

## TERMS AND CONDITIONS OF BUSINESS

This document (together with our *Privacy Policy*, *Terms of Website Use* and *Website Acceptable Use Policy*) tells you information about us and the legal terms and conditions (**Terms**) on which we sell any of the products (**Products**) listed on our website (**our site**) or in our brochures, catalogues or other forms of advertising to you.

These Terms will apply to any contract between us for the sale of Products to you (**Contract**). Please read these Terms carefully and make sure that you understand them, before ordering any Products from us. Please note that before placing an order you will be asked to agree to these Terms. If you refuse to accept these Terms, you will not be able to order any Products.

You should retain a copy of these Terms for future reference.

We amend these Terms from time to time as set out in clause 8.

### 1. INFORMATION ABOUT US

#### 1.1 About us

We operate the website [www.byngjoinery.co.uk](http://www.byngjoinery.co.uk). We are Gary Byng & Sons Ltd, a company registered in England and Wales under company number 06533425 and with our registered office at 8 Church Green East, Redditch, Worcestershire B98 8BP. Our main trading address is Unit 7, Harris Business Park, Hanbury Road, Stoke Prior, Bromsgrove B60 4AA. Our VAT number is 991 2296 93.

#### 1.2 Contacting us

You may contact us by telephoning us on 01527 876 348 or by e-mailing us at [sales@byngjoinery.co.uk](mailto:sales@byngjoinery.co.uk) or by post to Unit 7, Harris Business Park, Hanbury Road, Stoke Prior, Bromsgrove B60 4AA.

### 2. OUR CONTRACT

2.1 These are the Terms on which we supply Products to you.

2.2 Please ensure that you read these Terms carefully, and check that the details on your order for Products (**Order**) are complete and accurate before you submit your Order. If you think that there is a mistake, please contact us to discuss.

- 2.3 When you submit your Order to us, whether through our website, in person or over the telephone, this does not mean we have accepted your Order. Our acceptance of your Order will take place as described in clause 2.4. If we are unable to supply you with the Products, we will inform you of this and we will not process your Order.
- 2.4 These Terms will become binding on you and us when we confirm acceptance of an Order, at which point a contract will come into existence between you and us.

### **3. OUR PRODUCTS**

- 3.1 Our site, brochures, catalogues and other forms of advertising contain a description of our Products. Although we have made every effort to display colours and images accurately, we cannot guarantee that your computer's display or any printed pictures accurately reflect the Products. Your Products may vary slightly from those images.
- 3.2 Many of the Products supplied by us are made-to-measure and/or personalised Products. Measurements may be provided by you or taken by one of our representatives on a site survey. In circumstances where we make Products according to measurements you have provided to us, please make sure your measurements are correct and accurate and that, where relevant, the Product you have ordered will fit into the relevant space or recess (based on the measurements you have provided, subject to tolerance in accordance with clause 3.3 below). Please note that we make Products to the exact measurements that are provided to us (as detailed on any quote that we provide to you) subject to tolerance in accordance with clause 3.3 below. Unfortunately, we cannot accept the return of made-to-measure and/or personalised Products if the reason for the return is because you provided us with incorrect measurements. However, this will not affect your legal rights as a consumer in relation to made-to-measure and/or personalised Products that are faulty or not as described. Advice about your legal rights is available at your local Citizen's Advice Bureau or Trading Standards office.
- 3.3 Although we have made every effort to be as accurate as possible, because our Products are handmade, all sizes, weights, capacities, dimensions and measurements have a 2% tolerance.

### **4. USE OF OUR SITE**

Your use of our site is governed by our *Terms of Website Use* and *Acceptable Use Policy*. Please take the time to read these, as they include important terms which apply to you.

**5. HOW WE USE YOUR PERSONAL INFORMATION**

We only use your personal information in accordance with our *Privacy Policy*. Please take the time to read our *Privacy Policy*, as it includes important terms which apply to you.

**6. IF YOU ARE A CONSUMER**

**This clause 6 only applies if you are a consumer.**

- 6.1 If you are a consumer, you may only purchase Products from our site if you are at least 18 years old.

