

BODY GLIDE
USA Purchase & Sale Policy

Dealer and Body Glide¹

The parties will comply with all terms and conditions of this policy (“Policy”) including the [Conditions of Sale](#), [Body Glide Brand Guidelines](#), and [Limited Warranty](#).

The purpose of the Policy is to ensure and protect brand quality and the value of Body Glide Products to consumers.²

Dealer, when authorized in writing by Body Glide, may buy certain BG Products for resale to consumers in Dealer’s physical store location(s) (“**Authorized Dealer**”).³ [See § 2 “[Requirements To Sell Online](#)”]

1. Consumers Sales, Warranty; Sell, Ship, Invoice, Advertise, Promote; Change in Business

Consumers, Warranty	The Body Glide warranty is invalid if consumers or unauthorized third parties resell the Products, and accordingly: Dealer will not knowingly sell or transfer Products to any person or entity Dealer knows or should have reason to know intends to resell the Products.
Sell, Ship, Invoice, Advertise, Promote	Dealer will not sell, ship, invoice, advertise or promote the Products outside the United States of America without Body Glide’s prior written consent – and for avoidance of doubt, this applies to advertising that appears on any third party website, regardless of language, that is customized for, serves or services any region or audience outside the USA, including but not limited to Amazon®, eBay®, Facebook®, Instagram®, and all others.
Permitted Sales	Dealer is only permitted to sell, ship, deliver the Products to consumers within the USA or to an Army Post Office (APO), Fleet Post Office (FPO), or Diplomatic Post Office (DPO) address. Dealer shall not donate or give away Products without the prior written consent of Body Glide.
Changes to Dealer’s Business	Dealer will promptly notify Body Glide of any change in Dealer’s contact details, locations, ownership, management or conditions related to Dealer’s business with Body Glide.

2. Requirements To Sell Online.

<u>Separate Agreement Required</u>	Dealer sales online is subject to the Body Glide Authorized Online Seller Agreement that requires the signature of both parties, or may be by other Body Glide approval – and certain online sales of Body Glide are not authorized under any circumstances.
<u>Unauthorized Sales</u>	Dealer will not sell the Products on or through any website, marketplace or other electronic address in the world including but not limited to Amazon, eBay, Walmart, Google or other online store, mobile application, forum, blog, classified or social media sites including, such as, Facebook, Instagram and all others.

3. Sales Practices.

¹ W Sternoff LLC dba Body Glide (“**Body Glide**”, “**BG**”, or “**manufacturer**”) is a state of Washington limited liability company. BG and Dealer, each, is a “party” and collectively, the “parties” to this agreement.

² This Policy and the Conditions of Sale are subject to update and revision by BG from time to time. This version, dated August 1, 2020, supersedes all previous BG authorization(s) and policy documents received by Dealer. This Policy hereby revokes and replaces any previous authorization granted to Dealer by Body Glide or Policy document received from Body Glide with any permission to sell the Products anywhere, including but not limited to, through any website, mobile application, or other online forum.

³ The authorization continues unless or until Body Glide revokes authority in its sole and absolute discretion.

- Dealer will:
- (a) Sell Body Glide Products under Dealer's "**True Branded Name**", one (1) public facing name used on Dealer's bricks-and-mortar store(s), and any exception must be in writing received from Body Glide.
 - (b) Conduct its business in a reasonable and ethical manner at all times and shall not engage in any deceptive, misleading, or unethical practices or advertising;
 - (c) Not advertise, market, display, or demonstrate the Products together with non-Body Glide products in a manner that may create the impression that the non-Body Glide products are made by, endorsed by, or associated with Body Glide;
 - (d) Not make any warranties or representations concerning the Products except as expressly authorized by Body Glide (See **Exhibit B, Limited Warranty**);
 - (e) Comply with any and all applicable laws, rules, regulations, and policies related to the advertising, sale, and marketing of the Products;
 - (f) Represent the Products in a professional manner and refrain from any conduct that is or could be detrimental to the reputation of Body Glide;
 - (g) Provide sell-through information for the Products on Body Glide's request, in a form reasonably requested by Body Glide;
 - (h) Not bundle the Products for sale with non-Body Glide products without prior written consent from Body Glide;
 - (i) Sell Products with the original Body Glide labels intact, as received from Body Glide in the original Body Glide secondary packaging (and any exception must be in writing received from Body Glide);
 - (j) Not relabel, repackage, or alter the Products or secondary packaging except to place a price sticker;
 - (k) Not cover-over any text or trade dress, remove, translate, or modify the contents of any label or literature on, in or accompanying the Body Glide packaging and Products;
 - (l) Not tamper with, deface, or otherwise alter any lot number or expiration date, UPC code, batch or lot code, or other identifying information on Products or their packaging; and
 - (m) Not alter, dilute, blend, or in any way adulterate or copy the Products.

