

## **TERMS AND CONDITIONS OF SALE**

- 1. TERMS OF SALE.** The sale of furniture (“Goods”) by Ecologic Furniture and its affiliates (“Seller”) is subject to the terms and conditions contained herein (“Agreement”). The terms and conditions contained herein take precedence over any terms and conditions which are proposed by a buyer of goods (“Buyer”) whether contained on a purchase order or otherwise. The terms and conditions contained herein, together with any quotation delivered by Seller to Buyer (the “Quotation”), is the entire contract between the Buyer and Seller and shall supersede any and all other agreements and understandings between the parties with respect to the subject matter hereof.
- 2. PRICES.** Prices shall be as set forth in the Quotation. Prices are stated in United States Dollars and all invoices are due and payable in United States Dollars at 3742 Hawthorne Court, Waukegan, IL. 60087 or such other place as designated in writing by the Seller.
- 3. TERMS OF PAYMENT.** Terms of payment are as stated on the quotation. Unless otherwise stated in the Quotation, a 50% down payment at the time of signing the order is required with the balance due 10 days prior to installation. Buyer agrees to pay interest on overdue invoices at the greater of:  
(i) one and one-half percent (1-1/2%) per month or (ii) the highest rate permitted by law.
- 4. CANCELLATION OR MODIFICATION OF ORDERS.** Orders shall not be subject to cancellation or modification by Buyer in whole or in part (a) without Seller’s written consent and (b) payment of a reasonable cancellation charge for applicable costs of purchased materials and engineering costs incurred by Seller. Notwithstanding the foregoing, Buyer may not cancel or modify the order under any circumstances, if special or custom products are ordered from Seller.
- 5. TITLE.** Title to the Goods passes to Buyer at the time the Goods are delivered to Buyer. In the event Seller is contracted to install the furniture, Title shall pass to Buyer upon completion of the installation.
- 6. DELIVERY.** Unless otherwise agreed in writing by the parties, Seller reserves the right to select the mode of transport and the identity of the carrier. Neither Buyer nor any consignee shall have the right to direct any shipment to any destination other than that specified in the bill of lading without Seller’s written consent.
- 7. DELIVERY DATES.** Ecologic shall make every effort to deliver the Furniture on the specified Delivery Date(s). However, there are certain circumstances which cannot be anticipated and which are beyond Ecologic’s control. If Ecologic is delayed in delivering Furniture on the Delivery Date due to (1) delays in ordering by the Customer or change orders requested by Customer causing a delay in manufacturing of the Furniture, (2) unanticipated delays in shipping the Furniture incurred by a third-party carrier, (3) unanticipated adverse weather conditions which impact the Delivery Date, or (4) unanticipated labor strikes, then the Delivery Date shall be extended for a reasonable period of time. Ecologic shall not be liable for any damages or loss incurred by Customer on account of Ecologic’s failure to deliver Furniture on the Delivery Date, provided that such delay is due to unanticipated circumstances outside of Ecologic’s control.”
- 8. INSTALLATION.** The site where the Goods will be delivered, assembled, and installed shall be ready to receive the delivery and installation of the Goods according to the delivery and installation schedule set forth in the Quotation (“Installation Schedule”). Buyer understands and agrees the Installation Schedule or any related agreement on the number of working days required to assemble and install the Goods at the Project subject to the Quotation may be modified, altered or changed to reflect the conditions at the Project Site subject to the Quotation. Buyer further understands and agrees that the Installation Schedule, or any related agreement on the number of working days required to assemble and install the Goods at the Project subject to the Quotation and/or the time for substantial completion and/or final completion of this Agreement will be extended for each working day, or any pro-rata portion thereof, that Seller is denied access to the Project site to assemble and install the Goods subject to this Agreement, including, but not limited to: (i) delay, disruption or interference unloading and delivering the Goods, including being denied access to unloading docks or bays, elevators and hoisting equipment; (ii) delay, disruption or interference being provided staging areas for storage and/or assembly of the Goods; (iii) delay, disruption or interference with the completion of predecessor work including ceiling, wall and floor finishes; (iv) delay, disruption or interference caused by trade stacking in areas scheduled for assembly or installation of the Goods; and (v) delay, disruption or interference caused by the lack of a clean site including keeping passageways, elevators, stairways and other general walkways free of waste materials, packaging materials, debris and tripping hazard

**9. STORAGE.** Ecologic can provide storage of products in the event there are delays with the delivery and installation of goods. The storage option is \$1.50 per square foot, based on availability, duration and total volume of products. If requested, a formal agreement will be prepared with the storage details and change order costs.

**10. WARRANTIES.** Seller warrants that the Goods sold hereunder will be free from substantial defects in material and workmanship under normal use given proper installation and maintenance. Buyer shall promptly notify Seller in writing of any warranty claim. Seller shall have the right to inspect the Goods alleged to be defective on Buyer's premises or, at Seller's request, at Seller's designated **facility**. If the Goods are defective, Seller may, at its sole option: a) repair or replace the Goods; or (b) give Buyer a refund or credit for the purchase price of the defective Goods. Such repair, replacement, refund or credit by Seller shall be the sole and exclusive remedy of Buyer for a breach of Seller's warranty. Seller may use refurbished materials to repair or replace the Goods. Goods returned to Seller for inspection, repair, replacement, refund or credit must be shipped prepaid by Buyer.

