

FURNITURE.COM TERMS OF USE

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PLEASE READ THESE TERMS OF USE (“**TERMS OF USE**”) CAREFULLY. THESE TERMS OF USE GOVERN YOUR ACCESS TO AND USE OF ALL OR PART OF ANY WEBSITE, MOBILE SITE, PLATFORM OR MOBILE APPLICATION OF FURNITURE.COM AMERICA LLC OR ITS AFFILIATES (COLLECTIVELY, “**FURNITURE.COM**,” “**WE**,” “**US**,” OR “**OUR**”) ON WHICH THESE TERMS OF USE ARE POSTED, INCLUDING FURNITURE.COM AND ANY OTHER SITE, MOBILE APPLICATION OR ONLINE SERVICE, INCLUDING ANY SHOPPING CART FUNCTIONALITY INCLUDED ON SUCH SITES WHERE THESE TERMS OF USE ARE POSTED (COLLECTIVELY, THE “**SITE**”). BY ACCESSING OR USING THE SITE OR OTHERWISE ACCEPTING THESE TERMS OF USE, YOU ARE AGREEING TO BE BOUND BY THESE TERMS OF USE. IF YOU DO NOT ACCEPT THESE TERMS OF USE, YOU ARE NOT AUTHORIZED TO ACCESS OR USE THE SITE. FOR CLARITY, THESE TERMS OF USE DO NOT AMEND ANY OTHER AGREEMENT YOU MAY HAVE WITH FURNITURE.COM OR A SELLER (AS SUCH TERM IS DEFINED HEREIN) FOR PRODUCTS OR SERVICES.

PLEASE NOTE: THESE TERMS OF USE CONTAIN A MUTUAL DISPUTE RESOLUTION/ARBITRATION AGREEMENT THAT INCLUDES A CLASS ACTION WAIVER THAT AFFECTS YOUR RIGHTS. IT AFFECTS HOW DISPUTES ARE RESOLVED. YOU AGREE TO BE BOUND BY THE DISPUTE RESOLUTION/ARBITRATION AGREEMENT. IN ARBITRATION, THERE IS NO JUDGE OR JURY AND THERE IS LESS DISCOVERY AND APPELLATE REVIEW THAN IN COURT. PLEASE REVIEW THE DISPUTE RESOLUTION/ARBITRATION AGREEMENT CAREFULLY.

PLEASE NOTE: If any part of any of these terms is found invalid or unenforceable, then that part shall be stricken and all other parts shall remain in full force and effect, except as specifically provided in the Dispute Resolution/Arbitration Agreement.

- 1. Changes to Terms/Site.** We reserve the right to modify or amend these Terms of Use, as well as any aspect of the Site, at any time. All changes will be effective immediately upon posting to the Site. By accessing or using the Site after changes are posted, you agree to and accept those changes.
- 2. Third-Party Content and Web Sites.** The Site may contain, link to, or be linked to, content or websites not maintained or controlled by furniture.com (“**Third-Party Site(s)**”), including the websites of third party sellers (“**Sellers**”). Those links are provided as a convenience, and furniture.com is not responsible for examining or evaluating the content or accuracy of, and does not warrant or endorse, any Third-Party Site or any products or services made available through such sites. Please take care when leaving the Site to visit a Third-Party Site. You should read the terms of use and privacy policy for each Third-Party Site that you visit.
- 3. Intellectual Property Rights.** The Site, including its text, audio, video, graphics, charts, photographs, interfaces, icons, other content, software, computer code, data, trademarks, logos, slogans, names of products and services, documentation, other components, and the design, selection, and arrangement of content is exclusively the property of furniture.com or, as applicable, its suppliers and licensors, and is protected by copyright, trademark, and other intellectual property laws. Any unauthorized use of any trademarks, service marks, trade dress, copyright or any other intellectual property or licenses belonging to furniture.com, any third party, or their affiliates or licensors is strictly prohibited and may be prosecuted to the fullest extent of the law. The Site may contain references to third-party marks and copies of third-party copyrighted materials, which are the property of their respective owners. All rights not expressly granted herein are reserved by furniture.com and its licensors.
- 4. Use of the Site; Compliance.** You may download and print one copy of the Site's visible content for your personal and noncommercial use, provided you do not modify or delete any copyright, trademark, or other proprietary notices. You may not otherwise copy, reproduce, display, duplicate, sell, publish, post, license, distribute, or create derivative works of the Site or any part of the Site without the prior written consent of furniture.com. For example, you may not copy, reproduce, publish, upload to another web site, or

