

## 1. Quotations and Orders

**A. Term:** Unless otherwise stated, and subject to changes in underlying contract(s), all prices are quoted FOB shipping point and are guaranteed for 30 days from date of quotation

**B. Acceptance:** All orders require a hard copy purchase order, an electronic purchase order, or an approved quotation with an authorized signature and date of acceptance from the Buyer. An approved client PO or quotation with authorized signature constitutes acceptance of Hyphn's terms and conditions.

**C. Modifications:** Any modifications to an approved and acknowledged order are subject to the Contractor's ability to conform and the manufacturer's approval. Changes must be made via a revised purchase order, change order, or signed and dated revised quotation. (See section 3.A)

**D. Customer Required Date:** A mutually agreeable (between Buyer and Contractor) delivery date is required for each order and will be used as the customer's required date. The mutually agreed upon required date is based on the site conditions described in Section 4. D., and is to be coordinated as necessary with parties responsible for varying site conditions, such as the General Contractor. Delivery dates may be changed only upon written notice received by Contractor and must be prior to manufacturer's acknowledged shipping date, provided manufacturer will accept changes without penalty.

**E. Material Draw / Deposit Requirement:** A material draw of 50% is required on orders over \$5,000. Material Draws are also required if manufacturer(s) or service provider requires a Material Draw. All custom products or C.O.M. (Customer's Own Materials) may require payment in full with the order and are non-cancelable. Forms of payment include check, ACH, and bank wire.

## 2. Invoicing

**A. Timing:** Contract furniture with related installation and other services will be invoiced after delivery of the product to the job site. Direct shipments from manufacturers will be invoiced upon shipment from the manufacturer. Services not related to purchase of product, unless otherwise negotiated, will be invoiced after the services are substantially completed, as determined by the Contractor.

**B. Payment Terms:** For contract furniture and related installation and other services, balance is due in full net 30 days from date of invoice. For services not related to the purchase of product, balance is due in full net 30 days from the date of invoice. Buyer agrees not to withhold more than 10% payment on any invoice because of partial delivery or open punch list items.

**C. Freight:** Unless otherwise noted, all applicable freight charges are not included in the price quotation and will be invoiced as a separate line item.

**D. Taxes:** Unless otherwise noted, all applicable sales, use, excise, or any other taxes are not included in the price quotation and will be invoiced as a separate line item. Buyer agrees to pay any and all applicable taxes. If Buyer possesses tax-exempt status, a certificate of tax exemption is to be provided prior to order placement. Buyer is responsible for self-assessment of any and all applicable taxes due to jurisdictions outside of Oregon or California.

**E. Delays:** If Buyer is unable to receive product at the job site on the mutually agreed upon customer required date, product will be deemed delivered and will be invoiced as if delivered. Standard payment terms will apply.

**F. Service Charge:** A service charge of 1 ½ % per month will be accessed on all unpaid balances after invoice due date. Buyer agrees to pay this charge when requested and billed by the Contractor.

**G. Contractor's Contingency:** At the Contractor's discretion, the Contract Price may include a Contractor's Contingency of 5% of the total contract value. The Contractor may utilize funds from the Contractor's Contingency, subject to the Client's approval (which shall not be unreasonably withheld) to cover reasonable costs incurred in performing the work that were not otherwise included in the Contract Price that may arise during the performance of the project. Examples include but are not limited to: 1) Unanticipated changes in schedule. 2) Lack of job-site readiness as described in Section 4. D. 3) Conditions or events not foreseen at the time of the final Quote approval. (design background errors and omissions) 4) Errors by Contractor not caused by gross negligence of Contractor

## 3. Other Charges

**A. Changes/Cancellations:** Buyer will pay all additional charges from the manufacturer for order changes. Express Ship Orders cannot be changed or canceled. All products are custom manufactured to customer specifications and, therefore, cannot be returned. Restocking programs are not available. The quote includes a specific number of design/specification and/or revision changes. Additional changes beyond the amount quoted will be billed at standard hourly rates.

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

**C. Extra Handling if Site is Not Ready:** If the job site is not available on mutually agreed upon customer required date, charges will be assessed to the Buyer for additional handling or redirecting of product at standard hourly rates, or actual charges if performed by a third party.

**D. Storage:** If the job site is not available on mutually agreed upon customer-required date, Contractor will store product in less than truckload quantities (\$20,000 net order), without charge for a maximum of 15 days from designated delivery date. Thereafter, and for larger orders, storage charges will be assessed based on the current monthly rate per square foot times the number of square feet required to store the product. Contractor not responsible for concealed freight damage for products stored for more than 30 days.

