

GOVERNOR'S DEVELOPMENT OPPORTUNITY FUND

PERFORMANCE AGREEMENT

This **PERFORMANCE AGREEMENT** made and entered this 28th day of April, 2008, by and between the **COUNTY OF GREENSVILLE, VIRGINIA** (the "Locality") a political subdivision of the Commonwealth of Virginia (the "Commonwealth"), and **ORAN SAFETY GLASS, INC.** (the "Company"), a Delaware corporation authorized to transact business in the Commonwealth.

WITNESSETH:

WHEREAS, the Locality has received a grant of and expects to receive \$50,000 from the Governor's Development Opportunity Fund (a "GOF Grant") through the Virginia Economic Development Partnership ("VEDP") for the purpose of inducing the Company to expand and improve a manufacturing facility in the Locality (the "Facility"), and create a significant number of new jobs;

WHEREAS, the Locality is willing to provide the funds to or for the use of the Company, provided that the Company meets certain criteria relating to capital investment and new jobs;

WHEREAS, the Locality is required to return all or a portion of the funds so received to the Commonwealth if the performance criteria of the Company are not met;

WHEREAS, the Locality and the Company desire to set forth their understanding and agreement as to the payout of the GOF Grant, the use of the GOF Grant proceeds, the obligations of the Company regarding capital investment and new job creation, and the repayment by the Company of all or part of the GOF Grant under certain circumstances; and

WHEREAS, the Company plans to expand and improve the Facility will entail a capital investment of approximately \$2,650,000, of which approximately \$1,650,000 will be invested in machinery and equipment, approximately \$1,000,000 will be invested in improvements to an existing building. It is expected that at least 25 new jobs will be created at the Facility. Together, the capital investment target of \$2,650,000 and the new jobs target of 25 are referred to herein as the "Targets;"

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows.

Section 1. Disbursement of GOF Grant.

The GOF Grant in the amount of \$50,000 will be paid to the Locality, upon its request. Within 30 days of its receipt of the GOF Grant proceeds, the Locality will disburse the GOF Grant proceeds to the Company as an inducement to the Company to achieve the Targets at the

Facility. The Company will use the GOF Grant proceeds to improve the existing building which is owned by the Industrial Development Authority of the County of Greensville, Virginia, as permitted by Section 2.2-115(C) of the Code of Virginia of 1950, as amended (the "Virginia Code").

By no later than July 31, 2008, the Locality will request the disbursement to it of the GOF Grant. If not so requested by the Locality by July 31, 2008, this Agreement will terminate. The Locality and the Company will be entitled to reapply for a GOF Grant thereafter, based upon the terms, conditions and availability of funds at that time.

Section 2. Targets; Definitions.

The Company will develop and operate the Facility in the Locality, make a capital investment of at least \$2,650,000, and create at least 25 new jobs at the Facility, all within thirty-six months of the date the Locality receives the GOF Grant (the "Performance Date"). The average annual wage of the new jobs of at least \$33,648 is more than the prevailing average annual wage in the Locality of \$30,939. The Company will maintain such capital investment and such new jobs through the Break-Even Point.

For the purposes of this Agreement, the following terms shall have the following definitions:

"Break-Even Point" has the meaning set forth in Section 3.

"Capital investment" means a capital expenditure in taxable real property, taxable tangible personal property, or both, at the Facility, excluding the purchase of land or existing real property improvements. The capital investment must be in addition to the capital improvements at the Facility at the date of this Agreement.

"Maintain" means that the capital investment and new jobs created pursuant to the GOF Grant will be created by the Performance Date and will be continued and remain in place without interruption from the date of creation through the Break-Even Point.

"New job" means permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are paid by the Company for the employee, and for which the Company pays an average annual wage of at least \$33,648. Each new job must require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the Company's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with contractors, suppliers and similar multiplier or spin-off jobs shall not qualify as new jobs. The new jobs must be in addition to the 80 jobs at the Facility as of December 31, 2007.

Section 3. Break-Even Point.