otherwise distribute any of the images on the Site. You may not use the Site for unlawful purposes. You may not access, use, or copy any portion of the Site or its content through the use of indexing agents, spiders, scrapers, bots, web crawlers, or other automated devices or mechanisms. User activities that aim to render the Site or associated services inoperable or to make their use more difficult are forbidden. You are responsible for complying with all local, state, and federal laws and regulations that apply to your use of the Site. You may not upload to, distribute or otherwise publish through the Site any content that: (i) is confidential, proprietary, false, fraudulent, libelous, defamatory, obscene, threatening, invasive of privacy or publicity rights, infringing on intellectual property rights, abusive, illegal or otherwise objectionable; (ii) may constitute or encourage a criminal offense, violate the rights of any party or otherwise give rise to liability or violate any law; or (iii) may contain software viruses, political campaigning, chain letters, mass mailings, or any form of "spam." You may not use a false email address or other identifying information, impersonate any person or entity or otherwise mislead as to the origin of any content. You may not upload commercial content onto the Site. Some features on the Site may require you to register or create an online account ("**Account**"). You agree to provide true, accurate, current and complete information about yourself. You are responsible for protecting and maintaining the confidentiality of your login credentials and password and for restricting access to your computer or other device used to access your Account. You agree that you will be responsible for any and all statements made, and acts or omissions that occur on or through the Site, through the use of your online account and password, whether or not authorized by you. If you have any reason to believe or become aware of any loss, theft or unauthorized use of your password, you agree to notify furniture.com immediately at 855-277-0614 or legalnotices@furniture.com. furniture.com may terminate your account and suspend your use of the Site for any reason without prior notice to you, including but not limited to if furniture.com suspects that your account is being used in an unauthorized manner or that you are in violation of these Terms of Use.

5. Feedback. furniture.com welcomes comments regarding the Site, including any products or services available through the Site ("**Feedback**"). If you submit any Feedback to us regarding the Site, you are granting to furniture.com a royalty-free, perpetual, irrevocable, worldwide, unlimited, nonexclusive license to use, reproduce, create derivative works from, modify, publish, edit, translate, distribute, perform and display (publicly or otherwise) such Feedback, in any medium or format, and that such Feedback will not be considered or maintained as confidential. We may use any Feedback that you send us in our discretion and without attribution or compensation to you.

6. Privacy. Your use of the Site is subject to our Privacy Notice. You may obtain a copy of our [Privacy Notice](#) by clicking [here](#).