4. Product Care, Customer Service, and Other Quality Controls.

- Dealer will:
- (a) Comply with all instructions provided by Body Glide regarding the storage, handling, shipping, disposal, or other aspect of the Products, including instructions provided on Product labels, and Dealer shall transport and store Products in a cool, dry place away from direct sunlight;
 - (b) Not sell any Product that has been returned or repackaged (any exception must be in writing received from Body Glide);

(c) Promptly, upon receipt of shipment, inspect the Products and their packaging for damage, defect, or evidence of other nonconformance (a “Defect”), and if any Defect is identified, Dealer must not offer the Product for sale and must promptly report the Defect to Body Glide at gc@bodyglide.com or call (888) 263-9454;

(d) Inspect its inventory regularly for expired or soon-to-be expired Products and will not sell any Products that are expired or within 180 days of expiration. For Product within 180 days of expiration, Dealer will contact Body Glide at gc@bodyglide.com or (888) 263-9454 for options and instructions.

(e) Be familiar with the special features of all the Products marketed for sale and request sufficient Product knowledge (“PK”) from Body Glide to inform customers on the selection and safe use of the Products, as well as applicable Body Glide warranty, guarantee, or return policy. Dealer’s PK questions can be called into Body Glide at (888) 263-9454 or emailed to pk@bodyglide.com. Dealer must be available to respond to customer questions and concerns both before and after sale of the Products and should endeavor to respond to customer inquiries promptly.

(f) Cooperate with Body Glide with respect to any Product tracking systems that may be implemented from time to time to ensure and protect the quality and value of Body Glide Products.

(g) Cooperate with Body Glide with respect to any Product recall or other consumer safety information dissemination efforts.

(h) Report to Body Glide at gc@bodyglide.com and/or telephone at (888) 263-9454, any customer complaint or adverse claim regarding the Products of which Dealer becomes aware, and Dealer will assist Body Glide in investigating any such complaints or adverse claims.

(i) Cooperate with Body Glide in the investigation and resolution of any quality or customer service issues related to Dealer’s sale of the Products, including disclosing information regarding batch or lot numbers, Product sources, shipment, and handling.

(j)

5. Intellectual Property.

Ownership Rights	All proprietary rights in and to the Body Glide brands, names, logos, trademarks, service marks, trade dress, copyrights, and other intellectual property related to the Products (the “ Body Glide IP ”) is owned by Body Glide.
License	Dealer is granted a limited, non-exclusive, non-transferable, revocable license to use the Body Glide IP solely for purposes of marketing and selling the Products as set forth in the Policy (“license”). This license will cease upon termination of Dealer’s status as an Authorized Dealer.
Benefit	All goodwill arising from Dealer’s use of the Body Glide IP inures solely to the benefit of Body Glide.
Guidelines	Dealer’s use of the Body Glide IP shall be in accordance with the guidelines provided by Body Glide from time to time including attached Exhibit A, <u>Body Glide Brand Guidelines</u> , and must be commercially reasonable as to the size, placement, and other manners of use.
Review & Approval Rights	Body Glide reserves the right to review and approve, in its sole discretion, Dealer’s use or intended use of the Body Glide IP at any time, without limitation, and Body Glide reserves the right to review and approve all advertising material containing the Body Glide IP.
<u>Unauthorized Use</u>	Dealer shall not create, register, or use, as its own, any domain name, social media

handle, or any mobile application that contains any Body Glide product name or any trademark owned by Body Glide, nor a misspelling or confusingly similar variation of any Body Glide product name or any trademark owned by Body Glide.

