

J E BERKOWITZ, L. P.

One Gateway Boulevard Pedricktown, New Jersey 08067

May 13, 2010

**STANDARD TERMS & CONDITIONS
FOR QUOTATION AND ORDER ACCEPTANCE**

PARTIES:

The seller shall be referred to as JEB. The buyer shall be referred to as Customer.

TERMS AND CONDITIONS OF SALE:

1. These Terms and Conditions constitute the offer of JEB to sell to Customer the goods (the "Goods" or "Products") and/or to perform the work (the "Work") as set forth on the face of 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. JEB 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 which may be expressly accepted by it in writing.

TERMS:

1. Payment terms, with approved credit, are 1% 10, net 30. Customer will pay for all goods ordered on its behalf and supplied by JEB per the terms printed on the invoice or confirmation provided by JEB. JEB may establish the credit terms for Customer, and may change those terms, create or change credit limits or cease extending credit from time to time in its sole discretion. Customer will pay all costs for; special packing, shipping or other handling requested by Customer and agreed to by JEB, extra charges of carriers for Customer delays in unloading, trucks or containers and other special costs incurred by JEB as a result of special actions or requests by Customer.

UNIT OF SALE:

1. Glass dimensions are calculated to the next even inch for invoicing purposes.

ORDER ACCEPTANCE:

1. All lites greater than 50 square feet must be heat treated.
2. Annealed units exceeding a 5-1 aspect ratio recommend be split. Heat treated glass exceeding a 10-1 aspect ratio recommend be split.
3. All orders must be identified as either conventional or structural glazing. All structural applications must be identified as two or four sided. Review of wind loading requirements is recommended on all structural applications. There may be additional charges, due to increased need for silicone fill on structural glazed applications if it exceeds our standard site line of 1/2" which allows for approx 3/16" silicone fill.
4. High volume sizes that are boxed separately from low volume sizes in standard factory cases need to include one exact size. Special boxing requirements must be submitted at time of initial order to determine high volume status and any necessary additional crating charges.
5. **DO NOT RELEASE ORDER UNLESS ASSURED OF CORRECT DIMENSION AND MAKE-UP. After an order is accepted and placed into the system, there can be no size and/or make-up changes. A cancellation charge will be assessed for the full value of the incorrectly ordered glass.**
6. A boxing schedule is required at time of order entry. Without proper schedule, order will not be processed.
7. Insulating glass units are manufactured with a standard secondary seal, two-part silicone; black. Two-part grey silicone is available upon request. Standard clear anodized aluminum spacers are supplied with insulating glass units. Black anodized and/or Warm Edge spacers are available upon request.
8. All off-line patterns must be supplied in CAD format; templates will not be accepted.

PRODUCT AVAILABILITY:

1. JEB relies upon outside vendors for its materials: If materials are not available in sufficient quantity or do not meet the quality standards needed to produce the final product, JEB may not be able to produce some or all of the material requested. JEB assumes no responsibility for Customer costs associated with any incomplete shipment.
2. **Lead-times:** Orders will not be started in the production cycle until the order is approved for credit along with all pertinent paperwork; i.e. Job Data Sheets, technical and sample approval; confirmation of final sizes; boxing schedule; and any other items needed to complete the project. Once received, the order will be placed into the system and the lead-time(s) can be determined, which may be different from what had been originally quoted.

FOOTAGE CHARGED:

1. Minimum billing size per unit or lite of glass, is 5 square feet. Minimum quantity, to qualify for High Volume pricing structure is, 1/4" - 1,300 square feet Guardian; 1,200 square feet PPG & Pilkington; 3/16" - 1,600 square feet; 3/8" - 800 square feet; 1/2" - 650 square feet of the same size and makeup.
2. All Shapes or patterns will be invoiced at the full rectangular block size. Patterns/shapes, off-sets, and sizes that include dimensions less than 24" x 36" (Pilkington Products); 26" x 28" (PPG Products); 20" x 36" (Guardian Products) do not qualify for high volume pricing. Please note that there are additional costs for non rectangular shapes and off-set units.

