

Article 1 Applicability of these general terms and conditions

1. These terms and conditions apply to all offers and agreements or the implementation thereof and all other legal transactions ("transactions") between the Contractor and its Client, unless otherwise unambiguously agreed upon in writing.
2. These terms and conditions always prevail over the Client's applied conditions.
3. The applicability of the Client's terms and conditions is hereby explicitly rejected by the Contractor, unless the Contractor has accepted the applicability thereof in writing and unambiguously.
4. Stipulations varying from these terms and conditions only apply, if in so far as confirmed in writing and unambiguously by the Contractor.
5. Any transaction between the Contractor and the Client regarding flat glass is also governed by the general terms and conditions established by the Dutch Glass Trade Organization, filed with the Registry of the District Court of Amsterdam under no. 26/2010. In the event of conflict, the Contractor's general terms and conditions will prevail and apply.
6. A Client that has once traded with the Contractor under these conditions is deemed to have agreed to the applicability of these conditions in the event of any subsequent transactions concluded between the parties.

Article 2 Offers

1. Offers, quotations, estimates, drawings, catalogues or other documents from the Contractor are always voluntary and free of obligation.
2. The Contractor has the right to refuse orders without stating reasons or cash on delivery.

Article 3 Agreement

1. Subject to the provisions set out below, an agreement is only concluded when the Contractor has accepted or confirmed the order in writing. The confirmation of the order is deemed to reflect the agreement fully and correctly, unless the Client has forthwith protested it in writing.
2. Additional arrangements or alterations are only binding if confirmed in writing by the Contractor to the Client. If deemed necessary by the Contractor, the delivery time can then reasonably be adjusted. Any additional costs related to paragraph 2 will be borne by the Client.
3. If a price has been agreed upon, the Contractor will be entitled to subsequently pass on any factors which increase prices, in particular by increasing the prices and wages, without that the Client will be entitled to dissolve the agreement.
4. In the event of transactions for which by their nature and size no offer or confirmation of the offer is being sent, the invoice is deemed to fully and correctly reflect the agreement, unless the Client has protested against it in writing within two working days.
5. If or after the agreement has been entered, the Contractor has the right, before continuing the performance, to claim as sufficient security from the Client that the latter fulfils all of its payment and other obligations.
6. The Contractor always has the right to call in third parties to the implementation of the agreement at its own discretion and need.

Article 4 Prices

1. Unless stated otherwise, the Contractor's prices are:
 - subject to alteration without notice;
 - based on delivery free domicile¹;
 - exclusive of Dutch VAT, energy surcharge, customs, other taxes, levies and rights;
 - inclusive of costs of non-durable packaging, loading and transport;
 - stated in Euro's, unless otherwise agreed upon in writing.
2. The contractor is entitled to charge interim price changes for assignments with a term of more than six months. Price changes are also possible where price-determining, foreseeable factors are concerned.

¹ Domicile in the broadest sense of word, including in particular but not limited thereto, the factory, workshop and building site.

Article 5 Transfer

1. As soon as the agreement has been concluded, the goods will be at the Client's risk. Delivery takes place to the domicile¹ of the Client, unless otherwise expressly agreed upon in writing.
2. The Client undertakes to check the goods at their receipt, packaging included, for any deficiency and/or damage, or to carry this check out immediately after the Contractor's announcement that the goods were made available to the Client at the Contractor's premises.
3. Any deficiency and/or damage to the goods and/or the packaging must be specified by the Client immediately on the delivery note and/or the invoice and/or the transport documents and/or otherwise, and must be reported in writing and unambiguously to the Contractor within 2 working days of the delivery of the goods or the goods having been made available to the Contractor, failing which the Client will be deemed to have approved of the goods, and the right to reclaim pursuant to article 10 will have lapsed for the Client.
4. The Contractor is always entitled to comply with part deliveries which the Client is obliged to settle after receipt of the invoice in question.

5. The Client may request, prior to or when granting the order, to be notified of the period within which the delivery takes place, which period is never a final deadline, always free of obligations and indicated approximately, unless otherwise expressly unambiguously agreed upon in writing.
6. If goods have not been purchased by the Client after the delivery time lapsed, the goods will be available at the Contractor's premises at the Client's account and risk.

