

Terms of trade.

Aspect Furniture Pty Limited (ABN: 50 146 316 770)

1. DEFINITIONS

1.1 "Aspect Furniture" shall mean Aspect Furniture Pty Limited (ABN: 50 146 316 770), or any agents or employees thereof or any person acting on behalf of and with the authority of Aspect Furniture Pty Limited.

1.2 "Australian Consumer Law" means Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

1.3 "Customer" shall mean the customer to whom Products and Services are to be supplied by Aspect Furniture including any person acting on behalf of and with the authority of the Customer.

1.4 "Contract" means the contract between Aspect Furniture and the Customer for the provision of Products and Services in consideration for the Price (which is made up of these terms and conditions, the applicable Quote and/or Order Confirmation document).

1.5 "GST" means goods and services tax applicable to any taxable supplies as determined under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

1.6 "PPSA" means the *Personal Property Securities Act 2009* (Cth).

1.7 "Products" shall mean:

1.7.1 All products supplied by, or on behalf of Aspect Furniture to the Customer;

1.7.2 All inventory or products the Customer is supplied by Aspect Furniture;

1.7.3 All products supplied by Aspect Furniture and further identification in any invoice issued by Aspect Furniture to the Customer, which invoices are deemed to be incorporated into and form part of this Contract;

1.7.4 All products that are marked as having been supplied by Aspect Furniture or that are stored, sold, or used by the Customer in a manner that enables them to be identified as having been supplied by Aspect Furniture; and

1.7.5 Any goods or personal property owned by the Customer that Aspect Furniture have installed, worked on, provided services on or to which any goods or material supplied or financed by Aspect Furniture have been attached or incorporated.

The above descriptions may overlap but each is independent of and does not limit the others.

1.8 "Products and Services" shall mean all Products, goods, services and design advice provided by Aspect Furniture to the Customer and shall include without limitation the design and supply of manufactured products and metal or wood processing services and all advice and services and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Products and services by Aspect Furniture to the Customer.

1.9 "Price" shall mean the price of the Products and Services as agreed between Aspect Furniture and the Customer plus any additional

charges (including disbursements which Aspect Furniture has paid to a third party on the Customer's behalf and any increases in accordance with the terms of this Contract) plus GST subject to clause 4 of this Contract.

2. ACCEPTANCE

2.1 Any instructions received (whether written or verbal) by Aspect Furniture from the Customer for the supply of Products and Services, or acceptance of a quote provided by Aspect Furniture, shall constitute a binding contract and acceptance by the Customer of this Contract.

2.2 The rights conferred on Aspect Furniture by this Contract will be exclusive to Aspect Furniture, and the Customer will not appoint any other party to provide the Products and Services without prior written consent from Aspect Furniture.

3. COLLECTION AND USE OF INFORMATION

3.1 The Customer authorises Aspect Furniture to:

3.1.1 Collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this Contract, or marketing any Products and Services to any other person;

3.1.2 Disclose any information obtained to any other person for the purpose set out in this clause 3.1.

3.2 Where the Customer is not a natural person the authority granted under clause 3.1 is an authority or consent for all personal information collected from the Customer (by its employees, agents or contractors) the purpose of the *Privacy Act 1988* (Cth).

3.3 For more information on how we use personal information, see our Privacy Policy which is available at: <https://aspectfurniture.com/privacypolicy.pdf>

4. PRICE

4.1 Where no Price for the Products and Services has been recorded in writing or verbally agreed, the Products and Services shall be deemed to be sold at the current retail amount as such Products and Services are sold by Aspect Furniture at the date of the quote issued by Aspect Furniture (plus any delivery or installation charges at the costs actually incurred by Aspect Furniture).

4.2 The Price may be increased by the amount of any increase in the cost of supplying the Products and Services incurred by Aspect Furniture (including any increase to exchange rates which cause Aspect Furniture's cost of supplying the Products and Services to increase). Aspect Furniture will promptly notify the Customer in writing of any increase in the Price and provide any revised invoice (where required).

5. PAYMENT

5.1 Aspect Furniture will submit valid GST invoice(s) to the Customer stating details of the Price for the Products and Services supplied to the Customer.

5.2 The Customer will pay the Price for the Products and Services as recorded in a GST invoice provided by Aspect Furniture within 14 days of the date of the invoice (the "Due Date") unless otherwise agreed in writing.

