

General Terms and Conditions of Business of neue Holzbau AG Lungern

(valid from 01.03.2021)

1. General principles

These General Terms and Conditions of Business (GTC) shall regulate cooperation between the orderer/buyer/principal (hereafter, the Customer) and neue Holzbau AG Lungern (hereafter referred to as n'H). All services of n'H shall be provided exclusively in accordance with these General Terms and Conditions of Business.

The General Terms and Conditions of Business of the Customer shall have no effect on the contractual relationship with n'H, even if they are not expressly rejected by n'H.

Any alteration of these GTC shall only be valid if agreed upon in writing between the parties.

2. Offers

Any information or technical advice provided or any other statements made by n'H are accurate to the best of its knowledge and belief and on the basis of past experience. Unless specified otherwise, n'H shall assume when issuing its offers that the documentation and data (plans etc.) provided to it are complete and provide a suitable basis for calculation. If they are imprecise, incomplete or unavailable, the calculation of costs shall only have the status of a non-binding guideline price.

All offers submitted by n'H are subject to confirmation. If an order is placed on the basis of an offer, the contract shall only be concluded upon written confirmation of the order by n'H. Orders shall be deemed to have been accepted two working days after receipt, even if no written acknowledgement of the order confirmation is provided by the Customer. Both parties shall accept communications by fax or email.

3. Prices

All prices stated in price lists and advertising material are subject to confirmation. The price agreed shall be the net price in Swiss francs, and shall be subject to VAT, unless noted otherwise.

Should any documented cost increases occur during the course of order processing resulting e.g. from surcharges (fluctuations in the raw materials market), the introduction of new technical standards, tax rises, increases in customs duties or significant foreign currency fluctuations, n'H reserves the right to adjust the price accordingly.

If no special agreement is made all dimensions and quantities in the n'H-material list apply. If the production process of the material requires additional allowances it shall be borne by the client.

4. Advice /engineering

Engineering services relate in general only to the construction parts offered and not to the construction as a whole.

The cross sections included in the offer are based on a pre-dimensioning in accordance with the access boundary conditions indicated by the building contractor. Unless expressly agreed otherwise, stabilisation of the supporting structure shall be planned and implemented by the building contractor.

n'H may not be held liable for any losses caused by subsequent or unplanned changes implemented by the building contractor (drilling, cutouts, systems etc.) to the construction parts delivered or the overall construction.

The stability of the overall supporting structure including the constituent individual construction parts must be guaranteed by the building contractor during all phases of construction.

5. Technical development

n'H shall be entitled to alter structures, models and materials on its own initiative in line with ongoing technical development, provided that such changes do not alter the nature of the products, are visually inconspicuous and guarantee at least comparable quality.

6. Delivery

If it has been agreed that delivery shall occur at the cost of n'H, this shall include transport but not unloading. Heavy Goods Vehicle Tax [LSVA] shall be charged separately as incurred. If the driver is required to wait for an excessive period (more than 1 hour) at the Customer for unloading, this time shall be charged at CHF 150.00 per hour. n'H shall endeavour to abide by delivery deadlines, but is unable to guarantee that it will be able to do so. This shall apply in particular in situations involving natural hazards.

The place of performance shall be the factory of n'H in Lungern. Shipment shall be deemed to have been completed upon dispatch from the factory in Lungern. The consignment and transportation risk shall under all circumstances be borne by the Customer, even if it has been agreed that the goods will be delivered freight or carriage prepaid.

If the Customer fails to comply with its payment obligations, n'H may discontinue any further deliveries to the Customer, without prejudice to any other claims.

7. Warranty/guarantee/liability

The Customer shall examine the goods upon delivery for evident defects, which it shall report immediately, failing which the goods shall be deemed to have been accepted. Moreover, warranty rights shall only be available if existing defects are reported promptly after discovery. Defects shall be reported in writing to n'H.

In the event that a defect arises within the warranty period and is properly reported, n'H may choose whether to rectify/repair the faulty part/item, to supply a replacement or – if it decides not to repair or replace – to grant the Customer a price reduction. All further claims of the Customer such as rescission, reduction of the price or damages (including liability for consequential loss) etc. are expressly excluded.

n'H cannot accept liability for products provided by another party.

The Customer's claims relating to defects shall become time barred under all circumstances two years after the goods were accepted.

n'H wooden construction products shall be delivered with a wood moisture content that is compliant with the applicable SIA standards. The Orderer shall be responsible for proper storage and controls. In the event of inappropriate storage (i.e. following long-term exposure to weather or soaking), the quality of the construction products may be impaired (i.e. both structurally and aesthetically). n'H may not be held liable for such defects. n'H will take for granted that the Customer is familiar with the quality criteria and specific characteristics of wood products. No warranty is provided for natural wear and tear and for damage caused by improper handling, climate or deficient assembly by third parties.

Wood is a natural product. Variations in surface and colour stress this authenticity and individuality. Depending upon the timber classification, knots, variations in grain, resin pockets etc. may be visible. Mainly the external layers of the wood absorb dampness during construction, which means that small surface cracks may appear on glued wood, including along the glued joints. The criteria for BS wood and laminated timber are assessed and adhered to in accordance with the valid SIAN norms and the quality criteria for wood and wood materials in construction and extension (trade requirements for Switzerland, edition 2010).

8. Payment and delays

Invoices issued by n'H shall be paid within 30 (thirty) days of the invoice date without any deduction (with the exception of discounts deducted according to contract).

n'H may request advance payments depending upon the value of the order and in line with progress in the order.

The Customer may not withhold payment in the event of non-acceptance or any defects. The Customer shall not be entitled to offset any payments. In the event of late payment, default shall commence on the 31st day after the invoice was issued, without any requirement for a reminder (Article 102(2) of the Swiss Code of Obligations).

9. Reservation of title / restriction on disposal

Until the contractual objects have been incorporated into a third party construction, they shall remain the property of n'H until payment in full of the purchase price. n'H shall be entitled to arrange for a reservation of title to that effect to be entered into the public register. The Customer shall be obliged to cooperate in such registration if so requested by n'H. The Customer may not sell or pledge the goods purchased or transfer the goods to third parties as collateral until the purchase price has been paid in full. The Customer shall inform n'H promptly in the event of distraint or any other claim by a third party.

10. Copyright and rights of usage

Copyright in the work and its parts shall remain with n'H.

n'H shall retain the ownership of and copyright over all offer documentation, descriptions, samples, diagrams, plans etc. provided by n'H. The recipient shall only be entitled to use the information contained in them in accordance with the Contract. The information may not be disclosed to other competitors. In the event of any breach of this requirement, n'H reserves the right to charge for its preliminary work, without prejudice to any further losses or claims to injunctive relief.

11. Withdrawal from the Contract

The Customer may only withdraw from the Contract if all services already rendered are remunerated and a commitment is provided to make good any losses.

12. Applicable law

This Contract and the legal relationship between the parties shall be governed under all circumstances by Swiss law. The place of jurisdiction for all disputes arising directly or indirectly out of this Contract shall be CH-6060 Sarnen, Obwalden, Switzerland.