



# TERMS & CONDITIONS

**This document spells out the terms and conditions of MergeWorks (the “Company”). These terms and conditions supersede all previous policies, pricing, discounts, and lead times whether given orally or in writing by Company. All terms and conditions are subject to change at Company’s discretion. The Buyer agrees to abide by all terms and conditions stated below, as modified by Company from time to time in writing.**

## **Specification Changes**

Company maintains the right to affect, change, or discontinue product at any time without prior notice. This right to change applies to catalog contents, pricing, materials, fabric or finishes, manufacturing processes, as well as details and dimensions.

## **New Accounts/Terms of Sale**

New dealer accounts require a completed Account Application along with credit references, a valid tax exempt or resale certificate where applicable and the approval of Company sales representative.

Buyer may request open account terms, and if approved by Company, a credit limit will be established. If at any time the amount of open orders/invoices exceeds the established credit limit, Buyer will be required to submit payment to bring the account balance down below their credit limit. Larger orders and custom orders are subject to review with special arrangements for terms made at Company’s sole discretion. Orders for Buyers without credit terms will not be scheduled or released to production until payment in full is received by Company. All orders are payable in U.S. dollars and do not include taxes or installation.

Invoices unpaid after 30 days are subject to a late payment charge in the amount of 1.5% per month on the unpaid balance, until paid. Company reserves the right to suspend processing of additional orders until such time as delinquencies have been paid in full

## **Order Placement/Acknowledgements**

Company requires all orders to be submitted in writing to avoid errors and/or duplication. Within 48 hours after receipt of a purchase order, Company will send an Acknowledgement of the order via email. All orders will be manufactured and invoiced based upon the information on the Acknowledgement and shall be subject to Company’s Terms and Conditions. If there is any discrepancy, please notify Company immediately. If Company does not receive a corrected Acknowledgment within 48 hours, Company will assume that all information contained therein is correct and will proceed accordingly. Buyer understands that the risk of errors for Acknowledged orders is Buyers. In the event of a discrepancy between the order and the Acknowledgement, the terms of the Acknowledgement will prevail. If you do not receive an Acknowledgement, please call our Customer Service department to determine the reason; we may have questions that are delaying order entry.

## **Ship Date**

All Acknowledgements contain an estimated shipping date which is the best estimate at the time the order is acknowledged. Your order may ship prior to the estimated shipping date, depending on the production schedule. If you do not want the merchandise earlier than the specified date, please write “Do not ship for arrival prior to (Date)” on your purchase order. If Buyer cannot accept delivery on this date or before, Company reserves the right to arrange or charge for storage at the Buyer’s risk and expense. Actual ship dates may differ from acknowledged dates due to lack of credit approval or lack of payment. If an order is subject to a credit hold or prepayment, it will be scheduled for production only after it is released from credit hold or the payment is received.

## **Order Delays**

Company shall not incur any obligation or liability to the Buyer for failure to ship by the specified date unless Company has agreed to an unequivocal, firm shipping date in a separately signed written document, executed by authorized Company representative. Company holds no liability for any failure to deliver or any delay in delivering or performing any obligation due to any cause outside the reasonable control of Company, including but not limited to, fire, flood, bad weather, war, terrorism, civil disturbance, riot, act of government, government regulation, governmental restriction on export or import, labor dispute, strike, plant shutdown, unavailability of materials, equipment failure or failure of supplier, carrier or subcontractor to deliver on time or otherwise perform.

## **Revised Orders**

Orders entered and Acknowledged cannot be changed or modified without Company’s written consent. Any subsequent change is subject to incurred costs and to Company’s ability to secure materials and labor. Company reserves the right to increase the Acknowledged price, if such a change warrants any extra charge.

## **Cancellations**

Orders which have not entered production, and for which Company has not initiated any cost that are specific to such order (such as but not limited to ordering of fabric or parts specific to the order) may be cancelled with Company’s written consent. However the Company reserves the right to assess a service fee at its discretion. Once production has begun, neither standard nor custom orders may be changed or cancelled.