5.3 If full payment is not made by the Customer to Aspect Furniture in accordance with clause 5.2 above then:

5.3.1 The Customer will be in default under this Contract and Aspect Furniture may exercise all of the rights and remedies set out in this Contract and otherwise available at law; and

5.3.2 The Customer will pay interest on the default monies at the rate of 2.5 % per month payable on a daily basis from the Due Date; and

5.3.3 The Customer will be liable for all expenses (including solicitor - own client legal costs) incurred by Aspect Furniture as a result of the default; and

5.3.4 Aspect Furniture may withhold the further supply of Products and Services until full payment is received.

6. QUOTATION

6.1 Where a quotation is given by Aspect Furniture for the Products and Services:

6.1.1 Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue;

6.1.2 The quotation shall be exclusive of GST unless specified otherwise; and

6.1.3 Aspect Furniture reserves the right to pass on to the Customer any change in Price after the date of any quotation due to circumstances beyond the control of Aspect Furniture such as raw material or component price stability and currency variation (see also clause 4.2 above).

6.2 Where Products and Services are required in addition to the quotation the Customer agrees to pay the Price for the additional Products and Services. Aspect Furniture reserves the right to issue a new quotation or order confirmation, or to reply upon any written or verbal instructions of the Customer to proceed with that additional purchase.

7. DELIVERY AND RISK

7.1 Any Products and Services in the possession or control of Aspect Furniture (until delivery to the Customer in accordance with clause 7.2) remain at the risk of Aspect Furniture.

7.2 Delivery of Products and Services shall be deemed complete when Aspect Furniture gives possession of the Products directly to the Customer or when possession of the Products is given to a carrier, courier, or other bailee for the purpose of transmission to the Customer ("Delivery"). Risk in the Products supplied will pass to the Customer on Delivery.

7.3 Delivery timeframes stated in quotations or order confirmations are estimates only. Aspect Furniture is not responsible for delays in delivery of the Products and Services beyond its control. Aspect Furniture is not liable for any costs incurred or losses suffered by the Customer as a result of any delay in delivery.

8. SUB-CONTRACTING

8.1 Aspect Furniture may sub-contract the whole or any part of the design, construction or delivery of the Products and Services to be provided to the Customer under this Contract to a third party or may employ any person for the purpose of providing the Products and Services under this Contract.

9. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 2009)

9.1 Title and ownership in any Products supplied by Aspect Furniture passes to the Customer only when the Customer has made payment in full for all Products and Services provided by Aspect Furniture and of all other sums due to Aspect Furniture by the Customer on any account whatsoever.

9.2 The Customer grants Aspect Furniture a security interest in the following ("Secured Goods"):

9.2.1 the Products and all proceeds of the Products; and

9.2.2 any other goods or personal property owned by the Customer that Aspect Furniture has installed, worked on, provided services on or to which any goods or material supplied or financed by Aspect Furniture have been attached or incorporated.

9.3 Aspect Furniture may at any time register a financing statement on the Personal Property Securities Register.

9.4 To the extent that Chapter 4 of the PPSA applies, the Customer:

9.4.1 agrees that sections 130(3), 140(2)(f), 121(3), 138, 143(1) or 143(2) of the PPSA will not apply; and

9.4.2 waives its rights under sections 118, 121, 130, 132, 135, 137, 92, 93, 94, 95 and 97 of the PPSA.

9.5 The Customer waives its right to receive a copy of any verification statement in relation to any financing statement or financing change statement register by Aspect Furniture.

9.6 If the Products are attached, fixed, or incorporated into any property by the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Products shall remain with Aspect Furniture until the Customer has made payment in full for all Products, and where those Products are mixed with other property or materials so as to be part of a constituent of any new Products, title and ownership to these new Products created by such mixing is deemed to be assigned to and will vest immediately in Aspect Furniture as security for any amount owing between Aspect Furniture and the Customer.

9.7 The Secured Goods will not become fixtures to any land while the Customer owes any money to Aspect Furniture regardless of the degree to which and purpose for which they are fixed to the land (subject to the prior rights of any mortgagee of the land).

9.8 If the Customer is in default under this Contract, then Aspect Furniture will be entitled without notice to repossess the Secured Goods. The Customer irrevocably authorises Aspect Furniture (or its representatives, servants, agents or employees) to enter any premises occupied, owned, or operated by the Customer where Secured Goods are situated at any reasonable time after default by the Customer or before default if Aspect Furniture believes a default is likely, to remove and repossess any Secured Goods and any other property to which the Secured Goods are attached or in which Secured Goods are incorporated. Aspect Furniture shall not be liable for any costs,

damages, expenses or losses incurred by the Customer or any third party as a result of repossession.

