



## **Contract Proposal Terms and Conditions**

These Terms and Conditions (the "Terms") between St. Germain's Glass Comp. ("St. Germain's Glass") are expressly incorporated into St. Germain's Glass' proposal (the "Proposal") to Customer. Customer's signature on the Proposal is evidence of acceptance of and agreement to the Terms. The Terms will supersede any conflicting provisions in the event that Customer utilizes a separate contract form with St. Germain's Glass for the Project.

### **TERMS**

1. All orders and contracts are subject to credit approval by St. Germain's Glass.
2. Customer will provide St. Germain's Glass with the following before St. Germain's Glass commences work on the Project: the legal description of the property; the name and address of the project owner (the "Owner"); the name and contact information for the Owner's representative for the Project; evidence of adequate and proper Owner financing for the Project; and a copy of the Customer's payment bond for the Project.
3. Payment: Labor and Materials Contract
  - a. St. Germain's Glass shall submit monthly labor and material invoices to Customer no later than the 25th of the month.
  - b. Progress payments for all materials furnished and work performed during the month, or for materials suitably stored at the Project site or any other agreed location, are to be issued to on or before the 10th of the month following invoice submission.
  - c. Retainage shall be at the same rate as between Owner and Customer. In no event shall retainage exceed 5%.
  - d. Final payment is due to St. Germain's Glass within 30 days of substantial completion of St. Germain's Glass's work.
4. Payment: Material Only Contract
  - a. Payment on all materials contracts shall be issued to St. Germain's Glass within 30 days of Customer taking possession of the materials.
  - b. Customer shall not withhold any retainage on a material only contract.
5. All sums not paid when due will bear interest at the rate of 1.5% per month.
6. St. Germain's Glass shall be entitled to recover all costs of collection, including reasonable attorneys' fees and costs, for any claims arising out of the agreement with Customer.
7. St. Germain's Glass does not accept the risk of customer's receipt of payments from any source. In no event will payments to St. Germain's Glass be based upon, or subject to, Customer's receipt of payment for St. Germain's Glass's work on the Project.

### **CONDITIONS**

1. The Proposal is subject to revision and confirmation by St. Germain's Glass in writing if not accepted within 30 days after the date of the Proposal. Correction of clerical errors in the Proposal prior to acceptance does not modify the terms of the Proposal and does not constitute an updated or new Proposal, or counteroffer to the Proposal.
2. St. Germain's Glass shall perform the work (the "Work") set forth in the Proposal. St. Germain's Glass expressly excludes all divisions of work not included in the Proposal.

3. The Work will be performed in a prompt and diligent manner. The Work will be started within seven working days after St. Germain's Glass receives a notice to proceed from Customer.
4. St. Germain's Glass shall not be responsible for delays in performance or additional costs of performance caused by war, accidents, embargoes, fires, lockouts, strikes, walk-outs; acts of God, unusual delays in the transportation or acquisition of materials, equipment, and supplies; appropriation or requisition of materials, supplies, equipment, or facilities by any governmental authority; changes and revisions in the Work ordered pursuant to paragraph 6 below; any act or negligence of the owner, general contractor, architect, or other subcontractors, or any of their respective employees; any shortage of qualified glazers; epidemics or pandemics, including governmental orders or supply chain disruptions resulting therefrom; or by any other cause beyond our control. St. Germain's Glass shall not install material and perform the Work under unfavorable weather conditions, as defined in manufacturer's instructions, or as determined by accepted practices in the glass and glazing industry.
5. If St. Germain's Glass is delayed at any time in the furnishing of labor or materials needed for the Work due to a delay in the delivery of or unavailability of specified materials or components for reasons beyond St. Germain's Glass's control, the time to furnish such labor and/or materials will be equitably extended to account for such delays or unavailability. Notwithstanding any other provisions to the contrary, St. Germain's Glass will not be liable to Customer for any expenses, losses, or damages (including liquidated damages) arising from a delay in the delivery of or unavailability of materials. St. Germain's Glass will provide Customer written notice of such delay or unavailability and the associated time impact promptly after St. Germain's Glass becomes aware of it.
6. The Work does not include any cleaning of glass, metal construction, or spandrels. St. Germain's Glass assumes no responsibility for stains or corrosion which might occur on glass or metal construction. A variation in color must be expected in metal store front construction.
7. St. Germain's Glass shall be entitled to make additions, alterations, changes, deviations, and revisions in its Work under the following conditions:
  - a. If there are changes in the plans or specifications on which St. Germain's Glass's Proposal was based;
  - b. If, in St. Germain's Glass's judgment, the plans or specifications for the Work call for an installation which creates a potential safety hazard; or
  - c. If Customer requests an alteration, change, deviation or revision in the Work.Under any of the three conditions, St. Germain's Glass shall submit for acceptance, written cost or credit proposals for such revised Work, and shall not be required to perform such revised Work unless and until agreement is reached on our cost or credit proposals. If Customer requests no written cost or credit proposal, any additional labor and material costs involved in St. Germain's Glass's performance of revised Work shall become payable upon submission of our invoice.
8. St. Germain's Glass shall not be liable for breakage of or damage to glass, metal construction, and other materials, after installation, or when stored at the job site prior to installation, unless caused directly by St. Germain's Glass's own employees. St. Germain's Glass shall be entitled to a change order for full reimbursement for any replacement occasioned by such breakage or damage.
9. The furnishing and erection of backing, framing and masonry for the reception of St. Germain's Glass's glass and metal shall be by others. The surface of the glass rabbet shall be left free of dirt and other foreign matter. Such work shall be installed according to approved shop drawings, and must be plumb and straight. Where sash is to be applied directly to brick or masonry, the work shall be plumb and true. All masonry joints shall be struck off flush. St. Germain's Glass assumes no responsibility for cost, damage, or delay

