

General Terms and Conditions for Supplies and Services of

SAINT-GOBAIN GLASS DEUTSCHLAND GMBH, Nikolausstraße 1, 52222 Stolberg (Rhd.)



1. Scope

1.01 These Terms and Conditions shall apply to all contracts, supplies and deliveries of goods and other work and services, including advice and consulting, of and by Saint-Gobain in business transactions with non-consumers within the meaning of Art. 310 Section 1 German Civil Code (BGB). Any terms and conditions of purchase of the Buyer are hereby rejected.

2. Offers and Contracts

2.01 The offers contained in our catalogues and sales literature and also – unless expressly stated as firm – on the Internet are without engagement, i. e. they shall only be understood as an invitation for requests to us to submit an offer. Orders placed with us shall only become binding on us when confirmed by us in writing. In the case of immediate execution of an order, the delivery note or invoice for the products shall also constitute an order confirmation.

2.02 Any agreements or warranties made orally by our sales personnel or sales agents which go beyond those set forth in the written contract shall only be valid if confirmed by us in writing.

2.03 The foregoing shall not apply to oral declarations made by the management or by persons granted full authority to act on our behalf.

2.04 The following shall additionally apply in the case of orders from our commercial customers:

Any additional terms and conditions, including those of a technical nature, shall be as stated in supplementary terms of delivery or price lists, especially in respect of dimensions and calculation of them, glass thicknesses, determination of prices, contents of boxes or packages, packaging, freight charges, deposits for returnable items and such like. Insofar as nothing is contained therein and no special agreements have been made, the standard practice which is customary in the trade shall apply.

2.05 If after conclusion of a contract any facts should become known to us, especially in respect of delays in payment for previous deliveries, which at our reasonable commercial discretion lead us to the conclusion that our claim to payment of the purchase price may be at risk through financial incapacity of the Buyer, we shall have the right to demand, at the Buyer's option, payment in advance or the provision of appropriate security by the Buyer within a reasonable period or, should the Buyer refuse to provide either, to repudiate the contract, whereby the invoices for any part-deliveries already made shall become due and payable immediately.

2.06 Any wishes of the Buyer for amendment to or cancellation of an order after it has been placed can only be complied with by special agreement and only if production, cutting or processing work for the order has not already started.

3. Delivery Times and Delay

3.01 Unless expressly stated by us as firm, agreed periods for delivery shall only be deemed approximate. The period for delivery shall begin on the day of clarification of all technical and other details of the order, the furnishing of any necessary documents by the Buyer and the receipt of any payment on account, if any is agreed, from the Buyer. It shall be extended by any period of time in which the Buyer is in arrears with his contractual duties, including those arising in connection with other contracts in cases where a regular business relationship exists between our selves and the Buyer.

3.02 Part-performance and part-deliveries shall be permitted within a reasonable scope. We shall have the right to invoice for part-payments within a reasonable scope.

3.03 Any period for performance or delivery shall, even if occurring when already in delay, be reasonably extended on the arising of circumstances of a force majeure nature or of any unforeseen obstacles which occur after conclusion of contract and for which we cannot be held responsible (including, but not limited to, failure or interruption of operations, strikes, lockouts or disruption to transport) and insofar as such obstacles can be shown to significantly affect the intended delivery or performance. The same shall also apply when circumstances of the aforesaid kind occur at our suppliers or subcontractors. We shall notify the Buyer of the start and end of such obstacles as soon as possible. The Buyer shall have the right to demand a declaration from us as to whether we wish to cancel the contract or to deliver within a reasonable additional period. Should we fail to make such declaration without delay, the Buyer shall have the right to repudiate the contract. In all such cases, claims to damages shall be barred.

3.04 We shall have liability in respect of timely delivery only for our own fault and that of our vicarious agents. We shall have no liability for the fault of our suppliers. We do, however, undertake to assign any claims for damages we may have against our supplier to the Buyer.

3.05 In the case of any delay in delivery the Buyer shall have a duty to declare, in response to our inquiry and within a reasonable time, whether he continues to insist on delivery or whether he wishes to repudiate the contract because of the delay and/or to demand compensation in lieu of performance.

4. Shipment, Passing of Risk, Packing

4.01 The route and means of transport shall be of our choice. Packing shall be done not itemwise but shall be done in a manner which is most favourable from the point of view of transport, production and environmental considerations. The length of packing shall always be determined by the greatest dimension of the unit.

