



General Terms of Business for use in respect of business undertaken with traders

I. Scope

1. The following terms and conditions apply to all contracts concluded between us and the buyer or other entity placing an order (hereinafter called "the Buyer") for the purchase of goods, parts or services. They also apply to all future business relations even if there is no further express agreement to that effect. Where the Buyer's terms and conditions differ from those set out below then, in so far as they are not expressly accepted by us, they are not binding upon us even if we do not expressly reject them. The terms and conditions set out below apply even if, being aware of the Buyer's differing or incompatible terms, we fulfil the Buyer's order without reservation.
2. The contracts set out, in writing, all terms of agreement made between us and the Buyer in respect of the performance of the purchase contract.

II. Offer and the Conclusion of the Contract

1. The Buyer's order is deemed to be an offer to conclude a purchase agreement and can be accepted within two weeks by delivery of an order confirmation or invoice or by the fulfilment of the order within the same time period.
2. Our offers are subject to change and are not binding unless we have expressly described them as such. Whilst we always take the necessary care in the formulation and publication of our offers and prices, the Buyer is not entitled to rely on this information being correct unless that has been expressly agreed in writing.
3. The General Construction Terms of Business, DIN 1961, VOB/B (German Industry Norm 1961 Sector Agreement Part B) as amended, take precedence over these general terms in respect of construction contracts.

III. Price and Payment Provisions

1. Our prices are collection prices unless the order confirmation specifies otherwise. Collection is to be from our business premises and is at the cost and instigation of the Buyer. Our prices do not include statutory value added taxes. These are specified in the invoice and set at the date the invoice is issued at the level required by law.
2. Unless otherwise agreed payment of the invoice amount is to be made at the time of collection at the latest (payment and collection to be concurrent).
3. Discounts for cash are only made where there has been express written agreement to that effect between us and the Buyer. The purchase price is payable, net (without deductions), immediately upon receipt by the Buyer of the invoice insofar as no other due date has been specified in the order confirmation. A payment is to be deemed to be effective when we are in funds. Payments by cheque are deemed to be effective when the check is cashed.
4. If the Buyer delays payment then the statutory regulations apply.

5. If defects and counterclaims are asserted then the Buyer is only entitled to a set off where the counter-claim has been found to be valid in law, has been acknowledged by us or is undisputed. The buyer is only entitled to exercise a right to retain where its counter-claim relates to the same contractual relationship.

IV. Time for Performance, Collection and Delivery

1. Collection or delivery appointments or deadlines which have not been expressly agreed to be binding are always non-binding representations. The period for collection specified by us only starts when all technical issues have been resolved. The Buyer must also comply with its obligations properly and in a timely manner.
2. If the underlying contract relates to a future transaction within the meaning of § 286 section 2 subsection 4 BGB (German Civil Code) or § 376 HGB (German Commercial Code) then our liability is regulated by the statutory provisions. This is also the case if the Buyer is entitled, as a result of a delay in delivery for which we are responsible, to exercise its right to waive the further fulfilment of the contract. In that case, our liability is limited to foreseeable, typically occurring losses unless the delivery delay arises out of a deliberate breach of contract for which we are responsible in which case our representatives' or agents' delays are to be attributed to us. In the same way, our liability to the Buyer is subject to the statutory provisions where a delay in delivery is caused by a deliberate or grossly negligent breach of contract for which we are responsible in which case our representatives' or agents' delays are to be attributed to us. If the delay does not arise out of a deliberate breach of contract for which we are responsible then our liability is limited to losses which typically arise and are foreseeable.
3. Where a delay in delivery for which we are responsible is caused by the culpable breach of a fundamental contractual obligation the defaults of our representatives or agents are to be attributable to us and our liability is in accordance with the statutory provisions, with the proviso that our liability is limited to losses which typically occur and are foreseeable.
4. In other cases of delay in delivery for which we are responsible the Buyer is entitled to demand compensation at a flat rate of 2% of the delivery value for each complete week's delay up to a maximum of 10% of the delivery value.
5. Liability for any delay in delivery for which we are responsible and which exceeds this amount is excluded. The Buyer's other statutory claims and rights, in addition to its claim for compensation in respect of a delivery delay for which we are responsible, are unaffected.
6. We are not responsible for delivery and service delays to binding, agreed delivery dates or deadlines if they by virtue of force majeure or events which make delivery significantly more difficult or impossible and which are not of a temporary nature (e.g. strikes, lock out, administrative decree etc.) even if these occur at our delivery agent. We can delay delivery for the duration of the event plus an appropriate lead-time or we may cancel the unperformed part of the contract. If the intervening event lasts for longer than four weeks and an appropriate new delivery deadline has been set the Buyer is thereafter entitled to cancel that part of the contract not yet performed. If the delivery period is extended or if we become able to deliver then the Buyer has no claim for compensation on that basis. We may only rely on these provisions where we have advised the Buyer of the intervening event without delay.
7. We are entitled to undertake partial delivery and partial performance at any time insofar as this is reasonable for the customer.
8. If the Buyer is in default of collection then we are entitled to compensation for losses and additional expenditure which may arise. The same entitlement

arises where the Buyer culpably breaches its obligation to cooperate. If the Buyer is in default of collection or payment then it bears the risk of potential damage or loss.

