

AGC TERMS AND CONDITIONS OF SERVICE AND RETAIL

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1. TERMS AND CONDITIONS. The AGC Terms and Conditions of Service and Retail ("TCSR") shall apply to the sale of all services and goods by AGC Flat Glass North America, Ltd. d/b/a AGC Glass North America ("AGC") to the person, party, company, or entity purchasing the services and goods ("Customer"), including, but not limited to, via a Customer purchase order ("Purchase Order"). AGC and Customer may be referred to herein, individually as "Party" or collectively as "Parties". AGC may provide the TCSR in hardcopy or electronically, and may modify them at any time in AGC's sole discretion without notice. Acceptance of any Purchase Order is at AGC's sole discretion. If the TCSR is provided with respect to a Purchase Order from Customer, then this document is a rejection of that offer and the TCSR is, and shall be construed as, an offer by AGC to sell to Customer the services and goods described at the price agreed to in writing by AGC subject to this TCSR. Any agreement by AGC to provide services or goods, or both, is conditioned on Customer's acceptance of the TCSR which shall be deemed given upon the occurrence of the earlier of the following: (a) Customer's express or implied acceptance of the TCSR, including execution of a Customer Application to establish an account and credit with AGC; or (b) Customer's receipt of AGC services or goods, or both, without notifying AGC in writing of objection to the TCSR prior to performance of services or delivery of goods, or both; or (c) Customer failure to notify AGC in writing of objection to the TCSR within five (5) business days of receipt thereof, whether electronically or in hardcopy; or (d) Customer's prior acceptance of the TCSR with respect to other purchases of AGC's services or goods, or both in the course of doing business with AGC. Exchange, receipt and sufficiency of good and valuable consideration for the TCSR is hereby acknowledged by the Parties. The entire agreement ("Agreement") between the parties consists exclusively of (a) this TCSR and (b) an AGC invoice setting forth the price and quantity of services or goods, or both, respectively sold to Customer and any additional invoices sent by AGC in connection therewith. The Agreement constitutes all terms and conditions with respect to any sale of services or goods, or both, 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 irrespective 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 are to be made a part of or shall 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 this TCSR. This TCSR cannot be modified, amended or supplemented except by a writing signed by a duly authorized officer of AGC.

2. CUSTOMER'S OBLIGATIONS. **a. Cooperation:** Customer, its employees, agents or representatives, shall not unreasonably interfere or fail to cooperate with Subcontractor in Subcontractor's performance of any scope of work ("Scope of

Work") detailed or referred to in Customer's Purchase Order. **b. Prime Contract:** Customer shall provide AGC a copy of Customer's agreement if Customer is ordering work with respect to a project owned by a third party ("Owner") ("Prime Contract") for inspection and review. AGC will not agree to be bound by any terms or conditions of Prime Contract via Purchase Order unless said Prime Contract is provided to AGC for review, comment and fair negotiation. **c. General Project Site Requirements:** Unless otherwise agreed to or specified by AGC, at all times through the period of time required to provide services pursuant to the Purchase Order, Customer 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 of work ("Project 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 AGC'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 AGC 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 AGC. **d. Applicable Laws:** Customer represents and warrants that it is familiar with all general and special laws that may affect the performance of work for Purchase Order, and the persons, including other subcontractors/subtrades, employed to perform services required by Purchase Order. **e. Project Site Operations, Safety and Safety Equipment:** Customer represents and warrants that Project Site will be operated and maintained in a commercially reasonable, safe and secure manner and condition throughout the period of time required to complete work pursuant to a Purchase Order. Customer shall provide AGC's labor/workforce, adequate and proper safety instructions and orientation prior to commencement of Scope of Work. Customer shall provide all necessary safety equipment, clothing, machinery, tools or devices necessary to protect Subcontractor's labor/workforce from other work on Project 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.** Customer shall treat AGC equally and fairly as with respect to other work subcontractors. AGC shall receive the benefits of the least restrictive of such standards as may be applicable to any other subcontractor/subtrade. Customer shall hold other 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 AGC. **ii. Coordination with Other Subcontractors/Sub-Trades.** Customer shall use best efforts to

