



# SA Architectural Windows

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## SA Architectural Windows Terms & Conditions

SA Architectural Windows is a manufacturer, supplier and installer of aluminium windows and doors systems and related services. The following terms and conditions of sale and engagement apply to all Contracts for products supplied and work carried out by SA Architectural Windows.

### **1 DEFINITIONS**

Unless the context otherwise requires, the following words and phrases, where they appear in these terms and conditions, shall have the following meanings:

- 1.1. "Company" means SA Architectural Windows Pty. Ltd. Trading as SA Architectural Windows, Unit 14 & 15, 1265 Main North Road, Para Hills West, SA 5096, Australia. ABN #78 636 095 120
- 1.2. "Customer" means any party (individual, company, authority or organisation) that orders and purchases products and/or services from the Company.
- 1.3. "Quotation" will set out the details and price of the products and/or services to be provided by the Company.
- 1.4. "Specification Document" means a statement of work, quotation or other similar document describing the products and/or services to be provided by the Company.
- 1.5. "Products" shall mean any items (or any part of them) and/or accessories quoted and/or supplied by the Company and agreed and bought by the Customer under the Contract.
- 1.6. "Services" shall mean any installation, maintenance, repair work and surveys carried out by the Company.
- 1.7. "Contract" shall mean the contract between the Company and the Customer for the supply of products and/or services in accordance with these terms and conditions.
- 1.8. "Purchase Order" means the customer's order for the supply of products and/or services as set out in the Customer's purchase order form, or in the Customer's written acceptance of the Company's quotation.
- 1.9. "Terms and Conditions" means these terms and conditions for the supply of products and/or services by the Company.
- 1.10. "Agreement" means these terms and conditions together with the terms of any applicable specification document.
- 1.11. "Intellectual Property Rights" means all patents, registered and unregistered designs, copyright, trademarks, know-how and all other forms of intellectual property.

### **2 COST ADVICE / ESTIMATES**

2.1 The Company is unable to provide any accurate cost advice or estimate. Any estimate provided by staff of the Company, must be considered as approximate non-specific cost advice. If the Customer requires accurate cost advice then an estimator from the Company will, at the request of the Customer, provide a quotation to accurately cost the proposed project.

### **3 QUOTATIONS**

3.1 The quotation is a specification document and will set out the products and/or services to be provided by the Company. Quotations are open for acceptance for a period of 30 days from the date of the quotation.

3.2 All prices quoted are subject to site inspection, if deemed necessary. Any change in size, design or specification to the original enquiry may affect the final price. Final quotations are submitted as a fixed price.

3.3 No additional instructed works will be carried out unless a fully priced variation order/instruction is received from the Customer by the Company, unless a cost was provided for a specific task in the original quotation. Minor additional works, alterations or variations may be allowed for at no charge at the Company's discretion.

3.4 Additional works, alterations or variations will normally be agreed in writing between the Company and the Customer, prior to the Company proceeding with the additional works. Where this is not practicable, the additional work will be recorded by the Company and will be chargeable.

3.5 The Company has allowed for all necessary site inspection visits and for the preparation of drawing details for Customer approval. The Company's prices include the submission of one set of drawings for approval together with one set of revisions, if required. Any further revisions will be charged at extra cost.

3.6 If external specialist services are required in addition to the products and/or services of the Company, quotations will be prepared using the prevailing rates and price schedules of external specialists. Should such external services be subject to increased cost during the period between the date of the quotation and the date of the order to commence work, the Company will inform the Customer of any such increases in writing prior to commencing the work.

3.7 Unless otherwise agreed or notified to the Customer, all expenses and costs associated with the project will be included in the quotation price and invoiced in accordance with the Company's terms and conditions.

3.8 Prices quoted are subject to GST. GST will be added to all invoices for products supplied, installations and services carried out.

### **4 ACCEPTANCE OF QUOTATIONS**

4.1 Unless specifically agreed in writing to the contrary, the Customer is the person, company or other body to whom our quotation is addressed, unless the Customer is specifically identified otherwise and the company, authority or other body to whom our quotation is addressed, holds full legal agency to agree to enter into a contract with the Company on the Customer's behalf.

4.2 Our contract is with the Customer as outlined in point 4.1. We cannot enter negotiation with the Customer's client or any tradesmen.

4.3 These terms and conditions apply to and govern any contract between the Company and the Customer to the exclusion of any other conditions. These terms shall not be treated as varied or waived unless expressly agreed in writing by the parties to the contract that these terms are to be varied or waived. Unless there is agreement to the contrary, these terms have precedence over all others contained in other documents, emails, order form or letters sent by the Customer.

