

**Furnitureland South, Inc. Contract Division**  
**Terms and Conditions of Sale**

This Agreement is incorporated into the Customer's Order by this reference. By signing the Order and/or submitting the initial deposit, Customer accepts and agrees to the below terms and conditions.

**DEFINITIONS**

- Customer, you, your = person or company entering into this Agreement.
- Day = calendar day.
- Delivery = Transporting Merchandise to the Destination.
- Destination = the address to which you have requested Delivery.
- FLS, us, we, our = Furnitureland South.
- Installation = Placement and set up of Merchandise.
- Merchandise, Item (or Items) = products you have ordered.
- Notification = Our informing you that Items are ready to deliver.
- Order = Proposal once accepted by you.
- Proposal = FLS's written description of services, Purchase Price, and list of Items.
- Purchase Price = the total bottom-line price indicated on the Proposal.

**ARTICLE 1 – PROPOSALS**

All prices are in USD and are firm for thirty days from the Proposal date unless rejected or revoked. Sales tax will be determined by the ship-to address. When the Proposal is signed on behalf of the Customer, the Order becomes a binding agreement, not subject to revocation or refund.

**ARTICLE 2 - PLACING YOUR ORDER, DEPOSIT, PAYMENT OF BALANCE**

- A. By placing your Order, you affirm that you have first carefully investigated all options and selected Items and manufacturers based on your independent judgment.
- B. Upon accepting our Proposal, you agree to pay as a deposit, fifty percent of the Purchase Price. The remaining (unpaid) balance, plus shipping and taxes must be received by FLS within ten business days from Notification and before commencement of Delivery. After ten days, you agree to pay a monthly late fee of two percent on any unpaid balance. Payments must be made by certified check, wired funds, ACH, Visa, MasterCard, or Discover.

**ARTICLE 3 - COMPLETING YOUR ORDER**

- A. Please double-check the list of Items you have ordered for accuracy, to assure you have included everything needed.
- B. Before signing the Proposal, note the size and dimensions of each Item and assure they will fit where you want them placed.

## ARTICLE 4 – NOTIFICATION AND SCHEDULING DELIVERY

- A. When Items are ready to deliver, we will contact you to schedule a Delivery Date.
- B. Our performance is subject to manufacturer's acknowledgment and availability. FLS will not be held liable for delay, non-delivery, or failure to perform any of its obligations under this Agreement due to factors beyond FLS's control, whether or not foreseeable by either party, including but not limited to, transportation issues, delays of suppliers, labor disturbance or strike, war, terrorism, epidemic, fire, accident, adverse weather, governmental act or regulation, inability of FLS to obtain materials, shortages of materials, and other causes or events beyond FLS's control, whether or not similar to those enumerated above. Such events do not void this Agreement.
- C. If you do not accept delivery on the Delivery Date, the remainder of the Purchase Price remains due and payable. For an additional fee, we will arrange a rescheduled delivery which must be within thirty days of the initial Delivery Date. Pending the Rescheduled Delivery, we will store the Merchandise for a monthly Storage Fee of three percent of the total Purchase Price. If Merchandise is not accepted on the Rescheduled Delivery Date, we have the right to terminate this Agreement and retain the Purchase Price or, within our sole discretion, to continue to store Products contingent upon the monthly payment of the Storage Fee.
- D. Drop-shipped Merchandise becomes the Customer's responsibility as soon as delivered. Customer must report in writing any shortage, defect, damages, missing items, or error at the time of Customer's receipt to both [contractfurniture@furniturelandssouth.com](mailto:contractfurniture@furniturelandssouth.com) and [christophersharpe@furniturelandssouth.com](mailto:christophersharpe@furniturelandssouth.com).
- E. We may wait for all of your Merchandise to arrive before scheduling delivery; or without adding to the delivery fee, we may choose to make two or more partial (installment) deliveries as individual Items arrive.
- F. If you desire partial deliveries at different times, there will be a fee for each partial delivery.

## ARTICLE 5 – INSTALLATION

- A. We will send a team (our "Team" or "Delivery Team") to deliver and install the Merchandise to the Destination (for Orders not drop-shipped).
- B. If you cannot be present to accept delivery, you must arrange to have an authorized person present to inspect, accept, and sign for delivery on your behalf.
- C. In advance of Delivery and Installation, you will ensure:
  - the job site is clean, clear, and free of any debris and obstacles;
  - availability of electrical current, heating, lighting, hoisting, and/or elevator service; and
  - availability of facilities for offloading, staging, moving, and handling Merchandise.
- D. Deliveries and Installation occur Monday through Friday, between 7 a.m. and 5 p.m. for a maximum of eight hours per day. If Installation exceeds the time allotted on the Order, we reserve the right to bill you for the additional time.
- E. As soon as the Merchandise is delivered, drop-shipped, or is otherwise in the Customer's possession, the Customer assumes full responsibility, accepts duty to insure, and bears all risk for the care and safekeeping of the Product.
- F. Customer agrees to indemnify, defend, and hold harmless FLS, its insurers, successors, representatives, attorneys and assigns, from and against any and all claims, expenses, losses, costs, deficiencies, liabilities and damages including attorney fees (collectively "Claim") whether by the Customer or by any third party, arising under this Agreement or from the use or presence of the Product unless and to the extent such Claim is ultimately proven to be the direct result of FLS's workmanship in the installation of the product.

