

TERMS AND CONDITIONS OF AGREEMENT

The following terms and conditions represent the full statement of agreement between Buyer and bkm OfficeWorks LLC. DBA "Hyphn" (hereinafter called "Seller"). The term "Buyer" as used herein is hereby defined as the person, firm or any entity purchasing goods and/or services directly from Seller. Any amendments to these terms and conditions must be in writing and shall not take effect unless signed by an authorized officer of Seller.

TERMS

A. **Deposit Requirement** - Pending credit approval, a deposit of at least 50% of the order price is required with all orders.

B. **Payment Terms** - Upon approval of credit, our terms of sale are: A **deposit of 50%** of the total price of the order per (A.) above.

Payment of 40% upon delivery of the goods and materials, and **10% on completion** of the project. Buyer agrees to pay seller in full for any portion of merchandise Buyer has received and accepted. Assuming timely notice of shortages, damages, or errors as provided under paragraph (K.) "Disputed Items" below, payment may be withheld for merchandise invoiced but not received or received in unacceptable condition until Seller remedies the situation. The Buyer may withhold a maximum of 150% of the cost of any merchandise that is not received in a satisfactory manner until such time as a determination is made to resolve the issue. Payment may not be otherwise withheld.

Payment cannot be withheld until an order is complete. Upon delivery of any portion of the merchandise, Seller will invoice Buyer for that amount of the purchase price relating to the delivered portion of the merchandise. Buyer agrees to pay each invoice consistent with the terms indicated herein.

C. **Delivery Dates** - Delivery dates may be changed only upon written notice received by Seller not less than 4 weeks prior to manufacturer's acknowledged shipping date, provided manufacturer will accept changes without penalty.

D. **Delayed Delivery Payment Terms** - If deliveries to Buyer are delayed at customer's request, and the factory order cannot be postponed, invoices will be rendered, subject to regular terms and service charges as though the order was delivered to Buyer on the original delivery date.

E. **Delinquency Charge** - Interest at the rate of 1 1/2% per month (18% per annum) will accrue from the date payment is due on all delinquent payments and will be added to the balance outstanding.

F. **Taxes** - Buyer is required to pay any sales, use or other similar tax on goods or services provided under this agreement, Buyer agrees to promptly reimburse Seller such costs even though such tax may not be shown in Seller's proposal. Buyers who are exempt from taxes shall provide Seller with copies of exemption certificates.

G. **Cancellations/Returns** - All orders are firm and not subject to cancellation or return without Seller's written agreement. If Seller agrees to cancellation of any order, any cancellation, restocking and handling charges incurred as a result of such cancellation shall be paid by Buyer. The merchandise shall be subject to reasonable variation from standard in color, quality, finish and variations allowed by the trade customs of the industry.

H. **Change Orders** - Changes in order quantity or specification are

subject to the approval of the Seller and manufacturer. Requests for changes to the order must be delivered to Seller in writing. Any charges from the manufacturer incurred by Seller as a result of changes to the order requested by Buyer shall be borne by Buyer.

I. **Schedule Changes or Delays** - In the event of Buyer's inability to receive goods as scheduled, Seller will arrange for storage of goods, if required. All costs of double handling, demurrage, extra trucking, storage, risk of loss and insurance incurred by Seller as a result of such changes or delays will be borne by Buyer. In the event that goods must be stored beyond 10 days, Seller will invoice Buyer for goods as though the order was delivered to Buyer. Placement of the goods in storage by Seller is deemed tender by Seller and receipt by Buyer.

J. **Demurrage Charges** - All demurrage charges accruing from transportation companies will be charged to Buyer in case of delayed delivery or changes in delivery dates.

K. **Disputed Items** - If any invoiced items are disputed, payment on the specific items in dispute may be withheld. Payment on all non-disputed items is due pursuant to paragraph 1B above. Written notice of the dispute setting forth in detail the dispute, deducted amount and the disputed items are to be included with Buyer's payment, so as to enable Seller to understand the dispute and take appropriate action.

L. **Direct Drop Shipments** - Buyer or its agent are responsible to receive, unload, inspect for damage and file freight claims, within the time limit specified by the shipping company, on goods drop shipped, at Buyer's request, directly from the manufacturer to Buyer or its agent. Damaged goods and packaging must be retained for inspection by the carrier. Seller shall not be responsible for any losses sustained due to Buyer's or its agent's failure to file proper claims. Seller's invoices shall be paid in full by Buyer when due irrespective of pending freight claims.

M. **Condition of the Job Site** - The job site shall be clean, clear and free of all debris prior to delivery or installation. Any expenses incurred by Seller in meeting these requirements shall be borne by Buyer.

N. **Job Site Services** - Electric current, heat, hoisting and/or elevator service will be furnished by Buyer without charge to Seller. Adequate facilities for off-loading, staging, moving and handling of merchandise shall also be provided by Buyer without charge to Seller.

O. **Delivery During Normal Business Hours** - Delivery and installation will be made during normal work hours, namely 8:00 a.m. to 4:00 p.m. Monday through Friday. Additional labor costs resulting from overtime work performed at Buyer's request or due to the condition of the job site will be paid by the Buyer.

