

AGC TERMS AND CONDITIONS OF CONSTRUCTION

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1. TERMS AND CONDITIONS. AGC Terms and Conditions of Construction (“AGC TCC”) shall apply to AGC’s Bid Proposal and any agreement by and between AGC Flat Glass North America, Ltd. (“AGC”) and the general contractor (“Contractor”) with respect to the Project for which AGC issued a Bid Proposal (“Subcontract”). Any capitalized terms not defined herein shall be as defined in AGC’s Bid Proposal. Subcontractor and Contractor may be referred to herein, individually as “Party” or collectively as “Parties”.

2. CONTRACTOR’S OBLIGATIONS. **a. Cooperation:** Contractor, its employees, agents or representatives, shall not unreasonably interfere or fail to cooperate with Subcontractor in Subcontractor’s performance of Scope of Work. **b. Prime Contract:** Contractor shall provide Subcontractor a copy of Contractor’s agreement with Owner (“Prime Contract”) for inspection and review. Subcontractor will not agree to be bound by any terms or conditions of Prime Contract via Subcontract unless said Prime Contract is provided to Subcontractor for review, comment and fair negotiation. **c. General Project Site Requirements:** Unless otherwise agreed to or specified by Subcontractor, at all times through the term of Subcontract, Contractor shall provide a commercially reasonable work environment including, but not limited to, all of the following: i. adequate ingress and egress to and from Site; ii. all utilities required to perform Scope of Work, including, but not limited to, power, telecommunications, and water; iii. adequate lighting, heat and ventilation; iv. accessible and nearby storage space adequate to store all of materials, products, supplies and equipment to be used for Scope of Work; v. level surface at perimeter of Subcontractor’s immediate work site for operation of equipment; vi. hoisting facilities; vii. guard rails; viii. covers for floor, roof and wall openings; ix. security; x. accessible and nearby parking facilities for Subcontractor and its labor/workforce; xi. Break and lunch facilities; xii. toilet and wash facilities; xiii. drinking water and other water facilities; xiv. weather protection; xv. fire protection; and xvi. accessible and nearby trash and recycling facilities and services adequate to dispose any waste of Subcontractor. **d. Applicable Laws:** Contractor represents and warrants that it is familiar with all general and special laws that may affect the performance of work on Project, and the persons, including other subcontractors/subtrades, employed to perform on Project. **e. Project Site Operations, Safety and Safety Equipment:** Contractor represents and warrants that Project Site will be operated and maintained in a commercially reasonable, safe and secure manner and condition throughout the term of Subcontract. Contractor shall provide Subcontractor’s labor/workforce, adequate and proper safety instructions and orientation prior to commencement of Scope of Work. Contractor shall provide all necessary safety equipment, clothing, machinery, tools or devices necessary to protect Subcontractor’s labor/workforce from other work on Site, including, but not limited to, provision of barricades, warnings signs, watching, signalers, traffic flagging for others’ equipment, safety signs and

safety gear, including, vests, helmets, belts, lanyards, glasses, and boots. **f. Other Subcontractors/Subtrades:** **i. Equal and Fair Treatment.** Contractor shall treat Subcontractor equally and fairly as with respect to other Project subcontractors. Subcontractor shall receive the benefits of the least restrictive of such standards as may be applicable to any other Project subcontractor/subtrade. Contractor shall hold other Project subcontractors/subtrades to at least the same construction standards, including, but not limited to, insurance, health, inspection, review, payment, retainage, and safety standards, which it holds Subcontractor. **ii. Coordination with Other Subcontractors/Sub-Trades.** Contractor shall use best efforts to assist Subcontractor in coordinating efforts with other Project subcontractors/subtrades and ensure that other Project subcontractors/subtrades do not unreasonably interfere or fail to cooperate with Subcontractor in Subcontractor’s performance of Scope of Work **iii. Surrounding Materials, including Substrates.** Contractor represents and warrants that all materials, including abutting, adjacent and/or surrounding products and substrates in relation to Subcontractor’s Scope of Work, will be properly furnished and installed and in accordance with the respective industry tolerance of variations in color, thickness, sizes, finish, textures and performance standards. Subcontractor is not responsible and accepts no responsibility for defects or deficiencies in Subcontractor’s Scope of Work caused directly or indirectly by the work or materials of other Project subcontractors/subtrades. **g. Meetings:** Contractor shall provide Subcontractor at least two (2) days prior notice of any meetings that Subcontract is required to attend with respect to Project, including meetings regarding Scope of Work and coordination efforts with other Project subcontractors/subtrades. **h. Protection of Work and Property:** Contractor shall protect Subcontractor’s work in progress and property, including supplies, material and equipment, from damage or loss caused by, arising out of, or related to the acts or omissions of Owner, Contractor, consultant, designer, architect, other Project subcontractors/subtrades or third parties, and their agents and employees, respectively, and shall fully compensate Subcontractor for any such damage or loss. **i. Contractor/Owner Insurance:** Either Owner or Contractor, or both, shall provide, maintain and pay for the following insurance for Project: **i. Wrap-up Comprehensive General Liability Insurance:** In an amount of \$25,000,000.00 per occurrence with deductible amount of \$10,000.00. Either Owner or Contractor, or both, shall add Subcontractor and its sub-subcontractors as additional insureds to such policy; and **ii. All Risk-Builder’s Risk Insurance:** In an amount covering the value of the work of Project including the value of the projects that are to be provided by the Owner, with deductible amount of \$10,000.00. Either Owner or Contractor, or both, shall add subcontractor and its sub-subcontractors as additional insureds to such policy. Insurance policies provided by either Owner or Contractor, or both, shall be primary for Project. Owner or Contractor shall provide evidence of insurance coverage such as a Certificate of Liability Insurance to Subcontractor, showing Subcontractor and/or its sub-

AGC TERMS AND CONDITIONS OF CONSTRUCTION

subcontractors added as additional insureds. Contractor shall be responsible for payment of all deductible amounts, including for any claims of Subcontractor under such policies.

