

# Terms Of Use

## ELONS CUSTOM FURNITURE TERMS OF USE

Last updated September, 2019

### **IMPORTANT: ALL USERS MUST READ THESE TERMS**

**Acceptance of Terms and Conditions.** Please carefully read ELONS CUSTOM FURNITURE, LLC's ("ELONS CUSTOM FURNITURE") Terms of Use, and Privacy Policy (collectively, the "Terms of Use") before accessing, purchasing from, or using the Site. By accessing or using elonscustomfurniture.com (the "Site"), you acknowledge that you have read, understand, and agree to be bound by all the terms set forth in these Terms of Use. You can accept these Terms of Use in one of three ways: (1) by clicking to "accept" or "agree" to these Terms of Use, where this option is presented or made available to you on the Site; (2) by actually using the Site; and/or, (3) by making purchases from the Site.

BY USING THE WEBSITE, YOU AGREE TO THIS AGREEMENT IN FULL. IF YOU DO NOT AGREE TO THIS AGREEMENT IN FULL, DO NOT USE THE WEBSITE. EXCEPT AS OTHERWISE PROVIDED, THIS AGREEMENT IS SUBJECT TO CHANGE AT ANY TIME WITHOUT NOTICE AND YOUR CONTINUED USE OF THE WEBSITE AND/OR PURCHASE OF ANY PRODUCTS FROM THE WEBSITE AFTER ANY CHANGES HAVE BEEN IMPLEMENTED CONSTITUTES ACCEPTANCE BY YOU OF SUCH CHANGES. IF YOU DO NOT AGREE TO THE TERMS OF USE AS SET FORTH IN THIS AGREEMENT, YOU MUST EXIT THIS PAGE AND MAY NOT ACCESS OR OTHERWISE USE THIS WEBSITE OR ORDER ANY ITEMS THROUGH THIS WEBSITE.

### **GENERAL**

**The Site.** ELONS CUSTOM FURNITURE allows you to purchase items from the Site. These Terms of Use govern the use of this Site by you. By using this Site (other than to read these Terms of Use for the first time) or by creating an account, you agree to comply with these Terms of Use. The right to use this Site is personal to you and is not transferable to any other person or entity. You agree that you are responsible for protecting the confidentiality of your password if you create an account. You may use the Site only as permitted by these Terms of Use and only in a manner consistent with all applicable federal and state laws, rules and regulations, and generally accepted practices or guidelines in relevant jurisdictions, including any laws governing the export of data to or from the United States.

**Use and Restrictions.** The Site may be accessed and used only by individuals who can form legally binding contracts under applicable laws, who are 13 years of age or older, and who are not barred from using the Site under applicable laws. You acknowledge and agree that ELONS CUSTOM FURNITURE, in its sole discretion and without notice or any further obligation to you, may temporarily suspend or permanently discontinue and refuse any and all current and future, access to or use of the Site.

**Your Account.** In order to purchase items through this Site, you may establish an account with ELONS CUSTOM FURNITURE. You are solely responsible for (i) maintaining the security and confidentiality of your account and your account password; (ii) restricting access to your computer and your account; and (iii) keeping your email address listed on your account current. You are solely responsible and liable for all activities, including, without limitation, all purchases of items through the use of the Site that occur under your account or your account password. You acknowledge and agree that ELONS CUSTOM FURNITURE may access, preserve, and disclose your account information, all User Communications (as defined below), all communications to and from you, all information relating to your use of the Site, and all information relating to the use of the Site under your account or account password if ELONS CUSTOM FURNITURE is required to do so by law or legal process or if ELONS CUSTOM FURNITURE determines, in its sole discretion, that such action is necessary to protect the rights of ELONS CUSTOM FURNITURE, third parties, and other users of the Site or for purposes of responding to your request for customer service. ELONS CUSTOM FURNITURE's right to disclose any such information shall govern over any terms of our Privacy Policy. If you choose not to establish an account, you agree and acknowledge that your rights to return items, look up previous orders, and other features of the Site may be limited.