4.02 Our deliveries shall be effected ex warehouse or ex works. On delivery of the goods to the carrier, irrespective of whether the carrier has been commissioned by the Buyer, the manufacturer or ourselves, the risk shall pass to the Buyer. This shall also apply in the case of part-shipments and shipments effected free to a specified point. In the case of delivery with our own vehicles, the risk shall pass to the Buyer as soon as the goods are made available to him at the place specified by him.

4.03 If dispatch is delayed on the request of or due to the fault of the Buyer, the goods shall be stored for the expense and risk of the Buyer. In this case, advice of readiness for dispatch shall be deemed tantamount to dispatch. On the goods being placed in store, the invoice for the goods shall become due and payable immediately.

4.04 Where transport is effected with our own vehicle or a third party vehicle, the goods shall be deemed to have been handed over to the Buyer as soon as they are made available to the consignee on the vehicle at the point of delivery on a made-up roadway. If in the view of the driver of the delivery vehicle the access road to the point of delivery is unsuitable for motor vehicles, the goods shall be handed over at such place which can be safely reached and left by the vehicle.

4.05 In the case of deliveries to commercial customers, unloading shall be solely the responsibility of the Buyer, who shall provide suitable unloading equipment and the necessary personnel. Waiting times shall be charged for according to KVO [German Road Haulage Regulations] in the case of longdistance transport and GNT [German Local Haulage Tariffs] in the case of local transport.

4.06 If contrary to the contractual provision the Buyer should require assistance with unloading (including the provision of unloading equipment), further transport or installation, such additional work shall be subject to additional charge. Assistance in such work shall, however, not imply the assumption of any additional liability or risk on our part.

4.07 Returnable packing/glass transport frames will be provided to the Buyer on loan. The Buyer shall notify us in writing of readiness for return of such packing/frames and make the same available within 2 weeks. Should he fail to do so, we shall have the right, starting from the 3rd week to charge 20 % of the cost price per week (though altogether not more than the full cost price) as a rental

fee or to invoice the value of the packing, which invoice shall be due for payment immediately on receipt.

4.08 The consignee shall have a duty to accept shipments from the carrier only with all reservations if the packing shows any outward signs of damage or if, because of other circumstances, damage may be suspected to have occurred, whereby all precautions must be taken to ensure the right of recourse.

5. Export Control Law

5.01 The Buyer hereby undertakes to refrain from carrying out under any circumstances any of the following transactions:

- transactions with persons, organisations or institutions listed on the sanctions list under EC Regulations or US export provisions;
- transactions with UN/EC-embargo states prohibited;
- transactions for which an essential permit is lacking.

The Buyer shall be liable for all expenditure and loss incurred by the Seller as a result of any violation.

5.02 The Seller's contractual obligations shall cease to apply, if and in so far as national or international foreign trade legislation and/or embargos and/or other sanctions conflict therewith.

6. Prices and Payment

6.01 Prices are quoted ex works or ex warehouse and are subject to the addition of packing, freight and other shipment costs as well as value added tax in the invoiced currency.

6.02 Our price calculations are based on the assumption that the items on which the offer is based remain unchanged, that any necessary preliminary work has already been completely done and that we can provide our performance without interruption or obstacles. Our offers are based on the specifications provided by the Buyer, without our having any knowledge of the Buyer's local conditions or circumstances.

Should delivery be made to a different country of destination than that originally agreed, we reserve the right to amend our prices and terms in line with those valid for the new country of destination; this shall be without prejudice to any other claims for costs we may have.

6.03 If delivery or performance is to be made 4 months or more after conclusion of contract, it is agreed between the parties hereto that the price shall be renegotiated between them should any changes in costs, wages etc. occur in the meantime.

6.04 We shall have the right to demand payments on account if our performance is delayed beyond the agreed time due to no fault of our own.

6.05 Except as agreed otherwise, payments shall be due at the latest on handover of the delivery or service. Payments received shall always first be applied to settling the oldest debit item owed plus any interest on arrears which is due thereon. Cash discounts will not be granted if the Buyer is in arrears with payment for earlier deliveries.

6.06 Where payments are to be made under the cheque/bill of exchange procedure, this must always be specially agreed in advance. Payments made by bill of exchange or cheque shall be subject to deduction of our expenses and will only be credited on the day on which the amount in question is actually at our disposal.