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assist AGC in coordinating efforts with other subcontractors/subtrades and ensure that other subcontractors/subtrades do not unreasonably interfere or fail to cooperate with AGC in AGC

s performance of Scope of Work **iii. Surrounding Materials, including Substrates.** Customer represents and warrants that all materials, including abutting, adjacent and/or surrounding products and substrates in relation to AGC'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. AGC is not responsible and accepts no responsibility for defects or deficiencies in AGC's Scope of Work caused directly or indirectly by the work or materials of other subcontractors/subtrades. **g. Meetings:** Customer shall provide AGC at least two (2) days prior notice of any meetings that AGC is required to attend with respect to Scope of Work, including meetings regarding coordination efforts with other subcontractors/subtrades. **h. Protection of Work and Property:** Customer shall protect AGC'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 Customer, Owner, consultant, designer, architect, other subcontractors/subtrades or third parties, and their agents and employees, respectively, and shall fully compensate AGC for any such damage or loss. **i. Contractor/Owner Insurance:** Either Customer or Owner, or both, shall provide, maintain and pay for the following insurance: **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 Customer or Owner, or both, shall add AGC 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 Customer or Owner, with deductible amount of \$10,000.00. Either Customer or Owner, or both, shall add AGC and its sub-subcontractors as additional insureds to such policy. Insurance policies provided by either Customer or Owner, or both, shall be primary. Customer or Owner shall provide evidence of insurance coverage such as a Certificate of Liability Insurance to AGC, showing AGC and/or its sub-subcontractors added as additional insureds. Customer shall be responsible for payment of all deductible amounts, including for any claims of AGC under such policies.

3. PURCHASE ORDER PRICE. a. Harmonized Sales Tax ("H.S.T.") Customer shall pay the required H.S.T. to AGC in addition to any Purchase Order amounts, provided that H.S.T. is not separately itemized on Purchase Order. **c. Adjustments of Purchase Order Amount. i. Examination of Documentation.** Purchase Order amount is subject to reasonable adjustment based upon AGC's receipt and review of other Scope of Work-related documentation. Upon further examination of such documentation, provided by Customer, including, but not limited to, finalized Scope of Work specifications, drawings, schematics, Prime Contract, Purchase Order, and any other relevant documentation if AGC, in its sole discretion, determines that an

adjustment of Purchase Order amount is necessary, then Purchase Order amount in Purchase Order shall be reasonably adjusted to reflect any additional costs or expenses, and reasonable additional overhead and profit, as determined by AGC. **ii. Scope of Work Modifications.** Purchase Order amount 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 Purchase Order Scope of Work, including, but not limited to, written change orders agreed to by the Parties or any extra work performed by AGC without a written change order. Any Scope of Work modifications shall be undertaken in accordance with Section 9 herein. **iii. AGC Construction Schedule Modifications.** Purchase Order amount 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 AGC construction schedule ("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.** Purchase Order amount 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 Purchase Order date and date of installation of such material. Any such price increase in materials shall be evidenced by AGC and invoiced to Customer following purchase of said material and Customer shall pay any such price differential. **v. Non-Industry Standard Tolerances.** AGC's acceptance of any Purchase Order, including Purchase Order amount, is based on abutting, adjacent or surrounding substrates being within industry standard tolerances. Purchase Order amount 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 AGC's Scope of Work.

4. PAYMENT. a. Payment Unless otherwise agreed to in writing by AGC, Customer shall pay AGC immediately upon performance of services for any Purchase Order and shall pay for all materials required in advance of performance of services. If the Parties agree that the Scope of Work be performed in different phases, then, within thirty (30) calendar days after acceptance of Purchase Order AGC will review of all Scope of Work documentation and submit to Customer a schedule of values ("Schedule of Values") for Customer's approval, which approval shall not be unreasonably withheld, conditioned or delayed. AGC'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 Purchase Order, Customer shall pay AGC in current funds for the substantial performance of Scope of Work, or any portion thereof. **c. Currency.** Unless otherwise agreed to, all payments to AGC from Customer shall be in Canadian dollars. **d. Progress Payments and Payment Applications.** Customer's approval and

