

# Standard sales and delivery terms – Gabriel North America Inc.

## FurnMaster and Screen Solutions Services

Valid from June 19<sup>th</sup>, 2017

The sales and delivery terms for FurnMaster and Screen Solutions Services in Gabriel North America Inc. (company ID: 06253M, address: 560 Fifth St NW, Suite 210, Grand Rapids, MI 49504, United States), hereinafter "The Supplier" 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 "The Supplier". In the event of unforeseen problems or if an unsatisfactory credit rating of the customer is received after order confirmation, "The Supplier" 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 "The Supplier" on the products' applicability shall be deemed to be for guidance only. "The Supplier" 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 "The Supplier" of special requirements and standards and of any existing statutory requirements in relation to the use of "The Supplier'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 "The Supplier" 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 "The Supplier" 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 "The Supplier's" current and relevant warehouses in accordance with ICC Incoterms 2010.

In the event of delays, "The Supplier" 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

"The Supplier" 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.

### 5. Prices and payment

The customer shall pay to "The Supplier" direct and indirect consequential costs, carriage and production incurred by "The Supplier" 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 "The Supplier's" offer, or in the absence of such indication, they shall be refunded on the basis of documented expenses.

Prices specified from "The Supplier" are exclusive of sales tax, 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. "The Supplier" will notify the customer of all price changes.

Unless otherwise agreed in writing and stated in the order confirmation, 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.

"The Supplier" 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 "The Supplier" 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.

If "The Supplier" has arranged transport, 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 "The Supplier". 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 non-visible 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 canceled/terminated. All notices of defect shall be specific, documented and contain an accurate description.

Defective products cannot be returned without "The Supplier's" prior consent in writing. Conforming products cannot be returned.

"The Supplier" 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 "The Supplier" 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

"The Supplier" shall not be liable if the following force majeure events prevent or delay performance of the agreement (the list is non-exhaustive): war and mobilization; 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 "The Supplier's" direct control. In these events, the affected party, "The Supplier", 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, "The Supplier" 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, "The Supplier's" maximum liability shall equal return to the customer of the amount paid for the delayed or defective part of the order. "The Supplier" 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 "The Supplier" under mandatory product liability cannot exceed USD 75,000 per incident or series of incidents arising from the same delivery. In the event of third party raising a claim against "The Supplier" in excess of the specified maximum amount, the customer shall be liable for the difference and reimburse it to "The Supplier".

To the extent to which the customer prescribes or provides specifications, including but not limited to the construction, directions or similar according to which "The Supplier" 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 "The Supplier" must purchase (for example from other manufacturers), supply services for or otherwise process, treat or use in connection with "The Supplier'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.

"The Supplier" shall not be deemed to be liable for delays or defects in the event that the customer has not advised "The Supplier" 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 "The Supplier".

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 "The Supplier" and the customer shall be subject to and construed under Michigan law irrespective of the current international private law rules to the extent to which the latter rules would result in governing law other than Michigan 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 Michigan court in the jurisdiction in which Gabriel North America Inc. has its head office. "The Supplier" may, however, demand at any time that arbitration proceedings be conducted on the dispute before Michigan Arbitration in accordance with the rules of Michigan Arbitration in force when the arbitration case is brought. The arbitration tribunal shall sit in the home country of Gabriel North America Inc.'s head office, and the language of the arbitration proceedings shall be Michigan. 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 "The Supplier" to collect debts, "The Supplier" may choose at any time to recover the debt through the customer's home court pursuant to the statutes of the country in question.