

# Terms & Conditions of Sale

## 1 DEFINITIONS

- 1.1** In these Conditions the following words shall have the following meanings: "Conditions" means the terms and conditions of sale set out below and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between us; "Contract" means the contract for the purchase and sale of the Goods subject to these Conditions; "Goods" means any and all goods (including any instalments or parts) and/or the services which we are to supply in accordance with these Conditions; "Insolvency Event" means if you become insolvent, have a receiver appointed over the whole or any part of your assets, enter into any compound with creditors, or have an order made or resolution passed for you to be wound up (otherwise than in furtherance of a scheme for amalgamation or reconstruction) or if your ownership or control shall pass into the hands of any other legal person, or an event analogous occurs to you in any jurisdiction to which you are subject; "Intellectual Property Rights" means any patent, know how, trade mark, service mark, trade name, registered design, copyright, moral right, design right, database right, semi-conductor topography right or any other industrial or commercial right including any application for registration or protection of any of the same anywhere in the world; "Special Goods" means any of our standard products which we agree to modify to meet your specific requirements or products which are designed to your specification; "We" "Us" means Life Kitchens Limited (CRN: 11042139); "You" means the customer whose order for the Goods is accepted by us.

## 2 BASIS OF THE SALE

- 2.1** We shall sell and you shall buy the Goods subject to these Conditions, which supersede any other terms and which govern the Contract to the exclusion of any terms and conditions which you may ask us to sign or supply or which are implied by trade, custom or course of dealing.
- 2.2** No terms or conditions endorsed upon, delivered with or contained in your order or other document will form part of the Contract simply as a result of such document being delivered to us or referred to in the Contract.
- 2.3** Any variation to these Conditions is of no effect unless agreed in writing by our authorised representative.
- 2.4** These Conditions constitute the entire agreement between you and us for the supply of the Goods.
- 2.5** Our employees or agents are not authorised to make any representation concerning the Goods unless confirmed by us in writing, and you acknowledge that you do not rely on, and waive any claim for breach of, any such unconfirmed representation (unless such representation is made fraudulently).
- 2.6** Any advice or recommendation we or our employees or agents may give to you as to the storage, application or use of the Goods which is not confirmed in writing by us is followed or acted upon entirely at your own risk.
- 2.7** Any typographical, clerical or minor/other error or omission in any document or information issued by us shall be subject to correction without any liability on our part.
- 2.8** We shall supply Special Goods subject to these terms and conditions and our Terms and Conditions of Sale of Special Goods which you will be required to sign before we will accept your order for Special Goods.

## 3 QUOTATIONS, ORDERS AND SPECIFICATION

- 3.1** Our quotation is not an offer. Quotations shall be valid for 30 days from the date of quotation subject to withdrawal or revision by us at any time before we accept your order.
- 3.2** Prices included in quotations are applicable only if an order is placed for all Goods referred to in the quotation, if an order is placed for only some of the Goods referred to in the quotation, we reserve the right to re-quote.
- 3.3** Each order for Goods issued by you is an offer by you to purchase the Goods subject to these Conditions.
- 3.4** No order submitted by you by whatever means is accepted by us until we confirm our acceptance or (if earlier) we deliver the Goods to you.
- 3.5** Where ordering Goods via our website, no Contract shall exist between you and us until we confirm our acceptance of your order by email.
- 3.6** You must ensure that the terms of any order (including any specification) are complete and accurate and that you give us any necessary information within a sufficient time to enable us to complete the order.

## 4 CANCELLATION AND DELAY

- 4.1** Once accepted an order may not be cancelled without our written agreement and on terms that you indemnify us against all loss (including loss of profit) and expenses incurred as a result of cancellation.
- 4.2** We will not be liable to you or be in breach of Contract by reason of delay or failure to perform any of our obligations if the delay or failure was due to any cause beyond our reasonable control.
- 4.3** If for whatever reason, Life Kitchens are required to store a manufactured kitchen for more than a month after the scheduled delivery date set by the customer, then a weekly charge of £100 per week, per kitchen will be applied and invoiced for storage.

