

FurnMaster Sp. z.o.o.

Standard sales and delivery terms

Valid from 1 October 2022

The sales and delivery terms for FurnMaster Sp. z.o.o. (company registration number 0000517618, address: Swierczewskiego 15, 66-200 Swiebodzin, Poland) shall apply to all orders and take precedence over other conditions etc. from a customer unless otherwise agreed in writing. The sales and delivery terms may be changed as necessary without notice.

1. Order confirmation and consulting

Once an order has been placed, it shall be binding on the customer. The customer shall place orders on the basis of an offer including a product and process description in writing prepared by FurnMaster Sp. z.o.o.. In the event of unforeseen problems or if an unsatisfactory credit rating of the customer is received after order confirmation, FurnMaster Sp. z.o.o. shall be entitled to cancel the order without any liability whatsoever or to demand a bank guarantee issued for the full amount, or payment in advance.

Any consulting service provided by FurnMaster Sp. z.o.o. on the products' applicability shall be deemed to be for guidance only. FurnMaster Sp. z.o.o. shall not be liable for the customer's or its customers' specific use of the products.

2. Product information and statutory requirements

All product information in samples, drawings, website and similar are approximate and commercial tolerances must be expected.

The customer shall advise FurnMaster Sp. z.o.o. of special requirements and standards and of any existing statutory requirements in relation to the use of FurnMaster Sp. z.o.o.'s products, and the customer shall also ensure that the statutory requirements so advised shall be specified in the written agreement which is prepared by FurnMaster Sp. z.o.o. and which forms the basis for the order.

For design/creative consultancy and proposals, all intellectual property rights (e.g. to designs, trademarks, copyright, patentable inventions etc.) shall accrue to FurnMaster Sp. z.o.o. unless otherwise separately agreed with the customer in writing or they are minor adaptations to a design or creative proposal prepared by the customer.

3. Delivery terms, delivery time and delays

Unless otherwise specified in the order, the products shall be delivered EXW FurnMaster Sp. z.o.o.'s current and relevant warehouses in accordance with ICC Incoterms 2010.

In the event of delays, FurnMaster Sp. z.o.o. shall have the right to postpone delivery without liability for up to 30 days. If delivery has not been made by this time, the customer shall only be entitled to cancel the purchase but not claim any damages or losses whatsoever.

4. Retention of title

FurnMaster Sp. z.o.o. shall retain title in the delivered products until the customer has made full payment. All costs associated with enforcement of the retention of title shall be borne by the customer.

An extended retention of title will apply to customers established in the United Kingdom, Guernsey, Isle of Man and Jersey:

Title to the delivered products shall not pass to the customer until FurnMaster Sp. z.o.o. receives payment in full (in cash or cleared funds) for (a) the delivered products; and (b) and any other goods that FurnMaster Sp. z.o.o. has supplied to the customer, in which case title to the delivered products shall pass at the time of payment of all such sums.

In addition to the extended retention of title above, a broadened retention of title will apply to customers established in Germany:

Customer shall only be allowed to sell the products, which are all subject to retention of title, within normal and proper business transactions. Customer is not entitled to pledge the products, grant chattel mortgages on them or make other dispositions endangering FurnMaster Sp. z.o.o.'s title to such products. Customer hereby assigns its receivables arising from the resale of the products to FurnMaster Sp. z.o.o., and FurnMaster Sp. z.o.o. hereby accepts such assignment. Should customer sell the products after processing or transformation or joining or mixing of such products with other goods or together with other goods, this assignment of receivables shall only be agreed to for an amount equivalent to the price agreed to between FurnMaster Sp. z.o.o. and customer plus a safety margin of 10 % of this price. Customer is granted the revocable authorization to collect in trust the claims assigned to FurnMaster Sp. z.o.o. in his own name. FurnMaster Sp. z.o.o. may revoke such authorization and the right to resell the products if customer is in default of the performance of material obligations such as making payment to FurnMaster Sp. z.o.o..

Any processing or transformation of the products by customer shall always be performed for FurnMaster Sp. z.o.o.. If products are processed with other goods, FurnMaster Sp. z.o.o. shall acquire joint ownership of the new goods in the ratio of the value of the products to the other processed goods at the time of processing. The new goods created by way of processing shall be subject to the same provisions as applicable to the products.

