

Davison Highley Limited **Terms and Conditions of Business**

cancellation/termination/amendment fees payable by Davison Highley to any third party). The level of such fees shall be at the sole discretion of Davison Highley.

1. Definitions and Interpretation

- 1.1 In these Terms and Conditions of Business (save where the context otherwise requires) the following expressions shall have the following meanings :-
 - 1.1.1 "Davison Highley" means Davison Highley Limited (Company Registration No. 014422543) whose registered office is at Old North Works, Piddington, High Wycombe, Buckinghamshire HP14 3BE
 - 1.1.2 "Customer" means the person(s) purchasing the Goods and Bespoke Goods from Davison Highley
 - 1.1.3 "Terms" means these Terms and Conditions of Business governing the sale and provision by Davison Highley and the purchase by the Customer of the Goods and Bespoke Goods
 - 1.1.4 "Quotation" means the estimated costs of the Goods and/or Bespoke Goods (to include where appropriate costs of storage, packaging and transportation) to be supplied by Davison Highley to the Customer in accordance with these Terms
 - 1.1.5 "Goods" means those goods detailed in Davison Highley's current product and/or price list as amended from time to time
 - 1.1.6 "Bespoke Goods" means those goods of a specialist, unique and individual nature required by the Customer but not detailed in Davison Highley's current product and/or price list as amended from time to time
- 1.2 Words importing the singular number only shall include the plural number and vice versa and where a party consists of more than one person obligations and agreements of that party shall take effect as joint and several obligations and agreements.
- 1.3 The clause headings in these Terms are for ease of reference only and shall not be taken into account in the construction or interpretation of the clauses to which they refer.
- 1.4 Words importing the neuter shall include the masculine and feminine and words denoting natural persons shall include corporations and firms and all such words shall be construed interchangeably in that manner.
- 1.5 Words denoting an obligation on a party to do any act, matter or thing shall include an obligation to procure that it be done and words placing a party under a restriction shall include an obligation not to permit or allow infringement of such restriction.
- 1.6 These Terms supersede any prior agreement (oral or in writing) between the parties and the parties acknowledge that these Terms contain the whole agreement between them and that the Customer has not relied upon any oral or written representations made by Davison Highley or its employees or agents.
- 1.7 These Terms shall be governed by the laws of England and the parties shall submit any dispute arising hereunder to the exclusive jurisdiction of the English Courts.

