

Our terms

1. These terms

- 1.1. **What these terms cover.** These are the terms and conditions on which we supply products to you, whether these are goods or services.
- 1.2. **CONSUMERS PLEASE NOTE OUR GOODS ARE BESPOKE TO YOUR ORDER & CONSEQUENTLY THERE IS NO COOLING OFF PERIOD FOLLOWING THE SENDING OF OUR CONFIRMATION OF ORDER HOWEVER WE DO OFFER A SUBSTANTIAL WARRANTY WITH OUR PRODUCTS (SEE BELOW) AND YOUR OTHER STATUTORY RIGHTS ARE NOT AFFECTED.**
- 1.3. **Why you should read them.** Please read these terms carefully before you submit your order to us. These terms tell you who we are, how we will provide products to you, how you and we may change or end the contract, what to do if there is a problem and other important information. If you think that there is a mistake in these terms or require any changes, please contact us to discuss.
- 1.4. **Are you a business customer or a consumer?** In some areas you will have different rights under these terms depending on whether you are a business or consumer. You are a consumer if:
- You are an individual.
 - You are buying products from us wholly or mainly for your personal use (not for use in connection with your trade, business, craft or profession).

Provisions specific to consumers only are in **red** and those specific to businesses only are in **blue**.

- 1.5. **If you are a business customer this is our entire agreement with you.** If you are a business customer these terms constitute the entire agreement between us in relation to your purchase. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in these terms and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

2. Information about us and how to contact us

- 2.1. **Who we are.** We are South West Upholstery Limited a company registered in England and Wales. Our company registration number is 07930572 and our registered office is at 2 Charnwood House, Marsh Road, Ashton, Bristol, BS3 2NA. Our registered VAT number is 128394202.

- 2.2. How to contact us.** You can contact us by telephoning our customer service team at 0117 3702745 or by emailing us at sales@swupholstery.co.uk or writing to: Unit 7, Novers Hill, Trading Estate, Bedminster, Bristol, BS3 5QY.
- 2.3. How we may contact you.** If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.
- 2.4. "Writing" includes emails.** When we use the words "writing" or "written" in these terms, this includes emails.

3. Our contract with you

- 3.1. How we will accept your order.** Our acceptance of your order will take place when we email our confirmation of order to you to accept it, at which point a contract will come into existence between you and us.

We may provide a quotation prior to accepting your order the terms of which will be valid for 10 days from sending.

- 3.2. If we cannot accept your order.** If we are unable to accept your order, we will inform you of this in writing and will not charge you for the product. This might be because the product is out of stock, because of unexpected limits on our resources which we could not reasonably plan for, because a credit reference we have obtained for you does not meet our minimum requirements, because we have identified an error in the price or description of the product or because we are unable to meet a delivery deadline you have specified.
- 3.3. Your order number.** We will assign an order number to your order and tell you what it is when we accept your order. It will help us if you can tell us the order number whenever you contact us about your order. The order number will always start with the reference SWU followed by a number.

4. Our products

- 4.1. Products may vary slightly from their pictures and/or colour sample.** The images of the products on our website are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that a device's display of the colours accurately reflects the colour of the products. Equally because of the nature of the materials we are dealing with a material sample may differ when provided on the finished product especially when the sample is scaled up to the actual product. Your product may vary slightly from those images/samples. Although we have made every effort to be as accurate as possible, because our products are handmade, all sizes, weights, capacities, dimensions and measurements indicated on our website are variable.

- 4.2. Product packaging may vary.** The packaging of the product may vary from that shown in images on our website and to reflect the mode of transport.
- 4.3. Making sure your measurements/descriptions are accurate.** If we are making the product to measurements or description you have given us **you are responsible for ensuring that these measurements/descriptions are correct.** You can find information and tips on how to measure on our website or by contacting us. **Should your measurements be incorrect we reserve the right to make an additional charge.**
- 4.4. Fire Regulations.** Where replaced – All foams and fillings conform to furniture and furnishings (Fire) (Safety) regulations 1988 statutory instrument 1324 of 1988. Amended 1989, 1993, 2010. Where treatable all materials meet the requirements for resistance to cigarette and match ignition in the 1988 safety regulations BS5852 Part 1 Source 0 (Cigarette) and 1 (Match). Where the cover fabric is not treatable the inclusion of a fire resistant schedule 3 interliner is used on the main furniture body. For contract upholstery all materials meet BS5852 Part 2 Source 5 (Crib 5) standards.

