



**B.V. KONINKLIJKE NEDERLANDSCHE GLASFABRIEK LEERDAM AND CRISAL-CRISTALARIA AUTOMATICA S.A.'S
CUSTOMER TERMS AND CONDITIONS**

1. Acceptance and Applicable Terms

- 1.1 These terms and conditions (the "Terms") apply to and form an integral part of all quotations, offers, and sales made by B.V. Koninklijke Nederlandsche Glasfabriek Leerdam ("Libbey Holland"), Crisal Cristalaria Automatica S.A. ("Libbey Portugal"), and/or its parent company or affiliates (collectively, "Libbey"). All acceptances, acknowledgements, and confirmations by Libbey of any orders by You, and any agreements ("Agreements") regarding the sale by Libbey and purchase by You of goods and services ("Products"), unless and to the extent Libbey explicitly agrees otherwise in a writing signed by Libbey's authorized representative.
- 1.2 ANY TERMS AND CONDITIONS IN ANY DOCUMENT OR DOCUMENTS ISSUED BY YOU, WHETHER THEY ARE CONSISTENT, ADDITIONAL, OR CONTRADICTORY TO THESE TERMS, EITHER BEFORE OR AFTER LIBBEY ISSUES ANY DOCUMENT SETTING FORTH OR REFERRING TO THESE TERMS, ARE HEREBY EXPLICITLY REJECTED AND DISREGARDED BY LIBBEY, AND ANY SUCH TERMS ARE WHOLLY INAPPLICABLE TO ANY SALE MADE BY LIBBEY TO YOU AND WILL NOT BE BINDING IN ANY WAY ON LIBBEY.

2. Pricing

- 2.1 Prices are in the currency specified by Libbey in an order confirmation or other relevant document, based on the applicable INCOTERM 2010 and place of delivery. Prices do not include any taxes, duties, or similar levies, now or later enacted, applicable to the Products. Libbey will add taxes, duties, and similar levies to the sales price where Libbey is required or enabled by law to pay or collect them, and these will be paid by You together with the price.

3. Payment

- 3.1 Unless specified otherwise in an order confirmation from Libbey, net payment is due within 14 days of the invoice date. No discount is allowed for early payment unless agreed to in writing by Libbey. In addition to all other rights and remedies Libbey may have under applicable law, interest will accrue on all late payments at the rate of 18% per annum or the applicable statutory rate, whichever is higher and to the extent permitted by applicable law, from the due date until paid in full.
- 3.2 All deliveries of Products agreed to by Libbey are at all times subject to Libbey's credit approval. If, in Libbey's judgment, Your financial condition at any time does not justify production or delivery on the above payment terms, Libbey has the right to require full or partial payment in advance, or some other payment terms, as a condition to delivery, and Libbey has the right to suspend, delay, or cancel any performance by Libbey.
- 3.3 Custom Items are: (A) any Products that consist of Libbey stock items that have been decorated at Your request and/or (B) any Product that was manufactured pursuant to specifications You provided to Libbey or Libbey created specifically for You. You shall be liable to Libbey for the time and materials expended in fulfilling a Custom Items Order when the Order is cancelled after production has been scheduled, but before shipment. You shall be liable to Libbey for the entire invoice of a Custom Items Order when You cancel the Order after the Custom Items have shipped.
- 3.4 If You default in paying any fees or charges due, or if You violate these Terms in any other way, Libbey has the right to do one or more of the following (i) refuse performance and/or delivery of any Products until payments are brought current; (ii) suspend, delay or cancel any performance by Libbey; (iii) if delivery has been made as to any Products, upon prior written notice from Libbey, require You to surrender title and possession of the Products to Libbey, which shall be considered compensation for Libbey's damages deriving from Your breach; or (iv) seek collection of amounts due through legal or other processes, in which case You shall be responsible for the costs associated with collection, including Libbey's attorneys' fees. These rights are in addition to, and not in lieu of, any other rights and remedies available at law or in equity.

4. Delivery and Quantities

- 4.1 Unless Libbey agrees otherwise in writing, Products will be delivered FCA Libbey's facility (INCOTERMS 2010). Delivery dates communicated or acknowledged by Libbey are approximate, and Libbey is not liable for, nor will Libbey be in breach of its obligations to You, for any delivery made within a reasonable time before or after the communicated delivery date. Libbey will use commercially reasonable efforts to meet the delivery dates communicated or acknowledged by it on the condition that You provide all necessary order and delivery information sufficiently before the delivery date.
- 4.2 With respect to any order, the order shall be considered fulfilled (i) if Libbey's delivery does not deviate in quantity more than 10% from the quantity ordered in the case of decorated Products or 5% in the case of other Products, and (ii) if at least 97% of the Products delivered are not damaged.
- 4.3 You will give Libbey written notice of failure to deliver Products within 10 days of non-delivery and shall give Libbey 30 days from the date of the notice to cure. If Libbey does not deliver the undelivered Products within the 30-day cure period, Your sole and exclusive remedy is to cancel the affected and undelivered portions of the order.
- 4.4 Risk of loss in the Products will transfer in accordance with the applicable INCOTERMS 2010 and title shall pass at the same time as risk of loss transfers.
- 4.5 If Libbey's production is curtailed for any reason, Libbey will have the right to allocate its available production and Products, in its sole discretion, among its various customers and, as a result, has the right to sell and deliver to You fewer Products than specified in the Agreement or order, as the case may be.

5. Limited Warranty and Disclaimer

- 5.1 Libbey warrants that the Products shall, at the time of shipping from Libbey's facility: (A) meet Libbey's accepted quality levels for the relevant facility producing the Products; (B) substantially conform to all applicable specifications; (C) comply with all applicable law; and (D) except with respect to design elements provided by You or others, not infringe upon the intellectual property rights of any third party.
- 5.2 THE EXPRESS WARRANTY GRANTED ABOVE IN SECTION 5.1 IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. LIBBEY SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES.

6. Compliance with U.S. Export & Economic Sanctions Laws

- 6.1 You shall not sell, transfer, or otherwise dispose of any U.S. origin products or related software, technical data, documentation, or other products or materials furnished to it, pursuant to any orders or Agreements, to any party or in any manner which would constitute a violation of the export control regulations or the economic sanctions regulations of the United States (now or hereafter in effect). These export regulations prohibit, without limitation, exports, transshipments, or re-exports of products to: (A) countries, regions, persons, or organizations that are subject to U.S. sanctions as described in the program listed at <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>; and/or (B) entities or individuals that appear on the U.S. government's: Specifically Designated Nationals List, Denied Persons List, Unverified List, Debarred List, or Entity List, all of which are available at: <http://www.bis.doc.gov/complianceand enforcement/liststocheck.htm>.

7. Indemnity and Limitation of Liability

- 7.1 Libbey will defend, indemnify, and hold harmless You and Your directors, officers, employees, agents, and affiliates (collectively, "Indemnified Parties") from and against all liabilities, penalties, fines, losses, damages, judgments, and expenses (collectively, "Losses"), to the extent arising from or relating to any one or more of the following: (A) Libbey's material breach of these Terms; or (B) any injury or death of any person, or loss of or damage to any property, to the extent arising out any defects in the Products supplied by Libbey to You, provided, however, that the defect was actually present in the Product as of the time of shipping from Libbey's facility.
- 7.2 Libbey's indemnification obligations are subject to all of the following: (A) You must use commercially reasonable efforts to preserve and deliver to Libbey any Product with respect to which You are claiming indemnification; (B) You give Libbey prompt written notice of the claim (which notice must be given, in any event, prior to the expiration of any applicable period for responsively pleading to any third-party action); (C) this indemnity will not be effective to the

extent the loss is a result of the negligence or intentional misconduct of You or any party other than Libbey; and (D) neither You nor Libbey will settle any claim without the other's approval, unless in each case the settlement absolves from liability the other party.

