



GLASS MARKET

Terms & Conditions

THE CHOICE IS CLEAR

TERMS AND CONDITIONS OF SUPPLY

1. Acceptance of Customer's Order

- a) These terms and conditions as well as any Credit Account Agreement executed by or on behalf of the Customer are the terms and conditions that apply to every sale of goods by us, Glass Market (Vic) Pty Ltd (ACN 627 882 777) as the "Supplier", and you, as the "Customer".
- b) Any terms and conditions of the Customer's purchase order and/or any other terms whether oral or in writing are expressly excluded and rejected by the Supplier. This exclusion and rejection includes any statement by the Customer that the Customer's terms and conditions shall prevail.
- c) A contract is only concluded between the Supplier and Customer for the supply of goods when the order has been accepted by the Supplier. The terms of this clause apply to every quotation or offer by the Supplier for the supply of goods to the Customer.
- d) In the event that the Supplier accepts an order, such order remains subject to the availability of the ordered goods, and the Supplier shall be entitled to satisfy an order in part or at a later time in accordance with the availability of the goods ordered, and the Supplier shall have no liability in respect of the unavailability of any goods or their late availability and supply.
- e) The Customer shall place orders in writing which includes via email or via any procurement software system of the Supplier, as required by the Supplier from time to time.

2. Price

- a) All prices are as per our price list, as amended from time to time, and do not include insurance or delivery charges. The price list is an invitation to treat only and the Supplier reserves the right to supply goods at the prices set out on the price list at its absolute discretion.
- b) Any price list issued by the Supplier is subject to alteration at any time without notice, save that in the event that a Customer orders goods pursuant to a price list and in respect of such goods the Supplier is no longer willing or able, in its sole discretion, to supply such goods at the price appearing in the price list, the Supplier shall notify the Customer that the price listed in the price list in respect of the goods ordered by the Customer is no longer applicable and the supply of the goods shall be subject to agreement at that time as to price agreed between the Supplier and the Customer, and the Customer may cancel the order.
- c) All prices are exclusive of any tax levied on the supply of goods by the 'A New Tax System (Goods and Services Tax)' Act 1999 (Cth) unless otherwise indicated.

3. Property & Risk

- a) Risk in the goods in an order passes to the Customer when the goods are loaded for transportation at the Supplier's warehouse whether by carrier employed or engaged by the Supplier or the Customer.
- b) Property in, and legal title to, the goods in an order does not pass to the Customer until payment in full for the goods has been received by the Supplier. Until such payment has been received by the Supplier, the Customer will store the goods separately and apart from its own goods and those of any other person or company. The Customer may re-sell any of the goods on normal commercial terms before the Supplier is paid in full provided that:
 - i) The Customer re-sells as principal and has no right to commit the Supplier to any

- contractual relationship or liability to any third party; and
- ii) The Customer holds the rights in respect of the re-sale proceeds on behalf of and as trustee for the Supplier.
- c) Until payment of all debts owing to the Supplier by the Customer, the Supplier may, at its discretion, without further notice and without prejudice to any other of its rights, including rights arising under Chapter 4 of the Personal Properties and Securities Act 2009 (Cth) (the "PPSA"), re-take possession of the goods and re-sell them or any of them and may enter upon any of the Customer's premises by its servants or agents, for that purpose, without the liability on the part of the Supplier for any loss or damage suffered as a consequence of such entry or re-taking of possession and the Customer hereby agrees to provide the Supplier with an irrevocable license to so enter any premises occupied by the Customer if:
- i) there is a breach of any term of any contract between the Supplier and the Customer; or
 - ii) the Customer has provided any false or misleading information to the Supplier including information provided in an Application for a Credit Account Agreement; or
 - iii) the Customer commences to be wound up or is placed in liquidation, under official management or a receiver, a receiver and manager or voluntary administrator is appointed in respect of the Customer, its undertaking or property or any part thereof, or an encumbrancer, by itself or an agent, takes or purports to take possession of the Customer's undertaking or property or any part thereof; or
 - iv) the Customer parts with possession of the goods or any of them otherwise than by way of sale in the ordinary course of its business.
- d) The Customer undertakes to promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Supplier may reasonably require to register a financing statement or financing change statement in relation to a security interest or register any other document required to be registered under the PPSA.
 - e) The Customer shall indemnify and keep indemnified the Supplier from and against all actions, claims, liabilities, obligations, losses, damages, costs and expenses of whatever nature suffered or incurred, sustained or threatened against the Supplier and its employees and agents in any way whatsoever in respect of the Supplier's exercise of any of the Supplier's rights, including, without limitation, those under Part 4 of the PPSA.

4. Insurance

- a) The Customer is responsible for the arrangement of the insurance of goods supplied under this Agreement and shall, at its own cost, insure the goods against such risks as a prudent owner of the goods would insure for at their full insurable value which shall include but shall not be limited to all damage which may occur at or in transit to and or from the Customer's premises by way accidental loss or damage, fire, theft, flood and or wilful damage.