**Changes to the Terms of Use.** ELONS CUSTOM FURNITURE reserves the right to make any modification to these Terms of Use, as ELONS CUSTOM FURNITURE deems necessary or desirable without prior notification to you. ELONS CUSTOM FURNITURE suggests, therefore, that you re-read this important notice containing our Terms of Use from time to time in order that you stay informed as to any such changes. If ELONS CUSTOM FURNITURE makes changes to our Terms of Use and you continue to use the Site, including, but not limited to, logging into your account or purchasing items from ELONS CUSTOM FURNITURE, you are agreeing to and accepting the Terms of Use and Privacy Policy expressed herein, including any modifications. Please note any deletions or modifications to these Terms of Use shall be effective immediately upon ELONS CUSTOM FURNITURE' posting thereof.

**Privacy Policy.** ELONS CUSTOM FURNITURE cares about your privacy. ELONS CUSTOM FURNITURE' Privacy Policy applies to the use of the Site, and its terms are made a part of these Terms of Use by this reference. To view our Privacy Policy, click

here. Additionally, by using the Site, you acknowledge that the Internet is not a secure environment and sometimes there are interruptions in service or events that are beyond the control of ELONS CUSTOM FURNITURE and that communications with ELONS CUSTOM FURNITURE can never be guaranteed to be secure. You understand that any message or information you send to the Site may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted. Nonetheless, ELONS CUSTOM FURNITURE employs reasonable measures to protect your information from unauthorized use or disclosure. While ELONS CUSTOM FURNITURE makes these reasonable precautions against loss or theft of data, neither ELONS CUSTOM FURNITURE nor its associates shall be responsible for any data lost or stolen while transmitting information on the Internet. While it is ELONS CUSTOM FURNITURE's objective to make the Site accessible 24 hours per day, 7 days per week, the Site may be unavailable at any time for any reason including, without limitation, routine maintenance.

## **PURCHASES**

**Products Descriptions.** In describing and portraying our products on the Site, ELONS CUSTOM FURNITURE attempts to be as accurate as possible. However, ELONS CUSTOM FURNITURE does not warrant that the product descriptions are accurate, complete, reliable, current, or error-free. ELONS CUSTOM FURNITURE reserves the right to correct any typographical errors, inaccuracies, or omissions that may relate to product descriptions, pricing, and availability from time to time without prior notice. In addition, you acknowledge that each product sold on the Site is handmade and unique, and that there may be variations in color and/or size, either now or over time, due to the difference in what you see on a computer screen versus in real life, the handmade nature of these products, and the materials used in the creation of these products. Also, you acknowledge that multiple orders of the same product may not be identical due to the handmade nature of these products.

**All Orders Are Final.** ELONS CUSTOM FURNITURE tries to process orders within 3 business days of receiving the information and will give you an estimated ship date. All orders are final except for delays caused by ELONS CUSTOM FURNITURE. If the delay is caused by ELONS CUSTOM FURNITURE, you will be given the option to cancel your order before production begins. If the delay is caused due to missing information from you, ELONS CUSTOM FURNITURE will process your order as soon as your information is received. All orders are final even if they are delayed once production begins on the product you ordered. We do not issue refunds for delays caused with shipping. Once the item has been built we can no longer offer refunds unless the item is lost in shipping or totaled in shipping and you choose a refund over a new unit.

**Defective/Damaged Items.** If you believe you have received a defective/damaged item or incorrect order, you must contact ELONS CUSTOM FURNITURE within 24 hours of receipt along with a photo of the defect or damages. ELONS CUSTOM FURNITURE will contact you within three business days to discuss the defect or damages and the best course of action to correct it. If the item was damaged during shipping ELONS CUSTOM FURNITURE reserves the right to first replace or restore the piece of furniture before a refund or a new kennel can be made.

**Shipping.** When you place an order on ELONS CUSTOM FURNITURE, your order will be shipped to the address designated by you as long as that shipping address can accept packages. ELONS CUSTOM FURNITURE may require verification of information prior to the acceptance and/or shipment of any order. ELONS CUSTOM FURNITURE reserves the right, without prior notice, to limit the order quantity on any product or service, and/or to refuse service to any customer. Shipping costs are calculated based on your address unless a flat fee is available. If additional shipping is required we will update the customer before the item ships. All kennels are fully insured by our shipping company.

