

TERMS AND CONDITIONS OF TRADE
STREET & GARDEN FURNITURE COMPANY PTY LTD ACN 052 125 489 ("S&G")
1/11 DONKIN ST, WEST END QLD 4101 PHONE: (07) 3844 1951

ACCEPTANCE OF TERMS OF TRADE

1. S&G agrees to provide goods to you on the terms and conditions set out herein.
2. Unless S&G otherwise agreed in writing, these terms and conditions shall be the only terms and conditions of the contract between S&G and you.

QUOTATIONS, ORDERS AND VARIATIONS

3. Quotations from S&G shall remain valid for a period of thirty (30) days only from the date of their issue.
4. Upon acceptance of the quotation, you agree to enter into a contract on the terms and conditions set out herein and you confirm that all quantities, products, colour, material, specification and dimensions in the quotation are exactly as required.
5. S&G will supply the products exactly as quoted, plus delivery charges. Any further products or amendments required thereafter by you will require a variation or new order and any further costs incurred accordingly will be charged to you.
6. If you require any variations to work quoted or tendered, you must advise S&G in writing. If you advise S&G of a variation verbally, this variation is not accepted by S&G unless and until S&G confirm the variation in writing. S&G must accept a variation by writing and if this does not occur, you accept the products will be supplied as per the quote.
7. Where there is an agreed variation, the price and date for delivery will also be renegotiated between S&G and you. Any extra expense incurred by S&G shall be added to the contract price and S&G are not responsible for delays in delivery.

DELIVERY, STORAGE, RISK & RETURNS

8. Unless otherwise agreed in writing, the price quoted by S&G excludes GST, delivery and installation costs.
9. S&G discloses that the deliverer is not likely to be an employee of S&G but an independent carrier.
10. S&G endeavour to have the products delivered on the date estimated. You acknowledge that delivery dates are estimates only. Failure by S&G to deliver on the date estimated does not give rise to a right to terminate or claim for costs, losses, expenses or damages incurred due to delays directly or indirectly attributable to S&G. It is the sole responsibility of you to amend or cancel deliveries if required and S&G reserves the right to refuse amendments or cancellations requested.
11. Site access and availability for delivery are your responsibility. If S&G and/or the deliverer in their sole discretion determine they cannot deliver the products due to access issues, S&G reserve the right to wait for a reasonable amount of time for access or to return the products to S&G and re-deliver at a later date, both of which will incur charges for you.
12. You must have someone present to receive the products when delivered. S&G does not accept responsibility for damage, loss or theft of the products once delivered. You agree that the products shall be deemed to be delivered when the products are placed on or about the delivery site.
13. The products supplied by S&G to you shall be at your risk immediately upon delivery.
14. You must inspect the products immediately upon delivery, prior to the deliverer leaving the premises, to ensure that the products conform to the relevant order in all respects and are without defect. If you believe there is a defect or fault in the products you must immediately advise S&G of this in writing giving details of the alleged defect or fault. You agree that you must draw all defects and faults to the attention of S&G at the time of delivery and before the deliverer leaves your premises. You waive all rights to claim for faults or defects if written notice is not given in accordance with the terms of this clause and you acknowledge that S&G and/or the deliverer will not be responsible for the same.
15. If you do not require delivery on the date specified on the purchase order or quotation, S&G will store the Products for up to 14 days thereafter without charge. If after the 14 day period you still do not require delivery:
 - (a) S&G may, in their sole discretion, continue to store the products for a fee determined in their sole discretion, but not less than 2% of the products price per month, which you agree to pay upon written request;
 - (b) S&G will not be liable for any loss or damage to the products kept in storage, and they will be stored at your risk;
 - (c) You waive all rights to claim for defects of the products kept in storage; and
 - (d) You acknowledge the due date for payment is to remain as shown on the invoice.
16. In accordance to any rights at law, S&G will accept the return of damaged products that have not been used by you within 14 days of delivery. You acknowledge that once the products have either been held for 14 days, used in any way whatsoever, damaged, converted or otherwise dealt with by you or any other entity, S&G reserve the right to refuse the return of the products in their sole discretion.

PAYMENT & INTEREST

17. You shall pay to S&G all monies due and owing within the time shown on the invoice and if no time is shown within thirty days thereof. You will not hold money due and owing to S&G in relation to retention or any other reason.
18. If payment is not strictly made in accordance with clause 17 herein, S&G may charge interest on all monies due and owing to S&G at a rate of 2% per month or part thereof.
19. If a bank guarantee is required for any reason whatsoever, you will be responsible for all of S&G's costs thereof.

DEPOSIT & CANCELLATIONS

20. S&G require a 50% deposit on all orders.
21. S&G will only consider, in their sole discretion, cancellation requests made in writing and you further acknowledge that cancellations accepted by S&G can still attract fees as outlined herein.
22. Orders cancelled prior to commencement of work will incur a 15% fee for administration costs of the order.
23. You are liable for between 15% and 100% of the cost for any orders cancelled after works have commenced, determined by S&G in their sole discretion.
24. You are liable for 100% of the delivery costs issued by the deliverer, if any, for orders cancelled by you at any time.

