

## TERMS & CONDITIONS

### 1. GENERAL

These Conditions of Sale ("the Conditions") supplied by CFG Furniture Ltd ("the Company") to a purchaser ("the Buyer") shall be incorporated into each contract ("the Contract") made by the company for the sales of the Company's goods ("the Goods"). The Company contracts as aforesaid upon such terms as are agreed between the Company and the Buyer and upon the terms of the Conditions alone. No conditions or terms of the Buyer shall apply to this contract. No variation of any of the Conditions shall be effective unless in writing and signed by a duly authorised representative of the Company.

### 2. QUOTATION TENDERS AND ACCEPTANCE OF ORDERS

The Contracts shall become binding only upon the confirmation of acceptance of any order by the Company in writing and accordingly all quotations or tenders made and price of product lists supplied by the Company shall be treated as invitations of treat only.

### 3. SPECIFICATIONS

If goods are supplied in accordance with the Buyer's specification ("the Specifications") the Buyer shall be solely responsible for the specifications and ensuring that they are accurate.~

### 4. DRAWINGS, SPECIFICATIONS AND DESIGNS

The Company reserves copyright in all drawings submitted by it and in the right to alter the specifications.

### 5. CARRIAGE AND PACKAGING

(a) Unless otherwise specified by the Company all prices quotes are ex-works and carriage is charged at cost.

(b) Packaging for the Goods shall be at the discretion of the Company which shall have the right to pack the Goods in such manner and with such materials and in such quantities as it in its absolute discretion thinks fit. Where the Company despatches Goods in returning crates, cases or other packing materials this will be charged for with such amount to be credited in full on the return to the Company's address set out Clause 8 (d), within one month of receipt by the Buyer, of such packing materials in good condition carriage paid.

### 6. PRICE

(a) All prices shall be as stated by the Company unless otherwise agreed in writing.

(b) All prices shall be exclusive of Value Added Tax and other Taxes from time to time in force.

(c) All prices stated shall be subject to variation at the sole discretion of the Company at any time without prior notice and the Company shall notify the Buyer of any variation before delivery of the Goods.

continued

## 7. PAYMENT

(a) Unless specifically agreed in writing by the company all goods will be supplied on a pro-forma basis only. If in the company's view the buyer is an approved credit customer payment shall be due not later than 28 days after delivery of goods or invoice whichever is the later. Where the contract is to be or may be fulfilled in separate instalments deliveries and part payment for each delivery shall be made as if the same constituted a separate contract. Payment shall be due and the Company shall be entitled to sue for the price whether or not property in the Goods has passed by virtue of Clause 10.

(b) Sums unpaid after the due date shall bear interest until the day payment is received at the rate of 5% per annum above the base rate from time to time of Barclays Bank plc accruing from day to day from the date of delivery until the date of payment in full.

(c) If the recovery of sums outstanding from the Buyer is passed to a Debt Collection Agency the Buyer shall pay the Company's costs in instructing the said Debt Collection Agency and all ancillary legal cost.

(d) Without prejudice to any other rights or remedies of the company any default by the Buyer in making payment on the due date shall entitle the Company to suspend deliveries under the Contract or any other contract so long as the default continues and to treat the contract as repudiated by the Buyer and determined it the Buyer has not within 14 days of receiving written notice from the company paid all sums due to the Company.

## 8. DELIVERY

(a) Delivery shall take place when the Goods are unloaded at or delivered to the Buyer's premises or other delivery location agreed between the Company and the Buyer except that if the Buyer collects or arranges collection of the Goods from the Company's premises, or nominates a carrier for the Goods delivery shall take place when the Goods are loaded on to the collection or carrier's vehicle.

(b) The Company will use its best endeavours to complete delivery on or before any delivery dates requested by the Buyer or estimated by the Company but will not be liable for any delay in delivery.

(c) The buyer shall accept immediate delivery, or arrange to collect goods or arrange suitable storage, failing which the Company may either:

i) effect delivery by whatever means it thinks appropriate;

or

ii) arrange storage at the Buyer's risk and expense pending delivery;

or

iii) re-sell or otherwise dispose of the Goods without prejudice to any other rights the Company may have against the Buyer for breach of contract or otherwise.