**Delivery Date.** You will be contacted approximately two days prior to delivery to confirm that date and time of your delivery. for the shipment.

**Non-Continental US/International Shipping.** At this time ELONS CUSTOM FURNITURE only ships to locations United States through our Site. If you are outside of this area, please contact ELONS CUSTOM FURNITURE for shipping availability.

**Taxes.** At this time, ELONS CUSTOM FURNITURE only collects taxes from buyers with shipping and/or payment addresses in Colorado. If you are outside Colorado, you will be responsible for all taxes.

**Heavy Articles.** Most of the items purchased through the Site are extremely heavy. Please have at least two individuals available on the day of delivery to move your items as most freight companies will only delivery the items to your door. Most of our products are shipped fully assembled. Please do not drag your Kustom Kennel as this can cause damage to the legs of the Kustom Kennel.

**Use of Products.** All products are made with non-toxic materials. However, you should limit any chewing, licking, or other uses of our products by your animals. ELONS CUSTOM FURNITURE is not responsible for any injury to your animal due to the misuse of the Custom Kennel or other animal furniture product such as damage to the structure of the product, damage to the area where your animal furniture product is stored and/or injury to your animal such as splinters, scratches, and/or other injuries. Further, our products should be used with plastic trays so that should your animal have an accident, the furniture does not get soiled.

## **Intellectual Property**

**Change in the Site, its Contents, and its Features.** ELONS CUSTOM FURNITURE reserves the right, at any time in our sole discretion, to modify, suspend, or discontinue the Site or any service, content, feature, or items offered through the Site, with or without notice; change the equipment and/or programs necessary to access the Site, charge fees in connection with the use of the Site; modify and/or waive any fees charged in connection with the Site; and/or offer opportunities to some or all users of the Site. ELONS CUSTOM FURNITURE may discontinue disseminating any portion of information or category of information, may change or eliminate any transmission method and may change transmission speeds or other signal characteristics. You agree that ELONS CUSTOM FURNITURE shall not be liable to you or to any third party should any of the foregoing occur with respect to the Site. Further, ELONS CUSTOM FURNITURE may request additional information at any time by you to update or enhance benefits and/or use of the Site.

**Communications.** This Site and all content contained within are private property. All interactions on this Site must comply with these Terms of Use. By submitting material to the Site (“User Communications”), including, but not limited to, information, suggestions, ideas, concepts, know-how, techniques, questions, comments or other communication, whether such submission is by a public feature of the Site (i.e. posting area) or by private transmission (i.e. email and/or letter to ELONS CUSTOM FURNITURE), you warrant that such content is original to you, that you own all applicable legal rights in such content, and that the content does not and will not infringe upon the rights of any other person or entity. Further, by submitting any User Communication, you agree and acknowledge that you have expressly granted ELONS CUSTOM FURNITURE a royalty-free, perpetual, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate, and distribute such material (in whole or in part) worldwide and/or to incorporate it in other works in any form, media, or technology now known or hereafter developed for the full term of any copyright that may exist in such material. You agree that ELONS CUSTOM FURNITURE may use any User Communication for any purpose in ELONS CUSTOM FURNITURE’s sole discretion, including reproduction, transmission, disclosure, publication, broadcast, development, manufacturing and/or marketing in any manner whatsoever for any or all commercial or non-commercial purposes. You agree that ELONS CUSTOM FURNITURE shall be under no obligation to maintain any User Communication in confidence; to pay compensation for any User Communication; and/or to monitor, use, return, review or respond to any User Communication.

