

# Technical Glass Products Inc.

## General Terms and Conditions of Sale and Service

1. **GENERAL/ACCEPTANCE.** (a) This Agreement contains the only terms and conditions by which Company will quote and sell Deliverables to Customer; (b) The terms "purchase order" or "order" for the purposes of this Agreement include the term "request for quotation," as appropriate; (c) This Agreement supersedes all pre-printed or boilerplate terms and conditions set forth in any purchase order issued by Customer; (d) No reference herein to Customer's purchase order will in any way incorporate different or additional terms and conditions, all of which Company hereby expressly objects to; (e) **ANY ACCEPTANCE BY COMPANY OF CUSTOMER'S PURCHASE ORDER IS EXPRESSLY CONDITIONED ON THE CUSTOMER'S ASSENT TO AND ACCEPTANCE OF THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT AND CUSTOMER MAY ACCEPT SUCH TERMS AND CONDITIONS IN ANY MANNER INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING: CUSTOMER'S SIGNATURE ON COMPANY'S SALES ORDER ACKNOWLEDGEMENT, ACCEPTANCE OF ANY DELIVERABLES UNDER AN ORDER, INFORMING COMPANY IN ANY MANNER OF COMMENCEMENT OF PERFORMANCE, RETURNING CUSTOMER'S OWN FORM OF ACKNOWLEDGEMENT, ETC.;** (f) Company reserves the right to decline any order, in whole or in part, for any reason.

### 2. **ORDERS.**

a. **Order Processing.** When Customer wishes to place an order for Deliverables, it will deliver to Company a purchase order via facsimile to (425) 396-8300 or email a PDF copy to sales@fireglass.com. All such purchase orders must (i) be in a written format acceptable to Company, (ii) be legible, (iii) include a purchase order number, (iv) include Customer's name, account number, invoice address, ship to address, shipping method, shipper's letter of instruction for international shipments, part number, pricing, and designated contact information including phone number, fax number, and email address, (v) reference any applicable written quote from Company, along with the applicable quotation number, (vi) reference elevation(s), plan(s) and/or architectural drawings necessary for submittal (AutoCAD format preferred), and (vii) if "Doors by Others" are specified, provide an approved Finish and Hardware Schedule along with all hardware, specifications, model numbers, including any and all templates required for fabrication (applies to Hardwood Series orders as well).

#### b. **Specific Inclusions and Exclusions.**

(i) Inclusions: Unless specifically excluded in the quotation, Sales Order Confirmation or in this Agreement, the following are hereby included with Deliverables: (1) shop drawings and Company standard elevations and details (additional architectural details can be included with additional shop drawing lead time and cost; (2) specific Company product documentation; (3) factory fabrication and assembly (on partial assembly of KD orders) of FireFrames® and SteelBuilt Curtainwall™ manufactured with Company's standard color, powder coat

finish, or powder coat primed for field painting by Customer; (4) Pilkington Profilit™ frames will be shipped unassembled with glass cut to size; perimeter frames will be clear anodized, and framing and other components may require field fabrication to be done by Customer.

(ii) Exclusions: Unless specifically set forth as an inclusion in the quotation, Sales Order Confirmation or in this Agreement, the following are hereby excluded with Deliverables: (1) any and all tax, including without limitation, sales tax, local, state and federal tax, import taxes, GST, import or export duties, fees, tariffs, and VAT (all of which Customer shall be solely responsible for); (2) field fabrication, installation or onsite consultations; (3) structural calculations and/or P.E. Stamp; (4) any and all mockups; (5) fabrication and supply of hardware items, unless specifically itemized herein. If fabrication for additional hardware is required, Customer must provide templates and hardware samples to Company for review and possible price and/or lead time revisions; (6) special cuts unless specifically set forth herein; (7) perimeter anchors/screws; (8) shims, perimeter finish sealants, glazing tape, mineral wool or intumescent sealants; (9) FireFrames® and SteelBuilt Curtainwall™ non-standard powder coat formulations or custom color finishes; (10) Pilkington Profilit™ frames non-standard or custom colors; (11) Design Curtainwalls and Glazed Assemblies (CWGA); and (12) conformance with any provisions of a government regulation or requirement (e.g., Buy American Act, Buy America Act, FAR, DFAR, etc.). NOTE: Any use of the Deliverables in a governmental facility or with government funds requires the prior written approval of Company.

#### c. **Acceptance of Purchase Orders.**

Company will endeavor to (i) acknowledge receipt of each purchase order issued in accordance with this Agreement, and (ii) notify Customer whether Company accepts or rejects the purchase order. If Company fails to accept a purchase order with a Sales Order Confirmation or reject a purchase order within a reasonable time period, such failure to respond will be deemed a rejection of the entire order.

d. **Changes to Order/ Cancellation of Orders.** Unless otherwise provided herein, Customer acknowledges that (i) requesting a Change Order may cause a delay in the scheduled shipment date, a longer lead time or result in a new scheduled shipment date, or increased price; (ii) Orders may not be changed or cancelled once Company delivers a Sales Order Confirmation to Buyer. If after receipt of Company Sales Order Confirmation, Company agrees to a change, in its sole discretion, all such changes shall be subject to a Change Order charge based on a percentage of the net Deliverable value, plus the cost of labor and fabrication or raw material that Company incurred prior to the receipt of the Change Order from Customer, or that may be required due to the Change Order. If, after receipt of a Sales Order Confirmation, Company agrees in its sole discretion to allow Customer to cancel an order or a portion thereof, Company retains all rights to apply a cancellation charge or restocking fee.