## **ARTICLE 6 - DAMAGED, DEFECTIVE, OR MISSING ITEMS**

You or your authorized agent agree to carefully inspect Merchandise as soon as it is delivered. Any damage, defect, or missing components must be specifically shown to the Delivery Team and noted on the Bill of Lading by you. If this can be corrected by our Team, they will do so immediately. If our Team is unable to provide on-site correction, they may leave Items at the Destination and will an authorized furniture technician to restore or repair. If neither of these options are available, the Item will be returned to us. Our Customer Service Department will evaluate the Item and decide on restoration, factory-repair, replacement, or other solution. You will not be charged for any redelivery unless the Item met manufacturer's quality standards when first delivered. We will accept only those Items we have authorized for return.

## **ARTICLE 7 – WARRANTIES**

- A. Although we do not guarantee your satisfaction with the Merchandise (sales are not made on approval) we promise each Item will meet quality standards set by the manufacturer. Any manufacturer's warranty begins when an Item is received by FLS, so it's beneficial for you to accept delivery at the earliest available time.
- B. FLS DISCLAIMS ALL WARRANTIES EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL SUCH WARRANTIES ARE EXPRESSLY AND SPECIFICALLY DISCLAIMED. CUSTOMER WILL NOT HOLD FLS RESPONSIBLE FOR INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL, OR CONSEQUENTIAL DAMAGES RELATED TO, OR ARISING OUT OF, ANY PROVISION OF THIS AGREEMENT AND ANY MERCHANDISE WE DELIVER OR SERVICES WE PERFORM. OUR TOTAL, CUMULATIVE LIABILITY WILL BE LIMITED TO THE TOTAL ORDER AMOUNT AND WILL NOT EXCEED THE AMOUNT PAID BY THE CUSTOMER. ANY CLAIM AGAINST FLS MUST BE BROUGHT WITHIN EIGHTEEN MONTHS FROM THE PURCHASE DATE, OR TWELVE MONTHS FROM THE DELIVERY DATE, WHICHEVER IS LESS. NOTHING IN THIS AGREEMENT WILL EXCLUDE OR LIMIT ANY LIABILITY WHICH CANNOT BE LIMITED OR EXCLUDED BY LAW.**
- C. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, ALL WARRANTIES ARE VOIDED FOR ANY CLAIM DUE TO, OR IN ANY WAY RESULTING FROM: (i) ACTS OF GOD; (ii) CUSTOMER'S OR ANY THIRD PARTY'S NEGLIGENCE, ABUSE, MISUSE, ACCIDENT, MODIFICATION, TAMPERING, OR ALTERATION RELATED TO THE MERCHANDISE; (iii) CUSTOMER'S OR ANY THIRD PARTY'S FAILURE TO PROPERLY MAINTAIN THE MERCHANDISE; (iv) REPAIR BY ANY PARTY OTHER THAN FLS OR ITS AUTHORIZED AGENTS; OR, (v) THE CONTINUED USE OF THE MERCHANDISE FOLLOWING NOTICE OR KNOWLEDGE OF ANY DEFECT OR RISK OF INJURY.

## **ARTICLE 8 - CONSUMER WARNING AGAINST FURNITURE TIPPING OVER**

- A. FURNITURE MAY TIP OVER. TO REDUCE RISK OF DAMAGE AND INJURY FROM TIPPING, YOU AGREE TO COMPLY WITH PACKING INSTRUCTIONS, MANUFACTURER'S SAFETY WARNINGS, AND PROVISIONS STATED BELOW.
- B. ONLY USE FURNITURE FOR ITS INTENDED USE.
- C. DO NOT PLACE HEAVY OBJECTS ON TOP OF THE FURNITURE.
- D. NEVER ALLOW A PERSON TO STAND OR HANG ON FURNITURE.
- E. NEVER ALLOW MORE THAN ONE DRAWER TO BE OPENED AT ONE TIME.
- F. PLACE HEAVIEST OBJECTS IN LOWEST DRAWERS OR SHELVES.
- G. UPON DELIVERY AND WITHOUT DELAY YOU WILL PROACTIVELY TAKE EVERY MEASURE POSSIBLE

