

Sicherheitsglas Tauberbischofsheim

Gartenstraße 31  
97941 Tauberbischofsheim

Tel: 09341- 8589280

[info@sicherheitsglas-tbb.de](mailto:info@sicherheitsglas-tbb.de)

## **General Terms and Conditions of Business (GTC) - Status 01.07.2015**

### **1. Basis of the order**

(1) Our General Terms and Conditions of Business shall apply exclusively to all deliveries and other services, in the case of repeated conclusion of contracts even if a reference is no longer expressly made in individual cases.

(2) Deviating terms and conditions of business of our customers, unless confirmed by us in writing, shall not be binding, even if they have not been expressly contradicted in detail.

(3) Should individual clauses of our General Terms and Conditions be invalid, the validity of the remaining clauses shall remain unaffected. The invalid clause shall be replaced by a permissible provision which comes closest to the economic purpose of the invalid clause, if necessary the statutory provision.

(4) Additions or amendments to a contract must be made in writing; declarations by employees are only binding if they are confirmed in writing.

(5) The inclusion and interpretation of these General Terms and Conditions of Business, as well as the conclusion and interpretation of legal transactions with the customer itself, shall be governed exclusively by the law of the Federal Republic of Germany. The application of the Uniform Law on the Formation of Contracts for the International Sale of Goods, the Uniform Law on the International Sale of Goods and the UN Convention on Contracts for the International Sale of Goods are excluded.

### **2. Offer and Acceptance**

(1) Our offers are subject to change and non-binding. In the legal sense, they represent an invitation to submit a contract offer.

(2) The contract is concluded when we accept the customer's offer (order) in writing, otherwise by executing the contract or the order.

(3) The customer is obliged to check our declaration of acceptance/order confirmation without delay. If this is not done, only the declaration of acceptance/confirmation of order shall be decisive for the scope of the contractually owed performance.

(4) We shall endeavour to take into account possible subsequent change requests of the customer. However, there is no obligation to do so. If the execution of the order has already been started (e.g. through production planning, production and the like), such consideration is only possible by charging the additional costs.

### **3. Delivery and performance**

(1) The customer's wishes regarding the delivery date (cf. "desired date" on our order confirmations) will be taken into account as far as possible, but are not binding. An agreed delivery period shall not commence until we have received all necessary documents from the customer.

(2) Our deliveries are ex works or ex warehouse. In the case of delivery with our vehicles or those of the delivery plant, the handover shall be deemed to have taken place when the goods have been placed at the disposal of the recipient on the vehicle on a paved roadway in front of the delivery point. The unloading is to be arranged by the customer; the necessary unloading equipment or workers are to be provided by him.

(3) If the customer requests unloading and/or transport beyond the contractual agreements, this shall be at the exclusive risk of the customer. However, we shall be entitled to invoice any expenses incurred by us as a result.

(4) The risk shall pass to the customer when the goods are handed over to the carrier, irrespective of whether the goods were ordered by the customer, by the supplier or by us. This also applies to carriage paid deliveries. The unobjected acceptance of the consignment by the carrier shall be considered as proof of the faultless condition of the packaging and the proper loading. The customer reserves the right to prove that the packaging was defective when it was handed over to the carrier and/or that loading was not carried out properly.

(5) If the customer orders goods on call, these shall be manufactured on the agreed call date and invoiced at the same time. If the agreed call date does not correspond to the customer's actual delivery request, the due date shall nevertheless commence from the agreed call date.

(6) If a delay in delivery for which the customer is responsible makes it necessary to store the goods, storage shall be at the customer's risk. Storage costs of at least 10 euros/m<sup>2</sup>/month will be charged to the customer.

(7) Insofar as our delivery plants claim tolerances for the goods that are customary in the industry, in particular slight colour and structural deviations, these shall also apply to the contract with the customer.

(8) Claims for damages of any kind are excluded. This shall not apply if we have breached a material contractual obligation (cardinal obligation) or if we or our legal representatives or vicarious agents are guilty of intent or gross negligence; the exclusion of liability shall also not apply in the event of injury to life, limb or health or in the event of the assumption of a corresponding guarantee or in the event of an assurance of properties, insofar as it is precisely the subject of the guarantee or assurance that triggers our liability. In the event of our liability, compensation shall be limited to the foreseeable damage typical for the contract.

#### **4. Shipping**

(1) We are entitled to choose the packaging at our own discretion, taking into account transport and production aspects. At all times, the largest unit measure shall determine the packaging length.

