

GENERAL CONDITIONS OF VAN HUËT GLASTransport B.V.

1. Applicability

1. These Conditions are applicable to all our offers, agreements and all contractual obligations resulting from them.
2. Deviations from these Conditions can only take place in writing and will then only be applicable with regard to the specific agreement to which the deviations relate.
3. These Conditions are applicable apart from any other conditions we declare applicable to the respective agreement. If a certain provision in these Conditions is inconsistent with a provision from the other conditions declared applicable by us to the respective agreement, the provision in these Conditions will be applicable unless explicitly otherwise provided for.

2. Offers, assignments

1. Our offers should be regarded as a whole and are valid for 30 days or so much longer or shorter as indicated therein, but they are always given without any obligation. An agreement will only be formed between the parties after we have confirmed the acceptance of the other party, or as the case may be when we are actually performing the agreement.
2. In the event of an assignment without any prior offer being submitted by us, an agreement will only be formed when we have confirmed the assignment within a fortnight after having received it or as the case may be we have actually started to perform the agreement.

3. Prices

1. All prices are for delivery ex works and are excluding V.A.T.. They are based on any price determining factors applicable at the time of the offer.
2. We are entitled to increase the prices specified, or as the case may be agreed, on the basis of a rise in the said price-determining factors occurring after the offer or the formation of the agreement, even if this rise was foreseeable.

4. Delivery and risk; obligation to purchase

1. If our agreement with the other party is not a contract of carriage, the paragraphs of this clause will be applicable.
2. The term delivery period means the period determined in the agreement within which the goods have to be delivered. Delivery periods specified can never be regarded as deadlines. Should the delivery period be exceeded, we will only be in default after having received a written notice of default. We are entitled to deliver an order in parts which can be invoiced separately. We are entitled to deliver 10% more or less than the quantity agreed with a corresponding increase/decrease of the purchase price.

3. The delivery period will commence after the agreement has been formed, all the information required for the performance of our obligations has been provided to us, all the permits/formalities required for this performance (including the VAT tax number of our opposing party) have been obtained, performed or communicated by our opposing party and the payment – if and insofar as this ought to take place on the assignment – has been received. The delivery period will be extended by a period during which we have suspended our performance under these Conditions and/or the law or during which we are prevented from our performance due to force majeure as set out in clause 8.
4. Delivery takes place EX WORKS (Incoterms 1990). The goods are deemed to have been delivered and the risk with regard to these goods will transfer to our opposing party:-
 - as soon as the goods are placed in the means of transport, even when we take care of the transport;
 - when the cooperation of our opposing party as meant in the next paragraph under b. has been (is deemed to have been) refused.

If and insofar as delivery carriage paid has been agreed within the territory of Europe in the countries belonging to the E.E.C. and the E.F.T.A., the goods are insured by us for normal transport risks with the exclusion of war risk or other exceptional risks. However, the risk transfer as set out above will at all times remain in full force and effect.

5. Our opposite party is obliged to give the cooperation required for us to carry out the performance. This cooperation is deemed to have been refused:
 - a. when we take care of the carriage and the goods have been offered for delivery to the other party, but this has appeared to be impossible;
 - b. if our opposing party takes care of the carriage, when the goods have not been collected by them or on their behalf on the date agreed to this end.In these cases our opposing party will be immediately in default without any further notice of default being required. All our costs resulting from this refusal will be at the expense of our opposing party, notwithstanding our other rights with regard to this failure. Reasonable reimbursement for storage, related to the rates current at the respective location, is also explicitly included in the said costs.

5. Payments

1. The payment period is always not more than 30 days after the invoice date. Our opposing party is not allowed to any set-off unless we have acknowledged the counter claim entirely and unconditionally.
2. If no payment has been made on account of our opposing party within the agreed payment period, we will be entitled to charge interest on the invoice amount from the due date onwards, equal to the statutory interest increased by 1% for each month or part thereof that the other party remains in default, notwithstanding any other rights we may have in this respect.
3. All court and extra-judicial collection costs incurred by us in order to bring about the performance of the obligations of our opposing party, will be borne by our opposing party. The extra-judicial costs will be calculated according to the debt-collecting rates recommended by the Netherlands Bar with a minimum of Euro 125.00, all this notwithstanding our right to claim the higher, actual damages.

4. Payment should take place without any deductions at our offices into an account in the Netherlands to be indicated by us, or in another manner indicated by us.
5. Payments made by our opposing party always serve first to the settlement of all interests and costs due, then of claims due and payable with regard to which no valid retention of title can be stipulated, and after this, of invoice amounts due and payable that have been the longest due, even though our opposing party has specified that the settlement relates to another or subsequent (invoice) claim.
6. We are entitled to demand security from our opposing party. This security should be such that our claim and any interest and costs in connection with it are properly covered and can be realised by us without any problems. If the security is refused, we will be entitled to suspend the (further) performance of our obligations to the other party.

6. Delivery; Storage

1. Our opposing party has to ensure that we are able to unload the glass to be delivered by us and that we are able to place it on a flat floor, brushed clean, situated in a space or at a location sufficiently protected from outside influences. We are not liable for damage which is the consequence of the fact that the said area or place does not meet the said requirements.
2. If the assignment given by our opposing party also includes the storage of glass belonging to our opposing party, we will charge a price for this storage which is based on square metres of stored glass. We will do our best to keep records of the quantity and type of glass stored by our opposing party at our premises. However, we do not accept any liability resulting from the fact that the data administered by us as set out above do not correspond with the reality, unless explicitly otherwise agreed.

7. Liability

1. We will only be liable for damage suffered by our opposing party which is the direct and exclusive consequence of our fault, on the understanding that only those damages are eligible for compensation for which we are insured, or for which we should have reasonably been insured, considering the practice applicable in the sector. In this connection the following restrictions should be observed:
 - a. trading losses (disruption in business operations, quay charges and other expenses, loss of income and the like) resulting from any cause whatsoever. If required, our opposing party has to take out an insurance against this type of damage.
 - b. we are not liable for any damage (whatsoever) to the movables and/or immovables of our opposing party or third parties inflicted by or during the performance of our activities.
 - c. we are not liable for damage caused by the gross negligence or intention of auxiliary persons.

- d. the damage we will compensate for will be mitigated if the compensation payable by us to our opposing party is minor in relation to the extent of the damage suffered by our opposing party. In any event our aggregate liability will not exceed the lower of the following two amounts: Euro 25,000.00 or an amount equal to the total price stipulated in the respective agreement, excluding VAT. We are only obliged to pay higher damages if these will be paid by your insurers in accordance with the applicable policy conditions.
 - e. in any event we are not liable for soil pollution of any nature whatsoever and from any cause whatsoever.
2. If in connection with carriage contracts or by performing forwarding activities our opposing party has suffered damage within the sense of the respective provisions in the CMR Convention and/or the General Transport Conditions 1983 and/or the FENEX Conditions, contrary to the provisions set out in paragraph 1, the liability schemes provided in that Convention and/or those Conditions and relating to these will be applicable.

8. Force Majeure

A failure in the performance of any of our obligations is in any event not attributable to us and will not be our risk in the event of negligence and/or shortcomings by or at our suppliers, subcontractors and/or carriers, of fire, strikes or exclusion, riots or civil commotion, war, government measures including export, import or transit prohibitions, frost and all other circumstances which are of such a nature that we cannot be required to be bound by the contract. In the event of a shortcoming as meant in this clause, it will count as a ground for justification to dissolve the agreement.

9. Retention of title

1. We are entitled to retain all goods in our possession from or on behalf of our opposing party until our opposing party has fulfilled all his obligations to us, to which the respective goods are sufficiently connected to justify the refusal to surrender these goods.
If goods covered by our retention of title are no longer in our possession, we will be entitled to claim these goods as if we ourselves were the owners.
2. With regard to carriage contracts or performing forwarding activities, the respective provisions of the General Transport Conditions 1983 and/or the Fenex Conditions will be applicable as a supplement to the provisions under 1.

10. Pledge

1. All goods, documents and monies which we have or will have in our possession on any ground and with any destination whatsoever, will serve as a pledge for all the claims which we have or might obtain on our opposing party.
2. On the non-payment of the claim the sale of the pledge will be in public or by means of a private sale if agreement has been reached in this respect after the right to sell the pledge originated.

11. Indemnity

We will never be further liable to third parties for damage caused in the performance of the agreement to which these conditions apply than we would be towards our opposing party.

Our opposing party indemnifies us against any further liability and will stipulate in their agreements with third parties, where possible, a similar exoneration clause for our benefit. Our opposing party will indemnify us fully against claims for damages from third parties, based on infringements of intellectual property rights, by using drawings, data, materials or spare parts, or caused by the application of processes with which were provided or were prescribed by or on behalf of our opposing party for the performance of the agreement.

12. Several liability

If we enter into an agreement with two or more persons or legal entities, each of these persons or legal entities will be jointly and severally liable for the complete fulfilment of the contractual obligations resulting for them from that agreement.

13. Applicable law, disputes

1. All our offers, agreements and contractual obligations resulting from these will exclusively be governed by Dutch law.
However, applicability of the Vienna Sales Convention (Bulletin of Treaties 1981, 184; 1986, 61) is explicitly excluded.
2. All disputes, resulting from our offers and/or agreements will be settled by the competent court in the district of our business location except for the jurisdiction of the Sub-district Court according to the law.
3. For the interpretation or construction of these Conditions only the Dutch text will be authentic.

Tiel, august 2000