

BOURNEVILLE GROUP ("the Company")

TERMS & CONDITIONS FOR SALE OF GOODS

Effective from 18/10/2022

1. Acceptance
 - 1.1. A formal acceptance in writing is required to process an order, placing an order also constitutes an offer by you to purchase goods from us on these terms.
 - 1.2. You will receive a Sales Order Confirmation via email, should we not receive notification from you within five (5) days, you agree to the product specification and finishes stated on the order, you agree no further changes or amendments to this order can be made.
 - 1.3. All orders are binding once accepted by BFG.
 - 1.4. All quotes are valid for 30 days unless otherwise stated
2. Price
 - 2.1. Prices quoted are exclusive of GST unless otherwise stated
 - 2.2. Prices may change without notice.
 - 2.3. Unless noted in this Contact the prices do not include cost of delivery and are exclusive of GST and GST shall be payable on all charges at the rate current at the date of invoicing.
3. Payment
 - 3.1. Payment is on the 20th of the month following delivery if the Customer has an approved Commercial Credit Account.
 - 3.2. If the customer does not have an approved Credit Account with BFG, 50% deposit is required at the time of acceptance, production will not commence until the deposit has been received. The balance of the invoice is required to be paid in full prior to delivery.
 - 3.3. The Buyer shall not be entitled to withhold payment or to make any deductions from or setoff against the Contract Price without prior written consent of the Company.
 - 3.4. Interest at the rate of 3.5% may be charged and payable on any monies outstanding under the Contract from the date payment was due until the date payment was received by the Company.
 - 3.5. Should the Buyer's credit become impaired or be deemed unsatisfactory by the Company the Company may require payment or satisfactory security before commencing manufacture or delivery of any order.
4. Delivery
 - 4.1. Delivery shall be made at the place indicated in the Contract. If the buyer fails or refuses to accept delivery or indicates to the Company that it will refuse to accept delivery, then the goods shall be deemed to have been delivered.
 - 4.2. BFG will not be liable for any loss incurred or suffered by the customer as a result or delay in the delivery of Goods or the provision or Services
 - 4.3. The Company may charge storage and transportation expenses if the buyer fails or refuses to take or accept or indicates to the Company that it will fail or refuse to take and accept delivery at the time specified in the Contract or at any other times as the Company is able to deliver the goods.
 - 4.4. Proof of delivery information will not be provided beyond fourteen (7) days from date of receiving the invoice, after this period, liability will not be with BFG for proof of delivery.
 - 4.5. The Company may by written agreement with the Buyer defer the date of delivery of goods ordered by the Buyer, however provided that the prices payable by the Buyer shall be the Company's prices current as at the date of actual delivery. In the event the Buyer defers delivery of products for any reason, and such deferment incurs in storage and insurance costs, all such charges will be the liability of the Buyer.

5. Delay

- 5.1. If any time for delivery shall be stated in the Contract, such time shall be approximate only and shall not be deemed to be of the essence of the Contract.
- 5.2. The Company shall not be liable for failure to deliver or for any delay in delivery where such failure or delay is occasioned directly or indirectly by any cause whatsoever, beyond the Company's reasonable control.
- 5.3. If the manufacture, supply or delivery of the goods is delayed by reason of or as a result of any act, omission, default or request by or on behalf of the Buyer, the Company may, without prejudice to its other rights and remedies, require payment by the Buyer of such portion of the Contract Price as represents the extent to which the Company has performed the Contract or carried out work required by the Contract together with any expenses or additional cost incurred by the Company as a result of such a delay. In the event of such a delay continuing beyond a reasonable time, the Company may, without prejudice to its other remedies, terminate the contract.