7. Customer Communications. Notwithstanding the context in which you provide your e-mail address or telephone number, any prior consents you may have provided to receive marketing and/or non-marketing telephone calls/SMS/MMS messages, any revocation of said consent and any request to be placed on a federal, state or internal do-not-call list, you consent to furniture.com, its affiliates, any other intended beneficiary of your agreements with furniture.com, and any third-party service providers, including, but not limited to, Sellers, survey/research companies contacting you using any e-mail address or any telephone number that you provide. You agree that any SMS/MMS messages and/or telephone calls may be sent or placed using an automatic telephone dialing system or prerecorded or artificial voice. You agree that such communications may be made for any purpose including, without limitation, conducting surveys (including satisfaction surveys), researching and improving products, providing customer service and marketing. You agree that furniture.com, its affiliates, any other intended beneficiary of your agreements with furniture.com, and any third-party service providers may send you messages regarding the foregoing topics or any topic and that such messages and/or calls may be made or placed using different telephone numbers or short codes. You further agree that each short code and/or telephone number used to communicate with you is an independent message campaign, separate from any other communication campaign you may receive from or on behalf of furniture.com, its affiliates, any other intended beneficiary of your agreements with furniture.com, and any third-party service providers. To stop, unsubscribe or otherwise revoke your consent to receive messages from a specific campaign, you must text "STOP" to each individual campaign you no longer wish to receive messages from. You agree that that by texting "STOP" to a given message campaign, you will ONLY be unenrolled from text messages from that specific message campaign. If you wish to opt out of ALL message campaigns, you must text "STOP" to each message campaign. Alternatively, to opt out, you may call furniture.com at 855-277-0614 or send notice of your request to Furniture.com America LLC, Attn: Legal Department, 4004 Summit Blvd NE Ste 600, Atlanta GA 30319. Any other attempt to revoke consent shall be invalid and of no effect. You further agree that the methods of revocation described in this paragraph are reasonable. You certify, warrant and represent that any telephone numbers you provide to us are your contact numbers and not someone else's. You represent that you are permitted to receive calls and text messages at the telephone numbers you have provided to us. You agree to promptly alert us whenever you stop using a telephone number.

furniture.com may use such means of communication described in this section even if you will incur costs to receive such messages, text messages, e-mails or other means, which may occur. If you want to start receiving messages again, sign up as you did the first time. If you need help, text "HELP" to any message you receive from us. For customer support please call us at 855-277-0614. Message and data rates may apply, and message frequency may vary. Carriers are not liable for delayed or undelivered messages. You agree that the terms of your agreements with furniture.com were arrived at by a mutually agreed, bargained-for exchange and that all terms are essential.

8. Merchandise Availability. The prices and availability of Sellers' merchandise on the Site may change at any time without notice to you. Merchandise prices and selection may vary from region to region and differ between the Site and Sellers' own sites or stores. Availability of merchandise may be limited and merchandise may not be available for immediate delivery.

9. NO WARRANTY.

A. THE SITE IS PROVIDED "AS IS," "AS AVAILABLE," AND WITHOUT ANY WARRANTY OF ANY KIND. ACCURACY OF INFORMATION ON THE SITE CANNOT BE GUARANTEED. FURNITURE.COM DOES NOT GUARANTEE THE QUALITY, COMPLETENESS, TIMELINESS, OR AVAILABILITY OF THE SITE. FURNITURE.COM DOES NOT WARRANT THAT THE SITE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT ANY DEFECTS IN THE SITE WILL BE CORRECTED, OR THAT THE SITE OR THE SERVERS THAT MAKE THE SITE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL CONDITIONS OR COMPONENTS.

B. TO THE MAXIMUM EXTENT PERMITTED BY LAW, FURNITURE.COM EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND WITH RESPECT TO THE SITE, INCLUDING WITHOUT LIMITATION THOSE REGARDING AVAILABILITY, QUALITY, ACCURACY, FITNESS FOR ANY USE OR PURPOSE, COMPATIBILITY WITH ANY STANDARDS OR USER REQUIREMENTS, TITLE, AND NONINFRINGEMENT. IN CERTAIN JURISDICTIONS, THE LAW MAY NOT PERMIT THE DISCLAIMER OF WARRANTIES, SO THE ABOVE DISCLAIMER MAY NOT APPLY TO YOU.

C. FURNITURE.COM PROVIDES NO REPRESENTATION OR WARRANTY AND HAS NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MISDELIVERY, OR FAILURE TO STORE ANY USER COMMUNICATION. YOUR USE OF THE SITE IS AT YOUR OWN RISK AND YOU ALONE ARE RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER HARDWARE, SOFTWARE, SYSTEMS, AND NETWORKS, ANY LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY INFORMATION FROM THE SITE, AND FOR ANY OTHER DAMAGE THAT MAY BE INCURRED. WE MAKE NO REPRESENTATION THAT THE SITE IS APPROPRIATE OR AVAILABLE FOR USE IN LOCATIONS OTHER THAN THE UNITED STATES. IF YOU CHOOSE TO ACCESS THE SITE FROM LOCATIONS OTHER THAN THE UNITED STATES, YOU DO SO AT YOUR OWN RISK AND YOU ARE RESPONSIBLE FOR COMPLYING WITH APPLICABLE LAWS AND REGULATIONS. NO ADVICE OR INFORMATION, ORAL OR WRITTEN, OBTAINED BY YOU FROM FURNITURE.COM OR IN ANY MANNER FROM THE SITE CREATES ANY WARRANTY.

