

## **GLASDON, INC. - ONLINE TERMS AND CONDITIONS OF SALE**

### **1. Definitions**

“Buyer” means the individual, corporation, limited liability company, partnership, joint venture, association, governmental subdivision, agency or instrumentality or other legal or commercial entity who buys or agrees to buy the Goods and/or Services from the Seller.

“Conditions” mean these Terms and Conditions of Sale, as amended from time to time.

“Contract” means the total legal obligation between the Seller and the Buyer for the supply of the Goods and/or Services in accordance with the Order, the acceptance, these Conditions and the applicable laws of the jurisdiction described in Section 11.9 of these Conditions.

“Goods” means the goods (or any part of them) set out in the Order.

“Order” the order placed by the Buyer for the supply of Goods and/or Services, as set out in the email acknowledgement from the Seller.

“Seller” means Glasdon, Inc., a Virginia corporation.

“Services” means the services supplied by the Seller to the Buyer as set out in the Order.

“Writing” means an intentional recording in a visual form, including handwriting, typewriting, facsimile transmission, PDF or electronic mail. “Written” has a corresponding meaning.

### **2. Information about the Seller and Buyer’s status**

2.1 [www.glasdon.com](http://www.glasdon.com) is a website operated by the Seller.

2.2 By placing an Order through the Seller’s website, the Buyer warrants that:

(a) Buyer is legally capable of entering into binding contracts, including without limitation the Contract, whether on Buyer’s own behalf or on behalf of Buyer’s organization or company; and

(b) Buyer is at least 18 years old.

### **3. Basis of Contract**

3.1 After placing an Order, the Buyer will receive an e-mail acknowledging receipt and details of the Order. All Orders are subject to acceptance by the Seller, and Seller will confirm such acceptance to the Buyer via email. The Contract will only be formed when the Seller sends the Buyer a confirmation email.

3.2 The Order constitutes an offer by the Buyer to purchase Goods and/or Services from the Seller in accordance with the Order and these Conditions. The Buyer will also be subject to the terms and conditions of the online purchasing service the Buyer uses to place an Order with the Seller.

- 3.3 The Contract constitutes the entire agreement between the parties with respect to the subject matter contained in the Contract. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the Contract. As a result of continuing product improvement and development, the specification or design of the Goods may vary from that shown on the Seller's website, and in its sales literature and technical drawings. In any event, such sales literature, technical drawings and the contents of the website shall not form part of the Contract or any other contract or agreement between the Seller and the Buyer for the supply of the Goods and/or Services, nor shall such items constitute representations or warranties by the Seller.
- 3.4 The Buyer warrants and undertakes to the Seller that it has the legal right to use any information and/or documents (including any intellectual property rights) provided or supplied by the Buyer to the Seller, and agrees to indemnify the Seller and keep the Seller indemnified against any claims, costs, awards, damages, interest, penalties, expenses, and losses (which includes but is not limited to both direct and indirect loss suffered by the Seller including loss of profit) arising out of, whether directly or indirectly, the Buyer's breach of any intellectual property rights in any such information and/or documents.
- 3.5 These Conditions apply to the Contract at the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

#### **4. Goods and Services**

- 4.1 The Seller reserves the right to make any changes to the specification of the Goods and/or Services which are required to conform to any applicable laws and/or recommended commercial practice.
- 4.2 If the Buyer requests any change(s) to the Goods and/or Services, such request shall not be deemed accepted by the Seller until the Seller issues written acceptance of such change(s). Upon acceptance by the Seller, the requested change(s) shall become a part of the Contract pursuant to the terms and conditions of the Seller's acceptance.

#### **5. Prices and Payments**

- 5.1 The price for the Goods and/or Services shall be the price set out in the Order or on the Seller's website (and acknowledged by the Seller). All prices quoted by the Seller are exclusive of all applicable taxes and tariffs, which shall be charged to the Buyer at the prevailing rate. The Buyer shall be responsible for payment of all shipping and delivery charges incurred by the Seller for the shipment and delivery of the Goods.
- 5.2 The Seller's website contains a large number of Goods and/or Services, and it is always possible that, despite the Seller's best efforts, some of the Goods and/or Services listed may be incorrectly priced. The Seller is under no obligation to provide Goods and/or Services at an incorrect (lower) price, even after it has sent a confirmation of Order email to the Buyer.
- 5.3 Payments for all Goods and/or Services must be made at the time the Order is placed, by credit or debit card. Seller reserves the right to charge the Buyer for any subsequent taxes, tariffs or fees related to the sale.
- 5.4 The Seller reserves the right to adjust its prices from time to time, although this will not affect the price of Goods and/or Services ordered prior to the price adjustments.

