



TERMS AND CONDITIONS

The **TERMS AND CONDITIONS**, put forth by **MOTIVO Furniture, a division of Ariston Hospitality** (hereinafter referred to as **Motivo**), legally outlines the responsibilities and limited liabilities of Motivo when the purchasing entity (hereinafter referred to as the **(Account/Purchaser)**) by submitting the Purchase Order to Motivo, initiates an official order. These terms and conditions of sale shall govern all furniture and case goods orders and the Account/Purchaser shall be deemed to have agreed to them. Any attempt to change or add to these terms by the Account/Purchaser, or any conflicting terms on any correspondence, purchase order, or other forms sent by Account/Purchaser is hereby objected to and rejected. Account/Purchaser shall be deemed to have agreed to these terms and conditions of sale by placing an order, accepting delivery or by making payment hereunder. No oral agreement, course of prior dealings between the parties or trade usage shall amend or supplement any of the terms or conditions. No additions or modifications can be made, except in a writing signed by both parties, that expressly references the amendment of these terms.

ORDERS

Written orders received from the Account/Purchaser with all the correct information will be acknowledged by Motivo in writing within 48 hours. Motivo reserves the right to reject any order, refund any deposit and return any COM freight collect. It is the responsibility of the Account/Purchaser to advise Motivo in writing of any errors or discrepancies in the sales order acknowledgment or invoice within three (3) days of the receipt of the acknowledgment or invoice.

At the time of the purchase order, the Account/Purchaser must indicate the authorized delegate, designer or otherwise, who is responsible for coordinating and communicating with Motivo for questions, samples, CADs, etc. along with any other necessary approvals that are required to move an order forward. At the time of the purchase order, the Account/Purchaser must also indicate who and where an order will ship to or indicate the freight forwarder responsible for moving the freight to a predetermined specified location. The purchase order must include the corresponding product details or be accompanied by the matching specifications as quoted by Motivo in writing. Discrepancies between the purchase order and the quote provided by Motivo will require the quote and/or the purchase order to be updated accordingly to reflect the accurate information. Any materials used for an order that are provided by the Account/Purchaser and not Motivo, are referenced as (*supplied by others*) if not COM. All COM is to be clearly defined within the product details of the purchase order or accompanying specifications.

Orders must include the following information:

1. Purchase order signed and dated by the authorized delegate of the Account/Purchaser
2. Established payment method confirmed
3. Account/Purchaser information, including but not limited to:
 - a. Company name
 - b. Contact name
 - c. Contact telephone number
 - d. Contact email
 - e. Contact mailing address
 - f. Approval contact information
 - g. Ship To details-name, address, phone number, contact name, hours of operation

REVISIONS

The Account/Purchaser acknowledges that all order revisions are subject to additional charges for quantity changes, materials, labor and other related costs and the order will be held until written confirmation from the purchaser is received. Motivo can only accept order revisions if the request for revision is submitted as a change order by the Account/Purchaser on the purchase order before any changes to an order can be acted upon. The Account/Purchaser understands that order revisions may result in the rescheduling of completion and delivery dates of an order. The Account/Purchaser acknowledges that Motivo is removed from all responsibilities and liabilities previously established prior to an order revision. CADs are drawn to the specifications quoted and provided with the purchase order or part of the approval process. Design notes and/or quantities alterations returned by the Account/Purchaser not identified on the purchase order are subject to price changes and may delay an order. It is the responsibility of the Account/Purchaser to coordinate and review any alterations submitted that may alter the scope of work and result in a change of price and/or production delay.

PAYMENTS

Acceptance of orders and shipments shall always be subject to approval by Motivo, which may at any time, at its sole discretion, decline to make any shipment except upon terms and conditions satisfactory to it. All orders require a deposit of 50% of the total purchase price acknowledged, unless alternate terms have been confirmed in writing by Motivo. Orders received without a required deposit will be held pending the receipt of the deposit payment. Terms for the final amount due appear on all sales orders and invoices. Account/Purchasers with balance due before delivery will have the shipment held until payment is received. All payments must be received from the purchaser as identified in the purchase order. No third-party payments will be accepted, unless approved in writing. Acceptance of third-party payments is an accommodation and does not create any relationship between Motivo and the third party. A service fee of 1.5% per month will be applied to orders that remain unpaid after (30) days of being invoiced. In the event the Account/Purchaser fails to make any payment to Motivo when due, the Account/Purchaser(s) entire account(s) with Motivo shall become immediately due and payable without notice or demand. All past due amounts are subject to service charges. The Account/Purchaser does hereby grant Motivo a purchase money security interest in the products until such time as the Motivo is fully paid. The Account/Purchaser will assist Motivo in taking the necessary action to perfect and protect the Motivo's security interest.