5. Your rights to make changes

If you wish to make a change to the product you have ordered please contact us. We will let you know if the change is possible. If it is possible we will let you know about any changes to the price of the product, the timing of supply or anything else which would be necessary as a result of your requested change and ask you to confirm whether you wish to go ahead with the change.

6. Our rights to make changes

6.1. Minor changes to the products. We may change the product:

- (a) to reflect changes in relevant laws and regulatory requirements and those regulations may affect the type and quality of material we use; and
- (b) to implement minor technical adjustments and improvements, for example to address tailoring and pleating of the product. These changes will not affect your use of the product but they might the look and feel of the product.

7. Providing the products

7.1. Delivery costs. The costs of delivery will be as displayed in our confirmation of order.

7.2. When we will provide the products.

- (a) **If the products are goods.** If the products are goods we will deliver them on the date(s) specified in our confirmation of order.

(b) **If the products are one-off services.** We will confirm the estimated start and completion of our services in our confirmation of order.

- 7.3. **We are not responsible for delays outside our control.** If our supply of the products is delayed by an event outside our control (including epidemics or pandemics) then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event, but if there is a risk of substantial delay you may contact us to end the contract and receive a refund for any products you have paid for but not received.
- 7.4. **Collection by you.** If you have asked to collect the products from our premises, you can collect them from us, following receipt of written confirmation from that the product is ready for collection, at any time during our working hours of 9.00am till 5.00pm on weekdays (excluding public holidays).
- 7.5. **If you are not at home when the product is collected or delivered.** If no one is available at your address to take delivery or we cannot gain access for any reason, we will leave you a note informing you of how to rearrange delivery/collection or we will contact you to re-arrange delivery/collection. **We may make an additional charge for re-delivery/collection.**
- 7.6. **If you do not re-arrange delivery/collection.** If you do not collect the products from us as arranged or if, after a failed delivery/collection to you/from you, you do not re-arrange delivery/collection or collect them from a delivery depot we will contact you for further instructions and may charge you for storage costs and any further delivery/collection costs. If, despite our reasonable efforts, we are unable to contact you or re-arrange delivery or collection we may end the contract and clause 10.2 (You must compensate us if you break the contract) will apply.
- 7.7. **If you do not allow us access to provide services.** If you do not allow us access to your property to perform the services as arranged (and you do not have a good reason for this) we may charge you additional costs incurred by us as a result. If, despite our reasonable efforts, we are unable to contact you or re-arrange access to your property we may end the contract and clause 10.2 will apply.
- 7.8. **When you become responsible for the goods.** A product which is goods will be your responsibility from the time we deliver the product to the address you gave us or you or a carrier organised by you collect it from us.
- 7.9. **When you own goods.** You own a product which is goods once we have received payment in full for all goods ordered.

7.10. What will happen if you do not give required information to us. We may need certain information from you so that we can supply the products to you, for example, measurements. If so, this will have been stated in the description of the products on our website. We will contact you in writing to ask for this information. If you do not give us this information within a reasonable time of us asking for it, or if you give us incomplete or incorrect information, we may either end the contract (and clause 10.2 will apply) or make an additional charge of a reasonable sum to compensate us for any extra work that is required as a result. We will not be responsible for supplying the products late or not supplying any part of them if this is caused by you not giving us the information we need within a reasonable time of us asking for it.

7.11. Reasons we may suspend the supply of products to you. We may have to suspend the supply of a product to:

- (a) deal with technical problems or make minor technical changes;
- (b) update the product to reflect changes in relevant laws and regulatory requirements;
- (c) make changes to the product as requested by you or notified by us to you (see clause 6).

7.12. Your rights if we suspend the supply of products. We will contact you in advance to tell you we will be suspending supply of the product, unless the problem is urgent or an emergency. You may contact us to end the contract for a product if we suspend it, or tell you we are going to suspend it, in each case for a period of more than 6 month and we will refund any sums you have paid in advance for the product in respect of the period after you end the contract less any material costs.

