

## Glass & Stainless Ltd

### Terms and Conditions of Supply to Businesses

#### 1 Interpretation

1.1 In these terms and conditions (these “**Conditions**”):

“**Charges**” means the charges payable for the Goods and (if applicable) the Services, as specified in the Order or otherwise agreed in writing by the Customer and Glass & Stainless;

“**Commencement Date**” has the meaning set out in clause 2.2;

“**Contract**” means the contract between Glass & Stainless and the Customer for the sale and purchase of the Goods and the Services (if any) in accordance with these Conditions;

“**Customer**” means the organisation which purchases the Goods and (if applicable) the Services from Glass & Stainless, as identified in the Order;

“**Force Majeure Event**” means events, circumstances or causes beyond a party’s reasonable control;

“**Glass & Stainless**” means Glass & Stainless Ltd, registered in England and Wales with company number 08594324, with its registered office at Ebenezer House, Ryecroft, Newcastle-Under-Lyme, Staffordshire, England, ST5 2BE;

“**Goods**” means the bespoke glass and stainless steel products set out in the Order, which may include glass balustrades, glass shower units, glass sliding door systems, glass partitions and components;

“**Order**” means the Customer’s order for the supply of the Goods and the Services (if any), as set out in the Customer’s purchase order form, or the Customer’s written acceptance of Glass & Stainless’ quotation, as the case may be;

“**Services**” means the design and/or installation services (if any) supplied by Glass & Stainless to the Customer, as set out in the Order; and

“**Specification**” means any specification for the Goods and/or the Services, including any relevant plans and drawings, that is agreed in writing by the Customer and Glass & Stainless.

1.2 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.3 Any phrase introduced by the terms “**including**”, “**include**”, “**in particular**” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

#### 2 Basis of contract

2.1 The Order constitutes an offer by the Customer to purchase the Goods and the Services (if any) in accordance with these Conditions.

- 2.2 The Order shall only be deemed to be accepted when Glass & Stainless issues written confirmation of the Order at which point and on which date the Contract shall come into existence (“**Commencement Date**”).
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Glass & Stainless which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by Glass & Stainless and any descriptions of the Goods or illustrations or descriptions of the Services contained in Glass & Stainless’ catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 All of these Conditions shall apply to the supply of both the Goods and the Services (if any) except where application to one or the other is specified.

### **3 Delivery of the Goods**

- 3.1 Glass & Stainless shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (“**Delivery Location**”) at any time after Glass & Stainless notifies the Customer that the Goods are ready.
- 3.2 Delivery is completed on the completion of unloading of the Goods at the Delivery Location by a member of Glass & Stainless team or a courier appointed by Glass & Stainless. Glass & Stainless shall not be responsible for any loss or damage to the Goods caused by the Customer’s negligence upon taking receipt of delivery of the Goods.
- 3.3 The Customer shall ensure that a representative of the Customer is available to assist with the unloading of the Goods at the Delivery Location. If the Customer is unable to provide a representative to assist with the unloading, the Customer shall advise Glass & Stainless at the point of placing the Order so that the Charges can be adjusted accordingly.
- 3.4 Any dates quoted for delivery of the Goods are approximate only. Glass & Stainless shall not be liable for any delay in delivery (or non-delivery) of any Goods that is caused by:
- 3.4.1 a Force Majeure Event; or
  - 3.4.2 the Customer’s failure to provide Glass & Stainless with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 3.5 If the Customer fails to accept or take delivery of the Goods within 14 days after Glass & Stainless notifies the Customer that the Goods are ready or the Customer has not provided a representative to assist with the unloading of the Goods and has not notified Glass & Stainless of this at the point of placing the Order, then except

where such failure or delay is caused by a Force Majeure Event or by Glass & Stainless' failure to comply with its obligations under the Contract in respect of the Goods:

- 3.5.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third day following the day on which Glass & Stainless notified the Customer that the Goods were ready; and
- 3.5.2 Glass & Stainless shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance) and any failed delivery fees charged to Glass & Stainless by its courier.

#### **4 Quality and fitness for purpose**

4.1 Glass & Stainless warrants that at the date of delivery (in accordance with clause 3.2) the Goods shall:

- 4.1.1 conform in all material respects with the Specification (if any);
- 4.1.2 be free from material defects in design, material and workmanship;
- 4.1.3 be fit for any purpose held out by Glass & Stainless; and
- 4.1.4 meet the applicable British Safety Standards.

