

1. DEFINITIONS

- 1.1 "The Seller" means The Kitchen People Limited.
- 1.2 "The Buyer" means the Purchaser of the Goods under the Contract.
- 1.3 "The Goods" means the goods provided under the Contract or any of them or any services to be provided by the Seller thereunder.
- 1.4 "The Contract" means any contract between the Seller and the Buyer entered into in accordance with these Conditions.
- 1.5 "Dry Fitting" means in relation to any item the fitting and installation thereof but excluding any plumbing, electrical or building works required to place any such items in full operational use.

2. GENERAL

- 2.1 All quotations are given and all orders are accepted on these Conditions which supersede any other terms appearing in the Seller's catalogues or elsewhere or stipulated by the Buyer (if any) unless a Director of the Seller expressly agrees in writing to the contrary. The signing on behalf of the Seller of any of the Buyer's documentation shall not imply any modifications of these Conditions.
- 2.2 No contract for the sale of the Goods shall be concluded until in circumstances where the Seller deems it appropriate the Seller has issued an "Acknowledgement of Order" form and in any event in all circumstances, the Buyer has paid a deposit of 1/3 of the total consideration payable plus VAT or any other deposit agreed by the Seller in writing ("the Deposit") under the Acknowledgement of Order or Order Form as the case may be.
- 2.3 The Buyer acknowledges that these Conditions constitute the entire understanding between the parties for the sale of the Goods and that there have been no representations outside these terms which have induced him to enter into the Contract.
- 2.4 Quotations are subject to withdrawal at any time before a contract is concluded in accordance with Condition 2.2 hereof and shall be deemed to be withdrawn unless a contract is concluded within 30 days from their date.

3. PRICES AND TERMS OF PAYMENT

- 3.1 The price charged will be that price indicated on the Seller's Order Form or any Acknowledgement of Order issued by the Seller for the Goods and will be subject to Value Added Tax and any other Government duty or tax unless the appropriate exemptions for zero rating are proved to the Seller in such detail as will satisfy H M Customs & Excise. Any such Value Added Tax or other government duty or tax will be calculated on the balance due under the contract at the rate ruling on the day of delivery or settlement of the order in full whichever, is the sooner, unless an invoice is raised within 14 days of the earlier event in which case it will be calculated at the rate prevailing at the date of invoice.
- 3.2 Unless otherwise marked on the Order Form or Acknowledgement of Order, the price shall include Dry Fitting of cabinets and appliances only. In the event that an authorised representative of the Seller agrees on behalf of the Seller to carry out any further fitting and installation work in relation to the Goods then these shall be carried out solely on the understanding that the Seller shall not be liable for any loss or damage, that may result there from. ALL other work required to place the Goods in "working order" is the responsibility of the Buyer.
- 3.3 The Seller shall not be bound to give up possession of the Goods until it shall have received payment in full of all sums due under the Contract. If the Seller shall allow provisional credit in respect of any part of the Goods, it shall be without prejudice to its right to refuse to give up possession of any other part of the Goods except against payment.
- 3.4 Interest on all sums due shall run at the rate of 4% above the base lending rate of Barclays Bank PLC from time to time compounded quarterly which shall accrue from day to day until payment is received after as well as before any judgement therefor.
- 3.5 Save as provided in Condition 4.3.1 the Buyer may not cancel the Contract without the consent, of the Seller, which if given shall be deemed to be on the express condition that the Buyer shall indemnify the Seller against any loss, damage claims or actions arising out of such cancellation and the Seller (without prejudice to any other right or remedy available) shall be entitled to forfeit the Deposit paid to him by the buyer and upon crediting the Deposit to the Buyer to recover from him all losses and/or expenses suffered or incurred by him as a result thereof.
- 3.6 The Buyer shall have no right of set off, statutory or otherwise.

