Document Number: FIN.POL.0012

JASON WINDOWS PTY LTD

STANDARD CONDITIONS OF SALE

1 Interpretation

1.1 In these Conditions:

"AUSTRALIAN CONSUMER LAW" has the same meaning as that expression has in Schedule 2 to the *Competition and Consumer Act 2010* (Cth) and the *Fair Trading Act 2010* (WA), as amended from time to time

"BUYER, you" means the person who accepts a quotation of Jason Windows for the sale of the Goods or whose Order for the Goods is accepted by Jason Windows

"Consequential Loss: includes any:
(a) consequential loss;
(b) loss of anticipated or actual profits or revenue;
(c) loss of production or use;
(d) financial or holding costs;
(e) loss or failure to realise any anticipated savings;
(f) loss or denial of business or commercial opportunity;
(g) loss of or damage to goodwill, business reputation, future reputation, or publicity;
(h) loss or corruption of data;
(i) downtime costs or wasted overheads; or
(j) special, punitive, or exemplary damages.

"CONSUMER" has the same meaning as that expression has in Schedule 2 to the *Competition and Consumer Act 2010* (Cth) and the *Fair Trading Act 2010* (WA), as amended from time to time

"GOODS" means the goods (including any instalment of the goods or any parts for them) which Jason Windows is to supply in accordance with these Conditions.

"Intellectual Property Rights" means all industrial and intellectual property rights throughout the world, whether present or future, and whether protectable by statue, at common law or in equity, including rights in relation to copyright, trade secrets, know how, trade marks (whether registered or unregistered or whether in word or logo/device form), designs, patents and patentable inventions, including the right to apply for registration of any such rights.

"JASON WINDOWS, we, us" means Jason Windows Pty Ltd (ACN 060 974 138)

"CONDITIONS" means the Standard Conditions of Sale set out in this document and any Credit Application where applicable and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and Jason Windows

"CONTRACT" means the contract for the purchase and sale of the Goods.

"Order" means a written of oral order placed by the Buyer requesting Jason Windows provide the Goods.

"Services" means all services performed by Jason Windows, as described on our quotation, invoice, or any other form issues by us.

"WRITING" includes electronic mail, facsimile transmission and comparable means of communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.4 Nothing in these conditions shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including under the Australian Consumer Law) and which by law cannot be excluded, restricted or modified.

2 Basis of the sale

2.1 Jason Windows shall sell and the Buyer shall purchase the Goods and Services in accordance with any written quotation of Jason Windows which is accepted by the Buyer, or any written Order of the Buyer which is accepted by Jason Windows, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such Order is made or purported to be made, by the Buyer.

2.1.1 A contract for supply is formed, and you have accepted these Conditions, when the Buyer has placed an Order with Jason Windows and we have received any deposit required from the Buyer in respect of the Order and we have accepted your Order in writing or supplied the Buyer with any Goods or performed any Services following receipt of your Order.

2.2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and Jason Windows.

2.3 Jason Windows employees or agents are not authorised to make any representations concerning the Goods unless confirmed by Jason Windows in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

2.4 Any advice or recommendation given by Jason Windows or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by Jason Windows is followed or acted upon entirely at the Buyers own risk, and accordingly Jason Windows shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by Jason Windows shall be subject to correction without any liability on the part of Jason Windows.

3 Orders and specifications

3.1 The Buyer shall be responsible to Jason Windows for ensuring the accuracy of the terms of any Order (including any applicable specification) submitted by the Buyer, and for giving Jason Windows any necessary information relating to the Goods within a sufficient time to enable Jason Windows to perform the Contract in accordance with its terms.

3.2 The quantity, quality and description of and any specification for the Goods shall be those set out in Jason Windows quotation (if accepted by the Buyer) or the Buyers Order (if accepted by Jason Windows).

3.3 The Buyer warrants and represents that all the Buyers specifications are accurate and correct and will not infringe the Intellectual Property Rights of any third-party.

3.4 If the Goods are to be manufactured or any process is to be applied to the Goods by Jason Windows in accordance with a specification submitted by the Buyer, the Buyer shall indemnify Jason Windows against all loss, damages, costs and expenses awarded against or incurred by Jason Windows in connection with or paid or agreed to be paid by Jason Windows in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or Intellectual Property Rights of any third-party which results from Jason Windows use of the Buyers specification.

3.5 Jason Windows reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable building codes, regulations or practices or, where the Goods are to be supplied to Jason Windows specification, which do not materially affect their quality or

performance.

3.6 No order which has been accepted by Jason Windows in accordance with clause 2.1.1, may be cancelled by the Buyer except with the agreement in Writing of Jason Windows and on terms that the Buyer shall indemnify Jason Windows for all reasonable loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Jason Windows as a result of cancellation.

4 Price of the goods

4.1 The price of the Goods shall be Jason Windows quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in Jason Windows published price list current at the date of acceptance of the Order. Unless accepted earlier by the Buyer, all prices quoted are valid for 30 days after which they may be altered by Jason Windows with giving notice to the Buyer of the new price.

4.2 Jason Windows reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods where delivery occurs more than twelve months after the date of acceptance of the Order or to reflect any increase in the cost to Jason Windows which is due to any factor beyond the control of Jason Windows (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give Jason Windows adequate information or instructions.

4.3 Where Jason Windows varies the price of the Goods pursuant to clause 4.2, we will notify you of the new price. Thereafter the Buyer may reject the new price within seven (7) days and terminate the contract for supply. Unless Jason Windows are in breach of the Contract then the Buyer must pay all our reasonable costs associated with fulfilment of the Buyers Order.

4.4 Except as otherwise stated under the terms of any quotation or in any price list of Jason Windows, and unless otherwise agreed in Writing between the Buyer and Jason Windows, all prices are given by Jason Windows on the basis that Jason Windows agrees to deliver the Goods to a site specified by the Buyer and accordingly the price shall include charges for transport, packaging and insurance.

4.5 Unless accepted by the Buyer earlier, all prices quoted are valid for 30 days after which they may be altered by Jason Windows with giving notice to the Buyer. The price is inclusive of any applicable goods and services tax (GST).

4.6 The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to Jason Windows before the due payment date.

5 Terms of payment

5.1 Subject to any special terms agreed in writing between the Buyer and Jason Windows, Jason Windows shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event Jason Windows shall be entitled to invoice the Buyer for the price at any time after Jason Windows has notified the Buyer that the Goods are ready for collection or (as the case may be) Jason Windows has tendered delivery of the Goods.

5.2 Jason Windows may, from time to time and at its absolute discretion, offer to Buyers such incentive as it sees fit, to promote the prompt payment of the Buyer's accounts.

5.3 The Buyer shall pay the price of the Goods (without any deduction) on or before the last day of the month following the month the Goods were delivered or the Services rendered, and Jason Windows shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the

property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

5.4 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to Jason Windows, Jason Windows shall be entitled to:

5.4.1 cancel the contract or suspend any further deliveries to the Buyer;

5.4.2 appropriate any payment made by the Buyer to such of the Goods (or the Goods supplied under any other Contract between the Buyer and Jason Windows) as Jason Windows may think fit (notwithstanding any purported appropriation by the Buyer); and

5.4.3 The Buyer agrees to pay interest on any unpaid amount at the rate of 1.5 percent (%) per month from the due date until payment is made in full and to pay any reasonable expenses incurred in collecting or attempting to collect any overdue monies including any debt collectors and/or solicitors fees on a solicitor client basis..

6 Delivery

6.1 Delivery of the Goods shall be made by Jason Windows delivering the Goods to such place for delivery as is agreed by Jason Windows or at the request of the Buyer collecting the Goods at Jason Windows's premises at any time after Jason Windows has notified the Buyer that the Goods are ready for collection.

6.2 Any dates quoted for delivery of the Goods are approximate only and Jason Windows shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by Jason Windows in writing. The Goods may be delivered by Jason Windows in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate Contract and failure by Jason Windows to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.4 If Jason Windows fails to deliver the Goods (or any instalment) for any reason other than any cause beyond Jason Windows reasonable control or the Buyers fault, and Jason Windows is accordingly liable to the Buyer, Jason Windows liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar Goods to replace those not delivered over the price of the Goods.

6.5 If the Buyer fails to take delivery of the Goods or fails to give Jason Windows adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyers reasonable control or by reason of Jason Windows fault) then, without prejudice to any other right or remedy available to Jason Windows, Jason Windows may:

6.5.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

6.5.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

7 Risk and property

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:

7.1.1 in the case of Goods to be delivered at Jason Windows premises, at the time when Jason Windows notifies the Buyer that the Goods are available for collection; or

7.1.2 in the case of Goods to be delivered otherwise than at Jason Windows premises, at the time

of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when Jason Windows has tendered delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until Jason Windows has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by Jason Windows to the Buyer for which payment is then due.

7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as Jason Windows fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as Jason Windows property, but shall be entitled to resell or use the Goods in the ordinary course of its business.

7.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), Jason Windows shall be entitled at any time to require the Buyer to deliver up the Goods to Jason Windows and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

7.4.1 Where Jason Windows exercises its rights of entry pursuant to clause 7.4, the Buyer agrees that us doing so will not give rise to any claim for trespass or similar action against us or our officers, employees, and agents.

7.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of Jason Windows, but if the Buyer does so all moneys owing by the Buyer to Jason Windows shall (without prejudice to any other right or remedy of Jason Windows) forthwith become due and payable.

8 Personal Property Securities Act 2009

8.1 Property in the Goods shall not pass to the Buyer until payment has been received by Jason Windows.

8.2 To protect against Jason Windows security interest in the Goods, it may register the agreement under the *Personal Properties Securities Act* 2009. The Buyer agrees to do all things necessary to facilitate such registration.

8.3 The Buyer acknowledges that these Conditions constitutes a security agreement for the purposes of section 19 of the *Personal Properties Security Act* 2009 (**PPSA**) and that a security interest exists in all Goods (and their proceeds) previously supplied by Jason Windows to the Buyer (if any) and in all future Goods (and their proceeds).

8.4 The Buyer will execute documents and do such further acts as may be required by Jason Windows to register the security interest granted to Jason Windows under the these Conditions under the PPSA.

8.5 The Buyer will waive their rights under the following provisions of the PPSA:

8.5.1 to receive notice of intention of removal of an accession (section 95 and 96);

8.5.2 to receive a notice that we decide to enforce our security interest in accordance with land law (section 117 and 118);

8.5.3 to receive a notice of enforcement action against liquid assets (section 121(4));

8.5.4 our obligation to dispose of or retain collateral (section 125);

8.5.5 to receive a notice of disposal of Goods by purchasing the Goods (section 129);

8.5.6 to receive a notice to dispose of Goods (section 130);

8.5.7 to receive a statement of account following disposal of Goods (section 132(2));

8.5.8 to receive a statement of account if no disposal of Goods for each 6 month period (section 132(4));

8.5.9 to receive a notice of any proposal of ours to retain Goods (section 137(2));

8.5.10 to object to any proposal of Jason Windows to either retain or dispose of Goods (section 137 (2));

8.5.11 to redeem the Goods (section 142);

8.5.12 to reinstate the security agreement (section 143); and

8.5.13 to receive a notice of any verification statement (section 157(1) and section 157(3)).

8.6 The Buyer further agrees that where Jason Windows has rights in addition to those under the PPSA, those rights will continue to apply.

8.7 Until ownership of the Goods passes, the Buyer must not give to Jason Windows written demand or allow any other person to give Jason Windows written demand requiring Jason Windows to register a financing charge statement under the PPSA or enter into or allow any other person to enter into the register of personal property securities a finance change statement under the PPSA.

8.8 The Buyer acknowledges that the Customer and/or Guarantor have received value as at the date of first delivery of the Goods and have not agreed to postpone the time for attachment of the security interest (as defined in the PPSA) granted to us under these Conditions.

8.9 The Buyer irrevocably grants to Jason Windows the right to enter upon the property or premises of the Buyer, without notice, and without being in any way liable to the Buyer or any third party, if Jason Windows has cause to exercise any of its rights under section 123 and/or 128 of the PPSA, and the Buyer shall indemnify Jason Windows from any claims made by any third party as a result of such exercise.

8.10 On default in payment by the Buyer irrevocably permits Jason Windows or any other person authorised by Jason Windows in writing upon reasonable notice to enter the Buyer premises or the premises where the Goods are reasonably believed by Jason Windows to be held on your behalf.

8.11 The Buyer agrees to sign documents or to carry out all necessary things to perfect Jason Windows rights under the agreement and appoint Jason Windows as the Buyer's attorney to sign any document or to do anything that may reasonably be required to enforce Jason Windows' rights on default.

8.12 The Buyer agrees to indemnify and hold Jason Windows harmless for all reasonable costs and expenses of recovery of the Goods and losses if any on their resale.

8.13 Nothing in these Conditions shall be taken or construed as an agreement or consent by the Jason Windows to:

8.13.1 subordinate Jason Windows' interest in its Goods and Services to any other encumbrance or interest affecting Jason Windows' Good and Services at any time; and

8.13.2 delay the time when a security interest created or provided for under these Conditions attaches to the relevant collateral.

9 Warranties against defects

9.1 Subject to the conditions set out below Jason Windows warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of ten years from the date of practical completion of the glazing of the project for which the Goods were delivered. Where the Buyer is acquiring the Goods as a Consumer, the benefit of the warranty in this clause 9.1 is in addition to other rights and remedies of the Buyer under a law in relation to the Goods.

9.2 The above warranty is given by Jason Windows subject to the following conditions:

9.2.1 The warranty in respect of any moving parts in the Goods shall be limited to a period of two years from the date of practical completion of the glazing of the project for which the Goods were delivered;

9.2.2 Jason Windows warranty excludes any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;

9.2.3 The Goods must in a proper workman like manner be installed and maintained in strict accordance with the relevant Australian standards and with Jason Windows instructions and recommendations;

9.2.4 Jason Windows warranty excludes any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow Jason Windows instructions or recommendations (whether oral or in writing), misuse or alteration or repair of the Goods without Jason Windows approval;

9.2.5 Jason Windows shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment; and

9.2.6 the above warranty does not extend to parts, materials or equipment not manufactured by Jason Windows, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to Jason Windows.

9.3 Subject as expressly provided in these Conditions, and except where the Buyer is acquiring the Goods as a Consumer, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

9.5 To receive the benefit of this warranty:

9.5.1 any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to Jason Windows within 14 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure;

9.5.2 any notice given by the Buyer under clause 9.5.1 shall be directed to Jason Windows at 31 Sheffield Road, Welshpool, WA 6106. Telephone 08 9351 3430. Email: warranty@jasonwindows.com.au; and

9.5.3 If delivery is not refused, and the Buyer does not notify Jason Windows in accordance with this clause 9.5, the Buyer shall not be entitled to reject the Goods and Jason Windows shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

9.6 Where the Buyer is acquiring the goods as a Consumer, Jason Windows goods and services come with guarantees that cannot be excluded under the Australian Consumer Law, you are entitled:

9.6.1 to cancel your service contract with us; and

9.6.2 to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

10 Indemnity

10.1 If you default in the performance or observance of your obligations under any contract of which these Terms form part, then:

10.1.1 we will take steps to mitigate our loss and act reasonably in relation to any default by you; and

10.1.2 we will give you notice requesting payment for loss and damage occasioned in respect of those events and requesting that you remedy any breach within a reasonable time; and

10.1.3 if that demand is not met then you indemnify us in respect of loss, damage, costs (including collection costs, bank dishonour fees, and legal costs on an indemnity basis) that we have suffered arising therefrom.

10.2 Your liability to indemnify us will be reduced proportionally to the extent that any fraud, negligence, or wilful misconduct by us or a breach of our obligations under contract has contributed to the Claim, loss, damage, or cost which is the subject of the indemnity.

10.3 Your liability to indemnify us is a continuing obligation separate and independent from your other obligations and survives the termination or performance of any contract of which these Terms form part.

11 Limitation of Liability

11.1 No party is liable to the other party or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of a party's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond a party's reasonable control:

11.1.1 Act of God, explosion, flood, tempest, fire or accident;

11.1.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

11.1.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

11.1.4 import or export regulations or embargoes;

11.1.4 strikes, lockouts or other industrial actions or trade disputes (whether involving employees of Jason Windows, the Buyer or of a third party);

11.1.5 difficulties in obtaining raw materials, labour, fuel, parts or machinery; and

11.1.6 power failure or breakdown in machinery.

Where the Buyer is acquiring the Goods as a Consumer, 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.

12 Insolvency of the Buyer

12.1 This clause applies if:

12.1.1 the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

12.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

12.1.3 the Buyer ceases, or threatens to cease, to carry on business; or

12.1.4 Jason Windows reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

12.2 If this clause applies then, without prejudice to any other right or remedy available to Jason Windows, Jason Windows shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

13 General

13.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

13.2 No waiver by Jason Windows of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

13.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

13.4 If any dispute arises between the Buyer and Jason Windows with the respect of any matter within the expertise of a technical expert then such dispute shall at the instance of either party be referred to a person agreed between the parties, and, in default of agreement within 21 days of notice from either party to the other calling upon the other so to agree, to a person chosen on the application of either party by the Executive Director for the time being of the Housing Industry Association Ltd. Such person shall be appointed to act as an expert and not as an arbitrator and the decision of such person shall be final and binding. The costs of such expert shall be borne equally by the parties unless such expert shall decide one party has acted unreasonably in which case he shall have discretion as to costs.

13.5 The Contract shall be governed by the laws of the State of Western Australia, and the Buyer agrees to submit to the non-exclusive jurisdiction of the courts of that state.