



## INSTINCT FURNITURE AUSTRALIA LTD

### **Conditions of Sale** (07/19)

#### 1.0 *General*

1.1 In these terms and conditions 'the Supplier' mean Instinct Furniture Australia Ltd, 'the Suppliers' mean Instinct Furniture Australia Ltd and its suppliers and the Purchaser means the buyer and its representatives and agents.

1.2 All terms for goods and services to be supplied by the Suppliers are subject to these terms and conditions.

#### 2.0 *Quotations*

2.1 Quotations remain valid for 30 days from the date of quotation.

2.2 The prices quoted exclude all taxes.

#### 3.0 *Quotation Acceptance*

3.1 The Purchaser will be deemed to have accepted the Supplier's quotation when the Purchaser's purchase order has been received by the Supplier.

3.2 The purchase order shall note the Supplier's quotation number, a summary of the Purchaser's requirements, the total purchase price, the delivery address and to whom the Supplier's invoice should be sent at job completion.

#### 4.0 *Acceptance these Conditions of Sale*

4.1 The Purchaser will be deemed to have accepted these Conditions of Sale when a purchase order has been received from the Purchaser in acceptance of the Supplier's quotation.

#### 5.0 *Pre-production Acceptance*

5.1 Prior to production commencing the Supplier will issue to the Purchaser a Confirmation of Order. This document sets out the Supplier's understanding of the Purchaser's order content and requirements. The Purchaser is required to check details set out in the Confirmation of Order carefully and contact the Supplier immediately should amendments be required. The Purchaser has two (2) working days from receipt of the Confirmation of Order to notify the Supplier of such amendments after which it shall be deemed that the Purchaser accepts the order content and requirements as set out in the Confirmation of Order to be accurate and accepted in full and manufacture may commence.

6.0 *Amendments and Cancellations*

6.1 Once the Supplier is in receipt of the Purchaser's purchase order it shall be deemed that the Supplier is authorized by the Purchaser to proceed immediately with processing and production of the order.

6.2 Should the Purchaser notify the Supplier to cancel an order, in part or in full, once in progress the Purchaser shall be liable to pay the Supplier in full for all materials purchased and all work undertaken plus a 12.5% administration charge pertaining to such cancelled items up to the date of notification.

7.0 *Delivery dates*

7.1 The Supplier's quotations will generally include an estimate of the number of weeks required to deliver the order from the date of receipt of the Purchaser's purchase order.

7.2 Once a purchase order has been received a specific delivery date will generally be agreed on with the Purchaser.

7.3 The Supplier will in good faith, endeavor to achieve agreed delivery dates however does not indemnify the Purchaser in any way nor accepts any liability resulting from failure to do so.

8.0 *Ownership and Risk*

8.1 Property in products comprised within any delivery will not pass to the Purchaser until the Purchaser has paid the full purchase price to the Supplier. However the risk in such goods shall pass to the Purchaser on delivery to the Purchaser or his agent. Specifically, insuring the goods against theft or loss shall be the responsibility of the Purchaser from the time of delivery.

8.2 Until such payment is received the products will be held by the Purchaser on behalf of the Suppliers in a fiduciary capacity as bailee.

8.3 Should the Purchaser sell the products to a third party prior to such payment then the Purchaser will be selling as agent for and on behalf of the Suppliers and the proceeds of the resale up to an amount not more than the balance then owing shall be the property of and shall be held in trust for the Suppliers by the Purchaser.

8.4 The Purchaser shall irrevocably give the Suppliers and their agents and employees the right and licence to enter any premises or site where it is believed that the products may be held and to remove any of the products or items of which they are constituents without in any way being liable to the Purchaser and the Purchaser will indemnify the Suppliers in respect of any claim arising from the proper exercise by the Suppliers of this right and licence.

8.5 The granting of any extensions in time, payment or otherwise any indulgence to the Purchaser by the Suppliers shall be without prejudice to the Suppliers' rights and remedies against the Purchaser.