6. Termination.

Right to Terminate	If Dealer violates this Seller Policy, Body Glide reserves the right to terminate Seller's status as an Authorized Seller with written or electronic notice.
Procedures	Upon termination of Dealer's status as an Authorized Dealer and at BG's sole discretion: Dealer (i) will immediately cease acting in any manner that may reasonably give the impression that Dealer is an Authorized Dealer of Body Glide Products or has any affiliation whatsoever with Body Glide; (ii) will immediately cease using all Body Glide IP; (iii) at Body Glide's direction, may sell through any remaining inventory or ship the inventory back to Body Glide to receive credit subject to Body Glide's determination of marketability of each unit of Product; and (iv) will comply with any additional instructions provided by Body Glide.

7. Modification. Body Glide reserves the right to update, amend, or modify this Policy with written or electronic notice to Dealer ("amendment(s)"). Unless otherwise provided, such amendments will take effect immediately and Dealer's continued use, advertising, offering, sale, shipment of the Products or use of Body Glide IP or use of any other information or materials used in connection with the Products, are deemed to be Dealer's acceptance of the amendments.

8. Confidentiality. This Dealer Policy, and any attachments constitute confidential, proprietary information of Body Glide. This Dealer Policy, and its attachments, will not be used for any purpose other than facilitating the authorized advertising and sale of the Products and will not be disclosed to any third party without the prior written consent of Body Glide.

9. Audit. Body Glide may review Dealer's activities for compliance with this Dealer Policy, and Dealer agrees to cooperate with any investigation, including but not limited to permitting BG inspection of Dealer's facility and records related to the sale of the Products.

10. Agreement. This agreement including the Body Glide Brand Guidelines, [Limited Warranty](#) and [Conditions of Sale](#) is understood, accepted and agreed to by each party, signified by their respective signature of acknowledgment and agreement on the first page above.

EXHIBIT A BODY GLIDE BRAND GUIDELINES

These Brand Guidelines will enable Dealer to use Body Glide's trademarks consistently and correctly. For any questions regarding how to use Body Glide IP pursuant to these guidelines, please contact Body Glide by email at info@bodyglide.com or by telephone at (888) 263-9454. Body Glide reserves the right to review and approve all use of the Body Glide IP in advertising materials.

Body Glide trademarks include, but are not limited to:

Body Glide®
Cycle Glide®
Foot Glide®
Glide®
Skin Glide®
Endurance Insurance®

Body Glide™
Cycle Glide™
Foot Glide™
Glide™
Skin Glide™
Endurance Insurance™

Prevention is Better than a Cure®
You Got This®
Stops Trouble Before It Starts®
Blister Resister®
Glides On Easy®
The Original Anti Blister Stick®
Leave Nothing to Chance®
Life Moves®
Used Around The World By People Just Like You®
Don't Run Without It®

Prevention is Better than a Cure™
You Got This™
Stops Trouble Before It Starts™
Blister Resister™
Glides On Easy™
The Original Anti Blister Stick™
Leave Nothing to Chance™
Life Moves™
Used Around The World By People Just Like You™
Don't Run Without It™

The “DOs” of the Body Glide IP:

1. Use the appropriate ® or ™ symbol in connection with the Body Glide trademarks.
2. Always capitalize the “B” and the “G” in Body Glide.
3. Always spell Body Glide as two (2) separate words. Do not shorten the Body Glide trademarks to a single word (*e.g.*, “Bodyglide”).
4. Use the Body Glide trademarks (*e.g.*, Body Glide®, Foot Glide®, Skin Glide®, Cycle Glide®) to *describe* their respective Product (*e.g.*, Body Glide Foot Glide Anti Blister Balm, Body Glide Skin Glide Anti Friction Cream).
5. If the Body Glide trademark to be used is “Body Glide,” accompany the first use of the Body Glide trademark with a credit (*i.e.* “Body Glide® is a registered trademark of and used with permission by Body Glide”) in either a footnote next to the Seller’s copyright notice, at the end of the printed document, at the end of the webpage, or other logical location given the medium used.

