

General Terms and Conditions for Deliveries and Services of Hero-Fire GmbH, 26906 Dersum

Effective: June 2020

§ 1 General

1.1. Our general terms and conditions apply to this contract and to all future contracts, deliveries, and other services including consultation services performed in line with the business relationship, even if specific reference is not made in an individual case. The contracting partners' own general terms and conditions do not apply. These shall not be part of this contract on any account.

1.2. All agreements that have been concluded between us and the contracting partner with respect to the relevant contract and its execution must be put in writing in this contract. This also applies to additions, amendments, deletions, and any other agreements. Additional agreements and verbal commitments are not concluded. Statements made by individual employees shall only apply if confirmed by us in writing.

§ 2 Offers and Acceptance

2.1. Our offers are subject to change and are non-binding; in the legal sense, they only provide the invitation to submit an offer of contract. The contract is only valid if we accept the offer of the contracting partner (contract/order) in writing, or otherwise through the execution of the contract or the order.

2.2. The contracting party is obliged to immediately check our acceptance/order confirmation. Any deviations from the order must be reported immediately. If a claim is not made, then the contract is subject to the contents of the acceptance/order confirmation issued by us. If there is no formal declaration of acceptance/order confirmation, then the above shall apply in respect to the delivery notes/partial or final invoices.

2.3. Requests of the contracting party can only be considered if execution (manufacturing, cutting, or machining) has not yet begun. It is not possible to give consideration thereafter. If this cannot be avoided however, additional costs are to be expected.

§ 3 Delivery and Performance

3.1. Unless an explicit binding confirmation exists on our part, a delivery period only indicates an approximation. Any agreed delivery period starts on the date of clarification of all technical matters and other details contained in the order. It shall be extended by the period in which the contracting party is in default, within an ongoing business relationship and other contracts.

3.2. Our deliveries are made ex stock or ex works. For delivery with our own vehicles or vehicles of the supplier, the transfer of goods is considered complete, at the latest, when the goods have been provided to the recipient from the vehicle, on a surfaced roadway, at the point of delivery. Unloading is the sole responsibility of the contracting party. Required unloading facilities or manpower must be provided by the contracting party. Should the contracting party, through the contractual agreement, also request complete or partial unloading, transport, or installation of the product, and we agree to this request, then the services are provided at the risk and liability of the contracting party. Insofar as assistants are used, they shall be considered agents of the contractor. However, we are entitled to separately charge the expenses thereby incurred by us.

3.3. The risk is transferred to the contracting party upon handover of goods to the carrier, irrespective of whether they have been commissioned by the contractor, manufacturer, or by us. This also applies to partial deliveries and deliveries that are free of charge. The unopposed acceptance of the shipment by the carrier will serve as evidence for the proper condition of the packaging and proper loading, unless the contracting party provides proof that the packaging, in the delivery of the shipment to the carrier, has defects or that loading was not properly carried out.

3.4. If the shipment is delayed at the request or fault of the contracting party, the goods shall be stored at the expense and risk of the contracting party. In this case, the notification that the goods are ready is the same as the dispatch. With storage, the invoice for the goods is due immediately.

3.5. In case of a delivery or service delay, the period of grace set by us is four weeks.

3.6. Insofar as our supply factories apply standard industry tolerances with respect to the goods, in particular with respect to slight variations in colour and structure, these also apply to the present contract.

3.7. Claims for damages of any kind are limited to liability for intent and gross negligence. This limitation of liability does not apply if by exception it concerns the fulfillment of obligations which give the contract its character (so-called cardinal obligations). In this case, we shall also be liable for slight negligence.

§ 4 Shipping/Packaging

4.1. Decisions about the means of shipment and the route are made at our discretion. Packaging is performed exclusively under consideration of transportation, production, and environmental aspects. The greatest dimension of the unit always determines the package length.

4.2. Reusable packaging and glass transport racks remain our property. The contracting party is obliged to return them immediately. If the contracting party defaults on this obligation of return, this shall incur usage fees. This is especially true for returnable racks. In case of damage or loss of parts, the contractual partner is obliged to refund the cost of repairs or the replacement of the lost parts. The contracting party is permitted to demonstrate that the damage to the extent alleged has not occurred or only to a lesser extent.

§ 4a Special conditions for the delivery of goods with returnable racks

The merchandise is delivered with reusable packaging/glass transport racks. The glass transport racks are only provided to the buyer on loan. This is done in accordance with our specific conditions for deliveries with returnable racks that are part of every contract. The conditions can be found on the Internet at www.hero-glas.de/Service.

§ 5 Prices and Payment

5.1. Agreed prices are quoted ex works, excluding packaging, freight, and other shipping costs as well as insurance and VAT. If an insurance contract has been concluded at the request of the contracting party, then we only act as an agent for the contracting party.