10. NO LIABILITY.

A. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL FURNITURE.COM OR ANY OF ITS AFFILIATES, PARENTS, SUBSIDIARIES, PREDECESSORS, SUCCESSOR, AND ASSIGNS, OR ANY OF ITS OR THEIR DIVISIONS, SHAREHOLDERS, MEMBERS, MANAGERS, PARTNERS, TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES, OR REPRESENTATIVES, BE LIABLE TO YOU IN CONNECTION WITH YOUR ACCESS TO OR USE OF THE SITE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL LOSS OR DAMAGE, INCLUDING BUT NOT LIMITED TO, LOST PROFITS OR REVENUE, LOSS OF USE, GOOD WILL OR DATA OR SIMILAR DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE SITE OR YOUR DIRECT OR INDIRECT USE OF THE SITE (INCLUDING, WITHOUT LIMITATION, THE INPUT OF PERSONAL INFORMATION OR OTHER INFORMATION INTO THE SITE), WHETHER THE CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, WARRANTY, OR OTHERWISE, AND EVEN IF FURNITURE.COM HAS EXPRESS KNOWLEDGE OF THE POSSIBILITY OF THE LOSS OR DAMAGE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, FURNITURE.COM IS NOT RESPONSIBLE FOR ANY ACT OR OMISSION OF ANY SELLER, INCLUDING TYPOGRAPHICAL ERRORS OR INACCURACIES IN THE DESCRIPTION OF ANY PRODUCT PROVIDED ON THE SITE. IN THE EVENT OF ANY LOSS, DAMAGE OR HARM RESULTING FROM OR IN CONNECTION WITH A PRODUCT OR SERVICE YOU OBTAIN FROM A SELLER, YOU AGREE THAT FURNITURE.COM IS NOT LIABLE TO YOU WITH RESPECT TO SUCH LOSS, DAMAGE OR HARM, AND ANY RECOURSE

YOU HAVE IN CONNECTION THEREWITH WILL BE AGAINST THE APPLICABLE SELLER.

B. WITHOUT LIMITING THE FOREGOING, IF FURNITURE.COM IS FOUND LIABLE TO YOU OR TO ANY THIRD PARTY AS A RESULT OF ANY CLAIMS OR OTHER MATTERS ARISING OUT OF OR IN CONNECTION WITH THE SITE OR THESE TERMS OF USE, THE MAXIMUM LIABILITY FOR ALL OF THOSE CLAIMS AND OTHER MATTERS WILL NOT EXCEED \$100, EVEN IF THIS REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

C. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES, SO SOME OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU. IF PURSUANT TO APPLICABLE STATE LAW, THE LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES IS NOT PERMITTED, THE LIABILITY OF FURNITURE.COM, THIRD PARTY CONTENT PROVIDERS, AND THEIR RESPECTIVE AGENTS, SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. IF NEW JERSEY LAW APPLIES, EXCLUSIONS AND LIMITATIONS OF LIABILITY FOR INTENTIONAL OR RECKLESS ACTS, GROSS NEGLIGENCE, NEGLIGENCE, AND STRICT LIABILITY DO NOT APPLY.

11. **Indemnification.** You agree to indemnify, defend, and hold harmless furniture.com, and each of its parents, subsidiaries, affiliates, predecessors, successors, and assigns, and each of its or their shareholders, members, managers, directors, officers, partners, trustees, employees, representatives, consultants, agents, suppliers, and licensors from and against all losses, claims, liabilities, demands, complaints, actions, damages, judgments, settlements, fines, penalties, damages, expenses, and costs (including, without limitation, reasonable attorneys' fees and costs) that arise out of or in connection with your access to or use of the Site, your misuse of any material, data, or other information downloaded or otherwise obtained from the Site, your order of merchandise through a Third-Party Site, or your violation of these Terms of Use. We reserve, and you grant to us, the exclusive right to assume the defense and control of any matter subject to indemnification by you, in which event you will assist and cooperate with furniture.com in asserting any available defenses. This provision does not apply to intentional or reckless acts or gross negligence on the part of furniture.com. If New Jersey law applies, this provision also does not apply to negligence or strict liability on the part of furniture.com.

12. **Copyright.** furniture.com asks that its users respect the rights of intellectual property owners. If you believe that your work has been copied on the Site in a way that constitutes infringement, you agree to provide furniture.com the following information in the form prescribed by Section 512 of Title 17, United States Code:

A. A description of the copyrighted work or works that you claim have been infringed;

B. A description of the allegedly infringing material, including its location on the Site;

C. Your address, telephone number, and email address;

D. A statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;

E. A statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf; and

F. An electronic or physical signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

furniture.com's Copyright Agent for notice of claims of copyright infringement on the Site is legalnotices@furniture.com or Furniture.com America LLC, Attn: Legal Department, 4004 Summit Blvd NE Ste 600, Atlanta GA 30319.

13. **Linking to the Site.** If you operate a web site and are interested in linking to the Site, you agree that: (i) the link must be clearly marked; (ii) the link and its use must be in connection with a web site of appropriate subject matter; (iii) the link and its use must not, nor have the potential to, damage or dilute the goodwill associated with furniture.com's names and trademarks; (iv) the link and its use

must not create the false appearance that any program, person, or entity is associated with or sponsored by furniture.com; and (v) the link, when activated by a user, must display the Site full-screen and not within a "frame." furniture.com reserves the right to revoke consent to link to the Site at any time in its sole discretion, either by amending these Terms of Use or through other notice.

14. Governing Law. These Terms of Use are governed by the laws of the State of Georgia, without regard to its conflict of law principles, except to the extent that the Federal Arbitration Act governs the Dispute Resolution/Arbitration Agreement, as stated below. The United Nations Convention for the International Sale of Goods does not apply.

15. DISPUTE RESOLUTION/ARBITRATION AGREEMENT. READ CAREFULLY – THIS AGREEMENT AFFECTS YOUR LEGAL RIGHTS. IRRESPECTIVE OF ANY LAW TO THE CONTRARY, YOU MUST PROVIDE NOTICE TO US, PURSUANT TO THE PROCEDURES SET FORTH IN THIS DISPUTE RESOLUTION/ARBITRATION AGREEMENT, OF ANY CLAIM WITHIN ONE YEAR OF ITS ACCRUAL OR YOUR CLAIM SHALL BE WAIVED AND TIME-BARRED, TO THE FULLEST EXTENT PERMITTED BY LAW.

A. Mandatory Informal Dispute Resolution Process. If you and any Arbitrating Entity (defined below) have a Dispute (defined below), the parties to the Dispute agree that they will make a good faith effort to resolve it informally. This process should lead to a resolution. In connection with any Dispute, a notice ("**Notice**") must be sent to the other party that describes the Dispute. The Notice must include your name, address, telephone number, email address, sufficient information for the Arbitrating Entity to identify any transaction at issue; and a detailed description of (1) your Dispute, (2) the nature and basis of your claims, and (3) the nature and basis of the relief sought. The Notice must also verify that the information provided is true and accurate. You may send the Notice by email to legalnotices@furniture.com or by mail to Furniture.com America LLC, Attn: Legal Department, 4004 Summit Blvd NE Ste 600, Atlanta GA 30319. You must personally sign the Notice. If an Arbitrating Entity has a Dispute with you, it will send the Notice to the address on file. After a Notice is received, you and the Arbitrating Entity agree to negotiate in good faith, including through an informal and individualized telephone conference between you and the Arbitrating Entity. If requested by the Arbitrating Entity, you must personally appear at and participate in the telephone conference (if you are represented by counsel, your counsel may also participate). If the Dispute is not resolved within sixty (60) days after receipt of the Notice (which period can be extended by agreement of the parties), you and the Arbitrating Entity agree to the further dispute resolution provisions below. Compliance with and completing this informal dispute resolution process is a condition precedent to filing any formal dispute resolution proceeding, including a demand for arbitration. The statute of limitations and any filing fee deadlines shall be tolled while the parties engage in this informal dispute resolution process. If the sufficiency of a Notice or compliance with this informal dispute resolution process is at issue, it shall be decided by a court prior to the filing of any demand for arbitration.