5. Payment

- a) All invoices for orders for Customers who do not have a Credit Account Agreement with us must be paid in full before we will process and fill the order under the invoice.
- b) Unless indicated otherwise under the Credit Account Agreement, the Customer will pay for all goods supplied under an order within thirty (30) days from the date of invoice.
- c) The Supplier shall accept payments made by the Customer on Visa, Mastercard, or American Express ("Facility") where the Customer has nominated one of the above in writing to the

Supplier and the Supplier has authorized the Customer in writing of its acceptance of payments being made via such Facilities. The Supplier shall be entitled to charge 2.5% of the total payment amount (including GST) ("Facility Levy") where any payment is made using a Facility.

- d) The Supplier may, in its absolute discretion, charge interest at that rate which is equal to 2.5% per calendar month or part thereof to the Customer on all amounts which are thirty (30) days overdue until such time as payment in full is received by the Supplier.
- e) Where payment is not made by the due date, the Customer shall, in addition to any other obligations imposed hereunder, pay to the Supplier on demand all costs of the Supplier (including but not limited to storage delivery collection obsolescence, debt recovery commission costs and legal costs on a full indemnity basis) incurred by the Supplier in recovering overdue amounts from the Customer.
- f) All payments received by the Supplier shall be applied as follows:
 - i) firstly, towards any costs of the Supplier referred to above (or any part thereof);
 - ii) secondly, towards any interest payable as set out above (or any part thereof); and
 - iii) thirdly, towards any amounts payable by the Customer to the Supplier for goods under an order payment for which remains in whole or in part outstanding.
- g) Time of payment for any goods sold to the Customer is an essential term of the supply of goods under an order by the Supplier to the Customer and time of payment shall be "of the essence".

6. Cancellation

- a) Cancellation of any order for goods requires approval in writing from the Supplier otherwise the goods will be delivered to the Customer and the Supplier will be entitled to payment from the Customer.
- b) The Supplier is not obliged to supply goods in relation to any order and may cancel the order if:
 - i) there is a breach of any term of any contract between the Supplier and the Customer; or
 - ii) the Customer has provided any false or misleading information to the Supplier including information set out in any Credit Account Application; or
 - iii) the Customer commences to be wound up or is placed under official management or a receiver or receiver and manager or voluntary administrator is appointed in respect of the Customer, its undertaking or property or any part thereof, or an encumbrancer, by itself or by an agent, takes or purports to take possession of the Customer's undertaking or property or and part thereof; or
 - iv) the Supplier is unable to supply goods as a result of the failure of any supplier of the Supplier to deliver goods or provide services which are required in order for the Supplier to supply the goods to the Customer.

7. Acceptance and Claims

- a) Acceptance of the goods delivered shall be deemed to take place at the expiration of seven (7) days from the date of each delivery.
- b) No goods will be accepted for return twelve (12) months after the date of delivery to the Customer.
- c) No goods will be accepted for return unless

agreed to in writing by the Supplier prior to such return and then only upon conditions acceptable to the Supplier which may include, but may not be limited to:

- i) the Customer provide proof of the purchase date;
 - ii) the return of any goods shall be at the Customer's cost and risk; and
 - iii) the goods are in the condition and packaged as they were supplied by the Supplier or packaged in a manner permitting the re-sale of the goods.
- d) Other than as expressly set out in these terms and conditions, to the full extent permitted by law, the Supplier excludes any and all liability, losses, damages, costs and expenses (including legal costs and expenses) in relation to the supply of goods to the Customer (including any consequential loss or damage) however so caused, which may be suffered or incurred or which may arise whether directly or indirectly in respect of the goods or their supply.
- e) Except as expressly provided to the contrary in these terms and conditions, all implied terms, conditions, warranties, undertakings, inducements or representations, statutory or otherwise are excluded to the extent permitted by law.
- f) The Supplier provides separate and specific warranties in relation to the goods it supplies in an order. Those warranties are personal to and attach to the Customer and not the goods supplied and cannot be transferred to any other person, including any person who purchases the goods from the Customer or purchases any building or other construction that the goods are used in or installed into.
- g) The Supplier's total aggregate liability in relation to any goods sold and supplied to the Customer shall, to the extent permitted by law, be limited to the value of the goods supplied in the order the from which the liability arises.

8. Delivery

The Supplier may deliver the goods by instalments or in parts and the Customer will accept each such delivery.

9. Relationship of the Parties

- a) Each Party shall be, and shall endeavor to act as, an independent Party. Nothing in this Agreement shall create, or be deemed to imply the creation of, any partnership, joint venture, principal and agent, master and servant or any other relationship.
- b) Neither Party shall be the legal agent of the other for any purpose whatsoever and has no right or authority to make or underwrite any promise, warranty, representation or indemnity to execute any contract or otherwise to assume any obligation or responsibility in the name of or on behalf of the other Party, except to the extent specifically authorized in writing by the other Party.
- c) Neither Party shall be bound by, or be liable to, any third party for any act or for any obligation or debt incurred by the other toward such third party, except to the extent specifically agreed to in writing by the Party to be so bound.

