



## TERMS AND CONDITIONS

Enclosure Guy is the standard setting innovator in our industry. The quality, craftsmanship and customer service is without equal, steeped in a family tradition.

Both of my immigrant Grandfathers worked the textile industry in the early 1900's, my older brothers each have degrees in textile design and technology, while I was educated in wooden yacht design and construction, which brought us to the sail making trade and subsequently, to what you're enjoying the benefits of today.

In a day and age of automation, outsourcing and impersonal interactions, we have developed a system that continues to provide excellence.

When you call you're going to speak to an owner of the company, a family member or an authorized distributor held to our high standards and your requests will be taken care of with the greatest respect and sincerity.

We have built our business over these past decades by building relationships first, and then listening to and developing what our clients deserve and expect, *quality and value!*

### 1. **Acceptance of Order**

All buyers' orders must either be written on Buyer's Purchase Order or Enclosure Guy's order form and signed for by buyer. Enclosure Guy is not bound by any terms listed on a purchase order or the buyer's order form, which are in variance with Enclosure Guy's Terms and Conditions of Sale. Upon placement of the order, buyer is considered to have accepted Enclosure Guy's Terms and Conditions. No order, quotation or acknowledgements and no provisions of Enclosure Guy's Terms and Conditions of Sale are subject to change in any respect, except as may be expressly agreed to in writing by an authorized representative of Enclosure Guy. Failure of Enclosure Guy to object to provisions contained in any Purchase Order or other communications from buyer, (including without limitations penalty clauses or labor charges) shall not be construed as a waiver of these Terms and Conditions of Sale, or an acceptance of any such provisions. The Terms and Conditions herein constitute the entire agreement between Enclosure Guy and Buyer. No other representations or warranties shall be binding against Enclosure Guy. In no event shall Enclosure Guy be responsible or liable for any special indirect or consequential damages arising out of this agreement with buyer. The acceptance date of the Verified Sales Order (VSO) shall be the date Enclosure Guy **emails** the confirmation of the acceptance of the (VSA) to customer.

Enclosure Guy shall accept the order evidenced by a Verified Sales Order (VSO), which shall be sent to customer. Orders may be cancelled with notice to Enclosure Guy in writing within the three business days of the acceptance date of the VSO with a full refund of the deposit, except for special order materials or hardware, in which a 20% restocking fee will be charged on the gross sales price. After

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three business days of the acceptance date of the VSO, customer shall lose the deposit and may, on special order materials or hardware, be required to pay a 20% restocking fee. After three business days of the acceptance date of the VSO, customer may be required to pay for specific engineering, drafting, samples, models, mock-ups and postage, if any. After three business days of the acceptance date of the VSO, customer may be required to pay a 10% administrative fee on the gross sales price.

If the order is cancelled within the three business days of the acceptance date of the SOA, the deposit, minus any fees that may apply, shall be returned within 30 days of the cancellation.

## 2. Engineering

Enclosure Guy does not guarantee a wind-speed rating for the product unless the customer specifically requests an analysis and engineering for the particular application, which must be evidenced by a specific line item in the order with the appropriate cost identified. **If customer believes such analysis and engineering is deemed appropriate due to special conditions, including permitting, environmental and high wind velocity for the area of installation, customer is required to make such a request no later than three business days from the acceptance date of the VSO.**

## 3. Permitting

A permit from the local city, county or state government may be required for the installation of the product. Securing such permit is the responsibility of the customer and not Enclosure Guy.

If Enclosure Guy will be installing the product, customer must provide Enclosure Guy with the authorized permit or permits at least one week prior to the date of installation. Customer agrees to indemnify Enclosure Guy for all costs, fines, interest and attorney's fees if the customer does not secure the appropriate permit(s) and Enclosure Guy is cited by any local or state agency for violation of any building code.

## 4. Prices

Prices will include, where applicable, state taxes. Prices and specifications are subject to change without notice. Written quotations expire 30 days from date of the quotation, unless otherwise specified. In the event that the buyer wants to postpone the delivery date of a previously accepted order, Enclosure Guy, on its sole discretion, reserves the right to approve such postponement. If Enclosure Guy agrees in writing to a postponed delivery date then the price that will apply to this order shall be the price in effect on the postponed shipping date.

