

FOR REGISTERED DEALERS

About These Terms & Conditions

These Terms and Conditions constitute a binding contract between WWS Acquisition, LLC dba Western Window Systems ("Western Window Systems") and its Registered Dealers (referred to herein as either "Terms and Conditions" or "Agreement") and no conflicting terms of any other document or communication shall be binding. By submitting a purchase order, making a payment, or otherwise requesting products (the "Products") from Western Window Systems, the Registered Dealer agrees to these Terms and Conditions.

Quotations

All Quotations will be subject to change unless the order and final specifications for immediate production are received within 60 days from the quotation date and written approval ("Dealer Acknowledgment") is received by the Registered Dealer. If we are selected to do this project, it is very important that you know exactly what you will receive, when you will receive it, the price you will pay, and the payment terms.

What is Included

If, after reviewing the information provided in the Dealer Quote, you have any questions about what is included in a Quotation, we will be happy to provide you with a further explanation, drawings, or samples.

Lead Time and Shipment Date

All products are manufactured to your specifications. The lead time will vary depending upon your requirements and begins when we receive your signed Approval Packet (consisting of a signed Dealer Quotation, any required deposits, and signed shop drawings and color chip, if applicable). Please allow sufficient lead time as advised by your sales representative. All lead times and shipment dates (whether provided in a Quotation, Acknowledgement, or otherwise) are estimates only. Western Window Systems uses commercially reasonable efforts to fill orders in accordance with the estimated lead time and shipment date. However, Western Window Systems will not be responsible for any delays in filling an order nor be liable for any losses or damages resulting from such delays, and no order shall be subject to cancellation for such delays.

The Price

The price you will pay is the total shown on the Dealer Acknowledgement, as modified by any subsequent approved change orders.

Tax Exemption Certificate

A properly completed Transaction Privilege Tax Exemption Certificate, for the state or region you are located in, must be on file with us.

Payment Terms

The following payment terms are only available to Registered Dealers with open accounts in good standing.

Orders are not binding upon Western Window Systems until accepted and a Dealer Acknowledgement is sent. All custom program orders, Pay in Advance ("PIA") orders, and orders which exceed the Registered Dealers' credit limit, require a fifty percent (50%) deposit at the time of order. Orders that exceed the Registered Dealers' credit limit may require additional deposit payments, specified at the time of order placement. PIA payment terms are described below.

If shipped by common carrier, partial shipments will be invoiced as they are shipped and a pro rata portion of the deposit received will be applied to each shipment. Products that are picked up, delivered crate and freight, or delivered by Western Window Systems will be invoiced upon receipt by the customer. The final balance is due in the amount and on the date indicated in the invoice. If you are eligible for an early payment discount, the applicable terms will be reflected on the final invoice. Any early payment discount is applicable to materials only, excluding freight, sales tax, and all other associated costs and will only be applied if the final balance due is received in our office on or before the early payment date indicated in the invoice.

If any payments are more than thirty (30) days overdue, the account will be considered delinquent and subject to a one and a half percent (1 ½%) per month interest charge. If for any reason an invoice remains unpaid for more than forty-five (45) days or other grounds for insecurity arise with respect to a due payment, Western Window Systems may, in its sole discretion, demand different terms of payment or assurance, or stop production on any open orders and hold shipments until the account is brought current.

PIA Terms (Pay in Advance)

All PIA orders require one hundred percent (100%) payment in full at time of order. ***There will be no exceptions made for PIA orders.***

If you wish to establish an open account, please contact your Western Window Systems' sales representative for a credit application. Please allow ten (10) days for review of submitted account applications.

Order Cancellations

It is the Registered Dealer's responsibility to immediately review the Dealer Acknowledgment to ensure it is consistent with the order specifications. Any changes, modifications, or cancellations must be made within forty-eight (48) hours of receipt of the Dealer Acknowledgment. After forty-eight (48) hours, a new order must be placed and penalties, up to and including the full purchase price, may apply.

Delivery and Acceptance

To the extent Products are shipped, transported, and delivered to the Registered Dealer by third-party carrier, such Products shall be delivered F.O.B Western Window Systems' facility, located at 2200 E. Riverview Drive, Phoenix, Arizona 85034 (the "Facility") and once provided by Western Window Systems to the carrier for transport, the Products shall be deemed to have been delivered and all risk of loss shall transfer to the Registered Dealer. To the extent Products are shipped, transported, and delivered to the Registered Dealer via Western Window Systems' delivery trucks, such Products shall be delivered F.O.B. the location requested by the Registered Dealer (and agreed to in writing) and once

delivered to such location, the Products shall be deemed to have been delivered and all risk of loss shall transfer to the Registered Dealer. Notwithstanding the foregoing, title to the Products shall not pass to the Registered Dealer until Western Window Systems has received payment in full for such Products and any other Products previously sold to the Registered Dealer.

Upon receipt of a shipment, the Registered Dealer is required to immediately inspect the Products. Any damage, shortages, errors, or other inconsistencies with the Dealer Acknowledgement must be reported to Western Window Systems in writing within forty-eight (48) hours from receipt of the shipment. Failure to make such a claim within such forty-eight (48) hour period will constitute a waiver of all such claims by the Registered Dealer and such failure will constitute acceptance of the Products, as delivered.

No Withholding of Payment

In the event of any dispute between Western Window Systems and the Registered Dealer, the Registered Dealer will not withhold payment of the purchase price of the Products purchased or any other amount payable to Western Window Systems in connection with this Agreement.

Special Orders

Special Orders refers to any non-standard option request. Western Window Systems' Special Order validation and pricing process only evaluates Western Window Systems' ability to build the non-standard specifications requested and the estimated cost of additional materials that may be necessary (such as the cost of steel for additional structural support) based solely on the requested product size and configuration. Western Window Systems does not individually test Special Order options or configurations or undertake any independent evaluation of individual project conditions. Therefore, Western Window Systems' validation of any Special Order or estimated costs of additional materials is neither advice nor a recommendation, guarantee, warranty, or certification that the Special Order product (or additional quoted materials) will meet the performance criteria of Western Window Systems' standard options or otherwise be appropriate or suitable for any particular project, design, application, climate, condition, use, or customer need or purpose and should not be relied on or used as a substitute for a comprehensive analysis by a structural engineer or other qualified construction professional. Western Window Systems strongly recommends obtaining an independent suitability evaluation for each project by a qualified professional.

Optional Product Accessories

Western Window Systems does not guarantee, warranty, or certify the use or installation of any optional accessories, parts, add-ons, equipment, supports, pans, caps, screens, safety or panic hardware, or other aftermarket items (whether or not affixed to Western Window Systems' products and whether or not manufactured by Western Window Systems or other third-parties). The use or installation of such Optional Products Accessories may damage the fenestration products and negatively impact operation and performance characteristics. Dealers and/or construction professionals who elect to use or install Optional Product Accessories do so at their own risk and Western Window Systems expressly disclaims all liability for direct, indirect, special, incidental, or consequential damages caused by, resulting from, or connected to the use or installation of Ancillary Products. In addition, use or installation of any Optional Product Accessories may void Western Window Systems' limited express warranties to the extent it causes product damage, adversely affects product operation or performance as designed, or violates AAMA standards or applicable building codes.

Registered Dealer Responsibilities

Registered Dealers shall conduct themselves in an honest and professional manner and at no time misrepresent Western Window Systems' products, services, or warranties to any third-party. The Registered Dealer also does not engage in any selling practices that are not sanctioned by Western Window Systems, including without limitation, sales practices which are unfair, deceptive, misleading, irresponsible, or which unfairly misleads or induces an unwilling customer to make a purchase.

The Registered Dealer is also solely responsible to take reasonable steps to ensure that Western Window Systems' Products are installed properly and in strict compliance with American Architectural Manufacturers Association ("AAMA") requirements, applicable codes and regulations, and Western Window Systems' written installation instructions, such as only engaging hiring or recommending experienced installation professionals or selling products to building/construction professionals who are responsible for ensuring proper installation.

The Registered Dealer is solely responsible to review all conditions under which the products will be installed and advise all parties necessary of any conditions that are hazardous, dangerous, or inappropriate for the selected Products.

The Registered Dealer is solely responsible to review all applicable warnings and safety information provided by Western Window Systems and other third-party component manufacturers and provide such information to all necessary parties, including but not limited to end-users. The Registered Dealer shall also provide a copy of Western Window Systems' Care & Maintenance Guide to end-users.

The Registered Dealer is solely responsible for all acts or omissions performed by its agents, employees, and subcontractors and the Registered Dealer shall defend, indemnify, and hold Western Window Systems harmless against any and all claims, losses, or damages arising out of the conduct or omission of the Registered Dealer, its agents, employees, and subcontractors.

Suitability

Western Window Systems is not responsible for determining the suitability of any Product for a particular project, design, application, climate, condition, use, or customer need or purpose. Western Window Systems is also not responsible for determining whether the incorporation of its Products into a building design will achieve a particular third-party certification or standard as windows and doors are only one factor in the building envelope. Determining such Product suitability is the responsibility of the architect, contractor, Registered Dealer, installer, owner, user, and/or other construction professionals. Western Window Systems will also not be responsible for any claims or damage arising from inappropriate selection of Products, faulty building design or construction, improper installation, or inaccurate orders.

Western Window Systems also does not control the application or selection of its product configurations, sealant, or glazing materials and assumes no responsibility therefore. It is the responsibility of the architect, contractor, Registered Dealer, installer, owner, user, and/or other construction professionals to make these selections in strict compliance with applicable laws and codes.

Relationship

Registered Dealers, and their employees, agents, and representatives, operate as independent contractors and are not employees, agents, or representatives of Western Window Systems, nor are they in a partnership or joint venture with Western Window Systems. No right is given to the Registered Dealer to enter into any agreement or commitment in the name of or on behalf of Western Window Systems or to bind Western Window Systems in any respect whatsoever. Neither shall anything contained herein or done in pursuance hereof, be deemed to authorize a Registered Dealer to act as the legal representative of Western Window Systems for any purpose whatsoever.

Warranties; Exclusive Remedy

Western Window Systems provides express limited warranties with its Products, which are available at www.westernwindowsystems.com/faq/warranty. Western Window Systems makes no other warranties and expressly disclaims all other representations, warranties, conditions, or covenants of any kind, either statutory, express, or implied including without limitation, any implied warranties of merchantability or fitness for a particular purpose, use, climate, condition, or durability. No distributor, dealer (Registered or otherwise), employee or representative of Western Window Systems has the authority to change, extend, or in any way modify Western Window Systems' express limited warranties, either orally or in writing, and any such modification will have no force or effect.

Additional express limited warranties may also be offered by third-party component manufacturers. Contact Western Window Systems' sales representative for further details.

Intellectual Property

Registered Dealer acknowledges and agrees that all intellectual property rights relating to Western Window Systems' Products, Western Window Systems, and/or this Agreement, including but not limited to all trademarks, service marks, copyrights, patents, trade names, trade secrets, logotypes, photography, advertising and other commercial symbols, and goodwill (collectively "Intellectual Property"), whether registered or not, used on or related to Western Window Systems, Western Window Systems' Products, or Western Window Systems' websites: www.westernwindowsystems.com and www.westernvolumeprogram.com, are and shall remain the sole property of Western Window Systems. Nothing in this Agreement shall be deemed to confer upon or transfer to Registered Dealers any right, title, interest, or license, whether express or implied, in or to any of Western Window Systems' Intellectual Property. Registered Dealer further agrees to immediately report to Western Window Systems any illegal use or infringement of Western Window Systems' Intellectual Property.

Confidential Information

The Registered Dealer and Western Window Systems (individually a "Party" and collectively the "Parties") acknowledge that it may be necessary to share information of a confidential nature, such as information relating to either Parties' services, products, personnel, clients, financial data, plans, forecasts, Intellectual Property, methodologies, algorithms, agreements, market intelligence, technical concepts, customer information, strategic analyses, internal developments, publications, accountings, or other conducted or planned activities (collectively "Confidential Information"). Both Parties agree that such information shall not be used for any purpose other than the performance of this Agreement or disclosed to anyone other than officers, employees, representatives, and related Parties with a need to know. In the event Confidential Information is required to be disclosed by court order, governmental agency, operation of law or pursuant to judicial, administrative or regulatory process, the disclosing

Party shall provide prompt notice of such prospective disclosure in order to permit the opportunity for the other Party to seek appropriate relief. The Parties shall take such reasonable actions with their employees, representatives, agents, affiliates, subcontractors, and dealers, as necessary to effectuate the intent of this provision and the confidentiality obligations imposed by this Agreement. Upon learning of any disclosure of either Parties' Confidential Information not permitted under this provision, the disclosing Party shall provide prompt notice of the disclosure and take all steps necessary to return any disclosed information and to prevent further improper disclosures. The Parties acknowledge that any use or disclosure of Confidential Information in a manner inconsistent with this provision will cause irreparable damage and may entitle the damaged Party to injunctive or other equitable relief, in addition to any other remedies available by law or under this Agreement.

Limitation of Liability

WESTERN WINDOW SYSTEMS WILL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, CONTINGENT, OR PUNITIVE DAMAGES FOR: (i) ANY CLAIM, WHETHER BASED ON A BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE; (ii) THE TENDER OF DEFECTIVE OR NONCONFORMING GOODS; (iii) BREACH OF ANY OTHER PROVISION IN THIS AGREEMENT; (iv) ANY CLAIMS, DEMANDS OR ACTIONS ARISING FROM CONTRACTS BETWEEN THE REGISTERED DEALER, ITS CUSTOMERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, END-USERS, OR OTHER THIRD-PARTIES; OR (v) ANY LOSS OR CLAIM ARISING OUT OF OR IN CONNECTION WITH ANY THIRD-PARTY RECOMMENDATION, INSTALLATION, MODIFICATION, OR REPAIR. IN NO EVENT WILL WESTERN WINDOW SYSTEMS' LIABILITY EXCEED THE PURCHASE PRICE PAID FOR THE SUBJECT PRODUCT OR COMPONENT.

WESTERN WINDOW SYSTEMS WILL ALSO NOT BE LIABLE FOR ANY CLAIM, LOSS, OR DAMAGES ARISING OUT OF THE INSTALLATION OF OUR PRODUCTS.

Governing Law

These Terms and Conditions and any sale of Products hereunder will be governed and construed in accordance with the laws of the State of Arizona, without regard to conflicts of laws rules. All claims, disputes, and controversies arising out of or relating to this Agreement, or the breach thereof, or the use of the Products, shall be submitted to arbitration in Phoenix, Arizona by a single arbitrator, mutually agreed to by the Parties. Such arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") for U.S. Sales, except that the Arizona Rules of Evidence shall apply. The arbitration need not be conducted by or through AAA. Except as provided herein, the arbitration shall not be brought or adjudicated on a representative, collective, consolidated, or class action basis and the Registered Dealer and/or any other person or entity making a claim against Western Window Systems pursuant to this Agreement (collectively "Claimants") waives any and all rights to: (1) assert any claim against Western Window Systems on a representative or collective basis; (2) represent or participate in any class action against Western Window Systems; (3) join any third-party's claims in a single arbitration against Western Window Systems; or (4) consolidate Claimants' arbitration with Western Window Systems with any other arbitration involving a third-party. Nothing in this section shall prevent Western Window Systems, in its sole discretion, from joining or consolidating any arbitration with Claimant with an arbitration between Western Window Systems and a third-party regarding the same claim or transaction. In the event of any conflict between this provision and the AAA Commercial Arbitration Rules, this provision shall control. Any judgment on the award rendered by the arbitrator may be entered in any U.S. court having jurisdiction.

Force Majeure

Western Window Systems will not be liable for delays in lead times or shipment of any order or failure in the performance of any of its obligations caused by accidents, labor disputes, shortages of labor, materials, fuel or power, fires, floods or other acts of God, acts or omissions of the Registered Dealer, restrictions imposed by national or local legislation or regulations, or any cause, whether similar or dissimilar to those enumerated in this section, including without limitation cease of production/operation by a company due to economic hardship, which is beyond the control of Western Window Systems.

Severability

If any provision in this Agreement shall be declared by any court of competent jurisdiction to be illegal, void, or unenforceable, such provision shall be enforced to the maximum extent valid and enforceable and the other provisions shall not be affected but shall remain in full force and effect.

No Waiver

In the event Western Window Systems decides, in its sole discretion, to deviate from any of the terms in this Agreement, such exception shall apply only to the limited circumstance and limited time for which it was granted and shall not be construed as a waiver of Western Window Systems' right to strictly enforce any provision hereunder.

Registration

To become a Registered Dealer, please visit <http://westernwindowssystems.com/dealer-registration>