

Howson's

TERMS AND CONDITIONS OF SALE AGREEMENT

MERCHANDISE REQUEST DATE:

PRODUCTS

SERVICES

FREIGHT

INSTALLATION

SUB - TOTAL

1. QUOTATIONS AND ORDERS:

- A. **TERM:** All price quotes are guaranteed for 30 days from date of quotation.
- B. **ACCEPTANCE:** All orders over \$ 10,000.00 - require a hard copy or electronic purchase Order from Buyer. Otherwise, an approved quotation with an authorized signature and date of Acceptance is acceptable.
- C. **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 a revised purchase order, change order or signed and dated revised quotation.
- D. **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.
- E. **DEPOSITS:** A deposit of 50% is required on all orders over \$5,000.00 or on all initial orders from new customers. Deposits for future orders may be negotiated. Deposits are required if manufacturer(s) or service provider requires a deposit. All custom products or C.O.M.'s 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 are substantially completed, as determined by the Seller.
- B. **PAYMENT TERMS:** For contract furniture and related installation and other services, balance is due in full net 10 days from date of invoice. For services not related to the purchase of product, balance is due in full net 10 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. 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 State.
- E. DELAYS: If Buyer is unable to receive product at the job site on the mutually agreed upon customer required date, product will be deemed delivered and will be invoiced as if delivered. Standard payment terms will apply. *[Buyer may withhold 10% of invoice amount until actual delivery of product to the job site.]*
- F. SERVICE CHARGE: A service charge of 1.5% (18% A.P.R.) will be assessed on all unpaid balances after invoice due date. Buyer agrees to pay this charge when requested and billed by the Seller.

3. OTHER CHARGES:

- A. CHANGES / CANCELLATIONS: Buyer will pay all additional charges from the manufacturer for order changes. Express Ship Orders cannot be changed or canceled. All product is custom manufactured to customer specifications and, therefore, cannot be returned. Restocking programs are not available. The pricing quoted allows for **0 number of changes** of design/specification at no additional charge. Further design changes will be billed at a standard hourly rate.
- B. EXTRA HANDLING IF SITE NOT READY: If job site is not available on mutually agreed upon customer required date, charges will 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.
- C. STORAGE: If job site is not available on mutually agreed upon customer required date, Seller will store product **without charge for a maximum of 30 days** from designated delivery date. Thereafter, a **charge of .005 % of total sell per month** will be assessed and paid by Buyer.
- 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 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 made during Seller's normal business hours **between 8:00am and 5:00pm Monday -Friday, excluding holidays, and weekends**. The Buyer will pay any additional labor costs resulting from overtime work performed at Buyer's request.
- F. SPECIAL PACKAGING OR HANDLING: If special packaging, handling, demurrage, or storage at other than Seller's warehouse is required that is not provided in the specifications, the Buyer will pay any additional charges.
- G. PARTIAL DELIVERIES: Partial deliveries can be made at the request of the Buyer for an additional charge. Unplanned partial deliveries may result in a premium overtime cost.
- H. 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 fee) or actual charges if performed by a third party.
- I. LEGAL FEES: Should either party incur any expense in enforcing any terms, covenants, conditions, representations or warranties of the Agreement, the party in default will pay all expenses including reasonable attorney's fees.

4. DELIVERY AND INSTALLATION:

- A. SELLER'S RESPONSIBILITIES: *Other than for drop shipments, as described in 4.C below.* Seller will 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 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 receive, inspect and install ordered goods. Buyer is also responsible for filing necessary freight claims in the event of damage.
- D. NORMAL BUSINESS HOURS: Delivery and installation will be made during Seller's normal business hours. *Between 8:00am and 5:00pm Monday -Friday, excluding holidays, and weekends.*
- 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 product after delivery at job site.
- I. RISK OF LOSS: Upon delivery of product to Buyer's site, or into storage negotiated by Buyer if job site is not ready on mutually agreed upon date, Buyer assumes all risk of loss of delivered/stored product and shall not be released from any obligations under this agreement due to product's loss, damage, or disrepair following delivery/storage.
- J. DELAYS: If product cannot be delivered to job site on mutually agreed upon customer required date 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.
- K. 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.
- L. 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 of product will be provided and paid for by Buyer.

5. ADDITIONAL TERMS

- A. WARRANTIES: 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 of defective materials or workmanship that may be made within the warranty period stated by the manufacturer, supplier or fabricator. The Buyer shall 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 service at the then current rate.
- B. TITLE AND SECURITY INTEREST: Seller retains title to all goods until Buyer has performed all it's obligations under this agreement and the purchase price of the goods and related services has been fully paid to the Seller. Seller retains security interest in the goods, all accessories, replacements of the proceeds from the goods as security for the performance by Buyer of all Buyer's obligations arising under this agreement and the purchase order
- 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. No failure by any party to insist upon strict compliance by the other party with any of the terms, provisions, or conditions of this Agreement, in any instance, shall be construed as a waiver or relinquishment by either party of the other party's right to insist upon strict compliance therewith in the future. Whenever a term defined by the Uniform Commercial Code as adopted in Missouri is used in this agreement and not otherwise defined, the definition contained in the Code is to control.

- 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, earthquake, 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 manufacturer or delivery 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 it is supported by a 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 either Buyer or Seller without the written permission of the other party, 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. **ENTIRE AGREEMENT:** 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. Unless otherwise agreed to in writing between Buyer and seller, this document supersedes all other purchase orders or documents provided by the Buyer. 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 Missouri.

The buyer upon execution of this agreement agrees to purchase such services and or material for the above amounts and subject to the terms and conditions shown above.

HOWSMON DISTRIBUTING COMPANY

COMPANY NAME

AUTHORIZED SIGNATURE

PRINT NAME

BY

DATE

DATE