B. Mandatory Arbitration. AFTER EXHAUSTION OF THE INFORMAL DISPUTE RESOLUTION PROCESS, YOU AND ANY "**ARBITRATING ENTITY**" (WHICH INCLUDES FURNITURE.COM AND ANY OF ITS AFFILIATES, PARENTS, SUBSIDIARIES, PREDECESSORS, SUCCESSOR, AND ASSIGNS, AND ANY OF ITS OR THEIR DIVISIONS, SHAREHOLDERS, MEMBERS, MANAGERS, PARTNERS, TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES, OR REPRESENTATIVES) AGREE THAT ANY UNRESOLVED DISPUTE OR CLAIM BETWEEN YOU AND ANY ARBITRATING ENTITY, INCLUDING BUT NOT LIMITED TO ANY DISPUTE OR CLAIM THAT RELATES IN ANY WAY TO YOUR RELATIONSHIP WITH ANY ARBITRATING ENTITY, INCLUDING, BUT NOT LIMITED TO, ANY PRODUCT SALE FACILITATED BY THE SITE OR SERVICE PERFORMED BY ANY ARBITRATING ENTITY, ANY TRANSACTION WITH ANY ARBITRATING ENTITY, ANY WARRANTY MADE BY ANY ARBITRATING ENTITY, TO THE USE, COLLECTION OR STORAGE OF PERSONAL INFORMATION, OR 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. THE TERM "**DISPUTE**" AND THE REQUIREMENT TO ARBITRATE WILL BE BROADLY INTERPRETED. NOTWITHSTANDING THE FOREGOING, YOU OR ANY ARBITRATING ENTITY MAY ELECT TO RESOLVE A DISPUTE IN SMALL CLAIMS COURT IF THE DISPUTE QUALIFIES FOR SMALL CLAIMS COURT AND THE MATTER PROCEEDS ONLY ON AN INDIVIDUAL (NOT A CLASS OR REPRESENTATIVE) BASIS AND SEEKS INDIVIDUAL RELIEF SO LONG AS THE ACTION REMAINS IN THAT COURT AND IS NOT REMOVED OR APPEALED TO A COURT OF GENERAL JURISDICTION. THIS ELECTION MAY BE MADE AT ANY TIME PRIOR TO THE APPOINTMENT OF AN ARBITRATOR. YOU AND ANY ARBITRATING ENTITY AGREE THAT WE EACH MAY BRING SUIT IN COURT TO ENJOIN INFRINGEMENT OR OTHER MISUSE OF INTELLECTUAL PROPERTY RIGHTS. THIS DISPUTE RESOLUTION/ARBITRATION AGREEMENT APPLIES TO DISPUTES ARISING BEFORE, ON, OR AFTER THE DATE OF YOUR VISIT TO THE SITE, REGARDLESS OF WHETHER ANY WARRANTY IS IN EFFECT, AND IT SURVIVES CANCELLATION OF YOUR ORDER OR OTHER TERMINATION OF ANY

AGREEMENT YOU MAY HAVE WITH ANY ARBITRATING ENTITY.