9.0 *Delivery*

9.1 Delivery of the products will be deemed to have taken place when the products are deposited at the Purchaser's premises (on the property or at kerbside by the property depending on access), or such other reasonable location as the Purchaser has instructed them to be

delivered too. Where the products are uplifted by the Purchaser or its agent then delivery shall be deemed to have taken place at the time that the products are so uplifted.

- 9.2 It will be the Purchaser's responsibility to inspect the goods and verify to the Supplier that the consignment has been delivered 'Complete and in Good Condition.' The Purchaser shall be responsible for inspection of the products and notification to the Supplier of any damage or short supply. At delivery, if the Purchaser is not satisfied with the state of the goods, the carrier's consignment note should not be signed by the Purchaser or Purchaser's representative unless marked 'received damaged.' In such cases it is required to note the nature of the damage and to take support photographs to be provided to the Supplier. The products shall be deemed to have been delivered complete and in good condition unless the Purchaser otherwise notifies the Supplier with the recorded evidence of damage within three (3) working days of delivery. This allows the Supplier sufficient time to make a claim against the consignment's insurer as required.
- If goods are damaged and the Purchaser or his representative signs the carrier's consignment note without also noting 'received damaged,' the Supplier shall not be held liable for the repair or replacement of such goods.

10.0 *Delivery Delays*

- 10.1 Should the Supplier or its agents, be unable to effect delivery or installation of the consignment on the agreed date, for reasons beyond their control, and the Purchaser having no alternative storage available, then the Supplier will undertake to arrange on the Purchaser's behalf temporary storage and redelivery of the goods to the Purchaser at normal commercial rates. It will be the Purchaser's responsibility to inspect the goods and verify to the Supplier that the consignment has been delivered 'Complete and in Good Condition.' All costs arising from the temporary storage of the consignment are payable by the Purchaser to the Supplier.
- 10.2 Purchaser instigated delays past the agreed installation date will incur storage charges for the ordered goods calculated at cost plus a 12.5% administration charge.

11.0 *Terms of Payment*

- 11.1 Invoices for supply of furniture will be issued by the Supplier once delivery has taken place except for such cases where a deposit is required.
- 11.2 The Supplier's invoices fall due for payment in full three weeks from the date of invoice or as per any special agreement.
- 11.3 In the case of delays as outlined in section 10.0 the Supplier reserves the right to submit an invoice for up to 50% of the order value after a delay exceeding two (2) weeks past the agreed installation date and an invoice for the order balance after a delay exceeding four (4) weeks past the agreed installation date. Such invoices shall fall due for payment in full three weeks from the date of invoice even in cases where the Purchaser has not inspected the stored goods and has not verified that the consignment has been delivered 'Complete and in Good Condition.'
- 11.4 The Supplier will only accept the holding of retentions by the Purchaser by prior agreement.
- 11.5 Instinct Furniture Australia Ltd does not accept Liquidated Damages clauses and conditions.

12.0 *Intellectual Property*

12.1 Most Instinct Furniture Australia Ltd products are manufactured under licence from Cie Ltd. The intellectual property rights to such products are owned in full by Cie Ltd. The Purchaser acquires no intellectual property rights to the designs.

12.2 Intellectual Property rights in any drawings, designs and samples authored by the Supplier and submitted to the Purchaser for his consideration or approval remain fully with Instinct Furniture Australia Ltd and its licensor Cie Ltd.

12.3 The Supplier's drawings, designs and samples are made available to the Purchaser with the sole purpose of communicating details of the proposed product and can be used by the Purchaser for no other reason.

12.4 The Supplier does not allow its drawings and designs to be used or reproduced by other manufacturers or entities.

13.0 *On line resources*

13.1 Should the Supplier direct the Purchaser to online or downloaded resources such as colours and finishes the Purchaser shall be aware that colours and textures represented on computer monitors and viewing devices or downloads may vary from actual colours and finishes.

13.2 The Supplier acts in good faith however does not indemnify the Purchaser in any way nor accepts any liability for such variations.

14.0 *Right to claim authorship*

14.1 The Supplier retains the right to claim authorship for furniture supplied to the Purchaser including the right to photographically record furniture installations and for resulting images to be used in the Supplier's promotions, brochuring and online media.