4.2 Subject to clause 4.3, if:

- 4.2.1 the Customer gives notice in writing to Glass & Stainless promptly after delivery that some or all of the Goods do not comply with the warranties set out in clause 4.1; and
- 4.2.2 Glass & Stainless is given a reasonable opportunity of examining such Goods,

Glass & Stainless shall, at its option, repair or replace any Goods that are found to be defective, or refund the price of such defective Goods in full.

4.3 Glass & Stainless shall not be liable for failure of the Goods to comply with the warranties set out in clause 4.1 if:

- 4.3.1 the Customer makes any further use of such Goods after giving notice of defects in accordance with clause 4.2;
- 4.3.2 where no Services are being provided, the defect arises because the Customer failed to follow Glass & Stainless' oral or written instructions as to the installation, use and maintenance of the Goods;
- 4.3.3 the defect arises as a result of Glass & Stainless following any drawing, design or Specification supplied by the Customer;
- 4.3.4 the Customer alters or repairs such Goods without the written consent of Glass & Stainless;
- 4.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or

- 4.3.6 the Goods differ from their description or the Specification (if any) as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 4.4 Glass & Stainless' only liability to the Customer if the Goods fail to comply with the warranties set out in clause 4.1 is as set out in this clause 4. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 4.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by Glass & Stainless.

## **5 Title and risk**

- 5.1 Risk in the Goods shall pass to the Customer on completion of delivery of the Goods or on completion of the installation of the Goods (if such services are being provided by Glass & Stainless under the Contract).
- 5.2 Title to the Goods shall only pass to the Customer once Glass & Stainless receives payment in full (in cash or cleared funds) for the Goods.
- 5.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 5.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Glass & Stainless' property;
  - 5.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 5.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - 5.3.4 notify Glass & Stainless immediately if it becomes subject to any of the events listed in clause 11.1.2; and
  - 5.3.5 give Glass & Stainless such information relating to the Goods as Glass & Stainless may require from time to time.
- 5.4 Glass & Stainless may recover Goods in which title has not passed to the Customer. The Customer irrevocably licenses Glass & Stainless, its officers, employees and agents, to enter any premises of the Customer (including with vehicles), in order to satisfy itself that the Customer is complying with the obligations in clause 5.3, and to recover any Goods in which property has not passed to the Customer.

## **6 Goods made by reference to a template**

- 6.1 Where the Customer orders Goods by reference to a template (the "**Template**"), the Customer shall be responsible for providing Glass & Stainless with the Template.
- 6.2 Glass & Stainless accepts no liability for the accuracy of the Template and makes no warranties regarding its suitability or fitness for any purpose.
- 6.3 Glass & Stainless shall not use the Template for any purpose other than the supply of Goods in accordance with the Contract.

- 6.4 Glass & Stainless reserves the right to retain (or destroy) the Template once the Goods have been supplied in accordance with the Contract.

## **7 Supply of the Services**

- 7.1 Glass & Stainless shall provide the Services (if any) to the Customer in accordance with the Contract and the Specification (if any) in all material respects.
- 7.2 Glass & Stainless shall use reasonable endeavours to meet any performance dates for the Services specified in any Specification and/or agreed between the parties, but any such dates shall be estimates only.
- 7.3 Glass & Stainless shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Glass & Stainless shall notify the Customer in any such event.
- 7.4 Glass & Stainless warrants to the Customer that the Services will be provided using reasonable care and skill.
- 7.5 The conditions implied by sections 3,4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

## **8 Customer's obligations**

- 8.1 The Customer shall:
- 8.1.1 ensure that the terms of the Order and (if submitted by the Customer) the Specification are complete and accurate;
  - 8.1.2 co-operate with Glass & Stainless in all matters relating to the Services;
  - 8.1.3 provide Glass & Stainless, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Glass & Stainless to provide the Services;
  - 8.1.4 provide Glass & Stainless with such information and materials as Glass & Stainless may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
  - 8.1.5 prepare the Customer's premises for the supply of the Services (if required);
  - 8.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and
  - 8.1.7 keep and maintain all materials, equipment, documents and other property of Glass & Stainless ("**Supplier Materials**") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to Glass & Stainless, and not dispose of or use any Supplier Materials other than in accordance with Glass & Stainless' written instructions or authorisation.

