

I. General

1. All deliveries resulting from our acceptance of written orders are subject, as a matter of principle, to our General Business Conditions exclusively. Any disparate delivery and purchasing conditions of our customers require our written acknowledgement.
2. The contents of our order confirmations or other letters of confirmation shall be considered to have been accepted by the customer, should we not receive a written communication to the contrary with one week following dispatch (date of the postmark, fax date stamp or e-mail verification, as the case may be).
3. We reserve all copyrights, proprietary rights, and sund-protection pursuant to recognised lex mercatoria for the manufactured goods, structures, forms, patterns, services, illustrations and other documents that we provide.
4. Prices quoted in our catalogues, brochures and price lists are subject to change and are not binding.
5. Our offers are subject to change in reference to price, quantity, delivery time and are subject to availability.
6. Should an offer have expressly pointed out a possible multiple- unit purchase being required, then the customer shall purchase the required post-production amount at the offered price.
7. The most recent edition of Incoterms apply to our delivery conditions.
8. We reserve the right to process orders involving partial batches.
9. Provided we agree to a return of properly delivered goods, we shall charge a 7 % administrative surcharge.
10. Specifically contracted articles can neither be exchanged nor returned for credited refund.

II. Conditions of Payment

1. The correct prices are those valid on the day of delivery. The prices are ex works, the most recent edition of Incoterms apply and all prices are in Euros (€), without value added tax and excluding packaging.
2. Inasmuch as no other agreement has been finalised, our demands are to be paid without deduction after 30 days from date of invoice.
3. Bills of exchange and cheques are accepted only under the express reservation that they prove to be negotiable. The acceptance of bills of exchange requires specific prior agreement.
4. Default in payment shall be met with our charging at least the usual interest on arrears of our bank.
5. All customers, who are not currently conducting business with us, shall be supplied per advance payment or COD.

III. Delivery, Packaging, Shipping

1. All deliveries are at the risk and expense of the buyer. We only cover the costs of continual insurance, if this expressly requested and the amount of cover is specified. Should there be any doubt with high-value shipments, we reserve the right to buy insurance policies at the expense of the buyer.
2. Packaging and shipping costs are at the expense of the customer.
3. We try our best to keep to the stated times of delivery. They are, however, not binding because of the risks and characteristics particular to the glass industry.
4. Cases of force majeure, strikes, lock-out, business interruptions and breakdowns, lack of raw materials and fuel, failure of our suppliers to deliver due to reasons for which we are inculpable, extend the delivery time and relieve us of the duty to deliver, should delivery thus become impossible.

5. Should we default and the purchaser affords us an appropriate extension under threat of cancellation, the purchaser is then entitled to cancel if the extension also proves to be bootless. Compensation claims shall be regulated exclusively according to Section VIII.

IV. Placed Products

1. The customer placing products with us shall supply them with a verification certificate. The customer confirms therewith that the placed product corresponds to the agreed types of material, measurements, tolerances and other specifications.
2. Incoming merchandise inspection at Hellma Materials can be carried out only to the extent that we have the appropriate test equipment and testing facility, which however, in no way relieves the customer from the duty of providing a verification certificate.
3. In the absence of a verification certificate, we neither assume any guarantee for the placed product nor for any article produced with the placed product.
4. Placed products are processed and stored at our own discretion, provided that we have received no instructions from the customer stipulating otherwise.
5. We assume no guarantee with respect to damage to or loss of placed products.

V. Required Examination and Notification of Defects

1. Complaints resulting from incomplete or inaccurate delivery or due to recognisable defects shall immediately be brought to our attention in writing 8 days after receipt, at the latest. In the case of transportation damage, the appropriate findings from the carrier shall be submitted within the same period. Other defects shall be brought to our attention in writing 8 days after discovery, at the latest.
2. Should the claim be delayed, the goods shall be regarded as accepted and are then excluded from replacement deliveries and guarantee claims. Is the claim on time, the rights of the purchaser shall be determined exclusively according to Section VI, Guarantee, of these General Business Conditions.

VI. Guarantee

1. All parts that are discovered within the term of guarantee to have been of faulty construction, bad materials or defective workmanship prior to the transfer of risk and therefore are considered useless or significantly deficient in their usefulness shall be repaired or replaced (retroactive satisfaction of contractual demands) at our discretion free of charge. The discovery of such defects shall be reported to us immediately in writing. Replaced parts become our property.
2. The customer shall afford us sufficient time and opportunity to undertake repairs and deliveries; otherwise, we assume no liability for any subsequent consequences resulting therefrom. Only in urgent cases endangering operational safety or in fending off disproportionately serious damage, the customer has the right, to alleviate the defect him/herself or have it removed through a Third Party then to submit a claim for the necessary expenditures, provided that we were informed beforehand and had an opportunity ourselves to act immediately in fending off said danger and damage.
3. Of the expenses emerging from retroactive satisfaction of contractual demands, we shall bear – inasmuch as the claim has been deemed justified – the expenses of said retroactive satisfaction or of the replacement delivery.

