

CONDITIONS OF SALE

1. INTERPRETATION

- 1.1 In these Conditions:
- 'Buyer' means the person(s) who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller;
- 'Conditions' means the standard terms and conditions of sale set out herein and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller;
- 'Contract' means the contract for the purchase and sale of the Goods;
- 'Despatch Note' means the Seller's despatch note from time to time;
- 'Goods' means the goods (including any instalment of the goods or any parts for them) specified on the Order Form and/or the Despatch Note;
- 'Goods Returned Note' means the Seller's goods returned note from time to time
- 'Order Form' means the Seller's order form from time to time;
- 'Seller' means PSV Glass LLP (Registered in England under number OC339796);
- 'Writing' includes telex, cable, facsimile transmission and comparable means of communication.
- 1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 1.4 Any reference to Clauses and Sub-Clauses are references to Clauses and Sub-Clauses in these Conditions.

2. BASIS OF THE SALE

- 2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written or oral quotation of the Seller as set out in the Order Form or otherwise which is accepted either orally or in writing by the Buyer, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.
- 2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.
- 2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by an authorised representative of the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by an authorised representative of the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

3. ORDERS AND SPECIFICATIONS

- 3.1 No order submitted by the Buyer, in writing or otherwise, shall be deemed to be accepted by the Seller unless and until confirmed orally or in Writing on the Order Form by an authorised representative of the Seller.
- 3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- 3.3 The quantity, quality and description of and any specification for the Goods shall be those set out in the Despatch Note.
- 3.4 If the Goods are to be the subject of any further manufacture or further process at the specific request of the Buyer, the Buyer shall indemnify forthwith upon demand the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.
- 3.5 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
- 3.6 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of an authorised representative of the Seller and on terms that the Buyer shall indemnify forthwith upon demand the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

4. PRICE OF THE GOODS

- 4.1 The price of the Goods shall be the Seller's quoted price as set out in the Order Form or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.
- 4.2 The Seller reserves the right at any time before delivery to increase the price of the Goods or alter the discounts given at any time for any reason including (but not limited to) reflecting any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.3 Except as otherwise stated under the terms of any quotation on the Order Form or in any price list of the Seller, and unless otherwise agreed in Writing between the Buyer and an authorised representative of the Seller, all prices are given by the Seller on an ex works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, deliveries are normally made without charge but the Seller reserves the right to make delivery charges but only after having given prior notice to the Buyer.
- 4.4 The price is exclusive of any applicable value added tax, or any other similar tax replacing it or in addition to it which the Buyer shall be additionally liable to pay to the Seller.
- 4.5 Notwithstanding any prices quoted, the Seller may, without prior written notice, vary the list prices or discounts given.

5. TERMS OF PAYMENT

- 5.1 Subject to any special terms agreed in Writing between the Buyer and an authorised representative of the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 5.2 The Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without any other deduction) within 30 days of the date of the Seller's invoice, (unless otherwise agreed between the Seller and the Buyer) notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 5.3.1 cancel the Contract or suspend any further deliveries to the Buyer;
 - 5.3.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - 5.3.3 charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of three per cent (3%) per annum above National Westminster Bank PLC base rate from time to time from the date of due payment, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
- 5.4 The Buyer shall indemnify the Seller and hold the Seller harmless against all costs, losses, expenses and fees (including, without limitation, legal fees) suffered sustained or incurred by the Seller as a result of the Buyer failing to make payment on the due date.

6. DELIVERY

- 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place.
- 6.2 Any dates quoted for delivery of the Goods are given in good faith and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by an authorised representative of the Seller in Writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer, and the Seller will not be liable for any costs or expenses incurred by the Buyer as a result of early delivery.
- 6.3 Where the Seller has agreed to deliver the Goods to the Buyer the Seller reserves the right to choose the form of transport for the Goods and the composition of the consignment load.
- 6.4 The Seller reserves the right to deliver less than the quantity ordered for any reason.
- 6.5 Where the Goods are to be delivered in installments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the installments in accordance with these Conditions or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.6 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the Seller, the Seller may:
- 6.6.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
 - 6.6.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage, insurance and selling expenses and other administrative costs) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.
- 6.7 Goods that were previously ordered by the Buyer and delivered to the Buyer by the Seller may be returned to the Seller if no longer required within 14 days from their date of delivery to the Buyer on the express condition that:
- 6.7.1 the Goods to be returned are returned to the Seller in wholly good and undamaged condition as absolutely determined by the Seller;
 - 6.7.2 the credit due to the Buyer for the returned Goods will be reduced by [fifteen (15%)] of the original value invoiced to the Buyer for the Goods in the event that the Seller is required to collect the Goods from the Buyer using the Seller's transport, or;
 - 6.7.3 the credit due to the Buyer for the returned Goods will be reduced by [five (5%)] of the original value invoiced to the Buyer for the Goods in the event that the Buyer returns the Goods to the Seller's premises using the Buyer's transport.

