

Order Form



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Customer No.
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Order online under: www.bohle-america.com
 Simply fax this page back: F +1 704 247 8400
 Or call us: T +1 704 247 8420
 We look forward to hearing from you!

A handling fee of \$10.00 will be charged for orders under \$25.00. All prices are net, ex-works and do not include delivery which is COD or will be added at cost. All orders are subject to our terms and conditions of sale. When you place orders with us, you agree to accept these terms. (See USA Sales Conditions on the back of this order form.)

Article Number	Quantity	Unit	Description	Unit Price \$

 Date, Signature

USA Sales Conditions

NOTICE: THIS TRANSACTION AND ALL DOCUMENTS PERTAINING TO IT, INCLUDING ANY QUOTATION, PROPOSAL, ORDER CONFIRMATION, ORDER ACCEPTANCE OR INVOICE (COLLECTIVELY, "SALES DOCUMENTS") IS SUBJECT TO AND CONDITIONED UPON BUYER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS OF SALE ("TERMS") UNLESS OTHERWISE EXPRESSLY AGREED IN WRITING BY BOHLE AMERICA, INC. ("SELLER").

1. Order Process; Acceptance; Additional or Conflicting Terms.

a) All sales of tools, machinery and accessories for glass processing and glass finishing, or any other products sold by Seller (individually, "Product" and collectively, "Products") are contracts entered into in North Carolina and then only in accordance with Seller's Sales Documents and these Terms.

b) Seller shall sell Products to Buyer in the quantities and at the times agreed to by Seller in writing. Buyer may order Products by submitting written purchase orders (each, a "Purchase Order") that contain the Product(s), quantity per Product, and requested delivery date. Buyer is solely responsible for proper selection and application of the Products. Notwithstanding any requested delivery date by Buyer, the delivery date stated on Seller's order confirmation shall be the controlling delivery date. Seller will attempt to meet delivery date requests and, if in stock in its Charlotte facility, Seller typically is able to deliver Products within five business days from the date of order, provided, that any shipping or delivery schedule, quotation, forecast or commitment is only an estimate and Seller will not be liable for any delay or failure to deliver all or any part of any order for any reason. Any order cancellations or modifications shall be at the sole discretion of Seller.

c) Every contract between Buyer and Seller for the sale of Products shall be governed by the terms contained in Seller's written quotation, proposal, any subsequent order confirmation and these Terms (the "Contract"). Buyer may not cancel or change the Contract except with the prior written consent of Seller and upon terms that will indemnify Seller against any loss. Seller may change an order at any time to correct mathematical or clerical errors. The Contract supersedes any prior commercial documents issued by Seller. **Seller hereby objects to and rejects any additional or different terms or conditions proposed by Buyer or contained in any Purchase Order, commercial document or other correspondence from Buyer, regardless of any knowledge Seller may have of such terms, and such terms shall not bind Seller.** In no event shall Buyer's terms apply to, nor shall Buyer's proposed additional or different terms modify, the Contract unless Seller expressly includes the proposed terms in the Contract. If any of these Terms conflict with Seller's Sales Documents, the specific terms stated in those Sales Documents shall prevail over these Terms. The applicable terms of the latest Sales Documents shall control over such terms in any prior Sales Documents. No other terms or changes, modifications, amendments or waivers of any terms in the Contract shall apply to Seller unless in writing and signed by an authorized officer of Seller.

2. Prices; Payment.

a) All prices will be as specified by Seller in its commercial document or, if no price has been specified or quoted, will be Seller's price according to its catalogs or price lists in effect at the time of delivery. All prices published by Seller or quoted by Seller's representatives may be changed at any time without notice. Written quotations expire automatically 30 days from the date issued and are subject to change or termination without notice, prior to Buyer's acceptance. All prices are subject to adjustment on account of specifications, quantities, shipment arrangements or other terms or conditions which are not part of Seller's original price quotation. Any orders valued at less than \$25 will include a minimum order handling charge.

b) The price does not include any sales, use, personal property, excise, transfer or other tax, duties or assessment related to the Products or their purchase and sale which may be imposed by any governmental authority, all of which shall be the obligation of, and paid by, Buyer. In the event that Seller pays any such tax or assessment, Buyer shall reimburse Seller in accordance with the terms of Section 2(c). Buyer is responsible for obtaining and providing to Seller any certificate of exemption or similar document required to exempt any sale from sales, use or similar tax liability.

c) Seller shall invoice Buyer for amounts due when the order is shipped and Buyer shall pay Seller within 30 days of the invoice date. If Buyer fails to make any payments when due, interest shall accrue from the date the payment was due until payment is received in full at the lower of 1.5% per month or the maximum amount allowed by applicable law. Buyer shall pay Seller's reasonable attorneys' fees and other costs of collection of any past due amounts and Seller may, at its sole discretion, suspend its performance until all invoiced amounts are paid in full. Failure by Seller to charge interest on late payments or to exercise its right to suspend its performance shall not be construed as a waiver of any other legal or equitable remedies. Seller reserves the right to require payment for all orders by advance payment or C.O.D. for any Buyer that is a new customer, that fails to make any payment as and when due, that has had a payment declined or check returned for insufficient funds, or that Seller decides, in its sole discretion, warrants such payment terms.

3. Termination.

Without limiting Seller's other rights and remedies available under applicable law, Seller may suspend or terminate performance and delivery, if: (a) there is a change in the control or management of Buyer; (b) Buyer ceases to conduct its operation in the normal course of business; (c) Buyer becomes insolvent or files for bankruptcy or has a bankruptcy proceeding filed against it; (d) Buyer makes an assignment for the benefit of creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of all or part of Buyer's property; or (e) Buyer fails to perform or observe any of its obligations to Seller under the Sales Documents issued by Seller or under other existing or future contracts between Seller and Buyer or otherwise, including payment of any purchase price, fees or charges as and when due.

4. Delivery.

All deliveries of Products are Ex Works Seller's facility in Charlotte, North Carolina, unless otherwise stated in Seller's order confirmation. The prices do not include any transportation, packaging or installation costs. Seller may make partial deliveries. All delivery schedules or dates for Products are Seller's estimate only. The delivery date in Seller's order confirmation shall control. Seller shall not be liable to Buyer for any delay in performance or delivery. Seller shall not be responsible for any damage to the Products caused by a carrier and Buyer's sole recourse for such damage shall be against the carrier. If at any time Seller has any doubt as to Buyer's financial responsibility, Seller may decline to make further shipments except upon receipt of satisfactory security or cash before shipment. Seller reserves the right to substitute similar products of equal or better quality than the Products ordered if those Products ordered are no longer available, have been modified or a shortage of such Products exists.

5. Returns

Buyer may return the Products to Seller within 30 days after Buyer receives the Products; provided, that (a) Buyer shall obtain a return authorization number from Seller prior to returning any Product, (b) Buyer shall pay to have the Products shipped back to Seller, (c) Seller shall be subject to paying a restocking fee equal to the greater of 15% of the price of the Product or \$10, and (d) the Products must be unused, undamaged and in the original packaging, such that Seller can re-sell the Products, which Seller shall determine in its sole discretion.

6. Limited Warranty.

a) Seller warrants to Buyer only that, for a period of six months from the date of delivery ("Warranty Period"), the Products will be free from defects in material and workmanship (the "Limited Warranty"). The Limited Warranty is limited to the Buyer only and is non-transferable. Buyer makes the decision on the selection and use of the Products and the Products' suitability for use.

b) EXCEPT FOR THE LIMITED WARRANTY EXPRESSLY PROVIDED IN SECTION 6(a) ABOVE, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE PRODUCTS AND SELLER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS AND IMPLIED, WRITTEN OR ORAL, WITH RESPECT TO THE PRODUCTS, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND INFRINGEMENT.

c) No dealers, distributor, sales representative, employee or any other person or entity is authorized to offer any different or additional warranties or remedies, or to change this Limited Warranty, without the signature of an authorized officer of Seller.

