

ROCHE BOBOIS TERMS AND CONDITIONS FOR SUPPLY AND INSTALLATION OF FURNITURE

1. AGREEMENT

- 1.1 Roche Bobois accepts your order.
- 1.2 The acceptance by Roche Bobois of your order creates an agreement between you and Roche Bobois.
- 1.3 The agreement between you and Roche Bobois shall be governed by these terms and conditions, to the exclusion of any other terms and conditions.

2. DEFINITIONS

In these terms and conditions, unless the context indicates otherwise –

- 2.1 “**agreement**” means the agreement between you and Roche Bobois, as contemplated by clause 1.2, and which comprises of the order form, the terms and conditions and any special terms and conditions agreed to in writing between you and Roche Bobois;
- 2.2 “**goods**” means the goods listed in the order form;
- 2.3 “**include**” means “include without limitation”, and the use of the word “include”, or similar words or phrases, followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it;
- 2.4 “**installation**” means the installation services, as set out in the order form;
- 2.5 “**order**” means your order for the goods, as set out in the order form;
- 2.6 “**order form**” means the order form in respect of the goods, overleaf;
- 2.7 “**price**” means the price payable by you for the goods, including VAT, but excluding the costs of delivery, shipping and storage;
- 2.8 “**Roche Bobois**”, “**we**”, “**us**”, or “**our**” means Vivere International and Vivere Design (Pty) Ltd, the exclusive franchisees, and trading under the name and style of, Roche Bobois in South Africa
- 2.9 “**shipping costs**” means your cost of shipping and/or the shipping administration fee payable to Roche Bobois;
- 2.10 “**South Africa**” means the Republic of South Africa;
- 2.11 the/these “**terms and conditions**” means the terms and conditions set out in this document; and
- 2.12 “**you**” or “**your**” means the person entering into this Agreement with Roche Bobois, as identified in the order form, for the purchase of the goods from Roche Bobois.

3. ORDERS AND CANCELLATION

- 3.1 Except where goods are already in stock, they will be made to order. Upon acceptance of your order, we shall therefore place an order with our supplier for the goods, making a contractual commitment to our supplier and incurring administrative costs on your behalf. As a condition to this Agreement, we therefore require a deposit of a minimum of 50% of the price, or such higher percentage as we may reasonably require and agree with you (the “**deposit**”). In each case the deposit shall represent a genuine pre-estimate of our loss should you cancel the agreement.
- 3.2 Notwithstanding the provisions of clause 3.1, if the goods you have ordered (a) are to be delivered within 2 weeks, and/or (b) have a price of R40, 000.00 or less and/or (c) the goods are already in stock, you will be required to pay the price and any delivery and/or shipping costs in full upon placement of the order. For the purposes of clause 3.3, 50% of this price (as set out on the order form) shall be treated as the deposit.
- 3.3 You may cancel your order, without forfeiting the deposit, by notifying us within 7 days of the order, either by email to the showroom manager at the address set out on the order form, or by letter sent by prepaid registered mail to the Showroom Manager at the showroom address stated on the order form. Save to the extent expressly otherwise stated in these terms and conditions, or at law, you may not cancel your order after that 7 day time period but if you do request cancellation, we will retain the entire deposit and recover any additional losses that we suffer as a result of cancellation.
- 3.4 We may cancel your order (by providing notice to you) (a) if we are not able to place your order with our supplier, in which case we will refund your deposit and any other sums you have paid to us in respect of your goods **but will not otherwise be required to pay any compensation to you for any direct or consequential losses you may have suffered as a result of such cancellation**; and (b) in the circumstances described in clauses 4.2, 5.4, 6.6, 6.7, and 8.3.

4. PAYMENT OF THE BALANCE OF THE PRICE

- 4.1 The full outstanding balance of the price, any shipping costs and/or any delivery costs not yet then paid (the “**balance**”) shall be due and payable by you to Roche Bobois no later than 14 days prior to the installation/delivery date.
- 4.2 If we do not receive the balance by the due date, we will delay delivery and installation of your goods until payment is made. If we have not received the balance in cleared funds within 14 days after the dispatch

date, we may cancel your order and retain your deposit. If our losses exceed the amount of the deposit, we may also claim those additional sums from you.

