

General Terms and Conditions of Business for our Deliveries and Services

§ 1 Validity of the General Terms and Conditions of Business

1. For the sale, for services agreed within the framework of the contract and for pre-contractual obligations, these General Terms and Conditions of Business shall apply exclusively in the entrepreneurial sphere, unless otherwise agreed.
2. Even if no reference is made to this in the future conclusion of similar contracts, these General Terms and Conditions of Business shall apply exclusively in the version that can be accessed at www.glas-nowak.de at the time the declaration is made, unless the contracting parties agree otherwise in writing.

These General Terms and Conditions of Business shall also apply if we are aware of any conflicting or deviating terms and conditions of the client and execute his order without reservation. The validity of the Terms and Conditions of Business does not extend to contracts, in which we act as client.

§ 2 Conclusion of contract

1. Our offers are subject to confirmation and are non-binding, unless the offer is specified as binding in writing. Supplements and amendments to the agreements made, including these General Terms and Conditions of Business, must be made in writing in order to be effective.

Information provided by us regarding the subject matter of the delivery or service (e.g. weights, dimensions, utility values, load-bearing tolerances and technical data) as well as our representations thereof (e.g. drawings and illustrations) are only approximate unless the applicability for the contractually intended purpose requires exact conformity. They are not guaranteed characteristics, but descriptions or markings of the delivery or service.

2. A legal obligation shall only arise from a contract signed by both parties or from our written order confirmation, and also from the commencement of performance once the order has been placed. We can demand written confirmations of verbal contract declarations by the client.

For orders placed by the client by means of remote data transmission, we assume that glass designs, ordered quantities, glass dimensions, glass thicknesses, etc. have been checked and approved by the client, so that this order can be directly incorporated into order processing. In the event that the client has to carry out a check between EDI orders and documents submitted in writing, the delivery date shall be delayed by the additional time required for the manual check in our company.

3. Guarantees from manufacturers are passed on without any obligation on our part.
4. We make every effort to take into account any subsequent changes made by the

client. If we have already commenced execution (e.g. by cutting the goods, processing, etc.), we shall be entitled to any additional costs incurred as a result.

5. For orders, performance characteristics and tolerances customary in the industry shall be deemed as agreed. Additional requirements must be defined by the client and confirmed by us in writing prior to the conclusion of the contract.

§ 3 Subject matter of the contract, scope of services

1. Prior to the conclusion of the contract, the client has checked that the specifications of the goods correspond to his wishes and needs. The client is aware of the essential functional features and conditions, properties and physical properties of glass and insulating glass, as well as the legal requirements resulting from standards and regulations.
2. Knowledge of the physical behaviour and properties of glass and insulated glazing is assumed. The following regulations apply according to the state of the art:
 - Technical guidelines and standards according to the state of the art
 - Tolerances manual
 - Guidelines and data sheets published at www.glas-nowak.de
 - Supplementary product specifications
3. The following guidelines apply as agreed for the assessment of the visual quality of our glasses:
 - Guideline for assessing the visual quality of glass for the construction industry
 - Guideline for the assessment of the visual quality of enamelled and screen-printed glasses
 - Data sheet for the visual assessment of rungs in SZR
 - VFF leaflet, colour uniformity of transparent glasses in the building industry
 - EN 1279 Part 1 Annexes F and G
4. Glass has its own colour, which becomes clearer with increasing glass thickness. In addition, specific, batch-related colour deviations are also possible. In the case of coated glass, different colour impressions can occur depending on the view through and/or on the surface. Colour deviations are possible and permissible as long as they comply with DIN EN 410 and other technical regulations.
5. The client specifies the glass thickness dimensioning. We determine glass thicknesses using computer-aided software. Our recommendations cannot replace an object-related, static calculation on the part of the client and do not release him from his obligation to inspect the glass thickness dimensioning specified by him under consideration of the relevant state of the art and the loads to be expected on site due to weather influences (e.g. wind or snow) or to have them statically calculated.
6. Glass panes which are entrusted to us for the purpose of contract tempering must comply with the technical properties of DIN EN 572 Part 1 and Part 2. The contractor shall not assume any guarantee for a damage-free result for the

client's own glass. Irrespective of the pre-stressing result, the agreed payment shall be due.

