

## TERMS AND CONDITIONS OF SALE, LIMITED PRODUCT WARRANTY, AND DISPUTE RESOLUTION/ARBITRATION AGREEMENT

The Terms and Conditions of Sale, Limited Product Warranty, and Dispute Resolution/Arbitration Agreement (collectively, "the Agreements") below are binding agreements between you and Furniture.com America LLC, which is referred to as "Furniture.com," "we" or "us." Except in the Limited Product Warranty, "you" means any person or entity who makes this purchase or on whose behalf the purchase is made and any privies, and any person or entity who receives, accepts, or uses the purchased products or services. All such persons and entities are expressly intended beneficiaries of the Dispute Resolution/Arbitration Agreement. For purposes of the Limited Product Warranty, "you" means solely the original consumer purchaser. The Agreements are expressly intended for the benefit of all affiliates of Furniture.com and any third party delivery service provider that delivers or attempts to deliver your merchandise and its or their parent companies, subsidiaries, divisions, shareholders, members, directors, officers, employees, representatives, predecessors, successors, and assigns. The agreements may not be changed except by a written agreement signed by you and us. If any part of any of these three agreements is found invalid or unenforceable, then the other parts shall remain in full force and effect, except that if any part of Section 2 of the Dispute Resolution/Arbitration Agreement is found invalid or unenforceable, then Sections 1 and 3 of the Dispute Resolution/Arbitration Agreement shall be null and void.

BY PURCHASING MERCHANDISE THROUGH FURNITURE.COM, YOU AGREE THAT YOU HAVE READ AND UNDERSTAND THESE TERMS, WHICH INCORPORATE OUR TERMS OF USE AND OUR PRIVACY NOTICE. IF YOU DO NOT AGREE WITH THESE TERMS AND OUR TERMS OF USE AND OUR PRIVACY NOTICE, DO NOT ORDER MERCHANDISE USING FURNITURE.COM. PLEASE READ THESE TERMS CAREFULLY.

### TERMS AND CONDITIONS OF SALE

1. **CANCELLATION POLICY.** Online sales may be cancelled only up until Merchandise is loaded on the truck for delivery, generally three days prior to the delivery date. Express/Next Day Delivery orders are not eligible for cancellation. Once merchandise is loaded, the order cannot be cancelled and will be treated as a return. Refunds may take up to 10 business days to process.
2. **RETURN POLICY.** Returns of items purchased online are permitted within 48 hours of delivery if the merchandise was not as expected. Refunds will be made for the purchase price of the merchandise plus tax, but not the delivery charge. To initiate a return, please contact Internet Sales Support at 1-888-709-5380, and they will provide instructions for returning your merchandise. Please include your original sales order number when contacting Internet Sales Support. You are responsible for returning the merchandise in the condition in which it was delivered. Items delivered via UPS must be returned via UPS at the customer's expense. Once the merchandise has been returned to us, refunds may take up to 10 business days to process.
3. We reserve the right to revoke any stated offer and to correct any errors, inaccuracies or omissions including after an order has been submitted and whether or not the order has been confirmed and your credit card charged.
4. You must make any change of the delivery address or change in the order by telephone and the change will be binding only if we confirm the change before delivery. Changes may delay the delivery date.
5. Merchandise marked "Partial Assembly Required" (disassembled) or "Assembly Required" is delivered for assembly by purchaser.
6. We retain title to all furnishings until delivered to you and paid for in full.
7. Certain returns and exchanges, including for mattresses and box springs, may require that you pay a "pickup and redelivery fee" or other fee to cover costs of pickup and delivery from your home or re-stocking.
8. Limitation of Damages for Delivery Services: Furniture.com will use a third party delivery service provider ("the delivery service provider") to deliver your merchandise. The delivery service provider is expressly intended as a third party