9. If notice to terminate the contract is given, on whatever ground, without us bearing responsibility then we have the right to claim a flat rate payment, or as the case may be, flat rate compensation for loss of 15% of the value of the agreed shipment at the time notice is given unless we or the Buyer can prove otherwise in the individual case. This also applies if we justifiably cancel the contract on the basis of fault on the Buyer's part.

V. Transfer of Risk

1. The collection of the goods and delivery are undertaken at our premises at the cost and risk of the Buyer.
2. If the collection of the goods is delayed at the request of the Buyer or by reason of its default then we will store the goods at the cost and risk of the Buyer. The invitation to collect the goods represents a collection deadline for the Buyer unless a contractual fixed date has already been specified. If collection is delayed by virtue of circumstances which do not lie within our sphere of risk then the delay in collection is attributable to the Buyer.

VI. Liability and Warranties

1. Claims by the Buyer for defects are only valid where the Buyer has properly complied with its obligation to examine and notify pursuant to § 377 HGB (German Commercial Code). Because of the particular qualities of our goods, especially of glass, we refer to the guidelines for the evaluation of the visual quality of the glass for the construction industry prepared by the Technical Committee of the Institute of Glaziers for Glazing Techniques and Window Construction, Hadamar and of the Technical Committee of the German Flat Glass Manufacturers Association Troisdorf, as at May 2009.
2. Manufacturing variations in respect of dimensions, content, thickness and weight which are within industry tolerances are permitted. Industry dimension tolerances also apply to cut blanks.
3. Interference phenomena, namely the appearance of spectral colours, can arise in insulating glass. They are brought about by particularly plain glass surfaces and do not constitute a defect.
4. When insulating glass is manufactured there is a balance between the pressure in the glazing unit and the external barometric pressure. This balance can be disturbed by temperature changes or changes to the external barometric pressure. This can result in concave or convex deflections in the individual panes of glass. This can distort the external reflection. This physically determined phenomenon is a particular quality of hermetically sealed glazing units and has absolutely nothing to do with the quality of the glass. As a result they can in no circumstances be the basis of a customer complaint.
5. The manufacture of tempered glass is by a thermal toughening process. The tension zones can be seen under polarized light. Because natural daylight contains differing levels of polarized light depending on weather and time of day, coloured rings or similar phenomena can become visible. They are not grounds for customer complaint.
6. Where there are justified complaints of defects, we are obliged to provide supplementary performance, where the Buyer does not cancel the contract or demand a reduction in the purchase price (Reduction), unless we are entitled by virtue of any statutory regulations to refuse supplementary performance. The Buyer must allow us an appropriate time period for performance. At our discretion, supplementary performance can constitute rectification of the

defect (rectification) or delivery of replacement goods. We will bear the necessary costs of rectifying the defect insofar as these are not increased by the fact that the contractual goods are at a location other than the place of performance. If supplementary performance fails then the Buyer can, at its discretion, demand a reduction in price (reduction) or can cancel the contract. Supplementary performance is deemed to have failed after the second failed attempt unless further attempts to rectify any defects are reasonable and appropriate by virtue of the nature of the contractual goods. The Buyer can only assert its claim for compensation for the defects under the following terms once supplementary performance has failed. Any claim for which the Buyer otherwise has to claim compensation are unaffected.

7. The Buyer's rights under any warranty expire one year after collection of the goods by the Buyer unless we have maliciously concealed the defect in which case the statutory rules apply. Our obligations under Section VI Number 4 and Section VI Number 5 are unaffected.
8. According to statute we are obliged to take back new goods or as the case may be reduce (reduction) the purchase price without the specification of a deadline which would otherwise be required if the Buyer's customer is the user of the new goods (sale of consumer goods) who could require the Buyer to take back the goods or to reduce (reduction) the purchase price because the goods are defective or where such a right to recourse is asserted against the Buyer. We are furthermore obliged to reimburse the expenses, in particular transport, infrastructure, work and materials costs the Buyer incurs because of its obligation to the end-user to engage in supplementary performance in respect of defects in goods which were pre-existing at the time the risk in respect of them was transferred from us to the Buyer. This obligation does not apply if the Buyer has failed to undertake the proper examination and notification requirements under § 377 HGB (German Commercial Code).
9. The obligation under Section VI Number 4 is excluded insofar as the defect relates to adverts or contractual arrangements which do not originate with us or where the Buyer has given the end-user a special guarantee. The obligation is also excluded if the Buyer was itself not obliged to exercise the warranty for the benefit of the end-user by virtue of the statutory rules or where the end-user has not undertaken the proper notification of complaints in respect of a claim which he has. The obligation is also excluded if the Buyer has given warranties to the end-user which exceed the statutory levels.
10. Notwithstanding the following limitations on liability, we are liable in accordance with the statutory provisions for injury to life, body and health caused by negligent or intentional breach of duty by us, our legal representatives or our agents, as well as for damage under the Product Liability Act. We are liable in accordance with the statutory provisions for damage not covered in clause 1 and which is caused by our legal representatives or agents' intentional, grossly negligent or malicious breach of contract. However, our liability to compensate is limited to the foreseeable and typically occurring losses insofar as we or our legal representatives or agents did not act intentionally. To the extent that we have given a guarantee of quality and durability in respect of the goods or parts thereof we are liable within the terms of that Guarantee. Where losses arise out of defects in quality or durability which are not immediately identifiable we are only liable if the risk of such damage is clearly covered by the quality and durability guarantee.
11. We are also liable for damage which we cause by merely negligent breach of contractual obligations the fulfilment of which are necessary for the proper performance of the contract and which the Buyer generally relies upon and is