7. RISK AND PROPERTY

- 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
- 7.1.1 in the case of Goods to be delivered to the Buyer at its premises or such other premises as specified in Writing by the Buyer, upon completion of delivery when all straps, ropes and retaining bars or other means of fastening have been removed. Unloading shall be the entire responsibility of the Buyer;
 - 7.1.2 in the case of Goods to be collected at the Seller's premises, upon loading the Goods onto the Buyer's transport. Loading shall be the entire responsibility of the Buyer;
 - 7.1.3 in the case of Goods returned pursuant to Clause 6.7:
 - 7.1.3(i) if collected from the Buyer's premises by the Seller, upon completion of loading when all straps, ropes and retaining bars or other means of fastening are in place and a Goods Returned Note has been signed by an authorised representative of the Seller. Loading shall be the entire responsibility of the Buyer;
 - 7.1.3(ii) if returned to the Seller's premises by the Buyer, upon completion of unloading of the Goods from the Buyer's transport and when a Goods Returned Note has been signed by an authorised representative of the Seller. Unloading shall be the entire responsibility of the Buyer.
- 7.2 If the Buyer wrongfully fails to take delivery of the Goods, risk of damage or loss of the Goods shall pass to the Buyer at the time when the Seller has tendered delivery of the Goods.
- 7.3 The Buyer is required to examine the Goods at the time of delivery and to satisfy themselves as to the good and undamaged condition of the Goods as described on the Despatch Note relating to the Goods being delivered. The Buyer is required to sign the Despatch Note produced at the time of delivery stating that he accepts the Goods are in good and undamaged condition. Once the Buyer has signed the Despatch Note to that effect, no subsequent claims for damage will be accepted by the Seller under any circumstances whatsoever save as in accordance with these Conditions.
- 7.4 On arrival of the Goods at the place of delivery the Buyer shall promptly provide unloading facilities and when the Goods are ready to be unloaded shall unload the Goods promptly.
- 7.5 In the event that employees of the Seller are ever asked to assist the Buyer to load or unload the Goods as referred to in Clause 7.1 no onus of responsibility is removed from the Buyer.
- 7.6 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

- 7.7 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property. In particular the Buyer will leave on the Goods any delivery labels affixed by the Seller prior to delivery to the Buyer which identify the part by part number and/or Despatch Note number and/or order number and/or delivery date. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any moneys or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.
- 7.8 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, without notice to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 7.9 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

8. WARRANTIES AND LIABILITY

- 8.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification and will be in accordance with the requirements and tolerances of B5857 and/or E Mark at the time of delivery and will be free from defects in material and workmanship for a period of three (3) months from delivery. After the three (3) month period, the Seller shall not accept any claims whatsoever for any such defects in the Goods purchased.
- 8.2 The above warranty is given by the Seller subject to the following conditions:-
- 8.2.1 the Seller's obligation under this warranty is limited to supplying replacements on an exchange basis for any Goods as regards which such defects are detected upon delivery or during normal and proper use during the warranty period or, at the Seller's sole discretion, refund to the Buyer the price of the Goods or a proportionate part of the price;
- 8.2.2 the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;
- 8.2.3 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, improper or careless storage or handling, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval, or events beyond the Seller's control occurring after the physical delivery of the Goods to the Buyer or its agents or carrier;
- 8.2.4 the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;
- 8.2.5 the above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller.
- 8.3 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute, common law, trade usage custom or otherwise are excluded to the fullest extent permitted by law.
- 8.4 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Conditions.
- 8.5 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within 7 days after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 8.6 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever including (but not limited to) any claim made against the Buyer by any other party (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, except as expressly provided in these Conditions.
- 8.7 The Seller shall make all reasonable commercial efforts to meet all its obligations under the Contract but it reserves the right to cancel, suspend or vary its obligations under these Conditions. The Seller shall not be obliged to give the Buyer priority over any other Buyer with regard to the supply or delivery of the Goods. The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:
- 8.7.1 Act of God, explosion, flood, tempest, fire or accident;
- 8.7.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 8.7.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 8.7.4 import or export regulations or embargoes;
- 8.7.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
- 8.7.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 8.7.7 power failure or breakdown in machinery.

