



## TERMS AND CONDITIONS FOR SUPPLY BY GEM WINDOWS & DOORS (AMIR PTY LIMITED ABN 99 093 942 833)

### 1. PLACING ORDERS

- a. All orders for goods and/or services required from GEM Windows & Doors must be in writing. It is solely the Customer's obligation to ensure that all goods and services set out in the quotation and/or invoice conform with any specifications and requirements issued for the structure in which the goods are to be installed prior to placing an order.
- b. All variations to the order must be made in writing and must be submitted prior to placement of order.
- c. Once the invoice has been signed and or/ confirmed in writing and required payment made, the order is deemed as placed.
- d. **GEM Windows and Doors will not accept alternations, cancellations or refunds once the order has been placed.**
- e. Once the order is signed and/or confirmed as correct and paid for, it is deemed as placed in production at which point no changes or cancellations are allowed. Same day order cancellation will attract a \$50+GST administration fee off the total invoice or a maximum of \$150.00 + GST for processing and cancellation charges on quotes over \$5000.
- f. For stock order cancellations, fly screens and reveals are non-refundable if cancelled after placement.
- g. The Customer may not cancel any order, whether in full or in part, without the written consent of GEM Windows & Doors (the Supplier). The Customer must pay the Supplier for any product manufactured and work completed as at the date of cancellation.

### 2. QUOTATIONS

- a. All quotations provided by the Supplier are subject to these Terms and Conditions.
- b. Unless otherwise noted, all quotations are valid for 30 days from the day of issue.
- c. The Customer must provide any relevant specifications relating to the window rating that is appropriate as well as the height and position of the windows in the building in accordance with the current Australian Standard.
- d. All quotations provided by the Supplier are strictly based on the details specified in that quotation and must be confirmed and verified by the Customer prior to accepting the order invoice. Any changes to these requirements may incur additional charges and extended time for delivery.
- e. The Supplier will not accept any responsibility for inaccuracy of supplied information by the Customer including any schedules, plans, drawings and provided dimensions for the product to be supplied.
- f. The commencement of all works by the Supplier identified in the quotation are subject to the availability of materials to the Supplier and no responsibility will be accepted by the Supplier for delays or inability to complete the order due to situations beyond the Supplier's control.

### 3. DELIVERY

- a. Delivery of goods shall be deemed to occur when they are delivered to the premises or site nominated by the customer and the goods will thereafter be at the customers' risk.
- b. In case where price includes delivery of the goods, the Supplier will arrange delivery in the manner nominated by the Supplier.
- c. Any period or date for delivery nominated by the Supplier is intended as an estimate only and is not a contractual commitment.
- d. The Supplier will not be liable for any loss or damage to the goods after the delivery to the Customer.
- e. The Customer will accept delivery of the goods on the agreed date promptly and will be responsible for any attempted delivery, re-delivery or storage charges incurred by the Supplier in the event of mis-delivery.
- f. The Supplier reserves the right to make a partial delivery of any order and is entitled to invoice the Customer for the goods delivered.
- g. Where glass and glazing and glazed units are supplied on a supply only basis the responsibility of the Supplier terminates at the delivery. If the Supplier provides the glazing service for the order, the responsibility for glass and glazing terminates as each glass/ glazed unit is installed. Should the glazing or reglazing be performed by someone other than the Supplier, the Supplier's responsibility for the window performance will terminate.
- h. Protection and insurance of the goods delivered will not be a responsibility of the Supplier from the time of delivery.
- i. The Supplier and the Customer agree that delivery of the goods will be performed during the normal working hours, unless otherwise agreed in writing to the site nominated on the order document.
- j. The Customer agrees to notify the Supplier of any damage or discrepancy as soon as practically possible once the delivery has been made. Inspection of the good delivered and subsequent notification of any visual defects must be advised within 24 hours of delivery in writing.

