

CONDITIONS OF SUPPLY

- 1. Definitions and Interpretation:** The following terms as used herein shall have the meaning as stated: "Company" means Saligo Design Limited; "Conditions" means these Conditions of Supply; "Contract" means any contract between the Company and the Customer for the supply of any Goods and/or Services, incorporating these Conditions; "Customer" means any person, firm, company or other organisation who is the addressee of the Company's quotation or acceptance of order issued by the Company; "Goods" means any goods or materials agreed in the Contract to be supplied by the Company to the Customer (including any glass products) and including any goods agreed to be supplied with, or in relation to, any Services; "Input Material" means any documents, plans, drawings, designs, patterns, photographs, templates, specifications or other materials, and any data or other information provided by the Customer to the Company relating to the Goods and/or Services; "Intellectual Property Rights" means any design rights, utility models, patents, inventions, logos, business names, trademarks, domain names, copyright, moral rights, rights in databases, source codes, reports, drawings, specifications, know how, trade secrets, rights in software, rights in the nature of unfair competition and the right to sue for passing off and any other equivalent or similar rights to any of the foregoing in any jurisdiction, whether registered or unregistered; "Output Material" means any documents, plans, drawings, designs, patterns, photographs or other materials, and any data or other information provided by the Company to the Customer relating to the Goods and/or Services; "Services" means any services agreed in the Contract to be performed by the Company for the Customer, including the installation of any Goods delivered by the Company to the Customer; "Site" means the premises at which the delivery of any Goods and/or the performance of any Services shall take place, including but not limited to the Customer's place of business; "Supplies" means the Goods and/or the Services, depending on the context. A reference to a clause is to a clause of these Conditions. Clause headings shall not affect the interpretation of these Conditions. Any obligation of the Company may be undertaken by the Company's subcontractors, agents or representatives. Any reference to "parties" means the parties to the Contract and "party" shall be construed accordingly. A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it. Words in the singular include the plural and in the plural include the singular. These Conditions shall apply both to Customers who are (a) Business Customers and (b) Consumers, save where otherwise stated. A Customer is a Business Customer if the Customer purchases Goods and/or Services from the Company for the purposes of the Customer's business, trade or profession, rather than for private use. All other Customers are Consumers.
- 2. Application of Conditions:**

 - 2.1** All quotations are made and all orders are accepted by the Company subject only to these Conditions of Supply, which shall prevail notwithstanding any other terms and conditions which the Customer shall bring to the Company's notice.

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- 2.2** Any quotation is given on the basis that no Contract shall come into existence until the Company accepts the Customer's order in accordance with the provisions of clause 2.3. Any quotation is valid for a period of 30 days only from its date unless otherwise stated, provided that the Company has not previously withdrawn it.
- 2.3** The placing of an order following any quotation or other indication of price and delivery shall not be binding on the Company unless and until accepted by the Company in writing.
- 2.4** The Customer shall be solely responsible for ensuring that the terms of its order and any Input Material are complete, accurate and timely submitted.
- 2.5** The Company reserves the right to charge the Customer for any Output Material provided to the Customer.
- 2.6** No order of the Customer may be cancelled, deferred, altered or varied by the Customer, except with the agreement in writing of the Company and on terms that the Customer shall indemnify the Company 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 Company as a result of cancellation, deferment, alteration or variation.
- 3. Description of Goods and Services:**
- 3.1** The Company works in conjunction with its suppliers in order to respond to technical requests from Customers. Whilst all such information is provided to the Customer in good faith and is believed to be accurate within manufacturing guidelines, specialist advice should be sought if such information is intended to be relied upon.
- 3.2** Any descriptions, technical data and illustrations contained in any Company publications are published for information only and shall not be incorporated into the Contract.
- 3.3** Any and all Intellectual Property Rights (howsoever arising), in relation to the Supplies and any Output Material shall at all times vest in and belong solely to the Company.
- 3.4** If the Goods are to be manufactured, designed, built or configured or any process or treatment is to be applied to the Goods by the Company in accordance with any express or implied instructions of the Customer (including but not limited to any Input Material submitted by the Customer), the Customer shall hold the Company harmless and shall fully and promptly indemnify the Company against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim for infringement of any Intellectual Property Rights of any other person which directly or indirectly results from the Customer's instructions.

