

GENERAL TERMS AND CONDITIONS OF SALE

These General Terms and Conditions of Sale (“Terms and Conditions”), the Limited Warranty Agreement, and the applicable Quotation, Custom Design Review Document, Purchase Order, and Sales Order Acknowledgement (collectively, the “Agreement”) apply to any sale of Four Nine Design (“FND” or “Seller”) products or services purchased by individual, corporation, or institution (collectively referred to as “Buyer”). Buyer represents and warrants that such Buyer has authority to accept, and has read, understood, and agreed to, the Agreement. Notwithstanding anything herein to the contrary, any acceptance or use by Buyer of Four Nine Design products or services, shall constitute an irrevocable acceptance of the Agreement.

Please read all the following terms carefully, as purchasing and/or using the related products and services indicates agreement with, and acceptance, of the Agreement

1. **Scope and Definition.** For the purpose of the Agreement the following definitions apply:
 - a. “*Buyer Specifications*” means any concepts, designs, specifications, requirements, or other information shared between FND and Buyer with relation to FND design and development of products for Buyer.
 - b. “*Custom Designs*” means the Products that are customized for Buyer agreeing to Buyer Specifications.
 - c. “*Owner Manual*” means the related literature provided with Product (either .pdf or hard copy) that details relevant Product details as it pertains to instructional/operational use and safety understandings of Product features and capabilities.
 - d. “*Purchase Order*” means the document detailing the agreed-upon Product description and Purchase Price provided by Buyer to FND in response to Quotation.
 - e. “*Product(s)*” means the standard products, custom products, or services sold to Buyer by FND and listed on an applicable Sales Order Acknowledgement.
 - f. “*Quotation*” means the document estimating the Product Price(s), description(s), payment terms, shipping terms, and specification(s).
 - g. “*Custom Design Review Document*” means the technical schematic or drawing that detail all relevant technical schematics and information of product or service.
 - h. “*RMA Number*” means the return material authorization number provided by FND to Buyer to facilitate the return of a Product.
 - i. “*Sales Order Acknowledgement*” means the acknowledgement provided by FND to Buyer as confirmation of Purchase Order acceptance from Buyer.
 - j. “*Ship Date*” means the date stated on the Quotation as to the delivery of the product.
2. **Ordering Process.** FND will provide an accurate and up-to-date Quotation to prospective Buyer. FND reserves the right to amend prices and payments stated in the Quotation following the expiration of such Quotation. All Purchase Orders provided to FND by Buyer shall be based on the most recent Quotation and are subject to written acceptance by FND in the form of a Sales Order Acknowledgement. FND shall provide Buyer with Sales Order Acknowledgement as acceptance of the Purchase Order. Unless specifically noted by additional special non-disclosure agreement (or similar) signed by both parties,
3. **Payment Terms.** All payments shall be due and payable by Buyer within thirty (30) days following Buyer’s receipt of an invoice therefor, or according to payment terms provided in the Quotation or superseded as the parties may otherwise agree to from time to time in a writing signed by the parties. Late payments shall be subject to a late fee of 1.5% per month (18% per annum) of the price stated in the invoice. Credit Card payments are subject to 4% credit card fee. All payments shall be in US Dollars.
4. **Taxes.** Unless otherwise stated in the Sales Order Acknowledgment, Buyer shall be responsible for all sales and use taxes, duties, and other government charges arising from the purchase of FND standard and custom products and services.
5. **Packing.** As a priority, all standard and custom products shall be prepared and packaged in a manner that prevents the possibility of damage during transit. Whenever possible, FND designs and fabricates packaging with sustainable, reused and/or recycled materials.
6. **Changes and Discrepancies.** Any discrepancies, omissions, or lack of clarity in drawings, specifications, or purchase orders, must be referred to the Buyer for written interpretation before this order is processed. The buyer shall have the right at any time before completion of the order, to make changes in quantities, drawings, specifications, delivery schedules, and in methods of shipment and packaging. If such changes cause an increase or decrease in price or in the time required for performance, Seller shall promptly notify Buyer thereof in writing and sufficient adjustments shall be made. Changes shall not be binding upon Buyer unless evidenced by a purchase order change notice and issued and signed by Buyer.
7. **Changes After Ordering.** After FND has provided a Sales Order Acknowledgement, any changes to the scope of the order by the Buyer, including additions, deletions, project delays, or performance requirements may have impact on the price and delivery date. If such changes cause an increase or decrease in price or in the time required for performance, Seller shall promptly notify Buyer thereof in writing and sufficient adjustments shall be made. Changes shall not be binding upon Buyer unless evidenced by a purchase order change notice and issued and signed by Buyer. In the event that these changes, their approval, or the generation of a modified purchase agreement affect