(2) Packaging, insurance and other shipping costs are not included in the price and will be charged separately. If an insurance contract is concluded at the request of the customer, we shall only act as an intermediary for the customer.

(3) The packaging/loaned packaging remains our property, insofar as it is not disposable packaging. The customer is obliged to return it immediately. If the customer defaults on his obligation to return the packaging/loaned rack, we shall be entitled to demand compensation for the loss of use. If the packaging/loaned packaging is not returned despite the setting of a grace period, we shall be entitled to charge the customer for the replacement costs for the packaging/loaned packaging.

## 5. Warranty / Guarantee

(1) The customer is obliged to inspect the goods immediately for all deliveries, including partial deliveries. All defects, including shortages or incorrect deliveries, must be reported in writing within two weeks at the latest, but in any case before processing or installation. The further obligations according to § 377 HGB remain unaffected. In the event of installation with knowledge of the defect, the warranty claim shall expire, unless the customer has previously expressly reserved such claims, we have fraudulently concealed the defect upon delivery or have previously assumed a guarantee for the quality of the item.

(2) Deliveries which are the subject of a complaint must be returned for evaluation and investigation of the cause. If the goods are not returned, we shall not be entitled to acknowledge the complaint.

(3) We shall fulfil warranty claims by subsequent performance (replacement delivery or rectification) to the exclusion of any further claims. If the defect cannot be remedied within a reasonable period of time and if a replacement delivery is also refused, the customer may demand a reduction of the remuneration or withdraw from the contract. Claims for damages are subject to 3 (7).

(4) The assignment of warranty claims is only permissible and effective with our written consent.

(5) We guarantee our customers for a period of 5 years, calculated from the date of delivery, that the transparency of our insulating glass panes will not be impaired under normal conditions by the formation of condensation on the inner surfaces of the panes.

impaired. Failure to comply with the glazing guidelines will result in the loss of the warranty. Furthermore, the warranty for product-specific special appearances or peculiarities that could be interpreted as a defect is excluded.

(6) Reference is made here to the special notes in the product-specific price lists and product explanations. Details of this can be found under the information on the individual products, in the UNIGLAS "Glaskolleg - technical compendium" manual and on the UNIGLAS website "[www.uniglas.net](http://www.uniglas.net)".

(7) In the event of justified complaints, a replacement shall be delivered or an appropriate price reduction granted. We shall be entitled to make the replacement delivery dependent on the immediate surrender of the rejected goods. Replacement deliveries shall first be invoiced by us. We shall only issue the corresponding credit note once the complaint has been acknowledged by us. We expressly reserve the right to have the complained about panes inspected. If the subsequent delivery fails because it is impossible, refused or culpably delayed or fails at least twice, the right to cancel the contract or to reduce the remuneration shall revive. There shall be no further claims.

(8) The limitation period for warranty claims for our insulating glass panes begins with the discovery of the defect within the 5-year warranty period and ends 6 months thereafter. For replacement panes, the warranty ends with the end of the warranty of the originally delivered pane.

(9) Published functional data correspond to the respective valid standards and the measurement conditions specified therein. Deviations from the stated values are possible when installing the glass; this is based on the changed installation conditions, these cannot be the subject of a claim.

(10) Claims for damages are excluded unless the supplier can be held liable for intent or gross negligence (also of a legal representative or vicarious agent) or for the absence of warranted characteristics or for strict liability under the Product Liability Act for compensation of damage to health and private property. This exclusion of liability applies to claims for damages arising from subsequent impossibility, delay, positive breach of contract, culpa in contrahendo, warranty and tort.

(11) A warranty of quality is only given if it has been expressly given.

## **6. Right of withdrawal**

(1) We are entitled to withdraw from the contract if there is good cause. Such a reason exists in particular

a) In the event of lack or loss of creditworthiness or in the event of insolvency on the part of the customer, insofar as the customer does not effect performance or provide sufficient security within a grace period concurrently with our performance.

b) In the event of interruptions or disruptions of operations due to force majeure or other circumstances for which we are not responsible, such as war, riots, strikes, etc.

## **7. Remuneration / Prices**

(1) Unless otherwise agreed in writing, our invoices are due for payment immediately and without any deductions. Bills of exchange and cheques are only accepted on account of performance. Settlement by bill of exchange requires a separate prior written agreement with us. Discount charges, bill charges and other costs shall be borne by the customer.