The “DO NOTS” of the Body Glide IP:

1. Do not use the Body Glide trademarks as a verb (*e.g.*, “we bodyglide before we run”), in plural form (*e.g.*, “Body Glides”), in possessive form (*e.g.*, “Body Glide’s Balm”), or as a noun (*e.g.*, “Body Glide prevents blisters”) unless referring to Body Glide as the company.
2. Do not incorporate the Body Glide trademarks or portions thereof into another word (*e.g.*, hikeglide, travelglide).
3. Do not use or display the Body Glide IP more prominently than Seller’s legal name or registered fictitious name.
4. Do not alter or imitate the Body Glide IP.
5. Do not use the Body Glide IP in a damaging or derogatory way; in a way that suggests or implies an endorsement by Body Glide of Seller’s other non-Body Glide products or services (unless Seller obtains Body Glide’s prior written consent); or in a way that suggests or implies an association with Body Glide for Seller’s other non-Body Glide products or services (unless Seller obtains Body Glide’s prior written consent); in any manner that is likely to cause confusion, mistake, or deception; or in any untruthful or inaccurate manner.
6. Do not use, copy or reproduce any artwork or images containing the Body Glide IP from any source other than Body Glide unless Seller receives Body Glide’s prior, written authorization.
7. Do not modify artwork or images containing the Body Glide IP.
8. Do not copy, modify, or use images of Body Glide without Body Glide’s prior, written consent.

Use of Body Glide IP in Promotional Material or Publications:

1. When using the Body Glide trademarks in a short promotional material or publication, use the appropriate ® or ™ symbol in connection with the (1) first use and (2) the most prominent use. Thereafter, it is not necessary to continue to use the ® or ™ symbol after every use.
2. When using the Body Glide trademarks in a longer promotional material or publication, use the appropriate ® or ™ symbol in connection with the (1) first use, (2) the most prominent use, and (3) again in each logical new section of the publication or promotional material.
3. If used on Seller's Website that is subject to prior authorization granted through execution by Body Glide of the Body Glide Authorized Online Seller Agreement, Seller use the ® or ™ symbol with the (1) first use of the Body Glide trademark(s) on each and every individual webpage and (2) the most prominent use on each and every individual webpage.
4. Do not use the Body Glide IP in email signatures unless the Body Glide IP is being used with other marks or images of other brands sold by the Seller.
5. If Seller is pre-approved in writing to donate or give away the Products pursuant to Section 1 of this Brand Protection Policy, Seller will conspicuously include in Seller's promotional material the following statement:
"Body Glide is a registered trademark in the US and around the world."

If you would like access to Body Glide's press kit, please email pr@bodyglide.com.

EXHIBIT B

Body Glide Limited Warranty

W Sternoff LLC d/b/a Body Glide ("Body Glide") warrants to the original purchaser that our products ("Product(s)") will be free of manufacturing defects until the Product's expiration date under normal care instructions when purchased from Body Glide or from an authorized Body Glide seller. Because Body Glide is unable to control the quality of its products sold by unauthorized sellers, unless otherwise prohibited by law, this limited warranty does not cover Body Glide products purchased from unauthorized sellers. Body Glide or the Body Glide authorized seller will replace or provide a refund for a defective product that is covered by this limited warranty.

The limited warranty does not cover:

- Products purchased other than from Body Glide or an authorized Body Glide seller.
- Products that have passed their expiration date.
- Damage from storing the product contrary to directions on the packaging.
- Products purchased or delivered outside the country designated on the package.
- Products that have been tampered with, modified, or altered.

To make a warranty claim, please call Body Glide at 1-888-263-9454 or email qc@bodyglide.com with the following information available:

- Product Name and Size
- Place of Purchase, including Name of the seller of the Product
- Date of Purchase
- Purchase Price
- Lot/Batch code printed on the bottom of the product tube
- Expiration date printed on the bottom of the product tube

You may then be asked to send pictures of the Product which show the claimed defect, the expiration date, and lot number, and provide a copy of the original purchase receipt or other proof of purchase by email to qc@bodyglide.com or by mail to 1600 124th Avenue NE, Suite G, Bellevue, WA 98005.

There are no warranties which extend beyond those stated herein. Any implied warranties that may be applicable to Products, including implied warranties of merchantability or fitness for a particular purpose, are limited in duration to the duration of this warranty. Some States do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you. Under no circumstances will Body Glide be liable for any special, incidental, or consequential damages based upon breach of this limited warranty, breach of contract or strict liability. Some States do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. This warranty gives you specific legal rights, and you may also have other rights which vary from State to State.

- **This warranty is invalid if consumers or unauthorized third parties resell the Products.**
- The **only** authorized Amazon marketplace sellers are **Body Glide** and **Amazon.com**.
- Body Glide has not authorized any other sellers on Amazon or on other online marketplaces.
- The Body Glide warranty is invalid for any Body Glide Product sold or shipped outside the United States by or through Amazon.com.

If you have any questions about whether a seller is an Body Glide Authorized Body Glide Dealer, please contact Body Glide at 1-888-263-9454.

You can check for Body Glide Authorized Dealers using the "Find a Store" function of our website.

**BODY GLIDE
CONDITIONS OF SALE
FOR THE UNITED STATES**

1 INTERPRETATION

1.1 **Definitions.** The following definitions apply:

- 1.1.1 **"Body Glide"** is W Sternoff LLC (trading as Body Glide LLC), the Washington limited liability company, registered office at 1600 124th Avenue NE, Suite G, Bellevue, WA 98005.
- 1.1.2 **"Business Day"** is a day (other than a Saturday, Sunday, a public holiday or a day adjacent to a public holiday) when banks in the United States of America and the country of the Dealer's main place of establishment are open for business.
- 1.1.3 **"Conditions"** means the terms and conditions set out in this document as amended from time to time in accordance with clause 12.5.
- 1.1.4 **"Contract"** is a contract between Body Glide and a Dealer for the sale and purchase of the Products in accordance with these Conditions.
- 1.1.5 **"Dealer Agreement"** is a fully executed written agreement into which these Conditions are incorporated for purchase and sale of Body Glide Products.
- 1.1.6 **"Dealer"** is any person, company or entity that purchases the Products from Body Glide at the wholesale or retail level of trade.
- 1.1.7 **"Force Majeure Event"** has the meaning given in clause 10.
- 1.1.8 **"Group"** means in relation to a company, that company, its subsidiaries, its holding companies and their subsidiaries.
- 1.1.9 **"Order"** is a Dealer's purchase order for the Products as set out in the Body Glide's order form.
- 1.1.10 **"Products"** are the products supplied by Body Glide (or any part of them) set out in the Order.
- 1.1.11 **"Specification"** is any specification for the Products that is issued by Body Glide.
- 1.1.12 **"Shipping Location"** is 1600 124th Avenue Northeast, G, Bellevue, WA 98005.

1.2 **Interpretation.** In these Conditions, the following rules apply:

- 1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.2 A reference to a party includes its personal representatives, successors or permitted assigns.
- 1.2.3 A reference to law, a statute or statutory provision is a reference to such law, statute or provision as amended or re-enacted and includes any subordinate legislation made under that law, statute or statutory provision, as amended or re-enacted.
- 1.2.4 Any phrase introduced by the terms **including, include, in particular** or any similar expression will be construed as illustrative and will not limit the sense of the words preceding those terms.
- 1.2.5 A reference to **writing** or **written** includes faxes and emails.

2 APPLICATION AND BASIS OF CONTRACT

- 2.1 These Conditions apply to the exclusion of any other terms that Dealer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. They apply to sale of Body Glide Products in the United States of America including the District of Columbia and its territories, and sales, shipment, delivery and resale not therein are prohibited.

- 2.2 The Order constitutes an offer by the Dealer to purchase the Products in accordance with these Conditions. The Dealer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Dealer are complete and accurate.
- 2.3 The Contract will come into existence at the point where the Order is deemed to be accepted by issuance of written acceptance or fulfilment by Body Glide.
- 2.4 The Contract constitutes the entire agreement between the parties. The Dealer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Body Glide which is not set out in the Contract.
- 2.5 Any advertising produced by Body Glide and any descriptions or illustrations contained in Body Glide's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Products described in them. They will not form part of the Contract or have any contractual force.