CANCELLATION

Motivo must be given written consent from the Account/Purchaser before an order is considered cancelled. Cancellations will not be accepted for custom merchandise unless approved in writing by Motivo. Cancelled orders are subject to minimum additional 25% fee of their total order amount on products that have entered production. If there is a cost of the cutting of fabric and fabric cannot be returned, this is the sole financial responsibility of the Account/Purchaser. If there are other "materials supplied by others" these are the sole responsibility of the Account/Purchaser to have picked up or shipped from any Motivo facility and any recourse from these actions are the sole responsibility of the Account/Purchaser. The Account/Purchaser agrees that the cancellation fees compensate Motivo for the reasonable estimate of losses on the canceled order.

COM

COM upholstery amounts are estimated based upon standard roll sizes and solid color; therefore, it is the responsibility of the Account/Purchaser to notify Motivo if any amounts need to be re-estimated specific to a COM upholstery chosen. The Account/Purchaser is responsible for all COM materials arriving to the factory in a timely manner and in good condition. Motivo is not responsible for project delays resulting from any COM received late, damaged or packaged incorrectly to the factory even if COM is purchased by Motivo on behalf of the Account/Purchaser. The Account/Purchaser is responsible for shipping all COM to the factory, the address of which is provided upon receipt of the purchase order when the order acknowledgement is sent. COM must also have identification information side marked on the delivery to match the materials with the purchase order. Any materials received without identification will result in delays to an order. Production will not begin on any item requiring any type of fabric, leather, trim or cords supplied by the purchaser until ALL the materials for the item ordered have arrived, been identified and inspected. Motivo can only assume all COM received have been inspected and are ready for use. The purchaser is responsible for ensuring that all materials are identifiable when received. The Account/Purchaser takes responsibility for the wear-ability, safety, or fire code validity of the materials supplied to Motivo. Motivo takes no responsibility for the selection of materials chosen by the Account/Purchaser. Motivo's warranties do not extend to materials supplied by the customer. All fabric defect related claims are the sole responsibility of the Account/Purchaser and fabric vendor.

MATERIALS

It is the responsibility of the Account/Purchaser ensure that all materials selected and purchased meet both the environment and purpose in which they will be used. References for materials and construction is available to the Account/Purchaser upon request. Samples of materials, finishes and components used on the products are sent to the Account/Purchaser to be reviewed and returned with approval forms signed releasing Motivo from the end use hardship. The Account/Purchaser also acknowledge that most products produced by the factories of Motivo utilize live products and discrepancies such as grain, or wood finish color and could cause variances between samples and products received.

PRODUCTS

Motivo reserves the right to make minor changes in furniture design, dimensions and other materials without prior notice. Motivo products are handcrafted and can have minor variations. All dimensions can have slight variations. Wood finishes can vary from samples and exact matching is not guaranteed. All furniture is subject to minor changes in details from the specifications noted as it applies to hardware, finishes and other minor upholstery details.

FIRE CODES

Motivo upholstered items meet the requirements of the California Bureau of Home Furnishings Technical Bulletin 117-2013. It is the sole responsibility of the purchaser to specify fire code classifications that meet the jurisdictional agency of the location where the items are to be installed, if other than the code noted above. Motivo makes no representation that the specifications supplied to us by the Account/Purchaser meet the applicable requirements. COM which fail to meet these standards, can void any Motivo warranties, expressed or implied. If additional fire codes are required to be met, they can be done for an additional charge based on the specific code and compliance steps required by the governing body.

SHIPMENTS

Motivo recognizes that on orders requiring multiple shipments it may be desirable for the Account/Purchaser to request specific product mixes to facilitate complete room furnishings. Any requests regarding preferred packaging should appear on the purchase order or be requested in writing prior for product entering production. Motivo reserves the right to refuse a request for packaging after assessment of said request. All instructions must specifically state the quantity required by item number per shipment. Upon sending a request, the Account/Purchaser acknowledges that all predetermined freight estimates are invalid, and the freight estimates will be revaluated based upon the requested logistics needs. Motivo will not be liable for any additional freight charges when required to comply with specific product mix request. Motivo will comply with the product mix request of the Account/Purchaser per shipment to the best ability of Motivo's factory, but Motivo will not be liable if the mix requested exceeds a normal container volume or contains additional or less product than requested. The Account/Purchaser understands that requests for mixed product shipments will delay production of an order and may incur increased expenses at the cost of the Account/Purchaser as from time to time production efficiency is quoted based upon full quantities of product being run through the factory at once.