6.07 Irrespective of the term of any bills of exchange accepted in payment and credited, our claims shall become due and payable immediately if the terms of payment are not complied with or any facts become known to us which lead us to the conclusion that our claims for payment may be at risk through financial incapacity of the Buyer.

6.08 Should the Buyer fall into arrears with payment or fail to honour a bill of exchange when due, we shall have the right to recover the goods including, if need be, the right to enter the Buyer's premises and take away the goods. We shall also have the right to prohibit the resale and removal of the delivered goods.

6.09 In the cases as set forth in Subsections 6.07 and 6.08, we shall have the right to revoke the authorisation to collect payment (see Subsection 7.05) and to demand payment in advance for all deliveries not yet effected. The Buyer shall, however, have the right to avert these legal consequences and those set forth in Subsection 6.08 by providing security in an amount commensurate with our endangered payment claim.

6.10 Interest on arrears will be charged at a rate of 10 % p. a. above the base interest rate (Art. 247 BGB). Such interest rate shall be higher or lower if we are able to show that we have had to bear a higher interest charge or the Buyer can show that we have had to bear a lower interest charge.

6.11 The Buyer shall have no right to refuse payment or to withhold payment where a defect or other cause for complaint was known to him. This shall also apply if such defect or cause remained unknown to him due to gross negligence on his part except in cases where we have deliberately concealed such defect or cause or have given warranty for the quality of the item.

Offset may only be made with counterclaims which are undisputed or have been finally and absolutely determined at law. No right of withholding can be claimed on grounds of former or other transactions within the framework of a regular business relationship.

Otherwise, payment may only be withheld in a reasonable scope for defects or other causes of complaint.

6.12 Any agreed advance payment by way of security may be offset by us against the net amount by surety bond.

7. Reservation of Title

7.01 The goods shall remain our property until payment of the purchase price in full. In the case of goods which the Buyer purchases from us within the framework of a regular business relationship, we reserve title to the goods until all our claims arising from the business relationship, including those which may arise in future – whether from contracts concluded at the same time or at a future time – have been settled. This shall also apply where any or all claims are placed by us on current account and a balance is drawn and recognised.

If in connection with payment of the purchase price by the Buyer we assume any liability on the basis of a bill of exchange, the reservation of title shall not cease until the bill of exchange has been honoured by the Buyer as drawee. In the case of any delay in payment by the Buyer, we shall have the right, after giving due warning, to recover the goods and the Buyer shall have a duty to surrender the goods.

7.02 Where the goods to which we reserve title ("reserved goods") are combined by the Buyer with other goods, we shall have title to the new item so created in the same proportion as the invoice value of the reserved goods to the invoice value of the other goods and the processed value. Should our property cease to exist through combination, mixing or processing, the Buyer already assigns to us at the time of conclusion of contract his title to the new item so created in the scope of the invoice value of the reserved goods, and the Buyer shall preserve the new item for us free of charge. The title so arising shall be deemed reserved goods within the meaning of Subsection 7.01.

7.03 The Buyer shall inform us immediately of any seizure by third parties of the reserved goods and the assigned claims. He may resell the reserved goods only in the normal course of business and on his usual terms of business and only if his is not in arrears, and in all cases subject to the condition that his claims arising from resale shall pass to us in accordance with Subsections 7.04 to 7.05 below. He shall have no right to dispose of the reserved goods in any other way. Resale shall also include the installation of the goods in a building, aircraft or ship.

7.04 All claims of the Buyer arising from resale of the reserved goods, including

any rights pursuant to the German Building Trades Securities Act (Bauhandwerkersicherungs-gesetz), are hereby already assigned to us. We hereby accept this assignment. Such claims shall serve as security in the same scope as the reserved goods. The same shall also apply to the granting of a claim-securing mortgage pursuant to Art. 648 BGB.

If the reserved goods are resold by the Buyer together with other goods not supplied by us, the claim arising from such resale shall be assigned to us in the same proportion as the invoice value of our goods to the other goods sold. In the case of resale of goods to which we have title as set forth in Subsection 7.02, a part thereof which corresponds to our title shall be assigned to us.

7.05 The Buyer is authorised to collect claims arising from resale until and unless we revoke such authorisation in the cases as set forth in Subsection 6.09. The Buyer shall have a duty, on our request, to inform his customers immediately of the assignment to us – should we not inform them ourselves – and provide us with all information and documentation needed for collection, which shall also, if necessary, include the names and addresses of debtors and construction sites. The Buyer shall under no circumstances have the right to assign the claim elsewhere.