TERMINATION OF CREDIT

25. You acknowledge and agree that S&G may at any time via notice in writing to you withdraw and cease any and all credit provided to you and call upon you for the immediate payment of any amount of credit owed at that time if in their sole discretion S&G are not satisfied with the manner or frequency of your credit payments.

OWNERSHIP AND THE PERSONAL PROPERTY SECURITIES ACT 2009 ("PPSA")

26. Unless and until you purchase and pay for the products in full, you acknowledges that:
- (a) The products will not form part of the inventory of you for the purposes of the PPSA ; and
 - (b) S&G holds a Security Interest ("SI") and/or a Purchase Money Security Interest ("PMSI") in the products supplied.
27. In addition to any rights created by the PPSA, S&G reserves the following rights in relation to the products until you have paid for the products in full:
- (a) To enter and remain on your premises (or any land under the control or in the possession of you or of any associated company or agent of you where the products are located) as agent for you and without liability for trespass, nuisance or any resulting damage to:
 - (i) seize the products;
 - (ii) await payment; or
 - (iii) seize and retain any documents or certificates of registration, ownership or any other documents evidencing title to or ownership of the products;
 - (b) To keep, resell or reuse any products seized pursuant to (a) hereof; and
 - (c) To have access upon request to all records of you, including computer records, and any other information evidencing a contract of sale or any dealings with the products.
28. If the products are on-sold by you, you shall hold such payment or part payment as represents the invoice price of any products sold in a separate identifiable account as the beneficial property of S&G and shall pay such amount to S&G upon request. Notwithstanding the provisions above, S&G shall be entitled to maintain an action against you for the purchase price.
29. If requested by S&G, you must promptly and without undue delay execute any documents and provide all information required in order to complete a Financing Statement (as defined in the PPSA) and comply with any other reasonable requests by S&G to ensure that S&G's SI and PMSI are perfected.
30. You must notify S&G immediately in writing of any change in your name and must also provide to S&G all information required to complete a Financing Change Statement (as defined in the PPSA).
31. You waive all rights to receive a copy of the verification statement confirming registration of a Financing Statement or a Financing Change Statement in relation to S&G's SI and/or PMSI.
32. You are responsible for all costs, expenses and other charges incurred, expended or payable by S&G in relation to the registration of any and all Financing Statements or Financing Change Statements.
33. You waive your rights under sections 95 (notice of removal of accession), 118 (enforcing security interests in accordance with land law decisions), 121(4) (enforcement of liquid assets), 125 (obligation to dispose of or retain collateral), 128 (secured party may dispose of collateral), 129 (disposal by purchase), 130 (notice of disposal), 132(3)(d) (contents of statement of account after disposal), 132(4) (statement of account if no disposal), 135 (notice of retention), 142 (redemption of collateral) and 143 (reinstatement of security interest) of the PPSA and you agree that those provisions do not apply to this agreement or any supply of products pursuant to this agreement.

EXCLUSIONS AND LIMITATION OF LIABILITY

34. The liability of S&G in respect of a breach of any term relating to the products, or any part thereof, is limited at the sole discretion of S&G to the replacement or repair of the products, or part thereof, or payment of the cost of repairing or replacing the products or any part thereof. You do not under any circumstances have any cause of action against, or right to claim or recover from, S&G for, or in respect of, any loss or damage of any kind whatsoever caused directly or indirectly by a defect in material or workmanship of, or any other defect whatsoever in, or unsuitability for, any purpose of the products or any part thereof, or by default or negligence on the part of S&G relating to the supply of, or otherwise concerning, the products or any part thereof.
35. Any express or implied warranty given by S&G is void if the products are improperly used by any person at any time.

GENERAL CLAUSES

36. The rights of S&G set out herein are in addition to any and all rights of S&G at law and in equity.
37. The invalidity, unenforceability or illegality of any part of the terms herein shall not prejudice or affect the validity, enforceability or legality of the remainder. Such invalid, unenforceable or illegal part shall be severed from the remainder of these terms and the remainder shall be and remain in full force and effect.
38. S&G may, in its sole discretion, subcontract or assign its rights and obligations hereunder.
39. You may not assign your rights and obligations hereunder without the express written permission of S&G.
40. Unless otherwise agreed in writing, the terms herein constitute the whole agreement between S&G and you. No oral representations form part of any contract between S&G and you.
41. Neither party shall be liable for any loss or delay resulting from any force majeure event, including acts of God, fire, natural disaster, terrorism, labor stoppage, war or military hostilities, or inability of carriers to make scheduled deliveries, and any payment or delivery date shall be extended to the extent of any delay resulting from any force majeure event.
42. This agreement and any further agreement made between S&G and you in pursuance hereof for the sale of products or otherwise is to be interpreted in all respects according to the domestic laws of Queensland and the parties agree to submit exclusively to the court of appropriate jurisdiction in the state of Queensland.