9. INDEMNITY

If any claim is made against the Buyer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, the Seller shall indemnify the Buyer against all loss, damages, reasonable and properly incurred costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:

- 9.1 the Seller is given full control of any proceedings or negotiations in connection with any such claim;
- 9.2 the Buyer shall give the Seller every assistance for the purposes of any such proceedings or negotiations;
- 9.3 the Buyer shall not pay or accept any such claim, or compromise any such proceedings or otherwise prejudice the Buyer's position in relation thereto, without the written consent of the Seller;
- 9.4 the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy

- or cover (which the Buyer shall use its best endeavours to do);
- 9.5 the Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Buyer which are payable by or agreed with the consent of the Seller (which consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim; and
- 9.6 without prejudice to any duty of the Buyer at common law, the Seller shall be entitled to require the Buyer to take such steps as the Seller may require to mitigate or reduce any such loss, damages, costs or expenses for which the Seller is liable to indemnify the Buyer under this clause.
- 9.7 the Buyer shall immediately notify the Seller in writing of receipt of any such claim referred to above or of receipt of any notice of intention by any third party to make such a claim or of any circumstances of which it may become aware which might give rise to such a claim and the Buyer shall immediately send to the Seller copies of all correspondence and documents received in connection therewith or otherwise relating thereto;
- 9.8 the Seller's liability under the indemnity given in this clause shall be reduced on a pound for pound basis to the extent that the Buyer shall successfully claim any monies from the Seller under any other rights or remedies the Buyer may have against the Seller (other than pursuant to the indemnity contained in this clause 9) whether express or implied by statute, common law, convention, regulation, custom or otherwise; and
- 9.9 the liability of the seller pursuant to this clause 9 shall not in any circumstances whatsoever exceed the aggregate price paid by the Buyer to the seller for the Goods which are the subject of a claim and accordingly the subject of the indemnity contained in this clause 9.

10. INSOLVENCY OF BUYER

10.1 This Clause applies if:-

- 10.1.1 the Buyer stops payment of any of its debts or ceases or threatens to cease to carry on business or is unable to pay its debts as they fall due;
- 10.1.2 a meeting is convened:-
 - 10.1.2.1 to consider a resolution for the purpose of making any arrangement or composition with or assignment for the benefits of its creditors; or
 - 10.1.2.2 for the purpose of winding up the Buyer;
- 10.1.3 the Buyer proposes to or does enter into any arrangement or composition with or assignment for the benefit of its creditors;
- 10.1.4 a petition is presented for the making of an administration order or the appointment of a receiver, an administrative receiver, an administrator or other similar officer ("Receiver") in respect of the Buyer or any of its assets as for the winding up of the Buyer or a Receiver is appointed or over or an encumbrancer takes possession of the whole or any part of the property assets or undertaking of the Buyer;
- 10.1.5 any security constituted by a debenture mortgage or charge created by the Buyer becomes enforceable; or
- 10.1.6 in the case where the Buyer is a natural person he dies or anything happens to him analogous to or having similar effect in relation to a natural person to any of the events contained in sub-Clauses 10.1.1 to 10.1.5.

10.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

11. GENERAL

- 11.1 The Contract is personal to the Buyer and it may not, without the written consent of the Seller, assign, mortgage, charge or dispose of any of its rights under the Contract. The Seller may in its absolute discretion assign, transfer or dispose of the Contract.
- 11.2 The Seller shall be entitled to perform all or any of its obligations hereunder via any third party person, firm or company.
- 11.3 A demand or notice hereunder shall be in writing signed by a duly authorised officer or agent of the Seller or the Buyer as the case may be and may be served on the Seller or Buyer either by hand or by post and either by delivering the same to any officer of the Seller or Buyer at any place or by addressing the same to the Seller or the Buyer at its registered office, principal office or a place of business known to the Seller or the Buyer.
- 11.4 If such demand or notice is sent by post it shall be deemed to have been received on that date following the day on which it was posted and it shall be effective notwithstanding it be returned undelivered.
- 11.5 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 11.6 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 11.7 Any dispute arising under or in connection with these Conditions or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President of the time being of Law Society.
- 11.8 In respect of any obligation of the Seller hereunder time shall not be of the essence.
- 11.9 The Contract and these Conditions shall be governed by and interpreted in accordance with the laws of England and the parties hereby irrevocably submit to the exclusive jurisdiction of the English Courts.

Please retain one copy of these Terms and Conditions and sign and return the second copy to PSV Glass.

We hereby acknowledge receipt of your Standard Terms and Conditions of Business which we have read and accepted.

Signed Dated

For and on behalf of

Name Position