**3. PRICES, INVOICES AND PAYMENT.**

a. Prices. All prices will be set forth in a Sales Order Confirmation or Quote issued by Company. Oral prices specified by Company are null and void. Quote numbers must be referenced on Customer's purchase order in order for the Company's quoted pricing to apply.

b. Taxes. Prices do not include any present or future federal, state or local property, license, privilege, sales, use, excise, gross receipts or other like taxes, import taxes, GST, import or export duties, fees, tariffs, VAT or assessments which may result from transactions or any services performed in connection therewith. Any taxes, charges, or duties imposed by any governmental authority on the sale of Deliverables will be paid by Customer, in addition to the selling price specified by Company.

c. Payment Terms. Company will deliver to Customer an invoice with each shipment of Deliverables hereunder. Customer will pay all invoiced amounts within 30 days of the invoice date unless otherwise approved by Company in writing. Customer will make all payments in full and in United States dollars. Past due invoices will be subject to a late payment service charge of 1.5% per month on any overdue unpaid balance, equivalent to 18% per annum, or the maximum rate permitted by law, whichever is less. Customer shall reimburse Company for all costs of collection, including, without limitation, reasonable attorneys' fees, for any overdue amount owed by Customer to Company, and such collection costs shall also be subject to interest charges. Any payment from Buyer may be applied by Company against any obligation owing by Buyer to Company, regardless of any statement appearing on or referring to such payment, without discharging Buyer's liability for any additional amounts owing by Buyer to Company. The acceptance by Company of such payment shall not constitute a waiver of Seller's right to pursue any remaining balance.

**4. QUOTATIONS.**

a. All quotes are incorporated into this Agreement and are subject to this Agreement, unless otherwise specified by Company, and are subject to change at any time prior to Company's acceptance of a purchase order referencing the applicable quote number. Company, its representatives and employees reserve the right, in their sole discretion and for any reason, to refuse a Customer's request to quote a price other than the standard list price, regardless of whether Company or its representatives or employees have previously quoted discounted prices to the Customer on some or all of its orders. Customer's failure to comply with this Section 4 will be considered a material breach of this Agreement, and will entitle Company to immediately terminate any purchase orders and/or Customer's ability to distribute Company's products.

**5. SECURITY INTEREST.** Customer grants Company, and Company retains, a purchase money security interest and lien on any and all of Customer's rights, title and interest in each Deliverable sold by

Company to Customer, wherever located, including, but not limited to, instruments, Chattel paper, books and records, accounts, accounts receivable, general intangibles and payment intangibles together with all proceeds and all support obligations thereof until the invoice for the applicable Deliverable(s) is paid in full, including any late charges and costs of collection. Customer authorizes Company to, and will assist Company in, taking all necessary steps to perfect and maintain Company's interest in such Deliverables.

**6. CREDIT TERMS.** Unless Customer pre-pays all of its purchase orders in advance, its purchase orders will be subject to the credit limit and other terms of credit ("Credit Terms") set forth in Company's credit application, which Credit Terms Customer acknowledges are subject to change by Company at any time. Company reserves the right to request payment in advance of shipment or any order or to request adequate assurances for Customer's payment of an order and may withhold or stop shipment, without any liability to Company, until Customer submits payment or adequate assurance of payment. Completing a credit application does not guarantee credit or credit terms.

**7. RESALE OF DELIVERABLES.** Customer agrees and warrants that it will (a) offer Company products in support of Company-written specifications; and (b) respond to such End Users, installers, and/or general contractors with respect to the general operation and use of the Deliverables including, but not limited to, (i) acting as a liaison between the End Users, installers and/or general contractors and Company in matters requiring Company participation; and (ii) collecting relevant information regarding product failure.

**8. DEFAULT.** If Customer is in default of payment or otherwise with respect to any purchase order or other contract with Company, Company shall have the right, in addition to all other legal remedies and without prejudice to any of its right hereunder, to defer further shipments under that or any other purchase order until such default is corrected and to declare all outstanding bills of Customer to be immediately due and payable.

**9. INSPECTION AND DELIVERY.**

a. Inspection. Customer will inspect all Deliverables immediately after receiving them. Customer will be deemed to have accepted the Deliverables unless Customer notifies Company in writing of any nonconformance within 3 days of delivery or immediately upon installation depending on the type of Deliverable and provides Company written evidence reasonably documenting the nonconformance. Inspection of Deliverables at Company's facility is not permitted.

b. Delivery. Delivery schedules for Deliverables are based upon current production capacities, material or component availability, and inventory, and may be changed by Company as conditions require or changed in Company's Sales Order Confirmation. Delivery schedules for services are based upon Company's prompt receipt of, and prompt access to, Customer's equipment

and all information necessary to complete the services. In no event will any delivery date be construed as falling within the meaning of "time is of the essence." Partial delivery shall be accepted by Customer and paid for at the price and on the terms stated herein. Any partial delivery shall constitute a separate sale, and payment shall be separately made when due. If any part of a delivery hereunder is not delivered by Company in accordance with Customer's purchase order, this Agreement shall not be affected thereby.

**10. TITLE & RISK OF LOSS.** Unless otherwise specified by Company, (i) where the Customer is located in the United States, all Deliverables will be sold "Uniform Commercial Code, FOB Origin, Company's factory"; and (ii) where the Customer is located outside of the United States, all Products will be sold "Ex-works, Company's factory (Incoterms 2010)." In either instance, title and risk of loss will pass to Customer upon delivery to the carrier at Company's factory, provided, however, as set forth herein, Company shall retain a security interest in the Deliverables until full payment has been made therefore, and Customer agrees, upon request, to do all things and acts necessary to protect Company's interest by adequately insuring the Deliverables against loss or damage from any cause and to have Company named as an additional insured. Customer will promptly provide Company with a copy of the relevant certificate of insurance upon Company's request.

**11. SHIPPING & SHIPPING PROGRAMS.**

- a. Freight Charges. Company will ship all Deliverables using Company's freight carrier.
- b. Rush Charges. Rush shipments may be available in company's sole discretion and based on Company's terms.
- c. Packing and Marking. Company will pack, mark, and ship Deliverables according to its standard procedures for shipment, unless the parties agree, in writing, that Company will comply with any special instructions provided by Customer. Special instructions may result in an increased price.
- d. International Shipments. For all international orders, a Shipper's letter of instruction must be submitted in writing with the order. Failure to do so will result in the order being rejected. Complete adherence to this order requirement will be strictly enforced. Company will not be held liable for any charges resulting from delays due to lack of complete required information being supplied.

**12. CLAIMS.** All claims must be submitted in writing to Company as follows: (i) All claims for prices must be submitted within thirty (30) days from the date of invoice; (ii) All claims regarding Deliverable quantity or incorrect orders must be submitted within three (3) days from the date of delivery; (iii) All claims for damage to Deliverables (while in the care, custody, and control of Company) must be submitted within thirty (30) days from the date of invoice; (iv) All claims for loss or damage to Deliverables while in the care, custody, and/or control of a carrier will be the

responsibility of Customer, unless otherwise agreed by the parties.

**13. PRODUCT CHANGES.** Company's product policy is one of ongoing update and revision, and accordingly, Company reserves the right to change, without notice, the design of, or the process of manufacturing, the Deliverables covered by this Agreement.

**14. PRODUCT USAGE LIMITATION.** Customer agrees: (i) not to sell or use a Deliverable in any manner contrary to the manner in which the Deliverable is intended to be used; and/or (ii) not to modify the design of any Deliverable for use with another product without the prior written consent of Company.

**15. PRODUCT RETURNS.** Unless otherwise agreed to by Company, in its sole discretion, Deliverables are not returnable for convenience. Should Company agree to a convenience return (e.g., fire rated type products only), Company's return material authorization process must be followed. Only credits will be made for returns. No credit will be issued until such time that Company inspects the product and approves the return. Company retains the right to deny credit to anyone for any reason. For warranty related returns, Company's warranty return process must be followed.

**16. CONFIDENTIAL INFORMATION.**

- a. Non-Use And Non-Disclosure. Customer shall not use the Confidential Information of the Company except for the purpose of performing its obligations under this Agreement or exercising the rights granted herein (the "Purpose"). Customer shall protect Confidential Information of the Company from disclosure and unauthorized use in the same manner that it protects its own Confidential Information, but in no event shall such standard of care be less than reasonable care. Customer may disclose Confidential Information of the Company only to its employees who require such information for the Purpose and who are subject to confidentiality obligations at least as protective as those set forth herein.
- b. Proprietary Information and Advice. (a) All designs, data, and specifications provided by Company are proprietary and may not be disclosed or reused by Customer without the prior written consent of Company; (b) Company assumes no obligation or liability for any advice given by Company, the results obtained, or damages incurred as a result of such advice, and all such advice is given and accepted at Customer's risk.
- c. Return. Upon the termination or expiration of a purchase order or this Agreement or upon the request of the Company, the Customer agrees to end all further use of, to immediately return to the Company the original version of, and to delete or destroy all copies of, any and all Confidential Information of the Company.

