

DEALER TERMS AND CONDITIONS

These Dealer Terms and Conditions (these “*Terms*”) apply to each sales order (a “*Sales Order*”) and the master sales agreement (the “*MSA*,” and together with any attachments thereto and these Terms and the Sales Order, the “*Contract*”) entered into by and between Panda Windows & Doors—Operations, LLC, a Nevada limited liability company (“*Panda*”), and the purchaser identified in the MSA (“*Dealer*”) with respect to Dealer’s purchase of window and/or door products manufactured and/or sold by Panda as set forth in applicable Sales Order(s) (the “*Purchased Products*”), which, in each case, incorporates by reference these Terms. Any terms used and not otherwise defined herein shall have meanings set forth in the MSA.

1. DEALER’S ACKNOWLEDGMENT & RESPONSIBILITY.

a. General Dealer’s Obligations & Panda’s Rights.

- i. It is Dealer’s sole responsibility to ascertain and comply with all applicable laws and regulations (including but not limited to requirements for energy efficiency or impact resistance), engineering standards, architectural aesthetics, standards of industry and professional conduct in connection with the selection, use, distribution and promotion of the Purchased Products, including without limitation, those applicable to exportation, importation, product claims, labeling, approvals, registrations and/or notifications.
- ii. Dealer shall be solely responsible for all credit risks with respect to, and for collecting payment for, each Purchased Product resold to its customers or other third parties, whether or not Dealer has made full payment to Panda for such Purchased Product. The inability of Dealer to collect the purchase price for a Purchased Product shall not affect Dealer’s obligation to pay Panda for such Purchased Product.
- iii. Dealer shall not sell a Purchased Product to any third party that is currently acting as a dealer for or otherwise in partnership or similar arrangement with Panda.
- iv. Dealer shall not engage in any action that disparages, dilutes the value of, or reflects negatively on Panda or any of the line of products offered from time to time by Panda (“*Panda Products*”).
- v. Dealer shall immediately notify Panda in writing of any actual or potential litigation and/or government action relevant to Panda, any Panda Products or any Purchased Product of which Dealer becomes aware.

b. Promoting/Marketing of Panda Products.

- i. Dealer shall exert its best efforts to promote the sale of Panda Products.
- ii. In furtherance (but without limitation) of the foregoing, Dealer must ensure that its Website: (1) clearly states that it sells Panda Products and contain images thereof (such website page and any material changes thereto to be pre-approved by Panda in writing); (2) has a dedicated page for Panda and the Panda Products (such website page and any material changes thereto to be pre-approved by Panda in writing); and (3) includes at least two (2) backlinks to Panda’s website pages, including Panda’s homepage (<https://www.panda-windows.com/>).

c. IP Rights.

- i. Panda grants Dealer a non-exclusive license to use and display Panda’s logo, trademark and domain name and images of Panda Products (collectively, the “*IP Rights*”) for the sole purpose of facilitating the promotion and sale of Panda Products. Dealer’s use of the IP Rights shall at all times comply with such quality standards that Panda may impose from time to time in its sole discretion, which shall in no event be lower than those standards heretofore associated with Panda Products, and Panda reserves the right to terminate the foregoing license if Dealer fails to reasonably comply with any such standards.
- ii. Dealer acknowledges and agrees that all IP Rights shall remain the sole and exclusive property of Panda, Dealer shall not acquire any ownership interest therein, Dealer shall use Panda’s IP Rights only as provided herein and shall not sublicense IP Rights to any third party without Panda’s pre-approval in writing.

d. Installation of Purchased Products.

- i. Dealer shall be responsible for the proper installation of each Purchased Product, either through its employees or a third-party installation service company.
 - ii. Dealer shall ensure that any employee or installation service company that installs any Purchased Product shall have been engaged for at least five years as its primary profession or business in the installation of products similar to Panda Products and has a good reputation in the industry.
 - iii. As part of its responsibility to properly install each Purchased Product, Dealer shall at a minimum ensure that:
 - (1) the bottom track and header are completely level, and the side frames are plumb;
 - (2) when the system is closed, the reveal between the panel and side frame is uniform and parallel throughout;
 - (3) when the system is opened and closed, there is no friction or need for added force to operate the product (i.e., the system functions smoothly at the end of installation);
 - (4) there is no debris on the tracks at the end of installation;
 - (5) the bottom track and rest of the system during construction are sufficiently protected; and
 - (6) the handle is removed until construction is complete so that no construction worker operates the door.
 - iv. For avoidance of doubt, Panda shall have no duties or liabilities with respect to the installation of Purchased Products, or the preparation of the space into which Purchased Products are to be installed.
- e. Maintenance of Purchased Products.
- i. Dealer shall provide a maintenance service for all Purchased Products.
 - ii. Dealer shall maintain reasonable technical and practical knowledge with regard to the Purchased Products, including proper maintenance thereof.
 - iii. Dealer shall provide its customers the [Panda's Care & Maintenance Guide](#) and explain the recommended and mandatory cleaning procedures, schedules, and best practices to follow.

2. ORDERING PROCEDURE.

- a. Proposal Submittals. If Dealer wishes to place an order of a Panda Product, it shall submit to Panda a proposal (containing the applicable Basic Sales Order Terms that are consistent with the terms of the Contract). "**Basic Sales Order Terms**" means, collectively, the following terms with respect to the Purchased Product: (a) a specification of the Purchased Product, including the dimensions thereof; (b) the quantity of each of the Purchased Product; (c) the desired materials to be used; (d) the desired delivery date; (d) the billing address; (e) the contact information (including phone number and email); and (f) the Delivery Point.
- b. Acceptance of Sales Order. Once the parties are in agreement with respect to the Basic Sales Order Terms of such proposal, Panda may then issue to Dealer a Sales Order. By issuing a Sales Order to Dealer, Panda makes an offer to sell the applicable Purchased Product pursuant to the Contract, and on no other terms (and for avoidance of doubt unless and until Panda issues a Sales Order, it shall have no obligation to Dealer with respect to the proposal), which offer shall be binding on Panda only on the terms and at the time provided in in this paragraph. Dealer shall not change, add, or delete terms in any Sales Order without Panda's written consent and any attempt to do so will be void and have no effect. If Dealer wishes to accept the Sales Order, it shall do so by (i) executing and delivering a copy of the Sales Order to Panda within thirty (30) days after Panda's delivery thereof to Dealer (whereupon it shall become binding upon Dealer) and (ii) making the payment of the Down Payment within seven (7) days after Dealer's delivery of the executed copy of the Sales Order to Panda (whereupon it shall become binding upon Panda). If Dealer does

not timely execute and deliver such Sales Order and/or make the Down Payment, it shall be deemed revoked by Panda unless Panda otherwise agrees in writing.

- c. Cancellation of Sales Order. Once executed, Dealer may only cancel the Sales Order by providing written notice to Panda before Panda begins the production of the Purchased Product for a full refund of the Down Payment, provided, that if Panda has initiated creating formal shop drawings (the “**Drawings**”) of the Purchased Product (which generally begin no later than two (2) business days after the Down Payment is received by Panda), such Sales Order is only cancelable if Dealer pays a cancellation fee of 10% of the Total Sales Order Sum. Panda reserves the right to offset such cancellation fee from the Down Payment. In no event, however, shall Dealer cancel a Sales Order after the Purchased Product goes into production and/or the Drawings of the Purchased Product are finalized as approved by Dealer (subject to the restriction on the allowed revisions to the Drawings as set forth in Section 2.d below) and, Panda will not issue any refunds, including any Down Payment, if Dealer attempts to cancel in violation hereof.
- d. Rules regarding Drawings. Dealer will be provided an original set of Drawings and one revision thereafter free of charge. Any subsequent revision will be charged seventy-five dollars (\$75.00) per revision, which shall be promptly paid by Dealer. Any Drawings of a Purchased Product will be deemed final upon the first to occur of (i) four (4) or more revisions made thereto or (ii) Dealer’s agreement that the Drawings are final, and no further revisions will be accommodated unless otherwise agreed in writing by Panda.

3. **PRODUCTION SCHEDULE.** All quoted product manufacturing lead times and any time quoted for delivery provided in a Sales Order or otherwise are for information and estimate only and shall not be deemed binding. Costs associated with delays for any reason are not covered by Panda.