FREIGHT; DELIVERIES; STORAGE:

1. Prices are F.O.B. Pedricktown, New Jersey. Full truckloads or LTL shipments on common carriers may be subject to additional freight charges.
2. JEB crane equipped delivery is limited to off-loading boxed product onto ground. Crane is not suitable for hoisting to upper floors or projecting crates through windows or opening.
3. JEB requires, for jobsite delivery, address, phone number, directions, jobsite contact and desired time of arrival. Orders quoted as full tractor trailer delivery but requiring smaller trucks due to site conditions may be subject to additional charges for the additional deliveries.
4. For full truckload deliveries, JEB will allow 3 hours maximum unloading time. Beyond 3 hours, Customer will be assessed at \$250.00 per hour.
5. Finished products will be stored up to 15 days at JEB warehouse. Thereafter, product will be invoiced and a weekly storage charge of \$200.00 per truckload will be assessed.
6. Customer, prior to delivery, to insure accessibility and safety for delivery of finished goods, must examine jobsite conditions. JEB reserves the right to make delivery to off-site warehouse or to assess re-delivery charges if jobsite conditions are not suitable or result in delays.
7. Customer will check each delivery from JEB, and will notify JEB of, and will note in writing on the bill of lading, any discrepancies between the delivery and the bill of lading (including breakage), and will sign the note and have the driver sign the note before the driver leaves the Customer's premises; otherwise JEB will not give credit for any discrepancies.
8. Unless the Customer advises in writing prior to the scheduled first delivery that an earlier shipment is not permissible, JEB reserves the right to ship prior to the order shipping date.

FEES AND SURCHARGES:

1. Prices are based on and subjected to availability of the quote product at the time order is placed. Industry prevailing pricing such as "Energy Surcharge" and Separate Delivery Charges are applicable.
2. Miscellaneous and replacement orders may incur additional boxing charges.

PRICE QUOTATIONS:

1. Prompt quoting requires accurate size and quantity takeoff, approximate delivery requirement, accurate glass specification and details. Specialty glass and unique make-ups may require additional quoting time.

PRICE PROTECTION:

1. Quoted prices are good for 90 days. Price protection for an extended period may be provided and requires a Letter of Intent. Please reference quote number when placing order.

PRICE POLICY:

1. Price Adjustment: Any increase in JEB's costs due to governmental legislation, regulation or order providing for tax on any work, materials, goods, sales, use or process, or providing for any regulation or control of JEB's purchases, materials, labor costs, sales or business, may be added to the price specified as to any undelivered portion of such order.
2. Taxes: Prices quoted are exclusive of any present or future federal, state or local sales, use or excise taxes. In states where such sales, use, or excise taxes apply, they will be added to the invoice as a separate item unless the customer has furnished an acceptable tax exemption certificate from such tax prior to shipment.

PAYMENT ASSURANCE:

1. If, in the opinion of JEB, the financial condition of the Customer is such that JEB concludes that payment to JEB may be at risk, JEB may require Customer before shipment of Goods and/or commencement of Work to arrange terms of payment satisfactory to JEB.
2. In the event of the insolvency, bankruptcy or default of the Customer, JEB shall be entitled to cancel any outstanding Purchase Order, to receive reimbursement for its reasonable and proper 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 (90) days of completion of the work and invoicing, JEB shall be entitled to sell the materials, equipment, and/or Goods at a public or private sale, upon written notice to the Customer.

3. In consideration of JEB's agreement to receive payment, in whole or part, after delivery of the Goods and as security for payment, Customer grants to JEB a security interest in the Goods, any and all additions, accessions, substitutions and proceeds. This security interest attaches upon delivery, and JEB may file a financing statement.

DELIVERY DATE:

1. THE DELIVERY DATE SHOWN ON THE FACE OF THE ORDER ACKNOWLEDGEMENT IS AN ESTIMATE ONLY. JEB WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE TO CUSTOMER OR OTHERS DUE TO DELAY OR NOT DELIVERING IN ACCORDANCE WITH THE ESTIMATED DATE REGARDLESS OF THE CAUSE.

PACKAGING:

1. Standard boxing, flat bottom, at a minimum of 2,500 to 4,000 pound crates. Boxes are suitable for crane unloading. Up to lid size 25 sq ft lid, \$100; 25 to 50 sq ft, \$150; over 50 sq ft, \$300. Additional boxes or packaging less than 2,500 pounds per crate will incur an additional charge.
2. Returnable steel racks are available for like sizes in sufficient quantities to completely fill the rack. Rack capacities are available upon request. Use of JEB racks requires an executed "Rack Agreement."
3. When steel racks are provided, they are expected to be returned to JEB within 60 days from date of shipment in full truckloads per JEB's customary routing, freight collect to JEB. Steel racks, including gates, not returned to JEB within 60 days from date of shipment are subject to a minimum charge of \$1,200 per rack.

QUALITY CRITERIA:

2. Glass will be manufactured to Industry Standards, ASTM 1036-01, 1048-04, E2190-02, E2188-02, C1172-03, and C1376-03 unless otherwise noted. Customer bears responsibility for determining if such materials meet requirements of plans, specifications, or other contract documents. Heat-treated or fully tempered glass will have minimum seamed or swiped edges. Annealed glass will be clean cut. For proper application and/or installation of JEB products, please refer to GANA Glazing Manual and/or IGMA Recommended Practices for Vertically Field Glazing or Organically Sealed Insulating Glass Units.
3. Products manufactured are subject to Manufacturer's and Industry Standards pertaining to minimum and maximum size availability.
4. All glazing applications are subject to review of loading information, design details, and thermal considerations.
5. Heat strengthened or fully tempered glass has inherent roller mark distortion. Oversize lites and coated products may contain higher levels of distortion. Unless otherwise noted roller mark distortion will run parallel to the horizontal glass dimension, up to 84" maximum width.

USE OF PRODUCTS:

1. Customer is required to identify all glass applications that require safety-glazing materials.
2. JEB recommends the use of full-size mockups for architectural approval. JEB reserves the right to quote an equal product to the specified glass and will provide such product on the job based on both sample and architectural written approval.
3. Customer shall be responsible for the accuracy of all documents; data, glass take-offs, and shop drawings, specifications, architectural drawings, and CAD files furnished by Customer to JEB. JEB shall not be liable for any errors or omissions in any documents; data, glass take-offs, and shop drawings, specifications, architectural drawings, and CAD files furnished by Customer to JEB.

RETURNED GOODS:

1. JEB will accept no returns of discarded glass or empty crates for disposal purposes. In any event, no Goods shall be returned to JEB without having secured approval and terms for return from JEB. Goods returned without complete identification in accordance with JEB's instructions or without charges prepaid will not be accepted. JEB reserves the right to refuse any Goods returned for credit.

RISK OF LOSS:

1. The risk of loss of all goods purchased by customer passes to the customer as follows: if the goods are picked up by the customer or shipped by a carrier arranged by the customer, risk of loss passes when the goods load on the truck or container at JEB's facility.

FORCE MAJEURE:

1. JEB shall not be liable for failure to perform or for delay in performance due to fire, flood, strike or other labor difficulty, act of God, act of any governmental authority or of the Customer, riot, embargo, inability or delay in procuring standard or fabricated materials, fuel or energy shortage, vehicle shortage, faulty castings or forgings, wrecks or delay in transportation, inability to obtain necessary labor, materials or manufacturing facilities from usual sources, or due to any cause beyond its reasonable control.
2. In the event of delay in performance due to any such cause, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay.

WARRANTY:

1. All fabricated products are provided with a limited warranty, from the date of manufacture.
2. JEB warrants that the goods will be as described on the written order confirmation (or, if there is no written order confirmation, on the invoice), subject to tolerances and variations consistent with the usages of the trade and with factory practices concerning dimensions, tolerances and variations consistent with practical testing and inspection methods. For certain fabricated products, JEB may provide additional warranties on preprinted forms provided to the Customer. **THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED; THERE ARE NO WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE AND NO WARRANTIES OF MERCHANTABILITY.** No JEB employee has authority to change JEB's warranties without specific written authorization from an officer of the company addressed to the Customer.
3. Glass breakage is specifically excluded from all product warranties.
4. Thermal stress breakage is not warranted. A thermal stress analysis is recommended to determine if glass requires heat treating.
5. For certain fabricated Products, JEB may provide additional warranties on preprinted forms provided to the customer. JEB, on Products or components not manufactured by JEB, will extend to Customer the same warranty it receives. JEB shall have no other liability with regard to such Products or components.