You and any Arbitrating Entity waive the right to a trial by jury and any right to have a Dispute heard in court to the fullest extent permitted by law. 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, in favor or against only the parties to the arbitration, including monetary damages, injunctive relief, and declaratory relief and only to the extent necessary to provide relief warranted by that party's individual claim. Under no circumstances may the arbitrator preside over any class or collective action. The arbitrator must follow the terms of these terms as a court would. The arbitrator may not consider any prior settlement offers in making the decision. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. The arbitration award shall be binding only among the parties to the arbitration and shall have no preclusive effect in any other arbitration or other proceeding involving a different party, provided that the arbitrator may consider rulings in other arbitrations involving different individuals. 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 amount and nature of 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 as modified by this Dispute Resolution/Arbitration Agreement. If AAA will not apply those rules, then AAA's Commercial Arbitration Rules will apply as modified by this Dispute Resolution/Arbitration Agreement. The AAA's rules and a form that can be used to initiate arbitration proceedings are available at www.adr.org. You and Arbitrating Entity agree that if for any reason AAA will not conduct or becomes unavailable to conduct the arbitration consistent with this Dispute Resolution/Arbitration Agreement, then the parties shall agree on a substitute arbitration organization. If the parties cannot agree, the parties shall mutually petition a court of appropriate jurisdiction to appoint an arbitration organization that will administer a proceeding consistent with the terms of this Dispute Resolution/Arbitration Agreement. The parties further agree that the choice of AAA as a forum is not integral to this Dispute Resolution/Arbitration Agreement.

C. Delegation/Arbitrability. The Federal Arbitration Act ("**FAA**") applies to this Dispute Resolution/Arbitration Agreement exclusively and governs its interpretation and enforcement. Except as specifically provided elsewhere in this Dispute Resolution/Arbitration Agreement, the arbitrator, and not any federal, state, or local court or agency, shall have the authority to decide, and shall decide, all issues or disputes relating to the meaning, validity, formation, enforceability, interpretation, scope, and application of this Dispute Resolution/Arbitration Agreement (including "gateway" issues of arbitrability), the Terms of Use, and the Privacy Notice, except that a court will resolve any question regarding the meaning, validity, or enforceability of Section D of this Dispute Resolution/Arbitration Agreement.

D. 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, collective, 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. This waiver of class actions and collective relief is an essential part of this binding Dispute Resolution/Arbitration Agreement and cannot be severed from it. If a court determines that the class action and collective relief waiver is not enforceable as to a particular claim or request for relief and all appeals from that decision have been exhausted (or the decision is otherwise final), then the parties agree that that particular claim or request for relief shall proceed in court but shall be severed and stayed pending arbitration of the remaining claims.

E. Fees, Costs and Procedures Relating to Arbitration. 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. 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 (collectively up to \$10,000) if you prevail in the arbitration and if your award on your claim (excluding costs and fees) exceeds by 50% the last offer from the Arbitrating Entity, which offer shall not be shared with arbitrator until after the award; and (2) the arbitrator may not award any Arbitrating Entity its attorneys' fees, expert fees, and/or costs, including AAA fees, unless the arbitrator determines that your claim was frivolous or brought for an improper purpose or in bad faith or after application of the provisions of Federal Rule of Civil Procedure 68, which shall apply and be enforced by the arbitrator. 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/or costs, including AAA fees, to the extent such fees and costs could be awarded in court or if the arbitrator determines that a claim or defense was frivolous or brought for an improper purpose or in bad faith or after application of the provisions of Federal Rule of Civil Procedure 68, which shall apply and be enforced by the arbitrator. In arbitrations conducted under AAA's Consumer Arbitration Rules, 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. If requested by the Arbitrating Entity, you shall individually and personally appear (with your counsel if you have one) at an individualized telephone conference with a case manager before an arbitrator is appointed.

If You or any Arbitrating Entity files or causes to be filed in any court, agency, or other non-arbitral tribunal a Dispute that is subject to arbitration under this Dispute Resolution/Arbitration Agreement (an "**Arbitrable Suit**"), the defendant/respondent may provide written notice to the plaintiff/claimant (or its attorney) of its duty to arbitrate the Arbitrable Suit or comply with the informal dispute resolution process under this Dispute Resolution/Arbitration Agreement. If the plaintiff/claimant does not dismiss the Arbitrable Suit within 14 calendar days of such notice, and the defendant/respondent successfully moves to compel compliance with the terms of this Dispute Resolution/Arbitration Agreement, the plaintiff/claimant shall be responsible for paying the reasonable attorneys' fees and other costs incurred by the defendant/respondent in responding to and moving to compel arbitration of the Arbitrable Suit. Any request for such fees and costs shall be addressed to and decided by an arbitrator as if it were a Dispute and otherwise in accordance with this Dispute Resolution/Arbitration Agreement.