**17. TRADEMARKS.** Any permitted use of Company's trademarks shall be subject to Company's trademark usage guidelines and any other requirements of Company. Except as agreed to by Company in writing, Customer

agrees not to (a) use Company's name in any form of publicity; or (b) use, create, register or market, directly or indirectly, in whole or in part, Company's names, logos, brands, or any other trademarks, or names that are now or may hereafter be owned by Company, as part of Customer's corporate or business name, as part of an internet domain name, uniform resource locator (URL), or in any way connected with Customer's business, trade address or other designations. Upon termination of this Agreement or upon the request of company for any reason, any use of Company's trademarks or names will be immediately discontinued.

**18. LIMITED WARRANTY.**

The warranty for Deliverables is the warranty stated in Company's limited warranty in effect on the date Company accepts each applicable purchase order ("Limited Warranty"). The Limited Warranty may be found at [WWW.FIREGLASS.COM/GLASS/CARE-WARRANTY-CARD.PDF](http://WWW.FIREGLASS.COM/GLASS/CARE-WARRANTY-CARD.PDF), which terms are expressly incorporated herein by reference. Company will mail Customer a copy of such Limited Warranty upon Customer's written request. **NO OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE MADE BY COMPANY, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT AUTHORIZE ANY PERSON TO CREATE FOR IT ANY OBLIGATION OR LIABILITY IN CONNECTION WITH DELIVERABLES.**

**19. LIMITATION OF REMEDIES.**

**IN NO EVENT WILL COMPANY, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, USERS AND AGENTS, (NOR COMPANY'S SUPPLIERS) BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE UNDER ANY CIRCUMSTANCES INCLUDING, BUT NOT LIMITED TO, LOSS OF USE OF THE PRODUCTS, SERVICE INTERRUPTION, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF INTEREST, LOST GOODWILL, LOSS OF DATA, WORK STOPPAGE, IMPAIRMENT OF OTHER GOODS, LOSS BY REASON OF SHUTDOWN OR NON-OPERATION, INCREASED EXPENSES OF OPERATION, OR CLAIMS OF CUSTOMER'S CUSTOMERS, OR ANY OTHER LOSSES OR DAMAGES ARISING OUT OF ANY LACK OR LOSS OF USE OF THE DELIVERABLES WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING, BUT NOT LIMITED TO, STRICT LIABILITY OR NEGLIGENCE), PATENT INFRINGEMENT, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER'S EXCLUSIVE AND SOLE REMEDY ON ACCOUNT OF, OR IN RESPECT OF, THE FURNISHING OF NON-CONFORMING DELIVERABLES, SHALL BE TO (A) SECURE REPAIR OR REPLACEMENT OF THE PRODUCTS OR SERVICES; OR (B) OBTAIN A REFUND OF THE PRICE PAID FOR THE DEFECTIVE DELIVERABLE OR SERVICE, ALL AT COMPANY'S OPTION. IN NO EVENT WILL THE COMPANY'S MAXIMUM LIABILITY EXCEED THE SELLING PRICE FOR THE DELIVERABLE.**

**20. INDEMNIFICATION AND LIMITATION OF LIABILITY.**

**a.** Customer shall indemnify, defend and hold Company, and its officers, directors, employees, customers, Affiliates, suppliers, users and agents, (collectively the "Indemnitees") harmless from and against any and all damages, claims, losses, expenses, costs, obligations, liabilities, including without limiting the generality of the foregoing, liabilities for court costs and attorneys' fees, suffered directly or indirectly by an Indemnitee by reason of, or arising out of any injury, death or loss to any person, or injury to any property (collectively, "Damages"), received or sustained by any person(s) or property, arising out of, occasioned by, attributable or related to i) any breach of any representation or warranty made by Customer, its officers, directors, employees, affiliates, users, agents, representatives or customers to Company or any third party, (ii) any failure by Customer to perform or fulfill any of its covenants, acts and/or omissions to Company or to any third party, or (iii) any litigation, proceeding or claim by any third party relating in any way to the obligations of Customer and/or the Deliverables sold by Company to Customer hereunder. Customer shall not consummate any settlement of any indemnified claim without the Indemnitees' prior written consent. Customer's obligation to indemnify Indemnitees will continue in full force and effect notwithstanding the termination or expiration of any order under this Agreement. In any claim against an Indemnitee by an employee of Customer or any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable, the indemnification obligations set forth in this Section shall not be limited in any way by or for Customer or any subcontractor under any applicable worker's compensation act, disability or other employee benefit act, or insurance coverage. This provision shall survive termination of any order or Agreement.

**b) INTELLECTUAL PROPERTY INDEMNITY.**

Company makes no representation or warranty to the Customer that the Deliverables shall not infringe any intellectual property rights including, without limitations, claims arising from patent, copyright, trademark, trade secret, or other intellectual property infringement. Customer agrees to hold Company harmless from and defend the Company against any such claim of intellectual property infringement, including any Damages resulting from that claim, the cost of complying with any preliminary or permanent injunction, and all other costs of defense (including the attorneys' fees and costs), in connection with the foregoing.