7.13. We may also suspend supply of the products if you do not pay. If you do not pay us for the products when you are supposed to (see clause 14.3) (Price and payment) and you still do not make payment within 7 days of us reminding you that payment is due, we may suspend supply of the products until you have paid us the outstanding amounts. We will contact you to tell you we are suspending supply of the products. We will not suspend the products where you dispute the unpaid invoice (see clause 14.7). We will not charge you for the products during the period for which they are suspended. As well as suspending the products we can also charge you interest on your overdue payments (see clause 14.6).

8. Your rights to end the contract

8.1. You can always end your contract with us. Your rights when you end the contract will depend on what you have bought, whether there is anything wrong with it, how we are performing, when you decide to end the contract and whether you are a consumer or business customer:

- (a) **If what you have bought is faulty or misdescribed you may have a legal right to end the contract** (or to get the product repaired or replaced or a service re-performed or to get some or all of your money back), **see clause 12 if you are a consumer** and **clause 13 if you are a business**;
- (b) **If you want to end the contract because of something we have done or have told you we are going to do, see clause 8.2.**

8.2. Ending the contract because of something we have done or are going to do. If you are ending a contract for a reason set out at (a) to (d) below the contract will end immediately and we will refund you in full for any products which have not been provided. The reasons are:

- (a) we have told you about an error in the price or description of the product you have ordered and you do not wish to proceed;
- (b) there is a risk that supply of the products may be significantly delayed for more than 6 months and because of events outside our control;
- (c) we have suspended supply of the products for technical reasons, or notify you we are going to suspend them for technical reasons, in each case for a period of more than 6 months; or
- (d) you have a legal right to end the contract because of something we have done wrong.

8.3. Our guarantee for consumers & businesses. We guarantee our products for 24 months from delivery or availability for collection and services for 12 months from the completion of the services subject to the following terms: normal wear and tear, prior notification to us and allowing us to inspect the product prior to its return.

This guarantee does not affect your legal rights as consumers in relation to faulty or misdescribed products (see clause 12.1).

8.4. Ending the contract where we are not at fault (consumers). Even if we are not at fault, you can still end the contract before it is completed, but you may have to pay us compensation. A contract for goods is completed when the product is delivered. A contract for services is completed when we have finished providing the services and you have paid for them. If you want to end a contract before it is completed where we are not at fault, just contact us to let us know. The contract will end immediately and we will refund any sums paid by you for products not provided but we may deduct from that refund (or, if you have not made an advance payment, charge you) reasonable compensation for the net costs we will incur as a result of your ending the contract.

- 8.5. Ending the contract where we are not at fault (businesses).** Even if we are not at fault you can still end the contract before it is completed. A contract for goods is completed when the product is delivered. A contract for services is completed when we have finished providing the services and you have paid for them. If you want to end the contract in these circumstances, just contact us to let us know. The contract will not end until 1 calendar month after the day on which you contact us. We will refund any advance payment you have made for products which will not be provided to you. For example, if you tell us you want to end the contract on 4 February we will continue to supply the product until 3 March. We will only charge you for supplying the product up to 3 March and will refund any sums you have paid in advance for the supply of the product after 3 March and reasonable compensation for the net costs we will incur as a result of your ending the contract.

9. How to end the contract with us

- 9.1. Tell us you want to end the contract.** To end the contract with us, please let us know by doing one of the following (**please note the telephone calls are not an acceptable form of communication**):

- (a) **Email.** Email us at sales@swupholstery.co.uk. Please provide your name, home address, details of the order and, where available, your phone number and email address.
- (b) **By post.** Write to us at that address, including details of what you bought, when you ordered or received it and your name and address. **Unit 7, Novers Hill, Trading Estate, Bedminster, Bristol, BS3 5QY.**

- 9.2. Returning products after ending the contract.** If you end the contract for any reason after products have been dispatched to you or you have received them, you must return them to us. You must either return the goods in person to where you bought them or allow us to collect them from you. Please call customer services on 0117 3702745 or email us at sales@swupholstery.co.uk to arrange collection.

- 9.3. When we will pay the costs of return.** We will pay the costs of return:

- (a) if the products are faulty or misdescribed;
- (b) if you are ending the contract because we have told you of an upcoming change to the product or these terms, an error in pricing or description, a delay in delivery due to events outside our control or because you have a legal right to do so as a result of something we have done wrong.

In all other circumstances you must pay the costs of return.

- 9.4. What we charge for collection.** If you are responsible for the costs of return and we are collecting the product from you, we will charge you the direct cost to us of collection.