beneficiary of this Limitation of Damages. THE AGGREGATE LIABILITY OF FURNITURE.COM AND ANY THIRD PARTY DELIVERY SERVICE PROVIDER AND ITS OR THEIR AFFILIATES, PARENT COMPANIES, SUBSIDIARIES, DIVISIONS, SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, PREDECESSORS, SUCCESSORS, AND ASSIGNS, RELATING IN ANY WAY TO THE DELIVERY SERVICES SHALL NOT EXCEED TWO TIMES THE TOTAL AMOUNT YOU PAID TO FURNITURE.COM FOR DELIVERY OF YOUR MERCHANDISE, WHETHER YOU CLAIM DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGE TO REAL OR PERSONAL PROPERTY) RELATING TO BREACH OF CONTRACT OR TORT OR ANY OTHER THEORY OF LIABILITY. IN NO EVENT SHALL FURNITURE.COM OR ANY THIRD PARTY DELIVERY SERVICE PROVIDER THAT DELIVERS OR ATTEMPTS TO DELIVER YOUR MERCHANDISE AND ITS OR THEIR AFFILIATES, PARENT COMPANIES, SUBSIDIARIES, DIVISIONS, SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, PREDECESSORS, SUCCESSORS, AND ASSIGNS BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES RELATING TO YOUR DELIVERY SERVICES. This limitation of liability shall not apply to (a) liability resulting from Furniture.com's or the delivery service provider's gross negligence or willful misconduct and (b) death or bodily injury resulting from Furniture.com's or the delivery service provider's negligent acts or omissions. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation may not apply to you.

9. If we have to pay any monies or hire an attorney to collect payment from you, we can recover from you all of our collection costs including the fees of our attorney.
10. Merchandise purchased for commercial settings or used for commercial purposes in any manner, including but not limited to third party rental properties, is not covered by the Limited Product Warranty below or any other warranty, express or implied.
11. FOR PICKUP ITEMS, YOU ARE SOLELY RESPONSIBLE FOR LOADING/TRANSPORTING/UNLOADING MERCHANDISE. YOU AGREE TO INDEMNIFY AND HOLD US HARMLESS FOR ANY AND ALL DAMAGE/INJURY TO VEHICLES, MERCHANDISE, YOU OR OTHERS DURING LOADING/TRANSPORT/UNLOADING.
12. FURNITURE.COM may share and use information you provide to us with FURNITURE.COM's affiliates and third parties for purposes including, without limitation, processing and servicing your order, arranging delivery, marketing, financing, conducting surveys (including satisfaction surveys) and researching and improving products. This information may include your name, contact information, and purchase history. By voluntarily providing your information to us, you consent to our use of your information as described.
13. Notwithstanding the context in which you provide your e-mail address or telephone number, you consent to FURNITURE.COM, its affiliates, any other intended beneficiary of the Agreements, and any third-party service providers, including, but not limited to, delivery service providers and survey/research companies, contacting you using any e-mail address or any telephone number that you provide for any purpose including, without limitation, processing and servicing your order, arranging delivery, conducting surveys (including satisfaction surveys) researching and improving products, and marketing.
14. You agree that we may take or cause to be taken photos on delivery, attempted delivery, or merchandise set-up, and use the photos to help resolve merchandise, delivery, set-up, damage, or customer service issues. We may also use the photos to verify delivery location or audit for quality purposes.

#### **LIMITED PRODUCT WARRANTY ("LIMITED WARRANTY")**

This Limited Warranty is non-transferrable and applies only to the original consumer purchaser, and for merchandise which has remained at the original non-commercial delivery site. Furniture.com warrants that the purchased merchandise will be free from defects in material and workmanship for a period of **ONE (1) YEAR from the date of delivery**. To obtain service under this Limited Warranty, the original purchaser must give us written notice of the defect within the one (1) year warranty period at Furniture.com America LLC, P.O. Box 468431, Atlanta, GA 30338 or by calling 1-855-277-0614. This Limited Warranty does not cover: 1) wear, fading, or shrinkage of fabrics; 2) damage due to alterations, misuse, abuse, or accidents; 3) damage or discoloration caused by light; 4)

natural variations in the color or graining of products; 5) ridges or rough areas in wicker, marble, and natural stone; 6) mold, mildew, dirt, or pilling; 7) fading/oxidized paint or rust; 8) imperfections, small cracks, and teak oil in new and reclaimed teak; and 9) damage due to wind, fire, rain, hurricane, and other weather or climatological causes or natural disasters. Failure to follow care instructions, including but not limited to properly draining outdoor cushions and closing umbrellas when unattended, will void the Limited Warranty. If you provide notice during the Limited Warranty period that the purchased merchandise is not free from defects in material and workmanship for the duration of this Limited Warranty, we will at our option, either (i) repair or replace the non-conforming merchandise or its non-conforming components, or (ii) refund the purchase price in exchange for return of the merchandise.

