

Please note:

The following Terms of Delivery and Payment have been translated from German into English for information purposes. Only the Germany version is legally effective.

General Terms of Delivery and Payment

1. **Offers:**

All offers are subject to confirmation and not binding.

2. **Order bases:**

All orders, agreements and offers are based on our General Terms of Delivery and Payment; they are accepted by written placing of an order or acceptance of the delivery.

Unless the contract parties have expressly agreed otherwise in writing, our General Terms of Delivery and Payment shall apply.

Fax messages take effect only after written or fax confirmation on our part.

Orders are considered as accepted only after our written confirmation.

In addition, our Glazing Guidelines in the last printed version are considered as agreed. The provision of the Austrian ÖNORM standards are the basis of our offers and apply to our deliveries and services.

3. **Contract conclusion:**

The contract is considered as concluded as soon as we have posted a written order acknowledgment after receipt of the order.

Modifications and supplements to the contract require our written confirmation to be valid. Terms and conditions of purchase of the customer (buyer) are only binding for us if expressly acknowledged by us in writing.

Our delivery note and/or invoice shall also be considered as order acknowledgment.

4. **Plans and documents:**

The information on dimensions, weight, colors, performance and the like included in our catalogs, brochures, circulars, illustrations, price lists, offers, etc. are only definitive if they are expressly referred to in the order acknowledgment.

If we produce items according to drawings approved by the customer, the drawing shall be considered as approved by the customer with their full content and in all details; and drawings made by us are definitive if they are not expressly objected by the customer. Subsequent changes may only be taken into account as far as possible, and against compensation of additional costs.

Plans, sketches and other technical documents as well as samples, catalogs, brochures, illustrations and the like remain our intellectual property at all times. Any exploitation, reproduction, distribution, publication and exhibition may only take place with our express approval.

5. **Delivery, shipment and packaging:**

Delivery is ex works or ex warehouse. Upon handover to the carrier, all kinds of risks, in particular also the risk of breakage, will pass to the customer. Upon delivery with our truck, handover is considered as completed at the latest when the goods are available on the receiver's premises or any other agreed place of delivery on the truck. It is the customer's sole responsibility and obligation to provide suitable unloading equipment, provide the necessary staff for unloading, and prepare and provide glass-specific storage spaces.

For all deliveries, the risk including the risk of breakage is passed to the customer upon handover of the goods, and the quality of goods, of the packaging, loading and storage is recognized as proper.

If on the customer's request an insurance is taken out, we only act as intermediary excluding any liability.

To the extent that the packaging, in particular the racks, are not or do not become the customer's property, such as for example in case of non-returnable packages, the customer shall keep them at his own risk for us. In case of delayed return, their value must be replaced.

Unless any other agreement has been made, for handover and takeover during assembly works it applies that the works are considered as handed over at the latest when the principal commissions or uses them or parts thereof. From this time, the principal shall bear particularly the risk of loss or damage to the works. We are entitled to request partial handover, in particular for glazing and facades. In such a case, defects must be reprimanded immediately, otherwise the works are considered as accepted free of defects. If any components produced by us are further processed, or components are assembled thereon, the principal shall reprimand any defects before processing or assembly, otherwise he has forfeited his right to claim those defects. This must be arranged by a corresponding site supervision.

6. **Objections:**

Objections of any kind must be made in writing within one week after receipt of the goods. Our liability is limited only to a replacement delivery of the material supplied by us. Exceeding damages may only be claimed in case of gross negligence and intent. Objections do not release the principal from meeting the payment date. For double glazing, the manufacturer's warranty applies. Other claims are excluded. No liability is assumed for any material provided. This applies in particular for goods which we process (grind etc.) and also for pictures that we accept for framing or mounting. The dimensions are to be provided by the principal. If the dimensions have been recorded by our employees, our employees are acting as vicarious agents of the principal, so that dimensional measurements by our employees at the customer's order are always performed at the principal's risk. Any objections against goods subject to the ÖNORM standards are governed by the ÖNORM standards.

7. **Delivery time:**

In the absence of a deviating agreement, the delivery time starts at the latest on the date of order acknowledgment, the date of performance of all technical, commercial and financial requirements incumbent on the principal, the date on which we received a down payment to be made before delivery of the goods, and/or a letter of credit to be issued has been opened in our favor.

Our delivery times will be observed as far as possible. If delivery is delayed due to a circumstance occurred on our part, which represents a reason for relief within the meaning of sec. 7.1), the agreed delivery time will be extended accordingly, and the principal shall grant us an adequate grace period in writing.