5. **SITE SURVEY, DESIGNS AND PLANS**

5.1 If installation (and/or delivery of large pieces of furniture) is required, we will need a site survey to be carried out prior to completing your order to the location where the goods are to be delivered and installed.

5.2 Where possible, we would strongly recommend that you allow us to conduct a site survey. The charge for the site survey shall be agreed based on the circumstances and the nature and extent of the proposed order.

5.3 If we carry out the site survey, it will be our responsibility to produce (and agree with you) a design and plan of the order. You will be required to sign this site survey signifying your agreement and acceptance. It will also be our responsibility to ensure our measurements are accurate as at the date of the site survey. It is your responsibility however to ensure that the goods are fit for your specific purposes. **We will bear no liability should our site survey be used or implemented by any other party or should any changes to your property invalidate that site survey.**

5.4 **If a site survey is carried out by you or a third party on your behalf, you will be taken to endorse the contents of that site survey. We will bear no responsibility for any defects or inaccuracies in our designs or plans which are based on that site survey. If the site survey proves defective (so that, for instance, goods do not fit in their designated space), we will still be entitled to receive and retain payment of the full amount of the order and, if we are required to rectify or amend the site survey, goods and/or installation, additional charges will be payable by you prior to completion of that additional work. Alternatively, if you do not wish for us to carry out any rectification or amendments, we will cancel your order, take the goods back and follow the re-sale procedure set out in clause 6.5.**

5.5 **Unless already revealed to us in a site survey, it will be up to you to notify us in advance of delivery or installation of any potential problems with access (including vehicle access, stairs, narrow doors, low ceilings or any other barriers) and to make (and notify us of) any other related delivery arrangements (such as arranging parking permits or hiring cranes). Where delivery or installation is complicated by such factors, additional charges will be payable (prior to delivery/installation) in addition to the existing charges.**

6. **DELIVERY AND INSTALLATION TIMETABLE**

6.1 When you place your order, our salesperson will give you an estimate of the likely delivery and (if included in your order) installation dates for your goods to our distribution centre, based on our suppliers' confirmed production schedules and our installers' availability. Unless we specifically agree otherwise in writing, these dates will be offered as guidance only, and any delivery times mentioned are only an approximate guide and are not binding. **We will endeavour to deliver and install your goods on or shortly after the estimated dates but please be aware that we cannot guarantee any delivery or installation dates and we do not accept liability for any loss or expense incurred by you if delivery or installation is not made by the estimated dates.**

6.2 When your goods are ready for delivery and/or installation, we will contact you by telephone (or failing that, by post or email) to agree delivery and installation dates. If by post or email, you will be asked to contact us to agree delivery and installation dates. Once we have agreed delivery and/or installation dates, we will (subject to clause 11) be committed to delivering and/or installing on those dates and you will be responsible on that date for accepting the delivery and arranging appropriate means of access for installation (see clause 7). If you are not willing or able to accept delivery and installation dates which fall within a 28 day period from our first attempt to contact you, you will start to incur storage charges to be calculated based on the quantity of goods being stored and the period of storage at a rate of 2% of the total order value per week. We will invoice you at the appropriate time and such invoice will be payable on demand. All outstanding charges must be paid in full prior to delivery and installation of the goods.

6.3 If you agree to a delivery or installation date but our deliverers/installers are, on that date, unable to obtain access to the delivery/installation address for any reason, including that appropriate parking arrangements have not been made or the goods are unable to fit through doorways, etc., (see clause 7), you will incur a redelivery and potentially additional installation charges which will need to be paid prior to redelivery and installation. These charges will be at the same rate as the original delivery and installation charges.

6.4 If you agree to a delivery or installation date and cancel on less than 3 working days' notice, an appointment cancellation charge of R 2,000 + VAT will be levied.