**11. LIMITATION OF WARRANTY.** Seller assumes no warranty liability with respect to defects in any Goods caused by: (a) Buyer's improper installation or maintenance of the Goods; (b) repairs to the Goods by anyone other than Seller or its authorized agent; or (c) negligent or other improper use of the Goods. Seller does not make any warranty and assumes no warranty liability for Goods that are not manufactured by Seller. Furniture of another manufacturer purchased by Seller and resold to Buyer will be limited to the warranty (if any) of such manufacturer. No agent, distributor or representative is authorized to make any warranty repair on behalf of Seller or to assume for Seller any other liability in connection with any of Seller's Goods.

**12. DISCLAIMER OF OTHER WARRANTIES.** THE ABOVE WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ALL OTHER **OBLIGATIONS** OR LIABILITIES OF SELLER, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ALL OTHER WARRANTIES ARE DISCLAIMED AND EXCLUDED BY SELLER.

**13. LIMITATION OF REMEDIES.** THE FOREGOING WILL BE THE SOLE AND EXCLUSIVE REMEDY OF BUYER WHETHER IN CONTRACT, TORT, OR OTHERWISE, AND SELLER WILL NOT BE LIABLE FOR INJURIES OR DAMAGES TO PERSONS OR PROPERTY RESULTING FROM ANY CAUSE WHATSOEVER WITH THE EXCEPTION OF INJURIES OR DAMAGES CAUSED BY SELLER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. IN NO EVENT WILL SELLER BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LIQUIDATED DAMAGES, LOST PROFITS OR COMMERCIAL LOSSES, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY THEREOF.

**14. INSPECTION/DAMAGE.** If the Goods should arrive at Buyer's destination in a damaged condition or should a shortage exist, the damage or shortage shall be immediately called to the **attention** of the delivering carrier and Seller, and in case of damaged Goods a joint inspection of the loaded vehicle by representatives of the carrier and Seller shall be arranged. Any loss occasioned by damage in transit will be for Buyer's account and claims for such loss shall be made solely against the carrier

**15. TAXES AND TARIFFS.** Any excises, levies, tariffs or taxes which Seller may be required to pay or collect under any existing or future federal, state or local laws, upon or with respect to the manufacture, sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the Goods purchased by Buyer, shall be attributable to Buyer and shall be Buyer's responsibility. If any taxes or tariffs are levied and paid by Seller on behalf of Buyer, Buyer agrees to reimburse the amount thereof to Seller at time of final invoice. Seller shall make every effort to disclose to Buyer in the Quotation any known taxes for which Buyer is responsible. However, there are occasionally unforeseen circumstances in which federal, state or local tax and/or tariff may be enacted and imposed after the Quotation is made but before delivery of the Goods. Any such unforeseen tax or tariff shall be detailed in the final invoice.

**16. CREDIT APPROVAL.** All shipments to be made hereunder shall at all times be subject to the approval of Seller's credit department. Seller may invoice Buyer and recover as a separate transaction for each delivery made of Goods without regard to any other delivery. If Buyer is in default under any agreement with Seller, or if, in Seller's sole judgment, the financial responsibility of Buyer is or becomes unsatisfactory, then Seller may at its option and without prejudice to any of its other remedies (i) defer or decline to make any shipments hereunder except upon receipt of satisfactory security or cash payments in advance, or (ii) terminate any order of Goods placed by Buyer. Buyer shall reimburse Seller for any costs incurred by Seller, including reasonable attorney's fees, to collect amounts due by Buyer to Seller.

**17. FORCE MAJEURE.** Seller shall not be liable for failure to perform or delays in performance caused by acts of God; war (declared or undeclared), riot or act of terrorism; fire, explosions or floods; strikes, work stoppages, slow-downs, or other labor difficulties; shortage of vehicles, fuel, power, material or labor; embargo or delay in transportation; accidents; compliance with any order or request by a government agency or official thereof; or any other event or contingency beyond its reasonable control. In the event of the occurrence of any of the foregoing, the time for performance shall be extended for such time as may be reasonably necessary to enable Seller to perform. Seller, may, during any period of shortage due to any of the above contingencies, allocate its available supply of Goods among itself and its customers in such manner as Seller, in its reasonable judgment, deems fair and equitable.

**18. CUMULATIVE REMEDIES.** The remedies herein reserved by Seller shall be cumulative and in addition to any other legal remedies available to Seller.

**19. LIMITATION OF ACTIONS.** Notwithstanding any contrary statute of limitations, any cause of action for any alleged breach of this agreement by Seller shall be barred unless commenced by Buyer within one year from the date of shipment.

**20. GOVERNING LAW.** This Order shall be governed by the laws of the State of Illinois, without regard to its principles of conflicts of law. Buyer and Seller irrevocably consent to the jurisdiction and venue of the state and federal courts located in the County of Lake in the State of Illinois in connection with the disposition of any controversy or action related to or in any manner arising out of the purchase of Goods by Buyer from Seller. Buyer waives any right to object to such venue and jurisdiction.

**21. ASSIGNABILITY.** This agreement and the purchase of Goods shall not be assigned in whole or in part by Buyer without the express written consent of Seller.

**22. WAIVER.** No waiver by Seller or Buyer of any breach of the provisions of this agreement shall be effective unless in writing and signed by the party affected thereby. No such waiver shall be construed as

**23. PARAGRAPH HEADINGS.** The paragraph headings contained herein are for reference only and shall not be considered as substantive parts of this Agreement.

**24. MISCELLANEOUS.** If any provision of this agreement shall be held to be unlawful or unenforceable, the remaining portions of this agreement shall remain in full force and effect. No other agreement or understanding shall modify this Agreement in any way or shall be binding upon Seller unless contained in a writing signed by Seller's authorized representative.