Article 6 Transport and risk

1. The way of transport, dispatch, packaging and suchlike in the broadest sense of the word is determined by the Contractor with due care if no further written unambiguous instruction has been given by the Client to the Contractor. The Client bears the entire risk for the transport, unless otherwise expressly unambiguously agreed upon in writing.
2. Any other and/or specific wishes from the Client regarding the transport and/or dispatch are charged in full by the Contractor to the Client.
3. When using durable packaging material, including in particular but not limited thereto, glass racks, the Contractor charges a compensation to the Client and states this on the invoice. This compensation will be set off after the packaging materials have been returned to the Contractor undamaged. If the packaging material has been damaged, the compensation will not be set off but will accrue to the Contractor, notwithstanding the Contractor's right to claim full damage compensation regarding the packaging material.

Article 7 Force majeure

1. Force majeure means: circumstances that permanently or temporarily prevent performance of the agreement and that cannot reasonably be attributed to the contractor. This also includes: war, danger of war, civil war and riot, terror, epidemics, pandemic, severe storms or other severe weather conditions, fire and other malfunctions, strikes in other companies, wild or organized strikes in the company of the contractor, a general lack of required raw materials, unforeseeable stagnation at suppliers, general transport problems and government measures.
2. The contractor also has the right to invoke force majeure if the circumstance causing force majeure occurs after the contractor should have fulfilled his obligation.
3. In case of force majeure, the contractor has the right to suspend its obligation. If the prevention of fulfillment as a result of force majeure continues for more than one month, both parties are entitled to dissolve the agreement, without there being an obligation to pay compensation in that case.
4. If the contractor has already partially fulfilled his obligations upon commencement of the force majeure, the contractor is entitled to a proportional part of the determined price on the basis of the work already performed and the costs incurred. This does not apply if this part of the agreement has no independent value.

Article 8 Intellectual properties

1. The Contractor retains the rights, defenses and powers that accrue to it under the Copyright Act and other intellectual laws and regulations.
2. The Contractor has to right to use the increased knowledge on the Contractor's part by the implementation of the agreement for other purposes as well, to the extent that no strictly confidential information of the Client is being brought to the knowledge of third parties.
3. The Client always guarantees the Contractor that the use of data granted by the Client or otherwise, will not result in the Contractor acting in violation of statutory prescriptions or protected rights of third parties.
4. The Client will fully indemnify the Contractor against any direct and indirect consequences of liability that third parties could enforce against the Contractor under the violation of the guarantee mentioned in paragraph 3.
5. Any drawings, templates, litho, designs, drafts, models, estimates, catalogues and suchlike, made by or on behalf of the Contractor, will always remain the Contractor's property and must be returned at the Contractor's first request. Without the Contractor's written consent, they may neither be reproduced nor made available for inspection to third parties.

Article 9 Liability

1. The Contractor will not be liable for damage of whatever nature, except in the case of intent or willful recklessness of the persons charged with the management of Contractor's business.
2. Any liability of the Contractor is limited to the amount paid out under the professional liability insurance in the matter concerned, plus the amount of the deductible which under the policy conditions is borne by the insured party.
3. If the liability insurance does not offer any coverage, the above liability will be limited up to the maximum of the sum of the net (invoice) amounts settled or due by the Client to the Contractor in respect of the order.
4. The Client will indemnify the Contractor against all claims of third parties which, by any means, are related to the work rendered for the Client and legal or other (advice) costs incurred with such claims, unless the said claims are the result of intention or willful recklessness on the part of the persons charged with the management of Contractor's business.

Article 10 Complaints

1. Complaints about the goods delivered and/or services rendered by Contractor and/or services and/or invoices must be made to the Contractor in writing and stating reasons within due time, anyhow within 2 working days, at the risk of forfeiting all claims.
2. This term begins to run from the moment that the goods have been delivered, the services or work completed or from the invoice date.
3. After the term referred to in paragraph 2 has lapsed, the Client will be deemed to have approved of the performance and/or invoice referred to in paragraph 1.
4. Complaints being considered well-founded do not give the Client a right to compensation. The Client is entitled to the fulfilment of the agreed performance.
5. The return of the delivered goods is only possible after prior written consent from the Contractor, under the conditions to be determined by the Contractor.
6. The Client is not entitled to complaints because of deviations, provided that these fall within the bounds of the Council Directive 89/106/EEC for flat glass, profiled glass and glass racks and the decisions arising therefrom of the European Commission.