9.5. How we will refund you. If you are entitled to a refund under these terms we will refund you the price you paid for the products including delivery costs, by the method you used for payment. However, we may make deductions from the price, as described below.

9.6. When we may make deduction from refunds.

- (a) We may reduce your refund of the price (excluding delivery costs) to reflect any reduction in the value of the goods, if this has been caused by your handling them in a way which would not be permitted in a shop. If we refund you the price paid before we are able to inspect the goods and later discover you have handled them in an unacceptable way, you must pay us an appropriate amount.
- (b) The maximum refund for delivery costs will be the costs of delivery by the least expensive delivery method we offer. For example, if we offer delivery of a product within 3-5 days at one cost but you choose to have the product delivered within 24 hours at a higher cost, then we will only refund what you would have paid for the cheaper delivery option.

9.7. When your refund will be made. We will make any refunds due to you as soon as possible. If the products are goods your refund will be made within 14 days from collection by us or our agent.

10. Our rights to end the contract

10.1. We may end the contract if you break it. We may end the contract for a product at any time by writing to you if:

- (a) you do not make any payment to us when it is due and you still do not make payment within 7 days of us reminding you that payment is due;
- (b) you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the products, for example, colour selection and measurements;
- (c) you do not, within a reasonable time, allow us to deliver/collect the products to/from you or collect them from us;
- (d) you do not, within a reasonable time, allow us access to your premises to supply the services.

10.2. You must compensate us if you break the contract. If we end the contract in the situations set out in clause 10.1 we will refund any money you have paid in advance for products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the contract.

- 10.3. **We may withdraw the product.** We may write to you to let you know that we are going to stop providing the product. When possible will let you know at least 1 calendar in advance of our stopping the supply of the product and will refund any sums you have paid in advance for products which will not be provided. It might be that we have to give you shorter notice due to the lack of notice we receive from our suppliers.

11. If there is a problem with the product

How to tell us about problems. If you have any questions or complaints about the product, please contact us. You can telephone our customer service team at 0117 3702745 or email us at sales@swupholstery.co.uk. Alternatively, please speak to one of our staff in-store.

12. Your rights in respect of defective products if you are a consumer

- 12.1. If you are a consumer we are under a legal duty to supply products that are in conformity with this contract. See the box below for a summary of your key legal rights in relation to the products. Nothing in these terms will affect your legal rights.

- 12.2. **Your obligation to return rejected products.** If you wish to exercise your legal rights to reject products you must allow us to collect them from you. We will pay the costs of collection. Please call customer services on 0117 3702745 or email us at sales@swupholstery.co.uk to arrange collection

13. Your rights in respect of defective products if you are a business

- 13.1. If you are a business customer we warrant that on delivery, and for a period of 24 months from the date of delivery [8.3] (guarantee), any products which are goods shall:
- (a) conform with their job description;
 - (b) be free from material defects in design, material and workmanship.

- 13.2. Subject to clause 13.3, if:

- (a) you give us notice in writing during the warranty period within a reasonable time of discovery that a product does not comply with the warranty set out in clause 13.1;
 - (b) we are given a reasonable opportunity of examining such product; and
 - (c) you return such product to us at our cost,
- we shall, at our option, repair or replace the defective product, or refund the price of the defective product in full.

- 13.3. We will not be liable for a product's failure to comply with the warranty in clause 13.1 if:

- (a) you make any further use of such product after giving a notice in accordance with clause 13.2(a);
 - (b) the defect arises because you failed to follow our oral or written instructions as to the storage, installation, commissioning, use or maintenance of the product or (if there are none) good trade practice;
 - (c) the defect arises as a result of us following any drawing, design or specification supplied by the Customer;
 - (d) you alter or repair the product without our written consent; or
 - (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions.
- 13.4. Except as provided in this clause 13, we shall have no liability to you in respect of a product's failure to comply with the warranty set out in clause 13.1.
- 13.5. These terms shall apply to any repaired or replacement products supplied by us under clause 13.2.

14. Price and payment

- 14.1. Where to find the price for the product.** The price of the product (which includes VAT) will be the price indicated on our confirmation of order.
- 14.2. We will pass on changes in the rate of VAT.** If the rate of VAT changes between your order date and the date we supply the product, we will adjust the rate of VAT that you pay, unless you have already paid for the product in full before the change in the rate of VAT takes effect.
- 14.3. When you must pay and how you must pay.** For **goods and/or services**, you must pay 50% with your order and 50% when we confirm the goods are ready for collection or despatch or we confirm our services are complete. We reserve the right to receive 100% of the price with order. This will usually be when the product is completely bespoke. Our confirmation of order will specify our payment terms.