FREIGHT

Ocean freight is quoted as an estimate to a specified port of exit or entry when FOB points other than domestic locations is requested. Normally, the FOB point would be High Point, NC. A separate domestic ground freight estimate can be quoted, upon request, if the Account/Purchaser requires *prepaid and billed freight* arrangements to be made by Motivo and to deliver to a specified destination. All freight estimates on quotes are based on estimated volume and rates at the time of the quote. All shipping weights and volumes are approximate and subject to the final weighing by the carrier once product is packaged for shipment. All final freight costs are to be paid for by the Account/Purchaser and are due immediately upon receipt when prepaid and billed. Final invoices for freight may not be billable until after shipment has occurred in some cases. Unless a choice of carriers is specified on the order, Motivo will ship by the most strategic carrier available at the time of shipment. All third-party freight companies must supply Motivo a BOL prior to picking up the shipment. Motivo is not responsible for determining the most strategic carrier nor the most economical carrier; however, Motivo will assist with freight tender contingent on the project needs. The Account/Purchaser is responsible for all freight charges including but not limited to: tariffs, duties, import fees, general rate increases, peak season charges, bunker fuel costs, harbor fees, expedited shipments, special delivery costs or any other applicable surcharges related to shipments when freight costs are not included in the item price quoted by Motivo per the Account/Purchaser requests. Any associated cost for freight is to be paid by the Account/Purchaser and is due immediately upon receipt unless freight is prepaid and billed. Motivo is not liable for storage or redelivery charges for failure to accept delivery when made by the carrier. Final freight bills will be sent after product changes hands to the receiver, if not already prepaid and billed, and the carrier has invoiced Motivo. If Motivo is requested to have an order delivered directly to a physical address of the Account/Purchaser, the receiver's delivery capabilities, including but not limited to: receiving days and hours, unloading dock availability / lift gate requirement and truck size limitation must be known to Motivo prior to shipping.

DELIVERY/ACCEPTANCE:

All shipments of products are to be opened and inspected at time of receipt by the receiver. All products must be accepted at the time of delivery. The factory products are packaged in cartons and/or crates and loaded for maximum efficiency. Cartons sealed at the factory are not opened until delivered to the consignee. Claims for shortages must be submitted in writing via email to Motivo. Any shortage of carton count must also be noted on the delivering carrier's Bill of Lading at time of signing. Shortage of product piece count must be documented and sent to Motivo within 10 days of receipt of the product. It is possible that shortages may be included on subsequent shipments of a project and until an order is completely delivered, it may be difficult to determine that a shortage has in fact occurred. Motivo is not liable for shortages of product on site that is warehoused or signed for by a receiver prior to installation. By signing for delivery without notating any discrepancy, the consignee confirms that the product was received in good condition and has accepted responsibility of the product henceforth, releasing Motivo from further liability that may occur. In the unlikely event damage has occurred, please refer to the following actions:

1. Cartons showing external damage must be documented with the carrier at the time of signing for delivery. Damaged cartons must be documented with item number(s) and pictures showing damage to the external packaging for filing of freight claims. Every carton received in damaged condition must be opened for inspection immediately and documented with images before signing of the delivery. If internal damage to the product has occurred, images and other documentation of the damaged product must be sent to Motivo within 48 hours of delivery.
2. Cartons containing concealed damage of product must be documented within 30 days of receipt of the product. Images must be provided upon opening for inspection at the time of receipt of the product and prior to installation of the product. Notification with images of concealed damage must be sent to Motivo within 48 hours of discovery for filing of freight claims. Product that is shown with damages and installed are void of concealed damage claims with Motivo as the receiver, along with any later parties handling the product, have taken ownership of the condition and well-being of the product since the time of delivery by Motivo.
3. When damage to cartons or product occurs after delivery is accepted, the Account/Purchaser acknowledges that repairs or replacements of product are the responsibility of the receiver who has signed for and assumed responsibility of the product. Motivo is released from liability, financially or otherwise, of repairs and/or replacement of damaged product occurred by a party not contracted by Motivo. The Motivo standard warranty encompasses factory defects only and does not apply nor cover damaged product resultant from, but not limited to improper handling, warehousing, secondary shipments and/or installation. Motivo will review all claims to assist with providing solutions to maintain quality standards of the product expected by the Account/Purchaser.

