



HELM, U.S. GENERAL PURCHASE CONDITIONS

1. General – scope of application

- 1.1. Our General Purchase Conditions apply exclusively to all contracts regarding the supply of goods between the Supplier and HELM U.S. Corporation (“we” or “us” or “our”).
- 1.2. We do not and will not recognize any terms and conditions of the Supplier, especially any general sales conditions, deviating from or conflicting with our General Purchase Conditions, unless we have explicitly agreed to their validity in writing or in text form signed by a person with authority to do so from us.
- 1.3. Our terms and conditions shall also apply if we unconditionally accept the Supplier’s delivery being aware of conflicting or deviating terms and conditions of the Supplier.
- 1.4. All agreements made between us and the Supplier in performance of the delivery of goods by the Supplier shall be set down in writing or in text form signed by a person with authority to do so from us.

2. Assignment

- 2.1. Without our consent (in writing or in text form), the Supplier may not, in whole or in part, assign any claims to third parties.

3. Delivery Date, Delivery and Product Labelling

- 3.1. The delivery date stated in the order is binding, and time is of the essence.
- 3.2. The Supplier is obliged to inform us in writing or in text form if circumstances occur or become apparent which show that the stipulated delivery time cannot be met
- 3.3. In the event of delayed delivery, we shall be entitled to the statutory rights available. In particular, we shall be entitled to damages and rescission after a fruitless expiry of a reasonable period of grace.
- 3.4. Unless otherwise explicitly agreed in writing, delivery shall be made in accordance with the Incoterms specified in our order. The Incoterms in their latest version shall apply.
- 3.5. Regarding import goods the shipping documents shall record whether the goods are duty-paid or duty-unpaid.
- 3.6. Our unconditional acceptance or payment of late delivery does not constitute any waiver of our claims for compensation regarding such late delivery.
- 3.7. Should Supplier breach the contract, Supplier shall pay HELM U.S. Corporation all fees and costs directly or indirectly incurred by HELM, U.S. Corporation relating to a breach hereof, including but not limited to agency and attorney’s fees.

4. Quality assurance – inspection during contractual execution

- 4.1. The Supplier shall carry out and maintain an effective quality assurance system and shall furnish us with evidence thereof on request.
- 4.2. We shall be entitled to examine this aforementioned quality assurance system and the appropriate performance under the contract by the Supplier by ourselves or by third parties authorized by us. Our contractual and statutory rights shall not be affected by such examinations.



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5. Quality of the goods – inspection and liability for defects

- 5.1. We will inspect the goods within a reasonable time for any quality and quantity deviations and give notice to the Supplier of any deviations; our complaint is timely if received by the Supplier within a period of four weeks from receipt of goods or, in the case of hidden defects, from the time of their discovery.
- 5.2. Our payment shall not be considered an acknowledgment of a contractual performance of the Supplier.
- 5.3. We are entitled, without reservation, to the statutory warranty claims. We shall be entitled in any event to demand that the Supplier either remedies the defect or delivers an item that is free from defects. The right to claim damages is expressly reserved.
- 5.4. We are entitled to remedy the defect at the expense of the Supplier if the latter is in delay.
- 5.5. The Supplier guarantees that the goods supplied are true to samples and also comply with the contractual agreements and the agreed specifications.
- 5.6. Unless any specific quality criteria are agreed, the goods must be of merchantable quality at least.
- 5.7. The Supplier guarantees in particular the authenticity and accuracy of its delivery documents and the accompanying certificates and documents.
- 5.8. As far as the goods are concerned, the Supplier guarantees proper and complete control throughout the production process.
- 5.9. If requested, the Supplier shall be obliged to immediately provide us with the necessary information (official complaints, customer complaints, etc.) regarding certain goods. The assertion of further claims against the Supplier remains unaffected.
- 5.10. If the subject matter of the Supplier's delivery includes any packaging material used and deployed by us, the Supplier guarantees in particular that no adverse effects on the packaged product occur due to such packaging material. