

## AGC GLASS NORTH AMERICA GENERAL TERMS AND CONDITIONS & LIMITED WARRANTY

### A. GENERAL TERMS AND CONDITIONS

**1. OFFER, ACCEPTANCE, CONSIDERATION.** This General Terms and Conditions & Limited Warranty document, including all terms and conditions herein, (“**GTCLW**”) applies to the sale of all products by AGC Flat Glass North America, Inc. d/b/a AGC Glass North America (“**AGC**”) to the person, party, company, or entity purchasing the products (“**Customer**” or “**Purchaser**”). Customer and AGC are also herein referred to individually as “**Party**” or collectively as “**Parties**.” AGC may provide the GTCLW in hardcopy or electronically, and may modify them at any time in AGC’s sole discretion without notice. Publication, including updates, of the GTCLW at <http://agcglassna.com> shall constitute constructive notice to Customer. If the GTCLW is provided with respect to a purchase order from Customer (“**Purchase Order**”), then the GTCLW is a rejection of that offer and is, and shall be construed as, an offer by AGC to sell to Customer the products described at the price agreed to in writing by AGC subject to the GTCLW. Any agreement by AGC to provide products to Customer is conditioned on Customer’s acceptance of the GTCLW which shall be deemed given upon the occurrence of the earlier of the following: (a) Customer’s express or implied acceptance of the GTCLW, including execution of AGC’s Customer Application and Agreement to establish an account and credit with AGC; or (b) Customer’s receipt of AGC products without notifying AGC in writing of objection to the GTCLW prior to delivery; or (c) Customer’s failure to notify AGC in writing of objection to the GTCLW within five (5) business days of receipt thereof, whether electronically or in hardcopy; or (d) Customer’s prior acceptance of the GTCLW with respect to other purchases of AGC products in the course of doing business with AGC. Exchange, receipt and sufficiency of good and valuable consideration for the GTCLW is hereby acknowledged by the Parties.

**2. PRODUCT-SPECIFIC TERMS AND CONDITIONS.** Additional terms and conditions specific to products provided by AGC to Customer may be set forth in an accompanying price list or AGC quotation (“**Additional Terms and Conditions**” or “**ATCs**”) and, if so, are incorporated herein by reference and binding on Customer.

**3. ENTIRE AGREEMENT.** The entire agreement (the “**Agreement**”) between the Parties consists exclusively of: (a) the GTCLW; (b) any then-current Supply Agreement as executed between the Parties, (c) an AGC invoice setting forth the price and quantity of product(s) sold to Customer and any other additional invoices sent by AGC in connection therewith (together, “**Invoice**”); (d) ATCs, if any; and (e) any additional, express warranty provided separately in writing by AGC, if any (“**Separate Warranty**”). In the event of any conflicts or inconsistencies among the documents comprising the Agreement, the order of precedence shall be as follows: (1) the Separate Warranty (if any), (2) the GTCLW, (3) the ATCs (if any), (4) the then-current Supply Agreement (if any), (5) the Invoice. The Agreement constitutes all terms and conditions with respect to any sale of product(s) by AGC to Customer. Further, no terms or conditions provided or stipulated by Customer by any means to AGC, including, but not limited to, any terms or conditions made part of a Purchase

Order or some other document provided by Customer to AGC regardless of AGC’s action or inaction with respect to the same, shall be made a part of the Agreement without a written agreement from AGC expressly indicating that such terms or conditions comprise a part of, or alter, the Agreement. Fulfillment of Customer’s order does not constitute acceptance of any of Customer’s terms and conditions and does not serve to modify or amend the GTCLW. The GTCLW cannot be modified, amended or supplemented except by a writing signed by a duly authorized officer of AGC. Time is of the essence with respect to the performance of Customer’s rights and obligations under this Agreement.

**4. PRICING.** Customer shall pay the price agreed to by the Parties in the Agreement. Any product pricing (e.g., published pricing lists) issued in writing by AGC will be valid for no more than thirty (30) days from the date of issuance and AGC may withdraw or modify such pricing at any time for any reason upon notice to Customer by phone, mail, or email. However, if AGC and Customer have entered a separate Supply Agreement, then product pricing will be fixed for the period stated in the Supply Agreement. If (a) Customer misrepresented to AGC, or failed to inform AGC of, any fact or circumstance considered material by AGC; or (b) Customer changes any order specifications, including actual product order volumes or product order volumes to which Customer has committed itself in writing, or other variables relied upon by AGC in preparing any product pricing for Customer, including in a Supply Agreement, then such product pricing will be not be enforceable by Customer against AGC and AGC, in its sole discretion, may adjust the respective product pricing in accordance with the circumstances or terminate the Agreement, including Supply Agreement, with no further obligation or liability to Customer. AGC may change AGC’s published prices and discounts, if any, at any time without notice to Customer. If AGC issues a price change, then Customer shall pay the new prices for those products not already arranged to be shipped prior to the effective date of the notice of such price change. Any additions to outstanding orders will be at prices in effect when the additional order is accepted by AGC. All prices are based on the cost of labor, materials, transportation, rates of applicable taxes and custom duties and any other costs (collectively, “**Costs**”) as of the date of the quote or the date of sale, whichever is later. If for any reason, including a Force Majeure Event (as defined in Section 18) or failure of presupposed conditions, any Costs increase after the date of a quote or an offer from AGC, then AGC, in its sole discretion, may adjust the prices in such quote or offer to account for such increases.

**5. ENERGY AND FREIGHT SURCHARGES.** Customer orders are subject to, and Customer shall pay in addition to the product price quoted or invoiced, all energy and freight surcharges including, but not limited to, natural gas and diesel fuel surcharges, issued and invoiced by AGC. AGC may issue such surcharges quarterly, or another frequency as may be set forth in writing by AGC to Customer. Energy and freight surcharges will typically be charged by the truckload.

**6. TAXES.** Customer shall pay all manufacturer's taxes, retailer's taxes, sales taxes, excise taxes, duties, custom, inspection or testing fees, or other taxes, fees or charges of any nature whatsoever (excluding AGC's income taxes), imposed or assessed by any governmental or quasi-governmental authority, or measured by any transactions between AGC and Customer (collectively, "**Taxes**"), in addition to the product prices quoted or invoiced. All Taxes will be invoiced by AGC to Customer. If applicable, Customer may provide to AGC an exemption certificate or other document acceptable to the authority imposing any such Taxes ("**Tax-Exempt Document**") in a timely manner, and in no event later than fourteen (14) calendar days from AGC's request for the same. Customer's Tax-Exempt Document must be received before AGC issues an invoice to Customer. If AGC receives a Tax-Exempt Document after an invoice has already been issued, then AGC will not rebate to Customer any Taxes imposed or assessed and included in such invoice.

**7. PAYMENT TERMS.** Customer shall pay the net invoice amount of all invoices issued by AGC to Customer within thirty (30) calendar days from the date of invoice, except if otherwise stated on the invoice or agreed to in writing by AGC. If, at any time during AGC's performance with respect to an order, AGC in its sole discretion determines that Customer should not be afforded the payment terms originally agreed to, AGC may require full or partial payment in advance or any other adequate assurances from Customer before proceeding with the order. If the net invoice amount is not paid by the due date, such amount will, from and after the due date, bear an interest rate of one and a half percent (1.5%) per month or the maximum annual rate of interest allowable by law, whichever is lesser. Any applicable cash discount will be stated on the invoice. Cash discounts are not allowed on and will not be applied to any invoiced item other than the product purchase price (e.g., not applicable to taxes, freight, energy surcharges, crating or other charges).

**8. NO WITHHOLDING PAYMENT.** Customer expressly waives all right to, and shall not, set off or otherwise withhold any payment to AGC under the Agreement or any other agreement with AGC for any reason whatsoever including, but not limited to, reasons related to any dispute or credits Customer believes are owed it by AGC.

**9. US CURRENCY ONLY.** Customer shall pay all prices, applicable taxes, surcharges and fees under the Agreement to AGC in United States Dollars unless AGC agrees otherwise in writing.

**10. MINIMUM UNIT OF SALE:** AGC's minimum unit of sale is 42,000 pounds or more to meet any published carrier tariff minimums with respect to the mode of transport used for delivery. Other AGC products from the same facility may be combined to meet truckload minimum weight. AGC reserves the right to refuse Customer orders for quantities deemed by AGC, in its sole discretion, to be insufficient to make a production run of the specific product ordered by Customer. AGC may charge a market price for orders that are less than 42,000 pounds.

**11. PACKAGING:** Unless Customer has provided AGC other packaging instructions and AGC has agreed to the same in writing, Customer hereby selects or shall be deemed to have selected AGC's standard packaging material. The standard separator is powder interleaving material. Unless otherwise agreed to by the Parties, AGC's pricing reflects and includes its standard packaging only. AGC may change its standard separator from time to time at its sole discretion and without notice. No mixed product packages are available. AGC may charge, and Customer shall pay, additional amounts should Customer's order necessitate packaging outside AGC's standard packaging. **AGC HEREBY DISCLAIMS ALL RESPONSIBILITY FOR ANY DAMAGE TO PRODUCTS RELATED TO, ARISING OUT OF OR CAUSED BY ANY PACKAGING MATERIAL, DEFECTS RELATED THERETO OR FITNESS THEREOF FOR ITS INTENDED PURPOSES. CUSTOMER HAS RELIED ON CUSTOMER'S OWN KNOWLEDGE, SKILL AND EXPERTISE IN SELECTING THE PACKAGING MATERIAL.**