Should the products be joined or mixed with other goods, FurnMaster Sp. z.o.o. shall acquire joint ownership of the new goods in the ratio of the value of the products to the other goods at the date of joining or mixing. Should the joining or mixing of the goods occur in such manner that customer's goods are to be viewed as the main goods, it shall be deemed to be agreed that customer assigns proportionate joint ownership to FurnMaster Sp. z.o.o.. Customer shall hold the joint ownership created in such manner in custody for FurnMaster Sp. z.o.o..

Customer shall provide FurnMaster Sp. z.o.o. at all times with all desired information concerning the products or receivables assigned to FurnMaster Sp. z.o.o. under these sales and delivery terms. Customer shall immediately notify FurnMaster Sp. z.o.o. of any attachments of or claims to the products by third parties and shall provide the necessary documents in this regard. Customer shall at the same time advise the third party of FurnMaster Sp. z.o.o.'s retention of title. The costs of a defence against attachments and claims shall be borne by customer.

Customer is obliged to treat the products with care for the duration of the retention of title.

Should customer be in default of material obligations such as payment to FurnMaster Sp. z.o.o., and should FurnMaster Sp. z.o.o. rescind the contract, FurnMaster Sp. z.o.o. may, notwithstanding any other rights, request surrender of the products and may make use of them otherwise for the purpose of satisfying its matured claims against customer. In such case, customer shall grant FurnMaster Sp. z.o.o. or FurnMaster Sp. z.o.o.'s agents immediate access to the products and surrender the same.

On FurnMaster Sp. z.o.o.'s demand, customer is obliged to appropriately insure the products, provide FurnMaster Sp. z.o.o. with the respective proof of such insurance and assign the claims arising under such insurance to FurnMaster Sp. z.o.o..

5. Prices and payment

The customer shall pay to FurnMaster Sp. z.o.o. direct and indirect consequential costs, carriage and production incurred by FurnMaster Sp. z.o.o. in connection with project work, including for preparing of samples, prototypes, reference samples and tests. The prices for the samples, prototypes, reference samples and tests shall be indicated in FurnMaster Sp. z.o.o.'s offer, or in the absence of such indication, they shall be refunded on the basis of documented expenses.

Prices specified from FurnMaster Sp. z.o.o. are exclusive of VAT, duty and all other taxes. Prices in all materials are subject to changes in prices of raw materials, the rates of duty and freight and other taxes, and prices may be increased until delivery is made. FurnMaster Sp. z.o.o. will notify the customer of all price changes.

Unless otherwise agreed in writing and stated in the order, payment shall be made immediately upon delivery. Default interest will be charged on late payment at the rate of 1.2% per month from the due date until payment is made.

FurnMaster Sp. z.o.o. may postpone all deliveries of orders or cancel orders in writing without incurring any liability for the action if the customer has unpaid overdue invoices for previously delivered orders or if the maximum credit limit is exceeded. Full compensation for all consequent losses suffered by FurnMaster Sp. z.o.o. shall be paid by the customer.

6. Notice of defects and remedies

The customer shall arrange a thorough inspection of the products immediately after delivery and before use. In particular, the customer shall check the quantity received and the quality of the products.

The customer is obliged not to accept a shipment if there are any signs of transport damage. In the event of transport damage, the customer shall document this by photos and write a clear note in English of the damage on the CMR international waybill.

All notices of defects shall be made in writing and sent to FurnMaster Sp. z.o.o.. The notice shall be sent as soon as the customer becomes aware, or ought to have become aware, of the defect, and in any event not later than fourteen (14) days after delivery, or, in the event of delay, actual delivery of the products. In the event of nonvisible defects, the notice shall be submitted not later than fourteen (14) days from the time at which the defect could have been discovered on a thorough inspection, but not later than three (3) months from the delivery date.

If a part of the order is delayed or not delivered, or if a part of the order is defective, only this part of the order can be cancelled/terminated. All notices of defect shall be specific, documented and contain an accurate description.

Defective products cannot be returned without FurnMaster Sp. z.o.o.'s prior consent in writing. Conforming products cannot be returned.

FurnMaster Sp. z.o.o. shall be entitled, at its option, to remedy the defect, deliver replacement goods, or grant the customer a proportionate reduction in the agreed purchase price. The customer shall not be entitled to cancel the purchase if FurnMaster Sp. z.o.o. exercises one of the above remedies within a reasonable time of having had the opportunity to assess and qualify the notice of defect.

