

TERMS AND CONDITIONS OF SALE

These amended Terms and Conditions (December 2010) supercede any previous Terms and Conditions including those specified on previous Account Application forms.

These Terms do not apply if you deal as a Consumer

1 DEFINITIONS

In these Terms of Sale, the following meanings shall apply:

"We" and "Us" means WOODY'S Group Ltd, Registered in England and Wales No. 4986721.

"You" means the person seeking to purchase Goods from Us.

"the Goods" means the goods or when the context permits services to be supplied by Us.

"Company Signatory" means a person authorised by Us.

"the Terms" means the terms set out in this document and any special terms agreed in writing between a Company Signatory and You.

"the Contract" means the contract for the supply of Goods incorporating these Terms.

"Consumer" means any natural person acting for purposes if outside their trade, business or profession.

"The Defect" means the condition and/or any attribute of the Goods and/or any other circumstances which, but the effect of these Terms would have entitled you to damages.

2 THE CONTRACT

2.1 All orders are accepted by Us only under these Terms and they may not be altered – other than with the written agreement of a Company Signatory. Any contrary or additional terms, unless so agreed, are excluded.

2.2 Quotations are invitations to treat only.

2.3 Orders may be cancelled only with the agreement of a Company Signatory and You will indemnify Us against all costs, claims, losses or expenses incurred as a result of that cancellation.

2.4 You shall be responsible to Us for ensuring the accuracy of the terms of any order including any applicable design drawing or specification provided to Us by You and for giving Us any necessary information relating to the Goods within a sufficient time to enable Us to perform the Contract in accordance with its Terms.

2.5 2.5.1 It is your responsibility to be fully conversant with the nature and performance of the Goods, including any harmful or hazardous effects their use may have.

2.5.2 Without prejudice to Clause 2.5.4 of these Terms while We take every precaution in the preparation of our catalogues, technical circulars, price lists and other literature, these documents are for your general guidance only and statements included in these documents (in the absence of fraud on our part) shall not constitute representations by Us and We shall not be bound by them.

2.5.3 If you require advice (including Health and Safety information) in relation to the Goods, a specific request for advice should be made and any advice given in writing by a Company Signatory in response to such a request shall amount to a representation and We shall be liable accordingly.

2.5.4 We shall not be liable in respect of any misrepresentation made by US our employees or agents to You your employees or agents as to the condition of the Goods, their fitness for any purpose or as to quantity or measurements, unless the representation is: 2.5.4.1 made or confirmed in writing by a Company Signatory; and/or

2.5.4.2 fraudulent.

2.5.5 For the avoidance of doubt, our liability for damages for misinterpretation (other than fraudulent) is excluded or limited by Clause 10 of these Terms.

3 PRICE

3.1 The price of the goods shall be the price quoted by the company. The quotation is based on the price at the time of the quotation. The company shall be entitled to vary the quoted price at any time to reflect any delay, change in quantities, specification or the cost of the goods to the company.

3.2 Unless otherwise expressly stated in writing, all prices are exclusive and are, therefore, subject to VAT.

4 PAYMENT

4.1 Unless the sale is for cash, or other credit terms have been agreed in writing with a Company Signatory, all accounts are due for payment on the last day of the month, following the month in which the Goods are delivered.

4.2 We will accept payment of accounts by Credit Card subject to a 2% surcharge.

4.3 Late payments will incur interest at the rate of 8% per annum above the base rate of Barclays Bank Plc; in force from time to time from the due date until the date of payment after, as well as before, judgement.

4.4 Credit facilities may be withdrawn or reduced at any time at our sole discretion.

4.5 Even if We have previously agreed to give You credit, We reserve the right to refuse to execute any order or contract if the arrangements for payment or your credit rating is not satisfactory to Us. In our discretion We may require security satisfactory to Us or payment for each consignment when it is available and before it is despatched in which case delivery will not be effected until We are in receipt of security or cleared funds as requested by Us.

