

TERMS AND CONDITIONS OF SALE

Revised August 12, 2019

Performance by United Plate Glass, Inc. ("Seller") of any purchase order or other request ("Order") from _____, ("Buyer") to purchase products and services from Seller (the "Products") is expressly conditioned upon Buyer's acceptance of Seller's terms and conditions (the "Terms and Conditions") as hereinafter set forth with respect to the Products. Buyer's acceptance of Seller's Quote for the Products shall be deemed to constitute its acceptance of the Terms and Conditions:

1. **OFFER AND ACCEPTANCE.** Only these Terms and Conditions shall govern Orders. Any terms and conditions included in any Order or other documentation of Buyer (or which are posted on Buyer's website or included in an email transmission, or which are communicated by Buyer orally, in writing, electronically, or through any other medium) which conflict with, deviate from or add to these terms and conditions shall be void and unenforceable unless Seller has duly approved them in writing. These Terms and Conditions may only be modified in writing signed by a duly authorized representative of Seller.
2. **PRICE, PAYMENT, CREDIT TERMS AND CANCELLATION.** Unless otherwise agreed to by the parties in writing, Seller accepts Orders subject to delivery when available, at Seller's prices in effect on the shipment date. Terms of payment are 1% 10 days, net 30 days of invoice date. Prices are listed on Seller's Quote to Buyer for each Order and are calculated based on square footage to the next even inch. Shapes, patterns and energy surcharges are additional costs and are subject to review by the Seller periodically. All Quotes are subject to Buyer's credit approval by Seller. Seller in its sole discretion may: (i) refuse to ship the Products identified in any Quote; (ii) modify the Payment Terms identified therein; (iii) cancel without penalty or charge any Order for the Products in its Quote; or (iv) require payment in advance of delivery, if Seller requests and is unable to secure acceptable payment assurances from Buyer. Any Order shall immediately terminate at the sole option of Seller without the necessity of written notice should Buyer be declared insolvent, file a petition in bankruptcy, make a general assignment to its creditors, or be dissolved or liquidated. If payment is not received by Seller when due, any outstanding amount shall bear interest at the monthly rate of 1.5% (18% per year) or, if less, the highest rate permitted by applicable law, until paid in full. Buyer also shall pay to Seller all expenses, including reasonable attorneys' fees and court costs, incurred by Seller in enforcing any of its rights to payment for the Products purchased by Buyer.
3. **TAXES.** Any tax, excise or governmental charge imposed on the production, sale, use or transportation of, or value added to, any Product which Seller may be required to pay (other than income or gross receipts taxes of Seller) shall be paid by Buyer in addition to the purchase price. Buyer shall provide Seller with completed exemption certificates for any tax from which Buyer claims an exemption.
4. **SHIPMENT.** All shipping information transmitted to Buyer, including shipping and delivery dates, represents only Seller's best estimates. In the event that Seller encounters delays in obtaining equipment, materials or services, the shipping schedule will be extended as reasonably necessary to accommodate such delays. Seller's current practice is to deliver Products in its own delivery trucks, but if they are unavailable, a common carrier may be used in which case the shipping schedule may change. If a common carrier is used title to and risk of any loss of or damage to the Products from whatever cause shall pass to Buyer upon transfer of the Products to the common carrier. Upon arrival and placement of the delivery vehicle (the "Equipment") at the delivery point, Buyer will be responsible, at its own risk and expense, for promptly unloading the Products from the Equipment, in a manner that does not damage the Equipment, and for promptly releasing the Equipment empty and in a condition suitable for loading by Seller. All delivery racks will remain the property of the Seller.
5. **DELIVERY TIME.** Delivery dates are approximate and are subject to variation without notice. No delivery shall occur until Seller has received all details from Buyer necessary to execute the Order. Seller shall use reasonable efforts to schedule delivery as close as possible to Buyer's requested delivery dates. Seller shall not be liable for failure to deliver on such dates, or for any loss or damage to Buyer or others as a result of any delay or change in the delivery time regardless of the cause. Delay in delivery of one installment shall not entitle Buyer to cancel other installments.