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- 3.5** Antique mirrors are produced by the random application of many chemicals. Each item of Goods is therefore unique and by its nature, the production process cannot be relied upon to result in Goods which incorporate any specific design or colours. Although every care is taken, the Company regrets that it cannot guarantee that matching will be achieved.
- 3.6** Unless otherwise agreed with the Company in writing, prices do not provide for making templates for glass which is to be shaped or bent.
- 3.7** Unless the Customer supplies templates to the Company, mirrors to fit in recesses, against walls or abutting other materials will be cut point to point.
- 3.8** All Goods shall conform to standard industry tolerances unless otherwise agreed by the Company.
- 3.9** It shall be the Customer's responsibility to notify the Company of any special properties of, or requirements of the Customer in relation to, any surfaces, fixtures or fittings to which the Goods are to be attached or sealed. Although the Company will use its reasonable endeavours to accommodate the Customer's needs in these circumstances, the Company shall not, in any event, be held liable for any damage resulting directly or indirectly from the installation of any Goods to the Customer's property, fixtures or fittings, including but not limited to damage caused by the drilling of walls, tiles, glass or other surfaces, the removal of fixtures and fittings whether obsolete or not, damage to porous or any other materials, or damage caused by the use of silicone in sealing glass to porous or any other materials.
- 4. Price:**
- 4.1** Prices for the Supplies, howsoever given, are based on conditions ruling on the date of their giving and are subject to change. The effective price for the Supplies shall be the price confirmed by the Company in its written notification of acceptance of the Customer's order pursuant to clause 2.3.
- 4.2** The Company reserves the right, by giving notice to the Customer at any time before delivery or provision of the Supplies, to increase the price of the Supplies to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, any increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Supplies which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate, accurate or complete information or instructions.
- 4.3** Unless otherwise stated the price quoted will be exclusive of Value Added Tax which will be charged at the rate which is applicable at the date of dispatch of the Goods or commencement of performance of the Services.

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4.4 Unless otherwise agreed in writing between the Customer and the Company, all prices are given by the Company on an ex works basis and the Customer shall be liable to pay the Company's charges for transport, packaging, insurance and unloading.

5. Delivery and Performance:

5.1 Whilst the Company will use its best endeavours to provide the Supplies in accordance with the Customer's requirements, the Company will not be liable for any consequences of any delay in the provision of the Supplies, howsoever caused.

5.2 Delivery of the Goods shall be made by the Company delivering the Goods to the Site and performance of the Services shall take place at the Site.

5.3 The Company may make partial delivery of any order or deliver any order by instalments and these Conditions of Supply shall apply to each. Each delivery shall be deemed to be a separate contract.

5.4 All packaging provided by the Company which the Company has requested be returned shall be returned to the Company in an undamaged state within 30 days of delivery. The Company reserves the right to charge the Customer for any packaging which is not so returned.

5.5 If for any reason the Customer fails to take or accept delivery of any of the Goods, or the Company is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations: (i) risk in the Goods shall pass to the Customer (including for loss or damage caused by the Company's negligence); (ii) the Goods shall be deemed to have been delivered; and (iii) the Company may store the Goods until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance); or (iv) the Company may sell the Goods at the best price readily obtainable and (after deducting any reasonable costs and expenses in connection with the storage and expedited sale of the Goods), charge the Customer for any shortfall below the price for the Goods.

5.6 If delivery involves difficult access to or at the Site and/or the point of access to the Site is located at an unreasonable distance from any feasible vehicular access point, the Company reserves the right to levy an extra delivery charge.