**c)** To the extent that applicable law does not permit any limitations set out in this Agreement, such limitation shall not be applied or invoked. Nothing in this Agreement will be interpreted to disclaim liability of Company or the Indemnitees for gross negligence or willful misconduct. The limitations of remedy and liability herein shall not be interpreted to affect Company's obligations, if any, for claims for (i) property damage, (ii) personal injury, or (iii) wrongful death asserted by persons who are not parties to or beneficiaries of this Agreement. Further, the limitations of remedy and liability herein shall not be interpreted to limit Company's or Customer's right, if permitted by applicable

law, to assert a claim for contribution among joint tortfeasors in connection with a claim by a person who is not a party to this Agreement.

**21. CERTIFICATIONS.** Certification of Deliverables for compliance with ITS (Intertek Testing Services) and Intertek standards are tested and performed by third-party independent laboratories. Any field modification or alteration of certified Deliverables will void certification and Company is not liable to Customer to certify any modified or altered Deliverable.

**22. TERM FOR CLAIMS. NO ACTION ARISING OUT OF ANY CLAIMED BREACH OF THIS AGREEMENT BY COMPANY MAY BE BROUGHT BY CUSTOMER MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ARISEN.**

**23. FORCE MAJEURE/EXCUSABLE DELAY.** Any delay or failure of Company to perform its obligations hereunder will be excused to the extent that it is caused by an event or occurrence beyond Company's control such as, by way of example and not by way of limitation, acts of God, acts by any governmental authority (whether valid or invalid), governmental laws and regulations not presently in effect, fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, accidents, labor problems (including, without limitation, lockouts, strikes, and slowdowns) at Company's facility, its source plant or their suppliers, inability to obtain power, material, labor equipment, or transportation, or court injunction or order. The delivery date will be extended for a time equal to that of the delay and the schedule for Company's performance will be deemed adjusted to that effect.

**24. ENTIRE AGREEMENT AND AMENDMENT.** This Agreement, together with the attachments, exhibits, webpages, or supplements specifically referenced and incorporated herein, constitute the entire agreement between Company and Customer with respect to the matters contained herein and supersede all previous communications, representations, or agreements, either oral or written between Company and Customer. No agreement or understanding varying or expanding this Agreement will be binding upon either party unless it is in writing and signed by a duly authorized representative of each party hereto.

**25. CONFLICTS.** In the event of any conflict or inconsistency between the terms of any agreement, or any part of an agreement or the various documents (including, but not limited to, electronic documents) between Company and Customer, unless the parties agree otherwise in writing, the various components of the agreements shall be given the following precedence (in descending order of precedence): a) any master agreement or long term agreement between Company and Customer; b) any specific terms, conditions and/or warranties of the individual products or Deliverables; c) the terms and conditions of this Agreement, and d) any purchase order.

**26. UNSATISFACTORY CREDIT/TERMINATION FOR INSOLVENCY OR DEFAULT.**

Customer shall furnish Company with statements evidencing Customer's financial condition as Company may, from time to time, reasonably request, and shall notify Company immediately of any and all events that may have a material adverse effect on Customer's business or financial condition. If Company determines, in its sole discretion, that Customer's financial condition or creditworthiness is inadequate or unsatisfactory, then in addition to Company's other rights, Company may without liability or penalty, take any of the following actions: (i) modify the payment terms for any outstanding and/or future purchases; (ii) cancel any previously accepted orders; (iii) delay any further shipment of Deliverables to Customer; or (iv) any combination of the above.

Company may immediately terminate an order from Customer by giving written notice to Customer in the event of the happening of any of the following or any other comparable event: (i) insolvency of the Customer; (ii) filing of a petition in bankruptcy by or against the Customer; (iii) appointment of a receiver or trustee for the Customer; (iv) execution of an assignment for the benefit of creditors by the Customer, all of which will allow Company to demand reclamation of all affected orders; (v) Customer ceases or threatens to cease to trade; (vi) Company determines that Customer does not meet or no longer meets the credit requirements of Company or Customer's credit account is closed; (vii) any Customer violation of law, specifically including, without limitation, those laws set forth in this Agreement.

In the event of termination in accordance with this section, Company will not be obligated to accept any existing or additional orders from Customer and Company will be released from its obligation to deliver under orders accepted prior to such termination. The rejection or termination of any order by Company will not entitle Customer to any termination or severance compensation, or to any payment in respect to any goodwill established by Customer, or render Company liable for damages on account of the loss of prospective profits, or on account of any loss, expenditure, investment or obligation incurred or made by Customer.

No action taken under this Section 27 by Company (nor any failure of Company to act under this Section 27) will constitute a waiver by Company of any of its rights to enforce Customer's obligations, including the obligation of Customer to make payments as required under this Agreement. Upon termination of any order, all amounts owed by Customer to Company will become immediately due and payable, whether or not otherwise then due or payable.

**27. CREDIT RISK ON RESALE OF DELIVERABLES.**

Customer is responsible for all credit risks with respect to, and for collecting payment for, all Deliverables sold to third parties (including End Users, installers, and/or general contractors) whether or not Customer has made full payment to Company for such

Deliverables. The inability of Customer to collect payment for any Deliverable shall not affect Customer's obligation to pay Company for any Deliverable.