**12. RACKS:** Products may be packaged and transported on AGC's glass transportation rack equipment (e.g., steel racks or rolling racks) ("**Rack Equipment**"). All Rack Equipment is the sole and exclusive property of AGC and AGC has all right, title and interest thereto. Customer shall use reasonable care in unloading, loading and using the Rack Equipment. Customer shall use Rack Equipment only for receiving, storing, and transporting AGC products on Customer business premises and for no other purposes whatsoever including without limitation, inventory storage and other storage or shipment of Customer or third-party products. Customer shall use Rack Equipment consistent with its intended purposes, with due care and caution, and in compliance with all laws, rules, and regulations. Customer shall keep the Rack Equipment free and clear of all liens and claims. Customer is solely responsible for knowledge of and training its personnel on the proper use, maintenance, and transportation of Rack Equipment including, but not limited to, proper Rack Equipment stacking, binding and loading techniques. AGC may require Customer to enter into a separate Rack Equipment Agreement as a condition of providing Rack Equipment to Customer. Notwithstanding the foregoing, Customer shall return the Rack Equipment promptly to AGC upon request and consistent with AGC's Rack Equipment return policies, including all Rack Equipment Instructions posted at <http://agcglassna.com>.

**13. FREIGHT:** If AGC assumes responsibility for arranging and paying for freight delivery and such delivery is within the continental United States and Canada, then the default freight term hereunder is Incoterms®2020 DAP Customer site. If either (a) Customer assumes responsibility for arranging and paying for freight delivery, or (b) the shipment is international, then the default freight term hereunder is Incoterms®2020 EXW AGC manufacturing plant. AGC will be responsible for loading product at its manufacturing plant onto the truck at AGC's shipping dock(s). Title will pass when risk of loss passes. The use of any other Incoterms in Customer's purchase orders or confirmations will not change the default Incoterm unless expressly agreed to by AGC in writing. If AGC delivers product to Customer's facility and there is a delay in unloading product,

Customer will be responsible for, and will timely pay, all detention or other costs assessed to AGC in connection with such delay.

For all freight delivery arranged by AGC, AGC may arrange delivery by way of common carrier, contract carrier or AGC's truck, and methods and route of shipment will be at the sole discretion of AGC, unless otherwise agreed to by the Parties in writing. Customer shall be solely responsible and pay for any additional expense associated with or incurred by AGC with respect to the method or route of shipment specified by Customer. Freight charges to destinations that fall within standard carrier routes in the continental United States and Canada are usually covered by the price of regular AGC products bought in full truckloads; however, Customer will pay all additional freight charges assessed by AGC for any shipments (a) less than full truckloads, (b) of specialty products, or (c) to destinations that do not fall within standard carrier routes. Customer shall make best efforts to cooperate with and follow all AGC instructions with respect to providing documentation, photographs or other evidence related to any freight claims.

For freight delivery arranged by Customer, AGC will not be responsible for loss, damage, or delay of any kind, nor for any associated costs, and Customer will be solely responsible for filing and recovering on any and all freight or shipping loss, damage or delay claims.

**14. DELIVERY AND ACCEPTANCE:** For all freight delivery arranged by AGC, delivery of products by AGC to the DAP point will constitute delivery to Customer. For all freight delivery arranged by Customer or international shipments, delivery of products by AGC to the carrier at the EXW point (i.e., AGC's manufacturing plant) will constitute delivery. Customer may be charged for any warehousing fees, demurrage fees, trucking and other expenses occasioned by or incident to any delays requested or made for the convenience of Customer that extend shipment beyond the scheduled shipping date. Customer (a/k/a consignee) shall unload freight in the presence of carrier and conduct a visual inspection of products at the time of unloading. Customer shall inform carrier of any discrepancies upon completion of the visual inspection of products. If the foregoing process is not followed, then products will be deemed to have been delivered in the same count and quality as when the products were loaded on the truck or container at the port of departure (as applicable). Customer shall note all claims for shortages, errors, damage or any other discrepancies between the freight shipped as described in the bill of lading and that received on the bill of lading in writing to AGC within ten (10) business days after the delivery of shipment. Failure to do so within this time-frame shall constitute a waiver of all such claims by Customer and unconditional acceptance of the products. Any liability of AGC for non-delivery of the products is limited to either replacing the products within a reasonable time or adjusting the invoice for such products to reflect the actual quantity delivered.