(d) Where the agreement provides for delivery by instalment each instalment shall constitute a separate contract and any failure or defect in any one or more instalments delivered shall not entitle the Buyer to repudiate the agreement nor to cancel any subsequent instalments.

(e) The Buyer shall not be entitled to reject the Goods by reason only of short delivery.

(f) The quantity of the Goods delivered under the contract shall be recorded by the Company upon despatch from the Company's factory or warehouse and the Company's record shall be accepted by the Buyer as conclusive evidence of the quantity delivered.

(g) It is the Buyer's responsibility to notify the Company if the Goods have not been received by the Buyer within seven days of the date of receipt of the Company's invoice therefore. If not notification is made the Buyer shall be deemed to have received the Goods.

## 9. EXAMINATION AND CLAIMS

- (a) The Buyer shall upon delivery examine the Goods and shall promptly (but in any event within seven working days of delivery) notify in writing the Company and the Carrier, where relevant, of any apparent damage defect or shortage.
- (b) The Buyer shall comply with the Carrier's rules regulations and requirements so as, when appropriate, to enable the Seller to make a claim against the Carrier respect of any damage or cash in transit.
- (c) Claims in respect of damage defects or shortage not apparent on examination under (a) must be notified in writing to the company within twenty-one days of the date of the delivery.
- (d) Notification under (a) and (c) above shall be first made by telephone then by notice in writing delivered by telex or by first class recorded delivery mail and addressed to:

CFG Furniture Ltd, The Mitre Building, Civic Park Industrial Estate,  
Whitchurch, Shropshire SY131TT  
Telephone Number: (01948) 665363 Fax Number: 01948 661488

In default of such notification the Company shall, subject to any claim which the Buyer may have under the Guarantee and Warranty referred to in Clause 9, be deemed conclusively to have properly performed its obligations under the contract.

## 10. GUARANTEE AND WARRANTY

- (a) The Goods are subject to the guarantee ("the Guarantee"), if any, submitted to the Company which has been agreed as appropriate and fair.
- (b) Save as referred to in (a) above the company warrants only ("the Warranty") that the goods are reasonably free from defects in design (other than a design submitted or specified by the Buyer) in material or workmanship at the date of delivery provided that the Buyer has given the Company written notice and satisfactory proof of any defect promptly upon discovery of such defect but in no case later than seven days after expiry of the Warranty Period.
- (c) The Company's obligations to the Buyer under Warranty shall not apply.
  - i) to damage caused by the Buyer's or any third part's default or misuse of the Goods or by failure to follow any instructions supplied with the goods;
  - ii) if the goods have been stored, handled or applied in such a way that damaged is likely to occur;
  - iii) if the Goods are altered, modified or repaired in any place other than the Company's factory or by persons not expressly nominated or approved in writing by the Company;
- (d) Subject to (c) above the Company shall at its sole option repair replace or refund the purchase price for the goods found to be defective in design materials or workmanship.
- (e) Save the liability for death or personal injury arising from the Company's negligence (which if provided is not excluded) the Company's obligation to repair refund or replace as aforesaid shall constitute the full extent of the company's liability in respect of any loss or damage sustained by the Buyer whether caused by any breach of the contract or by misrepresentation or by the negligence of the Company its employees or agents or arising from any other cause whatsoever and the Company shall not be liable for any consequential, economic, direct or indirect loss suffered by the Buyer arising there from.
- (f) The cost to the Company of and incidental to the return by the Buyer to the Company of any of the Goods delivered hereunder shall, except to the extent that the Company has accepted responsibility hereunder, be the responsibility of the Buyer who shall indemnify the Company against any such costs including, but without limitation to the generality of the foregoing costs of transport and testing or any other cost or loss to the Company arising there from.

