

HMI's Purchase Order Terms and Conditions

1. **Offer and Acceptance and Terms of Order** – The term “HMI” as used herein shall mean HMI Glass Inc., its parent company, subsidiaries, affiliates and related entities. The term “Purchaser” as used herein shall refer to HMI. The term “Seller” as used herein shall refer to the party selling the goods to Purchaser. HMI’s issuance of a purchase order (this “Order”) shall constitute an offer to enter into a contract for the sale of the goods identified by this Order (the “Goods”) with Purchaser that shall be subject only to and governed exclusively by HMI’s Purchase Order Terms and Conditions (“Terms and Conditions”). Any additional or differing terms and conditions contained on any documents prepared or submitted by Seller, including but not limited to those contained in Seller’s quotes, invoices, receipts, communications, bills of lading, catalogues, promotional advertisements and website, (whether or not such terms materially alter these terms and conditions), are hereby rejected by Purchaser and shall not become part of the agreement between Purchaser and Seller. ANY ACCEPTANCE OF A PURCHASE ORDER BY SELLER IS MADE EXPRESSLY CONDITIONAL UPON SELLER’S ASSENT TO THE TERMS AND CONDITIONS SET FORTH HEREIN. Seller shall be deemed to have accepted the Terms and Conditions by engaging in any acts, conduct, or communications manifesting Seller’s intent to commence the sale to Purchaser, including but not limited to Seller’s submittal of an invoice to Purchaser, commencement of work on the Goods, acceptance of Purchaser’s payment, or delivery or shipment of the Goods to Purchaser (“Acceptance Conduct”). Upon acceptance of this Order, Seller shall be bound by these Terms and Conditions for all subsequent Purchase Orders issued by HMI. If Seller objects to the Terms and Conditions, Seller’s objections are deemed waived if Seller subsequently engages in the aforementioned Acceptance Conduct without an express written modification made by Purchaser as provided for in paragraph 17.
2. **Terms of Payment** – Terms of payment are net sixty (60) days from date of invoice or the date on which the Goods are delivered to Purchaser, whichever is later. Payment may be withheld, or portions deducted, or set-off, for any claims that Purchaser may have against Seller, or its related or affiliated companies, including but not limited to the Goods’ failure to conform to Seller’s Warranties set forth in paragraph 4, or expenses incurred by Purchaser caused by Seller’s late delivery.
3. **Forecasting and Volumes** - For planning purposes only, HMI may forward non-binding forecasts of estimated requirements to Seller. The forecast is not a commitment to purchase. Seller shall not be due any compensation whatsoever if the quantities of Goods actually purchased deviate from any estimated quantities.
4. **Delivery** – Time is of the essence of this Order. Delivery must be made within the time specified in this Order. If delivery is not timely made, Purchaser may, in addition to its other rights and remedies, direct Seller to use expedited freight shipping at Seller’s expense. The Goods shall be properly packaged, marked, loaded and shipped as required by this Order and by the transporting carrier. Unless Purchaser instructs otherwise, the Goods shall be shipped in a manner that permits the lowest transportation rates to apply and adequately protects the quality of the Goods. The risk of loss or damage in transit shall be borne by Seller, except where shipment is by Purchaser’s vehicle, in which case the risk of loss or damage shall pass to Purchaser upon completion of loading. At Seller’s expense, Purchaser may return to Seller all Goods delivered by Seller that Purchaser did not authorize in writing or that exceed the quantity ordered by Purchaser. Purchaser may change shipping schedules or direct temporary suspension of scheduled shipments.
5. **Warranties** – Seller expressly warrants that the Goods shall: (i) conform to all drawings, specifications, samples and other descriptions furnished by Purchaser or Seller; (ii) be merchantable; (iii) be free from any defects in their design, even if the design has been approved by Purchaser, and be free from any defects in their materials, manufacture, or workmanship; and (iv) be fit for the particular purpose for which Purchaser intends to use the Goods. Seller acknowledges that Seller knows the particular purpose for which Purchaser intends to use the Goods. Seller further expressly warrants that, unless otherwise expressly stated in this Order, the Goods are manufactured entirely with new materials and none of the Goods are, in whole or any part, governmental or commercial surplus or used, remanufactured, reconditioned or of such age or condition so as to impair their fitness, usefulness or safety. These warranties are referred to as the “Seller’s Warranties.” Seller’s Warranties shall extend for four years from the date the Goods are delivered to Purchaser. Additionally, this Order incorporates by reference any and all warranties made by Seller prior to or at the time this Order is accepted.
6. **Indemnification** – Seller shall indemnify and hold Purchaser harmless from and against all liabilities, claims, demands, losses, costs, damages and expenses of any nature or kind (including consequential and special damages, personal injury and property damages, lost profits, recall or other customer field service action costs, costs allocated under Purchaser’s warranty issued to third-party customers, production interruption costs, legal fees, and other costs associated with Purchaser’s administrative time, labor and materials) arising from or as a result of: (i) any breach of Seller’s Warranties; (ii) any alleged violation of intellectual property rights relating to the Goods, and (iii) any other acts, omissions or negligence of Seller or of any of its subcontractors or suppliers in connection with Seller’s performance of its obligations under this Order. No limitations on Purchaser’s rights or remedies in any of Seller’s documents shall operate to reduce or exclude Seller’s indemnification obligations.
7. **Defective or Non-Conforming Goods** – If any of the Goods fail to conform to Seller’s Warranties, Seller shall, upon notice thereof from Purchaser, promptly repair, replace, refund, or otherwise satisfactorily deal with such Goods in a manner acceptable to Purchaser, all at Seller’s expense and without limiting or affecting Purchaser’s other rights or remedies available hereunder or at law, including but not limited to Purchaser’s express right to purchase substitute Goods on the open market and hold Seller accountable for any loss incurred in connection therewith. Seller’s Warranties shall also apply to such repaired, replaced or otherwise satisfactorily dealt with Goods.
8. **Insurance** – Seller shall obtain and keep commercial general liability insurance (including contractual liability, products liability, and products-completed operations coverage) in effect during the supply relationship. Such insurance shall have a per occurrence combined single limit of not less than \$1,000,000. Seller shall obtain the insurance at its own expense from carriers acceptable to Purchaser. If requested by Purchaser, Seller shall name Purchaser as an additional insured under its general liability insurance. Compliance with this insurance requirement shall in no way limit Seller’s obligations or liabilities under these Terms and Conditions. Seller shall provide Purchaser with certificates of insurance evidencing the above-required coverage at Purchaser’s request.
9. **Taxes** – Unless prohibited by law, Seller shall pay all federal, state or local tax, transportation tax, or other tax, including but not limited to customs duties and tariffs, imposed upon the Goods or by reason of their sale or delivery. Purchaser will not be responsible for any taxes in addition to those, if any, identified in this Order.
10. **Price Warranties and Competitiveness** – Seller warrants that the prices in this Order or otherwise agreed upon by Purchaser shall be complete, and no surcharges, premiums or other additional charges of any type shall be added, without Purchaser’s prior written consent. Seller shall ensure that the Goods remain competitive, in terms of price, technology and quality, with substantially similar goods available to Purchaser from other suppliers. For the duration of the supply relationship Seller shall not increase its prices, notwithstanding any change in currency regulations,

duties or taxes, or increase in costs of raw materials, labor, energy, transportation or otherwise, without Purchaser's prior written consent.

11. **Law; Forum** – The rights and obligations of the parties and the terms identified herein shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky, including the Uniform Commercial Code as enacted in Kentucky. Any legal or equitable actions arising out of or relating to this Order's terms or the sale of Goods that is subject to it shall be brought only in Kentucky's Jefferson Circuit Court or the U.S. District Court for the Western District of Kentucky. Seller and Purchaser agree that such court shall have personal jurisdiction over the parties.
12. **Limitation on Purchaser's Liability** – In no event shall Purchaser be liable to Seller for anticipated profits or for incidental or consequential damages. Purchaser's liability for a claim of any kind for any loss or damage arising out of or in connection with or resulting from this Purchase Order, or from any performance or breach, shall in no case exceed the price allocable to the Goods, which directly gives rise to the claim.
13. **Liens, Claims and Encumbrances** – Seller warrants and represents that all of the Goods will, when delivered hereunder, be free and clear of all liens, claims or encumbrances of every kind. If the Goods are not delivered to Purchaser free and clear of all liens, claims or encumbrances of every kind, Seller shall be required to either bond off or extinguish any liens, claims or encumbrances, or to reimburse Purchaser for having to do so.
14. **Alternative Dispute Resolution (ADR)** – Should any dispute arise between Seller and Purchaser, neither will file a lawsuit unless the following ADR attempts fail: (i) Seller and Purchaser will each designate an officer or executive to confer about the dispute; (ii) if the conference does not resolve the dispute, authorized representatives of Seller and Purchaser will attend mediation in Louisville, Kentucky.
15. **Order Termination** – At any time, Purchaser may for any reason terminate this Order, in whole or in part, by written notice to Seller. Upon Seller's receipt of such notice, Seller shall stop all associated work. In such event, Purchaser shall pay to Seller, without duplication, the amounts due for Goods delivered and accepted or services completed in accordance herewith prior to the effective date of termination; and actual costs incurred by Seller due to the terminated portion of this Order excluding any charges for materials or parts which may be mitigated by cover. Seller's termination claim shall be submitted to Purchaser within thirty (30) days of the effective date of the termination. Seller may request Purchaser to provide documentation supporting Purchaser's termination claim.
16. **Confidential Information and Intellectual Property** – If Purchaser discloses or grants Seller access to any intellectual property, trade secrets, research, development, technical, economic or business information of a confidential nature, whether reduced to writing or not, Seller agrees, as a condition of receiving such information, that without Purchaser's prior written consent Seller will not use or disclose any such information to any person at any time except as may be strictly necessary for the performance of this Order. All intellectual property rights in any trademarks, designs, drawings or other technical or business information which Purchaser supplies to Seller shall remain the sole and exclusive property of Purchaser and shall only be used as may be strictly necessary for the performance of this Order.
17. **Modification** – No modification of this Order, including any waiver of or addition to any of the Terms and Conditions, shall be binding upon Purchaser, unless made in writing and signed by Purchaser's authorized representative.
18. **Materiality and Severability** – All provisions in this Order are material to the agreement between Seller and Purchaser. Any provision in this Order

or these Terms and Conditions that is held to be unenforceable, voidable or invalid in any jurisdiction shall have no effect on the enforceability of the remaining provisions, and to this end, the provisions hereof are declared to be severable.

19. **Survival** – The above provisions shall survive the termination or expiration of this Order.