**15. WAREHOUSING.** AGC's pricing only includes costs for shipping Customer's order as a single combined shipment and does not include costs for separating Customer's order into multiple

shipments, if necessary. Customer shall pay AGC all additional amounts for any such shipping costs. Customer shall also pay a warehousing charge of one and one-half percent (1.5%) of the total invoiced amount per month to be applied to the invoices for products, including made-to-order ("MTO") products, not shipped to or picked up by Customer within thirty (30) calendar days after notice from AGC that those products are ready for delivery. If any products, including MTO products, ordered by Customer remain in AGC's warehouse for more than thirty (30) calendar days after AGC's notice the products are ready for pick-up, then in addition to the warehousing charge, Customer shall be obligated to pay for all such products to AGC. If Customer fails or refuses to do so, AGC may, in its sole discretion, pursue any one or more of the following remedies: (a) ship the products to Customer and Customer shall immediately pay the full invoice related to such products; or (b) resell the products to a third party and if the sales price for those products does not equal or exceed the purchase price, including surcharges and freight, that AGC would have charged Customer for those products, then Customer shall immediately pay AGC the difference upon receipt of AGC's invoice; or (c) destroy the products and Customer shall immediately pay the full purchase price for those products, including all surcharges and freight; or (d) file a claim, suit or other proceeding in a court of competent and lawful jurisdiction seeking all damages available at law or in equity, including under this Agreement. Notwithstanding the foregoing in this section, AGC and Customer may execute an AGC Stocking Program agreement (i.e., Stocking Program Agreement or Customer Specific Product Stocking Program Agreement) to provide the terms and conditions of AGC's warehousing of Customer's products ("**Stocking Program**") which shall control over the terms and conditions of this section. The implementation of any Stocking Program is contingent upon AGC's and Customer's execution of a written Stocking Program agreement. Upon termination of the Stocking Program, Customer is obligated to purchase any products warehoused by AGC for Customer under the Stocking Program within sixty (60) calendar days of the termination date without setoff or deduction, unless otherwise agreed to by AGC in writing.

**16. SAFETY SPECIFICATIONS.** In any order for safety glazing materials, Customer shall correctly reference the safety standard to which the glass product must be manufactured, certified and labeled. **CUSTOMER SHALL NOT GLAZE ANNEALED GLASS IN HAZARDOUS LOCATIONS (AS DEFINED BY APPLICABLE CODES AND FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS). GLASS TO BE GLAZED AND USED AT SUCH HAZARDOUS LOCATIONS MUST BE AN APPROVED SAFETY GLASS. AGC DISCLAIMS ALL RESPONSIBILITY FOR ANY LOSSES, DAMAGES, COSTS, EXPENSES, FEES, PENALTIES (INCLUDING DAMAGE OR INJURY TO PERSON, INCLUDING DEATH, OR PROPERTY) AND OTHER LIABILITIES FOR NONCOMPLIANCE WITH SAFETY SPECIFICATIONS, AND CUSTOMER'S ACTIONS AND OMISSIONS.**

**17. CANCELLATION.** Customer may not cancel an order of any shipped products and is fully responsible for payment of all shipped goods. Customer may only cancel an order for products acknowledged by AGC by providing written notice to AGC requesting

such cancellation prior to AGC's production and shipment of that order by AGC. AGC, in its sole discretion, may accept such request to cancel. If AGC accepts such request, then Customer shall pay AGC for all costs incurred by AGC prior to cancellation, including, but not limited to, materials and work furnished or completed, plus twenty-five percent (25%) of such costs for administering the cancellation. AGC's sale of products shall always remain in AGC's sole discretion notwithstanding prior course of dealing or performance *vis-à-vis* Customer or any other party, usage of trade, or otherwise. Except as otherwise required under the express terms of written agreement between the Parties (i.e., an exclusive Supply Agreement), AGC may refuse at any time to sell products to Customer, including accepting Customer orders, with or without cause and with or without notice.

**18. FORCE MAJEURE.** AGC is excused from performance under the Agreement should an event occur beyond AGC's control, such as, but not limited to, acts of God, damage to AGC offices, plants or facilities, epidemics, fire, floods, crime, including theft, war, threats or acts of terrorism, workplace violence, weather events, strikes, work stoppages, accidents, production delays, utility outages, shortages, delays of carriers, delay by suppliers of materials, actions by or priorities of government or any department thereof, including, but not limited to, shelter in place or shelter at home orders, or mandated workplace shutdowns due to epidemics, or any other event or action beyond the reasonable control of AGC (collectively, "**Force Majeure Event(s)**"), that prevents any of AGC's obligations hereunder, including, but not limited to, manufacture or shipment of the products. AGC will declare a Force Majeure Event in writing to Customer and, if AGC intends to perform the Agreement at a later date, notify Customer, to the extent possible, of the length of the expected delay and any contingency plan. AGC shall not be responsible for any loss, damage, fees, penalties or costs whatsoever as a result of delay due to a Force Majeure Event.

**19. INTELLECTUAL PROPERTY.** All right, title and interest in any patents, trademarks, tradenames, copyrights, trade secrets, knowhow, drawings, designs, creations, or inventions ("**IP**") with respect to all AGC products belong to AGC Flat Glass North America, Inc. and its affiliates, including the AGC Inc. (a Japanese corporation) group of companies ("**AGC Group**"), or their respective owners in the case of third-party products. No IP rights whatsoever including, but not limited to, any license rights, are hereby granted or implied to be granted by AGC or the AGC Group to Customer with respect to AGC or the AGC Group's IP in connection with AGC products. Except if otherwise agreed to in writing, AGC shall have, and Customer hereby assigns to AGC, any and all right, title and interest in any IP created, arising out of, related to, or resulting from the Agreement including, but not limited to, patents, trademarks, tradenames, copyrights, trade secrets, knowhow, drawings, designs, creations, or inventions. Customer may only use AGC's products in accordance with the terms of the Agreement and for no other purposes unless pre-approved by AGC in writing. AGC makes no representations or warranties, whether express or implied, as to third-party products and does not guarantee non-infringement as to such products.