We shall also bear the costs of shipment and of the removal and installation within reason and, inasmuch as this can be prudently demanded in the individual case, the costs of engaging our fitters and labourers. The extent of our commitment to assume subsequent costs in addition to the actual retroactive satisfaction of contractual demands is limited by the market value of the replacement delivery of the faulty part according to our valid price list.

4. Pursuant to statutory rights, the customer may withdraw from the contract or reduce his/her contractual obligations should we – taking all lawful exceptions into consideration – have not acted within the appropriately set period for repairs or delivering a replacement. Should the defect be insignificant, the customer is entitled only to reduce the price resulting from his/her contractual obligations.
5. No responsibility shall be assumed for inappropriate or improper use, faulty installation or operation by the customer or a Third Party, natural wear, faulty or careless treatment, transportation damage, improper maintenance, inappropriate operating methods, defective construction work, inappropriate foundation, chemical, electrochemical or electrical influences – provided the supplier is inculpable. Customary tolerances with respect to measurement, quantity, weight, quality, colour, etc. shall not substantiate a valid claim. The same is applicable for defects that amount to 1-5 % of the delivered quantity according to type of goods and their relevant manufacturing procedure. Only our product description shall be appointed as the sole appropriate description of our products' characteristics. Public remarks, appraisals or advertisements of our products represent no contractually relevant description of our products' characteristics. Any reference to DIN Standards involving a more detailed description of the product shall not constitute a promise of guarantee. Arbitrary alterations and repairs to the delivered object by the customer or through a Third Party, which have not been specifically approved by us in writing, shall lead to cancellation of warranty. Advice and information of any kind, shall follow without contractual obligation and without payment, according to our best knowledge, but excluding any guarantee and liability.

VII. Liability

The suitability of our products for specific applications must in all cases be determined individually in terms of temperature, pressure, chemical resistance and any other parameter that may affect the product. Conditions unknown to us or conditions that do not comply with the application information given by the customer can cause a constraint in the use of our products for which we assume no liability.

The customer must make sure that we are supplied with the complete and correct information we need in order to determine the intended purpose of use.

No matter what legal aspects may apply, damages other than those to the delivered object itself, become the responsibility of the supplier only when they occurred

- with intent,
- with gross negligence on the part of the proprietor his/her agents or manager,

- by culpable injury of life, body, health,
- by having maliciously withheld information about defects or by having guaranteed their absence,
- through defects in the delivered object, inasmuch as applicable statutory product liability demands assumption of liability for damage to persons or property resulting from objects privately used.

In the case of culpable non-compliance with essential contractual obligations, the supplier shall also be liable for gross negligence of subordinates and for simple negligence, the latter, however, being restricted to contract-typical, reasonably foreseeable damage. No further claims are possible.

VIII. Limitations

All claims of the buyer – regardless of the legal bases – shall be subject to a statute of limitations of 12 months. Instead, the statutory periods shall apply for liability for damages arising from injury to life, body or health that are based on an intentional or negligent breach of duty by a legal representative or vicarious agent, for liability for other damages which are based on intentional or grossly negligent breach of duty of a legal representative or vicarious agent, for defects that were fraudulently concealed or the absence of which was guaranteed, for intentional or negligent breach of material contractual obligations and for claims under the German Product Liability Act.

IX. Retention of ownership

1. The delivered goods remain our property until payment in full. Bills of exchange and cheques are only regarded as payment of our demands upon their being successfully negotiated.
2. The customer shall be allowed to sell the delivered goods in the course of proper business, if he/she has not previously transferred his/her rights to said goods by selling them to a Third Party, or these rights are not encumbered in any other way. Should the customer sell the delivered goods by themselves or in connection with goods not belonging to us, transferring at the moment of further sale all claims to us to the value of the delivered goods' including all subsidiary rights and order of priority, we shall accept the transfer.
3. The customer can only connect the delivered goods with other things or can process them to make other things if the other things are not encumbered with the rights of a Third Party.
4. In the case of connecting the delivered goods to another thing or processing them to make other things, we become co-owners of said new things in relationship to the amount of the purchase price of our delivered goods.

X. Place of Jurisdiction and Fulfilment

The contract is regarded as fulfilled when the goods intended for delivery leave our premises. Exclusively, German Law shall be applied to all legal rights and implications resulting from this sales contract. The courts of jurisdiction for both parties are at Jena, also for litigation regarding cheques and bills of exchange.

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