FREIGHT CARRIER CLAIMS

All merchandise is inspected before shipping and acknowledged in a signed document by the freight company that the items have been picked up in good condition. Title and risk of loss passes to customer upon placement of item with the common carrier. Therefore, purchasers or their receiving warehouses must inspect the items upon arrival and make claims for any damage, loss or shortages directly to the carrier which have sole responsibility for any damage, loss or shortages incurred during transit. The Account/Purchaser, or their receiving warehouse, should retain all packing materials of damaged items until the claim is resolved. The cost of any special packing or special handling caused by the Account/Purchaser requirements or requests shall be added to the amount of the order. If the Account/Purchaser or receiver causes or requests a shipment delay, or if Motivo ships or delivers the products erroneously as a result of inaccurate, incomplete or misleading information supplied by the Account/Purchaser, the receiver or their agents or employees, storage and all other additional costs and risks shall be borne solely by the Account/Purchaser.

FREIGHT CARRIER CLAIMS (cont.) Claims for products damaged or lost in transit should be made by the receiver to the carrier, as Motivo's responsibility ceases upon tender of goods to the receiver, the Account/Purchaser representative or common carrier. Motivo will make a good faith effort to complete delivery of the products as indicated by the Account/Purchaser in writing, but Motivo assumes no responsibility or liability and will accept no back charge for loss or damage due to delay or inability to deliver, whether or not such loss or damage was made known to the Account/Purchaser, including, but not limited to, liability for Motivo's non-performance caused by acts of God, war, labor difficulties, accidents, inability to obtain materials, delays of carriers, contractors or Motivo's, or any other causes of any kind whatever beyond the control of Motivo. Under no circumstances shall Motivo be liable for any special, consequential, incidental, indirect, or liquidated damages, losses, or expense (whether based on negligence or not) arising directly or indirectly from delays or failure to give notice of delay.

RETURNS

No merchandise can be returned to Motivo without its written consent. Unauthorized returns will be reshipped to the location of origin freight collect. Motivo will not accept returns of floor samples or sale items, which are sold "as is" and for which all sales are final. There are no returns of goods that have been altered, processed, subject to abuse or misuse, or damaged after shipment by Motivo. All authorized returns will be subject to in/out freight and handling charges. In no way shall Motivo be liable for any customary variations within industry standards or for imperfections inherent in certain fibers, leathers, metals, fabrics or woods. Motivo does not accept returned product without written authorization. All products must be accepted by the receiver and any grievances be documented in writing to the freight carrier and Motivo. Upon review of the claim, a return may be processed at the discretion of Motivo. If a return is authorized for pickup, the product must be returned in the original packaging. Additional incurred damage upon return of product because of improper packaging by the Account/Purchaser or receiver will be billed to the Account/Purchaser. Damage due to misuse, freight damage or by parties not contracted under Motivo is not subject to returns.

STORAGE

Motivo reserves the right to charge storage for any order that the Account/Purchaser delays beyond the initial requested shipping date or receiving date. A monthly warehousing charge will be assessed to the Account/Purchaser for each product that remains in storage. Monthly storage rates are not prorated. It is the responsibility of the Account/Purchaser to provide warehousing unless it is predetermined in writing that Motivo will provide this service. In the event Motivo provides warehousing and/or storage of product, all associated costs of said warehousing and/or storage will be billed to the Account/Purchaser based on actual costs. Motivo is not liable for damage incurred while product is warehoused on the behalf of the Account/Purchaser and the Account/Purchaser will be responsible for filing damage claims directly with the logistics or facility warehousing product on the Account/Purchasers behalf. Motivo shall charge a storage fee to the purchaser for any furniture for which the balance has not been paid in full and/or for which delivery instructions have not been given within thirty (30) days.

ABANDONMENT

Motivo shall charge a storage fee to the Account/Purchaser for any furniture which is ready to ship and for which the balance has not been paid in full and/or for which delivery instructions have not been given within thirty (30) days after being billed. Merchandise not paid for within 60 days of invoice will be considered abandoned. In addition to any other remedy, Motivo shall be entitled to liquidate the merchandise, retain all deposits and apply such proceeds to the unpaid invoiced balances. The purchaser is liable for any collection, legal fees and expenses incurred in the collection of unpaid invoices and any storage or related. If full payment and delivery arrangements have not been made by Account/Purchaser within sixty (60) days after receipt by the receiver, Motivo shall have the right to sell or otherwise dispose of such furniture in a commercially reasonable manner. In such event, Motivo's sole liability to the Account/Purchaser (or the customer and end-user) shall be to reimburse the Account/Purchaser for payments made after deduction by Motivo for its cost of goods, its customary profit thereon and all unreimbursed expenses of shipping, storage and sale thereof.