3 PRODUCTS

- 3.1 The Products are described in the Specification (See 1.1.11).
- 3.2 Body Glide reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.

4 SHIPMENT

- 4.1 Body Glide will ensure that each shipment of the Products to the intended Dealer is accompanied by a shipping note which shows the date of the Order, all relevant Dealer and Body Glide reference numbers, and the type and quantity of the Products.
- 4.2 Body Glide will make the Products ready and available for shipment ("**Availability**") at the shipping location ("**Shipping Location**") at any time after Body Glide notifies the Dealer that the Products are ready, or as otherwise agreed by them in writing.
- 4.3 The **Shipping Location** will be EXW ("Incoterms 2020") Body Glide warehouse, Bellevue, WA. In the event of any inconsistency between Incoterms 2020 and these terms and conditions, these terms and conditions will prevail.
- 4.4 Dealer is responsible for choice and costs of transport of each Shipment from the Shipping Location where departure of each Shipment will establish that the Dealer has taken delivery of the Products ("**Delivery**").
- 4.5 Any dates quoted by Body Glide for shipment of the Products are approximate only, and the date and time of availability for shipment is not "of the essence" unless otherwise agreed in writing.
- 4.6 Body Glide is not liable for any delay in Availability of the Products that is caused by a Force Majeure Event or the Dealer's failure to provide Body Glide with shipment information and instructions or any other instructions that are relevant to the supply of the Products.
- 4.7 On or after **15** Business Days following the day of Availability about which Body Glide notified the Dealer, if the Dealer has not taken Delivery of them, Body Glide may: (i) resell or otherwise dispose of part or all of the Products; (ii) thereafter, deduct reasonable storage, relabelling, repackaging, handling and selling costs; and (iii) charge the Dealer for any shortfall below the final selling cost of the Products of which the Dealer had not taken Delivery.
- 4.8 If agreed in writing, Body Glide may deliver the Products by instalments, which shall be invoiced and paid for separately. Each instalment will constitute a separate Contract. Any delay in delivery or defect in an instalment will not entitle the Dealer to cancel any other instalment.

5 QUALITY & WARRANTY

- 5.1 Body Glide warrants that the Products will be free of manufacturing defects and defects in materials under normal Body Glide care instructions until the Product's expiration date **provided that:**
- 5.1.1 the Products are directly purchased from Body Glide by the Dealer and transported, handled, received, stored and directly sold to the consumer without damage in the Product original packaging: or

- 5.1.2 the Products are directly purchased by the consumer from Body Glide.
- 5.2 Subject to clause 5.3, Body Glide will, at its option, replace defective Products, or refund the price of the defective Products in full, if:
 - 5.2.1 during the warranty period within a reasonable time of discovery Body Glide receives from the Dealer written notice [including images] that some or all of the Products do not comply with the warranty set out in clause 5.1; and
 - 5.2.2 Body Glide is given a reasonable opportunity of examining such Products,
- 5.3 The warranty in clause 5 does not cover:
 - 5.3.1 products handled or purchased other than provided in clause 5.1;
 - 5.3.2 products that have passed their expiration date or were not sold within a reasonable period of time prior to the expiration date;
 - 5.3.3 damage occurs for any reason after the Product is collected from Body Glide at the Shipping Location including, but not limited to damage from tampering, modifying, or altering the product, container, original packaging after Delivery [Clause 4.4].
- 5.4 Except as provided in this clause 5, Body Glide will have no liability to the Dealer with respect to the Products' failure to comply with the warranty set out in clause 5.1.
- 5.5 The warranty in clause 5.1 is given in lieu of any warranties, conditions or other terms implied by law (whether statute or common law).
- 5.6 These Conditions shall apply to any replacement Products supplied by Body Glide.