**20. SUITABILITY OF PRODUCTS.** Customer shall be solely responsible for determining the suitability for use of products purchased from AGC including, but not limited to, use for Customer's intended purposes. **CUSTOMER CANNOT RELY ON ORAL OR WRITTEN REPRESENTATIONS BY EMPLOYEES OR AGENTS OF AGC CONCERNING THE SUITABILITY OR QUALITY OF PRODUCTS SOLD BY AGC. ANY SUCH REPRESENTATIONS ARE NOT AUTHORIZED BY AGC AND AGC EXPRESSLY DISCLAIMS ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE.**

**21. LIMITED WARRANTY.** AGC warrants its products exclusively to Customer and no other party, and only to the extent set forth in the written, express limited warranty described below ("**Limited Warranty**"). The Limited Warranty applies only to products which have been PAID IN FULL by Customer. AGC, at its sole discretion, may elect to provide a Separate Warranty (defined in Section 3) which is an additional warranty to Customer pursuant to specific terms and conditions that AGC will separately provide to Customer in writing at the conclusion of a given project or as otherwise agreed between the Parties, and such Separate Warranty shall supplement and be subject to the same terms and conditions of this Limited Warranty, unless otherwise expressly agreed by AGC in writing. Any Separate Warranty will also be exclusively between AGC and Customer, and no other party. **EXCEPT FOR THE EXPRESS APPLICABLE LIMITED WARRANTY SET FORTH HEREIN AND ANY SEPARATE WARRANTY, AGC DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, REGARDING ANY PRODUCTS PROVIDED OR SOLD BY AGC TO CUSTOMER, INCLUDING (WITHOUT LIMITATION) IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, NONINFRINGEMENT, OR RELATED TO ANY OTHER MATTER.**

**22. LIMITATION OF LIABILITY.** IN NO EVENT WILL AGC'S LIABILITY OF ANY KIND WITH RESPECT TO ANY DEFECTIVE OR NON-CONFORMING PRODUCTS, BREACH OR REPUDIATION OF ANY TERM OF THE AGREEMENT, ANY TORT (INCLUDING NEGLIGENCE), OR FOR ANY OTHER REASON WHATSOEVER INCLUDE ANY SPECIAL, INDIRECT, RELIANCE, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL LOSSES OR DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR LOSS OF BUSINESS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE. **ADDITIONALLY, IN NO EVENT WILL AGC'S LIABILITY OF ANY KIND PURSUANT TO ANY THEORY INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT, STRICT LIABILITY, AND WARRANTY EXCEED THE AMOUNT PAID OR TO BE PAID BY CUSTOMER TO AGC UNDER THE APPLICABLE CUSTOMER ORDER OR, IF THERE IS NO CUSTOMER ORDER, THEN UNDER THE AGREEMENT. FOR PURPOSES OF THIS SECTION, "AGC" INCLUDES AGC AND ITS PARENT, RELATED, AND AFFILIATED COMPANIES, INCLUDING THE AGC GROUP (AS DEFINED IN SECTION 19), AND ITS AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, INSURERS, SUBCONTRACTORS, AND SUPPLIERS. ANY ACTION BY CUSTOMER MUST BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED UNLESS ANOTHER TIMEFRAME IS SET**

**FORTH IN THESE GTCLW, IN WHICH THE SPECIFIED TIMEFRAME SHALL APPLY.**

**23. CHOICE OF LAW/FORUM.** The Agreement and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, shall be governed by the laws of the State of Georgia, without giving effect to conflict of laws rules that would require or permit the application of the laws of any other jurisdiction. Likewise, all terms used in this document that are defined or given meanings in the Uniform Commercial Code (“**UCC**”), as adopted in the State of Georgia, will have the same definition and meaning for the purposes of the Agreement. Any provisions of the Agreement that conflict with or vary from UCC provisions will supersede and prevail over the UCC provisions and govern the Agreement. Neither the United Nations Convention for the Resolution of Disputes nor the United Nations Convention on Contracts for the International Sale of Goods will apply to the Agreement under any circumstances. The Parties further agree that any court or legal proceeding relating to the Agreement or any order shall be brought in United States District Court, Northern District of Georgia, or the superior court in and for Fulton County, Georgia, and that this shall be the exclusive forum and venue for resolving all disputes relating to the Agreement, any order, or any other matter between Customer and AGC. Customer waives and agrees not to plead or claim that any such dispute brought in any such court has been brought in an inconvenient forum. Each party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. The term “shall” in this GTCLW is to be interpreted as a mandatory obligation on the Party performing the action.

