

H·O·D

HOUSE of DECOR

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HOUSE OF DECOR TERMS AND CONDITIONS

1. Introduction

- 1.1 Except as otherwise agreed in writing, all quotations, orders, purchases, refunds, repairs, offers to contract and sub-contractor contracts (whether written or oral) related to the supply of the products and/or services (Hereinafter collectively referred to as the "Products") offered by the HOD from time to time shall be subject to these Standard Terms and Conditions (Hereinafter referred to as these "T's and C's"), which T's and C's shall supersede any and all other terms and conditions.

2. Definitions

- 2.1 In these T's and C's, unless inconsistent with or otherwise indicated by the context, the following words/phrases shall have the meaning ascribed to them hereunder;
- 2.1.1 "Customer" refers the person, natural or otherwise (including all forms of juristic entities), who commission work or purchase the Products from HOD under these T's and C's.
- 2.1.2 "HOD" refers to S Squared t/a the House of Décor.
- 2.1.3 "Products" refers to the merchandise and/or services offered for sale by HOD to the Customer.

3. Orders and acceptance thereof

- 3.1 HOD reserves the right to reasonably decline any order, and/or to suspend delivery, and/or to decline to supply the Products to the Customer, for whatsoever reason.
- 3.2 Any order placed with HOD by a Customer shall require express acceptance from HOD.
- 3.3 Any order placed with HOD by a Customer and duly accepted by HOD, shall require the minimum payment of a 60% (Sixty Percent) deposit before such order will be binding on HOD and before any processing thereof shall take place, however HOD reserves its rights to insist on payment in full before an order will be binding on it.
- 3.4 The Customer may not cancel and/or vary any order after acceptance thereof by HOD, without the prior written consent of HOD.

4. **Reservation of Ownership**

- 4.1 Until such time as payment for any Products has been made in full, ownership thereof remains solely vested in HOD and nothing contained herein or elsewhere shall serve to transfer ownership in or to the Products.

5. **Payment**

- 5.1 Subject to the provisions of clause 3.3 above, a 60% (Sixty Percent) deposit is required to be paid by the Customer immediately upon acceptance of any order by HOD.
- 5.2 The full balance of the purchase price shall be due, owing and payable upon presentation of an invoice by HOD, which invoice shall be presented to the Customer 1 (One) day prior to delivery, and/or collection, and/or installation.
- 5.3 Payment of the deposit, as per clause 5.1 above, and payment of the full balance of the purchase price, as per clause 5.2 above, must be made via an electronic funds transfer, unless otherwise agreed and confirmed via e-mail from HOD, into the bank account nominated by HOD for such purposes from time to time, free from deduction or set off and proof of payment must be e-mailed to HOD at admin@houseofdecor.co.za.
- 5.4 The Customer expressly acknowledges that no Products shall be released for collection/delivery/installation prior to payment having been received in full by HOD, which payment must reflect in HOD's account notwithstanding the receipt of any proof of payment referred to in clause 5.3 above.
- 5.5 Notwithstanding anything to the contrary contained herein, HOD shall be entitled to charge the Customer interest, at the maximum prescribed interest rate, on any and all late payments, which interest shall be calculated daily from the due date until date of final payment, both days inclusive.
- 5.6 Unless expressly stated otherwise, any and all prices quoted shall be deemed to include Value Added Tax and any quotes provided are valid for 7 (Seven) days from date thereof.
- 5.7 Unless expressly stated otherwise, any and all prices quoted shall be deemed to exclude any and all costs pertaining to delivery and/or installation of the Products.
- 5.8 The Parties acknowledge that HOD does not have direct control over the prices of products supplied by external 3rd party suppliers and the Customer agrees to HOD varying previously quoted prices should such external 3rd party supplier alter its prices at any time.
- 5.9 Any postponement or delay in collection, delivery and/or installation shall not effect the Customers obligation to pay the balance of the purchase price outstanding at least 1 (one) day prior to the previously scheduled and/or agreed date of collection, delivery and/or installation.