## 5 PRICE

- 5.1** The price of the Goods shall be our quoted price (as may be varied under Condition 3.2) or, where no price has been quoted (or a quoted price is no longer valid), the price listed in our published price list current at the date we accept your order.
- 5.2** All prices are subject to VAT and any other government duty or tax applicable unless otherwise stated by us in writing.
- 5.3** If you request any alteration in the design, specification or quantity of the Goods we are entitled, should we choose to accept such alteration, to vary the price.
- 5.4** We reserve the right by giving notice before delivery or supply to increase the price of the Goods to reflect any increase in cost to us.
- 5.5** Prices quoted by us are exclusive of costs of delivery unless otherwise stated.

## 6 PAYMENT

- 6.1** The following payment and deposit terms apply to all customers:
- 6.1.1** Customers who have agreed pro forma terms are required to make full payment at the time of order confirmation.
- 6.1.2** For customers approved for credit, payment terms will be established at the time their account is opened. These terms will be clearly outlined in the credit agreement and may include various custom terms as agreed upon. Customers are required to adhere to these terms for timely payment of invoices.
- 6.1.3** For customers with agreed 50:50 payment terms, 50% payment is required on confirmation of order and the remaining 50% payable 10 days prior to despatch. The initial payment received on order confirmation is non-refundable once the order is confirmed and production has commenced.
- 6.2** If you fail to make payment on the due date then, without prejudice to any other right or remedy available to us, we shall be entitled to:
- 6.2.1** cancel the Contract or suspend any further deliveries to you.
- 6.2.2** appropriate any payment made by you to such of the Goods (or the goods supplied under any contract between you and us) as we may think fit (notwithstanding any purported appropriation by you).
- 6.2.3** charge you interest at an annual rate of 3% above Barclays Bank Plc base rate from time to time which will accrue daily (both before and after judgement) and be calculated daily on overdue accounts from the date of invoice until payment.

- 6.2.4** claim interest and compensation for debt recovery costs under the Late Payment of Commercial Debts (Interest) Act 1998 and the Late Payment of Commercial Debts Regulations 2002.
- 6.3** Without prejudice to Condition 6.5, the Goods remain our property until the price has been paid in full as provided for under Condition 10.
- 6.4** Unless there is prior written agreement, items returned will not be accepted for credit.
- 6.5** We are entitled to set off sums you owe to us.

## 7 DELIVERY

- 7.1** Delivery of the Goods shall be made by you collecting the Goods from us after we have notified you that the Goods are ready for collection, or if delivery is to be made by us, by us delivering the Goods.
- 7.2** Where the Goods are to be delivered in instalments, each delivery shall be a separate contract and failure by us to deliver any one or more of the instalments in accordance with these Conditions or any claim by you in respect of any one or more instalments shall not entitle you to treat the Contract as a whole as repudiated.
- 7.3** Any time or date for delivery specified by us is approximate only.
- 7.4** If any cause outside our control or any labour dispute or any unforeseen contingency (whether in our premises or elsewhere) render it impracticable for us to execute any order or to deliver within a reasonable time we reserve the right to cancel the order and to repay you any payment already received.
- 7.5** Subject to Condition 9.4 we shall not be liable for any loss or damage whether direct, indirect or consequential caused by or arising out of or connected with any delay in the delivery or failure to execute an order or to deliver the Goods ordered or any cancellation of the Contract pursuant to Condition 7.4 above.
- 7.6** We will endeavour to comply with any of your reasonable requests for the postponement of delivery but shall be under no obligation to do so. Where delivery is postponed at your request you shall pay all costs and expenses including a reasonable charge for storage and transportation occasioned thereby.
- 7.7** If we fail to deliver the Goods (or any instalment) for any reasons other than any cause beyond our reasonable control or your fault, and we are accordingly liable to you, our liability shall be limited to the excess (if any) of the cost to you (in the cheapest available market) of similar Goods to replace those not delivered over the price of the Goods.