**DISCLAIMER OF CONSEQUENTIAL AND INCIDENTAL DAMAGES: EXCEPT TO THE EXTENT EXPRESSLY PROHIBITED BY LAW, WE ARE NOT LIABLE TO YOU OR ANY OTHER PERSON FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES FOR BREACH OF THIS OR ANY OTHER WARRANTY.** Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. All disputes arising under this Limited Warranty are subject to the Dispute Resolution/Arbitration Agreement below.

**DURATION OF IMPLIED WARRANTIES:** FURNITURE.COM EXPRESSLY LIMITS THE DURATION OF THE IMPLIED WARRANTY OF MERCHANTABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE TO THE DURATION OF THE LIMITED WARRANTY PERIOD OF ONE (1) YEAR FROM THE DATE OF DELIVERY. FURNITURE.COM HEREBY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AFTER EXPIRATION OF THE LIMITED WARRANTY PERIOD. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.

A hard copy of the Limited Warranty will be made available free of charge upon request by calling Customer Service at 1-855-277-0614.

**DISPUTE RESOLUTION/ARBITRATION AGREEMENT: READ CAREFULLY -**

**THIS AGREEMENT AFFECTS YOUR RIGHTS**

1. **Mandatory Arbitration:** YOU AND ANY "ARBITRATING ENTITY" (WHICH INCLUDES FURNITURE.COM, ANY THIRD PARTY DELIVERY SERVICE PROVIDER THAT DELIVERS OR ATTEMPTS TO DELIVER YOUR MERCHANDISE, AND ANY OF ITS OR THEIR AFFILIATES, PARENT COMPANIES, SUBSIDIARIES, DIVISIONS, SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, PREDECESSORS, SUCCESSORS, OR ASSIGNS) AGREE THAT ANY DISPUTE OR CLAIM BETWEEN YOU AND ANY ARBITRATING ENTITY, INCLUDING BUT NOT LIMITED TO ANY DISPUTE OR CLAIM THAT RELATES IN ANY WAY TO ANY PRODUCT OR SERVICE SOLD OR DISTRIBUTED BY ANY ARBITRATING ENTITY, TO ANY TRANSACTION WITH ANY ARBITRATING ENTITY, TO THE LIMITED WARRANTY MADE BY ANY ARBITRATING ENTITY, TO THE TERMS AND CONDITIONS OF SALE, TO THE FINANCING OF ANY PURCHASE FROM ANY ARBITRATING ENTITY, TO THE DELIVERY, ATTEMPTED DELIVERY, OR INSTALLATION OF YOUR MERCHANDISE, TO THE USE, COLLECTION OR STORAGE OF PERSONAL INFORMATION, OR TO THE TERMS OF USE OR THE PRIVACY NOTICE, INCLUDING DISPUTES OR CLAIMS UNDER FEDERAL OR STATE STATUTES, COMMON LAW, OR TORT LAW, WHETHER LEGAL OR EQUITABLE ("DISPUTE"), MUST BE RESOLVED EXCLUSIVELY THROUGH FINAL AND BINDING ARBITRATION, AND NOT BY A COURT OR JURY, EXCEPT THAT YOU OR ANY ARBITRATING ENTITY MAY ASSERT CLAIMS IN SMALL CLAIMS COURT IF THE CLAIMS QUALIFY FOR SMALL CLAIMS COURT AND THE MATTER PROCEEDS ONLY ON AN INDIVIDUAL (NOT A CLASS OR REPRESENTATIVE) BASIS. This Dispute Resolution/Arbitration Agreement ("Agreement") applies to Disputes arising before, on, or after the date of your purchase, regardless of whether the Limited Warranty is in effect.