entitled to do so. We are, however, only liable for damage which is foreseeable and typically linked with the contract.

12. Wider liability is excluded irrespective of the nature of the claim being made; in particular criminal offences or claims for compensation for wasted expenses incurred instead of delivery. Our liabilities under Section IV Number 2 to Section IV Number 5 of this contract are unaffected. Insofar as our liability is excluded or limited, then these exclusions and limitations also apply to our salaried employees, employees, associates, representatives and agents.
13. The Buyer's claims for damages in respect of defects expire one year after delivery of the goods. This does not apply in respect of damage to life, body or health for which we, our legal representatives or agents are responsible or if we or our legal representatives have acted with intent or gross negligence or if our agents have acted with intent.

VII. Retention of Title/Cancellation

1. Until the payment of all claims, including claims for payments from current account balances, which we have against the Buyer now or in the future, the goods (retention goods) remain our property. If the Buyer acts in breach of contract, for example payment default then after the expiry of an appropriate deadline set by us, we have the right to cancel the contract. In such a case the legal consequences set out in section IV No. 8 apply.
2. The Buyer must take care of the goods and must at its own cost provide sufficient insurance against fire and water damage as well as theft on a new-for-old basis. Maintenance and inspection works which become necessary are to be undertaken by the Buyer at its own cost and in good time.
3. The Buyer is entitled, to use the retained goods in the proper course of business as long as it is not in default of payment. The Buyer is not entitled to mortgage the goods or use them as security. Claims which arise out of the onward sale or some other legal basis (insurance, unlawful acts) in respect of the retained goods (including account balance and refinancing claims) are assigned to us in their entirety by the Buyer by way of security. We confirm our acceptance of the assignment. We revocably empower the Buyer to collect on its own account and in its own name the claims assigned to us. The power to collect can be revoked at any time if the Buyer does not properly comply with its payment obligations. The Buyer is not entitled to assign these claims by factoring even for the purposes of collecting them unless the factoring entity is, at the same time, placed under the obligation to provide counter-performance to us to the value of the claims as long as we still have claims against the Buyer.
4. In the event of third party access to the goods subject to retention of title, in particular distraint, the Buyer will give notification of our ownership and will immediately advise us so that we can assert our rights of ownership. Insofar as the third party is not in a position to reimburse our court and non-court costs which arise in these circumstances then the Buyer will bear them.
5. We are obliged, to release the securities held by us where the realizable value of our securities exceeds the value of our secured claims by more than 10%, although the choice of securities to be released is ours.

VIII. Further Terms

1. Requests by the entity which places the order for subsequent changes or cancellation of orders can be considered in exceptional circumstances and only where we have not yet begun the manufacture, cutting or processing of the goods.

2. Packaging details and the cost thereof are set out in pricelists and special agreements. The ownership of disposable packaging is transferred to the entity which places the order and cannot be returned. Reusable packaging will be charged for if not returned. The special terms of Flintermann Isolierglass apply to reusable racks.
3. Additional terms, including those of a technical nature, can be found in the price lists - in particular those relating to dimensions and methods of calculation, glass thickness, methods of calculating prices, case or package contents, packaging, shipping costs, deposits and so on. Insofar as no terms are included and there are no special agreements then the usual industry terms apply.

IX. Place of Performance, Jurisdiction and Applicable Law

1. Our registered office is the place of performance and of legal jurisdiction in respect of disputes over deliveries and payments (including check and exchange disputes) as well as all other disputes which arise between us and the Buyer out of the purchase agreement reached between us. We are, however, entitled to sue the Buyer in the jurisdiction in which it is resident or has its registered office.
2. The law governing the contract and the relationship between the contracting parties is the law of the Federal Republic of Germany. The application of UN Purchasing laws is excluded.
3. The language of the contract is German.
4. In cases of dispute between the parties the German version of the contract takes precedence.