TERMINATION:

1. The Purchase Order shall not be terminated, in whole or in part, by the Customer except by agreement in writing from JEB, and any such agreement will be contingent upon payment of reasonable charges based upon expenses already incurred and commitments made by JEB.
2. The Purchase Order may be terminated at any time by the mutual agreement of the parties, which agreement shall specify their respective remaining rights and duties.
3. The Purchase Order may be unilaterally terminated by JEB for default by Customer.
4. The Purchase Order or, at the option of the Customer, individual orders placed hereunder may be terminated in whole or in part by Customer. In the event of termination of this order or any portion thereof for such reason, JEB shall be entitled:
 - (a) To the price of Goods completed and shipped, but not yet paid for, at the Purchase Order price;
 - (b) To the price of Goods completed but not yet shipped or paid for, at the Purchase Order price (Customer will be entitled to delivery of such goods);
 - (c) The costs incurred for work in progress. Customer will be entitled to receive any Goods for which it pays. JEB has the option not to claim against Customer for work in progress which it is willing to absorb or redirect.
 - (d) All other damages sustained by JEB as a result of such breach.
5. The Purchase Order or, at the option of JEB, individual orders placed hereunder (and obligations hereunder) may be terminated by JEB in the event JEB determines in the exercise of its sole discretion that continued efforts to perform hereunder have been rendered contractually impossible. In such event, the parties will negotiate in good faith and agree upon their respective rights and duties, but JEB's obligations shall not extend beyond those assumed by it under the Article entitled "Limitation of Liability."

DEFAULT/BREACH:

1. Customer shall be liable to JEB 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 Purchase Order.

ESCALATION:

1. In the event of significant delay or price increase of material, equipment, or energy occurring during the performance of the Purchase Order through no fault of JEB, the Purchase Order sum, schedule for delivery or Purchase Order requirements shall be equitably adjusted by change order, or as provided for in written quotation, an established escalation for project that initiates after quoted start date

MANUFACTURER RELATIONS:

1. Customer shall have no direct contact with any of JEB's manufacturers until the completion of the Purchase Order and any modifications thereto. Once the warranty pursuant to the Purchase Order begins to run, JEB assigns to Customer any and all warranty rights that JEB had with its manufacturer and Customer's sole avenue to enforce the manufacturer's guarantees and warranties for goods, equipment or materials covered under this Purchase Order shall be against the manufacturer and Customer hereby waives any rights it may have against JEB relating to said warranty.

CHANGE ORDERS:

1. There shall be no additions to or other modifications of the Purchase Order price, scope, terms or schedule except as set forth in this Purchase Order. If such changes become necessary, any alteration of the Purchase Order price, scope, terms or schedule shall be covered by a separate change order or separate order, which shall be issued to cover such changes. JEB shall not proceed with changes affecting contract price without a specific agreement in writing between JEB and Customer.

MERGER, MODIFICATION AND WAIVER:

1. These Terms and Conditions and any attached Addenda are the entire agreement between the parties with respect to the subject matter hereof, there being no prior or contemporaneous written or oral promises or representations not incorporated herein. No amendment, modification or waiver of the terms of these Terms and Conditions shall be binding on either party unless reduced to writing and signed by an authorized officer of the party to be bound and, in the case of a waiver, shall be effective only in the specific instance, and for the specific purpose for which given, and shall not be construed as a waiver of any subsequent breach. The failure of either party to enforce at any time or for any period of time any of these provisions shall not be construed as a waiver of such provisions or of the right of such party thereafter to enforce each and every such provision.

CONSTRUCTION AND INTERPRETATION:

1. The captions in these Terms and Conditions have been inserted for convenience of reference only and do not constitute a part of, and shall not be considered in construing, this Purchase Order. If any portion of these Terms and Conditions is held by a court of competent jurisdiction to be invalid for any reason, the remainder of these Terms and Conditions shall not be deemed invalid but shall remain in full force and effect. No course of dealing, usage of trade or course of performance shall supplement, explain or amend any term, condition or instruction of these Terms and Conditions.