3. SUBCONTRACT PRICE. a. Harmonized Sales Tax ("H.S.T.")

Unless otherwise indicated, Subcontract Price and any adjustments thereto are quoted exclusive of H.S.T. and Contractor shall pay the required H.S.T. to Subcontractor in addition to such amounts. **c. Adjustments of Subcontract Price. i.**

Examination of Documentation. Subcontractor's Subcontract Price is subject to reasonable adjustment based upon Subcontractor's receipt and review of other Project documentation. Upon further examination of Project documentation, provided by Contractor, including, but not limited to, finalized Scope of Work specifications, drawings, schematics, Prime Contract, Subcontract, and any other relevant documentation if Subcontractor, in its sole discretion, determines that an adjustment of Subcontract Price is necessary, then Subcontract Price in Subcontract shall be reasonably adjusted to reflect any additional costs or expenses, and reasonable additional overhead and profit, as determined by Subcontractor. **ii. Scope of Work Modifications.** Subcontract Price shall be upwardly adjusted to reflect any increased costs of labor, supervision, equipment or materials, and reasonable additional overhead and profit, for any modification to original Bid Proposal Scope of Work, including, but not limited to, written change orders agreed to by the Parties or any extra work performed by Subcontractor without a written change order. Any Scope of Work modifications shall be undertaken in accordance with Section 9 herein. **iii. Subcontractor Construction Schedule Modifications.** Subcontract Price shall be upwardly adjusted to reflect any increased costs of labor, supervision, equipment or materials, and reasonable overhead and profit, caused by, arising out of or related to Subcontractor Construction Schedule Modifications, including but not limited to, any delays, acceleration, out-of-sequence work and schedule changes caused by force majeure events, or suspension of work for non-payment. **iv. Price Increases of Materials.** Subcontract Price shall be adjusted commensurately to reflect any increase in the price of any material of more than two and one-half percent (2.5%) between Bid Date and date of installation of such material. Any such price increase in materials shall be evidenced by Subcontractor and invoiced in the next payment application following purchase of said material and Contractor shall pay any such price differential. **v. Non-Industry Standard Tolerances.** Subcontractor's Subcontract Price is based on abutting, adjacent or surrounding substrates being within industry standard tolerances. Subcontract Price shall be upwardly adjusted to reflect any increased costs of labor, supervision, equipment or materials, and reasonable overhead and profit, caused by, arising out of, or related to non-industry standard tolerances of abutting, adjacent and/or surrounding products and substrates in relation to Subcontractor's Scope of Work.

4. PAYMENT. a. Schedule of Values. Within thirty (30) calendar days after date of execution of Subcontract and review of all Subcontract documentation, Subcontractor will review and revise

Schedule of Values and submit to Contractor a revised Schedule of Values for Contractor's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Subcontractor's Schedule of Values, as may be revised, shall be used to determine progress payments and payment applications. **b. Substantial Performance.** As compensation for performance of Subcontract, Contractor shall pay Subcontractor in current funds for the substantial performance of Scope of Work, or any portion thereof. **c. Currency.** Unless otherwise agreed to, all payments to Subcontractor from Contractor shall be in Canadian dollars. **d. Progress Payments and Payment Applications.** Contractor's approval and payment of Subcontractor's performance of Scope of Work or any portion thereof shall be an acceptance of the same, and Contractor's sole recourse thereafter with respect to such performance is the Warranty provided in Section 15 herein. Contractor shall review and approve all of Subcontractor's progress payments and payment applications, including, but not limited to, Subcontractor's final payment application and final payment, in as expeditious manner as possible and shall not unreasonably delay, condition or withhold, the review and/or approval thereof, respectively. Contractor shall pay Subcontractor payment application amounts within ten (10) calendar days of Contractor's receipt and approval of Subcontractor's payment application, or three (3) calendar days after Contractor has received payment from Owner for the respective Subcontract Scope of Work, whichever is later. If Owner fails to pay Contractor, then Contractor is still responsible for compensating Subcontractor in full for its performance under Subcontract. Nothing contained herein shall be construed as a waiver or impairment of Subcontractor's rights against either Owner or Contractor, respectively, including, but not limited to, mechanic's or builder's lien rights. **e. Retainage/Retention Amounts.** Contractor shall not deduct retainage from Subcontractor's payments except to the extent of retainage kept by Owner on Subcontractor's work. Within three (3) calendar days after receiving any retainage relating to Subcontractor's work, Contractor will pay the same to Subcontractor or interest shall accrue as provided for late payments. Contractor shall not unreasonably delay, condition, or withhold payment of retention amounts. Contractor will use best efforts to secure release of retainage amounts as soon as it is possible in accordance with Contractor's written agreement with Owner as existing and disclosed to Subcontractor on the date hereof or else Subcontractor may look to Contractor for payment of all amounts retained by Owner plus interest. **f. Late Payments.** All sums not paid when due shall bear interest at a rate of one and one-half percent (1 ½%) per month from due date until paid or the maximum rate permitted by law whichever is greater; and all costs of collection, including reasonable attorneys' fees, costs and expenses, shall be paid by Contractor. Failure to pay any invoice on time is a material breach of Subcontract. **g. No Right to Set-Off.** Contractor shall have no right whatsoever to set-off any amounts against amounts payable to Subcontractor. Previously approved Subcontractor payment applications shall not be subject to reconsideration or set-off.