7. Limited Warranty Exclusions.

The Limited Warranty does not cover damage to Products caused (i) during or after delivery; (ii) by normal wear and tear; (iii) by use under circumstances exceeding Seller's specifications or limitations or contrary to any instructions or information contained in Seller's operating or maintenance manuals (as supplemented from time to time by Seller); (iv) by unauthorized or improper repair or alteration; (v) by non-original equipment manufacturer spare parts or components; (vi) by failure to provide reasonable and necessary maintenance; (vii) by improper storage; (viii) by corrosion, erosion, abrasion or similar causes; and (ix) by accidents.

8. Buyer's Limited Warranty Claims.

a) Buyer must use its best efforts to test the Products for any alleged non-conformities prior to the Products' use. The Limited Warranty is conditioned upon Buyer following the claims process then in effect, which Seller may change in its discretion.

b) Buyer shall give Seller written notice of any Products which Buyer alleges do not conform to the Limited Warranty, specifying the alleged non-conformities (each notice, a "Warranty Claim"). Buyer must obtain from Seller a return authorization number in order to make a Warranty Claim. Buyer must make any Warranty Claim within the Warranty Period and failure to make a Warranty Claim within the Warranty Period shall void the Limited Warranty. Buyer must return, at Seller's expense, any alleged non-conforming Product to Seller for Seller to verify the claimed defect and must include the return authorization number. Seller shall have a reasonable opportunity to inspect the product or part thereof to determine whether it complies with the Limited Warranty.

c) For any Products which Seller determines do not conform to the Limited Warranty, Seller's liability and obligation, and Buyer's sole and exclusive remedy, shall be, at Seller's choice, to either repair or replace non-conforming Products or to refund to Buyer the price Buyer paid for such non-conforming Products. Seller will pay the cost to ship the repaired Product or replacement product to the Buyer.

d) If the inspection of the product or part thereof does not disclose any failure to conform to the Limited Warranty, Seller will make repairs at a reasonable charge, which charges may include the cost of parts, labor and transportation, and the Buyer will be responsible for paying for all such charges and the cost to ship the product back to the Buyer.

9. Limitations.

a) SELLER'S MAXIMUM AGGREGATE LIABILITY UNDER THIS AGREEMENT OR WITH RESPECT TO THE PRODUCTS OR THEIR USE, WHETHER IN WARRANTY, CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE COMPENSATION BUYER PAID TO SELLER FOR THE PARTICULAR PRODUCTS AT ISSUE.

b) Buyer must bring any action for breach of warranty within the earlier of (a) one year of the claim or cause of action has accrued or (b) the period prescribed by applicable statutes of limitation or repose.

c) **Seller's sole obligation and Buyer's sole remedy for any breach of warranty shall be as set forth in this Limited Warranty.**

10. Exclusion of Certain Damages

IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, REGARDLESS OF THE THEORY OF RECOVERY, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. Indemnity.

Buyer agrees to indemnify, defend and hold harmless Seller, its officers, directors, its employees and agents from any and all claims, actions, suits, damages, liabilities, costs, obligations, and expenses (including, without limitation, attorneys' fees) arising from or relating to (i) selection, application, use or incorporation of Products, (ii) any processing or modification of Products in any manner by Buyer, its employees, agents or customers, (iii) use exceeding Seller's Product specifications, (iv) any breach of warranty or misrepresentation (express or implied) made by Buyer, its employees or agents, and (v) any violation of law or regulation by, intentional or negligent act of, or unauthorized representation by Buyer its employees or agents in their marketing activities, sales, distribution or handling of Products. At Seller's request, Buyer shall defend Seller, at Buyer's expense, against any such claim made against Seller.

12. Insurance.

Buyer shall maintain commercial general liability, personal injury and property damage insurance policies, including wrongful death coverage, in reasonable amounts with a nationally recognized insurance company.

13. No License

Buyer agrees and confirms that it has no intellectual property or similar rights in the Products, and Seller's sale of the Products shall not be construed as granting to Buyer any license or intellectual property or similar right applicable to or with the Products. Buyer may not alter or remove, and shall abide by, any patent, trademark, copyright, trade secrets, proprietary or other notices contained on or in the Products.