APPLICABLE LAW AND VENUE:

1. This Agreement is governed by the laws of the State of New Jersey without consideration of choice of law analysis and the parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction there.

AUTHORITY TO ENTER INTO AGREEMENT:

1. JEB and Customer each represents and warrants that it is authorized to enter into this Purchase Order and that in so doing it is not in violation of the terms or conditions of any contract or other agreement to which it may be a party.

ASSIGNMENT:

1. This Purchase Order shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and designees; provided however, that 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 authorized representative of JEB.

REMEDIES:

1. **THE REMEDIES PROVIDED IN THESE STANDARD TERMS & CONDITIONS FOR QUOTATION AND ORDER ACCEPTANCE ARE THE CUSTOMER'S SOLE REMEDIES IN THE EVENT OF ANY FAILURE OF JEB TO COMPLY WITH ITS OBLIGATIONS.** Correction of any nonconformity in the manner and for the period of time provided above shall constitute complete fulfillment of all liabilities of JEB whether the claims of the Customer are based on contract, in tort (including negligence) or otherwise with respect to or arising out of the work performed hereunder. **IN NO EVENT SHALL JEB BY REASON OF THIS WARRANTY OR OTHERWISE BE LIABLE FOR EITHER INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES.**

LIMITATION OF LIABILITY:

1. JEB shall have no liability for defects, whether hidden or apparent, resulting from the improper use, installation, storage, or treatment of the goods. Customer shall be liable for any loss resulting from any failure to apply all professional standards, customary instructions and written instructions, if any, in relation to the goods.
2. JEB will not be liable for damage caused to third parties, or for consequential or indirect loss. JEB'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 JEB's sole option; JEB will not be liable for labor costs or for consequential damages under any circumstances.
3. Except as otherwise provided in these Standard Terms and Conditions of Sale and in any other written documents actually signed by the party who is assuming an obligation or liability ("Governing Documents"), the terms and conditions of the sale of Products from JEB to The Customer shall be fully governed and controlled only by the New Jersey Uniform Commercial Code ("UCC") in effect as of the date of sale. In the event the Governing Documents are an addition to or in conflict with or inconsistent with the UCC, then such documents shall govern and control and take precedence over the provisions of the UCC.
4. JEB, its contractors and suppliers of any tier will not be liable in contract, in tort (including negligence, breach of warranty, strict liability, default, or any other reason arising out of the use or handling of its product or its performance on this Purchase Order) or otherwise for damage caused to third parties or for consequential or indirect loss. JEB'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 JEB's sole option; JEB will not be liable for labor costs or for any special, indirect, incidental, consequential or punitive damages whatsoever under any circumstances.

5. **THE REMEDIES OF THE CUSTOMER SET FORTH HEREIN ARE EXCLUSIVE** and the liability of JEB with respect to any Purchase Order, or anything done in connection therewith such as the performance or breach thereof, or from the manufacture, sale, delivery, resale, repair or use of any goods or materials covered by or furnished under the Purchase Order, whether in contract, in tort (including negligence) or otherwise, shall not exceed the price set forth herein for the work. JEB 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.

INDEMNIFICATION:

1. Customer agrees to hold JEB 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 JEB's adherence to Customer's specifications and/or standards.

WAIVER:

1. JEB does not waive any of its rights in order to collect money due to JEB.

DISPUTES:

1. Except for claims by JEB for payment of the monetary amount due arising from the sales of Products to Customer, any other dispute arising out of or relating to the sale of JEB products, or the performance of such products covered by these General Terms and Conditions of Sale, the Governing Documents or the UCC shall be resolved initially by either, or both, good faith negotiations between the parties or mediator according to the then current rules or recommendation of the Center for Public Resources with respect to the mediation of commercial disputes, or such other similar procedures as agreed to by the parties. If these procedures do not resolve the dispute, the parties may then resort to other forms of legal process, including litigation.

TERMS AND CONDITIONS:

1. JEB 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.
2. These Standard Terms and Conditions of Sale and Order Acceptance may be amended or changed by JEB, at its sole discretion, without notification to Customer.