- 7.3 You will defend, indemnify, and hold harmless Libbey and Libbey's directors, officers, employees, agents and affiliates (collectively, "Libbey Indemnified Parties") from and against all Losses, to the extent arising from or relating to any one or more of the following: (A) Your breach of these Terms; (B) any injury or death of any person, or loss of or damage to any property, to the extent not the responsibility of Libbey under Section 6.1; or (C) any design elements or other intellectual property provided by You or others to Libbey.
- 7.4 NOTWITHSTANDING ANY OF THE FOREGOING, TO THE EXTENT PERMITTED BY APPLICABLE MANDATORY LAW, LIBBEY WILL NOT BE LIABLE FOR ANY LOST PROFITS OR SAVINGS, LOSS OF GOODWILL OR REPUTATION, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THE ORDER, AGREEMENT, OR THE SALE OF ANY PRODUCTS BY LIBBEY OR THE USE THEREOF WHETHER OR NOT THE DAMAGES ARE BASED ON TORT, WARRANTY, CONTRACT OR OTHER LEGAL THEORY, EVEN IF LIBBEY HAS BEEN ADVISED, OR IS AWARE, OF THE POSSIBILITY OF DAMAGES. YOUR ONLY REMEDY UNDER THESE TERMS IS A REPLACEMENT OF NONCONFORMING PRODUCTS, IN WHICH CASE YOU MUST NOTIFY LIBBEY OF ANY NONCONFORMING PRODUCTS WITHIN 14 DAYS OF DELIVERY. FURTHER, WITH RESPECT TO PRODUCTS DELIVERED BY LIBBEY, WHICH LIBBEY OBTAINS FROM THIRD PARTIES, THE ONLY LIABILITY OF LIBBEY TO YOU SHALL BE THAT OF THE RELEVANT THIRD PARTY TO LIBBEY.

8. Confidentiality

- 8.1 You acknowledge that all technical, commercial, and financial data disclosed to You by Libbey is Libbey's Confidential Information. You will not disclose any Confidential Information to any third party and will not use any Confidential Information for any purpose other than as agreed by the parties and in conformance with these Terms.
- 8.2 "Personal Information" means information about an identifiable individual including, without limitation, a person's name, address, contact information, age, gender, sexual orientation, religion, political affiliation, income, marital status, finances, health, employment, and government-issued identification number, but shall not include the title, business address, business email address, or business telephone number of an employee of an organization in relation to the individual's capacity as an employee of the organization. You acknowledge that it must adhere to all relevant national, supranational, intergovernmental, or international laws and regulations regarding the privacy, protection, and security of Personal Information.
- 8.3 All Confidential Information remains the disclosing party's exclusive property and, except as noted in Section 8.5 below, nothing in these Terms is an express or implied grant of a transfer, assignment, license, or lease of any right, title, or interest in the Confidential Information. The covenants in these Terms are reasonable and necessary to protect the parties' business interests. Any disclosure or unauthorized use of the Confidential Information will cause the disclosing party irreparable harm and loss, and the disclosing party will be entitled to an injunction restraining that breach or threatened breach without showing or proving any actual damages sustained by the disclosing party.
- 8.4 Upon the earlier of the order's or Agreement's termination, or Libbey's request, You will return to Libbey all written information, reports, analyses, and like materials furnished to You by Libbey, or prepared for Libbey by You. You must not use Libbey's name or the existence of Libbey's relationship with You in any publicity or promotional efforts. Except as required by applicable law, You will not release to the press, public, or any regulatory agency, any matter relating to any order, Agreement, or these Terms without Libbey's prior written consent. The parties' rights and obligations under this Section 8 survive any expiration or termination of these Terms or any Agreement, and will continue to bind the parties, their employees, successors, heirs, and assigns.
- 8.5 Title to all molds obtained by Libbey for its business with You, and all intellectual property associated with the molds, shall belong to Libbey unless otherwise agreed in writing by Libbey.

9. Intellectual Property Rights

- 9.1 Notwithstanding anything else in the Terms or any Agreement, Libbey will retain all intellectual property rights to all designs, processes, and other elements of the Products that are not developed solely for You or as a direct result of Your specific request. Any pre-existing materials or retained knowledge of Libbey will remain Libbey's exclusive property, and nothing in these Terms or any Agreement is an express or implied grant of a transfer, license, or lease of any right, title, or interest in the materials or knowledge.

10. Anti-Corruption

- 10.1 You will comply with Libbey's Anti-Bribery Policy, as amended from time to time.

