

robert timmons furniture limited

CONDITIONS OF SALE

General

- (a) These Conditions of Sale shall apply to all contracts of sales (including contracts of sales on "sale or return" basis) in the United Kingdom by ROBERT TIMMONS FURNITURE LIMITED ("the Company") of articles supplied by the Company (hereinafter referred to as "the Products") and any qualification or variation thereof by an employee or agent of the Company shall be inoperative unless agreed to in writing by the Company.
- (b) These Conditions of Sale shall override any standard or other terms, conditions or stipulations referred to by the Buyer.
- (c) No servant or agent of the Company has any authority to give any warranty or to make any representation concerning the Products of the Company.
- (d) The company act as an agent for Foster all appliances are warranted under the terms and conditions of Foster. Robert Timmons Furniture Limited will not be deemed liable or responsible for appliances, parts or products manufactured and supplied by Foster.

Sales terms

The Buyer shall be deemed in placing an order with the Company to have given the following warranties:

- (a) That they have agreed to the precise design, specification, measurement and cost appertaining to the order.
- (b) That they have agreed to the terms and conditions of sale contained herewith.

Payment

- (a) Part payment will be made at the time of order. The part payment will constitute 75% of the total invoice cost inclusive of delivery cost. Payment of the outstanding balance will be due within ten days of the invoice date the invoice date will be tied to the time of delivery.

Packing and Carriage

- (a) The Company shall be entitled to charge the Buyer for packing and shall not be obliged to accept any packing returned.
- (b) If the Buyer is located within the territory of England Wales and Scotland (the "UK Mainland") the Products which in the discretion of the Company are complete appliances or complete kitchen tops shall be consigned to the Buyer at the Buyer's expense at the most economical rate and at the option of the Company by parcel post, road or rail, carriage paid, to the Buyer provided that the costs incurred at the Buyer's request (e.g. carriage by lorry or other transport shall be charged to the Buyer.
- (c) The buyer will be required to ensure that a representative of the buyer takes receipt of products delivered. The buyer's representative will sign for products delivered as being in satisfactory condition before products can be given over or released to the buyer. It being the buyer's responsibility to inspect products at the point of delivery.
- (d) The Company shall not be responsible for damage to any of the Products or loss of the Products or part thereof in transit unless the Buyer gives notice of a claim both to the Company and to the carrier.
 - (i) in the case of damage within seven days after having received the products; and
 - (ii) in the case of loss within one day after having received the despatch note and in the case of a claim made under paragraph (i) returns the products to the Company so far as possible in their original packing.

Delivery

- (a) Unless otherwise specified in these conditions or expressly agreed in writing by the Company time shall not be of the essence in the performance by the Company of any order.
- (b) The Company is entitled to deliver part of the Products ordered or to deliver by instalments and to invoice the Buyer for such part delivery or each such instalment.
- (c) Should delivery to the Buyer be prevented or delayed by act of God, war, civil commotion, government order, strikes, lock-outs, fires, accident, shortage of labour, materials, fuel, power or transport, or any other force majeure or other cause whatsoever beyond the Company's control, the Company shall be entitled to an extension of time for delivery until the operation of the cause preventing or delaying the same has ceased. Provided that if the Company cannot as a result of the above mentioned reasons reasonably be expected to perform or to continue to perform the Contract the Company may cancel the order or so much thereof as shall remain unperformed. In such event the Buyer will not be entitled to any damages or compensation.

Alteration of designs and specifications

The Company reserves the right at any time to vary or alter any of the designs and specifications of the Products provided the Buyer could reasonably be expected to accept such variation or alteration.