7. Force majeure

FurnMaster Sp. z.o.o. shall not be liable if the following force majeure events prevent or delay performance of the agreement (the list is non-exhaustive): war and mobilisation; rebellion and civil disobedience; terrorism; natural disasters; strike and lockout; shortage of goods; defective or delayed deliveries from sub-suppliers or if sub-suppliers are otherwise affected by circumstances; fire; lack of transportation; currency restrictions; import and export restrictions; death, illness or absence of key employees; computer virus or other circumstances beyond FurnMaster Sp. z.o.o.'s direct control. In these events, the affected party, FurnMaster Sp. z.o.o., shall be entitled to postpone the performance of its obligation until the obstacle has ceased to exist, or alternatively to cancel the agreement in full or in part without incurring liability if the obstacle results in postponement of performance for more than six (6) months.

8. Limitation of liability including product liability and the customer's liability

To the extent permitted under relevant legislation and notwithstanding the basis on which the claim may rest, including defects, delays and product liability, FurnMaster Sp. z.o.o. shall not have any product liability or liability for other direct or indirect disruption of the customer's business, indirect loss, loss of profit or any other form of loss. Under all circumstances, FurnMaster Sp. z.o.o.'s maximum liability shall equal return to the customer of the amount paid for the delayed or defective part of the order. FurnMaster Sp. z.o.o. shall also not assume liability for damage or loss arising from the customer's incorrect application, unusual or rough use or wear of the products. Claims against FurnMaster Sp. z.o.o. under mandatory product liability cannot exceed EUR 67,500 per incident or series of incidents arising from the same delivery. In the event of third party raising a claim against FurnMaster Sp. z.o.o. in excess of the specified maximum amount, the customer shall be liable for the difference and reimburse it to FurnMaster Sp. z.o.o..

To the extent to which the customer prescribes or provides specifications, including but not limited to the construction, directions or similar according to which FurnMaster Sp. z.o.o. must work, purchase, produce or similar, the customer shall be liable in every respect for any defects, errors or inappropriate aspects of any such prescriptions or specifications. The same shall apply to the extent to which the customer supplies or prescribes raw material, components or products which FurnMaster Sp. z.o.o. must purchase (for example from other manufacturers), supply services for or otherwise process, treat or use in connection with FurnMaster Sp. z.o.o.'s services for the customer.

The customer is responsible for ensuring that the design/construction of the furniture is appropriate for the intended use. Any advice from FurnMaster should be considered only as guidance, and FurnMaster can under no circumstances be held liable for any claims relating to the design/construction of the furniture. It is the sole responsibility of the customer to examine and ensure that the products manufactured by FurnMaster are compliant with all local laws, regulations and practices in the country of actual or intended sale.

FurnMaster Sp. z.o.o. shall not be deemed to be liable for delays or defects in the event that the customer has not advised FurnMaster Sp. z.o.o. in detail on the intended application and all circumstances, including the environment, variations of temperature, washing/cleaning methods, installation methods, frequency of use, other products, components etc. which are to be used on, in or in combination with a service or product delivered by FurnMaster Sp. z.o.o..

If, for a project or an order process, a reference sample for approval has been made and the sample has been approved by the customer, the reference sample shall be deemed to be the standard in relation to assessment of e.g. defects.

9. Venue and governing law

Agreements and orders between FurnMaster Sp. z.o.o. and the customer shall be subject to and construed under Danish law irrespective of the current international private law rules to the extent to which the latter rules would result in governing law other than Danish law. The Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

Any disputes which may arise from or in connection with the contract, including any dispute concerning its existence, validity or termination, shall be decided by a Danish court in the jurisdiction in which Gabriel A/S has its head office. FurnMaster Sp. z.o.o. may, however, demand at any time that arbitration proceedings be conducted on the dispute before Danish Arbitration in accordance with the rules of Danish Arbitration in force when the arbitration case is brought. The arbitration tribunal shall sit in the home country of Gabriel A/S's head office, and the language of the arbitration proceedings shall be Danish. The arbitration proceedings and award shall be confidential indefinitely. It has been agreed that the award concerning a legal matter can in no way be appealed to a court of law.

In the event that it becomes necessary for FurnMaster Sp. z.o.o. to collect debts, FurnMaster Sp. z.o.o. may choose at any time to recover the debt through the customer's home court pursuant to the statutes of the country in question.