11. Force Majeure

- 11.1 Libbey is not liable for any failure or delay in performance if: (A) the failure or delay results from interruptions in the manufacturing or distribution process; or (B) the failure or delay is caused by Force Majeure as defined below or by law.
- 11.2 In case of a failure as set forth in Section 10.1 above, Libbey's performance will be suspended for the period the failure continues, without Libbey being responsible or liable to You for any damages resulting therefrom.
- 11.3 The expression "Force Majeure" means and includes any circumstances or occurrences beyond Libbey's reasonable control – whether or not foreseeable at the time of the order or Agreement – as a result of which Libbey cannot reasonably be required to execute its obligations, including default by one of Libbey's suppliers. Examples of Force Majeure events include but are not limited to riots, epidemic, natural disasters, exclusions, strikes, fire, utility failure, war conditions, disturbances, import and export obstructions, and shortage of raw materials, other materials, or machines. If the Force Majeure extends for 3 consecutive months (or if the delay is reasonably expected by Libbey to extend for 3 consecutive months), Libbey will be entitled to cancel all or any part of the order or Agreement without any liability towards You.

12. Assignment and Setoff

- 12.1 You will not assign any rights or obligations under these Terms or any Agreement without Libbey's prior written consent. You will have no right to withhold or reduce any payments or to offset existing and future claims against any payments due for Products sold under these Terms or under any other Agreement that You may have with Libbey and agrees to pay the amounts hereunder regardless of any claimed offset which may be asserted by You or on Your behalf.

13. Breach and Termination

- 13.1 Without prejudice to any rights or remedies Libbey may have under the Terms, any Agreement, or at law, Libbey has the right to, by written notice to You, terminate with immediate effect any order or Agreement, or any part thereof, without any liability whatsoever, if: (a) You breach any of these Terms or any Agreement; (b) any proceedings in insolvency, bankruptcy, liquidation, or winding up are instituted against You, whether filed or instituted by You, voluntary or involuntary, (c) a trustee or receiver is appointed over You, or (d) any assignment is made for the benefit of Your creditors.
- 13.2 Upon occurrence of any of the events referred to in Section 10.1, all payments to be made by You under the order or Agreement will become immediately due and payable. If an order or Agreement is cancelled, terminates, or expires, the terms and conditions destined to survive the cancellation, termination, or expiration will so survive.

14. Governing Law and Forum

- 14.1 All offers, confirmations, orders, Terms, and Agreements are governed by and construed in accordance with (i) the laws of Portugal for matters arising out of Orders placed with Libbey Portugal, and (ii) for all other matters, including matters arising out of Orders placed with Libbey Holland, the laws of The Netherlands. All disputes arising out of or in connection with these Terms or any Order or Agreement will first be attempted by You and Libbey to be settled through consultation and negotiation in good faith in a spirit of mutual cooperation. All disputes that cannot be resolved amicably will be submitted to the exclusive jurisdiction of the courts of the country whose law applies according to this Section 13.1 (either Portugal or the Netherlands). The United Nations Convention on Contracts for the International Sale of Goods will not apply to any offer, confirmation, order, or Agreement. Nothing in this Section 13 limits either Libbey's or Your right under applicable law for injunctive or other equitable relief or to take any action to safeguard its possibility to have recourse against the other party.

15. Notices

- 15.1 Any and all notices to be provided to Libbey regarding these Terms or any Agreement shall be in a writing mailed to B.V. Koninklijke Nederlandsche Glasfabriek Leerdam, c/o General Manager of EMEA, Lingedijk 8, 4142 LD Leerdam, The Netherlands.

16. Miscellaneous

- 16.1 If any provisions of these Terms are held invalid or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, the holding will not negate the validity or enforceability of any other provisions thereof. If any provision of these Terms is finally determined to be unlawful or unenforceable, the provision will be deemed severed from these Terms, but every other provision will remain in full force and effect, and in substitution for any provision held unlawful or unenforceable, there will be substituted a provision of similar import reflecting the original intent of the clause to the extent permissible under applicable law.
- 16.2 The failure on the part of either party to exercise, or any delay in exercising, any right or remedy arising from these Terms or any Agreement will not operate as a waiver thereof; nor will any single or partial exercise of any right or remedy arising therefrom preclude any other or future exercise thereof, or the exercise of any other right or remedy arising from these Terms or any Agreement, or from any related document or by law.
- 16.3 These Terms can only be amended or modified in a writing signed by Libbey's authorized representative.
- 16.4 These Terms are binding on the parties, their legal representatives, successors, heirs, and permitted assigns.

Revised December 2016