You can pay your deposit direct into our bank using the following details; please include your SWU referencenumber.

Bank: Lloyds TSB Bristol, Sort Code: 30-94-83, Account: 44805960.

Alternatively, you can call or pay over the phone or request a secure payment link for card payments.

- 14.4. Our right of set-off if you are a business customer.** If you are a business customer you must pay all amounts due to us under these terms in full without any set-off,

counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

14.5. We can charge interest if you pay late. If you do not make any payment to us by the due date we may charge interest to you on the overdue amount at the rate of 4] % a year above the base lending rate of Lloyds Bank Plc from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with any overdue amount.

14.6. What to do if you think an invoice is wrong. If you think an invoice is wrong please contact us promptly to let us know. You will not have to pay any interest until the dispute is resolved. Once the dispute is resolved we will charge you interest on correctly invoiced sums from the original due date.

15. Our responsibility for loss or damage suffered by you if you are a consumer

15.1. We are responsible to you for foreseeable loss and damage caused by us. If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking this contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.

15.2. We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to the products and for defective products under the Consumer Protection Act 1987

15.3. When we are liable for damage to your property. If we are providing services in your property, we will make good any damage to your property caused by us while doing so. However, we are not responsible for the cost of repairing any pre-existing faults or damage to your property that we discover while providing the services.

15.4. We are not liable for business losses. If you are a consumer we only supply the products for to you for domestic and private use. If you use the products for any commercial, business or re-sale purpose our liability to you will be limited as set out in clause 16.

16. Our responsibility for loss or damage suffered by you if you are a business

16.1. Nothing in these terms shall limit or exclude our liability for:

- (a) death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable);
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
 - (d) defective products under the Consumer Protection Act 1987.
- 16.2. Except to the extent expressly stated in clause 13.1 all terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are excluded.
- 16.3. Subject to clause 16.1:
- (a) we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with any contract between us; and
 - (b) our total liability to you for all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the greater of £500,000 and fifty per cent (50%) of the total sums paid by you for products under such contract.

17. How we may use your personal information

- 17.1. **How we will use your personal information.** We will only use your personal information as set out in our privacy statement on our website (swupholstrey.co.uk).

18. Other important terms

- 18.1. **We may transfer this agreement to someone else.** We may transfer our rights and obligations under these terms to another organisation.
- 18.2. **You need our consent to transfer your rights to someone else (except that you can always transfer our guarantee).** You may only transfer your rights or your obligations under these terms to another person if we agree to this in writing. **If you are a consumer you may transfer our guarantee at clause [8.4 to a person who has acquired the product or, where the product is services, any item or property in respect of which we have provided the services. We may require the person to whom the guarantee is transferred to provide reasonable evidence that they are now the owner of the relevant item or property, for example by providing sale documentation to show the change of ownership.**

- 18.3. Nobody else has any rights under this contract (except someone you pass your guarantee on to).** This contract is between you and us. No other person shall have any rights to enforce any of its terms, except as explained in clause 18.2 in respect of our guarantee. Neither of us will need to get the agreement of any other person in order to end the contract or make any changes to these terms.
- 18.4. If a court finds part of this contract illegal, the rest will continue in force.** Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 18.5. Even if we delay in enforcing this contract, we can still enforce it later.** If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the products, we can still require you to make the payment at a later date.
- 18.6. Which laws apply to this contract and where you may bring legal proceedings if you are a consumer.** These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.
- 18.7. Alternative dispute resolution if you are a consumer.** Alternative dispute resolution is a process where an independent body considers the facts of a dispute and seeks to resolve it, without you having to go to court. If you are a consumer and are not happy with how we have handled any complaint, you may want to contact the alternative dispute resolution provider we use. You can submit a complaint to the Furniture & Home Improvement Ombudsman (FHIO) via their website at fhio.org. FHIO will not charge you for making a complaint and if you are not satisfied with the outcome you can still bring legal proceedings.
- 18.8. Which laws apply to this contract and where you may bring legal proceedings if you are a business.** If you are a business, any dispute or claim arising out of or in connection with a contract between us or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim.