F. Mass Claims. If twenty-five or more similar claims are asserted against one or more Arbitrating Entities by the same counsel or are otherwise coordinated (collectively, "**Mass Claims**"), you understand and agree that the resolution of your claim might be delayed. You also agree to the following coordinated bellwether process. Counsel for the claimants and counsel for the Arbitrating Entities shall each select ten cases to proceed first in arbitration in a bellwether proceeding. The remaining cases shall not be filed or deemed filed in arbitration until they are selected for a bellwether proceeding. If the parties are unable to resolve the remaining cases after the conclusion of the initial bellwether proceeding, each side shall select another ten cases to proceed to arbitration for a second bellwether proceeding. This process shall continue until the parties are able to resolve all of the claims, either through settlement or arbitration. Only one case may be assigned to each arbitrator as part of this process. The statute of limitations shall be tolled for an individual's claims until the time the individual's case is selected for a bellwether proceeding, withdrawn, or otherwise resolved. A court shall have authority to enforce this paragraph and, if necessary, to enjoin the mass filing of arbitration demands against the Arbitrating Entities.

G. Non-Arbitration Class Action and Jury Waiver. You and any Arbitrating Entity agree to the fullest extent permitted by law, that if for any reason a Dispute proceeds in court rather than arbitration: (1) you and any 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 any Arbitrating Entity may be a class representative or class member or otherwise participate in any class, representative, consolidated, or private attorney general proceeding.

H. Severability. Except as specifically provided herein, if any part of this Dispute Resolution/Arbitration Agreement is found invalid or unenforceable, then it shall be stricken and the other parts of this Dispute Resolution/Arbitration Agreement shall remain in full force and effect.

I. Changes. If we make any future changes to this Dispute Resolution/Arbitration Agreement (other than a change to the Notice Address), they shall not apply to any Dispute for which you have previously provided Notice to any Arbitrating Entity.

16. Assignment. We may assign our rights and delegate our duties under these Terms of Use at any time to any party without notice to you. You may not assign these Terms of Use without our prior written consent.

17. Interpretation. These Terms of Use are the entire agreement between you and furniture.com with respect to your access to and use of the Site. furniture.com's failure to enforce any provision in these Terms of Use will not constitute a waiver of that provision or any other provision. Any waiver of any provision of these Terms of Use will be effective only if in writing and signed by furniture.com. If any

provision of these Terms of Use is held invalid, void, or unenforceable, that provision will be considered severable from the remaining provisions and the remaining provisions will remain in full force and effect, except as set forth in Section 15 (Dispute Resolution/Arbitration Agreement) above. The headings in these Terms of Use are for convenience only and do not affect the interpretation of these Terms of Use. These Terms of Use will inure to the benefit of furniture.com's successors and assigns.

18. **Survival.** Any provisions of these Terms of Use that are intended to survive termination, including any provisions regarding indemnification or limitation of our liability and the Dispute Resolution/Arbitration Agreement will continue in effect beyond any termination of these Terms of Use or of your access to the Site.

19. **Electronic Communications.** These Terms of Use and any other documentation, agreements, notices, or communications between you and furniture.com may be provided to you electronically to the extent permissible by law. Please print or otherwise save a copy of all documentation, agreements, notices, and other communications for your reference.

20. **Contact Us.** If you have any other questions or concerns regarding these Terms of Use, please contact us—

By mail:

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Attn: Legal Department
4004 Summit Blvd NE Ste 600
Atlanta GA 30319

By email: legalnotices@furniture.com

By telephone: 855-277-0614