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payment of AGC's performance of Scope of Work or any portion thereof shall be an acceptance of the same, and Customer's sole recourse thereafter with respect to such performance is the Warranty provided in Section 15 herein. If a Schedule of Values is applicable, then Customer shall review and approve all of AGC's progress payments and payment applications, including, but not limited to, AGC'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. Customer shall pay AGC's payment application amounts within ten (10) calendar days of Customer's receipt and approval of Subcontractor's payment application, or, if there is a third party Owner in respect to the Purchase Order, three (3) calendar days after Customer has received payment from Owner for the respective Purchase Order Scope of Work, whichever is later. If Owner fails to pay Contractor, then Customer is still responsible for compensating AGC in full for its performance under Purchase Order. Nothing contained herein shall be construed as a waiver or impairment of AGC's rights against either Customer or Owner, respectively, including, but not limited to, mechanic's or builder's lien rights. **e. Retainage/Retention Amounts.** Customer shall not deduct retainage from AGC's payments except to the extent of retainage kept by Owner on AGC's work. Within three (3) calendar days after receiving any retainage relating to AGC's work, Customer will pay the same to AGC or interest shall accrue as provided for late payments. Customer shall not unreasonably delay, condition, or withhold payment of retention amounts. Customer will use best efforts to secure release of retainage amounts as soon as it is possible in accordance with Customer's written agreement with Owner as existing and disclosed to AGC on the date hereof or else AGC may look to Customer 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 (1½%) 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 Customer. Failure to pay any invoice on time is a material breach of the Agreement. **g. No Right to Set-Off.** Customer shall have no right whatsoever to set-off any amounts against amounts payable to AGC. Previously approved AGC payment applications shall not be subject to reconsideration or set-off.

5. AGC's PRE-CONSTRUCTION SERVICES EXAMINATION AND CONSTRUCTION SERVICES SCHEDULE. a. Subcontractor's Pre-Construction Services Examination. AGC's obligation to examine documents related to Scope of Work, Project Site and materials and work furnished by others, including, but not limited to, other subcontractors/subtrades, is limited to notifying Customer of any defects or deficiencies that a person in the trade of AGC would discover by reasonable inspection. No testing beyond reasonable visual inspection shall be required. AGC is entitled to rely on the accuracy and completeness of plans, specifications and reports of Project Site conditions provided by Customer. Customer's architect, consultant or designer, as applicable, shall review and

approve any design services provided by AGC to assure acceptability when integrated with the entire work. Customer is entitled to rely on the accuracy and completeness of design services or certification provided by AGC only to the extent that design responsibility is specifically delegated to AGC by agreement in writing and all design and performance criteria are furnished to AGC. AGC shall not be responsible for deficiencies or defects in Scope of Work caused by, arising out of, or related to design services or Customer's project document specifications, including, but not limited to, non-compliance with building code requirements. **b. AGC's Construction Schedule.** AGC'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 acceptance of Purchase Order, AGC's proposed Construction Schedule will be reviewed and revised by AGC and re-submitted for approval by Customer, which approval shall not be unreasonably withheld, conditioned or delayed. AGC will make commercially reasonable efforts to conform to final AGC's Construction Schedule. Notwithstanding such commercially reasonable efforts, AGC's Construction Schedule shall be reasonably delayed and extended, and, in connection therewith, AGC 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 Customer in its project specifications and plans are not "guaranteed" sizes, AGC'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 AGC has obtained and confirmed "guaranteed" sizes with respect to the Scope of Work, i.e. date Customer's architect/designer/consultant confirms "guaranteed sizes" by approving and returning shop drawings and samples back to AGC. Lead times will vary depending on the product/material being procured. Where AGC must measure sizes during the progress of the project, Customer shall inform AGC in advance when the progress of construction permits measurement of sizes at the Project Site. Availability of site measurement will also delay and extend AGC's Construction Schedule; **ii. Customer's Completion of Milestone Schedule:** AGC will issue Customer a schedule listing milestones or tasks that must be completed by Customer in order for AGC to progress on Scope of Work. AGC's Construction Schedule is subject to delay and extension based on Customer's completion of the same; **iii. Work Change Order or Extra Work:** AGC'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:** AGC'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, Customer, other subcontractors/subtrades, or their employees, representatives, or agents, respectively.