6 TITLE AND RISK

- 6.1 At the time of Delivery, the risk in the Products will pass to the Dealer.
- 6.2 Title to the Products will not pass to the Dealer until the earlier of:
 - 6.2.1 Body Glide receiving payment in full (in cash or cleared funds) for the Products and any other goods that Body Glide has supplied to the Dealer, in which case title to the Products will pass at the time of payment of all such sums; and
 - 6.2.2 the Dealer reselling the Products, in which case title to the Products will pass to the Dealer at the time specified in clause 6.4.
- 6.3 Until title to the Products has passed to the Dealer, the Dealer will:
 - 6.3.1 handle and store the Products so that they remain readily identifiable as Body Glide's property;
 - 6.3.2 maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - 6.3.3 notify Body Glide immediately if Dealer becomes subject to any of the events listed in clause 8.2; and
 - 6.3.4 give Body Glide such information relating to the Products as Body Glide may require from time to time.
- 6.4 Subject to clause 6.5, the Dealer may resell or use the Products in the ordinary course of its business (but not otherwise) before Body Glide receives payment for the Products. However, if the Dealer resells the Products before that time:
 - 6.4.1 it does so as principal and not as Body Glide's agent; and
 - 6.4.2 title to the Products will pass from Body Glide to the Dealer immediately before the time at which the resale by the Dealer occurs.
- 6.5 If before title to the Products passes to the Dealer the Dealer becomes subject to any of the events listed in clause 8.2, then, without limiting any other right or remedy Body Glide may have:

- 6.5.1 the Dealer's right to resell the Products or use them in the ordinary course of its business ceases immediately; and
- 6.5.2 Body Glide may at any time:
 - 6.5.2.1 cancel or suspend orders for un-delivered Products;
 - 6.5.2.2 retain shipping documents for any Products in transit, and recover such Products upon their arrival at their destination port;
 - 6.5.2.3 require the Dealer and any member of the Dealer's Group to deliver up all Products in its possession (whether at warehouses or retail outlets) which have not been resold, or irrevocably incorporated into another product;
 - 6.5.2.4 if the Dealer fails to do so promptly, enter any premises of the Dealer or of any third party (including members of the Dealer's Group) where the Products are stored in order to recover them; and
 - 6.5.2.5 resell any such un-delivered or recovered Products to a third party.

7 PRICE AND PAYMENT

- 7.1 The price of the Products will be the price quoted by Body Glide with respect to each Order.
- 7.2 Unless otherwise agreed by Body Glide in writing, Body Glide may, by giving notice to the Dealer at any time up to 15 Business Days before delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to:
 - 7.2.1 any factor beyond Body Glide's control
 - 7.2.2 any request by the Dealer to change the delivery date(s), quantities or types of Products ordered, or the Specification; or
 - 7.2.3 any delay caused by any instructions of the Dealer or failure of the Dealer to give Body Glide adequate or accurate information or instructions
- 7.3 The price of the Products is exclusive of amounts with respect to sales tax (Tax). If applicable, the Dealer will, on receipt of a valid invoice from Body Glide, pay to Body Glide such additional amounts with respect to Tax as are chargeable on the supply of the Products.
- 7.4 Body Glide may invoice the Dealer, and the Dealer will pay such invoices, at the time agreed for payment with respect to each Order. Credit terms may be offered by Body Glide at its complete discretion. Unless otherwise agreed, payment is due in full prior to delivery and Body Glide reserves the right to suspend deliveries until payment has been received.
- 7.5 Payment will be made to Body Glide by check, electronic-funds-transfer (ACH) or wire to the bank account nominated in writing by Body Glide. Time of payment is of the essence. If the Dealer elects to pay by credit card, Dealer agrees and will add and include in the payment 2.75% of the invoiced amount to offset credit card processing, regardless of the actual amount of such fees.
- 7.6 If the Dealer fails to make any payment due to Body Glide under the Contract within ten (10) business days of the due date for payment, then the Dealer will pay interest on the overdue amount at the rate of 4.0% per annum above the Prime Rate posted by at least 60% of the ten (10) largest US banks from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Dealer shall pay the interest together with the overdue amount.
- 7.7 The Dealer will pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Body Glide may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Dealer against any amount payable by Body Glide to the Dealer.

