

**Sahm s r o.**

**Terms & Conditions**

## **I. Conclusion of contract**

1. The present general delivery and payment terms and conditions shall apply to all current and future sales contracts, as well as, within reasonable scope, for any other contracts and performances, including the Seller's advisory and consultancy activities, unless changed in writing. Any contracts or framework contracts concluded which should diverge from the provisions hereof shall take precedence hereover in the diverging provisions.
2. The Seller's offers shall be binding only if accepted by the Buyer in writing within the period specified by the Seller for the offer to be binding. Any contracts and other agreements, in particular ancillary agreements and commitments which were made orally, can be regarded as binding only if confirmed in writing by the Seller.
3. In case of doubt, relevant provisions of ICC Official Rules for the Interpretation of Trade Terms (Incoterms 2000) shall apply for the interpretation of any legal acts.

## **II. Prices**

1. Unless otherwise agreed, the prices and conditions in compliance with the Seller's price list valid at the time of conclusion hereof shall apply. The contract shall be concluded either upon accepting the Seller's offer or upon conclusion of a written purchase contract.
2. Price shall mean the price for goods accepted from the Seller's factory or warehouse plus VAT, unless otherwise agreed. The addition of the VAT and the amount thereof shall always be governed by existing legal rules for the specific delivery of goods.
3. If the goods are to be sent, the Seller may determine forwarding costs in compliance with the price list valid on the date of delivery, unless otherwise agreed. Should the value of the delivery be less than CZK 3000, the forwarding and packing costs shall be borne by the Ordering party in an amount of no less than CZK 150 per shipment, depending on the manner of transport and packaging. Any unforeseen ancillary fees and duties, as well as any newly established customs and forwarding fees and any increase thereof shall be borne by the Buyer, unless the law provides otherwise.

## **III. Payment and settlement**

1. Payments shall be made without deduction of discounts, unless expressly agreed otherwise in a particular case. The date of payment shall be the date on which the Seller may have the appropriate amount available, usually when the amount is credited to the Seller's account. The payment-related costs shall be borne by the Buyer.
2. The Seller shall accept bills of exchange as a way of payment only if explicitly agreed. The legal status of the bills of exchange shall be governed by the Act No. 191/1950 Coll.
3. In case of the Buyer's default in payment of the price the Seller shall be entitled to charge interest on late payment amounting to 0.1% daily from the first day of the default. This shall in no way affect the Seller's right to compensation for damages caused in a causal relationship with the Buyer's default.
4. In case of the Buyer's default in payment of the price the Seller shall be entitled to prevent any further alienation of the goods delivered or any other disposal thereof. In addition, the Seller shall be entitled to take back the goods delivered, or to enter the Buyer's premises, take the goods back and sell those in the most convenient way, if possible. The revenues of such sale after deducting the costs incurred shall be used by the Seller to pay the price.
5. Any legal consequences referred to in paragraph 4 of this article, can be averted by the Buyer by providing a guarantee amounting to the value of the Seller's endangered entitlement.
6. The Seller shall be entitled to offset any receivables against the Buyer. Monetary receivables can be offset against non-monetary. It is also possible to set off collectible receivables against non-collectible ones, in which case the receivables' maturity date shall be the offset date.

#### IV. Delivery and receipt of goods

1. The Seller shall be obliged to deliver the goods within the deadline specified in the contract, or which is determined in manner specified in the contract. Delivery dates shall commence on the date of confirmation of order, however, not before all the details of the order have been refined and all necessary permits have been issued.
2. Goods shall be delivered on time as long as the Buyer is requested timely to take goods from the Seller's factory or warehouse or elsewhere under the contract concluded.
3. If the goods are to be sent, the delivery of goods shall take place by handover thereof to the first carrier to transport the goods to the Buyer. Also, the Seller's commitment shall be met in case the first carrier was enabled to accept the delivered goods, even if no delivery took place for reasons beyond the Seller's control. The Seller shall be entitled to deliver under a certain clause of Incoterms (2000). In such case the delivery shall be governed by such clause, unless otherwise agreed with the Buyer.
4. If the goods are to be sent, the Seller may determine the route, means of transport, as well as the carrier, unless otherwise agreed in writing.
5. If the Seller has determined the route, means of transport or carrier and the goods were not shipped, the Seller may proceed under Section IV.12.
6. Should it not be possible to transport the goods via the presumed route and within the scheduled date for reasons beyond the Seller's control, the Seller shall be entitled to transport the goods via another route and to another destination. Any costs incurred shall be borne by the Buyer. The Buyer shall be given the opportunity to express their opinion in advance.
7. The Seller shall not be responsible for any late or unrealized delivery of goods due to the fault of subcontractors.
8. Delivery time shall be extended for a period during which the Buyer is in default should the Seller not be able to deliver the goods properly and on time as a result of such default.
9. Should the Seller be in default, the Buyer, after a reasonable period set by the Seller, shall be entitled to withdraw from the contract if the goods were not delivered within such period.
10. The Buyer shall accept the goods at the Seller's factory or warehouse or at any other agreed place without delay after being requested to do so, unless otherwise agreed. If the goods are to be sent, the Buyer shall accept the goods without undue delay after its arrival at the destination.
11. If the Buyer is in default in accepting the delivery or in paying the price when the delivery of goods and payment of the price is to take place at the same time, the Seller may store the goods at the expense of the Buyer and retain the goods until the Buyer has paid the costs incurred and the price of goods. The costs of such storage of goods shall amount to a flat rate of 10% of the selling price of goods.
12. Events of force majeure shall entitle the Seller to postpone the delivery date for the duration of the relevant limitation and a reasonable time to restore service. Events of force majeure shall be all factors that significantly complicate or make impossible the Seller's delivery (e.g. fire, destruction of equipment or war, lack of energy and raw materials, etc.), as well as obstacles on roads, irrespective of whether such circumstances occur on the Seller's part or at the contractor's or subcontractor's factory.
13. The Seller shall be entitled to make partial deliveries within the expected range. For delivery of goods by the Seller production and delivery tolerance of +/- 10% shall be defined, which means that the actual quantity of goods delivered by the Seller under the Buyer's order may deviate from the Buyer's order within the specified range without being considered the Seller's breach of contract and without the customer being justified not to accept or pay for any such goods delivered or to file any other claims against the Seller. The Customer shall always accept and pay for the goods delivered within the production and delivery tolerance.
14. For contracts the subject matter of which are recurring deliveries, the orders and specifications as per type shall be submitted in approximately the same monthly volumes, otherwise the Seller shall use their reasonable discretion to determine the quantity and type. Should the contractually specified amount on the basis of individual orders be exceeded, the Seller shall be entitled, but not obliged, to deliver the surplus. The Seller may invoice the surplus at the price valid at the time of the order or at the time of delivery.
15. Should, on the basis of a forecast/order made by the Buyer, the Seller keep stock of produced or stored goods to be delivered to the Buyer (e.g. glass, prints, decorative products or other materials), the Buyer shall always accept all stored goods from the Seller for the Seller's currently valid prices, even after a

change of the logo or the type of glass or in the event of termination of the contract in any way. The Buyer cannot be relieved from the commitment to accept the stored goods in any other way than by fulfilment thereof or by ensuring that the stored goods are accepted by another party under the same conditions.

## **V.**

### **The transition of ownership and the risk of damage to property**

1. The Buyer shall take title to the delivered goods only provided that their obligations under the contract have been complied with, including the full payment of the purchase price of goods (hereinafter referred to as „goods under retention of title“).
2. The Buyer shall be entitled to alienate the delivered goods under retention of title only provided that the Buyer is not in default in meeting any of their obligations or liabilities to the Seller and if doing so is considered to be usual in business relations. The Buyer may not alienate the goods under retention of title in any other way.
3. Upon signing hereof the Buyer shall assign to the Seller any receivables arising from the alienation of goods under retention of title. The assigned receivables shall be used as a security for the Seller and shall be assigned back to the Buyer after all obligations of the Buyer hereunder have been complied with. The Buyer shall notify in writing the assignee of the goods under retention of title of such assignment of a receivable arising from the alienation of the goods under retention of title to the Seller and document such notification to the Seller in writing within 2 days from the date of alienation of the goods under retention of title, otherwise the Seller shall be entitled to receive a contractual penalty from the Buyer equal to the price of goods under retention of title sold in such way. Payment of any contractual penalty to the Seller shall not affect the Seller's right to damages or the Buyer's obligation to meet their obligations in full.
4. The Buyer shall be entitled to recover receivables from resale until requested by the Seller to refrain from doing so. The Seller shall request the Buyer to refrain from recovering receivables only in case of the Buyer's default in payment of the price of goods or in any other obligation of the Buyer to the Seller. At the same time, the Buyer shall immediately inform their employees of any assignment of a receivable and provide the Seller with all information and documents needed for recovery.
5. Should no receivables be assigned under Section V. 3., , the Buyer shall be authorised to assign any receivables arising out of the alienation of the goods under retention of title - including bank factoring sales - only with the Seller's prior written consent.
6. The Buyer shall immediately inform the Seller of any suspension or any other restrictions of any receivables in favour of any third parties.
7. Risk of damage to the goods shall be passed to the Buyer at the time of delivery of goods upon acceptance of the goods from the Seller's warehouse or upon handing over the goods to the first carrier, unless otherwise agreed in a particular case.

## **VI.**

### **Packaging**

1. The goods shall be delivered at the Buyer's expense in usual packaging, any special packaging shall be provided as per the Seller's possibilities at the Buyer's expense, if required by the Buyer. Packaging materials, protective and transportation aids shall not be returned unless otherwise requested by the Seller. If not returned to the Seller, they shall be destroyed or otherwise used in compliance with relevant legislation by the Buyer or Owner. Pallets shall be exchanged for the same in appropriate quality and quantity, unless otherwise agreed.

