

Terms and Conditions of Sales Agreement

1. QUOTATIONS AND ORDERS

TERM: All prices are quoted FOB shipping point and are guaranteed for 30 days from date of quotation.

- a. ACCEPTANCE:** All orders over \$25,000 require a hard copy purchase order from Buyer. Otherwise, a Signed Quote with an authorized signature and date of acceptance is acceptable. Notwithstanding the above, if the Buyer requires a Purchase Order in order to process invoices for payment, no order will be accepted from such Buyer without a hard copy purchase order.
- b. MODIFICATIONS:** Any modifications to an approved and acknowledged order are subject to the Seller's ability to conform and the manufacturer's approval. Changes must be made via revised purchase order, change order or signed and dated revised Quote.
- c. CUSTOMER REQUIRED DATE:** A mutually agreeable (between Buyer and Seller) delivery date is required for each order and will be used as the Customer Required Date.
- d. DEPOSITS:** A deposit of 50% is required on all orders greater than \$15,000. Deposits are required if manufacturer(s) or service provider(s) requires a deposit. All custom products, C.O.M. or Quick Ships require payment in full with the order and are non-cancelable.

2. INVOICING

- a. TIMING:** Contract furniture with related installation and other services will be invoiced after delivery of the product to the job site. Direct shipments from manufacturers will be invoiced upon shipment from the manufacturer. Services not related to purchase of product, unless otherwise negotiated, will be invoiced after the services have been rendered substantially complete, as determined by Seller.
- b. PAYMENT TERMS:** For contract furniture and related installation and other services, balance is due in full net thirty (30) days from date of invoice. Unless otherwise negotiated, payment for services not related to purchase of product is due in full net fifteen (15) days from date of invoice. Buyer agrees not to withhold payment on any invoice because of partial delivery or open punchlist items.
- c. FREIGHT:** Unless otherwise noted, all applicable freight charges are not included in the price quotation and will be invoiced as a separate line item.
- d. TAXES:** Unless otherwise noted, any applicable sales, use, excise, or any other taxes are not included in the price quotation and will be invoiced as a separate line item for deliveries in California only. Buyer agrees to pay any and all applicable taxes. If Buyer possesses tax exempt status, a certificate of tax exemption is to be provided prior to order placement. Buyer is responsible for self-assessment of any and all applicable taxes due to jurisdictions outside of California.
- e. DELAYS:** If, for any reason, Buyer is unable to receive product at the job site on the mutually agreed upon Customer Required Date (see 1.c), product will be deemed delivered and will be invoiced as if delivered. If Progress Payment terms apply, that portion typically billed upon completion, will be invoiced on Customer Required Date. (Storage charges may apply. See 3.c)
- f. SERVICE FEE:** A service fee of 1.5% (18% APR) will be assessed on all unpaid balances after invoice due date. Buyer agrees to pay this fee when billed by the Seller.

3. OTHER CHARGES

- a. CHANGES:** Buyer will pay all additional charges for order changes.
If changes occur on the job site which are not within the previously agreed upon project scope, Seller will create a Change Order to identify all product and/or labor changes and costs. The Change Order must be approved and signed by an authorized Buyer contact before the order for product can be placed and/or the labor performed. All additional charges will be billed to Buyer.
- b. NO CANCELLATIONS OR CHANGES OF EXPRESS SHIP ORDERS:** **Express Ship, Turnstone Orders, and Service Part Orders cannot be changed or canceled.** All product is manufactured to customer specifications and, therefore, cannot be canceled once produced or in production, or returned. Restocking programs are not available. Design changes will be billed at the standard hourly rate.
- c. STORAGE AND EXTRA HANDLING IF SITE NOT READY:** If job site is not available on mutually agreed upon Customer Required Date (see 1.c), Seller will store product without charge for a maximum of fifteen (15) days from designated delivery date. Thereafter, a charge of 1.25% of order value per month will be assessed and paid by the Buyer. Charges will also be assessed to the Buyer for additional handling or redirecting of product at a standard hourly rate or actual charges if performed by a third party.
- d. EXTRA HANDLING DUE TO SITE CONDITIONS:** Charges will be assessed to the Buyer for excessive handling, storage and transportation incurred because of site conditions, activity of other trades, or other reasons beyond Seller's control not specifically identified in the price quotation at a standard hourly rate or actual charges if performed by a third party.
- e. OVERTIME:** Unless otherwise stated, delivery and installation will be scheduled between 8:00 AM and 4:00 PM, Monday through Friday, excluding Holidays. Any additional labor costs resulting from overtime work performed at Buyer's request will be paid by the Buyer.
- f. SPECIAL PACKAGING OR HANDLING:** Any additional charges for special packaging, handling, demurrage, or storage, not provided for in the specifications, will be paid by the Buyer.
- g. PICK-UP AND DISPOSAL OF OLD FURNITURE:** If Buyer requests pick-up and disposal of old or replaced furniture, Seller may charge Buyer at a standard hourly rate (plus disposal fees) or actual charges if performed by a third party.
- h. LEGAL FEES:** Should either party incur any expense in enforcing any terms, covenants, conditions, representations or warranties of this Agreement, the party in default will pay to the other all expenses so incurred including reasonable attorney's fees.