4. DELIVERY

- 4.1 Delivery shall be deemed to take place when the Goods are delivered to the Buyer's premises or collected from the Seller's premises by the Buyer.
- 4.2 Delivery dates are given in good faith by the Seller as an indication of the estimated delivery time. The time of delivery shall not be of the essence of the contract. The Seller shall not be liable for any loss whatsoever or howsoever arising caused by delay in delivery, non delivery or by the failure to make the Goods ready for collection on the due date.
- 4.3.1 If delivery of any item comprised in the Goods has not, been made within 6 months of the estimated delivery date, either party shall be entitled to cancel any Contract concluded in respect of that item but the Seller shall in no circumstances where the Buyer cancels the Contract or the Seller cancels the Contract due to causes beyond its control be liable to compensate the Buyer in damages or otherwise for late delivery or non-delivery of the Goods or any of them for whatever reasons or for any loss consequential or otherwise arising there from.
- 4.3.2 If the Contract is cancelled in the circumstances set out in Condition 4.3.1, the Seller shall refund the Deposit and/or any payment which the Buyer has already made on account under the Contract in respect of any such item not delivered to it.
- 4.4 Customers are advised to examine the Goods properly on collection from the Seller's premises or on arrival at the Buyer's premises and any Goods incomplete or damaged or not in accordance with the Contract must be referred to the Seller or if dispatched to the Buyer's premises returned with the driver. The Seller's drivers are instructed not to accept delivery notes marked "unexamined". The Buyer shall be deemed to have accepted the Goods if a written complaint is not delivered to the Seller by the Buyer within 7 days of delivery detailing the alleged defect or storage.
- 4.5 In all cases where defects or shortages are complained of the Seller shall be under no liability in respect thereof unless an opportunity to inspect the Goods is supplied to the Seller before any use is made thereof or any alteration or modification is made thereto by the Buyer.
- 4.6 In the event that the Buyer establishes to the Seller's reasonable satisfaction that the Goods are defective or that there is a shortage thereof, the Seller shall at its option either make good any shortage in the Goods and where appropriate replace any Goods or refund the purchase price against the return of the Goods as soon as it is reasonably able to do so, but otherwise the Seller shall be under no liability whatsoever or howsoever arising from such shortage or defect.
- 4.7 The Seller shall be entitled to deliver the Goods in one or more consignments.
- 4.8 The Seller shall notify the Buyer when the Goods are ready to be delivered and/or fitted and thereafter the Buyer shall at least five working days prior to the delivery date or within one month of notification of the arrival of the Goods in the Seller's warehouse (whichever is the earlier) pay the Seller the full balance due and accept delivery of the Goods subject to Condition 4.4. Failure to comply with this Condition shall entitle the Seller to cancel the Contract and (without prejudice to any other right or remedy available to him) to forfeit the Deposit paid to him by the Buyer and upon crediting the Deposit to the Buyer to recover from the Buyer all losses and/or expenses suffered or incurred by him as a result thereof.
- 4.9 The Seller may without thereby incurring any liability whatsoever to the Buyer suspend and/or cancel all further deliveries under the Contract in the event of default in making any payment due hereunder or under any other contract between the Seller and, the Buyer, or if the Buyer (being an individual or a body corporate) becomes insolvent, makes or purports to make a general assignment for the benefit of creditors or is unable to pay his debts as they fall due for the purposes of Section 123 of the Insolvency Act 1986; or admits in writing his inability to pay his debts as they mature; or an encumbrancer takes possession or receiver, administrative receiver, trustee for creditors or similar officer is appointed of all or any part of the undertaking, property or assets of the Buyer; or (where the Buyer is a body corporate) any order is made or an effective resolution is passed or a petition is presented for the winding-up of or the making of an administrative order in relation to the Buyer.
- 4.10 If the Buyer has not accepted delivery of the Goods within 2 months of notification by the Seller that the Goods have arrived in the Seller's warehouse, the Seller may, as agent for the Buyer (and in circumstances where monies are also still outstanding under the Contract without surrendering its lien as an unpaid seller) arrange for the Goods to be stored at the Seller's works or elsewhere, and the Buyer will pay and hereby indemnifies the Seller against all storage charges, insurance, demurrage or other costs expenses and charges arising from the Buyer's failure or neglect.
- 4.11 In the event that the Buyer cancels or delays any agreed start date for the fitting or installation of any items comprised in the Goods for any reason without first giving at least 10 working days notice of such cancellation and delay and any proposed new start date for such fitting out or installation the Seller reserves the right to make a rescheduling charge to cover any losses or expenses the Seller may thereby incur.