**E. Special Packaging / Extra Handling Due to Site Conditions:** Charges will be assessed to the Buyer for special/excessive handling, special packaging, detention, storage and transportation incurred because of site conditions, activity of other trades, or other reasons not specifically identified in the price quotation, at a standard hourly rate, or actual charges if performed by a third party.

**F. Overtime:** Unless otherwise stated, delivery and installation will be made during Contractor's normal business hours (M-F 7:00 am to 4:00 pm Pacific Standard time). The Buyer will pay any additional labor costs resulting from overtime work performed at Buyer's request.

**G. Partial Deliveries:** Partial deliveries can be made at the request of the Buyer for an additional charge. Unplanned partial deliveries may result in a premium overtime cost. Contractor reserves the right to deliver in complete or partial shipments.

**H. Pick up and Disposal of Old Furniture:** If Buyer requests pick-up and disposal of old or replaced furniture, Contractor may charge Buyer at standard hourly rates (plus disposal fee) or actual charges if performed by a third party.

**I. Legal Fees:** Should either party incur any expense in enforcing any terms, covenants, conditions, representations or warranties of the Agreement, the party in default will pay all expenses including reasonable attorney's fees.

## 4. Delivery & Installation

**A. Contractor's Responsibilities:** Other than for drop shipments, as described in 4.B below, Contractor will receive, inspect, stage, deliver, and install Buyer's goods when contacted by Buyer to do so. All furnishings will be clean and put into good working order. Packing materials will be removed and premises left in good order. When applicable, Contractor may send shipments directly to the job site.

**B. 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. Contractor shall not be responsible for any losses sustained due to Buyer's or its agent's failure to file proper claims. Contractor's invoices shall be paid in full by Buyer when due irrespective of pending freight claims.

**C. Normal Business Hours:** Delivery and installation will be made during Contractor's normal business hours (M-F 7:00 am to 4:00 pm Pacific Standard Time) unless otherwise noted.

**D. Condition of Jobsite:** Job site will be substantially complete, clean and clear of all obstructions prior to installation. Substantially complete shall include but not limited to: overhead lighting installed, overhead cover inspection signed-off, ceiling tiles dropped in place, carpet and base installed and General Contractor/trades clear of the site with the exception of minor punch-list activities. For Audio Visual work, work cannot be completed until the spaces are dust free. Dry wall must be completed, pathway must be installed according to AV design drawings, painting must be completed, and electrical outlets must be installed where called out in infrastructure drawings. For low voltage, network cabling, security, access control, and sound masking, all pathways must be present. Unless Hyphn is prime for the pathway provider (i.e. electrical sub), all conduit coordination between Hyphn and the pathway provider must be scheduled and facilitated by the Client. If the Job Site is not ready, additional delays and charges may apply. Buyer will provide adequate facilities and space for unloading, staging, moving, handling, and storing product at jobsite. Buyer is responsible for providing at their cost a licensed electrical contractor if hardwire connections are required from the furniture to the building's power source. In addition, the buyer is responsible for providing at their cost any needed equipment and labor to complete the wiring of the furniture to accommodate phone and data connections.

**E. Jobsite Services:** Electric current, heat, hoisting and/or elevator service will be furnished by Buyer without charge to Contractor. Adequate facilities for off-loading, staging, moving and handling of merchandise shall also be provided by Buyer without charge to Contractor. Technicians will have access to all rooms requiring work within the building. The customer will provide all the locations. Any changes will require a change order. All ceiling and work areas will be accessible and reasonably free of obstructions. Work will be done in one continuous phase unless otherwise specified. All labor and material are included in this proposal unless otherwise specified. The other will provide all conduits. Any core drilling or major obstruction will require a change order. All labels affixed will come from the customer.

**F. Protection of Delivered Goods:** Goods delivered and to be installed by Contractor shall be deemed tendered by Contractor and received by Buyer upon delivery to the job site. Goods installed by Contractor shall be deemed accepted by Buyer three (3) business days after installation is complete absent a notice of dispute received by Contractor from Buyer within three (3) business days of completion of the installation. After delivery of merchandise by Contractor 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 Contractor from loss for such reasons.

**G. Commissioning:** Network-based systems cannot be commissioned, nor can a project punch list be completed, until the network is made live (by others). Once the network is made live, Hyphn will still require the same amount of time to complete the agreed upon scope of work regardless of delays by other trades or delays with the ISP to make the network live. Any additional work after hours work to expedite project delivery, or added scope will be invoiced at the current labor rates. Network switches are to be provided by the Client unless otherwise noted in the scope of work. All network configurations must be adequate and completed by the Client in order to commission the agreed upon network-based systems. Any delays due to Client network configurations, licensing, or network port availability is not Hyphn's responsibility. Hyphn will still require the proposed time to complete the agreed upon scope regardless of any delays caused by lack of network readiness.