## **6. Delivery**

- 6.1 The Seller shall deliver the Goods to the location as set out in the Order or such other location as the parties may agree. Delivery of the Goods shall be deemed to be completed on the earlier of (i) arrival at the delivery location or (ii) the Seller putting the Order in storage in accordance with clause 6.4.
- 6.2 Any time or date of delivery stated in the Order is an estimate only and time of delivery is not of the essence. If reasonably practical, the Seller will however contact the Buyer to advise them if there is likely to be a delay. The Seller shall not be liable for any delay in delivery of the Goods whatsoever, or the Buyer's failure to provide the Seller with adequate delivery instructions, notice of delay or any other instructions that are relevant to the supply of the Goods.
- 6.3 If the Seller fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Seller shall have no further liability for any failure to deliver the Goods.
- 6.4 If the Buyer fails to accept or take delivery of the Goods within 10 days of attempted delivery or the Seller notifying the Buyer that the Goods are ready for delivery, then the Seller shall be entitled to store the Goods until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance).
- 6.5 If 2 months after the Seller notifies the Buyer that the Goods were ready for delivery and the Buyer has not accepted or taken delivery of the Goods, the Seller may resell or otherwise dispose of part or all of the Goods. Notwithstanding the foregoing, nothing contained in these Conditions shall limit the Seller's rights and remedies in law or in equity.

## **7. Warranty**

- 7.1 The Seller warrants that on delivery, and for a period of 12 months from the date of delivery, the Goods shall:
- (a) conform in all material respects with their description and any applicable specification; and
  - (b) be free from material defects in design, material and workmanship.
- 7.2 Subject to clause 7.3:
- (a) if the Buyer gives notice in Writing during the warranty period and within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 7.1; and
  - (b) the Seller is given a reasonable opportunity to examine the Goods
- the Seller shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 7.3 The Seller shall not be liable for the Goods' failure to comply with the Warranty in clause 7.1 if:

- (a) a defect arises because the Buyer fails to follow the Seller's oral or written instructions as to storage, installation, use or maintenance of the Goods, or if there are none, good trade practice;
- (b) a defect arises as a result of the Seller following any drawing, design or specification supplied by the Buyer;
- (c) the Buyer alters or repairs such Goods without the written consent of the Seller; or
- (d) a defect arises as a result of fair wear and tear, wilful damage, negligence or abnormal working conditions by the Buyer or any other third party.

7.4 Except as provided in this clause 7, the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the Warranty set out in clause 7.1.

7.5 The Seller shall provide the Services to the Buyer in accordance with any applicable specification in all material respects.

7.6 The Seller shall use all reasonable endeavours to meet any performance dates for the services specified in the Order, but any such dates shall be an estimate only, and time shall not be of the essence for the performance of the Services.

7.7 The Seller shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirements, or which do not materially affect the nature or quality of the Services, and the Seller shall notify the Buyer in any such event.

7.8 THE WARRANTIES AND ANY ASSOCIATED REMEDIES OF BUYER EXPRESSED IN THESE CONDITIONS ARE EXCLUSIVE. NO OTHER WARRANTY, WRITTEN OR ORAL, EXPRESS OR IMPLIED, MAY BE INFERRED, WHETHER BY COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. SELLER HEREBY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## **8. Title and Risk**

8.1 The risk of damage or loss in the Goods passes to the Buyer upon delivery. Title to the Goods remains vested in the Seller until such time as the Seller has received payment in full (in cash or cleared funds) for the Goods, and any other goods that the Seller (or any of its associated companies) has supplied to the Buyer in respect of which payment has become due.