caused by improper installation of the framing, or improper preparation of the opening. Customer warrants that areas will be ready for glazing, to insure reasonably continuous progress toward completion of the Work, prior to issuing a notice to proceed to St. Germain's Glass.

10. The surface of the glass rabbet shall be free of dirt and other foreign matter. The glazing of glass in steel casement sash, or other sash requiring the glass to be set from outside a multi-story building from a swing stage or other apparatus, will be done after all sash are set complete in their respective openings, and will require, except where the size and height of the building otherwise permit efficient performance, that the sash be made available for St. Germain's Glass's glazing in bays or tiers the full height of the building. When glass is set with stops supplied by a sash manufacturer, all stops and frames are to be drilled and tapped and the stops loosely fastened to the unglazed sash with one bolt or wire. Bolts and nuts must work freely.
11. All materials will be furnished in accordance with industry established tolerances on color variations, thickness, size, finish, texture, and performance standards.
12. St. Germain's Glass shall be provided with suitable space at the Project site for storage of its materials without charge. The assigned area will be reserved for St. Germain's Glass, without the need for St. Germain's Glass to relocate materials to make room for other trades. If such a move is necessary, an additional charge will be assessed to cover St. Germain's Glass's expenses in making the move. St. Germain's Glass shall be entitled to a change order for any damage that occurs to its materials or its work as a result of such move.
13. St. Germain's Glass will not be responsible for any leaks or conditions of glazing material if glazing is done when the temperature is below 40° Fahrenheit or during damp or rainy weather. St. Germain's Glass's proposal does not include any special barricade or enclosure to continue work in adverse weather. In the event St. Germain's Glass is directed to proceed in adverse weather, St. Germain's Glass will be entitled to a change order for all costs associated with providing a special barricade or enclosure to continue its work.
14. Because of its numerous and uncontrollable sources, St. Germain's Glass assumes no responsibility for the formation of condensation or frost on the glass.
15. St. Germain's Glass agrees to remove its own rubbish and will not assume any charge for removal by others, unless specifically authorized by St. Germain's Glass.
16. Caulking is expressly excluded from St. Germain's Glass's scope of work, except where agreed to in advance.
17. St. Germain's Glass shall be afforded free use of a hoist for transportation of its materials. If scaffolding is required, it will be provided by the general contractor for St. Germain's Glass's use without charge.
18. St. Germain's Glass shall not be liable for payment of any charges for use of telephone, electricity, heat, water, sheds, elevators, scaffolding, ventilating, pumps, gangways, or sanitary facilities, or for plaster patching, office expenses, stenographic fees, watchmen, guards, and general cleaning, or any other back charge or pro-rated charge whether specifically billed to St. Germain's Glass or taken as an allowance or deduction against the contract price.
19. St. Germain's Glass shall be named as an additional insured in any insurance policies obtained by the Owner or Customer for the Project.
20. This proposal is based on all work performed during regular working hours. St. Germain's Glass shall be entitled to a change order for all work performed outside of regular working hours. St. Germain's Glass shall be entitled to a change order for any acceleration or supplemental labor ordered by Customer, provided that any delay leading to the acceleration or supplemental labor request is not solely caused by St. Germain's Glass.
21. Nothing in this agreement will require St. Germain's Glass to continue performance if timely payments are not made for suitably performed work or stored materials.

22. The Terms cannot be canceled or changed by the Customer except with the written consent of an authorized official of St. Germain's Glass. In the event a contract or order is canceled, St. Germain's Glass will invoice the customer for an amount equal to the work, materials, and equipment provided to the Project, and for materials ordered or stored but not installed. Standard payment terms will apply.
23. In no event shall St. Germain's Glass be liable to Customer for anticipatory or lost profit damages, loss of use damages, extended or unabsorbed home office overhead, loss of bonding capacity, punitive or exemplary damages, attorneys' or expert witness fees, or any other special, indirect, or consequential damages of any kind. St. Germain's Glass's total liability for any loss, claim, or damage arising out of its Work shall be limited exclusively to the direct value of the Work performed. 24. St. Germain's Glass will maintain insurance with coverage and limits only as provided by its existing insurance program as shown on its certificate of insurance available upon request. Any controversy or claim arising out of or relating to the agreement with Customer, or a breach thereof, shall be settled by arbitration by a single arbitrator in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator may be entered in any Court having jurisdiction thereof.