2. Request for Goods

- 2.1 The Customer will select the Goods that the Customer requires from Davison Highley's current product and/or price list and following the provision in writing to Davison Highley by the Customer of all necessary information in relation to the Goods required by the Customer, to include (but not limited to), if appropriate, the following:
 - 2.1.1 size and dimensions of the Goods
 - 2.1.2 materials, fabrics, colours, patterns, texture of the Goods
 - 2.1.3 address for delivery of the Goods and any special delivery requirements
 - 2.1.4 method of payment for the Goodstogether with the Customer's confirmation that the information supplied is complete and accurate, Davison Highley will provide the Customer with a Quotation based solely on the said information supplied by the Customer.
- 2.2 In the case of Bespoke Goods, the Customer must provide to Davison Highley in writing as much information as possible with regard to the specifications of the Bespoke Goods required (to include those details if appropriate referred to in Clause 2.1) following receipt of which Davison Highley will provide the Customer with a Quotation.
- 2.3 If the Customer wishes to accept the Quotation the Customer must place an order for the Goods and/or Bespoke Goods with Davison Highley. The order must be in writing with reference to the Quotation provided by Davison Highley and will be deemed by Davison Highley to confirm that all details and information supplied and contained within the Quotation are complete and accurate. The Customer must also confirm the method of payment for the Goods and/or Bespoke Goods.
- 2.4 In placing an order for the Goods and/or Bespoke Goods in accordance with Clause 2.3 the Customer confirms to Davison Highley that the Customer accepts and understands these Terms and agrees to be bound by them. The Customer's order is subject to confirmation and acceptance by Davison Highley and a contract will only come into being upon such acceptance and confirmation and in accordance with these Terms.
- 2.5 If the Quotation contains provisional sums Davison Highley shall use all reasonable endeavours to ascertain an accurate cost and agree it with the Customer before incurring expenditure on the Customer's behalf. However, if this is not possible the Customer shall pay the actual cost of the item in which case the total price set out in the Quotation shall be adjusted accordingly.
- 2.6 Unless otherwise stated, any Quotation issued by Davison Highley is valid for acceptance for 90 days from the date thereof. Provided that Davison Highley has the right to withdraw the Quotation at any time.
- 2.7 Should the Customer wish to cancel or amend the Customer's order for Goods, the Customer must inform Davison Highley in writing within 24 hours of making the order, which for the purpose of this Clause only, time shall be of the essence, and such cancellation or amendment shall only be valid if it is acknowledged, confirmed and accepted by Davison Highley in writing. Davison Highley has the right to charge the Customer a cancellation fee, and/or has the right to amend the Quotation in respect of the change, of up to 100% of the value of the order depending on the amount of work carried out in relation to such order made by the Customer (in addition to all cancellation/termination/amendment fees payable by Davison Highley to any third party). The level of such fees shall be at the sole discretion of Davison Highley. If the Goods ordered by the Customer have already been despatched by Davison Highley to the Customer, the Customer must return the Goods to Davison Highley's place of business immediately.
- 2.8 In the case of Bespoke Goods, unless agreed by Davison Highley in writing, Davison Highley will not process and/or commence work relating to the Customer's order for a period of 7 days from the date of acceptance and confirmation by Davison Highley of the Customer's written order and during such 7 day period, which for the purposes of this Clause only, time shall be of the essence, the Customer may cancel or change the order in writing to Davison Highley and such cancellation or change shall only be valid if it is acknowledged, confirmed and accepted by Davison Highley in writing and will be subject to any amendment to the Quotation which may be required. Due to the unique nature of the Bespoke Goods ordered by the Customer, upon the expiry of the 7 day period from the date of receipt by Davison Highley of the Customer's written order, the Customer will not be entitled to cancel or change the order and will be liable for payment in full.
- 2.9 If Davison Highley agrees with the Customer to process and/or commence work relating to the Customer's order for Bespoke Goods prior to the expiry of the 7 day period referred to in Clause 2.8 and the Customer then cancels or changes the order within the 7 day period and the cancellation or change is accepted by Davison Highley, Davison Highley has the right to charge the Customer a cancellation or amendment fee of up to 100% of the value of the Quotation depending on the amount of work carried out in relation to the Customer's order (in addition to all

3. Important

With regard to the Goods and/or Bespoke Goods, Davison Highley does not recommend the use of chairs with metal arms in conjunction with toughened glass tables or desks as careless use can cause serious shelling damage to the edges. This in turn has an adverse effect on the integrity of the toughening and can lead to a catastrophic failure of the glass.

4. Supply of Goods

- 4.1 Davison Highley will supply the Goods and/or Bespoke Goods, subject to Clause 5, during the week estimated for collection or delivery in the Quotation or, if not contained in the Quotation, during the week as notified by Davison Highley to the Customer.
- 4.2 If Davison Highley is unable to supply the Goods and/or Bespoke Goods within a reasonable time after any date given for delivery it may at its sole discretion cancel the Customer's order and return any money already paid by the Customer, but without interest, compensation or any other payment whatsoever.

5. Time Not of the Essence

Davison Highley shall use its reasonable endeavours to meet any times and dates specified for performance of its obligations contained in these Terms. However, all such times and dates are approximate only and Davison Highley shall not be deemed to be in breach of the Terms and shall not be liable in any manner for any delay, for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the performance of its obligations and, subject to Clauses 2.7, 2.8, 6.6 and 8.2, time shall not be of the essence of these Terms.