FND's production scheduling, the order may be put "on hold". This project hold may significantly delay the rescheduling and may incur storage costs in the interim. Buyer will keep FND informed on their intentions to make the changes requested and to modify the purchase order. Projects that are on hold without a modified purchase order for more than 60 days will be considered cancelled.

8. **Cancellation.** Whenever FND accepts an order for a standard Product and Buyer terminates said order prior to delivery, FND shall assess a cancellation charge of not less than fifteen percent (15%) of the order value to cover costs of processing and order handling; No order for any non-standard products may be cancelled by Buyer except by mutual agreement in writing. Cancellations by mutual agreement are subject to the following conditions: (1) Buyer will pay, at applicable contract prices, for all Products which are completely manufactured and allocable to Buyer at the time of FND's receipt of notice of cancellation; (2) Buyer will pay all costs, direct and indirect, which have been incurred by FND with regard to Products which have not been completely manufactured at the time of FND's receipt of notice of cancellation plus a prorated portion of normal profit on the contract; (3) Buyer will pay a cancellation charge on all standard Products affected. FND's normal accounting practices shall be used to determine costs and other charges. To reduce cancellation charges, FND will divert completed parts, material or work in process from cancelled contracts to other customers whenever, in FND's sole discretion, it is practicable to do so.
9. **Shipping Terms, Title, and Risk of Loss.** Unless otherwise agreed upon by Buyer and FND in written form, shipping terms shall be expressly stated in the Sales Order Acknowledgment. If the Sales Order Acknowledgment does not specify the shipping terms, all domestic shipments shall be delivered FCA at FND shipping dock. Risk of Loss and title to Products shall pass upon such delivery. If FND prepays shipping, insurance, or other related charges, Buyer agrees to reimburse FND for all such charges in prompt fashion. If Buyer fails to arrange for collection of Product, on the scheduled Ship Date, or fails to provide instruction or documents required for shipment from FND shipping dock, upon received written notice from Buyer, FND may arrange adequate storage of Product. On service of such notice, the risk of loss of Product shall pass to Buyer and delivery of Product shall be deemed to have taken place and any outstanding payment of the products will become due. Buyer shall reimburse FND all costs and expenses arising from such failure included, but not limited to, storage and insurance charges.
10. **Ship Dates.** All Ship Dates are estimations only. FND shall not be liable for non-adherence with such dates. The timely delivery of standard or custom products requires prompt cooperation and communication from Buyer with respect to requested information, equipment, materials, and custom design approval. Delivery will be deemed to have occurred once Product has been shipped from FND shipping dock.
11. **Preparation for Installation.** Buyer is responsible for preparing facility for installation and use of delivered items, including but not limited to installation access and mounting space, utilities such as power, cooling water, room HVAC systems, etc. If installation by FND is provided with the system, then these items must be in place in advance of our visit. Lack of preparation may require rescheduling of the installation. In the event of a delay caused by lack of this preparation, any costs including travel, lodging, and labor shall be invoice to and paid by Buyer. If the installation is delayed for these reasons by more than 30 days, then Buyer agrees to pay complete balance of system cost and FND agrees to reschedule any required installation at their convenience.
12. **Inspection and Rejection.** All goods are subject to final inspection and acceptance by Buyer at destination notwithstanding any payment or prior inspection at source. Such inspection will be made within a reasonable time after receipt of goods. Buyer shall notify Seller if any goods delivered hereunder are rejected, and at Buyer's election and Seller's risk and expense, such goods shall be held by Buyer or returned to Seller. No replacement or correction of nonconforming goods shall be made by Seller unless agreed to in writing by Buyer.
13. **Warranty.** Product guarantee is described in the separate Limited Warranty Agreement document.
14. **Return Policy.** Standard Products listed in the Sales Order Acknowledgment(s) that exceed \$5,000 in the aggregate, are non-returnable. Custom Products, unless otherwise agreed to with special warranty and/or authorized documentation specific to Buyer, are non-returnable. Standard Products that are that are part of a Sales Order Acknowledgment which does not exceed \$5000 may be returned to FND for cash back within thirty (30) days of the invoice date and are subject to a 20% restocking charge. Buyer bears all risk of loss of damage to the returned Products until delivered to FND's receiving dock.
15. **Return Material Authorization (RMA) Process.** Buyer's return of non-conforming or defective Products to FND is subject to FND's most current Return Authorization Process procedure and the Limited Warranty Agreement. Notwithstanding the terms of the Limited Warranty Agreement, within 45 days of receipt of physical product, Buyer shall promptly notify a FND representative of any non-conformance with the Owner's Manual, Buyer Specifications outlined in Purchase Order, or manufacturing defects in the Product. Buyer shall provide FND with a reasonable opportunity to inspect Product. Inspection of the Product may be done on-site or via remote inspection. In the event of a remote inspection, it is in Buyer's best interest to provide FND with any information which may be relevant or helpful for adequate product defect inspection. This may include, but is not limited to photos, videos, data logs, or remote login credentials. If the remote inspection expectations of FND are not met, a significant delay or pause in the servicing process will occur. In the event that the Product defect cannot be resolved remotely or by an on-site FND service technician, FND will request that Buyer return the Product to FND in accordance to FND's instructions upon written authorization and issuance of RMA number. With written authorization and valid RMA number, Buyer shall ship Product back to FND in its original condition and with the original or equivalent packaging. The RMA number shall be clearly marked on both the shipping label and in any associated paperwork with the return of the Product.