Prices

- (a) The prices of the Products shall be those shown on the Company's price list in force at the date of delivery.
- (b) Payment for the Products shall be made strictly in accordance with the terms stated at the time of tender or if no tender has been made, the terms quoted on the invoice.
- (c) The time within which the Buyer is to effect any payment due from the Buyer to the Company shall be of the essence of this Agreement.
- (d) Cash discounts shall only be allowed if agreed in advance with the Company and (even if so agreed) provided that all prior claims arising out of any earlier invoice shall have been fully satisfied.
- (e) If the Buyer fails to make any payment to the Company by the due date the Company shall be entitled to charge interest on a day to day basis on the sum or balance owing on the invoice at three per cent over the current base rate of Barclays Bank PLC.
- (f) If the Buyer requests and the Company agrees to install the Products or any part or parts thereof the Company shall be entitled to charge separately for the installation time, including travelling time and fares.
- (g) The Company shall at any time after the due date for payment in its absolute discretion be entitled to demand by written notice payment within ten days and if the Buyer fails to pay the whole of the price outstanding within such period the Company shall be entitled to immediate redelivery of the Products at the Buyer's expense and any representative of the Company shall have the right to enter the Buyer's premises without notice in order to recover the Products without prejudice to any other rights and claims the Company may have against the Buyer for breach of contract or loss suffered.

Title

- (a) The legal and equitable property in and title to the Products shall remain vested in the Company until the Products have been paid for in full payment is received by the Company. Until such payment and receipt (subject to the provisions of paragraphs (b) and (c) below) the relationship of the parties shall be that of bailor and bailee.
- (b) Notwithstanding the provisions of paragraph (a) above the Buyer shall have the right to dispose of the Products in his ordinary course of business. The proceeds of such disposal shall be held on behalf of the Company.
- (c) Once the Products have been disposed of by the Buyer pursuant to Paragraph (b) above and until the Company has received full payment for the Products the Company shall have the right to take such action against the Buyer as it shall deem fit (including but not limited to the right to call upon the Buyer to assign to the Company any debt owed to the Buyer by his customer or customers in respect of such disposal).
- (d) The insurable risk in the Products shall pass to the Buyer as soon as the Products are delivered to him or to his order pending disposal the Buyer shall keep the Products insured in the amount of the price at which the Products are sold to the Buyer against all insurable risks.

- (e) If the Buyer requests and the Company agrees to install the Products or any part or parts thereof title n the materials supplied but not used in any such installation shall at all times as between the Buyer and the Company remain the property of the Company.
- (f) If payment for the Products is overdue or in the event that a Receiver is appointed over the business of the Buyer or that a resolution is passed or petition presented for the liquidation of the Buyer or if the Buyer commits an act of bankruptcy then any representative of the Company shall have the right (without prejudice to any of its other rights) to enter the Buyer's premises without notice in order to recover the Products (and this condition will constitute the authority of the Buyer to the Company to enter upon any other premises of the Buyer wheresoever the Products ma be).

Products on "sale or return"

Where the Products are delivered to a Buyer on a sale or return basis:

- (a) The Buyer shall at his own expense insure the Products against, fire, explosion, water damage and theft and shall be responsible for any damage to the Products howsoever caused until such Products have been either sold to a third party and full payment has been made to the Company or have been redelivered to the Company and shall also be responsible for all delivery, repair ad service costs arising directly or indirectly therefrom.
- (b) In the event that the Products are damaged or lost the Products shall be regarded as sold and the Buyer shall pay to the Company the full price of the Products.
- (c) The Company shall be entitled at any time to have such Products checked and to demand their return to the Company or their despatch to any third party nominated by the Company.
- (d) The above paragraph 7 shall apply insofar it has not been expressly amended by this paragraph.

Credit Sales

- (a) If the Company sells any Product on the basis that this paragraph shall apply the Buyer shall not be entitled to sell, assign, pledge, let, part with possession or otherwise dispose of any such Product until payment in full has been received by the Company. Sub-paragraphs (b) and (c) of paragraph 7 hereof shall not apply.
- (b) In the event that a Receiver is appointed over the business of the Buyer or that a resolution is passed or petition presented for the liquidation of the Buyer or if the Buyer commits an act of bankruptcy and in any such circumstance the Company has not received payment in full for any Product subject to the provisions of this paragraph then the Company shall by notice in writing to the Buyer be entitled to appropriate the whole or part of monies received at any time in respect of any such Product to reduce or extinguish any other debt owed by the Buyer to the Company.
- (c) In all other respects these Conditions of Sale shall apply insofar as they have not been expressly amended by this paragraph.