VEDP has estimated that the Commonwealth will reach its "Break-Even Point" by December 31, 2015. The Break-Even Point compares new revenues realized as a result of the capital investment and new jobs at the Facility with the Commonwealth's expenditures on incentives, including but not limited to the GOF Grant. With regard to the Facility, the Commonwealth will provide incentives in the following amounts:

<u>Category of Incentive:</u>	<u>Total Amount</u>
GOF Grant	\$ 50,000
Tobacco Region Opportunity Fund Grant	100,000
Virginia Jobs Investment Program Grant	17,500
Enterprise Zone Job Grants (Estimated)	80,000
Community Development Block Grant	150,000

The Locality has committed to provide the following incentives, as matching grants or otherwise, for the Facility:

<u>Category of Incentive:</u>	<u>Total Amount</u>
Building Permit Fee Waiver (Estimated)	\$ 5,000
Local Contribution for CDBG	50,000
Local Enterprise Zone Grant (Estimated)	84,000

Section 4. Repayment Obligation.

(a) *If Statutory Minimum Requirements are Not Met by Performance Date:* Section 2.2-115 of the Virginia Code requires that the Company make a private capital investment of at least \$2,500,000 in the Facility and create at least 25 new jobs at the Facility in order to be eligible for the GOF Grant. If the Company fails to meet either of these eligibility requirements by the Performance Date, the entire GOF Grant must be repaid by the Company. The private capital investment must be in addition to any capital investment made with proceeds of the GOF Grant and the Tobacco Region Opportunity Fund Grant (the "TROF Grant"), totaling \$150,000.

(b) *If Statutory Minimum Requirements are Met by Performance Date but not Maintained Though Break-Even Point:* If, by the Performance Date, the Company has made a private capital investment (excluding the \$150,000 proceeds of the GOF Grant and the TROF Grant) of at least \$2,500,000 and has created at least 25 new jobs, but has failed to maintain these requirements through the Break-Even Point, the entire GOF Grant must be repaid by the Company.

(c) *Determination of Inability to Comply:* If the Locality and VEDP shall determine at any time prior to the Break-Even Point (a "Determination Date") that the Company is unable or unwilling to meet its Targets by the Performance Date or to maintain its Targets through the

Break-Even Point, and if the Locality or VEDP shall have promptly notified the Company of such determination, the Company must repay the entire GOF Grant.

(d) *Repayment Dates:* Any such repayment shall be due from the Company to the Locality within thirty days of the Performance Date, the Break-Even Point or the Determination Date, as applicable. Any moneys repaid by the Company to the Locality hereunder shall be repaid by the Locality promptly to VEDP for redeposit into the Governor's Development Opportunity Fund.

Section 5. Company Reporting.

The Company shall provide, at the Company's expense, detailed verification reasonably satisfactory to the Locality of the Company's progress on the Targets. Such progress reports will be provided to the Locality annually, starting at twelve months from the date that the Locality receives the GOF Grant, and at such other times as the Locality may require. Upon request of VEDP, the Locality will forward such progress reports to VEDP.

Section 6. Notices.

Any notices required or permitted under this Agreement shall be given in writing, and shall be deemed to be received upon receipt or refusal after mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean return of certified mail not accepted by the addressee):

if to the Company, to:

Oran Safety Glass, Inc.
48 Industrial Park Way
Emporia, Virginia 23847
Attention: Louis Mitchener, Vice President of Manufacturing

if to the Locality, to:

County of Greensville, Virginia
1781 Greensville County Circle
Emporia, Virginia 23847
Attention: County Administrator

Section 7. Miscellaneous.

(a) *Entire Agreement; Amendments:* This Agreement constitutes the entire agreement between the parties hereto as to the subject matter contained herein and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Locality and VEDP.

(b) *Governing Law; Venue:* This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the City of Richmond, and such litigation shall be brought only in such court.

(c) *Counterparts:* This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

(d) *Severability:* If any provision of this Agreement is determined to be unenforceable, then the remaining provisions of this Agreement shall, in the discretion of the Locality and VEDP, be voidable or interpreted as in effect as if such unenforceable provisions were not included therein.

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IN WITNESS WHEREOF, the parties hereto have executed this Performance Agreement as of the date first written above.

**COUNTY OF GREENSVILLE,
VIRGINIA**

By *David Whittington*
Name: *C. DAVID WHITTINGTON*
Title: *County Admin*
Date: *May 1*, 2008

ORAN SAFETY GLASS, INC.

By *David Yorev*
Name: *David Yorev*
Title: *V.P. and CFO*
Date: *April 28*, 2008

**ORAN SAFETY GLASS
INC.**