If a grace period is not observed due to gross negligence that we may be charged with, the principal may withdraw from the contract for all goods not yet delivered by written notification which we receive within 8 days.

In this case, the principal is only entitled to refund of the payments made for the goods not yet delivered. By mutual consent it is possible to agree on partial withdrawal. Further claims are excluded.

7.1 The delivery time is reasonably extended:

- a) if we do not receive the information in time which we require for performance of the contract, or if they are subsequently modified by the principal, therefore causing a delay of the delivery or services.
- b) if obstacles occur which we cannot avert in spite of application of the necessary care, irrespective of whether they occur to us, to the principal or a third party. Such obstacles include, but are not limited to, epidemics, mobilization, war, riots, considerable business disruptions, accidents, labor conflicts, delayed or faulty delivery of the required raw materials, semi-finished or finished goods, reject of important components, official actions or omissions, acts of God;
- c) if technical problems inherent in the type of order occur, which render its performance impossible or unacceptable for us or our suppliers, or result in defects affecting the fitness for use;
- d) if the principal or third parties are in arrears with the works to be performed by them, or are in delay with the fulfillment of their contractual obligations, in particular if the principal does not meet his payment obligations.

7.2) In case of assembly works, the principal shall make all necessary provisions so that we may start and continue our works on site without disturbances and in a speedy manner (snow removal, etc.).

In particular a corresponding work space must be made available, enabling us to perform all necessary works on site. In addition, the principal must provide sufficient storage space for all materials to be delivered to the building site. For the erection of scaffolding, a level and solid ground must be provided by the principal. The construction site must further have an appropriate access way for trucks and cranes, and these vehicles must be able to move reasonably around the construction site. The principal must provide us with all work documentation, plans, calculations, etc. upon placement of the order and/or at the agreed date. The same applies for clarification of all technical details. If assembly works are not possible due to bad weather, the elapsed days are to be added to the agreed final date.

8. **Prices:**

Unless agreed otherwise, our prices are ex our works without packaging, excluding insurance and forwarding expenses. Our price calculation is based on the assumption that the items of our offer are not changed, that any necessary preliminary works have already been completed, and that we may perform our deliveries in one go without disturbance. Our offers are based on the customer's technical specification without knowing the local circumstances. Any fixed prices that we agree on are only binding if we may perform the deliveries and services at the date provided in the contract. If the respective deadlines are deferred without our fault, the increased material prices of our suppliers and any collective agreement wage increases that have occurred in the meantime may be passed on to the principal. If no delivery or service date has been established, we are only bound to the offer prices if we receive an order within three months after issue of the offer, which can subsequently be performed in an efficient manner.

9. **Payment:**

Payments are to be made in accordance with the agreed payment terms. Provided that no deviating payment dates / conditions have been agreed according to our written order acknowledgment, the invoice amount is to be settled without any deductions no later than 30 days after delivery has been performed. Discount deductions are only admissible after prior agreement. In case of payment by installments, any agreed discounts may only be deducted if all installments and also the final payment are made in full amount and in due time.

If liabilities from former deliveries exist, they are settled in the order of their occurrence. Any agreed discounts do not apply, unless any other due receivables are settled upon receipt of the invoice amount subject to discount at the latest.

If the customer's financial situation should materially deteriorate, or if the customer's payment date for previous deliveries and services is considerably exceeded, we are entitled to refuse our delivery and services until payment or provision of sufficient security. If our delivery has already been made, all of our receivables are immediately due for payment; this applies in particular in case of delayed payment, act of protest, refused check payment or in case of submission of a request for opening insolvency proceedings.

Bills of exchange are accepted only after prior agreement with the invoice date as date of issue, and only on account of performance, with discount and note charges being at the buyer's expense.

If any payment terms are not observed, it is agreed that all receivables of the supplier are immediately due for cash payment regardless to any accepted bills of exchange.

If the principal is in delay with an agreed service or payment, we may either insist on performance of the contract and delay performance of our obligations until settlement of the unsettled payments or other services, claim a reasonable extension of the delivery time, claim the full purchase price due, and charge default interest from the maturity date in the amount of 1.5% above the relevant Euribor percentage.

If the principal has not made the due payment or performed the due services in spite of granting a grace period of 14 days, we may declare withdrawal from the contract by written notification. At our request, the principal shall return any goods that have already been delivered and compensate us for a possible deterioration of the goods, as well as refund all expenses we have incurred for performance of the contract.

The principal is not entitled to set off any counterclaims from whatever title with our claims. Unsettled objections are no reason for deferred payment.

10. **Retention of title:**

We retain title to the goods delivered or produced by us until full settlement of all financial obligations of the customer. The principal must meet the necessary formal requirements to observe the retention of title. In case of pledging or other claims by third parties, the principal is obliged to point out our title and immediately notify us.