14. Confidential Information.

All confidential or proprietary information ("Confidential Information") provided by Seller to Buyer shall not be disclosed by Buyer to any person unless the disclosure is agreed to in writing by Seller or the Confidential Information is otherwise generally available to the public. Seller retains ownership and control over all intellectual property including patents, trademarks, and copyrights applicable to or arising out of the Products and services, as well as the exclusive right to manufacture the Products. No license is granted or implied by these Terms, and Buyer shall not name or designate any Seller product information or Products in any process patent application.

15. Security Agreement.

Buyer grants Seller a continuing purchase money security interest in all Products sold or delivered to it and to the proceeds of those Products (collectively, the "Collateral") to secure the full payment of the purchase price of the Products and all other obligations of Buyer. Buyer authorizes Seller to file all financing statements, continuation statements and other documents necessary or desirable to establish, perfect, maintain, preserve and enforce Seller's security interest in the Collateral.

16. Assignment.

Buyer may not assign all or any portion of its rights or obligations under this Agreement without Seller's prior written consent, and any attempted assignment without that consent shall be void.

17. Relationship.

Seller is an independent contractor. Nothing in this Agreement shall be construed as creating a partnership, association or joint venture between the parties. Buyer shall have no power or authority to enter into any commitment on behalf of or otherwise bind Buyer on any matter including making any representation or warranty on behalf of Buyer. No employee of either party shall be deemed to be an employee of the other party.

18. No Setoff.

Buyer shall not have any right of set-off with regard to any amounts owed to Seller, regardless of any dispute that may arise between the parties.

19. Limitation on Actions.

Any action or proceeding by Buyer arising out of or relating to this Agreement or the Products will be forever barred unless it is commenced within the earlier of: (a) one year after the claim or cause of action has accrued; or (b) the period prescribed by applicable statute of limitation or repose. Buyer must give Seller prompt written notice of any claim regarding this Agreement or the Products.

20. Force Majeure.

With the exception of payment requirements, neither party shall be liable, and performance shall be deemed extended, for delays or failure to perform directly or indirectly resulting from events and causes beyond its reasonable control, including but not limited to accidents, acts of God, acts and omissions of any governmental authority, declared or undeclared wars, terrorism, explosions, strikes or other labor disputes, fires and natural calamities (including floods, earthquakes, storms and epidemics), changes in the law, and delays in obtaining (or the inability to obtain) labor, materials or services through usual sources at normal prices. If Products or raw materials for producing Products are not available through Seller's usual sources at normal prices, Seller may allocate its supplies among its customers, including those not under contract, in any reasonable manner without liability. Seller shall have no obligation to purchase supplies of the Product to enable it to fulfill any order.

21. No Waiver.

Any failure by Seller to exercise any of its rights under these Terms or any Sales Documents shall not be construed as a waiver of such rights.

22. Severability.

In the event any of the provisions of these Terms of any Sales Documents are held to be invalid by any court of competent jurisdiction, such provision(s) shall be deemed to be severable and these Terms and any Sales Documents shall then be construed and enforced in accordance with the remaining.

23. Choice of Law; Venue.

This transaction and any controversy arising from or relating to the transaction or the Products shall be governed by the laws of the State of North Carolina, excluding its conflicts of law principles and this Contract shall not be governed by the provisions of the 1980 United Nations Convention on the International Sale of Goods ("UNCISG") which is expressly excluded. The parties agree that the North Carolina State Courts and the United States District Court for the Western District of North Carolina, shall constitute the sole and exclusive judicial forum(s) and venue and, therefore, shall have sole and exclusive jurisdiction over the adjudication and resolution of any and all disputes or controversies arising out of or relating to this Contract or the purchase and sale of Products; except (i) with respect to any action instituted by Seller for equitable or comparable relief including an action for temporary or permanent injunctive relief, (ii) for an action instituted by Seller for recovery of possession of the Products, such as replevin, claim and delivery, attachment or the like or (iii) for Seller's claim or action to collect any amounts owed by Buyer pursuant to this Contract. Buyer and Seller hereby consent and submit to the exercise of personal jurisdiction over them by the North Carolina State Courts and United States District Court for the Western District of North Carolina.

24. Entire Agreement.

The Contract contains the entire agreement of the parties relating to the subject matter and supersedes all previous and contemporaneous agreements, understandings, usages of trade and courses of dealing, whether written or oral.