**Your Responsibility.** If you post information on the Site, you are solely responsible for each User Communication that you post on the Site and agree that you will not hold ELONS CUSTOM FURNITURE responsible or liable for any User Communication from another user that you access on the Site. Moreover, ELONS CUSTOM FURNITURE reserves the right to delete any User Communication from our Site, including, but not limited to, negative feedback if ELONS CUSTOM FURNITURE finds that such feedback is untrue or abusive. You understand that when using the Site, you will be exposed to User Communications from a variety of sources and that ELONS CUSTOM FURNITURE is not responsible for the accuracy, usefulness, safety, or intellectual property rights of or relating to such User Communications.

**Copyright and Trademarks.** The Site is owned and controlled by ELONS CUSTOM FURNITURE and unless otherwise agreed in writing, all materials on our Site, including text, menus, graphics, information, content, images, illustrations, designs, icons, photographs, video clips, sounds, music, artwork, computer code, and other materials, and the copyrights, trademarks, trade dress, and/or other intellectual property rights in such materials (collectively, the "Content"), are owned, controlled, and/or licensed by ELONS CUSTOM FURNITURE. ANY COPYING, DISTRIBUTING, TRANSMITTING, POSTING, LINKING, DEEP LINKING, OR OTHERWISE MODIFYING OF THIS WEBSITE OR ANY OF THE PAGES IN THE WEBSITE WITHOUT THE EXPRESS WRITTEN PERMISSION OF ELONS CUSTOM FURNITURE IS STRICTLY PROHIBITED. The Site and Content are intended solely for your personal, non-commercial use. You may not download or copy any of the Content without permission from ELONS CUSTOM FURNITURE unless such permission is explicitly granted on the Site. Any permitted downloads or permitted copies of the Content are for your personal use only. No right, title, or interest in any downloaded or copied Content is transferred to you as a result of any such downloading or copying. You may not reproduce (except as noted above or on the Site), publish, transmit, distribute, display, perform, alter, modify, create derivative works from, sell, exploit, or otherwise use any of the Content or the Site for any public or commercial purpose. ELONS CUSTOM FURNITURE also owns a copyright in the selection, coordination, arrangement, and enhancement of such content, as well as in the content original to it. You may not modify, publish, transmit, participate in the transfer or sale, create derivative works, or in any way exploit, any of the content, in whole or in part. You may not upload or republish Site Content on any Internet, Intranet, or Extranet Site or incorporate the information in any other database or compilation. ELONS CUSTOM FURNITURE does not permit use of any data mining, robots, scraping, or similar data-gathering or extraction methods. Certain trademarks, trade names, service marks, and logos used or displayed on this Site are registered and unregistered trademarks, trade names, and service marks of ELONS CUSTOM FURNITURE and its affiliates. Other trademarks, trade names, and service marks used or displayed on this Site are the registered and unregistered

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THE PROVISIONS OF THIS SECTION SHALL APPLY TO ALL CONTENT ON THIS SITE. IN ADDITION TO THE TERMS SET FORTH ABOVE, NEITHER ELONS CUSTOM FURNITURE, NOR ITS AFFILIATES, INFORMATION PROVIDERS, OR CONTENT PARTNERS SHALL BE LIABLE REGARDLESS OF THE CAUSE OR DURATION, FOR ANY ERRORS, INACCURACIES, OMISSIONS, OR OTHER DEFECTS IN, OR UNTIMELINESS OR UNAUTHENTICITY OF, THE INFORMATION CONTAINED WITHIN THIS SITE, OR FOR ANY DELAY OR INTERRUPTION IN THE TRANSMISSION THEREOF TO YOU, OR FOR ANY CLAIMS OR LOSSES ARISING THEREFROM OR OCCASIONED THEREBY. NONE OF THE FOREGOING PARTIES SHALL BE LIABLE FOR ANY THIRD PARTY CLAIMS OR LOSSES OF ANY NATURE, INCLUDING WITHOUT LIMITATION LOST PROFITS, PUNITIVE OR CONSEQUENTIAL DAMAGES. ELONS CUSTOM FURNITURE IS NOT RESPONSIBLE FOR ANY CONTENT THAT AN ENDUSER OR AN UNAUTHORIZED USER MAY POST ON THIS WEBSITE. ANY CONTENT THAT IS POSTED OR UPLOADED THAT IS OR MAY BE DEEMED UNSUITABLE CAN AND MAY BE TAKEN DOWN BY ELONS CUSTOM FURNITURE. MOREOVER, ELONS CUSTOM FURNITURE RESERVES THE RIGHT TO EDIT, CHANGE, ALTER, DELETE, AND PROHIBIT ANY AND ALL CONTENT THAT IT, ELONS CUSTOM FURNITURE, DEEMS UNSUITABLE.

**Use of Items.** YOUR USE OF ANY ITEMS PURCHASED FROM THE SITE IS AT YOUR OWN RISK. IN NO EVENT WILL ELONS CUSTOM FURNITURE BE LIABLE TO YOU FOR ANY DAMAGES CAUSED BY THE USE OF ITEMS. YOU TAKE FULL RESPONSIBILITY FOR THE USE OF ANY ITEM YOU BUY AND AGREE TO INDEMNIFY AND HOLD HARMLESS ELONS CUSTOM FURNITURE FOR ANY INJURIES CAUSED BY THE USE OF SUCH ITEMS.

**Limitation on Damages.** If any part of these warranty disclaimers or limitations of liability is found to be invalid or unenforceable for any reason or if ELONS CUSTOM FURNITURE is otherwise found to be liable to you in any manner, then ELONS CUSTOM FURNITURE's aggregate liability for all claims under such circumstances for liabilities, shall not exceed ten United States dollars. You agree to defend, indemnify, and hold harmless ELONS CUSTOM FURNITURE, its officers, directors, employees, business partners and agents, from, and against any and all claims, damages, obligations, losses, liabilities, costs, debt, and/or expenses (including but not limited to attorneys' fees) arising from: (1) any breach by you of any of these Terms of Use; (2) your User Communications; and/or (3) a violation by you of applicable law or any agreement or terms with a third party to which you are subject.

## **Termination**

Either you or ELONS CUSTOM FURNITURE may terminate these Terms of Use at any time. You may terminate these by ceasing all use of the Site. ELONS CUSTOM FURNITURE may terminate these by ceasing to offer the Site to you and/or the general public or by sending notification that you can't use the Site. If you have purchased any items from ELONS CUSTOM FURNITURE prior to termination and such items are either (a) in production or (b) have been shipped to you, you will still be required to remit payment for such items. If you have purchased any items from ELONS CUSTOM FURNITURE prior to termination and such items are not in production nor have the items been shipped to you, ELONS CUSTOM FURNITURE will not be required to send such items to you nor shall you be required to pay for them.

### **Miscellaneous**

**Severability.** If a court of competent jurisdiction holds any provision of these Terms of Use invalid, such invalidity shall not affect the enforceability of any other provisions contained in these Terms of Use and the remaining portions of these Terms of Use shall continue in full force and effect.

**Governing Law; Venue and Jurisdiction.** By using the Site and/or purchasing products from this Site, you agree that the laws of the State of Colorado, without regard to principles of conflict of laws, will govern these Terms of Use and any dispute of any sort that might arise between you and ELONS CUSTOM FURNITURE. You agree not to commence or prosecute any action in connection therewith other than in the state and federal courts located in Denver, Colorado, and you hereby consent to, and waive all defenses of lack of personal jurisdiction and forum non conveniens with respect to, venue and jurisdiction in the state and federal courts of Colorado.

**Indemnity.** You agree to indemnify and hold ELONS CUSTOM FURNITURE, its subsidiaries and affiliates, and each of their directors, officers, agents, contractors, partners, and employees, harmless from and against any loss, liability, claim, demand, damages, costs, and expenses, including reasonable attorneys fees, arising out of or in connection with any use of the Site, your conduct in connection with the Site, or with other users of the Site, or any violation of these Terms of Use or of any law or the rights of any third party.

**Electronic Communications.** You consent to receive electronic communications from ELONS CUSTOM FURNITURE either in the form of email sent to you at the email address listed on your account or by communications posted on the Site. You acknowledge and agree that any electronic communication in the form of such email or posting on the Site shall satisfy any legal requirement that such communication be in writing.