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4. DELIVERY AND INSTALLATION

- a. **SELLER'S RESPONSIBILITIES:** Other than for Drop Shipments, as described in Section 4.c, Seller assumes responsibility to receive, inspect, stage, deliver and install Buyer's goods. All furnishings will be clean and put into good working order. Cartoning and packing materials will be removed and premises left in good order. When applicable, Seller may direct shipments directly to the job site.
- b. **FREIGHT CLAIMS:** Claims for product damaged in transit, other than drop shipments, will be processed by Seller and damaged product will be repaired or replaced to the reasonable satisfaction of Buyer.
- c. **DROP SHIPMENTS:** In case of drop shipments where product is delivered without installation, Buyer will be responsible to receive, inspect and install ordered goods. Buyer is also responsible to file necessary freight claims in the event of damage.
- d. **NORMAL BUSINESS HOURS:** Delivery and installation will be made during normal business hours (8:00A.M. to 4:00P.M., Monday through Friday, excluding Holidays).
- e. **CONDITION OF JOB SITE:** Job site will be clean and clear of all obstructions prior to installation. Buyer will provide adequate facilities and space for unloading, staging, moving, handling and storing product at job site.
- f. **JOB SITE SERVICES:** Buyer will furnish electrical current, heating, lighting and elevator service at job site without charge to Seller.
- g. **ERECTION AND ASSEMBLY:** Seller's ability to erect, assemble, install, permanently attach, or bolt in place movable furniture is dependent upon agreements made by trade unions at the job site. If applicable trade regulations at the time of installation require employing tradesmen to complete the installation, the cost will be paid by the Buyer.
- h. **PROTECTION OF DELIVERED GOODS:** Buyer is responsible for security and safekeeping of product after delivery at job site.
- i. **RISK OF LOSS:** Buyer assumes all risk of loss of delivered/accepted product and shall not be released from any obligations under this Agreement due to product's loss, damage, or disrepair following delivery and acceptance. Risk of loss includes, but is not limited to, any loss or damage by weather, fire, or other elements or other trades such as painting, plastering, carpeting, construction, electrical and telephone installation. Buyer agrees to hold Seller harmless from loss for such reasons.
- j. **DELAYS:** If product cannot be delivered to job site on mutually agreed upon Customer Required Date (see 1.c) because site is not ready, Buyer's delays, or Acts of God, Seller shall have reasonable time to deliver and install product when site is available after causes of delay have been eliminated. (See 2.e for payment terms on delayed product)
- k. **PUNCH LIST:** Upon project completion, a Buyer and Seller Representative will perform a final walk through of the space completed. A Punch List will be prepared listing any necessary (product and labor) work to be performed in order to complete the project as agreed upon. Any work desired beyond the agreed upon scope will require a Change Order as defined in Section 3.a
- l. **COORDINATION WITH BUYER CONTACT:** Buyer shall designate one person and a backup to coordinate the receipt, acceptance, and installation of product between the Seller and Buyer.
- m. **INSURANCE:** Seller will carry public liability, worker's compensation, property damage, and automobile insurance. However, fire, tornado, earthquake, flood, and other casualty insurance related to job site and product shall be the sole responsibility of buyer.

5. ADDITIONAL TERMS

- a. **WARRANTIES:**
 1. **SELLER MAKES NO WARRANTIES OF PRODUCT SOLD HEREUNDER WHATSOEVER, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR WARRANTY THAT THE FURNITURE IS FIT FOR ANY PARTICULAR PURPOSE.**
Seller agrees to act as Buyer's agent in event of claims as to defective materials or workmanship that may be made within the warranty period stated by the manufacturer, supplier or fabricator. The Buyer shall, however, rely exclusively upon warranties provided by the manufacturer, supplier, or fabricator of all products sold hereunder. If Seller is asked to perform warranty work and it is subsequently determined that the furniture is not covered by any manufacturer, supplier or fabricator warranty, Buyer will be charged for such service at the then current labor rate.
 2. If Buyer requests customer own material (COM), Seller assumes no responsibility for the appearance, durability, color fastness, or other quality pertaining to the material and shall not be responsible for any failure of the material to conform to the requirements of the furniture construction.
 3. **USED FURNITURE** is "Sold As Is", with No Warranties provided by either Manufacturer or Seller.
 4. **DISCLAIMER FOR CONSEQUENTIAL DAMAGES:** SELLER SHALL NOT BE LIABLE FOR CONSEQUENTIAL DAMAGES RESULTING FROM ANY PRODUCTS OR SERVICES THAT IT PROVIDES. In no event shall Seller be liable for damages beyond the price of defective product and labor paid for by the Buyer.
- b. **TITLE AND SECURITY INTEREST:** A Signed Sales Quote or Purchase Order shall constitute a Security Agreement and the following provisions shall apply.
 1. The Buyer agrees that title to each product shall remain with the Seller at all times and the Buyer shall have no right, title or interest therein except as expressly set forth in the agreement, until such time as payment has been received in full for all product and services provided.
 2. Buyer shall pay to Seller the purchase price in accordance with the provisions of this Agreement.
 3. Buyer agrees that it will keep the Product free and clear from all claims, liens, and encumbrances (except in favor of the Seller) and will not assign, sublet, or grant a security interest in the Product or in any agreement without Seller's prior written consent.
 4. As additional security for the performance of Buyer's obligations hereunder and under each agreement, Buyer hereby grants to Seller a