**24. NO WAIVER/CUMULATIVE REMEDIES.** Waiver by AGC of a breach by Customer of any provision of the Agreement shall not be deemed a waiver of future compliance therewith, and such provision, as well as all other provisions hereunder, shall remain in full force and effect. If any provision of the Agreement is or becomes, at any time, unenforceable or invalid under any applicable law, rule or regulation, no other provision of the Agreement shall be affected thereby, and the remaining provisions of the Agreement shall continue with the same effect as if such unenforceable or invalid provision shall not have been inserted in the Agreement. No waiver or renunciation shall be effective against AGC unless set forth in writing and signed by a duly authorized officer of AGC. The rights of AGC under the Agreement are cumulative and not alternative.

**25. SUCCESSORS/ASSIGNMENT.** The Agreement shall be binding upon and shall inure to the benefit of the Parties, their legal representatives, successors, and assigns, including any party that acquires all or substantially all of the assets of Customer or AGC. The Agreement may not be assigned by Customer without the prior written consent of AGC. AGC may assign the Agreement without the consent of Customer to any party including, but not limited to, the AGC Group (as defined in Section 19), for any reason

**26. RELATIONSHIP OF THE PARTIES.** The relationship between the Parties is that of independent contractors. Nothing contained in the

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Agreement is intended to create, nor shall be construed as creating, any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

**27. ATTORNEYS’ FEES.** AGC shall be entitled to full reimbursement from Customer of AGC’s attorneys’ fees, costs, and expenses arising out of or related in any way to any action or legal proceeding at law or equity to enforce or interpret the terms of the Agreement.

**28. CONFIDENTIALITY.** Customer shall treat the Agreement and any other information provided orally, in writing, or otherwise by AGC as confidential information (“**CI**”). AGC shall have full right, title and interest in its CI at all times and Customer shall make no claim thereto. Customer shall only use CI in performance of this Agreement and not share CI with any third parties without AGC’s express written consent, and promptly, not later than five (5) business days, return CI to AGC upon AGC’s request. If AGC and Customer have executed a non-disclosure agreement or confidentiality agreement (“**NDA**”), and if the term of the NDA ends before the expiration or termination of the Agreement, then the term of the NDA will automatically extend to match the term of the Agreement. The terms and conditions of that NDA are incorporated into the Agreement by reference. A breach by Customer of the terms and conditions of such NDA is a material breach of the Agreement.

**29. SURVIVAL.** Any terms of the Agreement which, expressly or by their nature, extend beyond the termination or cancellation of the Agreement shall survive any termination or cancellation of the Agreement, including, but not limited to, Sections 19-29 of the GTCLW.

**B. LIMITED WARRANTY**

AGC hereby provides this limited, express warranty (“**Limited Warranty**”) to Customer, which is subject to and incorporates Section A. This Limited Warranty applies to all AGC products, subject to all of the terms and conditions herein.

**ALL PRODUCTS**

The following Limited Warranty terms and conditions apply to all AGC products, but are expressly subject to the time-frame, exceptions, and additional terms and conditions for specific products as set forth below.

**1. REMEDY.** AGC’s sole responsibility and Customer’s **SOLE AND EXCLUSIVE REMEDY** under warranty or under any theory of contract, tort, negligence, strict liability or any other claim of liability, including, but not limited to, any claim arising out of or related to any consumer protection or consumer fraud statute, rule or regulation, shall be limited exclusively to furnishing Customer with a replacement product, EXW AGC’s manufacturing facility nearest the product’s installation, without charge. If AGC cannot provide a

replacement product (as determined by AGC in its sole discretion), then Customer's exclusive remedy shall be a refund of AGC's original selling price, exclusive of Taxes. **IN NO EVENT SHALL AGC BE LIABLE FOR COSTS INCURRED IN THE REMOVAL OF FAILED PRODUCTS, THE INSTALLATION OF REPLACEMENT PRODUCTS, OR FOR ANY SPECIAL, INCIDENTAL, INDIRECT, RELIANCE, PUNITIVE, OR CONSEQUENTIAL LOSSES OR DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR LOSS OF BUSINESS.** In the event that a product is replaced pursuant to an applicable AGC warranty, the replacement product is warranted only for the remainder of the warranty period applicable to the original product. AGC neither guarantees nor warrants production lead times, shipment delivery dates or inventory availability. This Limited Warranty shall not apply to any product beyond the provided warranty period. **THESE EXCLUSIVE REMEDIES SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES EVEN IF THE LIMITED WARRANTY, INCLUDING PRODUCT-SPECIFIC LIMITED WARRANTY, SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE.**

**2. RIGHT OF INSPECTION.** Customer shall make available to AGC for inspection any product that Customer claims to be defective or subject to a claim under this Limited Warranty in its installed application. The Limited Warranty is void if Customer fails or refuses to provide or make reasonably available the alleged defective product for inspection by AGC as set forth above within a reasonable time of making the claim, which in no event shall exceed thirty (30) calendar days after submission of the written claim. Additionally, the Limited Warranty is void if Customer alters, removes, destroys, or disposes of the product from its installed application (i.e., from any end product or installation/glazing system) before AGC completes its inspection of the same.