12. PROPERTY AND RISK

- (a) The Company shall not be liable for any damage shortage or loss occurring in transit and the Goods should be insured accordingly. All other risks shall pass to the Buyer on delivery and the Goods should be insured accordingly.
- (b) i) Property (both legal and beneficial) in the Goods shall remain in the Company until all sums owing to the Company whether under the Contract or any other contract made at any time between the Company and the Buyer ("the Indebtedness") shall have been paid in full. Until such time, and subject to the provisions hereof, the Buyer shall hold the Goods as bailee for the Company.
- ii) the Buyer until otherwise notified by the Company or on the happening of any of the events specified in (ix) ("the Events") may in the ordinary course of its business offer for sale and sell the Goods, or any new product created by the Goods being admixed or converted into new goods ("the new Products") at the best obtainable price as a principal vis a vis sub-buyers and not as the agent of the Company. Prior to any such sub-sale of the Goods of the New Products the Buyer shall first notify the Company of its intention to sell the Goods or the New Products.
- iii) The entire proceeds of such sub-sale of the Goods or the New Products shall belong legally and beneficially to the Company subject to the provisions hereinafter set out and unless the Company demands payment of such proceeds of sale to be made directly to it, the Buyer shall pay the entire proceeds of sale into a separate interest bearing bank account in the name of the Company or if the Company gives its prior written consent the Buyer shall be entitled to place and maintain the proceeds of sale otherwise than by depositing the same in a designated bank account and shall ensure that all such proceeds are kept by or on behalf of the Company in a separate identifiable form.
- (iv) In particular, but without prejudice to the generality of the foregoing the Buyer shall not pay the proceeds of sale into any bank account which is overdrawn.
- (v) Forthwith upon receipt of the proceeds of sale the Buyer shall be liable to pay on demand to the Company the whole of the proceeds of sale subject to the Company undertaking to repay or set-off any balance remaining after payment in full of the Indebtedness and shall not use or deal with the proceeds of sale in any way whatsoever until the Indebtedness has been paid in full.
- (vi) If so required by the Company, the Buyer shall upon receipt of written notice from the Company, assign to the Company the benefit of all contracts made with third parties in respect of sub-sales of the Goods or the New Products.
- (vii) If the goods are not readily identifiable and removable from the products and the materials of the Buyer forming the New products, the legal and beneficial ownership of the New Products and the property therein shall vest in the Company subject to the following provisions.
- (viii) Upon any sale of the New Products by the Company, if the proceeds of the sale exceed the price or the balance of the price or the value of the Goods owing to the Company by the Buyer, the Company shall apply the balance of the proceeds of sale as follows:
- (a) First in re-imbursing the Company all costs and expenses incurred in the taking of possessions and sale of the New Products;

continued.....

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(b) Secondly, in paying any amount due and owing to other creditors of the Buyer in respect of other products or materials incorporated in the manufacture of the New Products but only where the ownership of such products or materials has been successfully reserved by such creditors and the claims of such creditors have been notified to the Buyer or the Liquidator, administrator or administrative receiver of the Buyer;

(c) Thirdly, in paying any balancing amount remaining in respect of products or materials provided by the Buyer which were incorporated into the New products.

(ix) The Events are:-

(A) the giving of any notice to the Buyer that a receiver, manager, administrative receiver, supervisor, nominee or administrator is to be or has been appointed over any of the property or assets of the Buyer or that a petition to wind up the Buyer is to be or has been presented or that an application for an administration order is to be or has been made or of any notice of a resolution to wind up the Buyer (save for the purposes of a bona fide reconstruction or amalgamation);

(B) a decision by the Buyer that the Buyer intends to make any arrangement or composition with its creditors generally;

(C) where the Buyer pursuant to Section 123 or 268 of the Insolvency Act 1986 appears to be unable to pay a debt or appears to have no reasonable prospect of being able to pay a debt;

(D) any distress or execution levied or threatened to be levied on any property or assets of the Buyer;

(E) the inability of the Buyer to pay its debts as they fall due.

