



Glasstech (Australia) Pty. Ltd.
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GLASSTECH AUSTRALIA PTY LTD.

TERMS AND CONDITIONS OF SALE AND SERVICE

1 General obligation

Glasstech agrees to provide the Customer with the Products and Services, and the Customer agrees to pay Glasstech the Fees, in accordance with:

- (a) the cover page;
 - (b) these terms and conditions;
 - (c) the service specific terms; and
 - (d) schedules, forms, specifications and other referenced materials (if any),
- (together, "this Agreement").

If there is an inconsistency between the documents in this clause, the document listed first prevails to the extent of the inconsistency.

2 Site charges and assumptions

(a) Unless otherwise agreed in writing, charges for work performed:

- (i) are based on work being carried out from 08:00 to 17:00 Monday to Friday except for Public Holidays and subject to alteration by Glasstech;
- (ii) are based on having continuous, uninterrupted, and unhindered access to the required people, equipment, facilities, and areas where the work is to be carried out; and
- (iii) do not cover extraneous work, patching/painting, carpet lifting or refitting, building work or decoration and, should Glasstech agree to carry out such work at the request of the Customer then Glasstech shall not be liable for any damage arising.

(b) All additional costs arising from clause 2(a) above and any alteration to the specifications required by the Customer including any interruption or delays by the Customer, its employees, agents, or other trades during the course of work performed may result in additional charges including the reasonable costs of delay.

(c) If it becomes necessary to pay any additional site allowances, other than a State or Federal award or amounts in excess of any current workplace agreement applicable to the type of work being performed, these costs will be added to the Fee.

(d) In the event that Glasstech has agreed to deliver the Services by a date agreed between the parties and such delivery is delayed by the occurrence of a Force Majeure Event (as set out in clause 12) or by any third party, or the Customer or its agents, Glasstech shall be entitled to a reasonable extension of time to complete the Services and compensation for additional costs incurred.

(e) Any variations to the Services required by the Customer must be agreed in writing by both parties and will be priced in accordance with Glasstech's standard price lists and shall include an amount for any design, management, overheads and profit.

3 Delivery

(a) Glasstech shall use reasonable endeavours to complete delivery of the Products and Services. However, delivery dates or periods quoted are estimates only and are subject to prompt receipt of all Customer information, other material, and permits from the Customer necessary to allow Glasstech to proceed with the delivery of the Product and Services. Glasstech accepts no liability whatsoever for any loss or damage suffered by the Customer as a consequence of any delay or failure to deliver the Products and Services.

(b) Risk in the Products shall pass upon delivery to the Customer. Title to and ownership of the Products shall pass to the Customer upon receipt by Glasstech of payment in full for those Products.

4 Additional services

If the Customer requests Glasstech to provide additional services in writing setting out the requested scope of such additional services beyond those described in this Agreement and Glasstech agrees, the terms of this Agreement apply to the additional services and the Customer must pay for the additional services at the following rate(s):

- (a) if Glasstech has quoted an amount before providing the additional services, the amount quoted; and
- (b) if Glasstech has not given any quote, an amount calculated for the additional services provided at Glasstech's standard rates for such additional services applicable at that time.

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5 Customer's responsibilities

The Customer shall:

- (a) provide Glasstech with access to the site as reasonably required for the purpose of allowing Glasstech to perform its obligations under this Agreement;
- (b) ensure that its employees, agents and other contractors shall:
 - (i) not interfere with or disrupt, delay or hinder Glasstech, its employees, agents, subcontractors, agents or other persons engaged by Glasstech or prevent them from carrying out their work or cause them to incur additional cost; and
 - (ii) reasonably cooperate with Glasstech and its employees, agents and subcontractors;
- (c) advise Glasstech of the existence of any concealed items affecting the premises and shall confirm the location of such items to Glasstech's technician/installer before work commences. In the absence of such notice Glasstech accepts no liability for any loss or damage to such services or any consequence thereof and the Customer agrees to indemnify Glasstech against any claim whatsoever for any loss or liability under this clause;
- (d) provide Glasstech with data, specifications and information as may be requested by Glasstech to enable it to fulfil its obligations under this Agreement;
- (e) provide adequate facilities at the premises at no cost to Glasstech, including parking, power, lifting equipment, scaffolding, scissor lifts, and rubbish removal skips;
- (f) ensure that the premises are at all times a safe working environment and (without limitation) will not contain asbestos or similar hazards. If Glasstech considers that the premises are unsafe it may delay or cease delivery of the Services until the premises are restored to a safe condition. Any such delay or cessation of the Services:
 - (i) will entitle Glasstech to an extension of time to complete the Services;
 - (ii) will not constitute a breach of this Agreement; and
 - (iii) will not entitle the Customer to the payment of liquidated damages or a financial penalty.

6 Warranty and Product Returns

- (a) The Products supplied by Glasstech to the Customer under this Agreement are covered by a 12 month warranty which shall commence from the date of completion of installation of Products, or for Products sold on a supply only basis upon delivery of the Products to the Customer ("Warranty Period").
- (b) During the Warranty Period, any Products that prove to be defective will be repaired or replaced by Glasstech at its option.
- (c) The parties agree that when evaluating a claim for defect, due allowance shall be made for fair wear and tear of the Product. Should the Customer or any other party attempt to install, carry out repairs, mal-operate or modify the Products in any way during the Warranty Period, Glasstech shall be relieved of its obligations under the warranty provisions. In addition, the warranty does not cover work required to be done to repair a defect or damage caused by the Customer's negligence, fault, neglect, abuse, incorrect use or as a result of vandalism, fire, water damage, power surge or other circumstance outside of Glasstech's control.
- (d) The Customer shall inspect all Products upon delivery and within 5 business days of installation, give notice to Glasstech if any of the Products are not in accordance with the Customer's order, including the specification.
- (g) Glasstech will accept Products returned for credit or replaced where Glasstech has incorrectly supplied a Product or the Product has been damaged in transit by Glasstech.
- (h) Customers may not return Products for credit without obtaining prior written authorisation from Glasstech.
- (i) Products returned for credit, except under (g) above, shall be subject to a 15% restocking fee and except where Products are returned under (g) above, all freight charges for goods returned for credit shall be prepaid by the Customer unless otherwise approved by Glasstech in writing.
- (j) Nothing in this clause 6 limits or excludes the application of the *Competition and Consumer Act 2010* (Commonwealth) including the Australian Consumer Law. If the Customer is a "consumer" as defined in the Australian Consumer Law, the following provisions apply.

7 Intellectual Property Rights

- (a) Glasstech retains all rights, title and interest subsisting in any design(s), documentation, diagrams plans, or other information and materials supplied to the Customer in relation to this Agreement.
- (c) All intellectual property rights in materials supplied by the Customer at the commencement of this Agreement remains the property of the Customer but the Customer grants Glasstech a perpetual, irrevocable, royalty free, non-exclusive licence to use, reproduce and modify the Customer's materials for any purpose related to this Agreement.
- (d) The Customer agrees to accept full responsibility for the Customer's materials and to indemnify Glasstech for any action, claim, liability, cost or expense arising out of any threatened or actual claim of intellectual property infringement arising out of Glasstech's use of the Customer's materials.

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8 Quotation validity

Unless otherwise agreed in writing, a quotation provided by Glasstech may be accepted up to 30 days from the quotation date, after which Glasstech reserves the right to amend or withdraw it. If any amounts are quoted in a foreign currency, the applicable exchange rate (as published by the Reserve Bank of Australia) shall be as at the date of the quotation.

9 Credit Information

The Customer acknowledges and agrees that if Glasstech requires financial information about the Customer for any credit application which attracts the operation of the Privacy Act 1988 (Commonwealth), Glasstech may:

- (a) disclose and collect commercial credit information about the Customer (and if the Customer is a company, about its directors and officers) for the purpose of determining the Customer's credit worthiness;
- (b) obtain a credit report from a credit reporting agency (which may contain personal credit information, information about commercial activities or commercial worthiness) for the purpose of assessing an application for credit and any later request for credit;
- (c) provide to, or obtain from any credit provider(s) named in a credit report information about the Customer's personal or commercial credit arrangements (including information relating to credit worthiness, credit standing, credit history and credit capacity); and
- (d) disclose personal information about the Customer to a credit provider other than Glasstech or to a credit reporting agency, for the purpose of collecting outstanding amounts owed by the Customer to Glasstech.

Glasstech's obligations under this Agreement are subject to satisfactory credit evaluation and Glasstech reserves the right to withdraw any quotation, cancel the services, and terminate this Agreement should such credit evaluation be or become unsatisfactory.

10 Fees and charges

NON ACCOUNT HOLDERS:

1. For contracts of \$3,000.00 or less, full payment is required before commencement of the project.
2. For contracts over \$3,000.00:
 - 50% deposit upon acceptance of quotation
 - 50% payment before the dispatch and installation of frames, lockup and other products

GLASSTECH ACCOUNT HOLDERS:

Progress invoices will be issued by the 25th of every month based on the % completion of the project.

(a) Glasstech will invoice the Customer for the Fees specified in this Agreement, and in accordance with any specific pricing and payment terms in Schedule 1.

(b) The Customer agrees to pay Glasstech the amount specified in the invoice within 30 days of the date of invoice without set-off, deduction or discount of any kind. Should the Customer delay in making payment, Glasstech shall have the right to charge interest on the outstanding amount at either:

- (i) the rate published by the Commonwealth Bank of Australia for overdrafts under \$100,000, interest to be calculated on a daily basis; or
- (ii) 2% above the 30 day bank bill rate specified by Westpac Banking Corporation at the relevant time.

Interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days. The Customer will also be liable for the payment all expenses that are reasonably incurred by Glasstech in the recovery of any payment, including legal costs incurred in the enforcement of the notice of default.

(c) The Customer acknowledges that Glasstech may issue progress payment invoices for materials or equipment purchased, and/or labour expended on work in progress, and to place into bond materials which cannot be accepted for delivery on site and invoice the full value thereof.

(d) Glasstech shall have the right to issue a notice of default requesting the Customer to pay the amount of any Fee within the time specified in the notice. The Customer will be required to pay Glasstech the Fees due upon receipt of this notice and pay all reasonable expenses, including legal costs incurred in the enforcement of the notice of default.

(e) Where any supply of Products or Services is or becomes subject to GST, an amount equal to GST paid or payable for that supply will be added to the amount exclusive of GST paid or payable for that supply under this Agreement.

(f) Payment of fees by the Customer within the specified period is a fundamental term of this Agreement and to the maximum extent permitted by law, Glasstech if the circumstance or event which would otherwise give rise to liability occurs at a time when the Customer is in breach of payment obligations to Glasstech.

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(g) The Fees shall be adjusted annually to take into account any changes in the national consumer price index. In addition, Glasstech may adjust the Fees on an annual basis in respect of an increase/fall in the cost of any annual services and increased/decreased costs.

(h) Glasstech may set off any amounts that Glasstech reasonably considers is due to Glasstech from the Customer against any amounts payable by Glasstech to the Customer under this Agreement.

(i) Glasstech will offer bank guarantees or surety bonds in place of retentions, in the unlikely event that cash retentions are held, they are to be held in an interest bearing trust account.

11 General

If the Customer purports to cancel any order, or this Agreement prior to its commencement or prior to the completion, then the Customer shall pay to Glasstech on demand a sum equivalent to all Glasstech's costs, fees and expenses incurred up to the date of such purported cancellation including any damages payable to Glasstech's sub-contractors or suppliers together with a reasonable proportion of Glasstech's loss of anticipated profits.

12 Force majeure

Glasstech will not be in breach of this Agreement or liable to the Customer if it fails to perform or delays in performance of an obligation as a result of an event beyond its reasonable control, including but not limited to strikes, industrial disputes, fire, flood, acts of God, war, insurrection, vandalism, sabotage, riot, national emergency, piracy, hijack, terrorism, embargoes or restraints, extreme weather or traffic conditions, temporary closure of roads, legislation, regulation, order or other act of government or governmental agency.

13 Retentions

Glasstech will offer bank guarantees or surety bonds in place of retentions