4.6 In the case of short delivery, You will remain liable to pay the full invoice price of all Goods delivered or available for delivery.

4.7 You may not withhold payment of any invoice or other amount due to Us by reason of any right of set off or counterclaim, which You may have, or allege to have, for any reason whatever.

4.8 We shall be entitled at all times to set off any debt or claim of whatever nature which We may have against You against any sums due from Us to You.

5 NON-PAYMENT/INSOLVENCY

5.1 "Insolvent" means You becoming unable to pay your debts within the meaning of Section 123 of the Insolvency Act 1986; the levying or the threat of execution or distress on any of your property; the appointment of a receiver or administrative receiver over all, or any part, of your property; a proposal for a voluntary arrangement or compromise between You and your creditors, whether pursuant to the Insolvency Act 1986 or otherwise; the passing of a resolution for voluntary winding-up or summoning a meeting to pass such a resolution otherwise than for the purposes of a bona fide amalgamation or reconstruction, the presentation of a petition for your winding-up, or for an administration order in relation to You. If you suffer any analogous step or proceedings under foreign law or You are ceasing or threatening to cease to carry on your business.

5.2 If you fail to pay the price for any Goods on the due date or fail to pay any sum due to Us under any contract on the due date or You become Insolvent or if You are a Limited Company or partnership and there is a material change in your constitution or You commit a material breach of this Contract and fail to remedy that breach, all sums outstanding between You and Us shall become immediately payable, and We shall be entitled to do any one or more of the following (without prejudice to any other right or remedy We may have):-

5.2.1 require payment in cleared funds in advance of further deliveries

5.2.2 cancel or suspend any further deliveries to You under any contract without liability on our part

5.2.3 without prejudice to the generality of Clause 8 of these Terms exercise any of our rights pursuant to that clause.

5.3 If We reasonably incur third party costs, such as tracing or debt collection agency costs, or seek to take legal proceedings to enforce our rights as a result of your breach of this Contract – including but not limited to – recovery of any sums due, You will reimburse Us such reasonable agency costs or legal costs incurred on an indemnity basis.

6 DELIVERY

6.1 Delivery shall take place when the goods are collected from our premises or delivered by us to you.

6.2 We are not bound by any delivery date or time put forward by You at any time and any delivery date or time stated by Us at any time whether prior to or during the Contract and whether in writing or otherwise is an estimate only and shall not be binding. Time of delivery shall not be of the essence.

6.3 We can deliver by instalments. You will be invoiced upon receipt of each instalment. You shall not be entitled to repudiate the contract by virtue of the fact that we have failed to deliver one instalment or one instalment is late.

6.4 We will deliver to the address given by you. We shall deliver in a manner which we, in our absolute discretion, decide is appropriate for the goods.

6.5 If for any reason, we are unable to deliver the goods and they have to be returned to our premises, then we reserve the right to impose an additional charge.

6.6 We reserve the right not to deliver any goods and our drivers have full discretion not to deliver goods, if they consider it dangerous, negligent or for any other reason inappropriate to do so. It shall be your responsibility to ensure a safe and appropriate place for the delivery of the goods. You will be responsible for any costs or loss incurred as a result of your failure to do so.

6.7 We reserve the right to levy appropriate delivery charges as are deemed necessary at our discretion.

7 CANCELLATION AND RETURN OF GOODS

7.1 You will not be entitled to return goods without first obtaining the express authorisation from us.

7.2 No goods may be returned after the expiration of three months from the date of delivery or collection or the sell-by date on the goods, whichever is the earlier.

7.3 In any event, no goods which have been specially ordered, manufactured or machined or non stock items can be returned.

