

## TERMS AND CONDITIONS

1. **ORDER PLACEMENT.** All products and services furnished by NA Holding-AGA, LLC dba Architectural Glass & Aluminum ("AGA") are provided pursuant to these Terms and Conditions ("Terms and Conditions"), regardless of how any order was initiated or accepted. **Acceptance by AGA of any order is expressly conditioned upon Buyer's acceptance of these Terms and Conditions, and any provisions of Buyer's order in conflict with these Terms and Conditions are expressly rejected. Buyer acknowledges that no representation or warranty other than those contained in this document have been made or relied upon. No additions or modifications shall be valid unless confirmed in writing by AGA. AGA IS NOT BOUND TO FURNISH ITS PRODUCTS OR SERVICES EXCEPT IN ACCORDANCE WITH THESE TERMS AND CONDITIONS.**

2. **DELAY.** If Buyer fails to allow for installation according to the agreed-upon schedule, payment shall still be due as if the installation had timely occurred, a reasonable storage charge may be made, and such storage shall be at the risk of Buyer.

3. **CHANGES IN SPECIFICATIONS OR DESIGN.** Any product or service not expressly included in any order agreed to, in writing, by AGA, shall be excluded. Any change in quantity, specification or design relating to any products or services, and any change to the installation date and/or schedules, shall be permitted only if they are approved in advance and in writing by AGA.

4. **ACCEPTANCE.** Products furnished or services performed by AGA will be deemed to have been finally accepted upon installation.

5. **CANCELLATION.** Buyer may cancel its order for products and/or services prior to installation by immediate payment to AGA of AGA's cost of manufacture and its anticipated profit for the products and services. Cost of manufacture shall include the cost of all materials or services relating to the order that cannot be cancelled, and all costs incurred in cancelling any material or services that can be cancelled. Anticipated profit shall be determined in AGA's sole discretion. Buyer may retain all material and partially completed products on cancelled orders, provided it pays for them as indicated herein.

6. **TAXES.** Unless otherwise indicated, prices do not include any federal, state or local taxes. Any applicable excise, import, sales, use or similar taxes, whether federal, state, provincial or local, and any transportation and other charges shall be the responsibility of and be paid by Buyer and, if paid by AGA, Buyer agrees to reimburse AGA for any such payment and further agrees that AGA may add any such payments to the purchase price of the goods.

7. **PAYMENT/CREDIT/SECURITY.** Unless otherwise agreed to by AGA, in writing, payment shall be due on a net thirty (30) days basis. Further, interest shall accrue on past due accounts at a rate of 1.5% per month (18% annually). All orders are subject to credit approval, and

Buyer agrees to submit to AGA from time to time those items reasonably requested to establish or update Buyer's credit. Whenever AGA, in good faith, deems itself insecure, it may, without prejudice or waiving any other rights or remedies it may have at law or equity, cancel any outstanding orders with Buyer and/or hold products/installation of any unfilled orders; modify or revoke its extension of credit to Buyer; and take any other steps permitted by law and necessary or desirable to secure AGA with respect to Buyer's payment of products and services furnished or to be furnished. Buyer will pay AGA's actual costs of collection, including but not limited to court costs, litigation expenses, and reasonable attorney's fees, incurred for the collection of any delinquency. Buyer shall have no right to offset against amounts owed to AGA.

8. **LIMITED WARRANTY.** AGA's sole warranty for any products sold or services provided (including but not limited to any installation services) shall be the warranty, if any, provided by the manufacturer (AGA's vendor) of any product sold and/or installed. AGA in no event shall be liable for incidental, indirect, or consequential damages arising out of the manufacture, sale, or installation of any product, or any other services.

**APART FROM THE ABOVE EXPRESS WARRANTY, THERE ARE NO WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

9. **INDEMNIFICATION.** Buyer shall defend, indemnify and hold AGA harmless from and against any and all claims, liabilities, loss, costs, damage or expense (including reasonable attorneys' fees) of any kind or nature whatsoever relating to the performance by AGA hereunder, including without limitation, claims made for product liability, property damage, or personal injury (including death), whether such claims are premised on contract or on tort (including, without limitation, strict liability). This indemnity provision shall not apply where such damage or injury is attributable solely to the negligence of AGA, its employees and/or agents.

10. **FORCE MAJEURE.** AGA will not be liable for any inability to perform its obligations to Buyer, or for any delay in the performance of its obligations to Buyer, when such delay or inability to perform is directly or indirectly caused by or in any manner arises from: fires; floods; accidents; riots; pandemics, acts of God; governmental interference; embargoes; terrorism; strikes; labor difficulties; shortages of labor, fuel, power, materials or supplies; transportation or supply chain delays; any existing or future laws or acts of any Federal or any State government (including specifically, but not exclusively, any orders, rules or regulations issued by any official or agency or any such government) materially affecting the conduct of AGA's business; or any other cause or causes (whether or not similar in nature to any of those specified above) beyond AGA's control.

11. **NO WAIVER.** The failure of AGA to enforce its rights or remedies upon knowledge of any default or violation by Buyer of any of these Terms and Conditions, or

any other terms of conditions in any order, shall not be construed as a waiver of such default or violation, or of any provision hereof, or of any of AGA's rights or remedies.

12. **LIMITATION ON LITIGATION/ATTORNEY FEES.** Any claim against AGA must be commenced in Court within eighteen (18) months after installation of any product, or else it shall be forever waived.

13. **ENTIRE AGREEMENT/LAW AND FORUM/SEVERABILITY.** Except as otherwise agreed in writing, this constitutes the entire agreement between AGA and Buyer, superseding all prior understandings, oral or written. All such previous communications are hereby abrogated and withdrawn, and no stipulations, representations, or agreements by AGA, or its officers, agents, or employees shall be binding upon AGA unless reduced to writing and attached to and incorporated by reference herein, and no local, general, or trade custom shall alter or vary the terms hereof.

14. **JURISDICTION.** Any questions, disputes, controversies, or litigation between AGA and Buyer, including but not limited to disputes concerning the validity, interpretation, or effect of any order, or interpretation and enforcement of the rights and obligations of the parties hereunder, shall be governed by the laws of the State of Indiana, and the exclusive venue for resolving any such questions, disputes, controversies, or litigation shall be a state or federal court located in Whitley County, Indiana. If any provision herein, or of any order, is determined invalid under applicable law, such invalidity shall be limited to such provision without invalidating the remainder of the other Terms and Conditions hereof; and if any provision of herein, or of any order, is found to be ambiguous or in conflict with any other provision, such ambiguity or conflict shall be resolved in the manner which provides the greatest protection and limitation of liability to AGA.

15. **LIMITATION OF LIABILITY.** In no event shall AGA be liable for any punitive damages or legal fees or any special, indirect, or consequential damages (including but not limited to loss of use or loss of profit) that arise out of its provision of products or services to Buyer. However, in the event of any dispute with Buyer, including but not limited to any dispute involving these Terms and Conditions, AGA shall be entitled to reimbursement of all costs and expenses, including reasonable attorneys' fees, for any claim on which it substantially prevails. Buyer's maximum recovery with respect to any claim shall be the price of any products and/or services related to the order at issue in the claim.