6. Property

- 6.1. Title to the good or goods shall not pass to the Buyer but title shall remain vested in The Company until payment for the good or goods has been made in full.
- 6.2. Risk in each product shall pass to the Buyer when the product is delivered to the Buyer's premises.
- 6.3. Until payment for a good or goods is made in full to the Company by the Buyer, the following terms shall respectively apply to each good or goods:
 - 6.3.1. The Buyer shall be deemed to be in a fiduciary capacity as bailee of The Company in respect to the good or goods supplied by The Company and;
 - 6.3.2. The Buyer if required by The Company will store the good or goods on such terms as The Company may stipulate. If the Buyer sells or otherwise disposes of any good or goods for which payment has not been made in fully, the Buyer shall be deemed to have done so as agent for The Company and shall prior to accounting to The Company for any proceeds credit such proceeds, to a separate bank account identified as being for The Company.
 - 6.3.3. If the Buyer makes default in payment for any of the products, although the good or goods may be in the Buyer's possession, the Buyer hereby irrevocably gives The Company, its agents and servants leave and licence to enter on and into any property occupied by the Buyer without notice to inspect, search for or remove products not paid for and The Company shall not be liable to the Buyer or any third party for the exercise of its rights under this clause.
 - 6.3.4. Where the Company exercises its rights under this agreement in respect of the resale storage or repossession of goods or goods supplied (including legal costs as between solicitor and client) the Buyer will immediately indemnify The Company for all such costs.
 - 6.3.5. All moneys received by The Company may be allocated by The Company against moneys owed by the Buyer as The Company wishes at its sole discretion.
- 6.4. Personal Properties Securities Act 1999 ("PPSA")
 - 6.4.1. This clause constitutes a security interest within the meaning of the PPSA, and The Company may in its absolute discretion, register this security interest under the PPSA or do any act or thing required to perfect its security interest.
 - 6.4.2. The Buyer will provide all information and do all things required by The Company for the purposes of the PPSA, including (but not limited to) full identification details.
 - 6.4.3. The Buyer waives any rights to receive a copy of a verification statement confirming registration of a financing statement or financing change statement relation to the security interest under this contract.

6.4.4. The Buyer agrees that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to this contract, or the security under this contract, and waives the Buyer's rights under sections, 121, 125, 129, 131 and 132 of the PPSA.

7. Warranty

7.1. The Company warrants that it will repair or make good any defects in the goods if written notice of the claim is received by the Company within seven (7) days from the date the good were delivered or warranty term as agreed individual contracts. No claim shall be accepted under such warranty if any attempt to repair the defective goods is made by the Buyer, or if the defective goods have been modified or incorrectly stored, maintained or used. If the Company elects to repair or replace any defective goods, such work shall be undertaken at such place as the Company may reasonably specify and the Buyer shall be responsible at its cost and risk of shipment of the goods to the place specified. If the Company fails to perform its warranty obligations under this clause 7, liability for such failure shall be subject to the limitation contained in clause

8. Liability To the maximum extent permitted by law;

8.1. The Company shall not be liable for any loss of any kind whatsoever suffered by the Buyer because of any breach of any of the Company's obligations under the contract including any cancellation of the contract or any negligence on the part of the Company, its servants, agents or contractors nor shall the Company be liable for any loss, damage or injury caused to the Buyers, servants, agents, contractors, customers, visitors, tenants, trespassers or other persons. The Buyer shall indemnify the Company against any claim by any such persons.

8.2. Notwithstanding anything else in the contract, the liability of the Company, arising from breach of any of the Company's obligations under the contract, from any cancellation of the contract or from negligence on the part of the Company, its servants, agents or contractors shall be limited to damages which shall not in total exceed the contract price.

8.3. If in any court action, or arbitration any products manufactured by the Company for the Buyer be found not to be reasonably equal to sample or specification or should any workmanship carried out by the Company on goods belonging to the Buyer be found not to meet the required standard then if the product or goods as the case may be are nevertheless unusable by the Buyer for normal business purposes the court action, or arbitration shall award damages to the Buyer which shall not in total exceed the contract price. Should however any such products or goods be found not to be usable the court or arbitrator may in the case of products manufactured by the Company order rejection and a refund of any monies paid because the price and in then case of goods upon which work has been carried out by the Company may order payment of any amount paid because the price. Upon an order of rejection, the Company will at its own cost remove the products within a reasonable time after the order. The liability of the Company for defective products or workmanship shall be limited to the amount assessed in the manner aforesaid and shall not include liability of any consequential indirect or special damages or loss of any kind whatsoever.

9. Product

9.1. The Company shall not be required to match any shade of colour but will make every reasonable effort to match the shade or colour if any is specified and in no event, shall the Company be obliged to make better than a commercial match of colours.

9.2. The Company reserves the right to implement a surcharge for alterations to specifications of products after the order has been placed.

9.3. Veneer & Natural Timber products need to be understood in the following context. The product is effectively a natural living material; it is prepared by our suppliers to measured moisture content prior to delivery to BFG. BFG then prepares the product as per the industry standards

and under almost all applications the material is finished off with coats of Stains, Sealers & Lacquers. (unless otherwise specified). Lacquered surfaces are also more prone to Scratching than normal low-pressure laminate surface. So, care must be taken. Whilst BFG is responsible for any Product problems that fall into category's that arise outside of the above-mentioned areas, BFG Cannot be held responsible where the product is suffering under any of the above situations.