9.9 Aspect Furniture may either resell any repossessed Secured Goods and credit the Customer's account with the net proceeds of sale (after deduction of all money the Customer owes Aspect Furniture (including interest, repossession, storage, selling and any other costs)) or may retain the repossessed Secured Goods and credit the Customer's account with the invoice value thereof less such sum as Aspect Furniture reasonably determines on account of wear and tear, depreciation, obsolescence, loss or costs.

9.10 The Customer will remain liable for any shortfall between the amount credited to the Customer's account and the amount owing to Aspect Furniture under this Contract.

10. DEFAULT AND TERMINATION

10.1 The following shall constitute a default by the Customer ("Default"):

10.1.1 The Customer fails to pay any sum of money due under this Contract by it to Aspect Furniture on or before the due date for payment;

10.1.2 The Customer indicates that it will not pay any sum of money due under this Contract by it to Aspect Furniture;

10.1.3 The Customer breaches any of the terms of this Contract;

10.1.4 Any Products are seized by any other creditor of the Customer or any other creditor indicates that it intends to seize Products;

10.1.5 Any Products in the possession of the Customer are materially damaged while any sum due for the Customer to Aspect Furniture remains unpaid;

10.1.6 The Customer becomes insolvent; or is subject to the appointment of a receiver, manager, liquidator, or statutory manager; or commits an act of bankruptcy; or makes a scheme of arrangement with its creditors; or is unlikely to be able to meet its obligations to Aspect Furniture (in the opinion of Aspect Furniture); or

10.1.7 A court judgement is entered against the Customer and remains unsatisfied for seven (7) days.

10.2 If the Customer is in Default under this Contract:

10.2.1 The Customer will (at the request of Aspect Furniture) re-deliver the Products to Aspect Furniture or do anything reasonably necessary to allow Aspect Furniture to retake possession of the Products; and

10.2.2 Aspect Furniture may terminate this Contract with immediate effect by written notice to the Customer.

10.3 Upon termination of this Contract as the result of any Default, the Customer will immediately pay to Aspect Furniture all moneys otherwise payable to Aspect Furniture in full and without any deduction or set-off.

10.4 The agreements of the parties will not merge with termination under this clause.

11. GENERAL LIEN

11.1 Without prejudice to other remedies available, the Customer agrees that Aspect Furniture may exercise a general lien over all Products or property belonging to the Customer that is in the possession of Aspect Furniture as security for all sums due from the

Customer and all obligations of the Customer under this Contract or any other contract between Aspect Furniture and the Customer.

11.2 On the expiry of seven (7) days written notice Aspect Furniture may at its discretion:

11.2.1 Remove any Products or property of the Customer subject to the said lien and store them in such a manner as Aspect Furniture shall think fit and proper and at the risk and expense of the Customer; or

11.2.2 Sell any Products or property (or part thereof) of the Customer subject to the said lien upon such terms as it thinks fit and apply the net proceeds towards discharge of the said lien and all costs of the sale incurred by Aspect Furniture, without being liable to any person or party for damage caused.

11.3 The Customer will remain liable for any shortfall between any amount credited to the Customer's account and the amount owing to Aspect Furniture under this Contract.

12. DISPUTE

12.1 No claim relating to Products and Services will be considered by Aspect Furniture unless a claim is made by the Customer to Aspect Furniture in writing within seven (7) days of the date of delivery of Products and Services.

13. LIABILITY

13.1 The Australian Consumer Law, and other statutes may imply warranties or conditions or impose obligations upon Aspect Furniture which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Aspect Furniture, liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.

13.2 Except as otherwise provided by clause 13.1 Aspect Furniture shall not be liable for:

13.2.1 Any loss or damage of any kind whatsoever, arising from the supply of Products and Services by Aspect Furniture to the Customer (including any damage to the Customer's property caused during the treatment process), or at any time such property is in the possession of Aspect Furniture and including consequential indirect or special damage or loss, whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arising directly or indirectly from Products or Services provided Aspect Furniture to the Customer; and

13.2.2 Any loss caused by the Customer's servants, agents, employees or any other persons whatsoever.

13.3 Where Aspect Furniture cannot by law exclude such liability, its liability to the Customer will be limited to, if the breach relates to Products, the replacement or repair of the Products or, if the breach relates to services, the supply of those services or the payment of the cost of those services supplied again (the choice of which will remain the decision of Aspect Furniture). This clause applies despite anything else contained in or incidental to the Contract and to the fullest extent permitted by law.