**7. IF YOU ARE A BUSINESS CUSTOMER**

**This clause 7 only applies if you are a business.**

- 7.1 If you are not a consumer, you confirm that you have authority to bind any business on whose behalf you use our site to purchase Products.

- 7.2 These Terms (and any document expressly referred to in them) constitute the entire agreement between you and us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter.

- 7.3 You acknowledge that in entering into this Contract you do not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms or any document expressly referred to in them.

- 7.4 You and we agree that neither of us shall have any claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

**8. OUR RIGHT TO VARY THESE TERMS**

- 8.1 We amend these Terms from time to time.
- 8.2 Every time you order Products from us, the Terms in force at the time of your order will apply to the Contract between you and us.

**9. YOUR CONSUMER RIGHT OF RETURN AND REFUND**

**This clause 9 only applies if you are a consumer.**

9.1 If you are a consumer, you have a legal right to cancel a Contract under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 during the period set out below in clause 9.3. This means that during the relevant period if you change your mind or decide for any other reason that you do not want to receive or keep a Product, you can notify us of your decision to cancel the Contract and receive a refund. Advice about your legal right to cancel the Contract is available from your local Citizens' Advice Bureau or Trading Standards office.

9.2 However, this cancellation right does not apply in the case of:

- (a) all made-to-measure and/or personalised Products (but this will not affect your legal rights in relation to Products that are faulty or not as described);
- (b) all Products which have been installed and/or altered by you or any person on your behalf in any way.

9.3 Subject to clause 9.2, your legal right to cancel a Contract starts from the date on which we confirm acceptance of an Order, which is when the Contract between us is formed. Your deadline for cancelling the Contract then depends on what you have ordered and how it is delivered, as set out in the table below:

<b>Your Contract</b>	<b>End of the cancellation period</b>
Your Contract is for a single Product (which is not delivered in instalments on separate days).	The end date is the end of <b>14 days</b> after the day on which you receive the Product.  Example: if we confirm acceptance of an Order on 1 January and you receive the Product on 10 January you may cancel at any time between 1 January and the end of the day on 24 January.
Your Contract is for either of the following: <ul style="list-style-type: none"> <li>• one Product which is delivered in instalments on separate days.</li> <li>• multiple Products which are delivered on separate days.</li> </ul>	The end date is <b>14 days</b> after the day on which you receive the last instalment of the Product or the last of the separate Products ordered.  Example: if we confirm acceptance of an Order on 1 January and you receive the first instalment of your Product or the first of your separate Products on 10 January and the last instalment or last separate Product on 15 January you may cancel in respect of all instalments and any or all of the separate Products at any time between 1 January and the end of the day on 29 January.

9.4 Subject to clause 9.2, to cancel a Contract, you just need to let us know that you have decided to cancel. You can do this by telephoning us on 01527 876 348 or by e-mailing us at sales@byngjoinery.co.uk or by post to Unit 7, Harris Business Park, Hanbury Road, Stoke Prior, Bromsgrove B60 4AA. If you are emailing us or writing to us please include details of your order to help us to identify it.

9.5 Subject to clause 9.2, if you cancel your Contract we will:

- (a) refund you the price you paid for the Product and/or Services. However, please note we are permitted by law to reduce your refund to reflect any reduction in the value of the goods, if this has been caused by your handling of them.
- (b) refund any delivery costs you have paid, although, as permitted by law, the maximum refund will be the costs of delivery by the least expensive delivery method we offer (provided that this is a common and generally acceptable method).
- (c) make any refunds due to you as soon as possible and in any event in accordance with statutory requirements.

9.6 Subject to clause 9.2, if a Product has been delivered to you before you decide to cancel your Contract:

- (a) then you must return it to us without undue delay and in any event not later than 14 days after the day on which you let us know that you wish to cancel the Contract;
- (b) you will be responsible for the cost of returning the Products to us. We estimate that if you use the carrier which delivered the Product to you, these costs should not exceed the sums we charged you for delivery. If we have offered to collect the Product from you, we will charge you the direct cost to us of collection.

9.7 Because you are a consumer, we are under a legal duty to supply Products that are in conformity with this Contract. As a consumer, you have legal rights in relation to Products that are faulty or not as described. These legal rights are not affected by your right of return and refund in this clause 9 or anything else in these Terms. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office.