6. Delivery

- 6.1 Delivery shall be deemed to take place when the Goods and/or Bespoke Goods are collected by the Customer from Davison Highley or when the Goods and/or Bespoke Goods are delivered kerbside to the address specified in the Customer's order and from the moment that the Goods and/or Bespoke Goods begin to be unloaded from the delivery vehicle.
- 6.2 The Quotation, if appropriate, shall include the cost of delivery to the address specified in the Customer's order. Davison Highley will not be required to deliver an order in instalments or to more than one address. However, if the Customer requests Davison Highley to deliver the Goods and/or Bespoke Goods in instalments or to a different address than that specified in the Customer's order, Davison Highley will be entitled to make an additional charge to the Customer calculated in accordance with the extra costs incurred by it in respect of such delivery plus an administration fee of 10% thereof and which, if possible, will be notified to the Customer by Davison Highley prior to delivery.
- 6.3 If the premises or property to which the Goods and/or Bespoke Goods are delivered are, at the time of delivery, closed, there is no answer, there is insufficient access, there is insufficient parking, there are prohibitive security restrictions, or if delivery is not accepted, Davison Highley will retain the Goods and/or Bespoke Goods until the Customer has made alternative arrangements to accept delivery acceptable to Davison Highley and Davison Highley will be entitled to make an additional charge (to include but not limited to costs of storage) to the Customer in respect of such.
- 6.4 In the event that the Goods and/or Bespoke Goods are to be collected by the Customer, if such Goods and/or Bespoke Goods have not been so collected within 3 calendar months of the week estimated for collection, Davison Highley will be entitled to make an additional storage charge in respect of the period from such date until the Goods and/or Bespoke Goods are collected. Provided that in the event the Goods and/or Bespoke Goods have not been collected within 6 months of the week estimated for collection, Davison Highley may elect by notice in writing to the Customer to cancel the Customer's order and dispose of the Goods and/or Bespoke Goods as it may decide in its absolute discretion but the Customer shall remain liable for any outstanding balance due to Davison Highley together with any additional storage or other charges incurred as a result of such non-collection.
- 6.5 All Goods and Bespoke Goods supplied by Davison Highley are at the Customer's risk from the moment of delivery under this Clause 6 and the Customer should insure the Goods and/or Bespoke Goods against loss or damage.
- 6.6 Any claim by the Customer in respect of non-delivery of Goods and/or Bespoke Goods ordered by the Customer must be made in writing to Davison Highley within 3 days of the date of delivery, which for the purposes of this Clause only, time shall be of the essence, upon receipt of which Davison Highley shall deal with the claim as it sees fit. Failure to comply with this time period will render any potential claim void.
- 6.7 For the avoidance of doubt, delivery of the Goods and/or Bespoke Goods to the Customer by Davison Highley in accordance with Clause 6.1 is to the kerbside of the address specified in the Customer's order only.
- 6.8 If the Customer requires Davison Highley to make arrangements for the assembly and/or placement of the Goods and/or Bespoke Goods other than kerbside of the address specified in the Customer's order, such arrangements will be subject to the payment by the Customer to Davison Highley of the resulting additional costs in connection with the same as notified by Davison Highley to the Customer.
- 6.9 Save as otherwise may be agreed in writing by Davison Highley, any arrangements made in accordance with Clause 6.8 are to be carried out during normal working hours and in ground floor destinations with sufficient access with no inhibiting parking or security restrictions and not subject to any other matter which may prevent Davison Highley from carrying out such assembly and/or placement.
- 6.10 If Davison Highley agrees to assemble and/or place Goods and/or Bespoke Goods other than in accordance with Clause 6.9 the Customer hereby acknowledges and agrees that the Customer is responsible for the payment of (in addition to the costs of Davison Highley) and provision of sufficient access in all respects to include (but not limited to) adequate lift facilities and any third party specialist assistance which may be required.