6.5 We will deliver and install goods to the delivery address specified on your order form. It is noted however that (regardless of the address on the order form) certain credit or debit cards insist on shipment to the cardholder's billing address and Roche Bobois will follow the credit and debit card requirements.

- 6.6 **If you are not willing to accept delivery or installation of your goods within a 28 day period from us first attempting to contact you, we shall be permitted, but not obliged, to cancel your order and to re-sell the goods. In those circumstances, we shall retain the deposit and balance pending an attempted re-sale of the goods. If the goods are resold, we shall (within a reasonable period) return to you an amount equivalent to the re-sale proceeds after deduction of our additional reasonable costs and expenses. Please note that if we do re-sell the goods it is likely to be at a substantial discount. If we are not reasonably able to re-sell the goods, we shall be permitted to retain the price paid by you in full.**
- 6.7 If, for a period of 28 days from being notified that the goods are available for delivery and installation, you are unavailable and/or do not respond when we try to contact you to arrange delivery and installation of your goods, we shall give you notice that unless you allow us to deliver and commence installation within 28 days (of that notice), the order will be cancelled and we shall be permitted to take the steps referred to in clause 6.6 above.
7. **ACCESS AND INSTALLATION**
- 7.1 You will be responsible for providing our installation team with access to the delivery address as necessary for the delivery, including any costs associated with such delivery, such as the costs of parking, and (if included in your order) the installation of the goods. The delivery and installation charges will be discussed with you at the time of your order. Factors affecting the charges include the delivery and installation location and the size and complexity of the order.
- 7.2 Installation work will be limited to installation of the goods and shall not include any works to the fabric or structure of your property (save to the extent necessary to affix the goods to walls, floors and ceilings). If any planning permissions, structural or other preparatory works are required to your property in advance of the installation of the goods, it is your responsibility to ensure those permissions or works are obtained and completed in advance of the installation works.
- 7.3 **Roche Bobois will not pay for loss or damage to the goods or your property which are caused due to (a) us following your instructions; and/or (b) limited access and/or where the goods do not fit in your property (unless the loss or damage is caused by our negligence).**
8. **SHIPPING OUTSIDE SOUTH AFRICA**
- 8.1 If your goods are to be delivered to an address outside South Africa, shipping can be arranged through your sales representative and we will give an indication of shipping charges on request. The shipping quotes are treated as enquiries only until confirmed in writing.
- 8.2 Our shipping quotes will be based on your whole order being shipped as one consolidated shipment. Should you require more than one shipment, additional charges may apply. The shipping quotation (if any) will be valid for 30 days from the date of quotation. After this period, a new quotation will be required.
- 8.3 Alternatively, you may arrange shipping through a freight forwarder or shipping agent (either a “carrier”) of your choice. Once the goods are available for collection, we will notify your nominated carrier who would then be required to provide us with a minimum of 48 hours’ notice of your planned collection date. If your carrier does not arrange for collection of the goods within 28 days from notification, we shall be entitled to cancel your order and re-sell the goods following the procedure set out in clause 6.6.
9. **ACCEPTANCE**
- 9.1 When your goods are delivered and (where applicable) installed, you (or a responsible person acting on your behalf) will be asked to inspect the goods and installation work and to sign a document to acknowledge practical completion of the delivery and installation.
- 9.2 Alternatively, if there are faults to the goods or installation work, these should be notified to us at this time or as soon as reasonably possible afterwards so that we may rectify them. Claims may be reduced or rejected if they are not promptly notified to us (ideally within 5 days) or if we are not given an opportunity, upon detection, to put matters right.
- 9.3 **In view of variations in manufacturing and availability of materials and handmade products, we cannot guarantee that all goods supplied will be identical (including size, colour, grain and shading) with particulars given or samples viewed and any reasonable variation in this respect shall not constitute a breach of this Agreement.**
- 9.4 You must retain your till receipt(s) and order form as evidence of purchase.
- 9.5 If you have any post-delivery complaints, please address them to the Customer Service Department: 27 COMMERCE CRESCENT - SANDTON -JOHANNESBURG ; TEL : 0878057090
10. **PASSING OF PROPERTY AND RISK**
- 10.1 Ownership of the goods will pass to you once we have received payment in full for them and they have been delivered to you, or you have collected them, as the case may be.
- 10.2 Notwithstanding clause 10.1, once you have taken possession of the goods, those goods shall be at your risk and you will be responsible for any loss or damage to the goods unless: (i) caused by our negligence; or (ii) due to a manufacturing defect or our design fault.

