

CLOISTERS DESIGN LTD TERMS & CONDITIONS

1. GENERAL

- a. These Terms and Conditions apply to all sales of goods by any authorised individual of Cloisters Design Limited ('the Seller') to the customer or end user who is named on the Confirmation of Order which is issued by the Seller in accordance with condition 2b ('the Buyer') and shall prevail over any other terms or conditions contained or referred to in the Buyer's order or in correspondence or elsewhere or implied by trade custom, or course of dealing unless such other terms and conditions are specifically agreed to in writing by the Seller.
- b. The Seller's agents shall not have authority to enlarge, vary or exclude any of these Terms and Conditions. Any purported enlargement, variation or exclusion thereof shall be without effect unless specifically agreed to in writing by the Seller and the Buyer.
- c. No terms or conditions of any main contract or sub-contract shall affect these Terms and Conditions whether or not the Seller has notice thereof.
- d. The headings appearing above each condition are included for reference only and shall not affect or limit the interpretation and effect of these Terms and Conditions.
- e. The Buyer shall ensure that he has received and checked the order in full once delivered before booking any fitters and contractors.
- f. Before working with electricity, gas or water the Buyer should always consult an appropriate professional electrician or registered plumber. Always read and follow any relevant manuals and safety instructions. When working with electricity always turn off the mains. In connection with building work the Seller does not and cannot advise on planning permission or building regulation issues.
- g. To the extent permitted by law, the Seller accepts no liability for any loss, damage or injury arising as a consequence of the advice provided.
- h. In these terms and conditions, words denoting the singular shall include the plural and vice versa.
- i. In these terms and conditions, words denoting any gender include all the genders and words denoting persons shall include firms corporations and vice versa.
- j. In these terms and conditions, the condition headings are for convenience only and shall not be taken into account in their interpretation.

2. THE CONTRACT

- a. Any quotation by the Seller to the Buyer for the sale of goods ('the Quotation') shall constitute an invitation to treat and not an offer. The Seller may withdraw or amend the Quotation at any time prior to the Seller's acceptance of the Buyer's order. All Quotations are valid for 14 days.
- b. Once the Quotation is agreed by the Buyer, the Seller shall issue the Buyer with a confirmation of order which shall confirm the identity of the Buyer, the goods that are being sold to the Buyer ('the Goods') and the price of the Goods ('the Price') (the Confirmation of Order)
- c. A request by the Buyer that the Seller supply goods in accordance with the Quotation ('the Order') shall amount to an offer by the Buyer and also the Buyer's acceptance of these Terms and Conditions.
- d. The Seller's Confirmation of Order shall bring into existence a contract between the Buyer and the Seller ('the Contract').
- e. Only items specified on the Confirmation of Order will be supplied

3. DELIVERIES

- a. Delivery dates quoted in the Quotation or Confirmation of Order or elsewhere are approximate only and not of any contractual effect and the Seller shall not be under any liability to the Buyer to deliver on any particular date or dates, nor shall time be of the essence of the Contract.
- b. If the Buyer refuses or fails to take delivery of goods tendered in accordance with the Contract the Seller shall be entitled to immediate payment in full for the goods so tendered. The Seller shall be entitled to store at the risk of the Buyer any goods of which the Buyer refuses or fails to take delivery and the Buyer shall in addition to the Price pay all costs of such storage and additional costs or carriage incurred as a result of such refusal or failure.
- c. The Seller only delivers to the door and may require help for large or heavy items unless specified in writing. The Seller has one person allocated to each vehicle.
- d. Small orders may be dispatched by post or courier which shall be at the discretion of the Seller.
- e. If the Seller accidentally damages goods in the course of delivery our liability for that damage is limited to the repair or replacement of the goods or the value thereof.

4. AVAILABILITY

Acceptance and completion of an Order is subject to the goods which have been ordered being available and the Seller shall be under no liability for delay or non-performance caused either by the goods not being made available or by any other circumstances beyond the Seller's control.

5. MEASURES

The Seller shall have the option to supply all or any of the goods in either metric or imperial sizes in the nearest equivalent measure and goods may be charged in metric measure allowing for conversion.

6. CANCELLATIONS OF ORDERS

The Contract shall be irrevocable and binding on both the Buyer and the Seller. Any request to cancel the Order once accepted by the Seller can only be accepted by an authorised individual of the Seller. The Seller will in no circumstances agree to the cancellation of a binding order for goods specially made or obtained to meet the Buyer's requirements.