**H. Risk of Loss:** Upon delivery of product to Buyer's site, or into storage negotiated by Buyer if job site is not ready on mutually agreed upon date, Buyer assumes all risk of loss of delivered/stored product and shall not be released from any obligations under this agreement due to product's loss, damage, or disrepair following delivery/storage.

**I. Delays/Acts Beyond Reasonable Control:** Contractor shall not be liable for any delay or failure to deliver any or all of the product in case delay or failure is caused by labor disputes, strikes, wars, riots, civil commotion, fire, flood, earthquake, accident, storm or inability to obtain raw materials, labor fuel, or any other cause, contingency or circumstances which prevent or hinder the manufacturer or delivery of the product beyond the reasonable control of the Contractor. Contractor shall have reasonable time to deliver and install product when site is available after causes of delay have been eliminated.

**J. Coordination with Buyer Contact:** Buyer shall designate one person (and a backup) to coordinate the receipt, acceptance, and installation of product between the Contractor and Buyer.

**K. Freight Claims:** Claims for product damaged in transit will be processed by Contractor and damaged product will be repaired to the reasonable satisfaction of Buyer.

**L. Erection and Assembly:** Contractor's ability to erect, assemble, install permanently attach, or bolt in place movable furniture is dependent upon agreements made by trade unions at the job site. If applicable trade regulations at the time of installation require employing tradesmen to complete the installation, the cost will be paid 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 oversized items shall be charged to Buyer at applicable commercial rates.

**M. Insurance:** Contractor will carry public liability, worker's compensation, property damage and automobile insurance. However, fire, tornado, earthquake, flood, and other casualty insurance related to the job site of product will be provided and paid for by Buyer.

## 5. Additional Terms

**A. Warranties:** Contractor makes no warranties of product sold hereunder whatsoever, including any warranty of merchantability or warranty that the furniture is fit for any particular purpose. Contractor agrees to act as Buyer's agent in event of claims of defective materials or workmanship that may be made within the warranty period stated by the manufacturer, supplier or fabricator. The Buyer shall rely exclusively upon warranties provided by the manufacturer, supplier, or fabricator of all products sold hereunder. If Contractor is asked to perform warranty work and it is subsequently determined that the furniture is not covered by any manufacturer, supplier, or fabricator warranty, Buyer will be charged for service at the then current rate.

**B. Audio Visual, Security & Access Control Warranties:** All audio visual, security, and access control workmanship that is provided by Contractor is guaranteed for 90 days of normal wear/tear. The 90-day period begins after sign-off from Buyer that equipment and installation work has been completed and is functioning as desired. This 90-day workmanship warranty includes cable connectivity and terminations, faulty physical installation such as loose screws or other bonding, or faults in desired functionality of Contractor provided programming. Product failure and/or associated costs outside of the manufacturer warranty is not covered by Contractor. The warranty covers only service installed by Contractor and does not cover any customer provided equipment or equipment damaged by negligence, abuse or causes beyond the control of Contractor. All warranties are void if any work or changes are not performed by or authorized by Contractor. All material warranties and product certifications will override Contractor's warranties. These warranties will be supported by Contractor through troubleshooting, diagnosis and necessary facilitation of return/replacement with the manufacturer within the 90-day period immediately following installation. Associated costs for return/replacement outside the coverage of the manufacturer warranty will be the responsibility of the Buyer. Any extra service coverage period would be covered by Contractor's service offering. To obtain extended coverage through Contractor's service offering, please contact Contractor.

**B. Low Voltage & Structured Cabling Warranties:** All low voltage and structured cabling workmanship that is provided by Contractor is guaranteed for one year of normal wear/tear. The one-year period begins after sign-off from Buyer that equipment and installation work has been completed and is functioning as desired. This one-year workmanship warranty includes cable connectivity and terminations, faulty physical installation such as loose screws or other bonding, or faults in desired functionality of Contractor provided programming. All provided CAT5, CAT5e, CAT6, CAT6A, or other variances of CAT cable have a five-year warranty for workmanship and materials. Product failure and/or associated costs outside of the manufacturer warranty is not covered by Contractor. The warranty covers only service installed by Contractor and does not cover any customer provided equipment or equipment damaged by negligence, abuse or causes beyond the control of Contractor. All warranties are void if any work or changes are not performed by or authorized by Contractor. All material warranties and product certifications will override Contractor's warranties. These warranties will be supported by Contractor through troubleshooting, diagnosis and necessary facilitation of return/replacement with the manufacturer within the one-year period immediately following installation. Associated costs for return/replacement outside the coverage of the manufacturer warranty will be the responsibility of the Buyer. Any extra service coverage period would be covered by Contractor's service offering. To obtain extended coverage through Contractor's service offering, please contact Contractor.