**28. GOVERNING LAW; VENUE; AND EXPENSES.**

Any dispute or claim relating to this Agreement shall be governed by and construed according to the laws of the State of Indiana (excluding its conflict of laws principles); and not by the provisions of the 1980 United Nations Convention on the International Sale of Goods. Any disputes or claims shall be instituted and maintained in the courts of the State of Indiana. Customer consents to the exercise of jurisdiction over it by such courts and agrees that Indiana is not an inconvenient forum for any action arising from or relating to this Agreement. Customer agrees to pay for all expenses (including, but not limited to, collection costs, court costs and attorneys' fees) incurred by Company in enforcing the obligations of Customer under this Agreement.

**29. RELATIONSHIP OF THE PARTIES.** Nothing in this Agreement or any other document creates an employment, partnership, joint venture, or agency relationship between Company and Customer, including that of franchisee/franchisor. No party will have any power or authority to enter into any commitment on behalf of or otherwise bind the any other party on any matter. No employee of Customer will be deemed to be an employee of Company. If any provision of this Agreement is deemed to create a franchise relationship or business opportunity between the Parties, then Company may terminate any purchase order or this Agreement or the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby are consummated as a reseller agreement and not a franchise or business opportunity agreement.

**30. SETOFF.** Customer does not have the right to setoff or to back charge against any amounts which become payable to Company under this Agreement or otherwise. Company will not accept responsibility for backcharges for the cost of material or labor by Customer or any third party.

**31. ELECTRONIC COMMUNICATIONS AND ELECTRONIC SIGNATURES.** Both parties expressly agree to electronic transactions and acknowledge that documents they sign electronically will bind them to the same extent as a paper signature. Customer represents and warrants to Company that only employees authorized to bind Customer legally shall electronically sign any document under this Agreement. Customer shall comply with any method of electronic communication/payment processing specified by Company, including electronic funds transfer, pay-on-receipt processes/systems, order transmission, releases, electronic signature, and electronic communication systems, including, without limitation, the use of electronic data interchange ("EDI") portals. Notwithstanding the foregoing, e-mails, even those

containing a signature block of one of Company's representatives, shall not constitute a signed writing.

**32. COMPLIANCE WITH APPLICABLE LAWS.**

a. General. Company and Customer will comply with all applicable federal, state and municipal laws, regulations, codes, ordinances and orders that pertain to the Deliverables, including but not limited to full compliance with any applicable provisions of The Health Insurance Portability and Accountability Act. Where the Customer is located outside the United States, or where the customer intends to ship the product outside the United States, the Customer shall be responsible for compliance with all U.S. export laws, and for filing all U.S. Electronic Export Information, as applicable.

b. The Customer acknowledges and agrees that: (i) it shall not violate applicable laws and regulations in performing its duties under this Agreement; (ii) it does not and shall not engage in any conduct that shall violate any applicable anti-bribery or anti-corruption laws or regulations; (iii) it (and its owners, officers, directors, employees and agents) shall not pay, offer, promise or authorize the payment of, either directly or indirectly, anything of value (including but not limited to cash, gifts and entertainment) to (a) any government official or employee of any government; (b) any official or employee of any department, agency, or instrumentality of a government; (c) any employee of any corporation or entity owned or controlled by a government; (d) any family member of such officials or employees; (e) any political party, party official, or political candidate; or (f) any other persons, owners, officers, directors, employees and agents of any corporation or entity; to improperly or illegally assist in obtaining or retaining business (including but not limited to any contracts, avoidance of duties or reduction of tariffs, reduction of taxes or to obtain money owed, or to obtain regulatory approval) or for the purpose of causing, soliciting or inducing the sale and purchase of the Deliverables by any party, and (iv) it has full knowledge of and will comply with the Company's Code of Conduct for Business Partners as set forth on the Allegion customer website, **WHICH IS HEREBY INCORPORATED BY REFERENCE.**

c. The Customer shall indemnify and hold the Company harmless from any claim, demand, expense or cost arising from any breach of this Article.

d. The Customer shall permit the Company to conduct an audit or review of the Customer's financial books and records and business operations at such other times that the Company considers it necessary to confirm compliance with this provision. Such audit may be conducted by representatives of the Company or, at the Company's sole discretion, by a certified public accounting firm selected by the Company. The Customer shall cooperate with any inquiries from the Company's Ethics & Compliance Group.

e. A violation of this provision constitutes a material breach of this Agreement and the Company may terminate any purchase order or this Agreement immediately, with no opportunity to cure, in accordance with Section 27 of this Agreement.