All associated shipping costs shall be prepaid by Buyer. FND shall not be held responsible for any damage occurring during the packaging, shipping, and transit of Product shipped by Buyer. FND is not obligated to accept any Products returned without a valid RMA number. An issuance of an RMA number to buyer does not automatically mean that FND agrees the returned Products is non-conforming, defective, covered under the Limited Warranty Agreement, or that the Product will be repaired or replaced at no cost to Buyer.

16. **Defective or Nonconforming Products.** Products determined by FND to be non-conforming or defective and covered by FND's Limited Warranty Agreement shall be repaired or replaced at FND's option and expense and shall be returned to Buyer at FND's expense. If any Product returned by Buyer is found not to be non-conforming or defective, Buyer shall be notified, and Product shall be returned to Buyer at Buyer's expense. Any repair or replacement of defective Products not covered by the Limited Warranty Agreement shall not be performed until Buyer agrees, through official authorization, to FND's pricing and terms. FND may charge buyer for any testing or inspection costs occurred.
17. **Product Use.** Buyer must comply with all equipment's operational instructions and adherence to safety and hazard information found in the Owner's Manual issued by FND and by any other OEM equipment integrating within Product. Products can, if operated negligently, present a hazard to health and to life and FND accepts no liability for any personal injury or death that does not result from its own negligence. FND refers to the respective Owner Manuals of any third-party OEM equipment.
18. **Confidentiality.**
 - a. Confidential Information. "Confidential Information" means information that a party hereto discloses (the "Disclosing Party") to the other party hereto (the "Receiving Party") in connection with this Agreement and identifies as confidential upon disclosure, or that the Receiving Party should reasonably understand to be confidential under the circumstances; provided, however, that "Confidential Information" shall not include information that the Receiving Party can demonstrate: (a) at the time of disclosure is or thereafter becomes available to the public through no breach of this Agreement by the Receiving Party or its employees or subcontractors; (b) by written records was known to or otherwise in the possession of the Receiving Party prior to receipt of such information from the Disclosing Party; (c) is obtained by the Receiving Party on a non-confidential basis from a source other than the Disclosing and such source was not subject to any obligation of confidentiality with respect to such information; or (d) by written records is developed by the Receiving Party independently of any disclosure of or reference to any of the Disclosing Party's Confidential Information disclosed hereunder. For the avoidance of doubt, the Buyer Specifications shall constitute the Confidential Information of Buyer.