**C. Title and Security Interest:** Contractor retains title to all goods until Buyer has performed all its obligations under this agreement and the purchase price of the goods and related services has been fully paid to the Contractor. Contractor retains security interest in the goods, all accessories, replacements of the proceeds from the goods as security for the performance by Buyer of all Buyers' obligations arising under this agreement and the purchase order. *California - 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 Contractor 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, Contractor 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.

**D. Interpretation of Terms and Conditions:** This writing inclusive of the Quotation is intended by all parties as the final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their dealings between the parties, if any, and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. No failure by any party to insist upon strict compliance by the other party with any of the terms, provisions, or conditions, of this Agreement, in any instance, shall be construed as a waiver or relinquishment by either party of the other party's right to insist upon strict compliance therewith in the future. Whenever a term defined by the Uniform Commercial Code as adopted in the State of Oregon or State of California depending on selling branch location is used in this agreement and not otherwise defined, the definition contained in the Code is to control.

**E. Waiver:** No claim or right arising out of a breach of this agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless it is supported by a consideration and is in writing signed by all the aggrieved parties.

**F. Assignment and Delegation:** No right or interest in this agreement may be assigned by either Buyer or Contractor without the written permission of the other party, and no delegation of any obligation owed, or of the performance of any obligation either by Buyer or Contractor shall be made without the written permission of the other party. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes unless made in conformity with this section of this Agreement.

**G. Entire Agreement:** This Agreement, inclusive of the Quotation constitutes the entire contract and exclusively determines the rights and obligations of the parties, any prior course of dealing, custom or usage of trade or course of performance notwithstanding. Unless otherwise agreed to in writing between Buyer and Contractor, this document supersedes all other purchase orders or documents provided by the Buyer. Contractor design, installation and /or service contracts are incorporated herein by reference and shall take precedence on any conflict of terms. Contractor reserves the right to keep a signed copy of this document on file.

**H. Applicable Law:** This agreement and all rights and obligations of the parties shall be governed by the laws of the State of Oregon or the State of California dependent on selling branch location.

**I. Indemnification:** By accepting these terms and conditions, the Buyer acknowledges that the Contractor is indemnified and is not liable for any low voltage system failure resulting in physical damage, theft, personal injury or other damages upon completion and handoff of the installed system unless otherwise noted in an agreement executed between and by both parties. By signing below, the Buyer is also acknowledging that the Contractor is indemnified and not liable for any physical damages, theft, or personal injury at the respective installation locations for any reason. The Contractor is not responsible for maintaining or monitoring systems beyond the workmanship warranty detailed herein and/or according to an additional service agreement as agreed upon by both parties.

**J. Owner Furnished or Requested Equipment:** Contractor will install Owner Furnished Equipment (OFE) as requested by the customer with a 90-day workmanship warranty that includes coverage of cable connectivity and terminations, faulty physical installation such as loose screws or other bonding, but will not assume responsibility for incorrect design or functionality. If the OFE faults, malfunctions, or does not work with other equipment in the system, Contractor is not responsible for troubleshooting, returns, or warranty service. If Contractor is engaged for troubleshooting or warranty assistance outside of an existing Service Agreement, Buyer will be charged at the Contractor's established hourly service rate for any work completed.

**K. Limitation of Liability:** A. No liability shall accrue against Contractor 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 Contractor's control. B. Contractor 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 Contractor. In the event Buyer requires Contractor to wall mount componentry, Buyer releases and shall indemnify Contractor from all liability for related damages except as Contractor's negligence shall be shown to be the sole direct and proximate cause of such damages. D. If Contractor provides design, space planning or other services to Buyer, Buyer is responsible to verify fitness of Contractor's specifications to Buyer's needs before implementation. Contractor's liability for goods and services provided shall be limited to the invoiced value of such goods and services and in no event shall Contractor'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 Contractor 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 Contractor to Buyer, even if Contractor 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.

**L. Attorney's Fees:** Buyer agrees to pay any fees, costs, or expenses, including but not limited to, reasonable attorney's fees, incurred by Contractor in collecting any past due amounts

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Accepted By

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Date

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Title