5.7 Due to the weight and fragility of glass, additional costs will be incurred and charged to the Customer where it is necessary to carry glass any undue distance due to lack of an access road from the Company's vehicle to the Site.

5.8 It is the Customer's responsibility to check the dimensions of the Goods and to ensure that on delivery, access both to and within the Site can be gained easily and safely, giving due consideration to door height

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and width, hallway space, staircase width and curvature and the dimensions of any lift which may need to be used. Any costs incurred in a failed or unreasonably onerous delivery resulting from the Customer's failure to ascertain the abovementioned will be passed on to the Customer.

5.9 The Customer acknowledges that ripples, waves or any distortion in the surface of toughened glass are an integral part of the horizontal toughening process and shall not be classed as a defect.

6. Obligations of the Customer:

6.1 With respect to any Services which the Company is to perform for the Customer, the Customer shall:

- (a) co-operate with the Company in all matters relating to the provision of the Services;
- (b) provide the Company, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with such access to the Site together with anything therein or thereon and such other facilities as may be required by the Company, together with any utilities as may be specified by the Company;
- (c) provide to the Company, in a timely manner, such relevant information as the Company may require, in such a format or formats as the Company may require, and ensure that it is accurate and fully comprehensible in all material respects;
- (d) be solely responsible for ensuring the safety of any and all persons who are or may be present at the Site during the performance of the Services, including but not limited to restricting access to those areas of the Site where the Services are or are to be performed to those individuals engaged in performing the Services, or providing assistance to those so engaged;
- (e) obtain and maintain (at its own cost) all necessary and appropriate licences, consents permits and approvals (including, without limitation, planning permission, building permits, work permits and health authority approvals) and comply with all relevant legislation, standards or requirements in relation to the provision of the Services at the Site, in all cases before the date on which the provision of the Services is to commence; and
- (f) effect and maintain appropriate insurance in an adequate amount with respect to all possible risks which may arise in connection with the deployment of any person engaged by the Company to perform the Services at the Site.

6.2 Unless otherwise agreed and without limitation, the Company shall not be responsible for:-

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- (a) loss or damage to items left at the Site by the Customer which the Customer could have removed or secured; and
- (b) any damage to wood, glass or other materials at the Site.

6.3 Without prejudice to clause 6.1, prior to performance of the Services, the Customer shall remove from the Site any item that could pose an obstacle to the performance of the Services. The Customer shall incur additional charges if the Company has to remove, dismantle and/or dispose of any item at the Site. Without limitation, the Customer acknowledges that no cleanup work will be carried out by the Company and that any waste material arising from the performance of the Services shall be removed by the Customer at the Customer's cost. If the Company discovers or is notified of, before or during the performance of the Services, any problem at the Site which materially affects the Company's ability to perform the Services in accordance with the Company's standards at the price quoted, it shall be free to vary the price, notwithstanding that the problem may have existed prior to acceptance of the Customer's order or may have arisen subsequently. Without limitation, any additional costs caused by any delay in the performance of the Services, or any suspension of performance, at the Site (for reasons beyond the control of the Company) e.g. industrial action, shall be treated as a variation to the Customer's original order and the Customer shall be liable for any such additional costs.

6.4 Without limiting the generality of these Conditions:

- (a) the Company will use reasonable endeavours to supply the Goods to the specified size and colour but shall not be responsible for minor variations in size, colour, or texture;
- (b) all work undertaken will be subject to measurement by the Company and the final surface area will be calculated by the Company upon completion of the works. Any increase in the surface area greater than the area stated on the quotation will be added to the final invoice and paid by the Customer as additional work undertaken at a square metre rate. The rate per square metre will be calculated by dividing the price stated on the quotation by the number of square metres stated on that quotation.
- (c) in the absence of a Contract for the supply of Services, the installation or fitting of the Goods shall be the sole responsibility of the Customer. The Company shall not be liable to the Customer for any advice given to the Customer directly or indirectly related to installation or fitting, nor for any arrangement made by the Customer for installation or fitting, whether any contractor or method was recommended by the Company or not.

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6.5 Unless otherwise agreed with the Company in writing, prices do not include any special works such as the removal of fittings or alterations of frames or any work to be undertaken at height, which may incur an additional cost to the Customer at the Company's discretion. Scaffolding and lifting gear shall be provided, erected and operated free of any charge to the Company.

7. Payment:

7.1 Provided that the Customer has produced references which in the Company's opinion are satisfactory, then then the Contract price shall be paid in accordance with the provisions of subparagraphs (a) or (b) of this clause 7.1. In all other cases, payment shall be made in advance upon submission by the Company of a pro-forma invoice. Unless otherwise agreed in writing by the Company:

- (a) where the Contract is for Goods only, 50% of the Contract price shall be payable when the Customer receives the Company's written acknowledgment of order and the 50% balance of the Contract price shall thereafter be payable upon delivery of the Goods; or
- (b) where the Contract is for Goods and Services or for Services only, the price for the Goods and/or Services shall be paid by the Customer to the Company, as follows:
 - (i) 50% of the Contract price shall be payable when the Customer receives the Company's written acknowledgment of order; and
 - (ii) 50% of the Contract price shall thereafter be payable upon delivery of the Goods (or, for Services only, upon commencement of performance of the Services);

7.2 All payments shall be made without any deduction, withholding or set-off.

7.3 Failure by the Customer to pay any invoice by its due date shall entitle the Company to: a) at its option, to charge interest at the rate of five percent (5%) per annum above HSBC Bank plc's base lending rate from time to time calculated on a daily basis (whether before or after any judgment) until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest); b) to charge the Customer with any costs incurred by the Company in the course of collecting outstanding monies due to the Company from the Customer; c) suspend any warranty for the Supplies or any other goods or services supplied by the Company to the Customer, whether or not they have been paid for; d) set off any amount owed by the Company to the Customer against any amount owed by the Customer to the Company on any account whatsoever; e) suspend or cancel any future delivery of Goods and/or

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performance of Services; and f) cancel any discount (if any) offered to the Customer. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

- 8. Force Majeure:** The Company reserves the right to defer the date of provision of the Supplies, or to cancel the Contract or reduce the volume of the Supplies ordered by the Customer (without liability to the Customer) if it is prevented from, or delayed in, the carrying on of its business (wholly or in part) due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers, or any inability or delay in obtaining supplies of adequate or suitable materials, or the failure or demise of any source of supply.

9. Warranty:

9.1 The Company warrants (subject to the other provisions of these Conditions) that:

(a) on delivery, the Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979;

(b) if the Customer has made it expressly known to the Company in the Customer's order that the Goods shall be suitable for a particular purpose and the Company has expressly stated in its written acceptance of the Customer's order that it will supply Goods suitable for that purpose, then the Goods shall be reasonably fit for the purpose so stated; and

(c) the Services will be performed with reasonable skill and care.

9.2 The Company's liability pursuant to clause 9.1 shall be limited: a) for Goods, to the replacement or repair of any part of the Goods found to be defective and notified to the Company within the period set forth in clause 9.3; and b) for Services, to re-performing those Services found not to have been performed with reasonable skill and care and notified to the Company within the period set forth in clause 9.3.

9.3 Any defect or deficiency in, or failure, shortage or malfunction of the Supplies shall be notified to the Company within 24 hours from delivery of the Goods or performance of the Services; otherwise, the Supplies shall be deemed to be satisfactory.

9.4 The Company shall not be liable for any breach of any warranty in clause 9.1, if: a) the Customer makes any further use of any Goods which the Customer has alleged to be defective after giving notice of any such defect; b) the Customer modifies, adjusts, alters or repairs the Goods without the prior written consent of the Company; c) the defect arises because the Customer failed to follow any oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; d) the defect arises from any Input Material, or from fair wear and tear, wilful damage, negligence, abnormal working conditions, misuse of the Goods or from any other cause which is not due to the neglect or default of the Company; e) the defect relates to any work external to

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the Goods, or arises by subjecting the Goods to any unusual physical or other stress or adverse environmental conditions; f) the full price for the Supplies has not been paid by the time for payment stipulated in clause 7.1; or g) the defect is of a type specifically excluded by the Company by notice in writing.