TAXES

The amount of any sales, excise or other taxes, if any, applicable to the products shall be added to the purchase price and shall be paid by the Account/Purchaser unless the Account/Purchaser provides Motivo with an exemption certificate acceptable to the taxing authorities. Any taxes which Motivo may be required to pay or collect under any existing or future law, upon or with respect to the sale, purchase, delivery, storage, processing, use or consumption of any of the products, including taxes upon or measured by the receipts from the sale thereof, shall be for the account of the Account/Purchaser who shall promptly pay the amount to Motivo upon demand.

SEVERABILITY

These terms and conditions of sale shall not be construed against the party preparing them but shall be construed as if all parties jointly prepared these terms and conditions of sale and any uncertainty or ambiguity shall not be interpreted against any one party. If any provision hereof is held to be illegal, invalid or unenforceable under any present or future laws, such provision shall be fully severable and the terms and conditions herein shall be construed and enforced as if such illegal, invalid or unenforceable provision had never been made a part hereof. The remaining provisions shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provisions or by their severance.

NON- WAIVER AND INDEMINIFICATION

The failure of Motivo to fulfill its obligation of any one term or condition herein shall not be deemed a waiver of any of the rights or remedies of Motivo, now or in the future. No waiver of any term or condition hereunder shall be valid unless in writing and signed by one of Motivo's managers. If Motivo custom builds furniture, including without limitation providing any item of furniture in accordance with the plans of the Account/Purchaser, pictures, diagrams or other instructions provided by the Account/Purchaser, the Account/Purchaser represents and warrants that all rights and licenses required for Motivo to build, sell and distribute such furniture have been obtained on the behalf of Motivo and at no cost or expense to Motivo. Motivo makes no promise or representation that the products will conform to any federal, state or local laws ordinances, regulations, codes or standards. Motivo shall not be responsible for any losses or damages sustained by the Account/Purchaser or any other person as a result of improper use or misapplication of the products.

NON-WAIVER AND INDEMINIFICATION (cont.) Account/Purchaser shall; defend, indemnify and hold harmless Motivo and its agents and employees against any loss, damage, claim, suit, liability, judgment or expense (including, without limitation, attorney's fees) arising out of or in connection with any injury, disease or death of persons (including, without limitation, Account/Purchaser's employees and agents) or damage to or loss of any property or the environment, or violation of any applicable laws or regulations resulting from or in connection with the sale, transportation, installation, use, or repair of the products by the Account/Purchaser or of the information, designs, services or other work supplied to the Account/Purchaser, whether caused by the concurrent and/or contributory negligence of the Account/Purchaser, Motivo, or any of their agents, or employees. The obligations, indemnities and covenants contained in this paragraph shall survive the consummation or termination of this transaction.

In the event of the pending default by the Account/Purchaser, the Account/Purchaser agrees that any of the following shall constitute an event of default which shall enable Motivo, at its option, to cancel any unexecuted portion of this order or to exercise any right or remedy which it may have by law: (a) the failure of the Account/Purchaser to perform any term or condition contained herein; (b) any failure of the Account/Purchaser to give required notice; (c) the insolvency of the Account/Purchaser or its failure to pay debts as they mature, an assignment by the Account/Purchaser for benefit of its creditors, the appointment of receiver for the Account/Purchaser or for the materials covered by this order or the filing of any petition to adjudicate the Account/Purchaser bankruptcy; (d) the death, incompetence, dissolution or termination of existence of the Account/Purchaser; (e) a failure by the Account/Purchaser to provide adequate assurance of performance within ten (10) days after a justified demand by Motivo; or (f) if Motivo, in good faith, believes that the Account/Purchaser prospects of performance under this agreement is impaired. All rights and remedies of Motivo herein are in addition to, and shall not exclude, any rights or remedies that Motivo may have by law. In the event it becomes necessary to incur any expense for collection of any overdue balances, reasonable collection charges, including reasonable attorneys' fees, will be added to the total balance due and the Account/Purchaser shall pay all such charges.

These transactions, actions relating to any claim by the Account/Purchaser or Motivo shall be brought exclusively in the Courts in the State of California, County of Los Angeles, without regard to any courts in any other jurisdiction. All actions, regardless of form, arising out of or related to this transaction or the products sold hereunder must be brought against Motivo within the applicable statutory period, but in no event more than one year (1) after the date of invoice.