8.2 Until title to the Goods has passed to the Buyer, the Buyer shall hold the Goods as the Seller's bailee, maintain the Goods in satisfactory condition and keep them insured against all risks, and store the Goods separately from any other goods held by the Buyer so that they remain identifiable as the Seller's property, but the Buyer may resell or use the Goods in the ordinary course of its business. In the event of the Goods being sold by the Buyer to a third party in the ordinary course, the Seller's rights under this clause shall attach to the proceeds of the sale and the Seller shall have a claim of title to such proceeds, and the Buyer shall place such proceeds in a separate account. Nothing herein shall constitute the Buyer as the agent of the Seller for the purposes of any such sub-sale.

- 8.3 If, before title to the Goods passes to the Buyer, the Buyer becomes subject to any events set out in clause 9.1, or the Seller reasonably believes that any such event is likely to occur and notifies the Buyer accordingly, then provided the Goods have not been resold or irrevocably incorporated into another product, and without limiting any other right or remedy the Seller may have, the Seller may at any time require the Buyer to return the Goods to the Seller, and if the Buyer fails to do so promptly, the Seller enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.

## **9. Termination**

- 9.1 Without limiting its other rights and remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or a petition is filed for the winding up of the business and affairs of the Buyer, or the Buyer becomes a debtor in bankruptcy or otherwise executes an assignment for the benefit of its creditors.
- 9.2 Without limiting its other rights and remedies, the Seller may terminate the Contract with immediate effect by giving notice in Writing to the Buyer if the Buyer fails to pay any amounts due to the Seller under the Contract by the due date for payment.

## **10. Limitation of Liability**

- 10.1 IN NO EVENT SHALL THE SELLER BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE, OR LOST PROFITS OR REVENUES, IN CONNECTION WITH THE CONTRACT OR THE PROVIDING OF THE GOODS AND/OR THE SERVICES.
- 10.2 THE SELLER'S TOTAL LIABILITY TO THE BUYER IN RESPECT OF ALL OTHER LOSSES ARISING UNDER OR IN CONNECTION WITH THE CONTRACT CAUSED BY THE SELLER, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, SHALL NOT EXCEED THE PRICE OF THE ORDER.

## **11. General**

- 11.1 The Seller shall not be liable to the Buyer for any delay or failure to perform its obligations under the Contract arising as a result of an event beyond its reasonable control, including but not limited to acts of God, strikes, terrorist acts, labor shortage or disturbance, fire, accident, war and civil disturbance, delays of carriers, failure of sources of supply, or acts of government.
- 11.2 Neither party shall at any time disclose to any person any confidential information concerning the business or affairs of the other party, except to those of its employees, agents, or sub contractors as need to know such information for the purpose of meeting its obligations under the Contract, and that party shall ensure that such employees, agents, and sub contractors are subject to the obligations of confidentiality set out in this clause. This clause shall survive termination of the Contract.
- 11.3 Any notice required to be given to a party in connection with the Contract shall be in Writing, and shall be delivered the other party personally or sent by pre-paid first class post or recorded delivery to the address as set out in the Order or by facsimile transmission or electronic email at a number or an address previously provided. Any notice shall be deemed to have been received if delivered personally when left at such

address, or if sent by pre-paid first class post or recorded delivery, on the second business day after posting or if by facsimile transmission or electronic mail, on the date of sending.

- 11.4 The Seller may at any time assign, transfer, sub contract, or deal in any other manner with all or any of its rights under the Contract. The Buyer shall not, without the prior written consent of the Seller, assign, transfer, sub contract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 11.5 A waiver of any rights under the Contract is only effective if it is in Writing, and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by the party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise.
- 11.6 If a court, or other competent authority, finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 11.7 Any person who is not a party to the Contract shall not have any right under or in connection with it.
- 11.8 Any variation to the Contract shall only be binding if agreed in Writing between the parties.
- 11.9 This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by the laws of the Commonwealth of Virginia. The venue for any suit involving the Contract shall be in either the District or Circuit Court for the City of Richmond, Virginia or the United States District Court for the Eastern District of Virginia, Richmond Division.
- 11.10 In any litigation or other proceeding regarding a dispute under the Contract, the prevailing party shall be entitled to recover its reasonable costs and attorneys' fees from the non-prevailing party.