## **10. DELIVERY**

10.1 We will contact you with an estimated delivery date, which will be within 12 weeks after the date we confirm acceptance of an Order. Occasionally our delivery to you may be affected by an Event Outside Our Control. See clause 16 for our responsibilities when this happens.

- 10.2 Save as set out in the remaining provisions of this clause 10.2, if no one is available at your address to take delivery, we will leave you a note that the Products have been returned to our premises, in which case, please contact us to rearrange delivery. In this case, you will incur additional delivery fees. Stair packages may be left at your address where no-one is available to take delivery. A stair package will only be left at your address where no-one is available to take delivery if you have provided your consent to such arrangement in writing prior to the date of delivery and in sufficient time for this to be communicated to our delivery driver.
- 10.3 Delivery of an Order shall be completed when we deliver the Products to the address you gave us (whether or not, in the case of stair packages, someone is available to take delivery) or you or a carrier organised by you collect them from us, and the Products will be your responsibility from that time.
- 10.4 You own the Products once we have received payment in full, including all applicable delivery charges.
- 10.5 You are responsible for the fitting and installation of the Products and we shall have, and you agree that we shall have, no liability to you in respect thereof.
- 10.6 If, following delivery, we are required by you to make a site visit to view any Products which (a) have been or are installed or fitted, or (b) have been or are part installed or fitted, or (c) have been altered in connection with installation and/or fitting, and which you believe are defective or have not been made to the measurements provided to us, and, following an appraisal by us, we determine, in our reasonable opinion, that the Products are fit for purpose and have been made to the measurements provided to us but have been incorrectly installed or fitted, we may, at our absolute discretion, invoice you for our reasonable costs and expenses in attending your premises and inspecting the Products.

**This clause 10.7 only applies if you are a consumer.**

- 10.7 If we miss the 12 week delivery deadline for any Products then you may cancel your Order straight away if any of the following apply:
- (a) we have refused to deliver the Products;
  - (b) delivery within the delivery deadline was essential (taking into account all the relevant circumstances); or
  - (c) you told us before we accepted your order that delivery within the delivery deadline was essential.
- 10.8 If you do not wish to cancel your order straight away, or do not have the right to do so under *clause* 10.7, you can give us a new deadline for delivery, which must be reasonable, and you can cancel your Order if we do not meet the new deadline.

## **11. NO INTERNATIONAL DELIVERY**

- 11.1 Unfortunately, we do not deliver to addresses outside the UK.
- 11.2 You may place an Order for Products from outside the UK, but this order must be for delivery to an address in the UK.

## **12. PRICE OF PRODUCTS AND DELIVERY CHARGES**

- 12.1 The prices of the Products will be as quoted to you at the time you submit your Order. We take all reasonable care to ensure that the prices of Products are correct. However please see clause 12.4 for what happens if we discover an error in the price of Product(s) you ordered. All price quotes are open for acceptance by you for 60 days from the date of the quote.
- 12.2 Prices for our Products may change from time to time, but changes will not affect any order you have already placed.
- 12.3 The price of a Product excludes VAT (where applicable) which is payable by you at the applicable current rate in the UK for the time being. If the rate of VAT changes between the date of your order and the date of delivery, we will adjust the VAT you pay, unless you have already paid for the Products in full before the change in VAT takes effect.
- 12.4 The price of a Product does not include delivery charges. Our delivery charges are as advised to you before you confirm your Order.
- 12.5 It is always possible that, despite our reasonable efforts, some of our Products may be incorrectly priced. If we discover an error in the price of the Products you have ordered we will contact you to inform you of this error and we will give you the option of continuing to purchase the Product at the correct price or cancelling your Order. We will not process your Order until we have your instructions. If we are unable to contact you using the contact details you provided during the order process, we will treat the order as cancelled and notify you in writing.

## **13. HOW TO PAY**

- 13.1 You can pay for Products using a debit card or credit card, via PayPal or by the transfer of cleared funds to a bank account nominated by us. Credit card payments will be subject to an additional charge which will be notified to you at the time of payment. We accept the following cards: Visa Debit, Visa Credit and MasterCard. Please note that we do not accept payment by American Express or Diners.