## **VII.**

### **Inspection of goods**

1. The buyer shall inspect the goods as soon as possible after the risk of damage to the goods has been transferred.  
If the goods are to be sent, the Buyer shall examine the goods immediately after the goods have been delivered to the destination. Should the buyer fail to inspect the goods with due diligence and in time, no claims of defects observable at this inspection can be filed, regardless of the fact that these goods were already defective at the time of transfer of the risk of damage to goods.

**VIII.**  
**Liability for defects**

1. The Buyer shall be entitled to file claims of liability for defects only provided that the Buyer has submitted a report on defective goods to the Seller without undue delay
  - a) after detecting any defects
  - b) if defects could have been discovered during an inspection, which shall take place pursuant to Section VII., provided the inspection were performed with professional care
  - c) if defects could have been discovered later with professional care exercisedAfter expiration of the warranty period, commencing on the day when the Buyer was able to inspect the goods, no claims of liability for defects can be asserted. After the 14-day period from delivery has expired, no claims of liability for obvious defects can be asserted. The glass décor is covered by a guarantee limited to 240 wash cycles, provided that the washing instructions have been complied with.
2. Should the goods be defective, the Buyer shall be entitled to require delivery of substitute or missing goods. Should the Seller fail to do so, the Buyer shall be entitled to a corresponding reduction in prices.
3. Should the Buyer fail to provide the Seller with immediate necessary cooperation and a fair opportunity to inspect the detected defects of the goods and fail to provide the Seller on request and immediately with the defective goods or samples thereof, all their claims arising from liability for defects shall be extinguished.
4. As for goods sold as scrapped, second-rate etc. - the Buyer, with respect to the characteristics and properties, which can usually be counted upon, shall not be entitled to assert any claims arising from general liability for defects or from the guarantee.

**IX.**  
**General limitation of liability for defects and lapse**

1. Unless provided otherwise herein, the seller shall be liable for damages due to a breach of contractual or non-contractual obligations only in case of intentional conduct or gross negligence. The Seller's liability shall not - except in the case of intentional conduct - apply to damages which could not be expected to occur with respect to a particular trade under normal conditions or which the Buyer is or can usually be insured against.
2. All claims against the Seller shall lapse in legal limitation periods.
3. Due to the provisions of Section 379 of the Commercial Code it is agreed that the maximum damage foreseeable in relation with a breach of the Seller's contractual obligation shall amount to the selling price of goods for which there was a breach of the Seller's contractual obligations (defective, undelivered goods).

**X.**  
**Place of performance, place of jurisdiction and applicable law**

1. The place of performance shall be the Seller's delivery factory, if the goods are delivered from the factory, or the Seller's warehouse. If goods are to be sent, the place of performance shall be the destination.
2. All disputes arising from contractual relations between the Seller and the Buyer and in connection therewith, as well as any disputes arising from other legal relationships between the Seller and any third parties shall be finally adjudicated in arbitration by one arbitrator appointed by the Seller. The arbitrator shall be an individual with legal qualifications. The place of arbitration shall be Prague; the arbitration language shall be Czech. Rules and Principles governing the costs of arbitral proceedings of the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic, with the exception of the clause governing determination of the arbitrator, shall be applicable for the arbitration procedure.

**XI.**  
**Cancelling**

1. The Seller shall be entitled to charge a contractual penalty in the form of cancellation costs amounting to the price of the goods in relation to which the Buyer cancelled a confirmed order in the event of cancellation of the ordered goods by the Buyer.

**XII.**  
**Trade secrets, intellectual property**

The Seller and the Buyer shall maintain confidentiality of all data disclosed or made available by the other Contracting Party, the nature of which implies, whether it will or will not be explicitly stated, that they shall remain confidential. This shall especially apply to the undermentioned facts, data and procedures of business and operational nature that form the subject of trade secrets as defined by the Commercial Code and the facts or items forming the subject of intellectual property as defined by relevant legislation.

The aforementioned shall especially apply to any facts, data and procedures of business and operational nature, such as proposals of glass to be used, designs, technical drawings, know-how, logos, data, calculations, samples, visualizations, devices, tools, gauges, models, forms and other items, design and manufacturing documentation recorded in writing or electronically, technology descriptions, etc. not intended for third parties, which were disclosed by one Contracting Party to another as part of business relationship or of which either Party learned in any way.

The Seller and the Buyer shall be bound not to disclose or make available any facts, data and procedures of business and operational nature referred to in this article. The above-mentioned facts, data and procedures of business and operational nature, shall not be used by the Contracting Party, which obtained them as part of business relationship with the other party or otherwise, for the Party's profitable or non-profitable activities, or for any activities by a third party.