writing.
- 11.5 If upon investigation, the Company reasonably determines that any defect or deficiency in, or malfunction or shortage or failure to correspond to specification of the Goods is a result of, or is excused by, any of the matters referred to in clause 11.4, the Customer shall be liable for all costs reasonably incurred by the Company in investigating the same and determining the cause.
- 11.6 Subject to and without limiting the generality of any of the provisions of this clause 11, additional individual guarantees may apply to certain Goods. The terms of any such guarantee (including the guarantee period) may be obtained from the Company upon request.

12. CHANGES:

The Company reserves the right without prior approval from or notice to the Customer to make any changes in the specification of the Goods which are required to conform to any applicable safety or other statutory or regulatory requirements or which, in the reasonable opinion of the Company, do not materially affect the specification of the Goods.

13. EXCLUSION OF LIABILITY AND INDEMNITY:

- 13.1 The following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- (a) any breach of these Conditions;
 - (b) any use made or resale by the Customer of any of the Goods, or of any product incorporating any of the Goods; and
 - (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 13.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 13.3 Nothing in these Conditions excludes or limits the liability of the Company:
- (a) for death or personal injury caused by the Company's negligence; or
 - (b) under section 2(3), Consumer Protection Act 1987; or
 - (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
 - (d) for fraud or fraudulent misrepresentation.

- 13.4 Subject to clause 13.2 and 13.3:
- (a) the Company's total liability in tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
 - (b) the Company shall not be liable to the Customer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or for any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- 13.5 The Customer shall hold the Company harmless and keep the Company fully and promptly indemnified against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by the Company as a result of or in connection with any claim made by or against the Company in respect of any liability, loss, damage, injury, cost or expense whatsoever, howsoever and to whomsoever occurring, to the extent that such liability, loss, damage, injury, cost or expense arises directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations, subject to the Company confirming such costs, charges and losses to the Customer in writing.

14. RISK AND TITLE:

- 14.1 Risk of damage to or loss of the Goods shall pass to the Customer upon delivery of the Goods to the Customer.
- 14.2 Title to the Goods shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
- (a) the Goods; and
 - (b) all other sums which are or which become due to the Company from the Customer on any account.
- 14.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) hold the Goods on a fiduciary basis as the Company's bailee;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery and indemnify the Company against all loss or damage of whatsoever nature affecting the Goods;
 - (d) notify the Company immediately if it becomes subject to any bankruptcy or insolvency event;
 - (e) not assign to any other person any rights arising from a sale of the Goods without the Company's written consent (and then only subject to a set of terms and conditions containing a Risk and Title clause which is at least as onerous as this clause 14); and
 - (f) give the Company such information relating to the Goods as the Company may require from time to time, but the Customer may resell the Goods in the ordinary course of its business, provided that it shall hold the entire proceeds of any such resale upon trust for the Company until the Goods have been paid for in full. The Customer acknowledges and agrees that a sale by an administrator or liquidator as part of or in connection with the sale of the assets or part of the assets of the Customer is not in the ordinary course of the Customer's business.
- 14.4 If:
- (a) the Customer is late in paying for the Goods; or
 - (b) the Customer is late in paying for any other goods supplied by the Company; or if
 - (c) before title to the Goods passes to the Customer, the Customer becomes subject to any bankruptcy or insolvency event or the Company reasonably believes that any such event is about to happen and notifies the Customer accordingly, then:
- without limiting any other right or remedy the Company may have, the Company may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, the Company may enter any premises of the Customer or of any third party where the Goods are stored or kept in order to recover them. The Customer shall not keep the Goods at any premises at which the Customer does not have the right to grant access to the Company.
- 14.5 Title to the Hire Goods shall remain with the Company at all times. Risk of damage to or loss of the Hire Goods will pass from the Company to the Customer upon delivery of the Hire Goods to the Customer and will not pass back from the Customer to the Company until the Hire Goods have been returned to the Company's premises.

15. TERMINATION:

The Company reserves the right to terminate the Customer's account forthwith for any reason upon serving written notice to the Customer, whereupon all obligations of the Company under the Contract shall cease and the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices.

16. COMPANY WEBSITE:

16.1 The website, www.gloverbros.co.uk, is owned and operated by Glover Bros Limited.

16.2 The content of the pages of the site is for the Customer's general information and use only and is subject to change without notice.

16.3 It is prohibited to access the site from territories where its contents are illegal or unlawful. If the Customer accesses the site from a location outside the United Kingdom, the Customer does so at the Customer's own risk and the Customer is responsible for compliance with local laws.

17. GENERAL:

17.1 The Contract constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements and understandings between the parties.

17.2 No forbearance or indulgence granted by the Company to the Customer shall in any way limit the rights of the Company under these Conditions of Supply.

17.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

17.5 The Company shall be entitled at its discretion to perform any of the obligations assumed by it and to exercise any of its rights granted to it under the Contract through any other company or subsidiary.

17.6 All notices shall be in writing and sent to the Customer at its address notified to the Company, or to the Company at the Company's address given in correspondence, or such other address as the recipient may designate by notice given in accordance with this provision. Any notice may be delivered personally by first class prepaid letter or facsimile or email transmission (confirmed by first class post) and shall be deemed to have been served if by personal delivery when delivered, if by post 48 hours after posting and if by facsimile or email transmission when transmitted (with successful transmission report).

17.7 Any dispute arising shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application by either party to the President for the time being of the Law Society whose decision as to the type, qualifications and experience of such arbitrator shall be final and binding on the parties.

17.8 The costs of the arbitrator shall be borne by the parties as he directs and his decision on the issue in dispute shall be final.

17.9 These Conditions of Supply shall be subject to and construed under English Law and the parties hereby submit to the exclusive jurisdiction of the English courts for that purpose.