§ 4 Standards/functional data

1. Published data on functional glasses, e.g. thermal insulation (Ug value), solar control (g value), sound insulation (Rw-C and Ctr value), etc. are based on the valid standards and the framework conditions specified in the standards. During installation, the general conditions deviate from the standard conditions, e.g. due to different pane sizes, different pane structures, different temperatures, etc. Such a deviation is permissible and is not subject to warranty claims.
2. All technical data, explanations, regulations, technical guidelines and instructions issued and distributed by the manufacturers with regard to use and types of installation must be observed by the client. If these instructions are not observed, we shall not assume any liability.
3. Physical properties of our products are not subject to claims, e.g.:
 - Interference phenomena with insulated glazing
 - Reflection distortions
 - Double pane effect due to barometric pressure ratios
 - Condensation on the outer surfaces of insulated glazing
 - Moisture wettability of insulating glass
 - Anisotropies in toughened safety glass (ESG)
 - Rattling noises in rungs. Environmental influences as well as vibrations or manually excited oscillations can cause rattling noises in rungs.
4. In the case of toughened safety glass (ESG), spontaneous fractures may occur in individual cases.

We therefore recommend the use of tempered heat-soaked toughened safety glass, where the residual risk of such spontaneous fractures can be considerably reduced, but not completely excluded, by the additionally controlled and externally monitored hot storage according to the state of the art (heat-soak test). As this is not influenced by us, we exclude any such claims. Depending on the intended use, the use of other types of glass (e.g. laminated safety glass) may be advisable. It should be noted by the client that, depending on the use of the glass, tempered heat-soaked safety glass may be prescribed by law.

5. In the case of staged insulating glass in which the outer pane is coated towards the space between the panes, the surface of the glass overhang is not decoated. Discolouration occurs at this point and the metal oxide layer separates from the glass. This is no cause for complaint.
6. In the manufacture of insulating glass units, we are free to decide which spacer to use, unless the client expressly prescribes the design of a defined spacer when placing the order.

§ 5 Prices and payment

1. The prices shall apply to the scope of services and deliveries specified in the order confirmations/contracts. Additional or special services shall be invoiced separately. Prices are quoted in Euro ex works plus packaging, statutory value-added tax, customs duties in the case of export deliveries, as well as fees and other public charges.

The calculation of the pane surface is product-specific in accordance with our valid price list.

2. Insofar as the agreed prices are based on our list prices and delivery is to take place more than four months after conclusion of the contract, our list prices valid at the time of delivery shall apply.
3. Invoiced amounts are to be paid within 30 days without any deduction, unless otherwise agreed in writing. Payments by means of checks and bill of exchange procedure always require a special agreement; they are made on account of performance.

We are entitled to request partial payments to a reasonable extent.

If the client does not make payment when due, the outstanding amounts shall be subject to interest of 9% from the due date; the assertion of higher interest rates and further damages in the event of default shall remain unaffected.

Furthermore, we shall be permitted to render partial services insofar as the acceptance of the same is reasonable for the client. In this case, the client shall be obliged to immediately pay for the partial performance rendered.. Payments shall always be used to settle the oldest due debt item plus interest accrued thereon. Discounts shall not be granted if the client is in arrears with the payment of earlier deliveries.

4. Offsetting against counterclaims of the client or the withholding of payments due to such claims is only permissible if the counterclaims are undisputed or have been legally established or result from the same order under which the relevant delivery was made.
5. We shall be entitled to execute or render outstanding deliveries or services only against advance payment or provision of security if, after conclusion of the contract, we become aware of circumstances which are likely to significantly reduce the creditworthiness of the client and which endanger the payment of outstanding claims by the client arising from the respective contractual relationship.
6. Discounts are granted - by agreement - only on the net amount, i.e. in particular not on costs, freight, etc.