7. Price and Terms of Payment

- 7.1 The price for the Goods will be as shown in Davison Highley's current price and/or product list as amended from time to time and will be reflected in the Quotation provided to the Customer. In the case of Bespoke Goods, the price will be reflected in the Quotation.
- 7.2 All sums payable by the Customer pursuant to these Terms are (unless otherwise stated) exclusive of any Value Added Tax or any other applicable tax which the Customer will pay in addition on the due date for payment.
- 7.3 Save as provided at Clause 7.4 and unless otherwise agreed in writing, Davison Highley will, on the acceptance by it of the Customer's order, invoice the Customer for one half the value of the Quotation and the Customer shall pay the said invoice in full immediately. Davison Highley will not process or commence work relating to the Customer's order until such payment is received by it. When the Customer's order has been completed but prior to delivery of the Goods and/or Bespoke Goods in accordance with Clause 6, Davison Highley will invoice the Customer for the balance of sums payable by the Customer in accordance with these Terms and the Customer will pay such invoice in full immediately. Davison Highley shall not be under any obligation to deliver the Goods and/or Bespoke Goods until all sums due to it have been paid in full by the Customer.
- 7.4 If the Customer holds an account with Davison Highley and in the case of Goods only, unless otherwise agreed in writing, upon delivery of the Goods in accordance with Clause 6, Davison

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Highley will invoice the Customer for the full sum payable by the Customer in accordance with these Terms and the Customer will pay such invoice in full within 30 days of the date of that invoice.

- 7.5 Unless otherwise agreed in writing by Davison Highley, payment can only be made in pounds sterling and may only be made by bank transfer or by cheque. The Customer undertakes that all details the Customer provides to Davison Highley for the purpose of ordering and purchasing the Goods and/or Bespoke Goods are correct and that there are sufficient funds to cover the cost of the Goods and/or Bespoke Goods ordered.
- 7.6 The Customer confirms that it consents to the transfer of data held concerning the Customer by Davison Highley to any purchaser or prospective purchaser of Davison Highley only.
- 7.7 All sums payable to Davison Highley under these Terms shall become due immediately upon termination of these Terms despite any provision to the contrary.
- 7.8 Should the Customer fail to pay any invoice, or any part thereof, submitted by Davison Highley, Davison Highley may, without prejudice to any other remedy available to it, charge the Customer interest (both before and after judgment) at the rate of 4% per annum above the base rate of Barclays Bank Plc from the due date until payment is made in full.
- 7.9 Ownership of the Goods and/or Bespoke Goods supplied by Davison Highley or its agents shall not pass to the Customer until all sums due to Davison Highley have been paid in full and until such time the Customer shall keep the Goods and/or Bespoke Goods in good repair and condition and properly protected and insured and designated in such a manner as clearly shows that the Goods and/or Bespoke Goods remain the property of Davison Highley and shall not pledge or charge the Goods and/or Bespoke Goods by way of security for any indebtedness of the Customer, and Davison Highley shall at any time be entitled to enter the Customer's property, or onto any property at which Davison Highley reasonably believes the Goods and/or Bespoke Goods to be, to remove any Goods and/or Bespoke Goods for which the Customer has not paid in full.
- 7.10 Davison Highley shall be entitled to cease or suspend the supply of any Goods and/or Bespoke Goods to the Customer until such time as all outstanding fees and interest are paid in full and shall be entitled to exercise a lien over any items, equipment or documentation belonging to the Customer which may be in the possession of Davison Highley until all moneys due under these Terms have been paid.
- 7.11 Payment is not considered received from the Customer until Davison Highley receives notification of cleared funds representing the amount paid in its bank account or the bank account of its agent or nominee.
- 7.12 The Customer shall make all payments due under these Terms without any deduction whether by way of set-off counterclaim or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by Davison Highley to the Customer

8. Inspection

- 8.1 Upon delivery of the Goods and/or Bespoke Goods to the Customer, the Customer will inspect the Goods and/or Bespoke Goods.
- 8.2 If during the inspection of the Goods and/or Bespoke Goods by the Customer, the Customer discovers any damage to, shortage of or any fault in the specification of the Goods and/or Bespoke Goods, the Customer must notify Davison Highley in writing of such damage (and any further damage discovered) or shortage or fault in specification within 48 hours of delivery, which for the purpose of this Clause only, time shall be of the essence. Failure to comply with this time period will render any potential claim void.
- 8.3 Once notified in accordance with Clause 8.2 of the damage, shortage or fault in specification by the Customer, Davison Highley will:
 - 8.3.1 As soon as reasonably practicable deliver to the Customer to the address specified on the Customer's order any shortage of the Goods and/or Bespoke Goods provided that Davison Highley is satisfied that there is such a shortage of Goods and/or Bespoke Goods; or
 - 8.3.2 Within 7 days of receiving such notification contact the Customer to arrange to inspect the damaged Goods and/or Bespoke Goods and if satisfied that:
 - 8.3.2.1 the damage occurred prior to delivery of the Goods and/or Bespoke Goods to the Customer; and
 - 8.3.2.2 any aesthetic damage can be viewed from a normal standing position; and
 - 8.3.2.3 the Goods and/or Bespoke Goods concerned have not been worked upon or fittedDavison Highley will use all reasonable endeavours to replace the damaged Goods and/or Bespoke Goods as soon as practicable thereafter or if such is not possible, will provide the Customer with a credit note in respect of those Goods and/or Bespoke Goods
 - 8.3.3 Within 7 days of receiving such notification contact the Customer to arrange to inspect the Goods and/or Bespoke Goods which are alleged to have a fault in their specification and if satisfied that the Goods and/or Services do not meet the specification detailed in the Quotation (or any amended specification made in accordance with the provisions of Clause 2) Davison Highley will use all reasonable endeavours to replace the Goods and/or Bespoke Goods as soon as practicable thereafter or if such is not possible, will provide the Customer with a credit note in respect of those Goods and/or Bespoke Goods

9. Warranties

- 9.1. Davison Highley hereby confirms that:
 - 9.1.1. all materials used in the manufacture of the Goods and/or Bespoke Goods by Davison Highley conform to the requirements of the Furniture and Furnishings (Fire Safety) Regulations 1988
 - 9.1.2 internal timber frame structures forming part of the Goods and/or Bespoke Goods supplied by Davison Highley are supplied with a 10 year warranty commencing from the date of delivery of the Goods and/or Bespoke Goods to the Customer
 - 9.1.3 soft fillings forming part of the Goods and/or Bespoke Goods are supplied to Davison Highley by specific manufacturers with a 7 year warranty which Davison Highley will endeavour to pass on to the Customer
 - 9.1.4 upholstery material supplied to or by Davison Highley is subject to the manufacturer's own warranty which, where possible, will be passed on to the Customer
- 9.2 Save as referred to in Clause 9.1, Davison Highley gives no express warranty to the Customer in respect of the Goods and/or Bespoke Goods to include (but not limited to) the materials, fabric, structure, fillings, their performance or their durability. Davison Highley will where possible pass on such guarantees as manufacturers/suppliers provide and will ensure that it notifies manufacturers/suppliers of any written complaints made by the Customer to it relating to any Goods and/or Bespoke Goods manufactured/supplied by them.

10. Liability

- 10.1 All Goods and Bespoke Goods supplied by Davison Highley are believed to be of satisfactory quality and fit for their purpose. The Customer must however satisfy itself that the Goods and/or Bespoke Goods are of the correct specification and designed for the required purpose.
- 10.2 Davison Highley shall not be liable for any claim in relation to any defects in any Goods and/or Bespoke Goods supplied nor for any works necessitated by fair wear and tear, wilful damage, negligence of the Customer, damage caused by any third party, or damage caused as a result of working on the Goods and/or Bespoke Goods, and in any event the Customer should ensure that any work carried out on or with the Goods and/or Bespoke Goods is carried out by individuals or professionals with appropriate skills, qualifications and experience.

- 10.3 Subject as expressly provided in these Terms and except where the Goods and/or Bespoke Goods are supplied to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

- 10.4 Davison Highley shall not be liable for the failure of the operation of its website or any connected or linked website and shall not be liable (including any liability for negligence) for the acts or omissions of telecommunications service providers or for failures of, or faults in their networks and equipment or any other failure or fault connected therewith.