## 5. Terms of Payment

Terms of payment are as specified on Enclosure Guy's invoice, regardless of terms indicated in purchase order or buyer's order form or other documents. Any outstanding balances on the due dates shall be subject to a service charge of 1.5% per month (18% per annum) or the maximum amount allowed by applicable law. Accounts with outstanding balances may be placed on credit hold until the account is brought to date. Accounts past due 60 days may be placed for collection and all charges in the collection process, including attorney's fees will be invoiced to the buyer. Furthermore, the account will be reclassified to 100% prepayment status, work in progress will be placed on hold and the warranty will no longer be honored. Payment on time and in accordance with terms stated herein is of the essence, and

whenever buyer is in default, or in the event of substantial changes in the financial situation of buyer's company, including but not limited to bankruptcy, change of ownership, and change in credit rating, Enclosure Guy reserves the right to cancel the Purchase Order without liability for damages to the buyer, or defer or discontinue shipments until past due payments are made and assurances furnished to Enclosure Guy's satisfaction of the buyer to pay for such shipments. If an order involves partial shipments, failure to pay for a partial shipment entitles Enclosure Guy to hold subsequent deliveries until payment of past due shipments is made.

#### 6. **Delivery**

All shipments are F.O.B. seller's facility, unless otherwise specified by Enclosure Guy. Enclosure Guy shall specify point of shipment on the VSO, and Enclosure Guy shall select routing method of transportation if not specified on customer's purchase order. Claims for lost or damaged shipments shall be reported immediately to the carrier, and annotations reflecting such loss or damage shall be placed on all delivery receipts signed by buyer. The buyer is further required to inspect the merchandise upon delivery and in the event defects or damages should be noticed after delivery, the carrier should be immediately contacted by telephone and, if carrier fails to send an inspector within 5 days, a request should be made in writing to the carrier, confirming the telephone request for inspection. Should the Buyer, in the first instance, fail to file a limit, any potential claim for defect(s) against Enclosure Guy shall be waived.

#### 7. **Shipping Delays**

Unless otherwise specified by Enclosure Guy, shipping dates provided by Enclosure Guy at the request of buyer are approximate. Deviation from estimated shipping schedules shall not entitle buyer to penalties or damages, nor shall it be an acceptable ground for cancellation of the order. Enclosure Guy shall not be responsible for any losses or damages to buyer (or third party) occasioned by the non-performance of any of Enclosure Guy obligations under the contract when due to any cause beyond Enclosure Guy's reasonable control, including without limitation, an act of God, act or omission of the buyer, embargo or other governmental act or authority regulations or request, fire, theft, accidents, strikes, slow-down, war, riot, delays in transportation, inability to obtain necessary labor, material or manufacturing facilities.

#### 8. **Returns**

No returns will be accepted without prior written authorization by Enclosure Guy. A Return Merchandise Authorization (RMA) Number issued by Enclosure Guy must accompany all returns, and all unauthorized returns will be refused. The return shipment is to be freight prepaid by the buyer, and under no circumstances shall the buyer deduct the value of the returned merchandise from any remittance due. A RMA number must be obtained prior to returning any product. All returns are subject to manufacturer approval upon receipt and inspection and require that returning party pay freight. A restocking fee of 20% of Enclosure Guy's sale price will be charged for special orders.

#### 9. **Fit Assurance**

Enclosure Guy guarantees every project's fit by including a FREE Design Consult with our design/engineer and founder, Clint R. Oliveira. With more than thirty years of experience, he will walk you

and/or your contractor through the measuring process via phone & photo. You will be required to take and submit photos of the area where the product is to be installed. For projects that are very complex, Enclosure Guy does offer an on-site field survey starting \$250.00 (local) and up to \$2,500.00 (nationwide) when a customer and/or representative cannot or will not provide the necessary information required to design and/or build the project. Enclosure Guy will additionally, at no cost, provide a verbal installation tutorial to a local installer during such on-site survey/verifications if the end-user elects not to employ Enclosure Guy for the installation. If any curtain or screen does not fit, Enclosure Guy will re-work and/or replace the product free of charge. Customer will be required to pay for shipping, costs of removal and cost of re-installation, if any.