7. RETURNS OF GOODS

The Buyer does not have the right to return any goods or materials to the Seller which were incorrectly ordered by the Buyer. Any return of incorrectly ordered goods shall only be accepted by an authorised individual of the Seller and on such terms as the Seller shall in its absolute discretion agree.

8. EXTRA GOODS/WORK

Any additional items and/or additional works must be agreed with the Seller and it is the responsibility of the Buyer to agree any additional costs. Charge will be made for additional items, payment for which is due in accordance with the terms of payment in condition 10.

9. FORCE MAJEURE CLAUSE

The Seller shall be under no liability for any loss (including consequential loss), damage, or delay or expenses of any kind whatsoever caused wholly or in part by Act of God, outbreak of war, civil commotion, governmental policies or restrictions or control, including restrictions of export or import or other licenses, trade or industrial disputes of whatever nature, whether or not such dispute involves the Seller, its servants or agents, or by any other contingency whatsoever which is beyond the control of the Seller.

10. TERMS OF PAYMENT

- a. 50% of the total order value shall be paid on Order ('the Deposit'). No order is binding on the Seller and the Seller is under no obligation to deliver goods to the Buyer until the Deposit has been paid. Any sums paid by the Buyer to the Seller on account may be applied to discharge of the Deposit and the order becomes binding on the Buyer when any payment towards the deposit is made. For all orders, the balance of the total order value shall be paid, by cleared funds, by the Buyer to the Seller before delivery as per clause 10. b. unless agreed to the contrary in writing by an authorised individual of the Seller. The Seller reserves the right to withhold delivery and/or installation until such payment is made.
- b. Where delivery dates are delayed by circumstances beyond the Seller's control, all payments are due in accordance with the agreed dates and not actual delivery or completion dates. All outstanding balances shall be paid by the Buyer to the Seller prior to delivery as follows:- Bacs - five working days before agreed week commencing delivery date. Credit card - eight working days before agreed week commencing delivery date. Cheque - eight working days before agreed week commencing delivery date. In the event that, prior to delivery, any item is to be replaced either because it is not in accordance with the agreed order or not fit for its purpose, 50% of the contract price for such items shall be withheld and shall become payable immediately when such items are replaced.
- c. All outstanding balances due by the Buyer to the Seller shall bear interest at the annual rate of 4% above Nat West Bank base rate from time to time calculated daily from the due date of payment to the date payment is actually received.
- d. Changes to the total price for the work - The above price is based on the job as seen. The price given is subject to change if any unforeseen situation arises or if you make alterations to the original specification.

11. VAT

Should at any time the law change in relation to VAT, or in the event of H.M. Customs and Excise ruling that VAT is chargeable on items the Seller has zero rated on your order, the Seller reserves the right to collect the tax due from the Buyer at any subsequent date.

DESIGNS

- a. Designs, illustrations, drawings and sketches whether contained in the Seller's specifications or elsewhere ('the Designs') shall be indicative and approximate only. The Buyer shall satisfy himself/herself/itself that the goods are fit for the Buyer's purposes. The Seller is responsible for providing goods and services in accordance with the Designs but not for ensuring that the Designs are in accordance with the Buyer's requirements.

- b. Copyright in the Designs shall not belong to the Buyer. Permission is not given for the reproduction and use of the Designs (whether by the Buyer or any third party) for any purpose other than the performance of an agreement between the Seller and the Buyer. All drawings prepared by the Seller in accordance with the specifications shall remain the property of the Seller until any design fee and all other sums due by the Buyer to the Seller have been paid in full.
- c. All furniture, appliances, sanitary ware and other bought in items shown in the Designs are artistic impressions only.
- d. All elevations are artistic impressions only.
- e. The exposed sides of the furniture provided may be covered in a complementary material.
- f. All units are not always installed tight against walls, partitions or other units and there may be voids behind or between the furniture to accommodate services, installation to uneven surfaces or to accommodate layout of furniture and equipment. Such voids are a necessary part of the installation.

12. EXECUTION OF WORK

Unless previously agreed, work will be carried out in accordance with the Seller's usual practices to achieve the end result specified and using the Seller's choice of materials and fixings. Instructions will only be taken from the Buyer as named on the Confirmation of Order and the Buyer shall not be entitled to assign the benefit of the Contract to a third party.

13. TITLES TO GOODS

- a. The property in all materials supplied by the Seller or by any of its sub-contractors shall not pass to the Buyer until all sums payable to the Seller, whether under the main contract or any other contract and whether invoiced or not, have been paid. Such retention of title shall be no grounds for the Buyer to fail to complete his payment.