4. **TRANSFER OF TITLE AND RISK OF LOSS.** Risk of loss and title to each Purchased Product will pass to Dealer when Panda completes its delivery obligations with respect to such Purchased Product in accordance with the shipping terms as set forth in the Contract.

5. **NONCONFORMING PRODUCTS.**

- a. Inspection. Dealer shall inspect each Purchased Product within seven days following receipt thereof (the “**Inspection Period**”) and either accept or, only if such Purchased Product is a Nonconforming Product (as defined below), reject such Purchased Product. Dealer will be deemed to have accepted a Purchased Product unless it provides Panda with written notice that the Purchased Product is a Nonconforming Product within seven days following the Inspection Period (the “**Rejection Notice**”), stating with specificity of defects and nonconformities, and furnishing such other written evidence or other documentation as may be reasonably required by Panda. All defects and nonconformities that are not so specified will be deemed waived by Dealer, the Purchase Product shall be deemed to have been accepted by Dealer, and no attempted revocation of acceptance will be effective. If Dealer timely provides the Rejection Notice to Panda, Panda shall determine, in its reasonable discretion, whether the Purchased Product is a Nonconforming Product. A “**Nonconforming Product**” means a Purchased Product received by Dealer from Panda pursuant to a Sales Order that: (i) does not conform to terms and specifications of the applicable Sales Order; (ii) does not conform to Panda’s Limited Customer Warranty (the “**Customer Warranty**”); or (iii) deviates from the shipping instructions set forth in the Contract.
- b. Return of Nonconforming Products; Limited Warranty. If Panda determines that the Purchased Product is a Nonconforming Product, Panda shall elect either (at its sole discretion) do one of the following (which election shall be set forth in a written notice delivered by Panda to Dealer within ten days following Panda’s determination that the Purchased Product is a Nonconforming Product): (i) replace such Nonconforming Product with a conforming product; or (ii) refund to Dealer such amount (if any) paid by Dealer to Panda for such Nonconforming Product if and when returned by Dealer to Panda. If Panda elects the second option, Dealer shall ship, at Panda’s expense and risk of loss, the Nonconforming Product to Panda’s facility located at 3415 Bellington Road, North Las Vegas, NV 89030 or to such other location as Panda may instruct Dealer in writing. If Panda exercises its option to replace a Nonconforming Product, Panda shall ship to the location set forth in applicable Sales Order in accordance with the shipping terms as set forth in the Contract, at Panda’s expense and risk of loss, the replacement product as soon as reasonably practicable. **THE REMEDIES SET FORTH IN THIS SECTION 5 ARE DEALER’S EXCLUSIVE REMEDIES WITH RESPECT TO THE PURCHASED PRODUCT. PANDA DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS,**

IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

- c. **Customer Returns.** Panda shall not be obligated to accept return of any Purchased Product made by the customers of Dealer, except in the case of (i) Nonconforming Products as determined in accordance with this Section 5 or (ii) the Purchased Product failure to be in compliance with the Customer Warranty (which is a separate warranty Panda shall provide to the end users of the Purchased Products).
6. **TERM; TERMINATION.** The Contract shall continue in full force and effect until terminated upon mutual written agreement of the parties, by either party for “*cause*” or by ninety (90) day prior written notice by either party (“*Term*”). No termination shall relieve Dealer of any liability arising from a breach occurring prior thereto, the obligation to pay for Purchased Products sold to Dealer prior thereto nor the obligation to account for all amounts owing to Panda with respect to Purchase Products sold to Dealer prior thereto. This Section 6 and Sections 7 through 15 shall survive the termination of the Contract. “Cause” shall exist as to a party only (a) if there has been a material breach by such party of any of the terms, obligations, covenants, representations of warranties under the Contract, which breach or default is not cured within ten days of written notice of the breach of default, (b) such party fails to meet any financial obligations owed under the Contract, which failure is not cured within ten (10) days of written notice of such failure or (c) such party is declared insolvent or bankrupt, or makes an assignment for the benefit of creditors, or a receiver is appointed or any proceeding is demanded by, for or against such party other under any provision of the Federal Bankruptcy Act or any amendment thereof. In no event will the fact that a Purchased Product is a Nonconforming Product or of non-compliance with the Customer Warranty with respect to a Purchased Product constitute a material breach entitling Dealer to terminate the Contract.
7. **AMENDMENTS; WAIVERS.** Any provision of the Contract may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by Dealer and Panda, or in the case of a waiver, by the party against whom such waiver is intended to be effective. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
8. **NON-SOLICITATION.** For a period of three (3) years from the later of (i) the date of the MSA or (ii) the date the MSA is terminated, Dealer shall not directly or indirectly solicit or hire any officer, director or employee of Panda or any affiliated entities thereof, except pursuant to a general solicitation that is not directed at or targeted to any such employees.
9. **NOTICES.** To be effective, all notices required or permitted hereunder shall be in writing and shall be deemed duly given and received when sent by email or on receipt or refusal of delivery by nationally recognized overnight delivery service, to the attention of (i) for Dealer, such address and email provided in the MSA and (ii) for Panda, to: Panda Windows & Doors, 3415 Bellington Rd, North Las Vegas, NV 89030, Attn: Eyal Shoshan and avi@panda-windows.com or such other email and/or address that Panda may provide to Dealer for this purpose.
10. **INDEMNIFICATION.** Dealer shall indemnify, defend and hold harmless Panda and its officers, directors, employees, agents, successors and assigns (collectively, “*Panda Parties*”) from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys’ fees and costs (collectively, “*Losses*”) incurred by or imposed on any Panda Party relating to, arising from or in connection with the Contract, the relationship between Panda and Dealer and/or any act or omission by Dealer with respect to the Purchased Products and/or subject matter hereof (including, without limitation, Losses related to, arising from or in connection with the purchase, sale, storage, transportation, design, preparation, installation or use of the Product and Panda’s delivery and fabrication of the Products), in each case except to the extent such Losses are a result of Panda’s gross negligence or willful misconduct.
11. **GOVERNING LAW.** The laws of the State of Nevada (but not its conflicts of law principles) shall govern all matters arising out of, or relating to, the Contract, including without limitation its validity, interpretation, construction, performance, and enforcement.
12. **DISPUTE RESOLUTION.** In the event of any disagreement between Panda and Dealer relating to the Contract, a Purchased Product or any issue related thereto that is not resolved by the parties within sixty days, the parties shall submit such disagreement initially to confidential mediation, which shall be administered by JAMS (or an alternate mediator to which they agree) in accordance with its Construction Industry Mediation Procedures in effect on the date of the Contract. If the parties

are unable to resolve the disagreement by mediation within 60 days after the submission to the confidential mediation or either party fails to cooperate in initiating the mediation, either party may submit the dispute to confidential and binding arbitration administered by JAMS in accordance with its Construction Industry Arbitration Rules in effect on the date of the Contract. The parties shall cooperate in good faith to select one arbitrator. If the parties cannot agree on one arbitrator, each party will choose one qualified arbitrator and the two chosen arbitrators will choose a third qualified arbitrator, who shall act as the sole arbitrator. The mediation and arbitration shall be held in Clark County, Nevada. The prevailing party in the arbitration shall be entitled to recover all reasonable fees, costs and expenses (including attorney's fees) incurred in connection therewith; provided, however, if there is no prevailing party, the applicable decision-maker may allocate such fees, costs and expenses as it determines. The arbitration decision or award shall be final and binding and may be enforced against a party or its assets wherever they may be found, and a judgment upon the decision or award may be entered in any court having jurisdiction thereof. To the extent permitted by law, each party hereby knowingly, voluntarily and intentionally waives the right to a trial by jury in respect of any disputes arising under the Contract.

13. **SEVERABILITY.** If any term or provision contained in the Contract, or any portion hereof, is held invalid, void or unenforceable by any arbitrator or court of competent jurisdiction, the remaining portions shall, nevertheless, be and remain in full force and effect.
14. **ASSIGNMENT.** Dealer may not assign the Contract, in whole or part, without Panda's prior written consent.
15. **ENTIRE AGREEMENT.** The Contract constitutes the complete understanding between Panda and Dealer with respect to its subject matter and supersedes any prior written or oral agreements or understandings with respect thereto. No course of performance or prior dealings and no usage of trade between the parties will be relevant to determine the meaning of the Contract.