- 13.2 Payment in full for the Products and all applicable delivery charges is in advance.
- 13.3 We require the payment of a deposit before accepting an Order for Products, which is payable at the time you place your Order. Such deposit (the amount of which will be notified to you at the time you place your Order) is non-refundable in the event that you decide to exercise your right to cancel under clause 9.

**14. OUR LIABILITY IF YOU ARE A BUSINESS**

**This clause 14 only applies if you are a business customer.**

- 14.1 We only supply the Products for internal use by your business, and you agree not to use the Product for any resale purposes.
- 14.2 Nothing in these Terms limits or excludes our liability for:
- (a) death or personal injury caused by our negligence;
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
  - (d) defective products under the Consumer Protection Act 1987.
- 14.3 Subject to clause 14.2, we will under no circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- (a) any loss of profits, sales, business, or revenue;
  - (b) loss or corruption of data, information or software;
  - (c) loss of business opportunity;
  - (d) loss of anticipated savings;
  - (e) loss of goodwill;
  - (f) any loss you may suffer as a result of damage to the Products sustained following delivery of the Products to you (including, without limitation, as a result of the installation of, or any alteration or application of paint or any other substance to, the Products); or
  - (g) any indirect or consequential loss.
- 14.4 Subject to clause 14.2, our total liability to you in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Products.

14.5 Except as expressly stated in these Terms or as otherwise notified in writing to you by us, we do not give any representation, warranties or undertakings in relation to the Products. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Products are suitable for your purposes.

**15. OUR LIABILITY IF YOU ARE A CONSUMER**

**This clause 15 only applies if you are a consumer.**

15.1 If we fail to comply with these Terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breach of these Terms or our negligence, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it is an obvious consequence of our breach or if it was contemplated by you and us at the time we entered into this contract.

15.2 We only supply the Products for domestic and private use. You agree not to use the Products for any commercial, business or resale purposes, and, subject to clause 15.3, we have no liability to you for any:

- (a) loss of profit, loss of business, business interruption, or loss of business opportunity; or
- (b) loss you may suffer as a result of damage to the Products sustained following delivery of the Products to you (including, without limitation, as a result of the installation of, or any alteration or application of paint or any other substance to, the Products).

15.3 We do not in any way exclude or limit our liability for:

- (a) death or personal injury caused by our negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession);
- (d) any breach of the terms implied by section 13 to 15 of the Sale of Goods Act 1979 (description, satisfactory quality, fitness for purpose and samples); and
- (e) defective products under the Consumer Protection Act 1987.

15.4 Subject to clause 15.2, our total liability to you in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Products.

15.5 Except as expressly stated in these Terms or as otherwise notified in writing to you by us, we do not give any representation, warranties or undertakings in relation to the Products. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Products are suitable for your purposes.

## **16. EVENTS OUTSIDE OUR CONTROL**

16.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in clause 16.2.

16.2 An **Event Outside Our Control** means any act or event beyond our reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks or impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport.

16.3 If an Event Outside Our Control takes place that affects the performance of our obligations under a Contract:

- (a) we will contact you as soon as reasonably possible to notify you; and
- (b) our obligations under a Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects our delivery of Products to you, we will arrange a new delivery date with you after the Event Outside Our Control is over.

## **17. OTHER IMPORTANT TERMS**

17.1 We may transfer our rights and obligations under a Contract to another organisation, but this will not affect your rights or our obligations under these Terms.

17.2 You may only transfer your rights or your obligations under these Terms to another person if we agree in writing.

17.3 This Contract is between you and us. No other person shall have any rights to enforce any of its terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

- 17.4 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.
- 17.5 If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 17.6 These Terms do not affect your statutory rights.
- 17.7 Please note that these Terms are governed by English law. This means a Contract for the purchase of Products and any dispute or claim arising out of or in connection with it will be governed by English law. You and we both agree to that the courts of England and Wales will have non-exclusive jurisdiction. However, if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are a resident of Scotland, you may also bring proceedings in Scotland.