10. Return of Goods BFG will not accept any return of goods for credit or any other purpose unless BFG agrees to accept the return of the goods, return of goods will only be accepted for credit within fourteen (14) days. The cost to return the goods will be at your expenses unless otherwise agreed.
 - 10.1. BFG reserve the right to charge a restocking fee of 10% of the total unit price of that item including any additional freight charges to have the Goods sent back to BFG.
 - 10.2. No return goods will be accepted by BFG if they have been used.
11. Plans & Designs
 - 11.1. Preparation by the Company of floor plans and /or product designs requested by the Buyer remain the sole property of the Company and may not be reproduced without the written consent of the General Manager of the Company or his appointee.
12. Cancellation
 - 12.1. No order once accepted by the Company may be cancelled and varied by the Buyer except with the written agreement of the Company.
13. Default & Indemnity
 - 13.1. If the Buyer defaults in the payment of any monies owed to the Company, whether under the contract or otherwise, or if the Buyer is in default in the performance of its obligations under the contract or otherwise or (in the Company's opinion) be insolvent the Company, without prejudice to it's other rights and remedies, may suspend or terminate the contract, and payment for the goods delivered and work performed up to the date of such suspension or termination and any other monies owed to the company shall immediately become due and payable.
 - 13.2. In any of the events specified in clause 12.1 the Company may, as the agent of the Buyer (and without notice), enter the premises where the goods are situated and take possession of and remove them without responsibility for any damage caused, and the Company may resell any or all the goods and apply the proceeds in or towards payment of the contract price and all other monies owing by the Buyer. All expenses incurred by the Company because of such action shall be payable by the Buyer on demand. Any suspension of the contract by the Company shall not prevent its termination of the contract during the period of suspension.
14. Contract
 - 14.1. These conditions shall, together with any other provisions included in writing in the quotation (where the contract arises from a quotation by the Company) or the items contained in the Company's confirmation of order (where the contract arises from any order by the Buyer), be the conditions of the contract. Subject to any overriding provisions of any statute or regulation all other conditions, warranties, descriptions and representations are expressly excluded.
 - 14.2. In the event of any conflict between an order or other document submitted by the Buyer on the one hand, and the Company's confirmation of order and /or these conditions and /or any other document issued by the Company on the other hand the provisions of the Company's confirmation of order and/or these conditions and/or such other documentation issued by the Company shall prevail.

- 14.3. In the event of any conflict between these conditions on the one hand and the Company's confirmation of order and/or any such document issued by the Company on the other hand, the provisions of these conditions shall prevail except in the case of a clear and intentional written variation in the confirmation of order or other such document.
- 14.4. No agent or representative of the Company is authorized to make any representations, warranties, conditions or agreements not expressly confirmed in writing by an authorized officer of the Company and the Company is not in anyway bound by any such unauthorized statements nor can any such statements be taken to form a contract collateral to the contract.
15. Waiver & Assignment
- 15.1. All the original rights, powers, exemptions and remedies of the Company shall remain in full force notwithstanding any neglect, tolerance or delay in the enforcement thereof. The Company shall not be deemed to have waived any condition unless such a waiver shall be in writing under signature of the Company and any such Waiver, unless the contrary shall be stated, shall apply to and operate only in a transaction, dealing or matter. The Buyer may not assign all or any of its rights or obligations under the contract with prior written consent of the Company.
16. Consumer Guarantees Act 1993
- 16.1. It is agreed and acknowledged by the Buyer that where the goods supplied under this contract are for the purposes of a business the provisions of the Consumer Guarantees Act 1993 shall not apply.
17. Privacy Act 1993 17.1 The Customer Authorizes BFG to collect and use personal information for the following purposes: A) Disclosing to a third party the details of the Credit Account Application B) Reviewing the customer's credit rating
18. Interpretation
- 18.1. These conditions of sale are entered on behalf of and are intended to bind and ensure to the benefit of the Company and the Company's successors and assigns.
- 18.2. In these conditions unless the context otherwise requires: "the Bourneville Group" means Bourneville Furniture Co Limited, Commercial Interiors Limited, Furniture Development Limited, Millennium Furniture Limited and any subsidiaries or related company's as may exist from time to time; "the Company" means any of the entitles comprising the Bourneville Group; "the Buyer" means the person, firm or company buying the goods from the Company; "goods" means the products being purchased by the Buyer form the Company; "the contract" means the contract between the Company and the Buyer for the purchased goods; "the date of the contract" means: (a) where the contract arises from the quotation given by the Company, the date of acceptance of the order by the Company; or (b) where the contract arises from the quotation given by the Company, the date upon which written notification of acceptance of the quotation is received by the Company;
19. Acceptance The Buyer confirms its acceptance of these Terms and Conditions and agrees that they apply to all contracts with the Company for the supply of goods and services by the Company to the Buyer