6. **Risk**

- 6.1 Risk in and to the Products shall pass from HOD to the Customer upon any of the following events;

- 6.1.1 Payment of the full purchase price by the Customer.
 - 6.1.2 Collection of the Products by the Customer, or its agent/representative.
 - 6.1.3 Delivery of the Products by HOD.
 - 6.1.4 Dispatch from HOD premises for delivery by an independent 3rd party delivery company. In this regard, the Customer expressly acknowledges that by opting for delivery using an independent 3rd party delivery company, any and all risk in and to the Products passes from HOD to it upon collection of the Products by the independent 3rd party delivery company from HOD, and accordingly the Customer shall have no claim against HOD for any losses or damages incurred during the delivery process. The Customer further acknowledges that the Products shall be deemed to have been in perfect condition at the time of collection by the independent 3rd party delivery company.
- 6.2 In furtherance of clauses 6.1.1 to 6.1.4 above, the Customer expressly indemnifies and holds harmless HOD against any losses and/or damages it, or any 3rd party, may suffer as a result of any damage to the Products, howsoever occurring, after the collection and/or dispatch of the Products from HOD premises.
- 6.3 The Customer expressly acknowledges that HOD does not offer a delivery service for the Products and any efforts made by HOD to arrange an independent 3rd party delivery company to collect and/or deliver the Products for the Customer is undertaken as a gesture of goodwill and on a “best effort” basis.
- 6.4 In furtherance of clause 6.3 above, the onus to liaise with the 3rd party delivery company after collection of the Products, and to ensure successful delivery thereof, rests with the Customer.
7. **Collection of Products**
- 7.1 HOD shall use its best reasonable efforts to ensure that the Products, as ordered by the Customer, are ready for collection, delivery and/or installation on the date communicated to the Customer at the time of acceptance of the order by HOD.
- 7.2 The Customer expressly acknowledges that the best effort undertaking provided for in clause 7.1 above cannot be guaranteed and factors beyond the reasonable control of HOD may necessitate delays in the date of collection/delivery and/or installation. The Customer indemnifies and holds HOD harmless for any losses and/or damages it may incur as a result of any such delays.
- 7.3 Unless otherwise agreed, anticipated lead times for Products (expressly excluding any bespoke Products) is 6 (Six) to 8 (Eight) weeks.
- 7.4 The anticipated lead times provided for in clause 7.3 above may be affected by, inter alia, public holidays (locally or internationally), builders shut down periods, public transport strikes, political unrest, adverse weather conditions and other factors beyond the reasonable control of HOD, from time to time.
- 7.5 The anticipated lead times provided for above specifically exclude any bespoke or “made-to-order” Products, such as, inter alia, those Products that may require fabric orders, which are as per the respective design house's turnaround times.

- 7.6 The actual date for collection, delivery and/or installation of the order, or part thereof, shall be communicated to the Customer as soon as the Products are ready and the Customer shall have 7 (Seven) days therefrom within which to collect (or arrange for the collection by a 3rd party delivery company) the Products.
- 7.7 Any storage of the Products by HOD shall be undertaken at the Customers sole and exclusive risk and the Customer accordingly indemnifies and holds harmless HOD against any and all loss or damage it may suffer pursuant to any damage to, and/or total loss of, the Products while in storage with HOD, howsoever occurring and whether attributable to the negligence of HOD or otherwise.
- 7.8 Any storage of the Products, whether by prior arrangement or otherwise, beyond the aforementioned 7 (Seven) day period, shall be for the sole and exclusive account of the Customer, to which the Customer hereby agrees, and which storage fees together with any other ancillary costs, are required to be paid in full before the Products will be released.
- 7.9 HOD reserves its rights to sell any Products which remain uncollected 3 (Three) months after notification to the Customer in terms of clause 8.6 hereof, in order to defray expenses and the Customer expressly indemnifies and holds harmless HOD against any losses and/or damages it may suffer pursuant thereto.
- 7.10 The Customer, or any person collecting the Products on the Customers behalf, must produce an original order confirmation, (to which these T's and C's are attached), as well as the proof of payment (receipt), before the Products will be released, unless otherwise agreed.
- 7.11 HOD may, upon the express request of the Customer, facilitate the appointment of a 3rd party delivery company to collect the Products and deliver same to the Customer.
- 7.12 Any assistance provided for in terms of clause 7.11 hereof shall be at the exclusive cost and risk of the Customer and is offered exclusively on a "best effort" basis.
- 7.13 Should non-delivery and/or installation occur as a result of the Customers actions, or as a result of any 3rd party's actions not directly attributable to HOD, the Customer shall remain liable for all costs associated therewith including, inter alia, payment of the full purchase price, payment of any delivery charges, payment of any cancellation fees and payment of any handling and/or processing fees.

8. **Special Circumstances**

- 8.1 No special conditions not contained herein shall be enforceable unless agreed to in a confirmatory e-mail from HOD, and only then to the extent provided for in such confirmatory e-mail.
- 8.2 Any Products that are "On Sale" are sold "voetstoets" and are strictly non-refundable and non-exchangeable.
- 8.3 The Customer expressly acknowledges that it cannot hold HOD responsible for any loss, damage or injury, howsoever arising, as a result of purchasing and/or assembling any Products which are sold unassembled, and to this end, the

Customer expressly indemnifies and holds HOD harmless against any and all loss, damage and/or injury sustained as a result thereof.