### 4. OWNERSHIP, RISK AND LIABILITY

- a. The Customer acknowledges that the ownership of the goods will remain with the Supplier until the full payment for these goods has been made and receipt of such payment has been confirmed.
- b. The Customer must maintain the goods in good and serviceable condition, secure from risk, damage or theft and where applicable insured from such risks.
- c. The Customer must not charge, mortgage, assign, transfer or otherwise deal with the goods or its right to the services other than in the ordinary course of the business by the Customer;

### 5. WARRANTY

- a. The benefits covered in the warranties are in addition to the standard rights and remedies in respect of the goods and services which the Customer is entitled to under the Consumer Guarantees covered by the Trade Practices Act and similar State and Territory laws.
- b. GEM guarantees the product/s supplied against defect arising from faulty workmanship or materials for a period of seven years from date of delivery. This does not apply to glass as it is supplied by a third party supplier who does not provide warranty on scratches, reaction or exposure to chemicals, breakage or combustion.
- c. GEM guarantees that all services will be provided with due care and skill.
- d. The warranties are valid if the following conditions are complied with:
  - i. The product is installed and maintained with the manufacturer's and relevant industry association's recommendation and has not been subject to misuse, abuse or neglect.
  - ii. Aluminium product surfaces that have been powder coated are not warranted against colour fading due to normal weather conditions, which would normally cause any coloured surface to fade or darken gradually with time.
  - iii. Full payment for the product has been received by the Supplier for the entire order in question.
- e. If the goods are determined not to be defective by the Supplier, or any defect is attributable to circumstances outside of the Supplier's control, in this case the warranty and obligation by the Supplier are waived. Examples of such circumstances include but are not limited to:
  - i. Use of goods for purposes other than the intended use;
  - ii. The installation, repair, alteration or modification of the goods by a party other than the Supplier;
  - iii. Misuse, abuse, neglect or accident;



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- iv. Ordinary wear and tear;
    - v. Goods have not been stored, handled or maintained as prescribed.
  - f. Moving parts which wear out due to normal use are warranted for one year. For additional warranty refer to hardware manufacturer.
  - g. Standard powder coated finish is warranted for 10 years.
  - h. Claims under this warranty must be made within one month of the defect arising in the product. Copies of proof of purchase documents must be included with a written claim and forwarded to the Supplier.
  - i. The Supplier is under no obligation under this warranty if the Customer has failed to adhere to the payment terms for any goods or services provided by the Supplier.
  - j. In case where the Supplier is supplying goods manufactured by third parties, the Customer agrees that the Supplier does not accept responsibility for manufacturer's warranty or any claim arising from the use of the goods whether on their own or in combination with other products.
  - k. Supplier's liability is limited to the sum of the original invoice of the goods in concern.
6. PAYMENT TERMS
- a. In no circumstances can the Customer withhold payment due to not being paid by other parties or having monies withheld or awaiting release.
  - b. Standard payment terms, unless otherwise agreed in writing, are as follows:
    - i. For orders under \$3,000 (inc. GST) full payment is required on placement of order;
    - ii. For orders over \$3,000, a deposit of 50% is required on placement of order and must be received by GEM before the order is placed in production. To avoid delivery cancellation and delays all balance payments must be received by GEM Windows & Doors on or before the indicated due date, usually 2-3 weeks after initial payment was made.
  - c. Acceptable methods of payment include: EFT, bank cheque, money order, Visa or MasterCard (1% will apply on all MasterCard and Visa transactions).
  - d. In the event where has not been received in full and goods have been delivered to customer, whether in error or by prior agreement, and customer chooses not to finalise the outstanding balance within the required and communicated timeframe, GEM Windows & Doors reserves the right to involve a debt collection agency to recover the owing moneys. Once the outstanding balance is referred to a debt collection agency, the customer becomes liable for any fees associated with recovering the outstanding debt.
7. INDEMNITY
- a. GEM will not be liable for and the Customer indemnifies and keeps GEM indemnified against any claim, loss or damage to any person or property directly or indirectly arising from the use or operation of the goods by other than the Supplier.
8. PRODUCTION VARIATION
- a. The Supplier reserves the right to supply goods of more recent design as long as the cost is no higher than the agreed price and its performance equals or exceeds the performance of goods originally specified.
9. TRANSFER
- a. This agreement cannot be transferred or assigned to another party without the Supplier's written consent.
10. WAIVER OF CONDITIONS
- a. In case where the Supplier fails to insist upon exercise of any term or condition in this agreement, the agreement will not be deemed a waiver.
  - b. Any breach of any term or condition in this agreement will not be deemed a waiver.