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first priority security interest in its interest in the Product and any proceeds thereof. Buyer irrevocably appoints Seller (acting directly or through any agent) it's attorney-in-fact to execute such instruments, as Seller shall deem necessary or expedient to perfect or protect such security interest. Buyer shall notify Seller in writing, with full particulars, within 10 days after it learns of the attachment of any lien to any Product and of the Equipment's location.

5. Buyer agrees that the Collateral:

- a. Will not be misused, abused, wasted or allowed to deteriorate except for ordinary wear and tear in its intended primary use.
- b. Will be insured (until this Security Agreement is terminated) against all risks to which it is exposed. Seller shall be named as an additional insured under such policy.
- c. Will be kept at the address designated for delivery and shall not be removed for any purpose without prior written consent of Seller.

6. If any of the Collateral is or becomes affixed to real property, Buyer agrees that it shall not become fixtures of the real property and, if demanded by Seller, Buyer agrees to furnish Seller with a written waiver by the owner of the real property and by each person who has a lien or interest in the real property that is or may be superior to the security interest created herein, of all interests in the Collateral.

7. Collateral will not be sold, transferred or otherwise disposed of or be subjected to any charge or interest of a third person.

8. Buyer shall be in default under this Security Agreement:

- a. If Buyer fails to perform any of its obligations or agreements under or emanating from this Agreement.
- b. On dissolution, termination of existence, insolvency, business failure, appointment of a receiver, assignment for the benefit of creditors or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Buyer.

9. On Buyer's default, Seller may exercise any or all of its rights and remedies under the California Commercial Code. In addition, Seller may require Buyer to assemble the Collateral and make it available to Seller at a place to be designated by Seller that is reasonably convenient to both parties, and enter upon Buyer's premises to take possession of, assemble and collect the Collateral or render it unusable. All rights and remedies of One Workplace L Ferrari shall be cumulative and may be exercised successively or concurrently without impairing One Workplace L Ferrari's security interest in the Collateral.

10. Buyer shall have all of the rights and remedies before or after default under the California Commercial Code except to the extent that the provisions of this Agreement may, under the Code, control.

- c. **INTERPRETATION OF TERMS AND CONDITIONS:** This writing is intended by all parties as the final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their dealings between the parties, if any, and no usage of the trade shall be relevant to supplement or explain any term used in this Agreement. Acceptance or acquiescence in a course of performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code as adopted in California is used in this Agreement and not otherwise defined, the definition contained in the Code is to control. Unless otherwise agreed to in writing by Buyer and Seller, this document supersedes all other purchase orders or documents provided by Buyer.
- d. **ACTS BEYOND REASONABLE CONTROL:** Seller shall not be liable for any delay or failure to deliver any or all of the product in case delay or failure is caused by labor disputes, strikes, wars, riots, civil commotion, fire, flood, accident, storm or other destruction whole or in part of the product or the manufacturing plant, lack or inability to obtain raw materials, labor fuel, or any other cause, contingency or circumstances which prevent or hinder the manufacture, delivery or installation of the product beyond the reasonable control of the Seller.
- e. **WAIVER:** No claim or right arising out of a breach of this Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
- f. **ASSIGNMENT AND DELEGATION:** No right or interest in this Agreement shall be assigned by Buyer without the written permission of Seller, and no delegation of any obligation owed, or of the performance of any obligation either by Buyer or Seller shall be made without the written permission of the other party. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes unless made in conformity with this section of this Agreement
- g. **RESPONSIBILITY/OBLIGATION:** This Agreement constitutes the entire contract and exclusively determines the rights and obligations of the parties, any prior course of dealing custom or usage of trade or course of performance notwithstanding. Seller's design, installation and/or service contracts are incorporated herein by reference and shall take precedence on any conflict of terms.
- h. **APPLICABLE LAW:** This Agreement and all rights and obligations of the parties shall be governed by the laws of the State of California.
- i. **ORIGINALS RETAINED AS SCANNED COPIES:** Seller desires to conduct business transactions by electronic means. As a result, Seller will be recording the original signed Buyer copy as an optically scanned copy. Seller and Buyer hereby agree to conduct transactions by electronic means. This provision is intended by the Parties to comply with California's Uniform Electronic Transactions Act, Civil Code sections 1633.1 to 1633.17, or such successor act or legislation as may be in place at the time this Agreement is entered into.

ACCEPTED _____ NAME _____ DATE _____
 SIGNATURE (REQUIRED) PLEASE PRINT

COMPANY NAME _____ TITLE _____