13.4 The Customer agrees to indemnify and hold harmless Aspect Furniture from and against any and all claims and loss of any kind whatsoever, however caused or arising and without limiting the

generality of the foregoing of this clause, whether caused or arising as a result of the negligence of Aspect Furniture or otherwise, brought by any person in connection with any matter, act, omission, or error by Aspect Furniture, its agents or employees in connection with the Products and Services or any other matter whatsoever.

13.5 Notwithstanding anything in this Contract, the liability of Aspect Furniture under this clause will not exceed the total Price payable to Aspect Furniture under this Contract.

14. WARRANTY

14.1 Aspect Furniture will use reasonable endeavours to enforce any guarantees or warranties given by the manufacturer of Products supplied by Aspect Furniture.

14.2 Any written warranty that Aspect Furniture provides to the Customer will also form part of this Contract.

14.3 Aspect Furniture warrants to the Customer that the Products and Services to be provided or performed by Aspect Furniture will be conducted in a good and workmanlike manner and in accordance with the terms and conditions of this Contract and any specifications supplied by Aspect Furniture to the Customer.

14.4 The Products and Services come with guarantees that cannot be excluded under the Australian Consumer Law. The Customer is entitled to a replacement or refund for major failure and compensation for any other reasonably foreseeable loss or damage. The Customer is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

15. PERSONAL GUARANTEE OF THE COMPANY DIRECTORS OR TRUSTEES

15.1 If the Customer is a company or trust, the director(s) or trustee(s) signing this Contract, in consideration for Aspect Furniture agreeing to the supply of Products and Services and granting credit to the Customer at their request, also sign this Contract in their personal capacity and jointly and severally personally undertake as principle debtor to Aspect Furniture the payment of any and all monies now or hereafter owed by the Customer to Aspect Furniture, and indemnify Aspect Furniture against non-payment by the Customer. Any personal liability of the director(s) or trustee(s) signing this Contract shall not exclude the Customer in any way whatsoever from being jointly and severally liable under the terms and conditions of this Contract and for the payment of all sums of money due to Aspect Furniture under this Contract.

16. COPYRIGHT AND INTELLECTUAL PROPERTY

16.1 Aspect Furniture owns and has copyright and intellectual property rights in respect of or in connection with all works, systems, solutions, drawings, designs, specifications, electronic data and documents produced by Aspect Furniture in connection with the Products and Services provided pursuant to this Contract. The Customer may use the Products and Services only if paid for in full and for the purpose for which they were intended and supplied by Aspect Furniture.

16.2 Where Aspect Furniture has followed a design, specification or instruction furnished by or given by the Customer, the Customer shall indemnify Aspect Furniture against all losses, damages, penalties, costs and expenses of Aspect Furniture, or in respect of which Aspect Furniture may become liable in any suit or proceeding

based upon any claim for infringement of any intellectual property resulting from Aspect Furniture complying with the Customer's designs, specifications or instructions.

17. MISCELLANEOUS

17.1 Aspect Furniture shall not be liable for damages or for any delay in delivery or any failure to perform its obligations under this Contract when such delay or failure is due to conditions beyond the reasonable control of Aspect Furniture.

17.2 Any failure by Aspect Furniture to enforce any of the terms and conditions contained in this Contract shall not be deemed to be a waiver of any of the rights of Aspect Furniture under this Contract.

17.3 If any provision of this Contract is held to be invalid, void, or illegal or unenforceable, this Contract will otherwise remain in full force apart from such provision which will be deemed deleted.

17.4 The Customer must not assign or purport to assign (whether in whole or in part) its interest in this Contract without the prior written consent of Aspect Furniture.

17.5 This Contract may be executed and exchanged in any number of counterparts (including copies, facsimile copies and scanned email copies) each of which is to be deemed an original, but all of which together are to constitute a binding and enforceable agreement between the parties.

17.6 This Contract will be governed by and construed in accordance with the laws of Australia and New South Wales. The parties irrevocably submit to the exclusive jurisdiction of the Courts of the State of New South Wales with respect to any legal action, suit or proceeding or any other matter arising out of or in connection with this Contract.