**3. WARRANTY PROCEDURE.** In the event of a warranty claim, Customer shall promptly notify AGC as specified herein. If Customer fails to submit a written claim for warranty coverage to AGC within one hundred twenty (120) calendar days from the date it knew, or reasonably should have known, of the product's alleged failure to comply with its warranty, Customer shall be deemed to have waived any claim for warranty coverage with respect to the product (and all similar products shipped to Customer), and AGC shall not have any responsibility or liability for such product(s). In no event shall a claim for warranty coverage be considered after the expiration of the specified product's warranty period. Customer shall provide a copy of the original Purchase Order, proof of date of delivery, and make the product available for inspection by AGC, as set forth above.

**4. LIMITATIONS. EXCEPT AS EXPRESSLY SET FORTH HEREIN, AGC MAKES NO EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY OF ANY KIND REGARDING ITS PRODUCTS, WHETHER AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, NON-INFRINGEMENT, OR ANY OTHER MATTER.** In particular, but without limitation, AGC assumes and will have no responsibility for, and this Limited Warranty will be void and not cover the product, in the event of the following or under any one or more of the following circumstances:

- Glass breakage.

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- Failure of products due to improper usage or improper handling, loading, unloading or storage.
- Failure as a result of incompatibility with other glazing or installation materials including, but not limited to, sealants, lubricants, setting blocks, gaskets, coatings, insulation, desiccants, muntins, blinds, or any other materials.
- Failure of products due to faulty installation, drainage design, improper weeping or weep design. This includes, but is not limited to, the requirement that the glazing channel have appropriate drainage/weeping that conforms to all IGMA recommendations and requirements so as to prevent water accumulation.
- Building construction or design where edges of the product are exposed to the environment.
- Failure of products due to severe and/or extreme weather conditions including, but not limited to: hurricanes, tornadoes, earthquakes, hail, excessive heat, cold, or humidity.
- Damage to products caused by chemicals used on or around the products.
- Products when Customer fails to follow accepted industry installation and care procedures, such as (and as applicable), but not limited to, those set forth in publications by the Glass Association of North America and the Insulating Glass Manufacturers Alliance.
- Failure of products due to Customer not following AGC's instructions regarding the products.
- Failure of any kind if the product was subject to additional processing, fabrication or alteration by Customer or anyone other than AGC, including, but not limited to, application of coatings, films, tapes, adhesive backings, additional edging, beveling, and v-grooving.
- Failure of any kind due to improper tempering where the tempering is done by a person or party other than AGC.
- Damage resulting from cleaning with, or exposure to, abrasive cleaners, sharp objects, wire brushes, steel wool, acids or other caustic material of any type.
- Products that are installed by Customer or another that are not continuously and adequately mechanically supported on all sides including, but not limited to, improper size and location of setting blocks.
- Products if they are used or installed outside of either the continental limits of the United States or Canada.
- Products installed in a vehicle of any kind.
- Products that have been retrofitted including, but not limited to, the addition of any type of film (e.g., safety or security film).

No one, but a duly authorized officer of AGC who does so in writing, may alter, modify, amend, supplement or change this Limited Warranty in any manner. Any alteration, modification, amendment, supplement or change to this Limited Warranty, whether done verbally or in writing, by anyone other than a duly authorized officer of AGC shall not be binding on AGC, will be void, and will have no effect.

## SPECIFIC PRODUCTS

In addition to the foregoing Limited Warranty terms and conditions applicable to all products' warranties, AGC hereby provides to Customer the following additional limited warranties with respect to the specific products identified subject to the respective additional terms and conditions herein (each a "**Product-Specific Limited Warranty**"):

**5. PYROLYTIC-COATED GLASS.** AGC warrants its Comfort Select®, Energy Select®, StopSol® and U4 4<sup>th</sup> Surface Technology® pyrolytic coated glass against cracking, peeling, or deteriorating under normal environmental glazed conditions for a period of TEN (10) YEARS from the date of manufacture.