# TERMS & CONDITIONS

## **C.O.M. Fabric Requirements**

Fabrics must be approved for suitability prior placement of Purchase Order. It is the Buyer's responsibility to determine if the material is appropriate for the application specified and that it meets applicable codes and regulations. Company testing is strictly to verify that the material is compatible with our manufacturing process. Company does not accept responsibility for unsatisfactory results, overall appearance, fabric defects, flammability, normal durability, color fastness or any other quality issue with COM products. For full COM terms see our COM TERMS, CONDITIONS AND LIMITED WARRANTY document available on our website.

## **Freight Terms**

All goods are sold FOB Shipping Point, unless otherwise specified by Company. Freight terms apply to the Contiguous U.S. All LTL shipments are dock to dock. Additional services such as: after hour delivery, residential or inside delivery, delivery by appointment, lift-gate, delivery to limited access sites such as government buildings or schools, may be arranged for an extra charge and must be noted on the Purchase Order. It is Buyer's responsibility to determine which, if any, additional services are needed at the time the order is placed. Company will bill the Buyer any additional carrier costs that are not included on Buyer's Purchase Order at the full carrier charge, which may differ from Company's standard charges.

Company will make every effort to adhere to the estimated delivery date; however, neither Company nor the carrier will guarantee or be held responsible in any manner for delays or deviation from the planned delivery date. Company is not responsible for any costs incurred for late deliveries, including labor or other charges resulting from unforeseen delays.

## **Freight Claims**

Company is not responsible for damage that occurs in transit or in storage. The carrier signs for all goods received in good order from MergeWorks. It is the Customer's responsibility to examine goods immediately upon receipt and file any claims with Company within 48 hours.

Company will file freight claims for loss or damage if the following policy is followed:

- All shipments should be inspected at the time of delivery and any damages (dented boxes, opened packages, missing packages, holes, etc.) should be noted on the BOL or Delivery Receipt before the driver leaves.
- Digital photos should be taken of any suspected freight damage and forwarded to Company within 48 hours. Failure to do so negates our ability to file a claim with the carrier and therefore removes Company's and carrier's responsibility for any damages.
- All shortages must be reported to Company within 14 days of delivery. Company is under no obligation to expedite replacement or missing product, nor will Company compensate or reimburse for re-delivery, re-install or any other labor charges.

Failure to follow these policies will result in claim responsibility shifting from Company to Customer.

## **Shipping**

Freight is prepaid and billed on all shipments unless special arrangements have been made otherwise and allows for normal ground transportation. Company reserves the right to determine the best way to ship any particular product.

Company is not responsible for a) delays in shipment, b) delays caused by unavoidable accidents, strikes, riots, c) damage to or destruction of plant or part of plant essential to the production of materials covered by an order, or d) any act of God. No claim for loss or damage shall be allowed in consequence thereof.

## **Returns**

Merchandise may not be returned without Company's prior written consent. Authorized return merchandise is subject to a handling and restocking charge. All freight charges must be prepaid by Buyer on return shipments or they will not be accepted. Damaged materials and build to order items cannot be returned under any conditions.

## **Product Warranties**

Company warrants that your new Product is free from defects in materials or workmanship, subject to the limitations, exclusions, and other provisions as detailed on Company Warranty. This warranty does not apply to products made with COM materials. Full warranty information is available upon request and on our website.

## **Incidental Damages**

Company will not be responsible for expenses incurred by the Buyer for expedited shipments, the repair of damage caused by others, or for delay of any shipment. Deductions from invoice payments are not permitted unless authorized in advance in writing by Company. Under no circumstances will Company be responsible for incidental damages, repairs, labor or other costs incurred in removal, return or reinstallation of suspected defective Company product. Any loss, expense, or damage incurred in replacing any suspected defective product will be the responsibility of Buyer. The warranty of this product is limited to the replacement or repair of the Company product itself. Full warranty information is available upon request and on our website.