AGC TERMS AND CONDITIONS OF CONSTRUCTION

5. SUBCONTRACTOR'S PRE-CONSTRUCTION EXAMINATION AND CONSTRUCTION SCHEDULE. **a. Subcontractor's Pre-Construction Examination.** Subcontractor's obligation to examine Project documents, Project Site and materials and work furnished by others, including, but not limited to, other subcontractors/subtrades, is limited to notifying Contractor of any defects or deficiencies that a person in the trade of Subcontractor would discover by reasonable inspection. No testing beyond reasonable visual inspection shall be required. Subcontractor is entitled to rely on the accuracy and completeness of plans, specifications and reports of Site conditions provided by Contractor. Contractor's architect, consultant or designer, as applicable, shall review and approve any design services provided by Subcontractor to assure acceptability when integrated with the entire work. Contractor is entitled to rely on the accuracy and completeness of design services or certification provided by Subcontractor only to the extent that design responsibility is specifically delegated to Subcontractor by agreement in writing and all design and performance criteria are furnished to Subcontractor. Subcontractor shall not be responsible for deficiencies or defects in Scope of Work caused by, arising out of, or related to design services or Contractor's Project document specifications, including, but not limited to, non-compliance with building code requirements. **b. Subcontractor's Construction Schedule.** Subcontractor's Proposed Construction Schedule is subject to change, including, but not limited to, changes caused by, arising out of, or related to any delays in performance of Scope of Work. After execution of Subcontract, Subcontractor's Proposed Construction Schedule will be reviewed and revised by Subcontractor and re-submitted for approval by Contractor, which approval shall not be unreasonably withheld, conditioned or delayed. Subcontractor will make commercially reasonable efforts to conform to final Subcontractor Construction Schedule. Notwithstanding such commercially reasonable efforts, Subcontractor Construction Schedule shall be reasonably delayed and extended, and, in connection therewith, Subcontractor shall not be liable for any costs, expenses, damages, losses, and/or penalties whatsoever, in at least the following circumstances: **i. Receipt and Confirmation of Guaranteed Sizes:** When any sizes provided by Contractor in its Project specifications and plans are not "guaranteed" sizes, Subcontractor's lead time for obtaining materials to perform the Scope of Work will be at least two (2) weeks production time plus lead time for procurement of materials from the date Subcontractor has obtained and confirmed "guaranteed" sizes with respect to the Scope of Work, i.e. date Contractor's architect/designer/consultant confirms "guaranteed sizes" by approving and returning shop drawings and samples back to Subcontractor. Lead times will vary depending on the product/material being procured. Where Subcontractor must measure sizes during the progress of the Project, Contractor shall inform Subcontractor in advance when the progress of construction permits measurement of sizes at the work site. Availability of site measurement will also delay and extend Subcontractor's Construction Schedule; **ii. Contractor's**

Completion of Milestone Schedule: Subcontractor will issue Contractor a schedule listing milestones or tasks that must be completed by Contractor in order for Subcontractor to progress on Scope of Work. Subcontractor's Construction Schedule is subject to delay and extension based on Contractor's completion of the same; **iii. Work Change Order or Extra Work:** Subcontractor's Construction Schedule is subject to extension and delay with respect to work changes orders or extra work pursuant to Section 9 herein; **iv. Force Majeure Events:** Subcontractor's Construction Schedule is subject to extension and delay with respect to a force majeure circumstances pursuant to Section 18 herein; and **v. Other Parties Actions and Omissions:** Delays caused by, resulting from or arising acts or omissions of Owner, Contractor, other subcontractors/subtrades, or their employees, representatives, or agents, respectively.

6. MATERIALS. **a. Procurement and Payment for Materials.** Upon execution of Subcontract or commencement of Scope of Work, Subcontractor will begin process of procurement of any materials, products, supplies and equipment ("Materials") required for performance of Scope of Work. All material procurement costs will be billed by Subcontractor, included in any payment application, and payable by Contractor as of the order date of such Materials to Subcontractor. **b. Price Increases of Materials.** Subcontract Price shall be adjusted commensurately to reflect any increase in the price of any material of more than two and one-half percent (2.5%) between Bid Date and date of installation of such material. Any such price increase in materials will be evidenced by Subcontractor and invoiced in the next payment application following purchase of said material and Contractor shall pay any such price differential.

c. Title and Risk of Loss. Title to Materials shall pass only upon payment by Contractor for the Materials. Risk of Loss with respect to Materials shall pass to Contractor upon delivery of Materials in good condition by seller/supplier to a motor carrier.

d. Storage of Materials. Contractor shall provide Subcontractor accessible, nearby storage space adequate to store all Materials for Scope of Work. Contractor shall pay all storage fees incurred with respect to any Materials to be stored or warehoused by Subcontractor off of Project Site. Contractor shall pay a warehousing charge of one and one-half percent (1 ½%) of the value of Materials warehoused by Subcontractor per month or portion thereof. This shall be in addition to the Subcontract Price. Warehousing fees will be invoiced on a monthly basis by Subcontractor. If Materials must be warehoused by a third party provider, all such costs and expenses will be billed back to Contractor. All storage and warehousing costs will be in addition to the Subcontract Price.