4.4 These terms and conditions are personal to the Customer only and the products and/or services and all written communications shall be for the Customer's benefit and reliance only. No reliance, obligation or reliability is acknowledged to any other party unless specifically agreed in writing.

4.5 Any purchase order or written instruction received from the Customer for products and/or services to be undertaken by the Company, the Company shall be entitled to assume the Customer's acceptance of both the quotation and these terms and conditions. Any order received that is inconsistent with these terms and conditions, shall not form part of any contract.

4.6 It is agreed that neither the Company nor the Customer intends that any of these terms and conditions will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person other than the Company and the Customer.

## **5 CANCELLATION**

5.1 The Company's products are manufactured wholly to the Customer's specifications. Once an order is placed there is no 'Right to Cancel'. Any work instructed and subsequently cancelled may attract abortive costs. The cancellation charge will indemnify the Company against all loss, damage, claims, expenses and actions arising out of such cancellation unless otherwise agreed by the Company in writing. External specialist services will also be chargeable, or any part thereof, where costs are incurred prior to cancellation.

## **6 DESIGN AND MANUFACTURE**

6.1 The Company's products will be designed in accordance with Building Regulations and the relevant Australian Standards, subject to professional judgment.

6.2 Electronic files remain the property of the Company. Drawings may be issued in electronic Adobe (.pdf) format for use by the Client.

6.3 All products, as detailed in our quotation, will be measured and manufactured in the way considered suitable by the Company, and pursuant to the Company's policy of continuous improvements to its products, it reserves the right to make any necessary modifications.

## **7 DELIVERY (SUPPLY ONLY CUSTOMERS)**

7.1 Delivery shall be to the site address as specified on the Customer's original enquiry unless otherwise specified and agreed.

7.2 The Company reserves the right to make additional charges for deliveries made on the Customer's behalf to premises other than the delivery location specified on the Customer's original enquiry.

7.3 The Customer shall be responsible for unloading the goods at the point of delivery and for loading goods collected by the Customer or their carrier from the Company's business premises.

7.4 Whilst the Company will take all reasonable steps to meet any agreed delivery times, these are not guaranteed, and they cannot be held responsible for any consequential loss or damage whatsoever caused by late delivery and the Customer shall not be entitled to reject goods due to late delivery.

7.5 If the Customer fails to collect the goods or take delivery at the time agreed in the contract, the Company shall be entitled to treat the contract as at an end and to invoice the goods, in which case payment in full shall become due in accordance with the provisions specified under item 11

7.6 All goods must be collected, or delivery arranged within 28 days of the original requested date. Any goods held after 28 days from original requested date will be disposed of unless otherwise agreed in writing.

7.7 Subject to our giving notice, we have the right to suspend delivery of goods when payment is overdue for goods previously supplied under this or any other contract.

## **8 INSTALLATION, MAINTENANCE AND REPAIR SERVICES**

8.1 The Customer agrees to allow the Company's site inspector, installers or other designated Company employees or representatives access to the installation address at reasonable times to undertake a detailed inspection and take measurements, if required. The Customer will also similarly allow access for the purpose of installation.

8.2 The Customer is bound by the contract to have the installation completed. When all necessary parts and materials have been ordered and the products have been manufactured, the Company will perform the installation at a date pre-arranged with the Customer. If the Customer wishes to delay the installation by more

than 28 days, the full and total price will be due. The products will then be stored for no longer than one calendar month after which time they will be delivered to the Customer's premises unless a mutual prior agreement is made between the Customer and the Company.

8.3 Whilst the Company will take all reasonable steps to commence and complete the works and meet the requested delivery times for products on site in accordance with the agreed programme, these cannot be guaranteed. The Company accepts no responsibility for any consequential loss or damage whatsoever due to any delay in installation caused by accident, fire, strikes, lock-outs, shortage of materials or other causes beyond the Company's control.

8.4 The Company requires the Customer to identify and clearly mark the location of any concealed services (water pipes, gas pipes, electrical and data cables, under floor heating etc) as well as details of any water proof membranes and tanking prior to the Company carrying out any installation works. Where the Customer is aware of any asbestos present in the area where installation works are to be carried out, these must also be notified to the Company. The Company shall not accept any liability for damage that may occur due to incorrect or incomplete information being provided to them.