Article 11 Retention of title

1. As long as no full payment or consideration has been received by the Contractor regarding the transaction, which also includes the Client's obligation to compensate the damage on account of breach of contract, the goods supplied to the Client, which include treated or pre-treated, processed and/or unprocessed materials and parts, will remain the property of the Contractor.
2. If the Client commits a breach of contract or gives the Contractor good reason to believe that the Client is going to commit a breach of contract, the Contractor will be entitled to repossess the goods supplied subject to retention of title. After the repossession, the Client will be credited for the market value which shall in no case exceed the initial transaction amount, decreased by the costs incurred for the repossession and by that what the Client still owes to the Contractor regarding the breach of contract.
3. The Contractor will further be entitled to repossess the goods supplied subject to retention of title if the Client has been wound up, has applied for or has been granted a moratorium has been declared insolvent or if protective measures or measures to enforce judgement have been taken against the Contractor.
4. As long as the ownership of the supplied goods has not passed on the Client, the latter is not allowed to deliver or pledge these goods or grant a third party any other right thereon, and also undertakes to notify the Contractor forthwith of any event that harms or may harm the Contractor in its interest as owner of these goods.

Article 12 Payment

1. For transactions based on a Proforma account, a minimum of 50% of the invoice amount must be credited to the Contractor's bank account no later than 5 days after the invoice date. The Contractor is only obliged to take the order into production after receipt of the agreed invoice amount. Payment based on a Proforma account is linked to Smart glass products with a high risk factor and a transformer or inverter such as Privacy Glass, Electrochromic glass, heatable glass, BIPV-PV glass.
2. In the case of transactions on account, the invoice amount must be credited to the Contractor's bank account no later than 30 days after the invoice date, unless the Contractor states a longer payment term on the invoice, without any discount or recourse to setoff.
3. If the invoice amount is credited to the Contractor's bank account within 10 days of the invoice date, the Client is entitled to a payment discount equal to 2% of the net amount (excluding VAT). This right to payment discount only exists if the Client has no other invoices open for more than 30 days.
4. The value date indicated on the Contractor's bank statements is deemed to be the time when the Contractor's bank account is credited.
5. If the Client has not or not timely or only partially fulfilled his payment obligation, or does not fulfill any other contractual or non-contractual obligation, fails to do so in time or is incomplete, his goods are seized. Suspension of payment or bankruptcy is filed, decease or is placed under guardianship, proceeds to strike or (partial) transfer of his company, including the contribution of his company to a company to be established or already existing or to change the objective of his company, Client of is deemed to be in default by operation of law and the amount owed to the Contractor without further notice or notice of default, regardless of previous term agreements with regard to the (payment) obligation, is immediately due and payable at an interest (on interest) of 1% per month, calculated from the invoice date, calculating part of a month for a whole month, over the amount owed by the Client to the Contractor. In that case, the Contractor has the right to suspend performance of the agreement as well as any other agreements or to dissolve any agreement with the Client, in whole or in part, at the Contractor's sole option, without any obligation to pay compensation to the Client.
6. If the Contractor terminates the agreement, the Contractor is entitled to compensation. The damage is set at least 30% of the invoice value of the performance performed or to be performed by the Contractor on the basis of the dissolved agreement, without prejudice to the authority to claim actual damage, if any, from the Client.
7. All (extra) judicial (collection) costs incurred by the Contractor to collect amounts owed by the Client will be borne by the Client. The extrajudicial costs are set at a minimum of 15% of the principal owed with a minimum of € 150.00 (excluding VAT), without prejudice to the Contractor's right to claim the actual costs if these are higher.

Article 13 **Applicable law**

1. Any transactions with the Contractor are subject to Dutch law.
2. The applicability of the Vienna Sales Convention is excluded, unless explicitly agreed otherwise in writing by the parties.

Article 14 **Disputes**

1. The court which has Jurisdiction according to the law or, at the Contractor's discretion, the court of Rotterdam has competence over any disputes that may arise in connection with transactions with the User.
2. The Contractor will always be free to have disputes settled by arbitration. The Client will be notified in writing and will then have 30 days to decide on the settlement of the dispute by the court.
3. In the event of a dispute settlement by arbitration, three arbiters will make an award based on reasonableness and fairness. The appointment of the arbiters will take place in such a way that either party appoints one arbiter, and the third arbiter will be appointed jointly by the two arbiters already appointed. The costs of the arbiters and their fees will be borne by the parties such as determined by the arbiters. In so far as this has not been explicitly provided otherwise above, the provisions of Book IV of the Dutch Code of Civil Procedure will apply.

Article 15 **Miscellaneous**

These terms and conditions have been drawn up in Dutch and English. In the event of any difference in substance or interpretation between the two texts, the Dutch text will be binding.