7. LABOR/WORKFORCE. **a. Subcontractor Responsible.** Subcontractor shall be solely responsible for its labor/workforce, including employees and sub-subcontractors, under Subcontract. All references to "labor/workforce" herein shall include sub-subcontractors. **b. Labor/Workforce Issues.** If Contractor has an issue with Subcontractor's Labor/Workforce, Contractor shall notify Subcontractor in writing including full details as to the issue. Subcontractor will within two (2) days to address the issue

AGC TERMS AND CONDITIONS OF CONSTRUCTION

in a commercially reasonable manner with its respective worker(s). If the issue is resolved in a commercially reasonable manner then such issue shall be extinguished. If the issue is not resolved to the satisfaction of Contractor, it shall constitute a dispute to be resolved pursuant to Subcontract's dispute resolution process. **c. Sub-subcontractors.** Subcontractor may employ sub-subcontractors to perform Scope of Work with Contractor's approval which approval shall not be unreasonably withheld, conditioned or delayed. **d. Labor Strikes/Disturbances.** Subcontractor shall not be responsible for any costs, expenses, damages, liabilities or penalties whatsoever to Contractor arising out of or resulting from labor strikes, labor disturbances or other such labor/workforce-related events that are beyond the control of Subcontractor. **e. Good Faith.** Subcontractor will make good faith efforts not to employ any labor which will cause a conflict with other labor employed at the Site or whose employment on the Subcontract Scope of Work may be objected to by Contractor, Architect, or Owner. Subcontractor will make good faith efforts to minimize the risk of labor-related delays. If known to Subcontractor, Subcontractor will make good faith efforts to advise Contractor, in writing, of any actual, anticipated or threatened labor dispute that might affect the performance of Scope of Work by Subcontractor.

8. SCOPE OF WORK. a. Subcontractor's Performance. Subcontractor will use commercially reasonable efforts in performance of Scope of Work subject to any Scope of Work modifications. Scope of Work will be executed by Subcontractor in substantial compliance with Subcontract in a good and workmanlike manner as per glass and glazing industry standards subject to any defect inherent in the design or specified materials. **b. Order and Sequence of Scope of Work.** Contractor shall consult with Subcontractor and together decide the time or order in which the various portions of Subcontract Work will be installed or the priority of the work of other Project subcontractors/subtrades in relation to Subcontractor's Scope of Work, and in general, all matters representing the timely and orderly conduct of the Scope of Work. Within five (5) Working Days of Contractor's becoming aware of any facts or conditions which may affect Subcontractor's Schedule of Work, Contractor shall notify Subcontractor promptly of such facts or conditions. **c. Completion of Scope of Work.** Upon completion of an item, division or phase of Scope of Work, respectively, Subcontractor shall submit a payment application to Contractor for the value of such Scope of Work pursuant to Schedule of Values of Subcontract. **d. Contractor's Review and Inspection of Work.** Within five (5) days of Subcontractor's submission of a payment application with respect to substantial completion of an item, division or phase of Scope of Work, Contractor shall review and inspect said Scope of Work. If Contractor finds the work acceptable it shall approve the payment application. Payment applications shall be deemed approved and payable if Contractor does not make a determination as to the payment application within ten (10) days of submittal. **e. Defective Work.** If, after a payment application, Contractor finds Subcontractor's work defective or deficient it shall give notice to Subcontractor in

writing stating with particularity the defect or deficiency with reference to the applicable standards in the respective Project documentation, such as architectural drawings and specifications. If Subcontractor does not dispute such finding, Subcontractor shall repair or replace such defect or deficiency to be in substantial compliance with the applicable standard and resubmit application of payment upon repair or replacement of such defect or deficiency. If Subcontractor disputes such finding, then Subcontractor shall avail itself of the Subcontract's dispute resolution process. **f. Contract Closeout Documentation.** Upon Subcontractor's final payment application, Subcontractor will provide Contractor with any required closeout documentation, including lien waivers and manufacturers' warranties. **g. Cleanup.** In performing Scope of Work, Subcontractor will leave its workplace at Site in a commercially reasonable clean condition on a daily basis and will dispose of trash in trash facilities provided and designated by Contractor. Upon substantial completion of the entire Scope of Work, Subcontractor will remove any remaining materials, products, supplies and equipment and leave its work areas in broom-clean condition. Subcontractor is not responsible for final cleansing or washing of installed glass or glazing. Any request by Contractor for Subcontractor to perform a final cleansing or washing of installed glass or glazing shall be through a work change order and billed at the default rates stated in Section 9 herein.

9. WORK CHANGE ORDERS OR EXTRA WORK. a. Scope of Work Change Orders. All changes to Scope of Work will require a work change order agreed to in writing by both Parties, including commensurate adjustment of terms of Subcontract Price, Schedule of Work, Schedule of Values, respectively. Contractor may at any time, by written order of Contractor's authorized representative(s) and with notice to Subcontractor's surety, if required, request Subcontractor for changes to the Subcontract's Scope of Work. In order to calculate the costs or credit and schedule for the requested changes, the Subcontractor will respond to the Contractor's request for pricing, in a commercially reasonable period of time, with a price and detailed breakout, including adjustment of Scope of Work, Subcontract Price, Schedule of Work, and/or Schedule of Values, based on such requested changes. If both Parties agree in writing to a change in Subcontract Scope of Work, then Subcontractor shall promptly proceed with its Scope of Work as so changed in accordance with the adjusted Subcontract Price, Schedule of Work, and/or Schedule of Values, respectively. If Subcontractor requests a work change order, then Contractor must process such request within ten (10) calendar days or as otherwise indicated on such work change order request. Subcontractor may claim damages for cumulative impact of multiple changes on Subcontractor's efficiency. **b. Adjustments to Subcontract Price.** Subcontractor shall be entitled to Subcontract Price adjustments for work it performs in accordance with work change orders and extra work it performs pursuant to written or verbal instructions of Contractor provided that the Subcontractor gives Contractor notice (except in an emergency threatening bodily injury or loss of property) prior to starting such extra work, identifying the

