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## Terms and Conditions

These trading terms and conditions ("Terms and Conditions") apply to the supply of Goods and /or services by GP Glass to a customer. Any supply of goods or services by GP Glass to the customer or their representative made after the date of acceptance of these terms and conditions shall be bound the conditions below and does not give rise to a new or separate agreement.

### 1.0 DEFINITIONS

**1.1 "Agreement"** means the agreement formed by the acceptance of these Terms and Conditions by Customer, together with the relevant Quotation and / or Order Form. These Terms and Conditions will override any conditions contained in the Customer's order. An Order Form that has been accepted by GP Glass cannot be cancelled by the Customer without obtaining the prior written approval of GP Glass, which it may refuse in its absolute discretion.

**1.2 "Customer" or "You"** means the customer on the Quotation or Order Form.

**1.3 "Goods and Services"** means the goods and services supplied by GP Glass to the Customer.

**1.4 "Order Form"** means the order form or email issued by the Customer to GP Glass stipulating the Goods and Services to be provided in accordance with any Quotation and issued within the valid time frame of such Quotation.

**1.5 "Quotation"** means any quotation issued by GP Glass to the Customer for the supply of Goods and Services.

**1.6 "Terms and Conditions"** means these terms and conditions for supply by GP Glass.

**1.7 "GP Glass" or "We" or "Us"** means GP Glass Pty Ltd ABN 61 109 401 863.

### 2.0 SCOPE

These Terms and Conditions form the basis upon which GP Glass agrees to supply Goods and Services.

### 3.0 ACCEPTANCE

**3.1** Any stipulations, terms or conditions contained in the Order Form that conflict with any of these Terms and Conditions will be inapplicable to any order placed with GP Glass.

**3.2** Any person who accepts the Quotation warrants that for all purposes he/she is the duly authorised agent of the Customer and if such person is not the duly authorised agent of the Customer then in consideration of GP Glass performing its obligation under these Terms and Conditions, such person is deemed to be the Customer and will be bound by these Terms and Conditions.

### 4.0 QUOTATIONS

**4.1** A Quotation will be open for acceptance by a Customer for a period of 30 days from the date of Quotation unless such Quotation is withdrawn by notice in writing.

**4.2** Prices will be fixed for 60 days from date of acceptance of Quotation by the Customer. Thereafter, prices are subject to review by GP Glass and may rise or fall unless otherwise represented by GP Glass.

**4.3** Goods & Services Tax ("GST") and any other State or Federal Tax, cartage, scaffolding and/or hoisting facilities and electrical power are not included in the Quotation unless specifically mentioned. The Customer will pay to GP Glass an amount equivalent to the GST payable or paid by GP Glass for the Goods and Services. The amount payable by the Customer in respect of the GST will be included in a tax invoice to the Customer from GP Glass.

**4.4** Provision and cost of scaffolding and/or hoisting facilities, if required, is the responsibility of the Customer and Customer must ensure such work conforms with any statutory requirements in force at that time and is suitable for GP Glass' needs unless otherwise represented by GP Glass.

Prices quoted are subject to the Customer taking delivery of the whole amount stated in the Quotation.

**4.5** GP Glass can provide special lifting devices at an additional cost, all subject to access and site conditions. GP Glass have a Duty of Care to provide a safe work environment and may refuse to delivery or install goods if we determine the site is unsafe.

**4.6** Where additional costs are incurred by GP Glass from the imposition of a special site allowance, or allowances applying to a project of which GP Glass was not advised in writing before the date of Quotation or where special site allowance or allowances apply to a project are not allowed for, such additional costs relating to new or additional site allowances must be paid by the Customer to GP Glass as amounts payable in addition to the sum stated in the Agreement.

## **5.0 ORDERS**

**5.1** The Customer must check all details of the Goods and Services in the Quotation and/or Order Form in relation to quantities, description, sizes, dimensions, colour, glass and accessories. Unless otherwise represented by GP Glass, GP Glass will be responsible for the accuracy of measurements only where GP Glass has agreed to do so at the Customer's request.

**5.2** Unless GP Glass agrees otherwise, orders must be signed by the Customer or its duly authorised agent, stating full details in writing and must be delivered to GP Glass at the time of acceptance of the Quotation.

**5.3** All variations to an order must be in writing and include agreed value to be added to or deducted from the original order value. In the event of a Customer making any variation to an order after production has commenced, the Customer must pay for all work carried out in relation to such alteration. In the event of the Customer's cancellation of an order the Customer is liable to pay for work done pursuant to the order up to the date of such cancellation and to pay GP Glass compensation for losses incurred by GP Glass as a result of such cancellation.