11. **UNAVOIDABLE DELAYS**

11.1 **We will not be liable for any delay or failure in performing our obligations under this Agreement where that delay or failure results from any act, event, non-happening, or accident beyond our reasonable control, such as war, threat of war, terrorism, sabotage, civil or military disturbance, fire, explosion, storm, flood, earthquake, or other natural disasters, pandemics, strikes, lock-outs, or import or export embargoes, or the impossibility of us using railways, shipping, aircraft, motor transport or other means of public or private transport. If such circumstances arise, we will let you know in writing.**

12. **LIMITATION OF LIABILITY**

12.1 Irrespective of any insurance taken out by us, you should advise your insurers so that there is adequate cover against loss or damage by fire and other risks arising out of or during the delivery of goods, or the progress of installation work undertaken by us whether you are the freeholder, lessee or mortgagee of the property. Unless otherwise expressly agreed we are not liable for any loss or damage caused to the works, materials on site or any of your property to the fullest extent permitted by law.

12.2 **If we breach any of our obligations to you under this Agreement, we will only be liable for the losses (if any) that you suffer as a direct and natural result of our breach. We will not be responsible for any losses which arise as an indirect result of our breach which would not have been contemplated by us at the time of your order. Furthermore, we will not be liable to pay damages to you in respect of any loss of enjoyment, loss of revenue or profit or loss of opportunity. Nothing in this Agreement will affect your statutory rights or limit our liability for fraud, or for death or personal injury resulting from our negligence or the negligence of our employees, servants or agents.**

13. **WARRANTY**

13.1 All goods supplied by us are warranted to be of satisfactory quality, fit for their normal purpose, and free of defects for a period of 12 months from the date of delivery. All assembly and fitting parts are guaranteed for 3 years.

13.2 This warranty does not apply to any defect arising from fair wear and tear, wilful or accidental damage, negligence by you or any third party, using the goods otherwise than recommended by us, a failure to follow our care or any other instructions, or any alteration or repair carried out without our prior written approval.

13.3 You must notify us of any defects as soon as reasonably possible after they are discovered.

13.4 Defective goods will, at our election, be repaired or replaced.

13.5 The warranty in terms of this clause 13 is in addition to, and will run concurrently with, your warranty in terms of the Consumer Protection Act number 68 of 2008 (the "Act").

14. **LEGAL EFFECTS**

14.1 **Your signature of the order form confirms that you have read, understood and agreed to be bound by this Agreement.**

14.2 No variation of this Agreement (including the order form) shall be valid and binding unless made in writing and signed by you and us. If a statement is made, or an opinion expressed, orally which will affect your decision to purchase any goods or instruct us to carry out any installation work, you should ensure that those details are confirmed in writing so as to form part of the Agreement. No liability can or will otherwise be accepted.

15. **INTERPRETATION**

In these terms and conditions, unless the context indicates otherwise –

15.1 A reference to a clause is a reference to a clause in these terms and conditions;

15.2 Unless otherwise stipulated, all charges, including shipping costs, do not include VAT.

15.3 In the event of any conflict between the provisions of this Agreement and the Consumer Protection Act number 68 of 2008 (the "Act"), the provisions of the Act shall apply.

15.4 If any part of this Agreement is found to be unenforceable, it will not affect the enforceability of the remainder of this Agreement.

15.5 This Agreement shall be governed by the law of South Africa and both parties accept the exclusive jurisdiction of the courts of South Africa.

15.6 A person who is not a party to this Agreement has no right to enforce any term of this Agreement. If you have asked us to deliver the goods to another person, then that person will not be a party to this Agreement.

15.7 The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement shall not apply.

A LARGE PRINT VERSION OF THESE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST