

## CONDITIONS OF SALE – CLAYTON GLASS LTD

### Interpretation

1. Clayton Glass Ltd is the "Company".
2. The "Contract" means a trading agreement of which these terms and conditions are part.
3. The "Goods" mean the subject matter of the Contract.
4. The "Buyer" means the purchaser of the Goods.

### Application

5. The Company shall sell and the Buyer shall purchase the Goods subject to these terms and conditions which constitutes the entire agreement between the parties and all other terms, conditions, and warranties whatsoever are excluded.
6. A Contract for the Company to sell Goods and the Buyer to buy Goods shall come into existence when the Buyer's written order is accepted and acknowledged by the Company. Each delivery shall be considered as a separate contract.

### Price and Payment

7. Setting up credit accounts depends on completion of the Company's credit application with satisfactory trade and banker's references and is subject to status.
  - 7.1 Normal terms require "payment to be made within agreed terms".
  - 7.2 All published prices are subject to alteration or withdrawal without notice unless any specific agreement to the contrary exists and all Goods will be invoiced at the prices ruling on the date of despatch.
8. Unless otherwise agreed in writing by the Company, any quotation is only valid for 30 days from the date given.
9. The Company reserves the right to charge for exceptional delivery requests.
10. Should the Buyer request any variation in delivery dates, quantities, specification or any other matter material to the Contract, the Company reserves the right to charge an amended price.
11. If the Buyer fails to make payment on the due date, then, without prejudice to any other legal right of remedy available to them, the Company shall be entitled either to:
  - 11.1 Cancel the Contract or suspend delivery to the Buyer without liability until the requisite payment has been received; or
  - 11.2 Insist on performance of the Contract.
12. Late payment interest will be charged at 8% above base rate per annum.
13. The Company is entitled to invoice the Buyer for Goods at any time after the Goods have been manufactured. All payments to be made in £ Sterling and shall be made to the Company.
14. No dispute with the Company shall interfere with the prompt payment of all outstanding invoices as they fall due.
15. At any time prior to the delivery of the Goods the Company reserves the right to notify the Buyer that outstanding payment is required prior to delivery and the Company shall be entitled to withhold delivery until payment is made.
16. Liability for payment for the Goods will pass immediately to the Buyer on manufacture.

### Retention of Title

- 17.1 No title in the Goods shall pass from the Company to the Buyer unless and until the Company has received payment in full for the Goods and for any other amounts owing by the Buyer to the Company on any other account whatsoever.
- 17.2 Until payment for the Goods has been made in full, including payment of any interest due, the Buyer shall store the Goods in such a way as to enable them to be identified as the property of the Company and shall hold them as bailee for the Company. The Buyer shall not dispose of or part with possession of the Goods until title has passed, save that the Buyer may sell the Goods in the normal course of business.
- 17.3 The risk in the Goods shall pass to the Buyer when they are despatched from the Company's premises either for delivery to the Buyer or as a result of collection by the Buyer or at the commencement of any processing works being carried out on the Goods, whichever first occurs.
- 17.4 The Company reserves the right to repossess and uplift the Goods and thereafter to resell the same and for this purpose the Buyer hereby grants an irrevocable right and licence to the Company's employees and agents to enter upon all or any of its vehicles or premises in which the Goods are stored with or without vehicles during normal business hours. This right shall continue to subsist notwithstanding the termination of the contract for any reason and is without prejudice to any accrued rights of the Company thereunder or otherwise.
- 17.5 If the Buyer re-sells any Goods supplied by the Company, the proceeds of any such re-sale equivalent to all sums owing ("the Proceeds") shall belong to the Company until payment has been received in full. The Buyer will hold the Proceeds in a fiduciary capacity and keep them in a separate account, to be remitted forthwith to the Company.
- 17.6 In the event that the Goods become attached to any item belonging to the Buyer ("the Buyer's Product"), and the Goods remain in the opinion of the Company's employees and/or agents readily detachable from the Buyer's Product without causing damage to the Buyer's Product, the Buyer hereby grants an irrevocable right to the Company's employees and agents to separate and remove the Goods from the Buyer's Product.
- 17.7 The Buyer's right to possession shall cease forthwith in the following events:
  - (a) the Buyer has not paid all amounts due to the Company on any account whatsoever;
  - (b) the Buyer is declared bankrupt or makes or attempts to make any proposal to his creditors for composition or other voluntary arrangement with its creditors or does or fails to do anything which would entitle a petition for winding up or a bankruptcy order to be presented;
  - (c) the Buyer does or fails to do anything which would entitle any person to appoint a receiver to the whole or part of the Buyer's assets or would entitle any person to present a petition for the administration of the Buyer or a resolution is passed for the winding up of the Buyer;
  - (d) a judgment against the Buyer remains unsatisfied;
  - (e) the Buyer is unable to pay a debt to a third party as it falls due and/or is or is deemed to be insolvent;
  - (f) any distress or execution is levied against any of the Buyer's assets; and
  - (g) the Buyer refuses or fails to take delivery of the Goods tendered under the contract.

17.8 Until title has passed, the Buyer shall at all times keep the Goods comprehensively insured against loss or damage by accident, fire, theft, and other risk usually covered by insurance in the type of business for which the Goods are for the time being used in an amount at least equal to the balance of the price for the same time to time remaining outstanding. The policy shall bear an endorsement recording the Company's interest.

17.9 All mitigation/recovery activities by the Company under the contract between the parties are agreed to be entirely without prejudice to any additional claims it may have against the Buyer for any failure by the Buyer to comply with its obligations under the contract.

17.10 In the event of any of the occurrences referred to in the sub-clause above entitled "Termination of Buyer's Rights" arising, all sums due from the Buyer to the Company shall become immediately due and payable without deduction, set-off or counterclaim.

### Specifications

18. Notwithstanding any specifications of the Buyer to the contrary, the Company reserves the right to refuse to manufacture units which do not completely comply with all safety and statutory legislation.
19. All drawings, literature, technical specifications and samples provided by the Company to the Buyer are the copyright of Clayton Glass Ltd and the Buyer undertakes to keep all such copyright material confidential at all times.
20. Any typographical, clerical or other error or omission of any sort in any literature or document submitted to the Buyer by the Company shall be subject to correction without any liability on behalf of the Company. The Buyer undertakes to inform the Buyer of any corrections.
21. Where templates are submitted by the Buyer, and dimensions differ from written instructions on accompanying orders, the units will be manufactured to the size of the Buyer's template. Paper templates are not accepted. Alterations cannot be made once units are made.
22. Due to a policy of continuous development in the Company's manufacturing processes, the Company reserves the right to modify design and specification in any of the Company's products at any time.

### Delivery

23. The Company shall not be deemed to have breached the Contract, nor shall it be held liable to the Buyer in the event of any failure or delay in the Company's performance of any of their obligations in relation to the Goods if the failure or delay is beyond the control of the Company.
24. Delivery shall be deemed to occur in the instant that the Buyer or specified recipient handles the Goods or any part thereof which the Company have allocated to the Buyer. If the Goods are sold on a "collect" basis and the vehicle has loading equipment, delivery occurs on loading.
25. The Buyer shall have no claim for shortages or defects, unless the Buyer notifies the Company in writing within 48 hours of delivery of the Goods. In the event that the Buyer alleges the Goods to be defective, the Buyer must give the Company the opportunity to examine the Goods and investigate any complaint made.
26. Subject to clause 9 above, the Company will deliver all Goods to the address notified provided that the Buyer supplies a clear address and that there is good access to the delivery point.
27. Any delivery date or time given by the Company is an estimate only. The Company cannot be held liable for any costs or expenses should delivery occur later than expected.
28. Should the Buyer or their recipient be unable to accept delivery of the Goods at the specified time the Company will endeavour to provide adequate storage for the Goods until the Buyer is able to receive them. The Company reserves the right to charge the Buyer for all reasonable additional transport costs incurred, and to invoice the Buyer as if the Goods had been delivered.
29. If the Buyer's own glass is provided it will be given the same care and attention as the Company's glass, but in accordance with usual trade practice such glass will be deemed as the Buyer's own glass.

### Warranties and Liability

30. The Company's employees or agents are not authorised to make any verbal representations regarding the Goods.
31. The Company shall not be held liable for any defect or damage caused by incorrect handling, storage, installation, or subsequent use of the Goods on the part of the Buyer or any third party.
32. The Company shall not be held liable to the Buyer for any accidental damage, consequential loss, costs, expenses, loss of profits, goodwill, labour costs or any other claim which arises out of the supply of the Goods by the Buyer or their subsequent use or resale by the Buyer or third party claims.
33. The following warranties apply to the Company's Goods which have been paid for in full:
  - 33.1 SEALED UNITS: Are only covered against failure of the seals. Should any failure of the seals appear in the double glazed sealed unit within ten years from the date of delivery due to defective materials or workmanship in manufacture, the Company will repair or replace the faulty sealed unit free of charge.
  - 33.2 Any repair work carried out or replacement units supplied within the given warranty period under the terms of this warranty will also be covered for the remainder of the initial warranty period provided that installation has been carried out in accordance with current industry standard guidelines.
  - 33.3 RE-MAKES: The Company will undertake to re-make faulty or damaged Goods notified within the prescribed period free of charge. However, the Company does reserve the right to request the return of such Goods to enable the inspection of the claim. If the claim is found to be unjustified, the full purchase value of the initial invoice price for the Goods will be invoiced for the replacement Goods.
34. Subject to the foregoing and unless specifically otherwise agreed in writing between the Company and the Buyer, all conditions warranties and representations expressed and implied by statute common law or otherwise in relation to the Goods are hereby excluded to the full extent permitted by law.
35. The Company shall not be liable for defects in the Goods caused by any act neglect or default of the Buyer or of any third party or for the unsuitability of the Goods for mixing with other Goods or substances.
36. The Company's aggregate liability to the Buyer in respect of any occurrence or series of occurrences whether for negligence breach of contract misrepresentation or otherwise shall in no circumstances exceed the price of the defective damaged or undelivered Goods determined by net price invoiced to the Buyer whether loss and damage is limited to the Goods or includes consequential losses.

### Interference with Markings

37. The Buyer shall not alter, obscure, remove, conceal or otherwise interfere with any markings, or other identification of source or origin placed by the Company on the Goods, or on their labelling or packaging.

### Third Party Rights

38. If the Buyer uses or sells the Goods in such a manner as to infringe any rights of a third party the Company shall not be responsible for such infringement nor for any alleged infringement arising from the Buyer's action in relation to the Goods and the Buyer hereby agrees to indemnify the Company from and against all liability arising therefrom.
39. The Buyer shall not make any representations warranties or guarantees with reference to the Goods except such as are consistent with these terms and conditions and entirely on its own behalf and not on behalf of the Company.

### Force Majeure

40. If the supply of the Goods by the Company is prevented, hindered, delayed or rendered uneconomical by reason of circumstances or events beyond the Company's reasonable control including but not limited to Act of God, restrictions, restraint or interference by any Government or governmental or official body or any legislation rules or orders they may make, riot, strike, lock-out, trade dispute or labour disturbance, accident, breakdown of plant or machinery, fire, flood, severe weather conditions, difficulty or increased expense in obtaining labour, materials or transport, or other circumstances affecting the supply of the Goods or of raw materials therefor by the Company's normal source of supply or the manufacture of the Goods or the means of delivery, the Company shall be under no liability to the Buyer and shall have the right to cancel or suspend the whole or any part of the Company's unfulfilled obligations and in the event of any such cancellation or suspension to treat the terms of this contract as having been modified accordingly by mutual consent.

### Insolvency and Default

41. If the Buyer shall become bankrupt or commits any act of bankruptcy or if the Buyer is or is deemed insolvent or is put into liquidation otherwise than by voluntary liquidation for the purpose only of an amalgamation or solvent reconstruction or if the Buyer shall enter into any arrangement or composition with creditors or if a Receiver or Administrative Receiver or Administrator of the Buyer's assets or undertakings or any part thereof is appointed or if the Buyer commits any breach of this or any other contract between the Company and the Buyer or if the partnership has suspended payment of its debt in whole or in part, the Company may at its option cancel this contract in whole or in part and refuse to make any further delivery.

### Assignment

42. This contract is between the Company and the Buyer as principals and is not capable of assignment by the Buyer except with the written consent of the Company.

### Amended Terms and Conditions

44. Any amendments to the terms and conditions of the sale of the Goods shall be of no effect unless agreed in writing by the Company.

### Severance of Conditions

44. If any of these terms and conditions or any portion of same shall be held to be invalid or unenforceable in whole or in part under any enactment or rule of law such term or condition or portion of same shall to that extent only be deemed not to form part of these terms and conditions and the validity and enforceability of all the remaining terms and conditions shall not be affected.

### General

45. The Company may waive any of these terms and conditions. Such a waiver shall not prevent subsequent enforcement, nor shall it be deemed to be a waiver of any subsequent breach.
46. Any notice in writing as specified in these terms shall be addressed to the other party at their principal address.
47. These terms and conditions shall be governed by and construed in accordance with the law of England and Wales, and any disputes shall be subject to the jurisdiction of the English courts.