14. BYE-LAWS AND REGULATIONS

It is the Buyer's responsibility to ensure and satisfy himself that the work carried out complies with all local bye-laws and/or regulations. The Seller cannot accept any responsibility or liability relating to or arising from any failure in such compliance. The Buyer warrants that all necessary consents have been obtained before commencement of any work and he agrees to indemnify the Seller for any losses which the Seller may suffer as the result of work having to be delayed, suspended, stopped or rearranged in consequence of any breach of the said warranty.

15. NATURAL MATERIALS

- a. All quotations for tiling (whether in relation to walls, floors or worktops) are made on the basis that the walls and floors are level and suitable for tiling. The price of the work does not include the leveling off of the walls or floors or the provision of a suitable surface and the Buyer agrees to pay an increased charge in respect of work which has to be undertaken by the Seller or its sub-contractors to level off the walls and/or floors and make them suitable for tiling.
- b. Where the Seller agrees to supply stone tops or stone/ceramic tiles the Seller cannot guarantee that all the items will be identical in colour and shading and any minor variation in this respect shall not constitute a breach of contract by the Seller.
- c. Similarly if the work undertaken by the Seller includes the supply of any timber for cabinets, tops, flooring or cladding the Seller cannot guarantee that all the timber will be identical in colour and grain and any minor variation in that respect shall not constitute a breach of contract by the Seller.

16. RISK

All materials supplied by the Seller or by its sub-contractors in the course of carrying out any work are to be at the Buyer's risk with effect from delivery by the Seller at the premises where the work is to be done.

17. LAW

The Contract incorporating these Terms and Conditions shall be governed by, and construed in accordance with, the law of England and Wales and the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction.

18. SATISFACTION

The Buyer should check the installation work carried out by the Seller or its sub-contractors before himself/herself/itself signs the satisfaction note. It is the responsibility of the Buyer to inform the Seller in writing of any outstanding items immediately they become apparent. Should we not receive a completed satisfaction note within seven days to indicate either completion or items outstanding, the contract shall be deemed to be complete.

19. SHORTAGES & DAMAGES

The Buyer must notify us of any shortages, damages, defect in quality or conditions of the product or failure of the product to correspond with the specification within a reasonable period of time. The Seller would normally expect to receive such response within three (3) days of the date of delivery. Failure to notify the Seller within the reasonable time period will result in the loss of the Buyer's rights to reject the goods or to have the defects remedied subject to our absolute discretion. As the products supplied by the Seller are bespoke, the Buyer is not entitled to reject a product for reasons other than those set out above. Your statutory rights are not affected.

20. PRODUCT SPECIFICATIONS

- a. The Seller has a policy of continuous product development and reserves the right to amend the specifications of any goods or products without prior notice in relation to future sales.
- b. Products supplied may differ as a consequence from those on display or advertised. Unless agreed with you, the products supplied will be of equivalent value, functionality and appearance.
- c. Some furniture is made from quality natural wood and accordingly appearances may vary. Some woods will mellow with age and exposure to sunlight.
- d. Unless otherwise stated, all furniture products are delivered as self-assembly units
- e. The Seller endeavors to display as accurately as possible the colours of all products. However the Seller cannot guarantee the complete accuracy of the pictures or photographs that are shown.
- f. When colour matching the Seller endeavors to be as accurately as possible but cannot be held responsible for the effects of sunlight, paint manufactures calibration or changes in paint chemistry which affects the colour and or sheen level of the finish. Also different types of paints will look different in colour and finish even though they are sold with the same name or manufactures code. Cloisters Design Limited does not warrant that instalments of or batches of repeat orders of any product shall comply with the specification or colour match of any other instalment batch or order.

21. WHOLE AGREEMENT

- a. These Terms and Conditions together constitute the whole agreement and supersede all prior arrangement, understanding or agreement relating to their subject matter between the parties.
- b. If any provision of these Terms and Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Terms and Conditions and contract and the remainder of the provision in question shall not be affected.

22. THIRD PARTIES

The Contracts(Rights of Third Parties) Act 1999 shall not apply to this Contract and no person who is not a party to this Contract (other than a successor in title to one of the original parties) shall be entitled in that person's own right to enforce any provisions of this contract pursuant to the provisions of the said Act.

23. COMPLAINTS

Where we cannot resolve any complaints using our own complaints procedure, as a Which? Trusted trader we use Dispute Resolution Ombudsman for dispute resolution. In the unlikely event of a complaint arising and you wish to refer the complaint to them please contact 0333 241 3209 or via their website

<http://www.disputeresolutionombudsman.org/which-trusted-traders-partnership/>