You and any Arbitrating Entity waive the right to a trial by jury and any right to have a Dispute heard in court. In arbitration, Disputes are resolved by a neutral arbitrator instead of a judge or jury, discovery is more limited than in court, and the arbitrator's decision is subject to limited review by courts. The arbitrator can award on an individual basis the same damages and relief as a court, including monetary damages, injunctive relief, and declaratory relief. Judgment on the arbitrator's award may be entered in any court having jurisdiction thereof. A single arbitrator with the American Arbitration Association ("AAA") will conduct the arbitration, and the award may not exceed the relief allowed by applicable law. The arbitration will be conducted in the county of your residence or another mutually

agreed location. The AAA's Consumer Arbitration Rules will apply. If AAA will not apply those rules, then AAA's Commercial Arbitration Rules will apply. The AAA's rules and a form that can be used to initiate arbitration proceedings are available at [www.adr.org](http://www.adr.org). You and Arbitrating Entity agree that if for any reason AAA will not conduct or becomes unavailable to conduct the arbitration, then a court may appoint a substitute arbitrator, and further agree that the choice of AAA as a forum is not integral to the Agreement.

**Delegation/Arbitrability.** The Federal Arbitration Act ("FAA") applies to this Agreement and governs its interpretation and enforcement. The arbitrator, and not any federal, state, or local court or agency, shall have the authority to decide, and shall decide, all issues relating to the meaning, validity, enforceability, interpretation, scope, and application of this Agreement (including "gateway" issues of arbitrability), the Terms and Conditions of Sale, the Limited Warranty and any other warranty, the Terms of Use, and the Privacy Notice, except that a court will resolve any question regarding the validity or enforceability of Section 2 of the Agreement. The term "Dispute" and the requirement to arbitrate will be broadly interpreted. The Agreement will survive termination of the Limited Warranty.

**2. Arbitration Class Action Waiver:** You and any Arbitrating Entity agree that the arbitration will be conducted solely on an individual basis and not on a class, representative, consolidated, or private attorney general basis. A Dispute may not be consolidated with a claim brought or discovery conducted by any person or entity that is not a party to the arbitration proceeding. The arbitrator may not award relief to any person or entity other than a party to the arbitration proceeding and may only award such relief as is necessary to provide relief to a party to the arbitration proceeding. If a court deems any portion of this Section 2 invalid or unenforceable, then Sections 1 and 3 of the Agreement will be null and void.

**3. Fees and Costs in Arbitration:** If your total damage claims are \$25,000 or less, not including your attorneys' fees: (1) the arbitrator may award you your reasonable attorneys' fees, expert fees, and costs if you prevail in the arbitration; (2) the arbitrator may not award any Arbitrating Entity its attorneys' fees, expert fees, or costs unless the arbitrator determines that your claim was frivolous or brought in bad faith; and (3) Arbitrating Entity will bear all filing fees and administrative fees and either reimburse you for any such fees that AAA requires you to pay upon initiating arbitration or, if you send a written request to Furniture.com America LLC, P.O. Box 468431, Atlanta, GA 30338 before you initiate arbitration, Arbitrating Entity will pay to AAA any such fees that AAA requires to be paid upon initiation of arbitration. If your total damage claims are more than \$25,000, not including your attorneys' fees, then the arbitrator may award the prevailing party all or a portion of its reasonable attorneys' fees, expert fees, and costs. In arbitrations conducted under AAA's Consumer Arbitration Rules, (a) Arbitrating Entity will bear the arbitrator's fees and expenses, and (b) where no disclosed claims or counterclaims exceed \$25,000, the Dispute shall be resolved by the submission of documents only/desk arbitration, except that any party may ask for a hearing or the arbitrator may decide that a hearing is necessary. Except as otherwise provided herein, all filing fees, administrative fees, and arbitrator fees and expenses will be paid in accordance with the applicable AAA rules.

**4. Non-Arbitration Class Action and Jury Waiver:** You and Arbitrating Entity agree that if for any reason a Dispute proceeds in court rather than arbitration: (1) you and Arbitrating Entity waive any right to a jury trial; (2) the Dispute will proceed solely on an individual, non-class, non-representative basis; and (3) neither you nor Arbitrating Entity may be a class representative or class member or otherwise participate in any class, representative, consolidated, or private attorney general proceeding.