

## Rochester Insulated Glass, Inc. Terms and Conditions of Sale

### Terms and Conditions of Sale:

These Terms and Conditions constitute the offer of RIG to sell the Customer the goods and/or to perform the work as set forth in this document. Acceptance by Customer is expressly limited to these Terms and Conditions, and Customer's assent to them shall be manifested by the acceptance by Customer of any portion of the Goods or Work. These Terms and Conditions shall govern this transaction, notwithstanding any additional and/or differing terms and conditions set forth on any documentation of Customer. RIG hereby objects to any different and/or additional terms and conditions and shall not be bound by any such different and/or additional terms and conditions except those accepted in writing by an officer of the company. These Standard Terms and Conditions of Sale and Order Acceptance may be amended or changed by RIG, at its sole discretion, without notification to Customer.

### General:

- All agreements and legally binding statements by RIG and any contracting parties shall only be valid if in writing from an officer of the company.
- RIG is not responsible for Customer's contractual obligations and will not be held liable for incidental or consequential damages or penalties for delayed completion of the project.
- Should any one clause of this agreement be deemed to be wholly or partially invalid, the contracting parties shall substitute a new clause which shall, as far as possible, have similar legal and economic consequences to the former provision. The remainder of this agreement remains unchanged and valid.
- Customer shall be liable to RIG for any costs and reasonable attorney's fees to enforce these Terms and Conditions including but not limited to payment under the terms and conditions herein should Customer default or breach any provision of the Customers order.
- This agreement is governed by the laws of the State of New York, County of Ontario, without consideration of choice of law analysis and the parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction there.
- RIG agrees to furnish only the quantity and type of goods described in the Order Confirmation.
- A Customer Purchase order shall be representation that it is authorized to enter into the agreement and in so doing it is not in violation of the terms and/or conditions of any contract or other agreement to which it may be a party. This order by the Customer shall not have the right to transfer, assign or delegate its rights or obligations under this Purchase Order or any portion thereof without the prior written consent of an officer of RIG. Customer may have no direct contact with any of RIG's manufacturers until the completion of the Purchase order and any modifications thereto.
- RIG does not waive any of its rights in order to collect money due to RIG.
- Customer is solely responsible for ordering products in the correct thickness and sizes for safety and usage; RIG takes no responsibility for this. RIG accepting an order for any thickness and size is under no circumstance suggesting or acknowledging this is the correct make-up for the application of installation. THIS IS THE RESPONSIBILITY OF THE CUSTOMER.
- All glass will corrode (stain). Customer is responsible for removing packing material immediately, and keeping glass dry and in a dry location with adequate air circulation.
- RIG reserves the right to modify the composition, configuration of glass within a unit, or substitute like or similar products at any time without notice to customer.
- Any glass with ceramic frit spandrel, digitally printed glass, and/or custom color laminated glass will have color variance between batches. Production glass will vary in color from samples. We require all production glass of these types to be ordered at one time to avoid noticeable color change.
- All quotations are based on availability of raw materials and current manufacturing processes. If the process is no longer available, or raw materials are not readily available, RIG will not be held liable for consequential damages.

### Credit and Financial:

- If RIG, at its sole discretion feels that the financial stability of the Customer is such that RIG concludes payment to RIG may be at risk, RIG may require Customer before shipment of product and/or commencement of project to arrange terms of payment to RIG's satisfaction.
- In the event of insolvency, bankruptcy or default of customer, RIG shall be entitled to cancel any outstanding Purchase Order, to receive reimbursement for its reasonable and justified cancellation charges, and to retain possession of materials and equipment purchased and/or Goods and/or Work produced under the Purchase Order until the charges therefore are paid. If the charges are not paid by Customer within ninety days of completion of the work and invoicing, RIG shall be entitled to sell the materials, equipment, and/or Goods at a private or public sale, without the requirement of written notice to the Customer.
- In consideration of RIG's agreement to receive payment, in whole or part, after delivery of the Goods and as security for payment, Customer grants to RIG a security interest in the Goods, any and all additions, accessions, substitutions and proceeds. This security interest attaches upon delivery, and RIG may file a financing statement.
- Customer's payment to RIG shall not be conditioned on Customer's receipt of payment from any third party. Buyer shall be responsible for RIG's cost of collection, including but not limited to, reasonable attorney's fees in the event of Customer's default or non payment. RIG reserves the right to withhold warranties, as well as hold any/all future shipments and manufacturing for a particular Customer or project.

**Pricing & Order Acceptance:**

- All quotes are based upon RIG's opinion of what products are being requested. RIG does not guarantee or suggest that the products quoted meet any specifications, codes, regulations, or any given standards.
- All quotations are based upon the quantities and sizes that have been requested. Any changes in glass sizes or quantities will effect quoted prices. Prices are always subject to change at RIG's discretion.
- RIG's quoted prices are guaranteed for 60 days from the day of quotation, unless otherwise noted in writing by an officer of the corporation.
- All quoted prices are based upon information the Customer has provided us with at the time of quotation. Any changes that affect lead times, cutting yields, project performance dates, project volumes, etc., may require a price adjustment. If we feel this is the case, we will notify you immediately to discuss the changes.
- RIG reserves the right to adjust pricing if volumes quoted are not met.
- Applicable taxes will be added to each invoice.
- All square foot pricing is invoiced rounding to the next even dimensional inch.
- All quotations are subject to an Energy Surcharge. This surcharge is based upon RIG's rate at time of order confirmation. This surcharge is calculated quarterly. RIG reserves the right to adjust the Energy surcharge as seen fit and may vary from order to order and customer to customer.
- RIG seams all heat treated glass. All annealed glass is sold with a scored raw edge only. If additional edge work is required, please contact us for pricing. No fabricated edge work will be included unless specifically noted on quotation and order confirmation.
- There are additional costs for non-rectangular shapes as well as offset units. These charges are not included in price and will be quoted separately.
- All quotes are FOB (freight on board) Manchester, NY 14504 unless otherwise noted.
- All quotes are based upon one release, unless otherwise noted. Multiple releases will incur additional charges.
- Any and all applicable taxes, fees, duty brokers, and/or any additional charges incurred and required will be added to invoicing.
- All quotations are based on bulk packing. Any specific packaging including but not limited to packing by size, elevation, floor, or weight will incur an additional fee.
- All delivered prices are based upon full truck or container loads, using non-union drivers. RIG is not responsible for unloading or any costs related to unloading.
- RIG does not accept any liability for technical review. All orders to RIG will be based on description only not acceptance with any codes, loading, thermal, engineering, etc.
- Customer shall be responsible for the accuracy of all documents, data, glass take off, shop drawing, specifications, architectural drawings, and CAD files furnished by Customer to RIG. RIG shall not be liable for any errors.
- High volume quotations are based upon a quantity of one size of the same make up of 1300 SF or more to be delivered in one release. Any items that do not meet this criteria will be billed at a low volume price.
- RIG only accepts a booking order with exact production sizes and submits the order to RIG understanding that RIG will process the order anytime prior to the agreed upon ship date. RIG has the right to refuse any order or booking order. These must be placed in writing and will not be accepted verbally. The booking order is only confirmed with an order confirmation by RIG. Projects ordered under a booking order are still subject to a price escalation of a maximum of 3% per quarter after the project has been under booking for 6 months.
- All orders are assumed to be quoted based on conventional glazing capturing the glass on all sides. Any glazing method other than conventional may incur additional charges from RIG. The acceptance of supplying glass to any other method of glazing is subject to the approval in writing from an officer of RIG. Any products being used in a fashion other than this without the prior written consent from RIG is hereby void of any and all warranty.
- Do not release an order unless correct dimensions and make up are confirmed. After an order is accepted and placed into the system, there can be no size and/or make up changes. Orders cannot be canceled.
- Orders will not be started in production until the order is approved for credit as well as all other pertinent documentation is completed. Once received, and accepted, orders can be placed into system. Only then can an exact lead time be assessed.
- Miscellaneous and replacement orders may incur additional boxing charges. Freight will be quoted on a job by job basis.
- RIG reserves the right to not accept an order if the Customer's account is past due.
- If payment terms are violated RIG reserves the right to not offer any warranties on the project.
- RIG will supply a customer with an Order Confirmation after every order. If you do not receive this confirmation within 24 hours from ordering contact RIG. Customer's have 24 hours from issuance of an Order Confirmation to notify RIG in writing that products, quantities, and/or sizes have been mis interpreted from the Customer's order. After this time the order is the customer's responsibility and cannot be changed or canceled. Any dispute of misinterpreted information from the order to the order confirmation is hereby not accepted after 24 hours.
- The delivery date given in writing is an ESTIMATE only. RIG will not be liable for any loss or damage to customer or other due to delay or not delivering in accordance with estimated date regardless of the cause.
- RIG recommends heat-strengthened glass in lieu of tempered glass in areas that do not require safety glazing. When tempered glass is required, we recommend heat-soaking this tempered glass. This service must be purchased with original order and is subject to additional charges.
- Title to the goods and risk of loss shall pass at the time of delivery to the customer unless otherwise set forth in writing by officer of RIG.

**Quality:**

- All products will be manufactured to applicable ASTM. No other quality standards will be accepted unless formally described in writing from an officer of the company. Any glass products with glass 50 SF or over are specifically excluded from the compliance with these ASTM standards.
- Products over normal production sizes are not guaranteed within industry and/or ASTM standards. These products are sold as is.
- RIG's insulating glass units are made using Black sealants unless RIG specifically notes otherwise in its quotation and order confirmation.
- Color differences between and within pieces of glass and low-e coatings is normal and acceptable. Presence of these color differences is not cause for rejection of the product for any circumstance. These differences are not guaranteed within any standards.
- Heat treated glass has inherent roller marks and distortion. Oversized lites, fabricated glass products will have higher levels of distortion. Distortion of any kind is not cause for rejection. Laminated heat treated glass will have excess distortion.
- All spandrel glass must have an opaque background. Spandrel glass is NOT acceptable in vision areas.
- Heat treated, and laminated glass will have significantly higher inherent visual distortion.
- RIG recommends a full sized mock up on all projects.
- 12"x12" and 12"x24" samples are for color reference only and do not show quality standards.
- If glass products sold by RIG are found not to be acceptable, RIG will not accept responsibility for discarding glass or packaging. This is the customers responsibility, under no circumstance will RIG accept any products as returns.
- Customer shall inspect goods upon receipt and notify RIG of any non-conforming goods within ten days after receiving delivery.
- RIG shall be allowed a reasonable opportunity to inspect the goods, and cure any claim of alleged non-conforming, including reasonable access to the goods whether on the Customer's premises, at a storage facility or on a job site.
- All MSVD low-e is edge deleted. This will show a visual difference between edge-deleted and non edge-deleted sections of the glass.
- Heat soaking is provided to European standard EN 14179-1 (E) 09/2005.

**Warranty:**

- RIG does not warrant against glass breakage, even if glass is heat-soaked.
- RIG does not warrant against thermal stress breakage.
- Any insulated glass with breather tubes is excluded from having a warranty.
- All products are sold with a warranty from the date of manufacture only.
- There are no other warranties, express or implied.
- There are no warranties of fitness for any particular purpose and no warranties of merchantability.
- NO employee has the right to change or alter a warranty. Warranty alterations in a signed letter from an officer of the company are the only form of an amended warranty accepted.
- RIG does not provide any warranty concerning argon content or effectiveness. RIG will supply argon units utilizing our best available practices and a good faith effort to reach the highest possible initial fill rate. We provide no claim to content of argon after initial fill, statistical variations of process and product, or accepted measuring method.

**Limitation of Liability:**

- In no event shall RIG by reason of this warranty or otherwise be liable for either incidental, consequential, special, or punitive damage.
- RIG shall have no liability for defects. Customer shall be liable for any loss resulting in any failure to the products. RIG will not be liable for damage caused to third parties, or for consequential or indirect loss. RIG's sole liability under warranty or contract, or any other basis, is limited to either replacement of the product or refund of the purchase price at RIG's sole option.
- RIG will not be liable for labor costs or for consequential damages under any circumstance.
- Customer agrees to hold RIG harmless from any and all damages that arise out of this Purchase Order to the extent caused by Customer or any entity within the control of Customer, including, but not limited to, damages incurred as a result of RIG's adherence to Customer's specifications and/or standards.
- RIG will not be responsible for its failure to perform any obligations to Customer, or the delay in performance thereof, caused by any Force Majeure event, or other action beyond its reasonable control. "Force Majeure" will include, but not be limited to, acts of nature, floods, or fire; transportation, power or other supply shortages or unavailability; strikes or labor shortages; failure or delays of any third party vendors or subcontractors; government actions, orders or restrictions; wars, insurrections, acts of terrorism; or the failure of any suppliers, subcontractors, carriers, or party to substantially meet its performance obligations