

## CUSTOMER TERMS AND CONDITIONS

These Customer Terms and Conditions (these “*Terms*”) apply to each sales order (a “*Sales Order*,” and together with these Terms, the “*Contract*”) entered into by and between Panda Windows & Doors–Operations, LLC, a Nevada limited liability company (“*Panda*”), and the purchaser identified in the Sales Order (“*Customer*”) with respect to Customer’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*”).

### 1. CUSTOMER’S ACKNOWLEDGMENT & RESPONSIBILITY.

#### a. General Customer’s Obligations.

- i. It is Customer’s sole responsibility to ensure that the selection, installation, use, and maintenance of the Purchased Products comply with all applicable laws, regulations (including energy efficiency and impact resistance), engineering standards, architectural aesthetics, industry standards, HOA rules and building codes. This includes making sure that any drawings, specifications, or directions provided to Panda for the Purchased Products meet all such requirements.
- ii. Customer 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*”).

#### b. Installation of Purchased Products.

- i. Customer shall be responsible for the proper installation of each Purchased Product, including ensuring that the space is properly framed for the installation of such Purchased Product. This includes making any necessary modifications to the openings. Panda recommends that Customer consults directly with his or her framer and installer, as Panda products are frame-mounted and do not use nail fin installation.
- ii. As part of its responsibility to properly install each Purchased Product, Customer 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.
- iii. 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.
- iv. Please note that the Purchased Product does not come with, or include, screens and that any wood products come unfinished (i.e., without primer, stain or paint).

#### c. Care & Maintenance of Purchased Products.

- i. Customer shall carefully read and follow the [Panda’s Care & Maintenance guide](#) which outlines recommended and mandatory cleaning procedures, schedules, and best practices to follow with respect to Panda Products. Failure to follow the maintenance and installation instructions and requirements set forth in [Panda’s Care & Maintenance guide](#) may void or limit the warranty provided by Panda.

- d. Intellectual Property Rights.
- i. Customer acknowledges and agrees that as between Customer and Panda, Panda owns and shall retain all intellectual property rights used to create, embodied in, used in and otherwise relating to the Purchased Products and any of their component parts.
  - ii. Customer shall not acquire any ownership interest in any of Panda's intellectual property rights under this Agreement.

## 2. ORDERING PROCEDURE.

- a. Proposal Submittals. If Customer 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 agree on the Basic Sales Order Terms, Panda may issue a Sales Order to Customer. By issuing a Sales Order, Panda offers to sell the applicable Purchased Product under the terms of the Contract and on no other terms. Customer 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. To accept the Sales Order, Customer must (i) sign and return the Sales Order to Panda within 30 days of receiving it, making it binding on Customer, and (ii) pay the Down Payment within 7 days after returning the signed Sales Order, making it binding on Panda. If Customer fails to do either (i) or (ii) within the specified timeframes, the Sales Order shall be deemed revoked.
- c. Cancellation of Sales Order. Once executed, Customer may only cancel the Sales Order for a full refund of the Down Payment by providing written notice to Panda before Panda begins the production of the Purchased Product. If Panda has started creating formal shop drawings ("**Drawings**") of the Purchased Product—which typically begins within two (2) business days of Panda's receipt of the Down Payment—the Sales Order is only cancelable if Customer pays a cancellation fee of 10% of the Total Sales Order Sum. Panda may deduct this fee from the Down Payment. However, after production starts or the Drawings are finalized (subject to the revision limits set forth in Section 2.d below), the Sales Order may not be canceled, and no refunds, including the Down Payment, will be issued back to Customer.
- d. Rules regarding Drawings. Customer will be provided an original set of Drawings and one free revision. Any subsequent revisions will cost seventy-five dollars (\$75.00) each. Drawings for a Purchased Product will be considered final upon the first to occur of (i) four (4) or more revisions have been made or (ii) Customer agrees that the Drawings are final. No further revisions will be allowed unless Panda otherwise agrees in writing.

3. **PRICE & PAYMENT TERM.** Each Sales Order shall specify all fees and costs that Customer must pay Panda for the Purchased Product(s) (the "**Total Sales Order Sum**"). The terms of purchase are: (i) fifty percent (50%) of the Total Sales Order Sum upon placement of the Sales Order ("**Down Payment**"); and (ii) the remaining fifty percent (50%) of the Total Sales Order Sum upon completion of production and prior to shipping of the Purchased Product. Final payment from Customer must be made within ten (10) days before shipment (in receipt of immediately available and good funds). No shipment will be made absent payment in full. Any delays may incur storage and re-shipping charges, which shall be borne by Customer. Panda reserves the right to substitute equivalent or superior materials to those specified by Customer.