**TO SECURE AND ANCHOR LARGE ITEMS. USING TIP-OVER RESTRAINTS MAY REDUCE BUT NOT ELIMINATE RISK OF TIP-OVER.**

- H. FLS MAKES NO REPRESENTATIONS OR WARRANTIES RELATED TO ANY MANUFACTURER'S COMPLIANCE WITH INDUSTRY SAFETY STANDARDS OR APPLICABLE LAWS. SINCE FURNITURELAND SOUTH IS NOT A MANUFACTURER, CUSTOMER WILL NOT HOLD FLS LIABLE FOR LOSSES OR INJURY DUE TO PRODUCT DESIGN OR DEFECT. WE URGE YOU TO CONSULT THE MANUFACTURER'S WEBSITE AND OTHER ONLINE RESOURCES ON HOW TO PREVENT TIP-OVERS. PLEASE EXERCISE THE UTMOST CARE TO ENSURE PRODUCT SAFETY.**

## **ARTICLE 9 - OTHER IMPORTANT MATTERS**

- A. This Agreement contains the entire agreement between the parties and supersedes any prior or contemporaneous spoken or written agreements relating to the Order.
- B. With the exception of changes in product selection (acknowledged and accepted by FLS), no communications, acknowledgments, amendments, or modifications that differ from the provisions of this Agreement will be valid unless in a writing self-identified as an Amendment, referencing this Agreement, and signed by the Customer and an FLS officer. Customer cannot assign its rights under this Agreement to a third party.
- C. If an ambiguity or question arises with respect to any provision of this Agreement, this Agreement will be construed as if drafted jointly by the Parties and no presumption or burden of proof will arise favoring or disfavoring either Party by virtue of authorship.
- D. THIS AGREEMENT IS TO BE GOVERNED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF NORTH CAROLINA, WITHOUT REFERENCE TO CONFLICT OF LAWS, OR WHICH PARTY IS DRAFTER. BOTH PARTIES AGREE TO RESOLVE ANY DISPUTE, CONTROVERSY, OR DIFFERENCE BETWEEN THEM THROUGH FRIENDLY NEGOTIATIONS. IF NO AGREEMENT CAN BE REACHED, THE MATTER WILL BE RESOLVED EXCLUSIVELY AND FINALLY IN GUILFORD COUNTY, NORTH CAROLINA BY THE OUT-OF-COURT RESOLUTION PROCESS KNOWN AS BINDING ARBITRATION, BEFORE A SINGLE ARBITRATOR, IN ACCORDANCE WITH THE AMERICAN ARBITRATION ASSOCIATION ("AAA"). EITHER PARTY MAY INITIATE ARBITRATION. IN THE EVENT OF AN INCONSISTENCY OR CONFLICT BETWEEN THIS AGREEMENT AND AAA PROCEDURES, THIS AGREEMENT WILL CONTROL. ARBITRATION WILL BE INCLUDE ALL DISPUTES AND CONTROVERSIES BETWEEN THE CUSTOMER AND FLS. IF JUDICIAL ACTION IS NEEDED IN CONNECTION WITH ARBITRATION ENFORCEMENT OR FOR REMEDIES THAT CANNOT BE ARBITRATED, THE PARTIES GRANT EXCLUSIVE JURISDICTION TO THE NORTH CAROLINA JUDICIAL SYSTEM WITH VENUE IN GUILFORD COUNTY. YOU AGREE NOT TO PARTICIPATE IN CONSOLIDATING OR CONSOLIDATED CLAIMS AGAINST US AND WILL NOT PARTICIPATE IN ANY CLAIMS AS CLASS REPRESENTATIVE OR UNDER THE DOCTRINE OF PRIVATE ATTORNEY GENERAL.**
- E. The Customer will reimburse FLS's costs and reasonable attorney fees in collecting an unpaid balance that is overdue, and in recouping losses sustained by Customer's breach, including, but not limited to a claim or civil action brought against FLS in any other jurisdiction or otherwise not in keeping with this Agreement.
- F. To change any feature of your Order including delivery and method of payment, you authorize us to rely and act on communications by paper writing, phone, fax, text, email, or other electronic media.
- G. If part of this Agreement is found unenforceable it will be interpreted to lawfully accomplish its essential purpose within the law. The other provisions will not be affected. In case of an error in pricing, you have the option of either terminating this Agreement with respect to those Items and receiving a proportionate refund of your deposit, or paying the corrected Purchase Price.
- H. The headings in this Agreement are for convenience and will not affect interpretation.
- I. Any notice, demand, or other communication given in connection with this Agreement must be in writing and

delivered to the applicable address indicated below.

If to Customer, then the address identified on the Order.

If to FLS, then:      Attn: Law Department  
                                 Furnitureland South, Inc.  
                                 5326 Riverdale Drive  
                                 Jamestown, NC 27282

- J. Articles 3 – 9 will survive termination of this Agreement.
- K. Customer represents that the individual signing the Order is duly authorized to accept and agree to this Agreement on behalf of Customer.
- L. This Agreement may be executed in separate counterparts, each of which shall be deemed an original and all of which taken together shall constitute the same instrument. Additionally, this Agreement may be executed by means of electronic signature and may be delivered via facsimile or electronic transmission.