5.2. If a certain compensation is agreed, we are entitled to a reasonable adjustment if the costs vary after conclusion, e.g., due to wages and material prices. If the price increase is more than 10%, then the customer has a right of withdrawal. This right of withdrawal must be exercised within two weeks of receiving the notification of increase in compensation.

5.3. Insofar as no contractual agreement has otherwise been made, invoices are due for payment immediately, without any deduction. Bills of exchange and cheques are only accepted on account. In addition, settlement by bills of exchange requires a separate prior agreement with us. Here, discount charges, exchange costs, and other costs are borne by the contracting party.

5.4. We are entitled to demand advance payments. It is also permitted for us to provide partial services, insofar as the acceptance thereof is reasonable for the contracting party. In this case, the contracting party is obliged to immediately pay the partial performance rendered.

5.5. Offsetting is permissible only with undisputed or legally established counterclaims. The same applies to exercising the right of retention.

5.6. Any agreed discounts are invalid if other overdue invoices are still open with us upon receipt of the discountable invoice amount. A discount cannot be claimed, in any case, with settlement by bills of exchange. Our employees are not permitted to receive payments without the written authorisation of the Executive Board.

5.7. Should the contracting party fail to make payments which are due (payments on account), after expiry of a period of grace set by us, which need not be longer than two weeks, then we are entitled to claim damages for non-performance and/or withdraw from the contract.

5.8. We are entitled to charge interest of 8% per annum above the base rate; whereby the assertion of further damages or a higher interest on another legal basis is not excluded.

5.9. All our claims are due immediately upon bill protests made by the customer, on non-payment, and on submission of an application to open insolvency proceedings on the assets of the customer. In addition, if a significant deterioration of the contracting party's financial circumstances is known to us, we are entitled to refuse performance until payment or collateral is provided by the customer.

§ 6 Warranty

6.1. The contractual partner must inspect the goods immediately after delivery. This also applies to partial deliveries. If a defect is detected, including shortages or incorrect deliveries, the seller must be informed of this immediately in writing, but at the latest within 2 weeks, and in any case before processing. If the buyer fails to notify the seller of the possible defect, the goods are deemed to have been approved, unless there is a defect that was not recognisable during the inspection, the seller maliciously concealed the defect, or he previously assumed a guarantee for the quality of the goods. If such a defect is found later, the notification must be made immediately after detection; otherwise the goods are also considered to have been approved in consideration of this defect.

6.2. Deviations in dimensions, content, thickness, weight, and colour tones, as well as deviations in lighting technology and radiation, which are caused by the manufacturer, are permissible within the framework of the tolerance levels that are customary in the industry and do not constitute defects. The same applies to tolerances that are customary in the industry for cutting and processing. Production and material-related appearances such as interference formation, double-pane effects, multiple reflections, reflection distortions, and anisotropies are technically unavoidable. Public functional data correspond to the applicable standards and the measurement conditions specified therein.

6.3. In warranty cases, we are entitled to transfer our warranty claims vis-à-vis our suppliers to the customer, and thus relinquish ourselves from warranty obligations. Our warranty obligation is revived, however, if the claim against our supplier is not enforceable, whereby judicial assistance is not required.

6.4. We fulfil warranty claims to the exclusion of further claims through supplementary performance (replacement delivery or rectification). If the defect cannot be remedied within a reasonable period and a replacement delivery is also refused, the contractual partner can demand a reduction in the price or withdraw from the contract. In the case of a reduction, the purchase price is to be reduced in the ratio of the value

of the item, if it had not been defective, to what the actual value would have been at the time the contract was concluded. The seller can refuse supplementary performance irrespective of § 275 paras 2 and 3 if it is only possible with disproportionate costs. Here, the value of the item in a defect-free condition and the significance of the defect must be taken into account. This is the case if the total cost of supplementary performance exceeds 150% of the invoiced value of the goods or 200% of the reduction in the value of the goods caused by the defect. If the seller delivers a defect-free item for the purpose of subsequent performance, the seller can request the buyer to return the defective item in accordance with §§ 346 to 348. § 3.7 applies to claims for damages.

6.5. Liability is, insofar as the seller has not fraudulently concealed the defect or assumed a guarantee for the quality of the item, excluded for defects where the glass is damaged after delivery or assembly, if the application guidelines, installation instructions, product information, glazing guidelines, and technical requirements of the manufacturer are not observed, and lead to product damage and the cancellation or restriction of the suitability of the required properties. The same applies to improper cleaning, in particular cleaning with abrasive agents, as well as to modifications and further processing after delivery of the goods by the contractual partner or third parties without our prior written consent. A warranty for products that are used in movable components (e.g. fire protection closures) and that are subject to regular maintenance in accordance with the statutory provisions is only assumed by us on the condition that comprehensive maintenance documentation can be presented for the entire period of use and the configuration of the door closers are carried out correctly so that exertion of damaging force on the glass is excluded.