8.5 The Company will exercise reasonable skill and care in carrying out installation, maintenance and repair services.

8.6 Unless otherwise stated, all prices for installation are based on continuous uninterrupted working and unhindered access for installation and for installation during normal working hours i.e. 7am to 3:30pm Monday to Thursday and 7am to 1pm Friday only, excluding public holidays and company closures.

8.7 Unless expressly agreed in writing as a qualification clause, the Company shall not be liable for the performance of any other person or company not engaged by the Company, nor be responsible for checking or reporting on their performance.

8.8 Whilst the Company makes every effort to check and validate information supplied by the Customer and third parties, the Company cannot be responsible for errors arising directly or indirectly from incorrect information supplied to them.

## **9 RISK**

9.1 The risk of the goods contracted to be sold by the Company shall be passed to the Customer when the goods are delivered or collected by the Customer or the installation is completed.

## **10 UNFORSEEN CIRCUMSTANCES**

10.1 If, during the execution of the works, conditions arise which could not have been reasonably foreseen, the Company will give written notice to the Customer of the effect (if any) on the programmed completion of the works and a claim for additional payment (if such is considered justified).

10.2 The Company shall be under no liability if they are unable to supply their products or carry out any of their services for any reason beyond their control including (without limiting the foregoing); act of God, acts of terrorism, legislation, war, fire, flood, drought, failure of power supply, lock-out, strike or any other action taken by employees in contemplation or furtherance of dispute. During the continuance of such a contingency either party may, by written notice to the other, terminate the Contract and the Customer shall pay for work done and disbursements incurred up to that time.

## **11 INVOICES / PAYMENT TERMS**

11.1 If a Customer wishes to open an account, they must contact the Company and complete the necessary paperwork.

11.2 New account customers must allow sufficient time for the paperwork to be processed and approved before the Company shall order materials for manufacture. However, the Company may agree to carry out an inspection, if necessary, during this application period.

11.3 Accepted method for payment for invoices is Bank transfers.

11.4 Payment terms for account Customers.

Payment terms for 14 day account customers will be strictly 14 days from invoice date.

Payment terms for 30 day account customers will be strictly 30 days from invoice date.

11.5 Payment terms for non-account Customers.

Stage payments:

50% Deposit of total order value payable with order, prior to inspect or commencement of job

50% Payment due two days prior to day of installation/supply

Payment will only be acknowledged once it has cleared in Company Bank account. No action will be taken, i.e. no material or glass shall be ordered or site work commenced, until payment has cleared.

11.6 Payment of invoices is due within 7 days in the case of individuals and non-account holders or 2 days prior to work commencing, whichever occurs first.

11.7 Payment of invoices is due within 14 days in the case of 14 day account holders from the date of the invoice or within 30 days in the case of 30 day account holders from the date of the invoice.

11.8 All goods remain the exclusive property of SA Architectural Windows until all invoices are paid in full. The Company accepts no liability or obligation for any products and/or services whilst their rendered invoices remain unpaid.

11.9 If the Customer fails to make payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

- i) Decline to act further, including the withdrawal of labour from site
- ii) Charge for materials ordered and/or products manufactured
- iii) Charge the full value of services carried out
- iv) Upon failure to make payment in full within fourteen days of initial due date, the Company will be entitled to charge the customer an administration fee of 10% of the amount of the invoice payable.
- v) In the event where your overdue account is referred to a collection agency and/or law firm, you will be liable for all costs which would be incurred as if the debt is collected in full, including commission on collection of the additional costs and also including legal demand costs.

11.10 In addition to the above the customer authorises the Company by itself, its agents or representatives, at all reasonable times, without notice, to enter onto (with force if reasonably necessary) and at all necessary times, to remain in and on any premises where the Product/s is/are located in order to collect the Product/s, without being guilty of any manner of trespass. The customer assigns the Company all the customer's rights to enter onto and remain in and on such premises until all of the products have been collected. All costs incurred by the Company in seeking recovery of the product/s under clause 11.10 will be borne by the customer and the customer must reimburse the Company within fourteen (14) days of the date of the relevant tax invoice setting out its costs of recovery.

## **12 INTELLECTUAL PROPERTY / ILLUSTRATIONS**

12.1 All descriptions, drawings, samples and information contained in brochures, catalogues, marketing materials, the website and other trade literature are only intended to indicate the general character of the goods.

12.2 The dimension of goods are subject to manufacturing tolerances customary within the trade. Dimensions contained in quotations, acknowledgements, orders, catalogues, marketing materials and other trade literature are approximate only.