**5.4** Time will not be deemed to be the essence of any order, unless expressly agreed between GP Glass and the Customer.

## **6.0 DELIVERY**

**6.1** Should delivery or installation of materials by GP Glass be interrupted or delayed by the failure of the Customer to adhere to the building schedule agreed to between the Customer and GP Glass, GP Glass will be entitled to add to the sum stated in the Agreement the amount of such additional costs including any reasonable storage, handling or demurrage costs which may have been incurred in consequence of GP Glass procuring materials and/or proceeding with manufacture and/or delivery to site in conformity with such schedule.

**6.2** Risk in the Goods shall pass to the Customer on delivery to the site nominated by the Customer, provided delivery is between 7.30 a.m. and 4.00 p.m. Monday to Friday or such other time as the Customer and GP Glass agree. If at the time of such delivery the Customer is absent from the site, delivery shall be deemed to have been made at the place and time and the date certified by the carrier of the Goods.

**6.3** Any times or dates quoted for delivery and installation are estimated as accurately as possible, but in the absence of any specific representations, are not guaranteed nor is any such estimate of essence to or a condition of the Agreement and is subject to extension time to cover delay caused by lockouts, breakdowns, delays in transport, strikes, fire, non-delivery of raw materials and/or other items required for completion of the order or any cause beyond GP Glass control. GP Glass will not be responsibility for loss, damage or delay from any of the above causes outside GP Glass' reasonable control and in such cases the Customer is not entitled to any compensation of any nature. The Customer is not relieved from any obligation to accept or pay for Goods by reason of any delay in delivery or despatch.

**6.4** Protection and insurance of the Goods delivered will not be the responsibility of GP Glass from the time of delivery.

**6.5** GP Glass and the Customer agree that delivery of the Goods will be affected during normal working hours for the building industry to the site nominated on the Order Form.

## **7.0 RETENTION OF TITLE**

**7.1** Notwithstanding that risk in the Goods may pass to the Customer, property in and title to the Goods will not pass to the Customer until those Goods and all other amounts owed to GP Glass by the Customer (regardless of any credit period) have been paid for in full and until then:

**7.1.1** the Customer will hold the Goods as bailee for GP Glass;

**7.1.2** the Goods must be stored separately and in a manner enabling them to be identified and cross-referenced to particular invoices and the Customer acknowledges that if it should mix the Goods with other

products or items such that the Goods are no longer separately identifiable then the Customer and GP Glass will be owners in common of the new product;

**7.1.3** the Customer may sell the Goods in the ordinary course of its business as agent for GP Glass and will hold the proceeds of sales in a separate account on trust for GP Glass and account to GP Glass for those proceeds; and

**7.1.4** GP Glass may require the Customer to return the Goods to it on demand and may enter upon the premises of the Customer or controlled by the Customer to inspect or repossess the relevant Goods.

**7.2** In the event that the Customer uses the Goods in some manufacturing or construction of its own or some third party, then the Customer must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Goods in trust for GP Glass. Such part will be an amount in dollar terms to the amount owing by the Customer to GP Glass at the time of the receipt of such proceeds. The Customer will pay GP Glass such funds held in trust upon demand by GP Glass.

## **8. SPECIFICATIONS**

**8.1** GP Glass' standard range of windows, louvres and doors are produced in accordance with standard industry specifications and are suitable for installing in Terrain Category 3 (fully sheltered) as defined in Australian Building Standard AS4055. The Customer is responsible for advising GP Glass in writing if Goods are required to comply with the specifications and ratings of other Terrain Categories or any other relevant building code, or any other applicable Australian Standard.

**8.2** The Customer must inform GP Glass on the Order Form as to any specific purpose for which the Goods are to be used.

## **9. WARRANTY**

**9.1** The following statement only applies to a consumer sale of goods or services as defined in the Australian Consumer Law:

**9.1.1** Our Goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure.

**9.2** GP Glass warrants that all Goods supplied (with the exception of consumables such as fly mesh and beading) will be free from defects arising from faulty workmanship or materials for a period of seven (7) years (one (1) year for Goods considered by GP Glass as moving parts, including but not limited to hardware) from date of delivery and warrants that services will be rendered with due care and skill. These warranties are subject to the following conditions being complied with by the Customer:

**9.2.1** The Goods are installed (where Goods are not installed by GP Glass) and maintained in accordance with the manufacturer's recommendations (refer to GP Glass' Installation Guide and Care and Maintenance Guide, available at [www.gpglass.com.au](http://www.gpglass.com.au) or from the GP Glass offices) and has not been subject to misuse, abuse or neglect;

**9.2.2** Timber Goods are sealed (within one (1) month of delivery) with two coats of paint, varnish or sealer to both faces and edges including top and bottom. Exterior quality finishes in light reflective colours (NOT dark colours) must be applied to all Goods exposed to direct sunlight or the elements;

**9.2.3** All solid construction timber doors are hung with three (3) 100mm hinges;

**9.2.4** A warp in a door will not be considered a defect unless it exceeds 4mm for doors up to 2,150mm high, 6mm for door heights between 2,150mm and 2,400mm and 7mm for door heights above 2,400mm;

**9.2.5** Aluminium product surfaces that have been treated with a powder coat finish provide a much higher resistance to scratching or scuffing and protect against normal weather conditions. However GP Glass does not warrant against fading or colour change due to normal weather conditions that will cause any coloured surface to fade or darken gradually.

**9.3** Notwithstanding clause 9(a), the liability of GP Glass in respect of a breach of a consumer guarantee or any warranty made under these Terms and Conditions for any Goods not of a kind ordinarily acquired for personal, domestic or household use is limited, to the extent permitted by law and at the option of GP Glass to:

**9.3.1** in the case of supply of Goods;

**9.3.1.a** replacing the Goods or the supply of equivalent Goods;

**9.3.1.b** the repair of the Goods;

**9.3.1.c** the payment of the cost of replacing the Goods or of acquiring equivalent Goods; or

**9.3.1.d** the payment of the cost of having the Goods repaired.

**9.3.2** in the case of supply of Services;

**9.3.2.a** the supplying of the Services again; or  
**9.3.2.b** the payment of the cost of having the Services supplied again.  
**9.4** To the extent permitted by law, all other warranties whether implied or otherwise, not set out in these Terms and Conditions are excluded and GP Glass is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate the Customer for:

**9.4.1** any increased costs or expenses;

**9.4.2** any loss of profit, revenue, business, contracts or anticipated savings;

**9.4.3** any loss or expense resulting from a claim by a third party; or

**9.4.4** any special, indirect or consequential loss or damage of any nature whatsoever caused by GP Glass' failure to complete or delay in completing the order to deliver the Goods.

**9.5** To claim the warranty provided under this clause, the Customer must, within 7 days of identifying the defect in the Goods, provide written notice of the defect to GP Glass. Further details of the procedure for making a warranty claim are available on the GP Glass website [www.gpglass.com.au](http://www.gpglass.com.au).

**9.6** Where GP Glass determines that the Customer is entitled to the warranty under this clause and the Goods have not been affixed to property to the extent that GP Glass cannot easily remove the Goods from the property, GP Glass agrees to bear the cost of claiming the warranty.

**9.7** The benefits provided to the Customer by the warranty are in addition to other rights and remedies available to the Customer under law.

## **10. INDEMNITY**

The Customer will indemnify and keep indemnified GP Glass and its successors and assigns from and against any liability and any loss or damage GP Glass may sustain, as a result of any breach, act or omission, arising directly or indirectly from or in connection with any breach of any of these Terms and Conditions by the Customer or its representatives.

## **11. DISPUTES AND JURISDICTION**

**11.1** The proper law of all contracts arising between GP Glass and the Customer is dependent upon the State or Territory of Australia in which the Goods are supplied and the law to be applied is the law of that State or Territory and the parties agree to submit to the jurisdiction of the Courts of that State or Territory.

**11.2** All claims by the Customer in respect of the Goods or Services must be in writing.

## **12. CREDIT CONDITIONS**

**12.1** Customer with approved 30 day credit accounts must make payment in full for all Goods and Services no later than the last business day in the month, following delivery of Goods or provision of Services (i.e. net 30 days).

**12.2** Customer with approved 7 day credit accounts must make payment in full for all Goods and Services no later than 7 calendar days from the date stated on the invoice.

**12.3** Unless otherwise agreed in writing, a Customer who has not been granted an approved credit account must pay a deposit equal to 50% of the net order value upon placement of the order and the balance prior to the agreed delivery date or commencement of installation. Goods will be invoiced on delivery.

**12.4** Fly screens and/or fly wire doors may, at the request of the Customer, be held in storage free of charge for a period not exceeding 90 days and if Goods are held in storage, delivery will be deemed to have been effected on the issue of the invoice. Such storage will not affect the operation of clause 12.6.