6. MATERIALS. a. Procurement and Payment for Materials. Upon acceptance of purchase order or commencement of Scope

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of Work, AGC 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 AGC, included in any payment application, and payable by Customer as of the order date of such Materials to AGC. **b. Price Increases of Materials.** Purchase Order amount 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 Purchase Order date and date of installation of such material. Any such price increase in materials will be evidenced by AGC and invoiced to Customer following purchase of said material and Customer shall pay any such price differential. **c. Title and Risk of Loss.** Title to Materials shall pass only upon payment by Customer for the Materials. Risk of Loss with respect to Materials shall pass to Customer upon delivery of Materials in good condition by seller/supplier to a motor carrier. **d. Storage of Materials.** Customer shall provide AGC accessible, nearby storage space adequate to store all Materials for Scope of Work. Customer shall pay all storage fees incurred with respect to any Materials to be stored or warehoused by AGC off of Project Site. Customer shall pay a warehousing charge of one and one-half percent (1 ½%) of the value of Materials warehoused by AGC per month or portion thereof. This shall be in addition to the Purchase Order amount. Warehousing fees will be invoiced on a monthly basis by AGC. If Materials must be warehoused by a third party provider, all such costs and expenses will be billed back to Customer. All storage and warehousing costs will be in addition to the Purchase Order amount.

7. LABOR/WORKFORCE. a. Subcontractor Responsible. AGC shall be solely responsible for its labor/workforce, including employees and sub-subcontractors, under Purchase Order. All references to "labor/workforce" herein shall include sub-subcontractors. **b. Labor/Workforce Issues.** If Customer has an issue with AGC's Labor/Workforce, Customer shall notify AGC in writing including full details as to the issue. AGC will within two (2) days to address the issue 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 Customer, it shall constitute a dispute to be resolved pursuant to the dispute resolution process of Section 14. **c. Sub-subcontractors.** AGC may employ sub-subcontractors to perform Scope of Work with Customer's approval which approval shall not be unreasonably withheld, conditioned or delayed. **d. Labor Strikes/Disturbances.** AGC shall not be responsible for any costs, expenses, damages, liabilities or penalties whatsoever to Customer arising out of or resulting from labor strikes, labor disturbances or other such labor/workforce-related events that are beyond the control of AGC. **e. Good Faith.** AGC will make good faith efforts not to employ any labor which will cause a conflict with other labor employed at the Project Site or whose employment on the Purchase Order Scope of Work may be objected to by Customer, architect/consultant, or Owner. AGC will make good faith efforts to minimize the risk of labor-related

delays. If known to AGC, AGC will make good faith efforts to advise Customer, in writing, of any actual, anticipated or threatened labor dispute that might affect the performance of Scope of Work by AGC.

8. SCOPE OF WORK. a. AGC's Performance. AGC 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 AGC in substantial compliance with Purchase Order 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.** Customer shall consult with AGC and together decide the time or order in which the various portions of AGC's Scope of Work will be installed or the priority of the work of other subcontractors/subtrades in relation to AGC'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 Customer's becoming aware of any facts or conditions which may affect AGC's Construction Schedule, 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, AGC shall submit an invoice to Customer for the value of such Scope of Work pursuant to Schedule of Values, if any, of Purchase Order. **d. Contractor's Review and Inspection of Work.** Within five (5) days of AGC's submission of an Invoice with respect to substantial completion of an item, division or phase of Scope of Work, Customer shall review and inspect said Scope of Work. If Customer finds the work acceptable it shall make payment forthwith. **e. Defective Work.** If Customer finds AGC's work defective or deficient it shall give notice to AGC 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 AGC does not dispute such finding, AGC shall repair or replace such defect or deficiency to be in substantial compliance with the applicable standard and resubmit an invoice upon repair or replacement of such defect or deficiency. If AGC disputes such finding, then AGC shall avail itself of the Section 14 dispute resolution process. **f. Closeout Documentation.** Upon Customer's payment of invoice, AGC will provide Customer with any required closeout documentation, including lien waivers and manufacturers' warranties. **g. Cleanup.** In performing Scope of Work, AGC will leave its workplace at Project Site in a commercially reasonable clean condition on a daily basis and will dispose of trash in trash facilities provided and designated by Customer. Upon substantial completion of the entire Scope of Work, AGC will remove any remaining materials, products, supplies and equipment and leave its work areas in broom-clean condition. AGC is not responsible for final cleansing or washing of installed glass or glazing. Any request by Customer for AGC to perform a final cleansing or washing of installed glass or glazing shall be through a work change order or separate Purchase Order and billed at the default rates stated in Section 9 herein.