AGC TERMS AND CONDITIONS OF CONSTRUCTION

date and source of the instructions considered as requiring extra work. Unless otherwise agreed to by the Parties, any work change orders or extra rate will be billed at the following rates and/or mark ups: \$200/hour/person, 30% overhead mark-up, and 30% profit mark-up. In no event shall Subcontractor's entitlement to adjustments be contingent upon or limited to adjustments received by Contractor from Owner. Any demand by Contractor to Subcontractor to perform work without a written change order is a breach of Subcontract. **c. Subcontractor's Conditions Precedent to Contractor's Request for Change Order, Cancellation or Suspension.** Notwithstanding anything to the contrary herein, i. Subcontractor will only agree to and proceed with a work change order or extra work at Contractor's request if Subcontractor's Construction Schedule is amended to Subcontractor's sole satisfaction; and ii. Subcontractor will not agree to modify Scope of Work at Contractor's request, until Contractor pays Subcontractor in full for all services rendered and Materials purchased for the Scope of Work, prior to Contractor's work change request.

10. SUBCONTRACTOR'S INSURANCE. Subcontractor will not be required to name additional insureds to its general liability insurance policy, nor to waive subrogation for claims covered by worker's compensation or commercial general liability insurance. Subcontractor shall not participate in any wrap-up or consolidated insurance program (CIP), including, but not limited to, owner controlled insurance program (OCIP) or contractor controlled insurance program (CCIP). Subcontractor shall maintain insurance with coverage and limits only as provided by Subcontractor's existing insurance program as seen in **Exhibit "A"**, attached hereto and incorporated herein by reference. Subcontractor's insurance program will be evidenced by a certificate of insurance available on request.

11. EARLY SUBCONTRACT TERMINATION. Contractor shall have no right to terminate the Subcontract for convenience. Any early termination shall be mutually agreed to in writing by the Parties. In the event of any early termination of Subcontract, Contractor shall, within a reasonable period of time, and in no event more than sixty (60) days, pay Subcontractor for any and all unrecompensed costs and expenses incurred by Subcontractor in reliance on Subcontract through date of stoppage of performance of Scope of Work under Subcontract. With respect to any early termination, nothing herein is intended to or shall abridge or prejudice any rights or remedies Subcontractor may have available to it at law or in equity.

12. SUBCONTRACT BREACH. a. Recourse by Subcontractor. In the event that Contractor at any time: i. materially breaches Subcontract (e.g. failure to timely pay Subcontractor); or ii. is adjudicated bankrupt, or files an arrangement proceeding, or commits any act of insolvency, or makes an assignment for benefit of creditors; such will be considered an event of default (a "Contractor Default"). With respect to a Contractor Default, Subcontractor shall give written notice of a Contractor Default to Contractor (a "Notice of Default") detailing with particularity the circumstance of the breach and the requirements to cure such breach. With respect to a Contractor Default pursuant to Section

(a)(ii), Subcontractor may give an immediate notice of termination. If Subcontractor has given a Notice of Default which has not been cured by Contractor within ten (10) calendar days after the written notice is delivered to Contractor, Subcontractor may suspend performance or terminate Subcontract by issuing a notice of suspension or termination without prejudice to any rights or remedies Subcontractor may have available to it at law or in equity. **b. Recourse by Contractor.** In the event that Subcontractor materially breaches Subcontract (e.g. failure to perform) (a "Subcontractor Default"), Contractor shall give written notice of a Subcontractor Default to Subcontractor (a "Notice of Default") detailing with particularity the circumstance of the breach and provide Subcontractor at least ten (10) working days to present a commercially reasonable plan to cure such breach. If Subcontractor timely submits and diligently pursues such plan to completion, then such breach shall be deemed cured. In no event shall Contractor have the right to seize any of Subcontractor's goods, materials or equipment, as a consequence of a Subcontractor Default.

13. BACK-CHARGE CLAIMS. No back-charges or claims of Contractor for services shall be valid except by an agreement in writing by Subcontractor before the work is executed, except in the case of Subcontractor's failure to meet any requirement of Subcontract. In such event, Contractor shall notify Subcontractor of such default, in writing, and allow Subcontractor a reasonable time to correct any deficiency before incurring any costs chargeable to Subcontractor. No back charge shall be valid unless billing is rendered no later than the 15th day of the month following the charge being incurred. Furthermore, any payments withheld under a claim of Subcontractor default shall be reasonably calculated to cover the anticipated liability and all remaining payment amounts not in dispute shall be promptly paid.

14. DISPUTE RESOLUTION. a. Notice of Dispute. If a Party believes a dispute, controversy, difference, claim or the like ("Dispute"), exists under Subcontract, such Party shall provide written notification thereof to the other party ("Notice of Dispute") and such Dispute shall be resolved pursuant to thirty (30) day dispute resolution process whereby a duly authorized representative of each Party shall meet to resolve the Dispute in as expeditious a manner as possible. If Dispute cannot be resolved then either Party may proceed to litigation. **b. Performance During Dispute.** In the event of any Dispute, Contractor shall continue to perform all of its obligations Subcontract, including but not limited to, payment obligations. Failure to do so shall be a material breach of Subcontract.

15. WARRANTY. AGC Limited Warranty: Notwithstanding any higher warranty standards stated in or required by any documents provided by Contractor to Subcontractor, including but not limited to Subcontract or Prime Contract, AGC's exclusive warranty for Scope of Work is the AGC Limited Warranty, and the terms and conditions thereof, as set forth in **Exhibit "B"**, attached hereto and incorporated herein by reference. AGC will issue to Contractor the completed AGC Limited Warranty document upon substantial completion of the Scope of Work and

AGC TERMS AND CONDITIONS OF CONSTRUCTION

Contractor shall sign and return a copy of the same for AGC's records.

16. LIMITATION OF LIABILITY. IN NO EVENT WILL SUBCONTRACTOR'S LIABILITY OF ANY KIND WITH RESPECT TO ANY WARRANTY CLAIM, DEFECTIVE OR NON-CONFORMING SERVICES OR GOODS/MATERIALS/EQUIPMENT, BREACH OR REPUDIATION OF ANY TERM OF THE SUBCONTRACT, 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 SHALL SUBCONTRACTOR'S CUMULATIVE LIABILITY TO CONTRACTOR OR OWNER ARISING OUT OF OR RELATED IN ANY WAY TO THIS SUBCONTRACT OR THE SERVICES CONTEMPLATED HEREBY, WHETHER BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE SUBCONTRACT PRICE EXCEPT FOR CLAIMS INVOLVING DEATH OR PERSONAL INJURY CAUSED BY WILLFUL OR WANTON ACTS OF SUBCONTRACTOR. IN NO EVENT SHALL SUBCONTRACTOR'S LIABILITY FOR DELAY DAMAGES EXCEED FIVE PERCENT OF THE ORIGINAL SUBCONTRACT AMOUNT.

17. INDEMNIFICATION. Contractor hereby assumes the risk of all damage, loss, costs and expense for, and shall indemnify, defend and hold harmless AGC, and any other affiliated, related or associated companies, subsidiaries, parents, directors, officers, managers, employees, shareholders, agents, attorneys, representatives, insurers, contractors, subcontractors, and assigns of such named companies and entities, and all of their predecessors, successors, heirs, representatives and assigns, respectively, from all claims, demands, losses, damages, costs, penalties or liabilities (including without limitation attorneys' fees, court costs and expert fees) of any nature including, but not limited to, (i) any claim of death or injury to any person (including employees of Contractor and AGC), (ii) damage to property (including loss of use thereof), and any and all suits, causes of action and proceedings related thereto, and (iii) Contractor's affiliates, directors, officers, employees, shareholders, agents, contractors, subcontractors and assigns: (a) breach of Subcontract, (b) breach of Prime Contract, (c) negligence, (d) gross negligence, (e) willful conduct, (f) alleged violation of any applicable law, rule, regulation or ordinance, (g) breach of warranty, (h) infringement of third party rights, (i) non-payment of taxes, and/or (j) defects or deficiencies in Project documentation, including, but not limited to, architectural design, drawings, specifications, and materials selections. These indemnity obligations shall survive termination or suspension of Subcontract.

18. FORCE MAJEURE. Subcontractor may delay or shall be excused from performance of Scope of Work, or any portions thereof, under Subcontract should an event occur beyond Subcontractor's control, such as, but not limited to, acts of God, damage to Site or Project facilities, damage to Subcontractor's offices, plants or facilities, fire, floods, crime, including theft, war,

threats or acts of terrorism, workplace disturbances, including strikes, stoppages and violence, weather events, accidents, production delays, utility outages, shortages, delays of carriers, priorities, allocations or delay by suppliers of materials, or actions by or priorities of government or any department thereof, or any other event or action beyond the control of Subcontractor that prevents any of Subcontractor's obligations hereunder, Subcontractor will declare a force majeure event in writing to Contractor and, if Subcontractor intends to perform the Subcontract at a later date, notify Contractor, to the extent possible, of the length of the expected delay to Subcontractor's Schedule of Work and any contingency plan. Subcontractor shall not be liable for any costs, expenses, damages, losses, and/or penalties whatsoever as a result of delay, cessation, suspension, or termination, of performance of Scope of Work caused by a force majeure event. Should work be delayed by any force majeure event for a period exceeding thirty (30) days Subcontractor may terminate Subcontract.

19. BONDS. Subcontractor shall not be required to provide a performance or payments bond. If bonding is required then the price of bonding shall be included in addition to Subcontractor's Base Bid Amount in Bid Proposal. Subcontractor's price for bonding, if included, shall be based on one (1) year duration and be adjusted and charged annually based on the percentage of Subcontract Scope of Work remaining. To the extent that performance and payment bonds are required, unless otherwise agreed to, the bond forms shall be ConsensusDOCS 706 (most recent version) and ConsensusDOCS 707 (most recent version).

20. ASSIGNMENT. Neither Party shall assign Subcontract, in whole or in part, without the written consent of the other, which consent shall not be unreasonably withheld, conditioned or delayed.

21. NOTICE

Contractor shall send all notices to the following address:

General Manager
295 Connie Crescent, Unit 1
Vaughan, Ontario, L4K 5R2

With a copy of all legal notices, including any Dispute Notices, to the following address:

Attn: General Counsel
Legal Department,
11175 Cicero Drive
Suite 400
Alpharetta, GA 30022.

22. CONFIDENTIALITY. Contractor and Subcontractor shall enter into the Mutual Non-Disclosure Agreement ("Confidentiality Agreement") provided by Subcontractor. Such Confidentiality Agreement shall be referenced in and incorporated into Subcontract.

23. WAIVERS. Any waiver language to which Subcontractor is subject shall exclude retainage, unbilled changes, billed and

AGC TERMS AND CONDITIONS OF CONSTRUCTION

unpaid changes, and claims which have been asserted in writing or which have not yet become known to Subcontractor, and shall either apply only through the date of work for which Subcontractor has been paid in full, or shall be conditional upon receipt of funds to Subcontractor's account.

24. ATTORNEY'S FEES. The prevailing Party in a Dispute shall be responsible for payment of the other Party's reasonable attorneys' fees, costs and expenses. In all instances in Subcontract where attorney's fees, costs and expenses are payable, only reasonable fees, costs and expenses, shall be paid by paying Party.