f. Notwithstanding the foregoing provisions of this Section 33, (i) Company is not responsible for obtaining or maintaining any permits for the performance of services or the verification or compliance with any code requirements relative to the performance of services, (ii) to the extent any sale of Deliverables pursuant to this Agreement may require approval of the U.S. Government, Company's obligations under this Agreement are conditioned upon the grant of such approval and upon compliance by Customer with any restrictions imposed by the U.S. Government in connection with such approval, and (iii) in the event the Deliverables are to be used in a nuclear facility, the Customer shall, prior to such use, arrange for insurance or governmental indemnity protecting Company against liability. The Customer hereby releases and agrees to indemnify Company and its suppliers for any nuclear damage including, but not limited to, loss of use, in any manner arising out of the nuclear incident, whether alleged to be due, in whole or in part by Company or its suppliers.

g. No Inducements. Each party represents to each other that neither it nor any person acting on its behalf has, in contravention of any applicable law, given or offered to give or will give or offer to give, any sum of money or other material consideration to any person, directly or indirectly, as an inducement to obtain business hereunder or to influence the granting of licenses or other governmental permissions to enter into this Agreement or perform obligations hereunder.

h. Equal Employment Opportunity. Company is a U.S. federal contractor that complies with Executive Order 11246, as amended, and applicable regulations in 41 CFR Parts 60-1 through 60-60, 29 U.S.C. § 793 and applicable regulations in 41 CFR § 60-741; and 38 U.S.C. § 4212 and applicable regulations in 41 CFR Part 60-250 and 60-300. **THE FOLLOWING PROVISIONS ARE INCORPORATED HEREIN BY REFERENCE:** Executive Order 11246, as amended by Executive Order 13672, and 41 CFR § 60-4.3(a); Executive Order 11701 and 41 CFR §§ 60-250.5(a), 60-300.5; Executive Order 11758 and 41 CFR § 60-741.5(a); U.S. immigration laws, including the L-1 Visa Reform Act of 2004 and the H-1B Visa Reform Act of 2004; and Executive Order 13496.

i. Ethical Business Conduct. Customer shall adopt and comply with Company's Business Partner Code of Conduct which is **EXPRESSLY INCORPORATED HEREIN BY REFERENCE.**

### **33. REPRESENTATIONS AND WARRANTIES.**

Customer represents, warrants and covenants to Company that: (a) it has the right, power, and authority to enter into this Agreement and fully perform its obligations hereunder; (b) it has all necessary rights in and to its respective Content and Marks for use within the scope of this Agreement, including the licenses granted herein; and (c) it complies, and at all times shall comply, with all laws, rules, and regulations in effect that are applicable to its performance under this Agreement, including obtaining all such approvals and/or permits as may be required hereunder.

**34. NO THIRD-PARTY BENEFICIARY.** Each party is entering into this Agreement solely based on the representations contained herein for its own purposes and not for the benefit of any third party.

**35. NOTICES AND CHANGE OF ADDRESS.** All notices or other communications under this Agreement shall be in writing and delivered in person, or sent by receipted courier, express mail, e-mail, or postage prepaid certified or registered mail, addressed to the party for whom it is intended, at the addresses set forth in this Agreement. Either party may change its address for notice by giving written notice to the other party. Any notice or other communication shall be deemed given no later than the date actually received. Notice by courier, express mail, certified mail, or registered mail shall be deemed given on the date it is officially recorded as delivered and, in the absence of such record of delivery, it shall be rebuttably presumed to have been delivered on the third Business Day after it was deposited. Notices sent by e-mail require tangible confirmation of receipt from addressee.

**36. ASSIGNMENT.** Customer may not assign this Agreement without the prior written consent of Company. Company may assign its rights and delegate its duties under this Agreement, without the prior consent of Customer, to an Affiliate, or to a third party in the event of a spin-off, merger, business combination, consolidation or sale of all, or substantially all, of its assets or business that are related to this Agreement. The rights and duties in this Agreement shall bind and inure to the benefit of any such assignee.

**37. SEVERABILITY.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable under any statute, regulation, ordinance, executive order, or other rule of law, that provision will be deemed severed to the extent necessary to comply with such statute, regulation, ordinance, order, or rule. In the event such provision is deemed severed, the parties will negotiate in good faith to arrive at an alternative arrangement approximating the original business objective of the parties. The remaining terms and conditions of this Agreement will remain in effect.

**38. NO IMPLIED WAIVER.** The failure of either party at any time to require performance by the other party of any provision of this Agreement will in no way affect the right to require such performance at any time thereafter, nor will the waiver of either party of a breach of any provision of this Agreement constitute a waiver of any succeeding breach of the same or any other provision.

**39. MISCELLANEOUS.** (a) This Agreement does not make either party the agent or legal representative of the other party. Neither party is authorized to create any obligation on behalf of the other party including, but not limited to, the obligation for payment of any service or warranty obligation hereunder; (b) The rights and remedies herein reserved to Company are cumulative and additional to any other rights and remedies provided at law or equity; (c) The official text of this Agreement is in the English

language. If this Agreement is translated into another language, the English text will govern any question with respect to interpretation; (d) The headings in this Agreement are for convenience of reference only and do not affect the meaning of this Agreement in any manner.