The principal is entitled in the regular course of business to resell and process the goods subject to retention of title. He has no right to make other dispositions, in particular pledging or transfer by way of security. Resale must only take place under retention of title, unless it takes place against immediate payment upon handover. In this case, our retention of title extends to the proceeds obtained for goods subject to retention of title.

The principal herewith assigns all claims to us that he is entitled to from his buyers from resale, including the securities issued for this purpose, and we accept this assignment. The principal shall bear the charges incurred in this regard.

We undertake not to recover the assigned claims, as long as the principal duly meets his payment obligations. At our request, the principal shall demonstrably inform his debtors on the assignment of a claim, and provide all information necessary for the recovery of his claim, and submit us the relating documents. The processing or alteration of goods subject to retention of title and their installation is always performed by the principal for us. If these goods are processed or inseparably linked with and/or installed in other items which are not our property, we acquire joint ownership in the new item in proportion of the value of our goods to the other item. If our goods are combined with other movable items into one uniform item, and this item is to be considered as the main item, it is agreed that the principal assigns joint ownership to us on a pro-rata basis, provided that he is the owner of the main item.

He shall keep the property or joint property for us.

11. **Warranty, liability:**

This applies only to defects occurred within a period of six months from the time of delivery and service.

The principal may only rely on this contract term if he immediately informs us in writing on the occurred defects. We undertake to remove the defects announced to us, to the extent that we are responsible for them, and at our option either to have the faulty goods or the faulty components sent to us for improvement, or replace the faulty goods or the faulty component. In any case, the principal shall grant us the option to remove existing defects. An entitlement for price reduction only exists if we refuse to remove the defect or do not remove the defect within a reasonable time.

Our warranty obligation applies only to defects occurring if the intended installation and operating conditions are complied with and under normal use. Our warranty obligation does not apply in particular if the defects result from:

a) non-observance of the glazing guidelines

b) faulty servicing

c) or subsequent improvement or repair performed without our consent and/or a modification not performed or agreed by us.

Glass breakage is excluded from warranty. (Please refer to our glazing guidelines.)

The provision of § 933b ABGB [Austrian Civil Code] does not apply.

To the extent that these General Terms of Delivery and Payment conflict with the provisions of §§ 922 to 933 ABGB, they do not apply for consumers. The statutory provisions prevail for consumers.

Warranty for double glazing: For a period of five years from the day of first delivery from our production facility, we warrant that the transparency of our double glazing panels is not affected by dust or film formation inside the panels under normal conditions. If such defects occur, we will make a free replacement delivery ex works. Other claims are excluded.

This warranty requires that our installation guidelines are exactly complied with and that no treatment or other modification of the panels whatsoever takes place, and that the glass system has not been damaged.

The principal has ensured professional installation by the processor in accordance with our glazing guidelines and considering the applicable Austrian ÖNORM standards, as well as professional maintenance and servicing of the frame and the sealing material.

All double glazing components which are installed in public transport or cooling systems are excluded from warranty.

The warranty claim is time-barred if it is not asserted within the five years' period, however six months after identification of the defect at the latest.

For such functional components of the goods which we have purchased from suppliers, we only assume liability within the scope of the warranty claims we are entitled to from the supplier. If we produce items according to drawings or samples or order information provided by the principal, our liability does not extend to the accuracy of construction design, but only to the execution being in line with the principal's instructions. In these cases, the principal shall indemnify us and hold us harmless from a possible infringement of industrial property rights of third parties.

For bodily injuries to a consumer, the seller is liable in accordance with the provisions of the Product Liability Act (Federal Gazette 1988/89). For property damages to a company, any liability is excluded. It is expressly agreed that liability for property damages due to a product defect is excluded for all companies involved in production and distribution.

We assume liability for damages outside the applicability of the Product Liability Act (Federal Gazette 1988/89) within the scope of statutory provisions, provided that we may be accused of intent or gross negligence. Liability for slight negligence is excluded, just as the replacement of consequential damages and financial losses, handling expenses, business disruptions, loss of production and contractual penalties.

Warranty claims may only be assigned and are only effective with our approval.

12. **Place of performance and place of jurisdiction, choice of law:**

Place of performance for all liabilities resulting from this contract – including liabilities on bills – is our place of business in A-6900 Bregenz. The regional court of Bregenz shall have exclusive jurisdiction for all disputes between the principal and us.

However, we expressly reserve the right at our option to prosecute the principal before the court having competence for his place of business. This legal relationship is exclusively governed by Austrian law.