**12.5** In the event that the Customer purports to terminate and/or repudiate or cancel the Agreement, or if GP Glass terminates the Agreement pursuant to these Terms and Conditions, then, without prejudice to GP Glass' other rights and remedies, GP Glass may recover from the Customer all costs and expenses incurred by GP Glass in its performance of the Agreement, and all loss and damages arising from or related to the termination or repudiation. GP Glass may, without prejudice to any other rights it may have, refuse to supply or deliver further Goods to the Customer detailed in the Quotation or otherwise until such time as the Customer has remedied the default.

**12.6** Should payment remain outstanding beyond GP Glass' payment terms as outlined in subclause 12.1 as the case may be, the Customer agrees to pay interest on all amounts outstanding from the due date until the date of payment at 2% per month.

**12.7** Should payment remain outstanding beyond GP Glass' payment terms as outlined in subclause 12.2 or 12.3 as the case may be, the Customer agrees to pay interest on all amounts outstanding from the due date until the date of payment at 0.06% per day.

**12.8** If in the opinion of GP Glass the credit worthiness or credit standing of the Customer alters from that indicated by the Customer in any application for credit executed by the Customer, GP Glass has the right to immediately stop supply to the Customer without being obligated to give the Customer any reason whatsoever and has the right to demand payment in full for any outstanding account within seven (7) days.

**12.9** Should GP Glass exercise its right pursuant to subclause 12.8 above GP Glass may refuse to deliver further supplies to the Customer unless such supplies are paid by the Customer in cash before delivery.

**12.10** A statement in writing made up from the books of GP Glass and signed by any manager or accountant of GP Glass as to monies owing in respect of the account of the Customer at the date mentioned shall be prima facie evidence that such money is so owing.

**12.11** Should payment remain outstanding beyond GP Glass' payment terms the Customer is liable for all costs including legal costs (on a Solicitor/Own Client basis) and mercantile agents' fees incurred by GP Glass in recovering the amount outstanding, including a minimum, but not limited to 20% charge for mercantile agency.

**12.12** If the Customer carries on business under a business name the Customer must notify GP Glass in writing of any change of ownership of the business name within seven days of the change and will indemnify GP Glass against any loss or damage suffered by GP Glass as a result of the Customer's failure to notify GP Glass of such change.

### **13. PAYMENTS**

**13.1** Customers may pay tax invoices issued by GP Glass by cash, direct deposit, bank cheque, personal cheque, money order, MasterCard or Visa.

**13.2** A service fee of 1.5% applies to all MasterCard and Visa transactions. GP Glass also reserves the right to pass on any additional fees charged by the credit card companies in relation to the Customer's transaction.

**13.3** All payments should be accompanied by an advice of the invoice/s being paid.

**13.4** Customers may not set off against any payment due any amount(s) the Customer claims for return of Goods, short deliveries, incorrect or defective Goods

### **14. LIEN AND CHARGE**

**14.1** The Customer hereby acknowledges and agrees that GP Glass has a lien over all Goods in its possession belonging to the Customer to secure payment of any or all amounts outstanding from time to time.

**14.2** The Customer hereby charges all real estate owned by the Customer at any time in respect of any monies that may hereinafter be owing to GP Glass under these Terms and Conditions by the Customer or otherwise and hereby authorises GP Glass or GP Glass' solicitors to execute any consent form as its attorney for the purpose of registering a caveat over the title to any real estate owned by the Customer at any time.

### **15. INTELLECTUAL PROPERTY**

**15.1** Where Goods are manufactured to the Customer's specification, the Customer will indemnify and keep indemnified GP Glass against any liability to or action by a third party for infringement or alleged infringement of a patent, registered design, trademark or copyright arising from GP Glass complying with the Customer's specification.

**15.2** No right or licence is hereby granted to the Customer to use any patent, copyright, registered design, trademark or other industrial property right of GP Glass or otherwise.

### **16. PRODUCTION VARIATION**

GP Glass reserves the right to supply Goods of more recent or modern design if the cost of same is no higher and its performance equals or exceeds that of the Goods originally specified.

### **17. TRANSFER**

Obligations and rights under these Terms and Conditions cannot be assigned or transferred to any third party without GP Glass' written consent.

### **18. WAIVER OF CONDITIONS**

Failure by GP Glass to insist upon performance of any term, warranty or condition of these Terms and Conditions will not be deemed a waiver thereof or of any rights GP Glass may have and no express waiver shall be deemed a waiver of any subsequent breach of any term, warranty or condition.