25. CONFLICTS BETWEEN DOCUMENTS. In the event of any conflict between the AGC TCC and any other documents,

including but not limited to the Subcontract, Prime Contract, or other subcontract-related documents, stating the terms and conditions of Subcontract, the AGC TCC shall take precedence, prevail and govern.

26. GOVERNING LAW. Unless otherwise agreed to by the Parties, Bid Proposal and Subcontract shall be governed and construed in accordance with the laws of Ontario, Canada, to the exclusion of the laws of all other jurisdictions. Proper venue for any litigation occurring as a result of or arising out of the Subcontract shall be Toronto, Ontario, Canada, to the exclusion of all other jurisdictions and venues.

AGC TERMS AND CONDITIONS OF CONSTRUCTION

EXHIBIT "A"

Subcontractor's Existing Insurance Program

Types of Insurance	Insurer	Policy #	Eff Dates	Sum Insured or Limits of Liability	
AUTOMOBILE -Inclusive Limits Bodily Injury and Property Damage Liability -Permission to Rent or Lease	St. Paul Fire and Marine Insurance Company	00234D6178	01/01/17-01/01/18	Third Party Liability	\$2,000,000 All provinces except Manitoba
				No Auto Physical Damage Coverage Applies To This Policy.	Nil
COMMERCIAL GENERAL LIABILITY -Bodily Injury and Property Damage -Occurrence Format	HDI Global SE	01860017-14008	01/01/17-01/01/18	Each Occurrence	\$2,000,000
				Products & Completed Operations Aggregate	\$2,000,000
				General Aggregate	\$2,000,000
UMBRELLA -Occurrence Format	HDI Global SE	01860017-14019	01/01/17-01/01/18	Each Occurrence	\$3,000,000
				Aggregate	\$3,000,000
				Products and Completed Operations	\$3,000,000
				Self-Insured Retention	\$500,000

AGC TERMS AND CONDITIONS OF CONSTRUCTION

EXHIBIT "B"

AGC LIMITED WARRANTY

OWNER ("Owner" or "Covered Party"): _____

PROJECT NAME ("Project"): _____

PROJECT LOCATION ("Site"): _____

GENERAL CONTRACTOR ("Contractor"): _____

SUBCONTRACT NAME/NUMBER ("Subcontract"): _____

WARRANTOR/SUBCONTRACTOR NAME ("Warrantor" or "Subcontractor"): AGC Flat Glass North America, Ltd. ("AGC")

WARRANTOR/SUBCONTRACTOR PRINCIPAL PLACE OF BUSINESS: 295 Connie Crescent, Unit 1, Vaughan, Ontario, L4K 5R2

Project Plans & Specifications ("Project Plans & Specifications") covered by AGC Limited Warranty:

Name of Plan(s) and/or Specification(s)	Date

AGC LIMITED WARRANTY: AGC hereby warrants the services it performed under the Scope of Work, or portion thereof, listed in the table below, against defects in workmanship for a period of one (1) year from the Substantial Completion Date indicated ("Warranty Term"), expressly conditioned upon Subcontractor's receipt of full payment for performance thereof and SUBJECT TO THE AGC LIMITED WARRANTY TERMS AND CONDITIONS ON THE REVERSE SIDE, INCLUDING, BUT NOT LIMITED TO, ALL EXCLUSIONS AND LIMITATIONS THEREIN ("Limited Warranty"). Covered Party's sole and exclusive remedy with respect to goods, materials, products and equipment used or provided by AGC in performance of Scope of Work, or any portion thereof, are limited to manufacturers' warranties, if any, as listed in the table below.

PROJECT-RELATED WARRANTIES: <i>Please refer to the terms and conditions of each individual warranty respectively for full warranty details.</i>			
1. AGC LIMITED WARRANTY			
Project Section, Category, Div., Spec., Drawing #	Brief Description of Scope of Work	Substantial Completion Date	
• [Xx xx xx]			
•			
•			
•			
2. MANUFACTURER WARRANTIES			
Project Section, Category, Div., Spec., Drawing #	Product/Material/Equipment	Manufacturer	Length of Warranty
• [Xx xx xx]			
•			
•			

WARRANTY ISSUANCE AND ACCEPTANCE: By execution below, the persons below represent they are the duly authorized representatives of the indicated parties and accept and agree to on behalf of such parties the Limited Warranty and its Terms and Conditions. Non-rejection of the Limited Warranty and its Terms and Conditions is and shall be deemed acceptance thereof. The Limited Warranty is effective upon AGC's execution.

Issued on behalf of AGC by:	Date:
Name:	Title:
Accepted on behalf of Covered Party and Contractor by:	Date:
Name:	Title:

AGC TERMS AND CONDITIONS OF CONSTRUCTION

EXHIBIT "B"(CONT'D)

AGC LIMITED WARRANTY TERMS AND CONDITIONS

TERMS AND CONDITIONS

1. Limited Warranty Coverage. For the period of the Warranty Term, AGC warrants the services it performed under the respective Scope of Work against defects in workmanship, and that the services performed by AGC were executed in a good and workmanlike manner per glass and/or glazing industry standards and in substantial compliance with respective Project Plans and Specifications, as may have been modified by the parties during the course of the Project.

