


Terms and Conditions of Sale

Exclusive to Karastan Contract, Durkan Commercial, Mohawk Commercial, Bigelow Commercial and Durkan Hospitality.

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KARASTAN
CONTRACT

DURKAN
commercial

MOHAWK
COMMERCIAL

BIGELOW
COMMERCIAL

DURKAN
HOSPITALITY

1. Title to the goods covered hereunder passes to Buyer upon the delivery of said goods to Buyer. Delivery to Buyer occurs and Seller's liability ceases when said goods (1) are loaded on a third-party carrier, acting as Buyer's agent, for delivery to Buyer; (2) are picked up by Buyer at Seller's shipping point; or (3) are delivered by Seller to Buyer's receiving point.
2. Except that the goods sold hereunder shall be of merchantable quality, Seller makes NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, and Buyer assumes all risks and liability for results obtained by the use of the goods covered by this order, whether used singly or in combination with other goods. The description of the goods is for the sole purpose of identifying the same for sale and does not constitute a warranty or representation that the goods shall conform to such description or condition.
3. Customer shall inspect the goods immediately upon their arrival and shall within ten (10) working days after arrival at their destination give written notice to Seller of any claim that (1) the goods do not conform with the terms of the order or (2) the goods do not comply to specifications or are otherwise defective, provided that a casual inspection should have revealed such defect. If Customer shall fail to give such notice, the goods shall be deemed to conform with the terms of the order, and Customer shall be deemed to have accepted and shall pay for the goods in accordance with the terms of the order.
4. Seller shall not be bound by any claim adjustment made by the dealer without prior written authorization by Seller's representative. All claims are subject to Seller's written Claim Policy and Procedures. A copy of said Claim Policy and Procedures will be furnished by Seller upon request. Return of merchandise will be accepted only when written authorization for return has been given by Seller. Any unauthorized returns coming back to any location of Seller are subject to refusal by Seller and may be returned to the dealer on a freight-collect basis. No action will be taken on a claim until an agent of Seller has inspected the merchandise and has sent a written report to Seller's proper representative. If the agent of Seller in its report considered the merchandise defective and Seller determines the claim is valid, Seller may, at its own option, repair or replace such merchandise within a reasonable time or, at its option and in lieu thereof, make a financial settlement with the dealer, which settlement amount shall be no greater than the invoiced amount of the merchandise. These are the exclusive remedies the dealer shall have against Seller for defective merchandise and in no event shall the dealer be entitled to receive consequential or incidental damages. Seller will not be liable for any claim on any goods sold by Seller as irregulars, mill ends, or any other goods sold by Seller at prices less than the standard discount, and the dealer will indemnify Seller against any consumer claim related to such goods. All replacements will be subject to a usage charge.
5. The terms of payment may vary by product as stated on the invoice. Terms are FOB mill or warehouse points and begin from invoice date. A finance charge of 1-1/2% per month or the maximum rate allowed by law, whichever is less, will be charged on each payment received after the due date. A fifteen dollar (\$15.00) fee will be charged on each check returned due to insufficient funds. Checks will not be redeposited. In the event a legal action is commenced solely to enforce any of the terms of purchase or obligations created hereby or hereinafter, the prevailing party in such action will be entitled to reasonable attorneys' fees or collection costs incurred in connection with the collection of the account.

6. Credit arrangements are subject to approval by Seller's Customer Financial Services Department and are subject to change without notice. In the event that Buyer fails to fulfill the terms of payment or in case Seller shall have any doubt at any time as to Buyer's financial responsibility, Seller may, if applicable, decline to make further deliveries except upon receipt of cash or satisfactory security.
7. Buyer shall reimburse Seller for all taxes, excises, or other charges which Seller may be required to pay to the government upon the sale, production, or transportation of the goods sold hereunder.
8. No liability shall result from delay in performance or nonperformance of this agreement directly or indirectly caused by fire; explosion; accidents; flood; labor trouble or shortage; act of or authorized by any government; inability to obtain suitable material, equipment, fuel, power, or transportation; or act of God; or arising from contingencies, happenings, or causes beyond the party affected. Quantities so affected by any such circumstances may be eliminated without liability but this document shall otherwise remain unaffected.
9. Orders are not assignable or transferable by Buyer in whole or in part, except with the written consent of Seller.
10. In the event of inability for any reason to supply the total demands for the goods specified, Seller may allocate its available supply among any or all of the purchasers on such basis as it may deem fair and practical, without liability for any failure of performance which may result therefrom.
11. No terms, prices, or conditions other than those stated in this document, and no agreement or understanding in any way modifying the terms and conditions herein, shall be binding on Seller, except if such modifications are made in writing on Seller's stationery signed by an officer of Seller. No modifications or waiver of the terms contained herein shall be deemed affected by Buyer's documents containing other or different terms. Acceptance by Buyer of this order is expressly limited to the terms and conditions contained herein. In the event an order shall be deemed an acceptance of Buyer's offer, then the order is expressly conditioned upon Buyer's assent of the terms and conditions contained herein.
12. The contract resulting from the acceptance of the order is to be construed according to the laws of the State of Georgia. Buyer expressly waives any right to arbitration under state or federal law.
13. Buyer acknowledges and accepts Seller's marketing requirements as presented by Seller's territory manager. Seller reserves the right to terminate its business relationship with any Buyer at its discretion.