#### **DEFINITIONS.**

Capitalized terms have the meanings set forth in this Section, or in the Section in which they first appear in this Agreement.

**"Agreement"** means these Technical Glass Products Terms and Conditions of Sale and Service, together with any applicable Country Supplement or Region Supplement provided by Company, and all of the documents referenced herein or therein.

**"Affiliate"** means any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the Company. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

**"Business Day"** means any day except Saturday, Sunday or any other day on which commercial banks located in the United States are authorized or required by Law to be closed for business.

**"Company"** means Technical Glass Products, Inc. or any subsidiary or affiliate thereof selling products that are part of the Allegion product portfolio. Technical Glass Products, Inc. and/or its subsidiary or affiliates will be severally but not jointly liable under the Agreement.

**"Company Marks"** refers to the Marks of Company.

**"Confidential Information"** shall mean any and all information provided by either party to the other party pertaining to the disclosing party's business. Confidential Information shall include, but not be limited to, any billing lists, formulae for products, manufacturing processes, production techniques, packaging processes, methods, research materials, ideas, marketing plans and related materials, quality standards, test results and data, apparatus, engineering drawings, contract documents, computer software, hardware, or firmware, business activities information such as financial information, reports, projections, books and records, customer and supplier information, and operations, customer and supplier lists and data, specifications, know how, and other Proprietary Information or Trade Secrets (as defined herein) that either party may furnish to the other party. Confidential Information shall not include information that: (a) is or becomes publicly known if such public knowledge or disclosure is not the result of any act or failure to act on the part of the receiving party; (b) is, at the time of disclosure, already known to the Receiving Party without utilizing the Confidential Information; (c) is information disclosed to the Receiving Party by a third party which is not to the Receiving Party's knowledge, after inquiry of the third party, under a duty of confidentiality to the Disclosing Party; or (d) is independently developed by the Receiving Party without the use of Confidential Information. The Receiving Party shall have the burden of proof as to prior knowledge

and absence of breach. Confidential Information may be furnished in any tangible or intangible form including, but not limited to, writings, drawings, computer and other electronic media, logic diagrams, component specifications, graphs, prototypes, samples, or verbal communications and regardless of whether such information is marked or designated as "confidential." For the avoidance of doubt, all information, knowledge or data disclosed by Company to Customer, regardless of whether disclosed in written, tangible, oral, visual or other form, including, without limitation, sample products, equipment, software, or other objects or material, provided by Company to Customer, and all information, knowledge or data which was obtained by Customer from visits to Company's facilities, shall be considered "Confidential Information" under this Agreement.

**"Content"** means all information (including without limitation any text, music, sound, photographs, video, graphics, data or software), in any medium, on a particular Company Web page or Website or in Marketing Materials.

**"Customer"** means the purchaser of Deliverables from Company.

**"Deliverables"** means any good or service or both purchased by Customer from Company under these General Terms and Conditions of Sale and Service.

**"End Users"** means the purchaser that (a) has acquired a Deliverable from Customer for (i) its own and its Affiliate's/Affiliates' internal use and not for resale, remarketing or distribution or (ii) incorporation into its own products and (b) is an individual or entity, other than any federal, state or local agency, office or division.

**"IP"** means all intellectual property and industrial property rights comprising or relating to/of the following: (a) Patents; (b) Trademarks; (c) internet domain names, whether or not Trademarks, registered by any authorized private registrar or Governmental Authority, web addresses, web pages, website and URLs; (d) works of authorship, expressions, designs and design registrations, whether or not copyrightable, including copyrights and copyrightable works, software and firmware, application programming interfaces, architecture, files, records, schematics, data, data files, and databases and other specifications and documentation; (e) Trade Secrets; and (f) all other intellectual property and industrial property rights, and all rights, interests and protections that are associated with, equivalent or similar to, or required for the exercise of, any of the foregoing, however arising, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, such rights or forms of protection pursuant to the Laws of any jurisdiction throughout in any part of the world.

**"Marketing Materials"** means all marketing brochures, buckslips, pamphlets, emails, text, call scripts or other material, whether in printed format, audio or audiovisual format, or in any other format, that contain any (i) Content relating to the Company Deliverables or (ii) Company Marks.

**"Marks"** means collectively the domain names, trademarks, trade names, service marks, trade dress, logos, and the like used or provided by either party for use in connection with this Agreement.



**"Patents"** means all patents (including all reissues, divisionals, provisionals, continuations and continuations-in-part, re-examinations, renewals, substitutions and extensions thereof), patent applications, and other patent rights and any other Governmental Authority-issued indicia of invention ownership (including inventor's certificates, petty patents and patent utility models).

**"Person"** means a person or entity.

**"Price Books"** mean Company's current Price Book in effect for the applicable Deliverable being purchased by Customer.

**"Trade Secrets"** means and includes business or technical information of either party, including processes, formulas, devices, techniques, compilations and other material that a party attempts to maintain in secret and that derive commercial value for such party from not being generally known to the public or readily ascertainable through independent development or reverse engineering.

(rev. 10 19)