8 TERMINATION AND SUSPENSION

- 8.1 Dealer will notify Body Glide immediately if the Dealer becomes subject to any of the events listed in clause **8.2**, and Body Glide may terminate the Contract with immediate effect by giving written notice to the Dealer.
- 8.2 For the purposes of clause 8.1, the relevant events are:
- 8.2.1 Dealer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or is deemed unable to pay its debts by decision of court, or if a receiver is appointed or there is filing of bankruptcy;
 - 8.2.2 A creditor or encumbrancer of the Dealer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - 8.2.3 Dealer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; and/or
 - 8.2.4 Dealer's financial position deteriorates to such an extent that in Body Glide's opinion the Dealer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 8.3 Without limiting its other rights or remedies, Body Glide may suspend provision of the Products under the Contract or any other contract between the Dealer and Body Glide if the Dealer becomes subject to any of the events listed in clauses 8.2.1 through 8.2.4, or Body Glide reasonably believes that the Dealer is about to become subject to any of them, or if the Dealer fails to pay any amount due under this Contract subject to the conditions for payment herein.
- 8.4 On termination of the Contract for any reason the Dealer will immediately pay to Body Glide all of Body Glide's outstanding unpaid invoices and interest.
- 8.5 Termination of the Contract, however arising, will not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.
- 8.6 Clauses which expressly or by implication survive termination of the Contract will continue in full force and effect.

9 LIMITATION OF LIABILITY

- 9.1 Nothing in these Conditions will limit or exclude Body Glide's liability for:
- 9.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - 9.1.2 fraud or fraudulent misrepresentation;
 - 9.1.3 breach of the terms; or
 - 9.1.4 defective products under applicable law.
- 9.2 Subject to clause 9.1:
- 9.2.1 Body Glide will under no circumstances whatever be liable to the Dealer, 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 the Contract or any punitive damages; and
 - 9.2.2 Body Glide's total liability to the Dealer with respect to all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, will in no circumstances exceed 100.0% of the price paid by the Dealer for the Products.

10 PRODUCT RECALL

- 10.1 If the Dealer becomes aware of or is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Products from the market (**Recall Notice**) it must and will immediately notify Body Glide in writing and attach a copy of the Recall Notice.
- 10.2 Unless required by law, the Dealer may only undertake a recall or withdrawal of the Products from the market with the written permission of Body Glide and in accordance with clause 10.4.
- 10.3 Body Glide may issue a notice to recall or withdraw the Products from the market (**Voluntary Recall Notice**) if:
- 10.3.1 the supply or use of the Products infringes, or may infringe, a third party's intellectual property rights;
 - 10.3.2 the Products are, or may be, unsafe;
 - 10.3.3 the Products are, may be, or may become illegal or non-compliant with any law, regulation or government agency or industry standard;
 - 10.3.4 a defect in the Product may cause harm to Body Glide's reputation or brand; or
 - 10.3.5 any other reasonable ground.
- 10.4 The Dealer must, at Body Glide's cost:
- 10.4.1 comply with any Recall Notice or Voluntary Recall Notice; and
 - 10.4.2 give such assistance, as Body Glide reasonably requires, to recall or withdraw the Product from the market, and comply with Body Glide's instructions about the process of implementing that recall or withdrawal.

11 FORCE MAJEURE

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

12 GENERAL

- 12.1 **Assignment and other dealings.**
- 12.1.1 Body Glide may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
 - 12.1.2 The Dealer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Body Glide [not to be unreasonably withheld].
- 12.2 **Notices.**
- 12.2.1 Any notice or other communication given to a party under or in connection with the Contract will be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.

12.2.2 A notice or other communication will be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2.1; if sent by pre-paid air mail, at 9:00 am on the fifth Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.

12.2.3 The provisions of this clause will not apply to the service of any proceedings or other documents in any legal action.

12.3 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and will not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

12.4 **Third party rights.** A person who is not a party to the Contract will not have any rights to enforce its terms.

12.5 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, will be effective unless it is in writing and signed by Body Glide.

Governing law and Jurisdiction. The Contract, the terms hereof, 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), will be governed by, and construed in accordance with the laws of Washington state without regard to conflicts of laws principles, and venue for any action brought hereunder shall lie in King County, Washington.