6. **TECHNICAL ASPECTS.** Wind load analysis and thermal stress analysis are strongly recommended to confirm glass heat treatment requirements. This analysis will be performed only at the request of Buyer. All Orders must be identified as exposed or covered edges when submitted. Absent such information, glass shall be assumed to have covered edges and as not being structurally installed. Structural glazing must be identified as either 2-sided or 4-sided. All quality requirements exceeding the Seller's standards must be specifically approved in advance in writing by Seller's Technical Department and shall be subject to an additional charge. The use of templates for production is subject to prior approval by the Seller. The unit's seal is polyurethane for standard glazing and silicone for structural glazing. All Products must be used with compatible glazing material and prior verification of Seller is recommended.
7. **CANCELLATION** Buyer agrees that Orders are not subject to cancellation except by prior written consent of Seller and with full reimbursement to Seller for work performed and materials used therein.
8. **INSPECTION AND CLAIMS.** Buyer shall inspect and test all Products delivered hereunder for damage, defect or shortage upon receipt and before use or incorporation into any manufacturing or other process, and shall notify Seller of any damage, defect, or shortage within ten (10) days of receipt. Buyer assumes all risks for use of non-conforming Products or using Products in a manner inconsistent with the Products physical properties. Buyer shall provide Seller with such photographic proof of defects in, or damage to, Products as Seller may request.
9. **LIMITED WARRANTY.** The Warranty for each type of glass sold by Seller is attached hereto and shall apply to the applicable type of Product. Seller warrants that the Products are manufactured in accordance with ASTM standards and tolerances and shall conform to the applicable Warranty or such other specifications, if any, that have been agreed to by the parties in writing. Seller's maximum liability under this warranty shall be to deliver replacement Products, or to refund the purchase price as Seller elects. Seller assumes no responsibility for glass breakage, incompatibility with other products, faulty installation, abnormal weather conditions or damage caused by external factors or components, or any other occurrence that is outside the Seller's scope of work or subsequent to the transfer of the Products to the Buyer. The warranty period of the replacement Products will be limited to the remainder of the warranty period of the applicable original Products.

THE FOREGOING EXPRESS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NO LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER WARRANTY OBLIGATION ON THE PART OF THE SELLER.

SELLER LIABILITY. IN NO EVENT WILL SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT LOSSES OR DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE PRODUCTS. SUCH EXCLUDED LOSSES AND ITEMS INCLUDE, WITHOUT LIMITATION, COSTS OF REMOVAL AND REINSTALLATION OF ANY PRODUCT OR COMPONENT, LOSS OF GOODWILL, LOST PROFITS, DELAY AND LOSS OF USE. SELLER'S LIABILITY ON ANY CLAIM OF ANY KIND FOR ANY LOSS OR DAMAGE SHALL IN NO CASE EXCEED THE PURCHASE PRICE OF THE PRODUCT WHICH GIVES RISE TO THE CLAIM. SELLER SHALL NOT BE LIABLE FOR PENALTIES OF ANY KIND.

10. **BUYER'S REMEDIES.** If the Products furnished to Buyer are defective, Buyer must notify Seller in writing, and Seller has ten (10) days from written notification by Buyer to attempt to cure or remedy the defects. If Seller determines it is unable to cure the defects in the Products and Buyer has notified Seller within ten (10) days of receipt of Products, ***Seller shall*** replace such nonconforming Products at the original point of delivery and shall furnish instructions for its disposition. Buyer's exclusive and sole remedy with respect to the Products that are defective shall be to secure the replacement of said Products only.
11. **RETURN OF PRODUCTS.** Buyer agrees not to return Products for any reason, except with the written consent of Seller obtained in advance of such return, which consent, if given, shall specify the terms and conditions upon which such return shall be made.

12. **EXPORT/IMPORT.** Buyer agrees to comply with all applicable import and export controls, laws and regulations. Notification of destination and end user to Seller is required with respect to all Products to be shipped overseas.
13. **NOTICES.** Notice by either Seller or Buyer shall be by personal delivery, prepaid mail, express courier service, or facsimile addressed to the other Party at its address in this Agreement, and will be considered given upon receipt when personally delivered, three days following the time it is deposited with the U.S. Postal Service when mailed, or the next business day when sent by express courier service, or on the first business day following facsimile transmission, when faxed with a receipt confirmation.
14. **SEVERABILITY AND WAIVER.** Should any provision hereof be or become illegal or unenforceable, the remaining provisions shall remain in force and be binding upon the parties. Any waiver by a party of the other's breach of any term or condition hereof shall not be construed as or be deemed to be a waiver of any future breach of such term or condition.
15. **ASSIGNMENT.** Neither party may assign its rights or obligations under any Order, whether by operation of law or otherwise, without the express prior written consent of the other party.
16. **GOVERNING LAW AND VENUE.** All Orders will be governed by, and construed in accordance with, the laws of the Commonwealth of Pennsylvania without regard to conflict of law provisions, and the parties hereto agree and consent to the exclusive jurisdiction of the state and federal courts in Pennsylvania.

Accepted and agreed to this ____ day of _____, 20__ by Buyer, by its duly authorized representative.

INSERT NAME OF BUYER

By: _____

Name: _____

Title: _____