7.4 If goods are to be returned, then the following additional provisions apply:-

7.4.1 Goods must be re-sellable;

In processing your application for credit facilities we may make enquiries of credit reference agencies or other third parties who may record those enquiries. We may also disclose information about the conduct of your account with us to credit reference agencies or other third parties. The information obtained from or provided to credit reference agencies or third parties may be used when assessing further applications for credit terms, for debt collection, for tracing and for fraud prevention

7.4.2 Goods must remain in their package and must be unopened;

7.4.3 A handling charge will be made;

7.4.4 The invoice or other proof of purchase acceptable to us must be produced at the time of return.

8 TITLE AND RISK

8.1 Risk in the Goods shall pass to You when the Goods are delivered.

8.2 The property in the Goods shall remain with Us until You pay all sums due to Us, whether in respect of this Contract or otherwise.

8.3 Until title passes:-

8.3.1 You shall hold the Goods as our fiduciary agent and bailee.

8.3.2 The Goods shall be stored separately from any other goods and You shall not interfere with any identification marks, labels, batch numbers or serial numbers on the Goods.

8.3.3 We agree that You may use, or agree to sell the Goods as principle and not as agents in the ordinary cause of your business subject to the express condition that at our direction, the entire proceeds of any sale or insurance proceeds received in respect of the Goods are held in trust for Us and not mixed with any other monies, or paid into an overdrawn bank account and, it shall, at times, be identifiable as our money.

8.4 We shall be entitled, at any time, to recover any or all of the Goods in your possession to which we have title for that purpose. We our employees or agents may, with such transport as is necessary, enter upon any premises occupied by You, or to which You have access and where the Goods may be, or are believed to be, situated.

9 INSPECTION

9.1 You shall inspect the Goods at the place and time of unloading or collection, but nothing in these Terms shall require You to break packaging and/or unpack Goods which are intended to be stored before use.

9.2 9.2.1 You must advise Us by telephone immediately and give Us written notice within three working days of unloading of any claim for short delivery.

9.2.2 If You do not give Us that notice within that time, the Goods will be deemed to have been delivered in the quantities shown in the delivery documents.

9.2.3 You shall not be entitled, and irrevocably and unconditionally waive any rights to reject the Goods or claim any damages whatsoever, for short delivery howsoever caused.

9.2.4 Our liability for short delivery is limited to making good the shortage.

9.3 9.3.1 W here it is, or would have been, apparent on a reasonable inspection that the Goods are not in conformity with the Contract or (where the Contract is a contract for sale by sample) that the bulk does not compare with the sample, You must advise Us by telephone immediately, and give Us written notice within three working days of inspection.

9.3.2 If You fail to give Us that notice within that time, the Goods will be deemed to have been accepted and You shall not be entitled, and irrevocably and unconditionally waive any rights to reject the Goods.

9.3.3 If You fail to give Us that notice within that time, Clause 10 shall have effect.

10 LIABILITIES

10.1 Nothing in these Terms shall exclude or restrict our liability for death or personal injury resulting from our personal negligence or our liability for fraudulent misrepresentation.

10.2 Subject to Clause 10.1 of these Terms, We shall not be liable by reason of any misrepresentation (unless fraudulent) or any breach of warranty condition or other term express or implied or any breach of duty (common law or statutory) or negligence for any damages whatsoever. Instead of liability in damages, We undertake liability under Clause 10.3 below.

10.3 W here but for the effect of Clause 10.2 of these Terms You would have been entitled to damages against Us, We shall not be liable to pay damages but subject to the conditions set out in Clause 10.4 below shall at our sole discretion, either repair the Goods at our own expense, or supply replacement Goods free of charge or refund all (or where appropriate part) of the price of the relevant Goods.

10.4 We shall not be liable under Clause 10.3:

10.4.1 if the Defect arises from wear and tear.

10.4.2 if the Defect arises from wilful damage, negligence, abnormal working conditions, misuse, alteration or repair of the Goods, failure to follow British Standard or industry instructions relevant to the Goods, or storage of the Goods in unsuitable conditions (but this sub-clause shall not apply to any act or omission on our part).