- 8.4 Whilst HOD's various fabric suppliers usually update their respective fabric libraries, HOD may from time to time be required to source alternative fabrics pursuant to the discontinuation of a certain fabric, and the Customer expressly accepts that this may accordingly necessitate a price change.
- 8.5 In the event that the Customer does not wish to proceed with an order pursuant to the discontinuation of a certain fabric, the Customer agrees that it will be liable for HOD's normal consult fee, as determined by HOD from time to time, which consult fee shall be payable upon presentation of an invoice from HOD.
- 8.6 The Customer expressly agrees that schemes, furniture design and any other decor/design concepts shall remain the intellectual property of HOD and may not be copied and/or reproduced in any way whatsoever without the prior written consent of HOD, which written consent, if given, may be revoked at the sole instance of HOD.

9. Product Warranty

- 9.1 All Products sold, unless otherwise stated, carry a 1 (One) year manufacturer's warranty against patent defects in the wooden frame work only.
- 9.2 The Customer acknowledges that the Products, or any constituent parts thereof such as fabrics, that are not manufactured by HOD shall carry no warranty by HOD directly. The Customers sole recourse for any defects in the Products, or those constituent parts thereof not manufactured by HOD, shall at all times lie solely with the manufacturer of the Products.
- 9.3 In accordance with the acknowledgement provided for in clause 9.2 hereof, the Customer expressly indemnifies and holds harmless HOD against any, and all, losses and/or damages it may suffer pursuant to any defects in the Products, or those constituent parts not manufactured by HOD.
- 9.4 Any unauthorized alterations/repairs to the Products, or any misuse/abuse of the Products, or the failure to adhere to the use and/or care instructions, or a failure to adhere to the washing instructions (provided by HOD or its supplier only on the express request from the Customer) may void the manufacturer's warranty.
- 9.5 The decision as to whether a claim is subject to the manufacturer's warranty lies solely with HOD and/or the manufacturer and any decision in respect hereof is final and binding upon the Customer.
- 9.6 Nothing contained herein shall vary any common law rights that the Customer has in law, or any rights that it has in terms of any applicable legislation.
- 9.7 Notwithstanding anything to the contrary contained herein, or in any manufacturer's warranty/guarantee, or in any use and/or care instructions provided by HOD from time to time (upon the express request of the Customer), the Customers expressly acknowledges that the Products are manufactured, unless otherwise confirmed in writing by HOD, as indoor furniture and any unnecessary exposure to the elements, water, sun, etc. may result in damage to the Products, which damage will fall outside of any warranties/guarantees.

10. Personal Surety and Consent to Judgment

- 10.1 In the event that the Customer is not a natural person, the natural person/s responsible for placing the order with HOD agree to be personally liable (jointly and severally in the event that there is more than one natural person) to HOD for the due and proper payment of the full purchase price of the Products and for any and all other obligations stemming from these T's and C's.
- 10.2 In the event of a failure by the Customer to pay the full purchase price for the Products, the Customer consents to HOD obtaining judgment in a court of competent jurisdiction against it for the full outstanding amount due by the Customer to HOD and a certificate by the manager of HOD from time to time shall constitute prima facie proof of any and all outstanding debts due by the Customer to HOD.

11. **General Acknowledgements**

- 11.1 The Customer expressly acknowledges the following;
- 11.1.1 Any "bespoke" changes affected to the Products at the Customers special instance and request, including changes in wood type, wood colouring, fabrics, dimensions, product fittings, etc, are made entirely at the Customers sole risk and accordingly no guarantees or warranties are offered by HOD in respect hereof.
- 11.1.2 Customers are cautioned that "bespoke" products may not always turn out exactly in accordance with the Customers perceptions and/or expectations, and any and all risks associated therewith remain exclusively and solely with the Customer. Accordingly, HOD accepts no responsibility and/or liability for any bespoke orders not meeting the Customers perceptions and/or expectations.
- 11.1.3 Should HOD assist the Customer by arranging for a 3rd party delivery company to deliver the Products to the Customer, such delivery shall only provide for the delivery of the Products to the Customers designated address and shall not cover the cost of locating the Products inside the Customers house/premises. The Customer must ensure that it is able to locate the Products within its house without the assistance of the 3rd party delivery company.

Signed and unconditionally accepted at _____ by

_____ on this _____ day of _____ 20____

Customer