Guarantees, warranties and limitation of Liability

- (a) The appliance manufacturer Foster will repair free of charge any of the Foster appliances supplied by the Company and located in the United Kingdom or repair or replace any part or parts thereof which are shown to faulty under the terms of warranty as specified by Foster.
- (b) If the Buyer purchases the Products in his normal course of business and the defect was discoverable on reasonable inspection of the Products the Company shall not be responsible for any claim under paragraph (a) hereof unless written notice of a claim is communicated to the Company not later than 14 days of their discovery.
- (c) The Buyer shall not in selling any of the Products supplied by the Company made any representation or give any warranty other than those contained in these Conditions of Sale.
- (d) The Company shall not be under any liability under paragraph (a) hereof for any of the Products in respect of which complaint has been made by the Buyer which have been altered or tampered with or have been installed or serviced otherwise than by the Company's and Foster's authorised agent.
- (e) Any repair work outside either the scope of the Company's obligations under sub-paragraph (a) hereof or the period of such obligations apply will be charged on completion of the work if done on site or cash on delivery on the return of the Products.
- (f) The obligations of the Company under sub-paragraph (a) hereof are in substitution for and exclude any warranty or condition whether given by statute or otherwise and whether express or implied insofar as any such warranty or condition may be validly excluded.
- (g) The Buyer in selling any of the Products supplied by the Company shall use his best endeavours to ensure that the clauses limiting the Company's liability in these conditions of sale are included in any contracts between himself and his sub-buyers insofar that they do not affect the statutory rights of the sub-buyers.

Markings

The Buyer shall not in any way alter or deface or remove any letters, numbers or other marks or markings which appear on or are attached to the Products supplied to him by the Company and shall use his best endeavours to ensure that the same are not altered, defaced or removed by any other person, firm or company.

Delivery and Installation

- (a) Delivery, if undertaken by the Company, is so undertaken on the condition that adequate about and facilities will be made available by the Buyer at the Buyer's expense to carry out prompt and safe unloading at the place at which delivery is requested by the Buyer and that it will not be necessary to dismantle the Products or any part or parts thereof in order to install them in the place requested by the Buyer.
- (b) Any necessary installation of, or alteration to any installation of gas, water, electricity, drainage pipes or connections are not the part of the Company's service and shall be the sole responsibility of the Buyer and the Buyer shall ensure that all regulations of the local Electricity, Gas, Water Boards and any other relevant authority are fully complied with.

Bankruptcy or liquidation

In the event that the Buyer shall at any time become bankrupt or shall have a receiving order or administration order made against him or shall make any composition or arrangement with or for the benefit of his creditors, or (being a limited company) any resolution or petition to wind up such company (other than for the purpose of amalgamation or reconstruction) shall be passed or presented, or if a receiver of such company's undertaking, property or assets or any part thereof shall be appointed, the Company shall have the right forthwith to determine any contract then subsisting and upon written notice of such determination being posted to the Buyer's last known address any subsisting contracts shall be deemed to have been determined without prejudice to any claim or right the Company may otherwise make or exercise.

General

If any of the provisions of these Conditions of Sale or any part or parts thereof shall be declared invalid or unenforceable al other provisions thereof shall remain in full force and effect.

Jurisdiction

All orders accepted by the Company and any dispute or litigation arising therefrom shall be governed by English Law and be subject exclusively to the jurisdiction of the English Courts. order, strikes, lock-outs, fires, accident, shortage of labour, materials, fuel, power or transport, or any other force majeure or other cause whatsoever beyond the Company's control, the Company shall be entitled to an extension of time for delivery until the operation of the cause preventing or delaying the same has ceased. Provided that if the Company cannot as a result of the above mentioned reasons reasonably be expected to perform or to continue to perform the Contract the Company may cancel the order or so much thereof as shall remain unperformed. In such event the Buyer will not be entitled to any damages or compensation.