**6. ANNEALED AND POST-TEMPERABLE SPUTTER COATED LOW-E GLASS.** AGC warrants its Comfort Select®, Energy Select®, and Stopray® Vision™ sputter coated Low-E glass against cracking, peeling, or deteriorating under normal environmental glazed conditions for a period of TEN (10) YEARS from the date of manufacture or the certified date of substantial completion of the building exterior on a commercially bid project as captured in writing and agreed to between AGC and Customer ("**Substantial Completion**"), whichever is later. In addition to those conditions set forth in Section B.4. of the Limited Warranty above for which AGC assumes no responsibility, AGC, without limitation, assumes no responsibility for and both the Limited Warranty and this Product-Specific Limited Warranty will be void and not cover this specific product in the event of the following or under the following additional circumstances:

- Comfort Select®, Energy Select®, and Stopray® Vision™ sputter coated Low-E glass if it has not been properly edge-deleted using industry standards designed to prevent the silver layer(s) from coming in contact with moisture.
- Comfort Select®, Energy Select®, and Stopray® Vision™ sputter coated Low-E glass if it is not fabricated into an insulating glass unit within six (6) months of the date of shipment for annealed coatings and within three (3) months from the date of shipment for post-temperable coatings.
- Products for color-related issues between annealed and post-temperable sputter-coated low-e glass that could occur in the field, when evaluated using ASTM C1376\*, if the two (2) coatings are combined on the same elevation or side of a building (as post-temperable color is affected by the heating process). Checking the color after heat treatment and prior to installation is the sole responsibility of Customer.
- Products for color-related issues that could occur in the field between laminated sputter-coated low-e glass (which has the sputter coating embedded against the interlayer) and non-laminated low-e sputter coated glass, when evaluated using ASTM C1376\*. Laminated low-e glass can have significant color shifts of coating color as compared to non-laminated low-e glass. Color compatibility is the sole responsibility of Customer.
- Products where the coatings are used on surfaces other than the recommended surface(s) as set forth in AGC's technical

service document(s) for the product, which are located under the specific product at <https://www.agcglass.com/tools-and-resources>, or available to Customer upon request to AGC.

- Products where the hermetic seal of the insulating glass unit fails.

**7. TEMPERED GLASS.** AGC warrants for a period of ONE (1) YEAR from the date of manufacture or Substantial Completion, whichever is later, that its tempered glass will meet, at the time of the sale, specifications as defined by ASTM C1048\*, Standard Specification for Heat Strengthened and Fully Tempered Flat Glass, and ANSI Z97.1\* or CPSC 16 CFR 1201 Category II. In addition to those conditions set forth in Clause B.4. above for which AGC assumes no responsibility, AGC, without limitation, assumes no responsibility for and both the Limited Warranty and Product Specific Limited Warranty will be void and not cover this specific product in the event of the following or under the following additional circumstances:

- Products that are modified or subjected to any fabrication such as, but not limited to, grinding, drilling, sand blasting, or which are otherwise fabricated or modified subsequent to tempering.
- Products that are exposed to temperatures at or in excess of 400° Fahrenheit for a sustained period of time.

**8. Luxclear® Protect™.** AGC warrants its Luxclear® Protect™ in accordance with the specific warranty terms and conditions for this product as provided separately in writing by AGC.

**9. OTHER FLAT GLASS PRODUCTS.** AGC warrants for a period of ONE (1) YEAR from the date of manufacture or Substantial Completion, whichever is later, that all of its flat-glass products (other than those specific products identified herein with a different warranty period) will meet, at the time of sale, specifications as defined by ASTM Standard Specification for Flat Glass C1036\*, including, but not limited to, Lacobel®, Lacobel®-T, Matelac®, Matelux®, ClearSight™, Imagin™, Oletreluce™, and SolarShield® Tinted, and that AGC's products will be free and clear of all liens or encumbrances.

**10. THIRD-PARTY PRODUCTS.** For third-party products, namely products AGC has purchased from a third-party manufacturer and sold to Customer separately or combined with AGC's products, the third-party manufacturer's warranty (if any) shall be passed through to Customer and shall be the sole and exclusive warranty in effect with respect to such third-party products. In the case of third-party products, the Limited Warranty will not apply but the Section A of this GTCLW will remain in full force and effect in its entirety. For the avoidance of doubt, **AGC MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO ANY THIRD-PARTY PRODUCT, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.**

**11. AGC TRADEMARKS.** Comfort Select®, Energy Select®, Stopsol®, U4 4<sup>th</sup> Surface Technology®, Stopray®, Stopray®Vision™, Luxclear®, Luxclear®Protect™, Lacobel®, Lacobel®-T, Matelac®, Matelux®, Clearlight™, Imagin™, Oletreluce™ and SolarShield® Tinted™, are registered or claimed trademarks of AGC or the AGC Group of companies. AGC or AGC Group trademarks may not be reproduced, imitated, diluted, or used for any purposes whatsoever without the express written permission of AGC. All worldwide rights, titles and interests to the AGC or AGC Group trademarks are hereby expressly reserved. Rights to any third-party marks used herein belong to their respective third-party owners and AGC claims no rights in such marks unless given permission or licensed by such third-party owners.

\* All ANSI and ASTM standards referenced in the Agreement shall be the corresponding ANSI or ASTM standard as adopted by their respective governing organizations and then in effect at the time of AGC's manufacture of the product.