2. Exclusions and Limitations. AGC is not responsible for, does not warrant against, and this Limited Warranty expressly excludes coverage for, any damages or defects resulting from, arising out of, or related to any of the following: (a) the design, or the inadequacy, insufficiency, unsuitability, or non-compliance with code, rules, regulations or law, the Project Plans and Specifications or other Project documents, including, without limitation, any specified sole source or brand-named products, materials or equipment; (b) acts or omissions of other parties, including, but not limited to, other sub-trades or subcontractors; (c) ordinary wear and tear, including, but not limited to, on materials and finishes; (d) abnormal, improper or insufficient use by others; (e) maintenance, repair, modifications or alterations performed by others; (f) any distortion, failure, settlement, or movement of building, structure, foundation, walls, or any materials or substrates, to which any installed good/materials/equipment attach, abut or are incorporated; (g) breakage or cracking of glass, including thermal shock or spontaneous breakage, unless caused by AGC's defective installation; (h) die lines, carbon marks, welding lines, handling marks and discolorations, specifically for aluminum with an anodized finish, with respect to aluminum extrusions with a circumscribed circle diameter in excess of seven (7) inches, regardless if such aluminum extrusions were produced by a normal extrusion practice; and (j) any events beyond the control of AGC, including, but not limited to, acts of God, accidents, fire, floods, crime, including theft, war, threats or acts of terrorism, workplace disturbances, weather events, including, but not limited to, gale, hurricane, tornado, hail storm, lightning, abnormal or unusual hazards, phenomena, climate conditions, or events, at Site or Project facilities.

3. Manufacturers' Warranties. Covered Party accepts the applicable manufacturers' warranties, if any, including warranty periods and terms and conditions therein, as its sole remedy with respect to any goods, materials, products, or equipment used or provided by AGC in performing Scope of Work, including, but not limited to, glass products. Covered Party understands and agrees that AGC provides NO warranty with respect to these items. Manufacturers' warranties may be provided upon request if available. For avoidance of doubt, warranties for all AGC manufactured glass products are subject and limited to AGC's General Terms and Conditions and Limited Warranty.

4. Warranty Claim Procedure. All claims under this Limited Warranty must be filed with AGC within thirty (30) calendar days of discovery of the claimed defect(s); otherwise, such claims are forever waived. To request Warranty coverage, Covered Party shall provide written notification to AGC including all of the following: (a) a full copy of this Limited Warranty, (b) proof it is the Covered Party, and (c) all specifics of the claim, including full description, nature, and location of defect(s) ("Warranty Claim"). Covered Party shall mail such Warranty Claim by overnight carrier to AGC at the following address: General Manager, 295 Connie Crescent, Unit 1, Vaughan, Ontario, L4K 5R2, with a copy to Attn: General Counsel, Legal Department, 11175 Cicero Drive, Suite 400, Alpharetta, GA 30022. To be valid, Warranty Claims must be received by AGC within the Warranty Term. Covered Party shall provide AGC a reasonable opportunity to inspect and make corrections; otherwise such Warranty Claim(s) shall be deemed null and void. Any remedial action taken without AGC's prior written consent voids this Limited Warranty. Within a commercially reasonable timeframe after receipt of a Warranty Claim, AGC will schedule a visit to Site during regular business hours for inspection. Covered Party shall fully cooperate with AGC at all times during such inspection including, but not limited to, permitting AGC to enter Site. In the event that AGC approves the Warranty Claim, AGC will perform the necessary repair and/or replacement work, at AGC's option, contingent upon availability of

all required equipment, materials and labor. The repair and/or replacement work will have a one (1) year Limited Warranty period, effective as of the date of substantial completion of any Warranty Claim work. Any repair and/or replacement made by AGC pursuant to this Limited Warranty shall constitute a full settlement and release of all claims of Covered Party for damages arising out of or related to the Warranty Claim conditions and shall be a complete bar to any subsequently filed claim, dispute, or proceeding. If AGC disputes a Warranty Claim, AGC will provide Covered Party notice of such dispute and the dispute shall be resolved pursuant to the dispute resolution process set forth in the applicable Subcontract.

5. DISCLAIMER. THE LIMITED WARRANTY DESCRIBED HEREIN IS COVERED PARTY'S SOLE AND EXCLUSIVE REMEDY AGAINST AGC. IT IS PROVIDED IN LIEU OF ALL OTHER REMEDIES AND WARRANTIES. AGC DOES NOT MAKE, AND HEREBY DISCLAIMS TO THE FULLEST EXTENT PERMITTED BY LAW, ANY REPRESENTATIONS, OTHER WARRANTIES, AND CONDITIONS, WHETHER EXPRESS, IMPLIED BY LAW OR STATUTORY, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, REGARDING ANY SERVICES AND GOODS/MATERIALS/EQUIPMENT PROVIDED OR SOLD BY AGC TO COVERED PARTY INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, NONINFRINGEMENT, OR RELATED TO ANY OTHER MATTER. "AGC" AS REFERENCED HEREIN INCLUDES AGC AND ITS PARENT, RELATED, AND AFFILIATED COMPANIES, AND ITS AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, INSURERS, SUBCONTRACTORS, AND SUPPLIERS.

6. LIMITATION OF LIABILITY. IN NO EVENT WILL AGC'S LIABILITY OF ANY KIND WITH RESPECT TO ANY WARRANTY CLAIM, DEFECTIVE OR NON-CONFORMING SERVICES OR GOODS/MATERIALS/EQUIPMENT, BREACH OR REPUDIATION OF ANY TERM OF THE SUBCONTRACT, 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.

7. MISCELLANEOUS. This Limited Warranty shall not be assigned without prior written consent of AGC. This Limited Warranty is the entire agreement of the parties, including Covered Party, with respect to the subject matter hereof and supersedes all prior written and oral agreements. This Limited Warranty shall be governed and construed in accordance with the laws of Ontario, Canada, to the exclusion of the laws of all other jurisdictions. Proper venue for any litigation occurring as a result of or arising out of this Limited Warranty shall be Toronto, Ontario, Canada, to the exclusion of all other jurisdictions and venue.