## 8 WARRANTIES AND LIABILITY

- 8.1** The warranty guarantees that the following products supplied by PWS will be free from faults or defects in workmanship and materials for the following time periods from delivery to you, subject to the terms and conditions of the Contract (where applicable) and the terms set out below:
- a.** Kitchen and Bedroom Book product: **10 years**
- b.** Kitchen and Bedroom Facias and Accessories: **6 years**
- c.** All Blum hinges and drawers: **Lifetime guarantee**
- d.** All Kesseböhmer internal storage and accessories: **10 years**
- e.** All Sycamore lighting: **5 years**
- f.** All worksurfaces: **10 years**
- g.** All other products: **refer to manufacture warranty**
- 8.2** We shall not be liable under this warranty (or any other warranty, condition or guarantee) if:-
- 8.2.1** any defect in the Goods arises from any drawing, design or specification supplied by you;
- 8.2.2** any defect arises from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow our instructions (whether oral or in writing), misuse or alteration or repair of the Goods without our prior approval; or
- 8.2.3** if the total price for the Goods has not been paid by the due date for payment.
- 8.3** This warranty does not extend to parts, materials or equipment not manufactured by us, in respect of which you shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to us.
- 8.4** Any claim by you which is based on any defect in the quality or condition of the Goods or their failure to correspond with the specification shall (whether or not delivery is refused by you) be notified to us within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after the discovery of the defect or failure. If delivery is not refused, and you do not notify us accordingly, you shall not be entitled to reject the Goods and we shall have no liability for such defect or failure, and you shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 8.5** In the event you have a valid claim in respect of any of the Goods which has been notified to us in accordance with these Conditions, we shall be entitled to repair or replace the Goods (or the part in question) free of charge or, at our sole discretion, refund to you the price of the Goods (or a proportionate part of the price), but we shall have no further liability to you.
- 8.6** Life Kitchens obligation under this warranty relates only to you as the purchaser of the products. This warranty does not create any contractual obligation between Life Kitchens and any customer to whom you sell the products.
- 8.7** All our Products come with the benefit of a Product Guarantee. Please ensure that you keep this document in a safe place, as it may be needed if the Product develops a fault. The terms of the Product Guarantee are additional to and not a substitute for your statutory rights.
- 8.8** On receipt of the Products you must check they match your Order. If there is any problem, or if they are defective or damaged you must notify us as soon as is reasonably possible. Claims may be reduced or rejected if we have not been given an opportunity to put matters right.
- 8.9** In addition to the right to cancel an Order as described in Clause 4, if there is a problem with the Products or the Products are faulty, we may make good any shortage or non-delivery, or offer a repair, exchange, or refund as appropriate in accordance with our Product Guarantee or your statutory rights.

## 9 LIMITATION OF LIABILITY

### YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

- 9.1** The following sets out our entire financial liability (including any liability for the acts or omissions of our employees, agents or subcontractors) to you in respect of any breach of these Conditions and any representation, statement or act or omission (including negligence) arising under or in connection with the contract between us and in respect of any contemplated performance or lack of performance.
- 9.2** All warranties, conditions or other terms implied by statute, common law, trade usage or otherwise are excluded to the fullest extent permitted by law but this exclusion does not apply to:-
- 9.2.1** any implied condition that we have the right to sell the Goods or when ownership is to pass; or
- 9.2.2** where the Goods are sold to a person dealing as a consumer within the meaning of the Unfair Contract Terms Act 1977, any implied term relating to the conformity of the Goods with their description or sample or as to their quality or fitness for a particular purpose.
- 9.3** The statutory rights of consumers are not affected.
- 9.4** Nothing in these Conditions excludes or limits our liability for death or personal injury caused by our negligence or for fraudulent misrepresentation.

## 9.5 Subject to Conditions 9.2 and 9.4:-

- 9.5.1** our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of the contract between us shall be limited to the Contract price; and
- 9.5.2** we shall not be liable to you for any loss of profit, loss of production, depletion of goodwill or any indirect loss, damage, costs or expenses whatsoever which arise out of or in connection with the contract between us.

## 10 RISK AND PROPERTY

- 10.1** The Goods remain our property until we receive their full price together with all other sums which are or which become due from you on any account with us.
- 10.2** If payments received from you are not stated to refer to a particular invoice we may appropriate such payments to any outstanding invoice.
- 10.3** Risk in the Goods passes to you on delivery.
- 10.4** Until ownership of the Goods passes to you, you must:-
- 10.4.1** store them at your own cost on your premises separately from any other goods and in a manner which makes them readily identifiable as our goods;
- 10.4.2** not destroy, deface or obscure any identifying mark or packaging of the Goods;
- 10.4.3** maintain the Goods in a satisfactory condition insured on our behalf for their full price against all risks; and
- 10.4.4** hold the proceeds of insurance referred to in Condition 10.4.3 on trust for us and not mix them with any other money, nor pay the proceeds into an overdraft account.
- 10.5** During the period following delivery of the Goods and prior to ownership having passed to you in accordance with Condition 10.1, you may use or sell the Goods to a bona fide purchaser in the ordinary course of your business, subject always to compliance with Condition 10.4 whilst the Goods remain under your control.
- 10.6** We may, so as to discharge any overdue payment under the Contract recover or resell the Goods and we may enter any premises where the Goods are stored for this purpose.