11. Indemnity

- 11.1 The Customer will indemnify Davison Highley against any damages, losses, costs, claims or expenses or any other sums incurred by it in respect of any loss Davison Highley suffers directly or any claim brought against it by any third party in relation to:-
 - 11.1.1 Any loss, injury or damage wholly or partly caused by the Goods and/or Bespoke Goods or their use;
 - 11.1.2 Any loss, injury or damage in any way connected with the performance of these Terms;
 - 11.1.3 Any costs, claims or expenses of any third party involved in recovering outstanding monies due from the Customer to Davison HighleyProvided that this Clause will not require the Customer to indemnify Davison Highley against any liability for the negligence of Davison Highley.

12. Termination

- 12.1 The Customer may only terminate these Terms in accordance with the provisions of Clause 2.
- 12.2 Davison Highley shall be entitled without prejudice to the other rights and remedies available to it, either to terminate the whole or any part of these Terms or to suspend any future service or supply in any of the following events:
 - 12.2.1 If any debt due and payable by the Customer to Davison Highley is unpaid on the due date of payment or if the Customer is in breach of his/her obligations under the Terms
 - 12.2.2 The Customer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation or an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Customer or the Customer ceases or threatens to cease to carry on business or Davison Highley reasonably apprehends that such events are about to occur in relation to the Customer
- 12.3 The termination of the Terms howsoever arising shall be without prejudice to the rights and duties of either the Customer or Davison Highley accrued prior to termination.
- 12.4 Failure by Davison Highley to enforce or partially enforce any provision of the Terms will not be construed as a waiver of any of its rights under these Terms.

13. General

- 13.1 All drawings, descriptive matter, prices, specifications and advertising issued by Davison Highley and any descriptions or illustrations contained in Davison Highley's catalogues or brochures or displayed on its website are issued or published for the sole purpose of giving an approximation of the good(s) and service(s) described and shall not be binding upon Davison Highley. They do not form part of the Terms and subject to Clause 13.2 all patents, copyrights, design rights and all other rights in relation to such items shall remain vested in Davison Highley.
- 13.2 The Goods and/or Bespoke Goods or part of them are or may be protected by patents, copyrights, design rights and other rights and any such rights or confidential information relating to the Goods and/or Bespoke Goods remain with their legal owner solely and absolutely.
- 13.3 Davison Highley may sub-contract all or any part of its rights or obligations under these Terms without the Customer's consent.
- 13.4 The Customer acknowledges that no data transmissions over the Internet can be guaranteed to be 100% secure or free from viruses or faults and Davison Highley cannot ensure or warrant the security of any information transmitted by it to the Customer and the Customer accepts such data transmission at its own risk
- 13.5 These Terms are personal to the Customer who may not assign licence or sub-contract all or any of its rights or obligations under these Terms without Davison Highley's prior written consent.
- 13.6 Any variation to these Terms shall have no effect unless expressly agreed in writing between the parties
- 13.7 Davison Highley shall not be liable for any failure to perform its obligations under these Terms due to unforeseen circumstances or circumstances beyond its control including without limitation labour disturbances (including strikes and lock-out, slowdowns, picketing or boycotts), governmental action, adverse weather conditions, flood or fire.
- 13.8 Any notice required by these Terms to be given by the Customer to Davison Highley shall be in writing and shall be served by sending the same by registered post or recorded delivery to its registered office as set out above or as otherwise notified to the Customer by Davison Highley in accordance with this Clause and any receipt issued by the postal authorities shall be conclusive evidence of the fact and date of posting of any such notice.
- 13.9 Any notice required by these Terms to be given by Davison Highley to the Customer shall be in writing and shall be served by sending the same by registered post or recorded delivery to the Customer's registered office or principal place of business or last known place of address in accordance with this Clause and any receipt issued by the postal authorities shall be conclusive evidence of the fact and date of posting of any such notice.
- 13.10 These Terms shall operate on the footing that if any of the provisions either in part or in whole is held by a Court or any other competent authority not to be valid or enforceable, the validity and enforceability of the remaining provisions of the Terms and the remainder of the affected provision shall continue to apply.