### **13 SUBSTITUTED GOODS**

13.1 The Company reserves the right to substitute goods, which are similar to the goods ordered by the Customer, provided that such substituted goods are no less suitable for the purpose for which they are generally used, than the goods originally ordered by the Customer.

### **14 COMPLAINTS**

14.1 In the event that the Customer has a concern or complaint about the Company's products or services, then the Customer should contact a member of the management team as soon as is practicable after the concern or complaint has arisen.

14.2 Any complaint or claim by the Customer for compensation for damage done by the Company for which it may be liable under these terms and conditions, must be made in writing to reach the Company within 5 working days of installation in default of which the Company shall accept no liability.

### **15 LIMITATION AND LIABILITY**

15.1 Where it is established to the Company's satisfaction that goods have been damaged or lost in transit, the Company will at their cost, replace same, provided that the Customer notifies the Company in writing within 2 working days of the delivery or proposed delivery, or the Company's despatch note is duly signed by your representative indicating thereon a shortage of or damage to the goods.

15.2 If the Company, acting reasonably, is satisfied that any goods supplied and/or fitted by the them are defective as to material or workmanship not caused wholly or partly while at the Customer's risk by wilful default, accident, improper storage or use or failure to follow instructions and providing that the goods have not been dismantled, altered or subjected to attempted repair, our liability shall be limited to making good the defect without charge or repairing or replacing the goods or (at our discretion) refunding all or part of the price.

15.3 The Company will make every effort to avoid any damage caused during installation to plaster, floor, rendering or brickwork immediately surrounding any window or door installed by them but take no responsibility for any caused. The company will also not undertake to repair damage to surrounding tiling, wallpaper or paintwork or to remove any panels intact or glass or frames from old windows required to be retained by the Customer (due care will obviously be taken). The Company, where quoted, will try to match existing finishes where possible, but they shall not be liable for non-matching due to weathering, aging of existing materials or obsolete/discontinued lines. The Company accepts no responsibility for any damage resulting from pre-existing structural or other defects in the property at which the installation is carried out.

15.4 The Company's obligations and liabilities to the Customer arising out of, or in connection with, the goods shall be limited to those expressly set out in these conditions together with those, which are implied or imposed by law to the extent that they cannot be limited, restricted or excluded by law. The Customer hereby acknowledges that this is reasonable and reflected in the price and shall accept the risk and/or insure accordingly.

15.5 Where the Company supplies glass sealed units, the goods supplied will conform to the relevant Visual Quality Standard of the Australian Glass and Glazing Standards.

15.6 The Company shall manufacture all products (Windows and/or Doors) square to specification. Where the Customer's sub frame or brickwork is out of square, the Company will use a flashing at time of installation. Any additional cover beads or architrave will be of timber or other material at the discretion of our site inspector or installer.

15.7 Without prejudice to the generality of the foregoing provisions, the Company shall not in any event be liable to the Customer for any indirect or consequential loss, damage or expense.

15.8 Delay in delivery and installation. See points 7.4 and 8.3 respectively.

## **16 GUARANTEES AND WARRANTIES**

16.1 No guarantees will be issued or are valid until payment is received in full.

16.2 The Company's guarantees exclude damage or faults due to accident, misuse or neglect.

16.3 The Company provides the following guarantees, which are valid from date of completed installation or delivery:

Aluminium profile carries a 7-year guarantee

Any installation carried out by us is guaranteed for 1 year

All moving parts e.g. hinges, handles etc. are guaranteed for 1 year

## **17 STATUTORY RIGHTS**

17.1 The contract shall be governed by and construed in accordance with the laws of Australia and both parties thereby agree to submit to the jurisdiction of the Courts.

## **18 DATA PROTECTION**

18.1 The Company shall hold personal information of the Customer only that which it believes is necessary for the Company to provide the agreed products and/or services. The Customer has the right under the Data Protection Act 1998 to request the information the Company holds and to make any necessary changes to ensure that it is accurate and kept up to date. The Company will not, without prior consent by the Customer, pass any personal information onto any third parties except where required to do so by statute, legal reasons or requested by the government.

## **19 UPDATING OF TERMS AND CONDITIONS**

19.1 The Company reserves the right to review and change any of the Terms and Conditions by updating this page at its sole discretion. When the Company updates the Terms and Conditions, it will use reasonable endeavours to provide you with notice of updates to the Terms and Conditions. Any changes to the Terms and Conditions take immediate effect from the date of their publication. Before you continue, we recommend you keep a copy of the Terms and Conditions for your records.