Horizontal (track and trolley) sliding curtains will appear (at initial installation) dramatically oversized. Our designer has added the lateral shrinkage into the main body of the curtain. ALL curtains will shrink from their designed nominal dimensions. Drop or roll-down curtains DO NOT include filler (expansion) flaps to accommodate for lateral shrinkage and **can be purchased separately**. These custom proprietary filler (expansion) flaps can be inserted anywhere into the system once the curtains have become taut to avoid damaging the zipper, closures, slider, starters and stitching, which is NOT warranted.

**10. Title**

Risk of loss on all products shall pass to the buyer at the F.O.B. point of shipment. However, Enclosure Guy shall retain a security interest in the products until fully paid and the buyer agrees to perform all acts necessary to perfect and assure the security in such equipment by Enclosure Guy. In the event that Enclosure Guy wishes to file a security interest in the product, pursuant to the Uniform Commercial Code, the buyer authorizes Enclosure Guy to file such financing statement without the buyer signature.

**11. Default**

In the event of buyer's default in payment for the products purchased hereunder upon the terms and conditions agreed upon with Enclosure Guy, buyer shall be responsible for all reasonable costs, expenses and attorney's fees incurred by Enclosure Guy in collecting any sums owed by buyer, and Enclosure Guy shall not be obligated to make any further deliveries to buyer.

**12. Applicable Law**

Enclosure Guy's Terms and Conditions of Sale stated herein shall be governed by and construed in accordance with the laws of the State of Texas. Buyer submits to the exclusive jurisdiction of the Courts of Texas with respect to any dispute regarding the terms and conditions stated herein. Buyer further agrees to venue in Gonzales County.

**13. Substitutes**

Enclosure Guy may furnish substitutes for materials not obtainable because of priorities or regulations established by governmental authorities or because of non-availability of materials from suppliers, providing such substitutes will not affect the technical soundness of the product or performance.

**14. Errors**

Typographical or clerical errors in quotations, orders or acknowledgements are subject to corrections.

**15. Dimensions**

The dimensions and measurements in our printed documents are approximate at the date of publication and may be superseded thereafter. Buyer should consult Enclosure Guy before utilizing such information. Buyer accepts the full responsibility to verify ALL dimensions on the VSO prior to acceptance.

**16. Waiver**

The failure of Enclosure Guy to seek insistence upon the strict performance of any covenant or condition in these Terms and Conditions of Sale shall not prevent, or constitute a waiver by Enclosure Guy from seeking compliance with respect to other terms and conditions contained in these Terms and Conditions of Sale.

Enclosure Guy's Terms and Conditions of Sale apply to all prices. The prices on price sheets or furnished in Enclosure Guy's quotations are for Enclosure Guy's components and do not include the cost of installation, travel expenses, per diems, rental equipment (if any), or any other project specific expense unless otherwise line-itemed and indicated on the VSO.

**17. Severability**

Invalidity or unenforceability of one or more provisions stated herein shall not affect the validity and enforceability of any other provision of Enclosure Guy's Terms and Conditions.

**18. Additional Terms**

It is crucial to verify all measurements furnished to Enclosure Guy, from which your custom product is manufactured. Please be aware that once your custom order is placed via purchase order or signed order form, the order cannot be cancelled except in writing no later than the third business day from date of VSO.

**19. Additional Terms for Curtains**

Enclosure Guy produces all Deck (ceiling to floor) Style curtain heights approximately 2.5" greater than mount height ordered to compensate for shrinkage and Sure-Seal bottom Sweeper and produces all Café (knee wall openings) Style curtains approximately 9" greater than mount height to opening to compensate for shrinkage and over-lap. Filler (expansion) Flaps are manufactured to compensate for horizontal and/or lateral shrinkage beyond "acceptable" design parameters and are NOT intended for initial installation.