 - b. Confidentiality. A Disclosing Party may disclose Confidential Information to the Receiving Party or its employees or subcontractors in connection with this Agreement or the services provided hereunder. The Receiving Party agrees to (a) maintain the Disclosing Party's Confidential Information in confidence and not disclose such Confidential Information to any third party without the Disclosing Party's written consent except as permitted under this Agreement; (b) protect the Disclosing Party's Confidential Information with the same degree of care as the Receiving Party protects its own Confidential Information of like importance, but at least utilizing a reasonable degree of care, including employing industry standard security procedures to prevent unauthorized disclosure of Confidential Information; (c) not use the Disclosing Party's Confidential Information except in the performance of the Receiving Party's obligations under this Agreement; and (d) disclose the Disclosing Party's Confidential Information only to those of the Receiving Party's employees and subcontractors who have a need to know the Disclosing Party's Confidential Information in connection with performing the Receiving Party's obligations hereunder and who are bound by agreement, policy or law to maintain the confidentiality of the Disclosing Party's Confidential Information. The Receiving Party shall be responsible for any breach of these confidentiality obligations by any of its permitted recipients of the Disclosing Party's Confidential Information. Notwithstanding the foregoing, nothing in this Agreement shall be construed to restrict the Receiving Party from disclosing the Disclosing Party's Confidential Information as required by law, subpoena, court order, or other governmental order or request; provided, that the Receiving Party shall provide the Disclosing Party with prompt prior written notice of such disclosure and shall cooperate with the Disclosing Party's reasonable and lawful actions to avoid and/or minimize the extent of such disclosure. Confidential Information furnished pursuant to this Agreement, including any and all copies made thereof, shall remain the property of the Disclosing Party and shall, upon expiration or earlier termination of this Agreement or at the Disclosing Party's request, promptly be returned or destroyed by the Receiving Party. Notwithstanding the foregoing, the Receiving Party may retain one (1) copy of the Disclosing Party's Confidential Information as necessary to comply with applicable legal record keeping requirements, and such Confidential Information shall remain subject to all the protections set forth herein. The parties hereto shall comply with the confidentiality obligations for a period of four (4) years from the effective date of this Agreement.
19. **Intellectual Property Rights.** Except as expressly set forth in this Agreement, each party hereto shall continue to own its existing patents, trademarks, copyrights, trade secrets and other intellectual property ("Intellectual Property Rights"), without conferring any interests therein to the other party hereto.
20. **Limited Warranty; Indemnification.**
 - a. Warranties. Except as specified in the attached Limited Warranty Agreement, the Products are provided to Buyer AS-IS without any warranties of any kind, and FND hereby disclaims any and all warranties, express, implied, or statutory, including without limitation all warranties of merchantability and fitness for a particular purpose. FND hereby represents,

warrants, and covenants that (i) it will comply with all applicable laws relating to the Products and all of its other activities provided under this Agreement, and (ii) the Products provided hereunder shall (A) conform to the specifications therefor, including, without limitation, the applicable Owner Manual for each such Product, and (B) be free of liens, security interests or encumbrances of any nature imposed by or through FND.