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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 or separate Purchase Order agreed to in writing by both Parties, including commensurate adjustment of terms of Purchase Order amount, Construction Schedule, Schedule of Values, respectively. Customer may at any time, by written order of Customer's authorized representative(s) and with notice to AGC's surety, if required, request AGC for changes to Scope of Work. In order to calculate the costs or credit and schedule for the requested changes, AGC will respond to the Customer's request for pricing, in a commercially reasonable period of time, with a price and detailed breakout, including adjustment of Scope of Work, Purchase Order amount, Construction Schedule, and/or Schedule of Values, based on such requested changes. If both Parties agree in writing to a change in Purchase Order Scope of Work, then AGC shall promptly proceed with its Scope of Work as so changed in accordance with the adjusted Purchase Order amount, Construction Schedule, and/or Schedule of Values, respectively. If AGC requests a work change order or separate Purchase Order, then Customer must process such request within ten (10) calendar days or as otherwise indicated on such work change order or Purchase Order request. AGC may claim damages for cumulative impact of multiple changes on AGC's efficiency. **b. Adjustments to Purchase Order Amount.** Subcontractor shall be entitled to Purchase Order amount adjustments for work it performs in accordance with work change orders and extra work it performs pursuant to written or verbal instructions of Customer provided that AGC gives Contractor notice (except in an emergency threatening bodily injury or loss of property) prior to starting such extra work, identifying the date and source of the instructions considered as requiring extra work. Unless otherwise agreed to by the Parties, any work change orders or separate purchase 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 AGC's entitlement to adjustments be contingent upon or limited to adjustments received by Customer from any third party such as a third party Owner. Any demand by Customer to Subcontractor to perform work without a written change order or new purchase order is a breach of this TCSR. **c. Subcontractor's Conditions Precedent to Contractor's Request for Change Order, Cancellation or Suspension.** Notwithstanding anything to the contrary herein, i. AGC will only agree to and proceed with a work change order or extra work at Customer's request if AGC's Construction Schedule is amended to AGC's sole satisfaction; and ii. AGC will not agree to modify Scope of Work at Customer's request, until Customer pays AGC in full for all services rendered and Materials purchased for the Scope of Work, prior to Customer's work change request.

10. AGC INSURANCE. AGC 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. AGC may, at its option, participate in any wrap-up or consolidated insurance program (CIP), including, but not limited to, third party Owner-controlled

insurance program (OCIP) or Customer-controlled insurance program (CCIP). AGC shall maintain insurance with coverage and limits only as provided by AGC's existing insurance program as seen in **Exhibit "A"**, attached hereto and incorporated herein by reference. AGC's insurance program will be evidenced by a certificate of insurance available on request.

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

12. AGREEMENT BREACH. a. Recourse by AGC. In the event that Customer at any time: i. materially breaches Agreement (e.g. failure to timely pay AGC); 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 "Customer Default"). With respect to a Customer Default, AGC shall give written notice of a Customer Default to Customer (a "Notice of Default") detailing with particularity the circumstance of the breach and the requirements to cure such breach. With respect to a Customer 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 Customer within ten (10) calendar days after the written notice is delivered to Contractor, Subcontractor may suspend performance or terminate Agreement by issuing a notice of suspension or termination without prejudice to any rights or remedies AGC may have available to it at law or in equity. **b. Recourse by Customer.** In the event that AGC materially breaches Agreement (e.g. failure to perform) (a "AGC Default"), Customer shall give written notice of a AGC Default to AGC (a "Notice of Default") detailing with particularity the circumstance of the breach and provide AGC at least ten (10) working days to present a commercially reasonable plan to cure such breach. If AGC timely submits and diligently pursues such plan to completion, then such breach shall be deemed cured. In no event shall Customer have the right to seize any of AGC's goods, materials or equipment, as a consequence of an AGC Default.