6.6. Glass provided by the contractual partner can only be processed after prior coordination with us. No guarantee is given for any breakages during production or transport. This does not apply to intent or gross negligence.

6.7. The seller does not assume any guarantees in the legal sense, unless these are expressly agreed.

6.8. The warranty claims expire, except for cases of malice, one year after delivery of the goods. The statutory statute of limitations applies to items that have been used for construction in accordance with their normal use and have caused the defectiveness.

6.9. The total cost of rectifying defects is limited per order and depends on the respective order volume. Thus, a rectification of defects only takes place to the extent that the amount of the costs does not exceed the total item value.

§ 7 Withdrawal

We are entitled to rescind the contract in case of good cause. A good cause exists in the following circumstances:

- We intend to complete a trade credit insurance, on behalf of the contracting party, to the amount of the contract. If this is rejected on the part of the insurer, we are entitled to make deliveries or services subject to a corresponding security or advance payment. Any resulting delay in delivery or service does not give cause for a claim of damages. If the customer is in default with the fulfilment of the contract and does not make payment, after we have set a reasonable grace period, or the customer finally refuses fulfilment, we are entitled to rescind the contract.

- In case of malfunctions due to force majeure or other obstacles not caused by us such as strikes, riots, or lockouts.

§ 8 Retention of Title

8.1. We reserve title to the goods delivered by us until the contracting party has paid all accounts from the business relationship, including accounts arising in the future - also from simultaneous or subsequent contracts - or has paid a possible current account balance.

8.2. In the course of regular business operations, the contracting party may combine or mix the reserved goods with goods that do not belong to us. Once the reserved goods are mixed with other objects by the contracting party, the ownership of the object we are entitled to is in the proportion of the invoice value of the reserved goods to the invoice value of the other goods or objects or the processing value. If our ownership expires by combining, mixing, or processing, the contracting party transfers to us, already at the time of conclusion of the contract, the ownership of the new item they are entitled to, in proportion to the invoiced value of the reserved goods, and shall hold them free of charge. Thereafter, resulting property rights are considered reserved goods according to the above provisions.

8.3. The other claims to compensation which are due to our contracting party, in regard to their customer, which they have for the resale of goods that are still in our property or co-ownership, shall now be ceded to us by the contracting party. We accept this assignment.

8.4. The contracting party is entitled to precariously collect claims from the resale, unless we revoke the authorisation for collection. For our part, we are entitled to disclose our reserved property and other property, as well as the assignment of future claims, insofar as we have a legitimate interest therein, especially if the contracting party does not make payments according to the contract or squanders the goods.

8.5. The contracting party is entitled to demand the assignment of ownership or reassignment of their compensation claims in whole or in part, provided that the value of the goods in our ownership and the assigned claims exceed 110% of our outstanding claims. The selection of the objects and claims assigned to us is at our discretion.

8.6. The contracting party must notify us immediately of any possible access by third parties, e.g., seizures, by handing over the necessary documents.

§ 9 Miscellaneous

9.1. Should individual clauses of our terms and conditions become invalid, the validity of the remaining clauses is unaffected. The invalid clause shall be replaced by a valid provision that comes closest to the economic purpose of the invalid clause.

9.2. The contract shall be governed exclusively by the laws of the Federal Republic of Germany, as it applies to domestic transactions. Excluded, in particular, is the applicability of the uniform laws on the international sale of goods and on the conclusion of international purchase contracts for movables.

9.3. Our registered office in Dersum is the place of performance and exclusive jurisdiction for deliveries and services as well as all disputes resulting thereof - insofar as the contracting party is a registered trader or legal entity under public law or public special assets. We are, however, also entitled to sue the contracting party at their place of jurisdiction. This also applies in all other cases, unless the contracting party, after conclusion of the contract, relocates their domicile or habitual residence from the Federal Republic of Germany or if their domicile or habitual residence is not known at the time of action.

§ 10 Data Protection

Personal data required to initiate and execute the contract are collected and processed in accordance with Art. 6 and Art. 11 of the GDPR.

Technical Features: Laminated Glass and Laminated Safety Glass

We supply the glass with a film thickness of at least 0.38 mm. However, we reserve the right to use a thicker film for bonding the glass panes, if the use of the film in the desired thickness is not possible for production reasons. The contracting party hereby agrees, with the acceptance of the offer, that a thicker film can be used in this case.