- b. **Indemnification.** FND shall indemnify, defend, and hold harmless Buyer, its successors and assigns, and any of their respective directors, trustees, officers, employees, subcontractors, and agents (collectively, the “**Buyer Indemnified Parties**”) from any claims, suit, losses, liabilities, damages, penalties, or expenses, including, without limitation, any third party product liability claims for damages for personal injury, death or property damage, including any such claims based on a strict liability theory, and including, without limitation, reasonable attorneys’ fees and court costs (collectively, “**Liabilities**”) arising out of or relating to: (i) any claim that any of the Products, or the use thereof by any Buyer Indemnified Party, infringes, violates, or misappropriates any Intellectual Property Rights of any third party, (ii) any negligent or willful act or omission by FND or any of its employees or subcontractors in connection with this Agreement or any of the Products provided hereunder; or (iii) any violation of applicable law by FND or any of its employees or subcontractors in connection with this Agreement or any of the Products provided hereunder; provided, however, that FND shall have no obligation to indemnify any Buyer Indemnified Parties for any Liabilities resulting from: (A) FND’s compliance with the Buyer Specifications (except where FND knew or had reason to know that such compliance was likely to result in an infringement claim and FND failed to inform Buyer); (B) the combination, operation or use of the Products with software, hardware, content or other materials not furnished or required by FND or any Owner Manual or other specifications, manuals or other documentation with respect to the Products provided or made available to Buyer by FND; or (C) any modifications to the Products not made or authorized in writing by FND, in each case, if such infringement and Liabilities would have been avoided but for the use or modification of the Products in the manner described in each of clauses (A) – (C). Buyer shall defend, indemnify, and hold FND harmless against any liability that results from the Buyer’s use of the Product(s) and are related to or arising from FND’s use of Buyer Specifications.
21. **Limitations of Remedies.** FND’s entire liability and the Buyer’s exclusive remedy for any defects in materials or workmanship or non- performance of the Products shall be as set forth above under “Warranty.” For any other claim related in any way to the subject matter of the sale of FND’s Products, FND’s liability, regardless of the form of action, whether in contract or tort, including negligence, shall be limited to the dollar amount FND actually receives for the Products furnished, or to be furnished, or services rendered, or to be rendered as the case may be, which is the subject of claim or dispute. In no event will fnd be liable for any damages caused by the buyer’s failure to fulfill the buyer’s responsibilities, or for lost profits or other consequential damages, even if fnd has been advised of the possibility of such damages, or for any claim against the buyer by any other party.
 22. **Term; Survival.** The terms and conditions of the Agreement are effective until the last to expire: the Warranty stated in the Limited Warranty Agreement or, if applicable, the extended warranty stated in the Sales Order Acknowledgment.
 23. **Variation of Terms.** FND is permitted to revise these Terms at any time as it sees fit, and Terms valid at Quotation date shall apply.
 24. **Waiver.** The failure of either party to enforce, in one or more instances, any of the terms or conditions of the Agreement shall not be construed as a waiver of the future performance of any such term or condition.
 25. **Applicable Law.** The Uniform Commercial Code shall govern the Agreement. Whenever the term “Uniform Commercial Code” is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Montana as effective and in force on the date of the Sales Order Acknowledgment.
 26. **Force Majeure.** Any delay or failure to perform its agreed obligation under a Sales Order Acknowledgment shall be excused if such delay or failure is the result of an unforeseeable event or occurrence beyond reasonable control of FND. This may include, but not limited to, acts of God, actions by governmental authority, terrorism, fires, floods, windstorms, explosions, riots, natural disasters, health pandemics, sabotage, supplier delays, labor problems, and inability to obtain power, utilities, labor, equipment, transportation, or court injunction.
 27. **Terms and Conflicting Documents.** The Agreement supersedes any contrary provisions presented in any written form or otherwise by Buyer, including pre-printed terms on the Purchase Order or other Buyer documents, and all such terms presented by Buyer are considered null and void. The Agreement may not be changed or amended in any manner other than by mutual written agreement executed by the parties hereto. In the event of a conflict between documents that comprise the Agreement, the order of priority is as follows: the Terms and Conditions of Sale, the Limited Warranty Agreement, the Sales Order Acknowledgment, the Custom Design Review Document, then lastly, the Quotation.
 28. **Severability.** If any provision of these Terms is found by any court of competent jurisdiction to be unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from these Terms and will not affect the validity and enforceability of any remaining provisions.
 29. **Entire Agreement.** These Terms constitute the entire agreement between FND and Buyer in relation to Quotation, Purchase Order, and Sales Order Acknowledgment, and supersede all prior agreements and understandings.