
GENERAL TERMS AND CONDITIONS OF DELIVERY AND PAYMENT

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A. General terms and conditions of delivery

1. Conclusion (conclusion of the agreement)

- 1.1. Our terms and conditions of delivery apply exclusively. We do not acknowledge conflicting terms and conditions of the customer or terms and conditions of the customer which deviate from our terms and conditions unless their validity has been explicitly approved by us in writing. Our terms and conditions of delivery shall continue to apply also if we unconditionally implement the delivery to the customer in knowledge of the conflicting or deviating terms and conditions of the customer. Our terms and conditions of delivery shall also apply to all future business transactions with the customer.
- 1.2. We reserve the right to adjust our prices accordingly if, after the conclusion of this agreement, there are any cost reductions or cost increments, in particular due to the conclusion of collective pay agreements or rise in the price of materials. Proof of these cost reductions or increments shall be furnished to the customer on request. Our offer is non-binding with regard to quantity, date of delivery, possibility to make delivery unless specified otherwise in the confirmation of the order. The order must always be regarded as an offer according to § 145 BGB (German Civil Code). We can accept it within four weeks.
- 1.3. The binding acceptance of an order shall take place in the form of a written confirmation of the order.
- 1.4. In case of special dispatches, we reserve the right to implement increased or reduced production to a reasonable extent if such a deviation cannot be avoided and the balance between performance and counter-performance is not disturbed by it.

2. Shipment and passing of the risk

- 2.1. The shipment shall take place ex works on account and risk of the customer unless agreed otherwise in writing; the latter is effective also if we preliminary assume the cost of shipment based on a collateral or special agreement. The risk of accidental loss, destruction or deterioration passes to the customer on transfer of the goods sold to the first carrier, latest on transfer of the goods to the customer or his authorized agent.
- 2.2. Packing material shall not be taken back unless agreed otherwise in writing. If the goods are delivered in railway or shipment containers, the containers must be returned to the forwarding agent within 48 hours after receipt. The shipper of the empty containers shall assume the charges for delay caused by him.
- 2.3. Concerning the packing material of the goods, the obligation of the recipient and customer to handle the packing material with care and the return of the lending rack or other reusable package the legal provisions shall apply. If not otherwise agreed the packing will not be returned. The customer has to provide adequate facilities for loading and unloading and to care for appropriate unloading staff.

3. Date of delivery and delivery commitments

- 3.1. We are entitled to part performance.
- 3.2. In case a date of delivery has been mentioned or stated, this date is without obligation and to be considered merely an approximate indication, except the transaction was agreed upon as a delivery by a fixed date.

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- 3.3. If delay is caused by us for reasons for which we are responsible, then no liability for compensation for damage shall be undertaken in case of ordinary negligence. Wrongful intention or gross negligence is not given if the delay in delivery is caused due to unforeseeable delay in receipt of materials or in production; the same applies to cases of force majeure. If, after a delay has already been caused by us, the customer grants us an appropriate grace period with a rejection warning, then he is entitled to withdraw from the agreement after the grace period expires without any success; the customer is entitled to compensation claims due to non-performance in the amount of the foreseeable damage only if the delay was caused due to wrongful intention or gross negligence; for the rest, the liability for damage is limited to 50 % of the damage that occurred, whereas the foregoing provisions do not apply for damages to life, body or health.
- 3.4. In case of industrial actions and all cases of force majeure, which interfere our capability to deliver, we are released from supply commitments. In case of subsequent impossibility of performance we are also released from any supply commitment. If the foregoing mentioned obstructions last more than 3 months, every party of the contract is enabled to withdraw from the non-performed contract without any liability for damages.
- 3.5. Notwithstanding other claims we are entitled to annul the contract in case there are reasonable doubts about the credit standing of the customer, especially if the customer is unable to fulfil a demand for payment after setting a time limit including the threat to refuse further performance, or in case of insolvency proceedings are applied for or the customer suspends payments.
- 3.6. The customer enters in default of acceptance and becomes liable for all our damages as soon as he does not accept delivery at all or not in time when tendered by us, or if he refrains from fulfilling his obligations to cooperate.
- 3.7. In case of delivery subject to recall is agreed upon, customer is obliged to recall delivery within an adequate period of time, latest 10 days after notice of readiness to deliver. If customer does not recall delivery at all, not in time or not complete, we are entitled to store the goods in a warehouse at his expense and risk. If customer does not recall delivery within an adequate period of time fixed by us as provided above – including a hint about the relevant legal consequences –, the goods are considered as being recalled and delivered. In this case customer is obliged to pay immediately.

4. Reservation of ownership

- 4.1. We reserve ownership rights to all goods delivered by us until such time as the customer has paid all claims resulting from the business relationship with us. If the customer violates the agreement, in particular if he defaults in payment, we are entitled to take back the goods delivered. Our taking back of the goods delivered shall not constitute a withdrawal from the agreement unless we explicitly declare the same in writing. The attachment of the goods delivered by us shall always constitute a withdrawal from the agreement.
- 4.2. Goods which are subject to reservation of ownership may be processed only within the ordinary course of business. If the goods are processed, the reservation of ownership shall also cover the new products which arise as a result of processing to which we shall acquire co-ownership in the proportional amount of the value of the goods delivered to the other objects which do not belong to us at the time of processing. For the rest, the same shall apply to the objects formed through processing as to the goods delivered which is delivered subject to reservation of ownership. If the goods delivered are inseparably mixed or combined with other objects which do not belong to us, then we shall acquire co-ownerships to the new

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object at the time of mixing in the proportionate amount of the value of the goods delivered to the other objects which are mixed with it. If this mixing takes place in such a way that the object of the customer must be regarded as the principal object, then it shall be deemed to be agreed that the customer shall transfer proportionate co-ownership to us. In order to secure our claim, the customer shall also assign his claims against third parties to us which accrue to him due to the combination of the goods delivered with a property.