## 11 TERMINATION

- 11.1** We shall be entitled to terminate the Contract and cancel any further deliveries to you under any order placed by you, in the event that:
- 11.1.1** You fail to observe or perform any agreements or provisions contained in the Contract (other than non-payment which shall be dealt with under Condition 6.3 unless the same is remedied (if capable of remedy) within seven days from the receipt of a notice specifying such failure; 11.1.2 You suffer an Insolvency Event.

## 12 CARRIAGE AND PACKING

- 12.1** An extra charge for postage will be made on small orders or any special or express delivery requirements made by you. Cases or other special packing and containers will be charged separately and are due for payment in accordance with the Condition 6. A credit or refund will subsequently be allowed for cases and other containers returned to our premises carriage paid and in good condition less cost of return carriage to the manufacturer.

## 13 SPECIAL GOODS

- 13.1** Where the Goods are manufactured or where our standard goods are altered in order to become the Goods in either case in accordance with information, drawings or instructions supplied by you:-
- 13.1.1** we give no guarantee or warranty as to the practicability, efficiency, safety or otherwise of the Goods;
- 13.1.2** you shall indemnify us against all liability we incur as a result of:-
- (a) the Goods infringing any Intellectual Property Rights or any statutory provision;
- (b) any impracticability, inefficiency, lack of safety or defect in the Goods where any of these is due wholly or partly to faults or omissions in any such information, drawings or instructions;
- 13.1.3** all work (including design drawings) and any idea, invention or improvement made by or on our behalf pursuant to your commission and all Intellectual Property Rights therein (including any design right in a design we create) belong to us; and
- 13.1.4** we shall not be liable to you in respect of any loss, damage or claim incurred by or made against you if any Goods infringe any Intellectual Property Rights
- 13.2** In the case of Goods made specially or to your specification, pattern or design, we reserve the right to supply 5% more or less than the quantity ordered and we will adjust its charges pro-rata accordingly.
- 13.3** Where tools or dyes have to be made specially to produce Goods to your specification, pattern or design, such tools or dyes shall not become your property unless otherwise expressly agreed in writing.

## 14 YOUR MATERIALS

If we agree to carry out work on your own material or to store Goods after an invoice has been presented for the Goods such material or Goods will be held at your risk and the Seller will not be responsible for damage by accidents, fire, flood, deterioration or any other cause.

## 15 LIEN

We shall have a general lien (together with a power of sale) on all property owned by you in our possession in satisfaction of any payment due or owing from you on any account.

## 16 GENERAL

- 16.1** Each of our rights or remedies is without prejudice to any other right or remedy we may have.
- 16.2** If any provision of these Conditions is found by any competent authority to be invalid, unenforceable or unreasonable, the remainder shall not be affected.
- 16.3** Failure or delay by us in enforcing or partially enforcing any provision of these Conditions is not a waiver of any of our rights.
- 16.4** Any waiver by us of any breach by you is not a waiver of any subsequent breach.
- 16.5** These Conditions and the contract between us do not create, confer or purport to confer any benefit or right enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999.

## 17 ENGLISH LAW

These Conditions and the contract between us are subject to English law and the exclusive jurisdiction of the English courts.

## DATA PROTECTION ACT 1998 NOTICE

Where I/we provide you with personal data ("data"), I/we understand that the data will be held securely in confidence and processed for the purposes of carrying out your business and associated activities ("Activities"). In considering my/our application, I/we accept that you may consult with and disclose the data to credit reference agencies, banks, credit insurers and other responsible organisations outside your business that you have nominated ("third parties"), and that such third parties may process the data. I/we understand that under the Act I/we have the right to know what data you hold on me/us if I/we apply to you in writing and pay the applicable fee. I/we agree that you may use the data to contact me/us with details of other products and services. Unless I/we have written to you objecting to you using the data for such purpose I/we agree that you may contact me/us by post, telephone, fax, e-mail, via the Internet, or other communication means.