10.4.3 unless after discovery of the Defect We are given a reasonable opportunity to inspect the Goods before they are used, or in any way interfered with. For the avoidance of doubt, We acknowledge that the costs of suspending works are relevant to the determination of what is reasonable opportunity and this sub-clause shall not apply to any works affecting the Goods, which it may be reasonably necessary to carry out in the interests of safety and/or as emergency measures.

10.4.4 if the Defect would have been apparent on a reasonable inspection under Clause 9.1 of these Terms at the time of unloading, unless You advise Us by telephone immediately and written notice of any claim is given to Us within three working days of the time of unloading; or in any other case.

10.4.5 if the Defect is discovered within four months from the date of delivery and We are given written notice of the Defect within three working days of it being discovered.

10.5 If the Goods are not manufactured by Us, or have been processed or milled by a third party – whether or not at your request – our liability, in respect of any defect in workmanship or materials of the Goods, will be limited to such rights against the manufacturer or the third party as We may have in respect of those Goods.

10.6 If the Goods are manufactured, processed or milled by Us to the design quantity measurement or specification of You or your agents then:

10.6.1 Subject to Clause 10.1 of these Terms, We shall not be under any liability for damages whatsoever. Or under Clause 10.3 of these Terms as the case may be except in the event of:

10.6.1.1 fraudulent misrepresentation

10.6.1.2 misrepresentation where the representation was made or confirmed in writing by a Company Signatory

10.6.1.3 non-compliance with such design quantity measurement or specification

10.6.1.4 breach of a written warranty signed by a Company Signatory that the Goods are fit for that purpose; or

10.6.1.5 a claim maintainable against Us pursuant to Clause 10.1 of these Terms

10.6.2 You will unconditionally, fully and effectively indemnify Us against all loss damages costs on an indemnity basis and expenses awarded against, or incurred, by Us in connection with, or paid, or agreed to be paid, by Us in settlement of any claim for infringement of any patents, copyright design, trademark, or any other industrial or intellectual property rights of any other person.

10.6.3 You will further unconditionally, fully and effectively indemnify Us against all loss damages costs on an indemnity basis and expenses awarded against, or incurred by Us in connection with, or paid, or agreed to be paid, by Us in settlement of any other claim from any such manufacturing processing or milling, including – but not limited to – any Defect in the Goods. This indemnity will be reduced in proportion to the extent that such loss damage costs and expenses are due to our negligence.

10.7 You will unconditionally, fully and effectively, indemnify Us against all loss damages costs on an indemnity basis and expenses awarded against, or incurred by Us in connection with, or paid, or agreed to be paid by Us in settlement of any claim by any third party arising from the supply or use of the Goods. This indemnity will be reduced in proportion; to the extent that such loss damage costs and expenses are due to our negligence.

10.8 Without prejudice to any other provisions in these Terms: in any event, our total liability for any one claim, or for the total of all claims arising from any one act of default on our part (whether arising from our negligence or otherwise), shall not exceed the purchase price of the goods – the subject matter of any claim.

11 GENERAL

11.1 This Contract shall be governed and interpreted according to the Law of England and Wales and You agree to submit to the nonexclusive jurisdiction of the English Courts.

11.2 We shall not be liable for any delay or failure to perform any of our obligations in relation to the Goods due to any cause beyond our reasonable control, including industrial action.

11.3 The waiver by Us of any breach or default of these Terms shall not be construed as a continued waiver of that breach, nor as a waiver of any subsequent breach of the same, or any other provision.

11.4 If any clause or sub-clause of these Terms is held by a competent authority to be invalid or unenforceable, the validity of the other clauses and sub-clauses of these Terms shall not be affected and they shall remain in full force and effect.

11.5 We may assign novate, or sub contract all or part of this Contract and You shall be deemed to consent to any novation. This Contract is personal to You and it may not be assigned.

11.6 Nothing in this Contract is intended to, or will grant any right, to any third party to enforce any terms of this Contract, be it express or implied.