- 4.3. The customer is entitled to resell the conditional commodity if this transaction occurs within the ordinary course of business. The customer assigns his claims against his purchaser or third parties arising on the basis of the resale of the conditional commodity now itself to us in the final amount of the invoice of our claim including value-added tax. In this context, it is irrelevant whether the conditional commodity has been resold without processing or after being processed. The customer continues to be entitled to collect the assigned claim. Our authority to collect the claim shall not be affected hereby. We are obliged not to collect the claim as long as the customer fulfils his payment obligations, is not delinquent in payment, expressly is not subject to any opening of bankruptcy proceedings or insolvency. If this is the case, we can demand that the customer discloses the assigned claims and their debtors to us, gives us all information required for collection, hands over the related documents to us and informs the debtors about the assignment. We are obliged to release the securities to which we are entitled on request of the customer in as far as the realisable value of our securities exceeds the claims to be secured by more than 20 %. The choice of the securities to be released lies with us.

5. Failure of the customer to fulfil his obligations properly and consolidation of the compensation for damage into a lump-sum

- 5.1. If certain information or other circumstances jeopardise(s) our contractually stipulated claims, then we shall be entitled to demand provision of an appropriate security.
- 5.2. If we are entitled to a compensation claim against the customer due to non-performance or his failure to fulfil his obligations properly, then we are authorised to demand compensation in the amount of 15 % of the purchase price, also if we do not furnish proof of a corresponding damage, if the customer does not prove that the damage was lower. This provision does not constitute a contractual penalty.

B. Terms and conditions of payment

6. Maturity

- 6.1. The invoices shall be due and payable 30 days after the date of invoice unless agreed otherwise in writing. As far as complaints for defects are lodged, this shall not affect the maturity of the amount of invoice apportioned to that part of the delivery which does not have any defects.

7. Payment

- 7.1. All invoices must be paid within 30 days after the date of invoice with the net amount of the invoice unless agreed otherwise in writing.
- 7.2. All payments shall be first set off against interest and costs and then against the oldest claims.

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8. Bills of exchange and cheques

- 8.1. If bills or exchange and cheques are accepted, the discount charges which arise shall be charged and will be due immediately. The amount of invoice shall be considered paid only when the bill of exchange or cheque has been honoured.

9. Consequences of default in payment

- 9.1. If the customer defaults in payment, default interest in the amount of the usual bank gross interest rate for loans, at least 5 % above the basic interest rate p.a., shall be charged. If we can furnish proof of a higher damage caused by default, we are entitled to assert it. However, the customer is entitled to prove to us that no damage or a significantly lower damage occurred to us as a result of the default in payment.
- 9.2. If there is default in payment or if a bill of exchange or cheque is not honoured duly, all other claims, including all existing bill-based or cheque-based claims, shall become due immediately.

10. Offset

- 10.1. The customer shall be entitled to offsetting rights only if his counterclaims have been judged as final and conclusive or acknowledged by us in writing. The customer is authorised to exercise a right of retention in as far as his counterclaim results from the same contractual relationship.

C. Warranty

11. Complaints concerning apparent defects shall be taken into consideration only if they are lodged with us in writing within eight days after receipt of the goods. The time at which the complaint is sent off shall be relevant. A complaint about patent defects cannot be lodged after the processing of the goods has been started unless the inspection of the goods which must be carried out immediately inevitably includes processing.
12. The warranty for defects is excluded if the complaint is related to an insignificant reduction of value or fitness for use of the delivered goods. In the event of partial performance, the customer remains liable for payment of the purchase price for the part that is not faulty.
13. Insofar as we are responsible for a defect in or on the goods delivered, we will be entitled to repair or redeliver, at the discretion of the customer. If we are unwilling or unable to comply with the customer's choice of redress, for example on the grounds of high cost, we can refuse such redress and refer, the customer will be entitled to withdraw from the contract and demand reversal of the contract.
14. Unless specified otherwise in the following, the customer does not have any further claims – irrespective of the legal basis. Therefore, we are not liable for any damage which is not caused to the object of delivery itself; in particular, we are not liable for lost profits or any other damage to the property of the customer. This exemption from liability shall not be valid in as far as the damage is caused as a result of wrongful or gross negligence. Furthermore, it shall not be valid if the customer asserts compensation claims for non-performance due to the absence of a warranted quality.
15. The limitation period for asserting guarantee claims starts on the date of risk transfer or the date of delivery of the goods and runs for a period of twelve months.

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D. Data protection

16. We are entitled to store or process the data of our customers in accordance with the German Bundesdatenschutzgesetz (Federal Data Protection Act of Germany) within the scope of the specification of purpose of the contractual relationship.

E. Place of performance, jurisdictional venue, applicable law and partial nullity

17. The law of the Federal Republic of Germany governs these general terms and conditions and all legal relationships between glas platz gmbh & co. kg and the customer. German International Private Law and the UN Law on Sales shall not be applicable to any legal relationships based on these general terms and conditions. Exclusive jurisdictional venue for any legal action based on the contract with customer shall be Cologne, in so far as it does not conflict with any legal provisions to the contrary. We are entitled to take legal action against customer at his legal venue as well. If a provision of these general terms and conditions of delivery and payment or a provision related to other agreements is or becomes legally invalid, then the legal validity of all remaining provisions or agreements shall not be affected thereby.