- 8.2 If Glass & Stainless' performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"):
- 8.2.1 Glass & Stainless shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Glass & Stainless' performance of any of its obligations;
- 8.2.2 Glass & Stainless shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Glass & Stainless' failure or delay to perform any of its obligations as set out in this clause 8.2; and
- 8.2.3 the Customer shall reimburse Glass & Stainless on written demand for any costs or losses sustained or incurred by Glass & Stainless arising directly or indirectly from the Customer Default.

## **9 Charges and payment**

- 9.1 In respect of supply of any Goods only, Glass & Stainless shall invoice the Customer for the Charges on or at any time after dispatch of the Goods.
- 9.2 If the Customer causes a delay to the delivery of the Goods (for example if they advise that the Goods cannot be delivered until a later date than the agreed delivery date) or the Customer makes amendments to their Order after production of the Goods has commenced, Glass & Stainless shall be entitled to invoice the Customer for the Charges once the Goods are ready for dispatch even though the delivery date of the Goods has been delayed.
- 9.3 If Goods and Services are being supplied to the Customer, Glass & Stainless shall invoice the Customer for the Charges on or at any time after completion of the Services.
- 9.4 The Customer shall pay each invoice submitted by Glass & Stainless within 30 days after the end of the month in which the invoice is issued (unless otherwise agreed) and in full and in cleared funds to a bank account nominated in writing by Glass & Stainless. Notwithstanding any other provision in these Conditions, if a credit account for the Customer has not been approved or put in place by Glass & Stainless, Glass & Stainless may issue a pro-forma invoice to the Customer and such invoice must be paid by the Customer before the Order can be processed.
- 9.5 If the Customer fails to pay any sum properly due and payable (other than any sum disputed in good faith) by the due date for payment, Glass & Stainless may exercise its rights under the Late Payment of Commercial Debts (Interest) Act 1998 in respect of such late payment.
- 9.6 The Customer shall pay all amounts due under the Contract in full without set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Glass & Stainless may at any time, without limiting any of its other rights or remedies, set off any amount owing to it against any amount payable by Glass & Stainless to the Customer.

## **10 Limitation of liability**

- 10.1 Nothing in these Conditions shall limit or exclude Glass & Stainless' liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable), for fraud or fraudulent misrepresentation or for any other matter in respect of which it would be unlawful for Glass & Stainless to exclude or restrict liability.
- 10.2 Subject to clause 10.1:
- 10.2.1 Glass & Stainless shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 10.2.2 Glass & Stainless' total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the sum of the Charges.
- 10.3 This clause 10 shall survive termination of the Contract.

## **11 Termination**

- 11.1 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 11.1.1 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
- 11.1.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 11.1.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 11.1.4 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 11.2 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 11.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

## 12 General

- 12.1 **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from a Force Majeure Event. If the period of delay or non-performance continues for four weeks the party not affected may terminate the Contract by giving 30 days' written notice to the affected party.
- 12.2 **Assignment and other dealings.** The Customer shall not assign, transfer, charge, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Glass & Stainless.
- 12.3 **Sub-contracting.** Glass & Stainless may subcontract any of its obligations under the Contract, but, for the avoidance of doubt, no such subcontracting arrangement shall release Glass & Stainless from any of its obligations under the Contract and Glass & Stainless shall remain fully responsible to the Customer for the proper and complete discharge of all such obligations.
- 12.4 **Confidentiality.** A party ("**Receiving Party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party ("**Disclosing Party**"), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business, its products and services which the Receiving Party may obtain. The Receiving Party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The Receiving Party may also disclose such of the Disclosing Party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 12.4 shall survive termination of the Contract.
- 12.5 **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 12.6 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 12.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 12.8 **Notices.** Notice given under the Contract shall be in writing, addressed to the recipient party at its registered office or such other address as that party may have specified to the other party in writing sent to the address and shall be delivered either personally, by courier, or by recorded delivery. A notice is deemed to have been received on signature of a delivery receipt by an individual at the correct address for notices.

- 12.9 **Third party rights.** The Contract does not create any rights or benefits enforceable by any person not a party to it (within the meaning of The Contracts (Rights of Third Parties) Act 1999)
- 12.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the law of England and Wales.
- 12.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.