5. PASSING OF RISK AND PROPERTY

- 5.1 Risk of loss of or damage to the Goods shall pass to the Buyer at the time of delivery to the Buyer.
- 5.2.1 Notwithstanding delivery of the Goods or any part thereof the property in the Goods shall remain in the Seller until the Buyer has paid the purchase price and all other (if any) payments due to the Seller under the Contract or under any other contract with the Buyer in full and further until payment the Buyer shall hold the Goods as bailee at will for the Seller and shall store or retain the goods in such a way that they are clearly identifiable as the goods of the Seller.
- 5.2.2 Notwithstanding that property in the Goods or in any part thereof shall not pass to the Buyer until the conditions contained in Condition 5.2.1 have been fulfilled the Seller shall at all times be entitled to pursue an action for the price of the Goods of any part thereof or for any further sum due under the Contract or under any other contract where payment has not been made in full by the Buyer in accordance with these Conditions.
- 5.3 If any of the Goods are sold by the Buyer before property therein has passed to the Buyer, the Buyer shall hold such part of the proceeds of sale as are equivalent to the price at which the Goods were invoiced by the Seller to the Buyer, and all rights which he or it may have against purchasers thereof on trust for the Seller. Any monies so received by the Buyer shall not be mingled with any other monies and shall be placed in a separate account so as at all times to be readily identifiable as being in the beneficial ownership of the Seller.
- 5.4 Where the Seller agrees to deliver and Goods are delivered to the Buyer before payment has been made for them in full under the Contract then, if the Buyer defaults in the punctual payment of any sum owing to the Seller in accordance with any payment period agreed between the parties then the Seller shall be entitled to the immediate return of all goods sold by the Seller to the Buyer in which the property has not passed to the Buyer whether under the Contract or any other contract concluded between the Buyer and Seller and the Buyer hereby authorises the Seller to recover the Goods and to enter any premises of the Buyer for that purpose. Demand for or recovery of the Goods by the Seller shall not, of itself, discharge either the Buyer's liability to pay the whole of the consideration due under the Contract and to take delivery of the Goods or the Seller's right to sue for the whole of the consideration due under the Contract.

6. GUARANTEE/WARRANTIES

- 6.1 In respect of Goods not of the Seller's manufacture, the Seller's responsibility shall be limited to any benefits it may receive under any guarantee given by its supplier of such Goods.
- 6.2 The Seller shall use its reasonable endeavours to procure for the Buyer the benefit of such warranties and other rights as are conferred on the Seller in relation to defects in the Goods under the terms of any agreement the Seller may have (if any) with the suppliers or manufacturers of the Goods.
- 6.3 In consideration for receiving the benefit of this Condition, the Buyer agrees that, apart from these Conditions, no other terms, whether conditions, warranties or innominate terms, express or implied, statutory or otherwise in respect of the quality or the fitness for any particular purpose of Goods or otherwise shall form part of the Contract except where the Buyer deals as consumer within section 12 of the Unfair Contract Terms Act 1977 when the terms implied by sections 13, 14 and 15 of the Sale of Goods Act 1979 shall be implied into this Contract.
- 6.4 The Seller shall not be liable for any consequential or indirect loss suffered by the Buyer whether such loss arises from breach of a duty in contract or tort or in any other way including but not limited to loss arising from the Seller's negligence. Consequential or indirect loss shall include (but shall not be limited to) the following: a) loss of profits; b) loss of contracts; c) damage to the property of the Buyer or anyone else; and d) personal injury to the Buyer or anyone else (except so far as such injury is attributable to the Seller's negligence).

7. PROPER LAW

The Contract shall be construed in accordance with English law and the Buyer submits to the exclusive jurisdiction of the English Courts.