10. Exclusion of liability:

10.1 Other than as provided in clause 9 above and in Section 12 of the Sale of Goods Act 1979 and save for the conditions implied by section 2 of the Supply of Goods and Services Act 1982, all conditions, warranties and liabilities whatsoever whether express or implied, statutory or otherwise, are hereby expressly excluded and the Company shall be under no liability whatsoever for any loss or damage of whatsoever kind, howsoever caused or arising, including but without being limited to any direct, indirect or consequential loss or damage, lost profits, loss of use or other economic loss, provided that nothing herein contained shall be construed so as to exclude or limit the liability of the Company: a) for death or personal injury caused by the Company's negligence; b) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or c) for fraud or fraudulent misrepresentation.

10.2 The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price.

11. Changes: The Company reserves the right without prior approval from or notice to the Customer to make changes to the Goods in order to meet any statutory or other requirement or to effect enhancements to the Goods.

12. Risk and Title:

12.1 The Goods are at the risk of the Customer from the time of delivery.

12.2 Title to the Goods shall not pass to the Customer until the Company has received payment in full (including any interest or other sums payable) in cash or cleared funds for the Goods and for any other goods or services that the Company has supplied to the Customer in respect of which payment has become due.

12.3 Clauses 12.4 and 12.5 shall only apply to Customers who are Business Customers.

12.4 Until title to the Goods has passed to the Customer, the Customer shall: a) hold the Goods on a fiduciary basis as the Company's bailee; b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property; c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; d) maintain the Goods in satisfactory condition

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and keep them insured against all risks for their full price from the date of delivery and indemnify the Company against all loss or damage of whatsoever nature affecting the Goods; e) notify the Company immediately if it becomes subject to any of the events listed in clause 13.1 (b)-(e); and f) give the Company such information relating to the Goods as the Company may require from time to time, but the Customer may resell or use the Goods in the ordinary course of its business.

12.5If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 13.1 (b)-(e), or the Company reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Company may have, the Company may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

13. Termination:

13.1The Company may terminate the Contract by written notice to the Customer if:

- (a) the Customer commits a continuing or material breach of the provisions of the Contract and if the breach is capable of remedy, fails to remedy it within 14 days of receiving written notice of the breach;
- (b) an incumbrancer takes possession or a receiver is appointed over any of the property or assets of the Customer;
- (c) the Customer makes a voluntary arrangement with its creditors or becomes the subject of an administration order;
- (d) the Customer goes into liquidation (except for the purposes of amalgamation, reconstruction or other reorganisation and in such manner that the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations imposed on the Customer); or
- (e) the Customer ceases or threatens to cease to carry on its business.

13.2The right to terminate the Contract given by this clause 13 shall not prejudice any other right or remedy of the Company against the Customer in respect of the breach concerned, or any other breach.

13.3Upon termination of the Contract all obligations of the Company thereunder shall cease.

14. General:

No forbearance or indulgence granted by the Company to the Customer shall in any way limit the rights of the Company under these Conditions of Supply. Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business. Neither the Company nor the Customer intends that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it. 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. The Company shall be entitled at its discretion to perform any of the obligations assumed by it and to exercise any of its rights granted to it under the Contract through any other company or subsidiary. The Contract constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements and understandings between the parties. Any dispute arising under or in connection with the Contract shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application by either party to the President for the time being of the Law Society whose decision as to the type, qualifications and experience of such arbitrator shall be final and binding on the parties. The costs of the arbitrator shall be borne by the parties as he directs and his decision on the issue in dispute shall be final. These Conditions of Supply shall be subject to and construed under English Law and the parties hereby submit to the exclusive jurisdiction of the English courts for that purpose.