§ 6 Delivery and delivery time

1. Deliveries are effected ex works.
2. Periods and dates for deliveries and services promised by us are always only approximate, unless a fixed period or date has been expressly promised or agreed. Insofar as shipment has been agreed,

delivery periods and delivery dates refer to the time of handover to the forwarding agent, carrier or other third party commissioned with the transport.

3. Irrespective of our rights arising from the client's default, we can demand from the client an extension of delivery and performance obligations or a postponement of delivery and performance dates by the time at which the client does not fulfil his contractual obligations towards us, e.g. the documents (drawings, dimensions, templates etc.) to be provided by the client for the fulfilment have not been submitted to us.
4. We shall not assume liability for any impossibility of performance or delivery or for delays in performance, if these are caused by force majeure or other events not foreseeable at the time of conclusion of the contract (e.g. any operational disruptions of any kind, difficulties in procuring materials and energy, transport delays, strikes, lawful lockouts, lack of manpower, energy or raw materials, difficulties in procuring the necessary official permits, official measures or the failure of suppliers to deliver incorrectly or on time). Insofar as such events make the delivery or service for us considerably more difficult or impossible and the hindrance is not only of a temporary nature, we shall be entitled to withdraw from the contract. In the event of hindrances of a temporary nature, the delivery or performance periods shall be extended or the delivery or performance dates postponed by the period of the hindrance plus a reasonable start-up period.

We shall notify the client of such circumstances without delay.

If the client cannot reasonably be expected to accept the delivery or service as a result of the delay, he may withdraw from the contract by immediate written declaration to us.

5. We shall be entitled to make partial deliveries if
 - the partial delivery can be used by the client within the scope of the contractual purpose,
 - the delivery of the remaining ordered goods is ensured and
 - no considerable additional expenditure and additional costs arise for the client as a result of this.
6. If we are in default with the delivery or service or if a delivery or service becomes impossible for whatever reason, our liability shall be limited to damages in accordance with § 10 of these General Terms and Conditions of Business.
7. Compliance with the delivery obligation presupposes the timely fulfilment of the client's obligations to cooperate. An agreed delivery period shall not commence until all necessary documents (drawings, dimensions, templates, etc.) have been received. If agreed, advance payments can also be made as a prerequisite for execution.
8. In the event of slight negligence, the client's claim to compensation for damage resulting from delayed delivery (§ 280 para. 1, para. 2 BGB in conjunction with § 286 BGB (German Civil Code)) is limited to a maximum of 5% of the agreed net purchase price.

§ 7 Place of performance, dispatch, packaging, transfer of risk, acceptance

1. The place of performance for all obligations arising from the contractual relationship shall be our registered office, unless otherwise agreed.

If dispatch or handover is delayed due to circumstances for which the client is responsible, the risk shall pass to the client from the day on which the delivery item is ready for dispatch and we have notified the client accordingly.

2. If the transport is carried out with our own vehicle or with the contractor's truck, the goods shall be handed over at the latest, and as soon as they are available to the client on the vehicle in front of the delivery point - provided there is a paved access road. If, in the supplier's opinion, the access road is not passable, the handover shall take place where the vehicle is guaranteed to arrive or depart in perfect condition.
3. Unloading is the sole responsibility of the client, who must ensure suitable unloading equipment and provide the necessary manpower. Waiting times are calculated. If the client demands assistance during unloading (including unloading of equipment), further transport or deployment, this expenditure will be invoiced additionally. Any cooperation in this type of work, however, does not imply the assumption of any additional liability or assumption of risk. The risk of breakage is borne by the client who is responsible for the glass at the time of breakage. In particular, when the panes are delivered to racks at the construction site, it is expressly pointed out that the delivered goods must be protected from direct sunlight or other meteorological adversities.
4. We shall only insure the consignment against theft, breakage, transport, fire and water damage or other insurable risks at the express request of the client and at the client's expense.
5. Packaging is not carried out item by item, but exclusively according to production-technical aspects. The packaging is always determined by the larger dimension of the unit.
6. If the goods are stored by us due to default of acceptance, the risk of deterioration and/or loss of the goods shall pass to the client. Storage costs after transfer of risk shall be borne by the client.
7. The return of models and samples and the determination of the order parameters on the basis of a given model/sample are subject to charges. Expenses for the evaluation of the digital material provided shall also be charged. No warranty shall be assumed for the client's glass provided for processing.