(x) On receipt of notification from the Company under (ii) or on the happening of any of the Events, the power of sale of the Buyer in respect of the Goods or the New Products shall cease and the Buyer shall immediately deliver the Goods and/or the New Products to such address as the Company shall specify in default of which, or in the alternative, the Company shall have the right to enter on any premises or land in the ownership control or possession of the Buyer who shall indemnify the Company on a full indemnity basis against all loss, damage, costs or expenses so arising including loss, damage, costs, or expenses in respect of third party claims. For the avoidance of doubt by the Buyer hereby unconditionally and irrevocably authorises the Company or its nominated agents or representatives to enter into or upon premises or land in the ownership possession or control of the Buyer for the purpose of the re-possession of the Goods or the New Products. continued.....

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#### 11. BREACH BY OR INSOLVENCY BY THE BUYER

If the Buyer shall not comply with any of its obligations to the Company or upon the occurrence of any of the Events referred to in Clause 10 (c) (iv), the Company shall have the right forthwith to terminate the Contract but without

affecting any other claim, right or remedy of the Company against the Buyer.

## 12. CANCELLATION, SUSPENSION AND TERMINATION

(a) If the buyer shall purport to cancel the whole or any part of the contract the company may be notice in writing to the Buyer elect to treat the Contract as repudiated and the Buyer shall thereupon be liable to pay to the company by way of liquidated damages a sum equal to all the expenses incurred by the Company in connection with the contract including an appropriate amount in respect of administrative overhead, costs and losses of profit. The Company's reasonable estimate of the expenses incurred shall be final and binding on the parties.

(b) If for any cause whatsoever beyond its controls the Company is unable to make any delivery on the applicable delivery date or perform any of its other obligations under the Contract the Company may by notice in writing to the Buyer terminate the Contract or suspend the Contract without liability for any loss or damage thereby incurred by the Buyer.

## 13. EXPORTS SALES

(a) In respect of sales of the goods outside the United Kingdom ("Export Sales") the provisions of these Conditions shall apply unless inconsistent with the terms of this clause.

(b) Unless otherwise specifically agreed between the company and the Buyer all Export Sales shall be made C.I.F. to the Buyer's premises and the Company's ex-works prices as set out in its Price List or quotation shall be increased to cover the Company's costs in making such deliveries.

(c) Unless otherwise agreed in writing payment shall be made by irrevocable letter of credit on presentation of the bills of lading.

(d) The Buyer warrants that if an Import Licence or permit is required for the importation of the goods into the country of destination then such Import Licence or permit has been obtained or will be obtained prior to shipment.

(e) The Buyer shall arrange to inspect at the Company's works all goods to be exported. The company shall not be liable for any claims after delivery to the air or port terminal.

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## 14. SAMPLES

Any samples submitted by the Company may be charged for it if not returned in good condition within twenty-eight days from the date of despatch, carriage paid.

## 15. PATENTS, REGISTERED DESIGNS, TRADE MARKS, TRADE NAMES AND COPYRIGHT

The Buyer shall indemnify the Company against all damage Loss costs claims and expenses arising out of any infringement of any letter, patent, registered design, trade mark, trade name or copyright or any claim for such

infringement or any claim to passing off arising out of work carried out in accordance with the Buyer's specification.

16. DRAWINGS

All drawings, descriptions, illustrations, weight and dimensions given in the Company's catalogues, price lists or other advertising matter are approximate and intended for general guidance purposes only.

17. INSTALLATION

(a) The Company shall where it deems appropriate supply at delivery instructions for the installation of the Goods.

18. PROPER LAW

The Contract is and shall be deemed to have been made in England and shall in all respects be covered by English Law and shall be subject to the jurisdiction of the English courts.

19. FORCE MAJEURE

(a) In so far as the performance of the Contract by the Company may be affected by any strike, any lack of available shipping or transport or materials, any restriction regulation or decree by any local municipal authority or government department or by any cause beyond the Company's reasonable control (which shall be construed without reference to the preceding causes) the Company may elect at its absolute discretion either:

i) to terminate the Contract; or

ii) to proceed to perform or continue performance under the Contract within a reasonable time after the termination of such events or circumstances.

(b) In event that the company makes an election under clause 14 (a) the Buyer shall accept the Goods or such part of them as are delivered to it notwithstanding any delay.