(2) If no specific remuneration has been agreed, the remuneration generally demanded by us on the day of delivery shall apply. If a specific remuneration has been agreed, we shall be entitled to make a reasonable adjustment if the manufacturing costs, in particular wages and material prices, change after conclusion of the contract. If the price increase amounts to more than 10%, the customer shall have a right of withdrawal, which, however, must be exercised within two weeks of receipt of the notification of the increase in remuneration.

(3) The prices stated in the order confirmation shall apply plus the respective statutory value added tax or tax. If the delivery date envisaged in the order confirmation is exceeded for reasons for which the customer is responsible, the price may be adjusted accordingly in the event of a change in the cost factors.

(4) In the case of purchases at list prices, the prices valid on the day of delivery plus the respective statutory value added tax shall apply.

(5) We are permitted to provide partial performance insofar as acceptance of the same is reasonable for the customer. In this case, the customer shall then be obliged to make immediate payment for the partial performance rendered.

(6) The agreed remuneration and prices apply to the delivery of goods. If additional services, e.g. assembly, are agreed subsequently, we shall be entitled to change the prices. The provisions of the VOB apply to assembly services.

(7) The customer may only offset claims against us if his counterclaim is undisputed, legally established or recognised by us. The customer is entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

(8) Any agreed discounts shall be forfeited if other invoices due from us are still outstanding upon receipt of the invoice amount for which a discount has been granted. In the event of settlement by bill of exchange, no cash discount may be claimed under any circumstances.

(9) For the calculation of pane surfaces, width and height shall be rounded up to the full cm dimensions divisible by 3. Minimum calculation dimension per edge is 30 cm. In the case of panes which deviate from the right angle or which are to be cut according to the model, the smallest

circumscribed rectangle and the model surcharge of the respective price list shall be taken as a basis for the calculation, whereby here, too, rounding up to full cm measurements divisible by 3. We round up the unit prices shown in the invoice to one decimal place.

(10) Discounts shall always be granted only on the net amount, i.e. not on costs of delivery of goods, freight, insurance premiums and the like.

(11) Our employees are not entitled to accept payments without special written authorisation.

(12) If the customer defaults on agreed payments (including payments on account), we shall be entitled to claim damages for non-performance and/or to withdraw from the contract after the fruitless expiry of a reasonable grace period set by us, which shall, however, not exceed two weeks.

(13) We shall be entitled to charge interest on arrears at a rate of 8 percentage points above the base rate. This does not exclude the assertion of further damages or a higher interest rate.

## **8. Retention of title**

(1) We retain title to the delivered goods until full payment (clause 7 (1)) of all our claims against the customer. The inclusion of individual claims in a current account as well as the striking of a balance and the recognition thereof shall not affect the retention of title.

(2) The customer may combine or mix the deliveries subject to retention of title with goods that do not belong to us in the ordinary course of business. In this case we shall acquire co-ownership in the ratio of the value of our goods to those with which they are combined or mixed. Furthermore, the customer is entitled to process the goods to which we retain title within the scope of his ordinary business operations. This is then done on our behalf, so that we acquire co-ownership of the new item in the ratio of the value of our goods to the total value. In all these cases, the customer shall keep the ownership or co-ownership for us.

(3) The customer already now assigns to us the claims for remuneration against his buyer to which he is entitled from a resale of the goods to which we have title or co-ownership. We accept this assignment.

(4) The customer shall be entitled to demand the transfer of ownership or the reassignment of his claims for remuneration to himself in whole or in part if and to the extent that the value of the goods owned by us and the claims assigned to us exceed 120% of our outstanding claims in total. The selection of the goods to be assigned or the claims to be assigned shall be incumbent upon us.

(5) The customer is entitled on our behalf, revocable at any time, to collect the claims assigned to us. We are entitled to disclose our retention of title or other property as well as the advance assignment of the purchase price claims if there is a justified interest, in particular if the customer does not make payments in accordance with the contract or if he disposes of goods.

(6) In the event of seizure or other interventions by third parties, the customer must notify us immediately in writing - by fax, e-mail in advance - and hand over the necessary documents.

## **9. Place of performance, place of jurisdiction**

(1) The place of performance is the registered office of our company or our branch office.

(2) The place of jurisdiction shall be, at our discretion, our registered office or the registered office of our branch, provided that the customer is also a merchant. We are also entitled to sue the customer at other permissible places of jurisdiction.