4. **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.

5. **SHIPPING & TRANSFER OF TITLE AND RISK OF LOSS.** Panda will deliver the Purchased Product to the address specified by Customer in each Sales Order (the "**Delivery Point**") in accordance with the [shipping instructions](#) (the form of which must be completed and submitted by Customer to Panda) using Panda's standard packaging and shipping methods. Customer is responsible for all costs related to transportation and delivery, including customs, duties, taxes, insurance, and any other related expenses, which will be added to the Sales Order. Customer is also responsible for the unloading of the Purchased

Product at the Delivery Point, including any costs associated with it and providing suitable equipment and labor, and must do so promptly to avoid any extra charges like demurrage. If the carrier is unable to deliver the Purchased Product due to Customer's actions or inaction, or if Customer is unable to unload the Purchased Product at the Delivery Point, any additional storage or redelivery charges will be Customer's responsibility. Shipping cost estimates are based on zip codes, and the final correct amount will be on the final invoice. The risk of loss and title of the Purchased Product will pass to Customer once Panda has completed its delivery obligations as outlined in the Contract.

6. **NONCONFORMING PRODUCTS.**

- a. **Inspection.** Customer must inspect each Purchased Product within seven days of receipt (the "**Inspection Period**") and either accept or, only if such Purchased Product is a Nonconforming Product (as defined below), reject it. To reject a Purchased Product, Customer must provide Panda a written notice of rejection (the "**Rejection Notice**") within seven days following the Inspection Period specifying the alleged defects and/or nonconformities supported by 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 Customer, the Purchased Product will be considered accepted and no attempted revocation of acceptance will be effective. If Customer timely delivers the Rejection Notice, Panda will determine whether the Purchased Product is a Nonconforming Product. A "**Nonconforming Product**" is a Purchased Product that (i) does not meet the terms and specifications of the applicable Sales Order, (ii) does not comply with [Panda's Limited Customer Warranty](#) or (iii) deviated from the shipping instructions set forth in the Contract.
- b. **Repair of Nonconforming Products; Limited Warranty.** If Panda determines that the Purchased Product is a Nonconforming Product, Panda will first attempt to correct the noted defects by making the necessary repairs. If Panda determines that the repair is not a viable option, Panda will replace such Nonconforming Product with a conforming product, which will be shipped to the original Delivery Point at Panda's expense. THE REMEDIES SET FORTH IN THIS SECTION 6 AND IN [PANDA'S LIMITED CUSTOMER WARRANTY](#) ARE CUSTOMER'S EXCLUSIVE REMEDIES FOR THE PURCHASED PRODUCT. PANDA DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

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 Customer and Panda, or in the case of a waiver, by the party against whom such waiver is intended to be effective.
8. **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 Customer, such address and email provided in the Sales Order and (ii) for Panda, to: Panda Windows & Doors, 3415 Bellington Rd, North Las Vegas, NV 89030, Attn: Eyal Shoshan and [avi@panda-windows.com](mailto:avi@panda-windows.com) or such other email and/or address that Panda may provide to Customer for this purpose.
9. **INDEMNIFICATION.** Customer 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 Customer and/or any act or omission by Customer 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.
10. **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 its validity, interpretation, construction, performance, and enforcement.
11. **DISPUTE RESOLUTION.** In the event of any disagreement between Panda and Customer relating to the Contract, a Purchased Product or any issue related thereto that is not resolved by the parties, 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 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. 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 knowingly, voluntarily and intentionally waives the right to a trial by jury in respect of any disputes arising under the Contract.

12. **SEVERABILITY.** If any term or provision contained in the Contract, or any portion hereof, is held invalid, void or unenforceable, the remaining portions shall, nevertheless, be and remain in full force and effect.
13. **ASSIGNMENT.** Customer may not assign the Contract, in whole or part, without Panda's prior written consent.
14. **ENTIRE AGREEMENT.** The Contract constitutes the complete understanding between Panda and Customer 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 parties will be relevant to determine the meaning of the Contract.