13. BACK-CHARGE CLAIMS. No back-charges or claims of Customer for services shall be valid except by an agreement in writing by AGC before the work is executed, except in the case of AGC failure to meet any requirement of Agreement. In such event, Customer shall notify AGC of such default, in writing, and allow AGC a reasonable time to correct any deficiency before incurring any costs chargeable to AGC. 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 AGC default shall be

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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 the Agreement, 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, Customer shall continue to perform all of its Agreement obligations, including but not limited to, payment obligations. Failure to do so shall be a material breach of Agreement.

15. WARRANTY. AGC Limited Warranty: Notwithstanding any higher warranty standards stated in or required by any documents provided by Customer to AGC, including but not limited to Purchase Order or a 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. Such Warranty shall operate as if AGC is the “Subcontractor” and Customer the “Owner” or “Covered Party” thereunder. AGC will issue to Customer the completed AGC Limited Warranty document upon substantial completion of the Scope of Work and Customer shall sign and return a copy of the same for AGC’s records.

16. 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. ADDITIONALLY, IN NO EVENT SHALL AGC’S CUMULATIVE LIABILITY TO CUSTOMER OR THIRD PARTY OWNER ARISING OUT OF OR RELATED IN ANY WAY TO THIS AGREEMENT OR THE SERVICES CONTEMPLATED HEREBY, WHETHER BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE PURCHASE ORDER AMOUNT EXCEPT FOR CLAIMS INVOLVING DEATH OR PERSONAL INJURY CAUSED BY WILLFUL OR WANTON ACTS OF AGC. IN NO EVENT SHALL AGC’S LIABILITY FOR DELAY DAMAGES EXCEED FIVE PERCENT OF THE ORIGINAL PURCHASE ORDER AMOUNT.

17. INDEMNIFICATION. Customer 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 Customer 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) Customer’s affiliates, directors, officers, employees, shareholders, agents, contractors, subcontractors and assigns: (a) breach of Agreement, (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 Agreement.

18. FORCE MAJEURE. AGC may delay or shall be excused from performance of Scope of Work, or any portions thereof, under Agreement should an event occur beyond AGC’s control, such as, but not limited to, acts of God, damage to Work Site or Project facilities, damage to AGC’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 AGC that prevents any of AGC’s obligations hereunder, 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 to AGC’s Construction Schedule and any contingency plan. AGC 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 AGC may terminate Agreement.

19. BONDS. AGC 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 Purchase Order amount. AGC’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 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).

AGC TERMS AND CONDITIONS OF SERVICE AND RETAIL

20. ASSIGNMENT. Except for AGC's subcontracting out Scope of Work which is expressly permitted hereunder, either Party shall assign Agreement, in whole or in part, without the written consent of the other, which consent shall not be unreasonably withheld, conditioned or delayed.

21. NOTICE

Customer 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. At AGC's request, customer shall enter into Customer's confidentiality agreement ("Confidentiality Agreement") as drafted by AGC. Such Confidentiality Agreement is hereby automatically referenced in and incorporated into this Agreement and if the term of the Confidentiality Agreement ends

before term of this Agreement, then the term of the Confidentiality Agreement will automatically extend to match the term of this Agreement.

23. WAIVERS. Any waiver language to which AGC is subject shall exclude retainage, unbilled changes, billed and 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 AGC has been paid in full, or shall be conditional upon receipt of funds to AGC'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.

25. CONFLICTS BETWEEN DOCUMENTS. In the event of any conflict between the TCSR and any other Agreement-related documents, including but not limited to, any Prime Contract, stating the terms and conditions of Agreement, the TCSR shall take precedence, prevail and govern.

26. GOVERNING LAW. Unless otherwise agreed to by the Parties, this Agreement 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 SERVICE AND RETAIL

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 SERVICE AND RETAIL

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 SERVICE AND RETAIL

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.