P. **Erection and Assembly** - Seller's ability to erect and assemble furniture shipped-knocked down or to permanently attach, affix or bolt in place movable furniture may be dependent on agreements between trade unions at the job site. If trade regulations enforced at the time of delivery and/or installation require on-site tradesman to complete the delivery and/or installation, and this action results in additional costs, such costs will be borne by the Buyer. Additional cost incurred in the delivery of unusual items requiring special handling such as insulated files,

safes, conference tables, counter tops, overweight (over 300 pounds), or oversize items shall be charged to Buyer at applicable commercial rates.

Q. Protection of Goods to be Installed - Goods delivered and to be installed by Seller shall be deemed tendered by Seller and received by Buyer upon delivery to the job site. Goods installed by Seller shall be deemed accepted by Buyer three (3) business days after installation is complete absent a notice of dispute received by Seller from Buyer within three (3) business days of completion of the installation. After delivery of merchandise by Seller to Buyer, all risk of loss or damage shall pass to buyer, including, but not limited to, any loss or damage by either, other trades such as painting and plastering, telephone installation, fire or other elements and Buyer agrees to hold harmless and indemnify Seller from loss for such reasons.

R. Title and Security Interest - Seller retains title to all goods until Buyer has performed all of its obligations under this agreement and the purchase price of the goods has been fully paid. Should Buyer fail to pay any amounts specified in this agreement when they become due, or should Buyer fail to perform any provision of this agreement to be performed by him, Buyer shall be in default of this agreement under division Nine (9) of the Uniform Commercial Code of California and Seller shall have all the rights and remedies afforded a secured party by the chapter "default" of division Nine (9) of the Uniform Commercial Code of California now in effect. In conjunction with that chapter, Seller may:

(1) Enter Buyer's premises, render the goods unusable and dispose of the goods in the manner provided by the Uniform Commercial Code of California on Buyer's premises.

(2) Apply the proceeds received from the sale or other disposition of the goods to, in addition to the items specified in division Nine (9) of the Uniform Commercial Code of California, payment of reasonable attorney's fees and legal expenses incurred by the Seller as a result of Buyer's default.

WARRANTY - Seller warrants to Buyer that it will repair or replace, at its sole option, any goods or parts thereof which are defective in materials and/or workmanship at the time the same are delivered to Buyer by Seller but only on the following terms and conditions:

A. From the date of delivery to and including 90 days thereafter, Seller will repair or replace such defective goods or parts thereof at no charge to Buyer for replacement goods or parts and labor or shipping or handling, provided that Seller shall have received from Buyer written notice of the claimed defect within 90 days from the date of delivery.

B. From the 91st day to one year after the date of delivery to Buyer, Seller will repair or replace such defective goods or parts thereof at no charge to Buyer for replacement goods or parts, provided the manufacturer of the item claimed to be defective shall furnish Seller such replacement goods or parts at no charge to Seller, and provided further that Seller shall have received from Buyer written notice of the claimed defect within one year from the date of delivery. Seller may charge for labor or shipping or handling necessary to repair or replace defective goods.

This warranty to repair or replace applies only to new and unused goods which, after delivery to Buyer by Seller, shall not have been misused or abused by Buyer, or altered, changed or

repaired in any matter except by a duly authorized representative of Seller.

No other warranties, either express or implied, are extended by Seller except as shall be shown in writing and signed by a duly authorized representative of Seller. To the maximum extent permitted by applicable law, seller further disclaims all other warranties either expressed or implied, including, without limitation, any implied warranties of merchantability of fitness for a particular purpose.

LIMITATION OF LIABILITY

A. No liability shall accrue against Seller as a result of any breach of these terms and conditions resulting from any strike, lockout, work stoppage, accident, act of God, or any other delay beyond Seller's control.

B. Seller shall not be required to perform connection of electrical panels or components to the building power source. Such work will be performed by Buyer's licensed employee or electrical contractor.

C. Wall mounting of furniture componentry is not recommended by Seller. In the event Buyer requires Seller to wall mount componentry, Buyer releases and shall indemnify Seller from all liability for related damages except as Seller's negligence shall be shown to be the sole direct and proximate cause of such damages.

D. If Seller provides design, space planning or other services to Buyer, Buyer is responsible to verify fitness of Seller's specifications to Buyer's needs before implementation. Seller's liability for goods and services provided shall be limited to the invoiced value of such goods and services and in no event shall Seller's total liability to Buyer for all damages, losses and causes of action exceed the amount paid by Buyer (if any) for such goods and services. To the maximum extent permitted by applicable law, in no event shall Seller be liable for any consequential, incidental, direct, indirect, special, punitive, or other damages whatsoever (including without limitation, damages for loss of business profits, business interruption, loss of business information, or other pecuniary loss) arising out of any goods or services provided by Seller to Buyer, even if Seller has been advised of the possibility of such damages. Because some states/jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages, the above limitation may not apply to Buyer.

Attorney's Fees

Buyer agrees to pay any fees, costs, or expenses, including but not limited to, reasonable attorney's fees, incurred by Seller in collecting any past due amounts.

This contract, together with the application for credit, contains all of the terms, provisions, conditions and warranties of the purchase contract, and no extension modification or amendment hereof shall be valid unless it is in writing signed by an officer of Seller.

By signature hereto, buyer acknowledges delivery and receipt of a true, correct and complete copy of this contract including the application for credit incorporated herein by references.

Time is of the essence of this agreement.

I have read and accepted the uniform conditions of sale associated with this quotation

Customer / Company Name

Customer Signature

Date

Printed Name

Title