The Buyer shall only have the right to assign claims by way of genuine factoring if the name of the factoring bank and the accounts of the Buyer maintained at such bank are notified to us and if the factoring proceeds exceed the value of our secured claim. Our claim shall become due immediately on the factoring proceeds being credited.

7.06 We undertake, on the Buyer's request, to release securities in our possession to the extent that their realisable value exceeds the value of the claims secured by such securities by 20 %.

8. Claims for Defects, Warranty and Liability

8.01 For defects within the meaning of Art. 434 BGB, we shall have liability as follows:

In view of the special nature of our goods, in particular glass, and the risk of damage, the Buyer shall have a duty to inspect deliveries immediately. All evident and/or detected defects must be notified to us in writing within one week at the latest, and in all cases before further processing or installation of the goods.

This shall be without prejudice to the other duties of a business person as per Art. 377 German Commercial Code (HGB).

Provided no warranty of nature and condition pursuant to Art. 443 BGB is furnished, deviations in dimensions, contents, thicknesses, weights and colours arising through production shall be permissible within the tolerances customary in the trade. The same shall also apply accordingly to dimensional tolerances customary in the trade that occur in cutting.

8.02 Should the Buyer find any defects in the goods, he may not dispose of them, i. e. the goods may not be divided, resold or processed further, until an agreement has been reached on the handling of the claim or until a procedure to preserve evidence has been carried out by an expert commissioned by the trade of industry and commerce at the place of the Buyer.

8.03 The Buyer shall further have a duty to give us an opportunity to inspect the defective goods in situ or, on our request, to make the defective items or samples of the defective items available to us; should he culpably refuse to do so, all warranty on our part shall cease.

8.04 We do not assume any warranty for damage caused by unsuitable or improper use, installation, commissioning, alteration or repair not performed by us, faulty or negligent treatment or natural wear and tear.

8.05 In the case of justified claims, we shall have the right to specify the nature of remedy (replacement or repair) depending on the nature of the defect and the justified interests of the Buyer.

8.06 The Buyer shall inform us without delay of any warranty claim from an end user.

8.07 The warranty period for material defects shall be 12 months. This shall not apply in cases where the law provides for longer periods, namely pursuant to Arts. 438 Section 1 No. 2 BGB (Building Structures and Items for Building Structures), Art. 479 BGB (Claim to Recourse) and Art. 634a Section 1 No. 2 BGB (Building Defects).

8.08 In respect of claims for damages, Section 9 shall apply (General Limitation of Liability).

9. General Limitation of Liability

9.01 Claims of the Buyer for damages or compensation ("claims for damages") on any legal grounds whatsoever and especially on grounds of breach of obligations under a contractual relationship or on grounds of tort shall be barred.

This shall not apply in cases where warranty or a supply risk has been assumed. Nor shall it apply in cases where we have mandatory liability, e. g. under the German Product Liability Act, for gross fault, for injuries to life, limb or health or for breach of material contractual duties. Claims for damages on grounds of breach of material contractual duties shall, however, be limited to the foreseeable damage under contracts of the type in question insofar as no gross negligence can be held against us or we have no liability for injury to life, limb or health. This shall not imply any reversal in the onus of proof to the detriment of the Buyer.

9.02 The foregoing provision shall apply analogously to the Buyer.

10. Data Security

10.01 The Buyer is hereby informed that we process personal data obtained within the scope of the business relationship in accordance with the provisions of the German Data Protection Act (Bundesdatenschutzgesetz).

11. Place of Performance, Legal Venue, Governing Law

11.01 The place of performance and exclusive legal venue for deliveries and payments (including legal action in connection with cheques and bills of exchange) as well as any disputes arising between the parties hereto shall, where the Buyer is a business person, a legal entity under public law or a special asset fund under public law, be the place where our company is domiciled. We shall, however, also have the right to bring action against the Buyer at the courts having jurisdiction for his place of business.

11.02 The contractual relations between the parties hereto shall be governed exclusively by the law of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods shall not apply.

12. Amendments

12.01 Should any of the foregoing provisions be or become invalid, the other provisions shall nevertheless remain in full force and effect. Any such invalid provision shall be replaced by a valid provision whose legal and financial effect most nearly corresponds to that intended by the invalid provision.

Valid: December 2014

Saint-Gobain Glass