10. Non-Waiver

- a) The failure of a Party to insist upon performance or strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled under this Agreement, shall not constitute a waiver of the other Party's failure to perform or under-performance, and shall not diminish the other Party's obligation to fully perform its obligations under this Agreement.
- b) A waiver of a breach of this Agreement shall not be effective unless and until:
 - i) it is expressly stated to be a waiver;
 - ii) it specifies the breach to which it relates; and

- iii) it has been committed to writing and signed by a duly authorised representative of each Party that has the power to bind their respective Parties in relation to such matters.
- c) A waiver of a breach of this Agreement shall not constitute a waiver of any subsequent breaches of this Agreement.

11. Entire Agreement

This Agreement, as amended from time to time in accordance with the terms of this Agreement:

- a) contains the entire agreement between the Parties; and
- b) shall supersede all previous agreements, arrangements and communications between the Parties, either oral or written, in relation to the supply of goods by the Supplier to the Customer and the subject matter of this Agreement.

12. Severance

If any provisions of this Agreement should become fully or partially invalid or unenforceable for any reason whatsoever, or violate any applicable law, such provisions shall be deleted from this Agreement, and the remainder of this Agreement, to the extent permissible, shall be valid and binding as if such provision(s) were not included herein.

13. Notices

- a) Except as otherwise expressly provide for in this Agreement, any notice given under or pursuant to any provision of this Agreement shall be given in writing and in accordance with the terms of this clause 12.
- b) Any notice required to be given under or pursuant to any provision of this Agreement shall be given by hand, registered post, courier, fax or email.
- c) A notice shall be deemed to have been received and valid as follows:

- i) if delivered by hand, when delivered physically delivered to the Party's address in the Contract Details;
- ii) if delivered by registered post or courier, the date on the corresponding tracking notice, which may or may not be discoverable through use of an online or other delivery tracking system;
- iii) if delivered by fax, on the date 4 hours after the successful transmission of the fax to the correct fax number; or
- iv) if delivered by email, upon receipt of a read receipt or a response from the receiving Party.
- d) Where a notice is sent by multiple forms of delivery, the date and time of delivery shall be the earliest date and time as determined by clause 12(c).
- e) Notwithstanding the above, a notice that is received on a weekend or Public Holiday shall be deemed to be received at 12:01 am on the next working day.
- f) The details of each Party's address and other details to which notices are to be sent are set out in the Contract Details.
- g) Each Party shall use its best endeavours to advise the other Party of any change to its address and other contact details as soon as practicable, and in any event, within 5 days of any substantive change to them.
- h) Where a Party does not comply with clause 12(g), any notices sent to the previous address shall be deemed to have been received by the other Party within 5 days of sending, provided that such notices were not sent by email and/or fax.

14. Force Majeure

- a) If either Party is prevented from performing any of its obligations under this Agreement by a Force Majeure Event then:
- i) as soon as reasonably possible after commencement of the Force Majeure Event that Party shall notify the other Party in writing of the occurrence of the Force Majeure Event, the date of commencement and an estimated duration of the Force Majeure Event and the effects of the Force Majeure Event on its ability to perform its obligations under this Agreement;
 - ii) that Party shall use all reasonable efforts to mitigate the effects of the Force Majeure Event upon the performance of its obligations under this Agreement;
 - iii) that Party's obligations under this Agreement (other than an obligation to make payment) shall be suspended for so long as the Force Majeure Event continues and to the extent that Party is so prevented from performing its obligation under this Agreement as a result of the Force Majeure Event; and
 - iv) as soon as reasonably practicable after the cessation of the Force Majeure Event that Party shall notify the other Party in writing of the cessation of the Force Majeure Event and shall resume performance of its obligations under this Agreement.
 - v) For the purposes of this clause a Force Majeure Event means in relation to a Party, any act, event or circumstance, the cause of which is not within that Party's making or reasonable control, including, act of God, war, hostilities, terrorist acts, acts of civil or military authorities, governmental or regulatory direction or restriction, suspension or withdrawal of licences or consents, riot, insurrection, civil commotion, civil disobedience, public demonstration, sabotage, acts

of vandalism, fire, flood, earthquake, extreme weather conditions, electro-magnetic interference, disease epidemic, pandemic, explosion, an order of any governmental or regulatory authority, delay in transportation, breakdown and failure of communications networks, breakage or accidental damage of equipment, strike, lock-out or other industrial or trade dispute.

15. Counterparts

This Agreement may consist of a number of counterparts, and if so, the counterparts, when taken together shall constitute one and the same instrument.

16. Law

This Agreement shall be governed by the laws of Victoria.