The client shall ensure that the glass provided to us for processing complies with the DIN EN 572 standard. For supplied products which are combined with materials used by us to form a unit, we only assume warranty to the extent that our share of the unit corresponds. We expressly assume no warranty for physical properties in connection with products supplied by third parties which we combine to form a unit.

8. Deliveries below the minimum order value shall be subject to a surcharge on the minimum order value.
9. To the extent that acceptance is to take place, the item shall be deemed accepted if
 - delivery has been completed,
 - we have requested the client to accept the goods,
 - five working days have elapsed since delivery or the client has begun to make use of the purchased item,
 - the client has omitted acceptance within this period for a reason other than a defect notified by us which makes the use of the goods impossible or substantially impairs them.

§ 8 8 Right of withdrawal

We are entitled to withdraw from the contract if there is an important reason. An important reason is in particular, the absence or loss of creditworthiness or solvency of the client. Furthermore, operational disruptions due to force majeure or other obstacles for which we are not responsible, such as riots, strikes, lockouts or fires, are to be regarded as important reasons.

§ 9 Retention of title

1. We reserve title to the goods until the purchase price has been paid in full. In the case of goods which the client purchases from us within the framework of an ongoing business relationship, we reserve the right of ownership until all our claims arising from the business relationship – including claims arising in the future – from contracts concluded simultaneously or later have been settled. This shall also apply if individual claims or all of our claims have been included in a current account and the balance has been drawn and acknowledged.
2. In the event of a breach of contract on the part of the client - in particular default in payment - we shall be entitled to enter the client's premises and repossess the goods or label them for this purpose.
3. Any processing of the goods shall be carried out by the client on our behalf without any obligations arising for us thereof. If the goods are processed or combined with other items not belonging to us, we shall acquire a share in the new item in the ratio of the invoice value of the reserved goods to the other items at the time of processing. If the client acquires sole ownership pursuant to § 947 para. 2 BGB (German Civil Code), the contracting parties agree that the relationship described above grants us co-ownership of the new item. The new object, which the client stores for us free of charge, represents reserved goods within the meaning of this provision.
4. The client may only sell the reserved goods in the ordinary course of business under his normal terms and conditions. He is only entitled and authorised to resell the reserved goods subject to the provision that the claims arising from the resale are transferred to us in accordance with the following paragraphs. The client is not entitled to dispose of the reserved goods in any other way. The client's claim arising from the resale of the reserved goods shall be excluded.

Reserved goods are already now assigned to us with all ancillary rights, irrespective of whether the reserved goods are sold without or after processing, mixing or combining or whether they are sold to one or more customers.

5. In the event that the reserved goods are sold by the client together with other goods which do not belong to us, the assignment of the claim with all rights arising from the resale shall only apply to the amount of the invoice value of the reserved goods sold each time. If the reserved goods are resold, the assignment shall only apply to the amount of our co-ownership share in the sold item or the sold stock. If the reserved goods are used by the client to fulfil a contract for work - or a contract for work and materials – the claim from the contract for work and materials or the contract for work and materials shall be assigned to us in advance to the same extent as it is determined in the aforementioned paragraphs. We accept this assignment.
6. The client shall be entitled to collect claims from the resale by us until the revocation currently permitted by us; we shall only make use of the right of revocation in the event of default in payment. The client is under no circumstances entitled to assign the claim. We are entitled to require the client to inform his customers of the assignment to us, unless we do so ourselves. The client must provide us with the information and documents required for collection, which may include the names and addresses of debtors and construction sites.
7. Seizure or transfer by way of security of the reserved goods is prohibited.

The client must inform us immediately of any seizure or other impairments by third parties. Our ownership must be made known to third parties. If the realisable value of the security existing for us exceeds the claims by more than 20% in total, we shall release the excess security at the client's request.

§ 10 Warranty, material defects

1. The warranty period shall be one year from delivery or, if acceptance is required, from acceptance. This period does not apply to claims for damages by the client arising from injury to life, body or health or from intentional or grossly negligent breaches of duty by us or our vicarious agents, which in each case become statute-barred in accordance with the statutory provisions.
2. The delivered items must be carefully examined immediately after delivery to the client or to the third party designated by the client in accordance with the obligations of § 377 HGB (German Commercial Code). All obvious and/or recognised defects must be notified in writing within one week of delivery at the latest, but in any case before processing or installation. With regard to other defects, the delivery items shall be deemed to have been approved by the client if the notice of defect does not reach us within one week of the time at which the defect became apparent.
3. If a defect was not detected prior to assembly and this defective item was installed nevertheless, the necessary expenses for the removal of the defective item can only be reimbursed if we have been informed by our client prior to this removal of the

defect.

4. At our request, a rejected delivery item shall be returned to us carriage paid. In the event of a justified complaint, we shall reimburse the costs of the most favourable delivery route; this shall not apply if the costs increase because the delivery item is located at a location other than the location of the agreed delivery or delivery note of the client.

If a defect is established, the client may not dispose of the delivery items, install or modify them. In the event of installation/further use with knowledge of the defect, all warranty and recourse claims shall become void. Any defects on glass panes which have already been installed by an end customer shall be assessed by the client on site. The "Guideline for the Evaluation of the Visual Quality of Glass for the Building Industry" as well as the Annexes F and G of DIN EN ISO 1279 are available to him as aids. Should we nevertheless be called by the client to an on-site appointment, we reserve the right to invoice the client for the costs incurred by us, depending on the result of the assessment.

5. The warranty does not apply if the client changes the delivery item or has it changed by a third party without our consent and the rectification of the defect is made impossible or unreasonably difficult here. In any case, the client must then bear any additional costs incurred as a result of the change in the remedy of the defect.
6. Any delivery of used items agreed with the client in individual cases shall be made to the exclusion of any warranty for material defects.
7. Physical properties of our products are never subject to claims. These include in particular the properties referred to under § 3 clauses 2, 4; § 4 clause 3. Nor shall we be liable for spontaneous breakage of the toughened safety glass in the sense of § 4 clause 4 and oxidation of the glass overhang in the case of staged insulating glass, as described under § 4 clause 5.
8. We may refuse to reimburse the costs of subsequent performance insofar as the costs of subsequent performance are disproportionate according to the individual circumstances. The costs of subsequent performance shall be disproportionate, in particular, if the costs of subsequent performance are inappropriate in comparison with the value of the goods in a defect-free condition or in comparison with the significance of the defect.
9. The final decision as to whether the defect announced by the client is in fact a justified complaint shall be made at the contractor's works following the return of the goods.

§ 11 Liability/cooperation obligations of the client

1. The client must agree with the end customer/consumer the respective applicable "Guidelines for the Assessment of the Visual Quality of Glass for the Building Industry" and/or of enamelled and screen-printed glass in order to obtain a consistency of the assessment criteria in the event of an error assessment by an expert – as long as no generally binding DIN or EN standard has been adopted. Defect assessments that do not meet these criteria cannot be taken into account.

2. The expenses required for subsequent performance, in particular transport, travel, labour and material costs, shall not be borne by us insofar as they are based on the fact that the purchased item was taken to a location other than the recipient's branch office after delivery.
3. We shall assume no liability for damage attributable to improper glazing (§ 5), assembly and/or processing/repair, in particular not for wear and tear due to the intended use.
4. We shall assume no liability for the glass thicknesses and structures specified by the client which lie outside our recommended manufacturing tolerances or do not comply with normative/static specifications. The client must provide the object-related static calculations (§ 3 clause 5)..

§ 12 General limitation of liability

1. Claims for damages and reimbursement of expenses on the part of the client (hereinafter: claims for damages), irrespective of the legal basis, in particular due to the violation of obligations arising from a contractual obligation and from tortious acts, is limited in accordance with this § 12, insofar as this is a matter of fault.
2. Insofar as we are liable for damages on the merits pursuant to § 8 (1), this liability shall be limited to damages which we foresaw at the time of conclusion of the contract as a possible consequence of a breach of contract or which we should have foreseen if we had exercised due care. Indirect damage and consequential damage resulting from defects in the delivery item shall also only be eligible for compensation if such damage is typically to be expected when the delivery item is used as intended.
3. We shall not assume liability in the event of simple negligence on the part of our executive bodies, legal representatives, employees or other vicarious agents, provided that this is not a violation of essential contractual obligations. Essential contractual obligations are the obligations to deliver the delivery item on time, its freedom from defects of title as well as such material defects which impair its functionality or fitness for use to a significant extent, as well as obligations to provide advice, protection and care, which are intended to enable the client to use the delivery item in accordance with the contract or are intended to protect the life and limb of the client's personnel or to protect the client's property from any damage.
4. The above exclusions and limitations of liability shall apply to the same extent in favour of the organs, legal representatives, employees or other vicarious agents.
5. Insofar as we provide technical information or act in an advisory capacity and such future information or advice is not part of the contractually agreed scope of services owed by us, this shall be free of charge and to the exclusion of any liability.
6. The limitations of § 12 do not apply to liability for intentional conduct, for guaranteed characteristics, for injury to life, body or health or in accordance with the Product Liability Act.

§ 13 Shipment on transport racks – disposable packaging

1. The delivery of glass generally takes place on transport racks. The further transport of our glass on our racks, the transport of the client's own products on our racks, the manipulation and craning of our racks on construction sites as well as the passing on of our racks to third parties is forbidden. The client is obligated to record the racks, to keep a record of their whereabouts and to return them to us. Returns can only be made during business hours. The disposable packaging to be returned must be clean, free of foreign matter and sorted according to the different types of packaging. Otherwise we shall be entitled to demand the additional costs incurred for disposal.
2. The return of our reusable racks is subject to the Nowak Glas [Special conditions for reusable means of transport](#).

§ 14 Data Protection

The client acknowledges that the personal data obtained within the scope of the business relationship will be processed in accordance with the provisions of the General Data Protection Regulation (GDPR) and the Federal Data Protection Act (Bundesdatenschutzgesetz n.F.) process. The details are described in the data protection information.

§ 15 Place of performance and jurisdiction

The place of performance and exclusive place of jurisdiction for deliveries and payments (including actions on cheques and bills of exchange) as well as all disputes arising thereof shall be the registered office of our company ((in Bochum/LG Bochum, Wesel/LG Duisburg, Marl/LG Essen) insofar as the client is a merchant, a legal entity under public law or a special fund under public law. However, we are entitled to institute legal proceedings against the client at his place of jurisdiction.

§ 16 Contract language

The language of negotiation and contract for our plants in Bochum is German. For our plants in Wesel and Marl, the language of negotiation and contract is German or Dutch. This also means that the contract will be executed verbally and in writing in German/Dutch.

§ 17 Applicable law

The relations between the contracting parties are subject exclusively to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods dated 11.04.1980 (CISG) shall not apply.

§ 18 Severability clause

1. Insofar as these contractual conditions do not contain any provisions, the statutory provisions shall

apply. Unless the contracting parties have expressly agreed otherwise in writing.

2. Should one or more provisions of these terms and conditions be invalid or unenforceable, this shall not affect the validity of the remaining provisions. Instead of the ineffective/unfeasible provisions, an effective provision shall be deemed agreed which comes closest to the economic intent of the contracting parties. The same shall apply in the event of any loopholes.

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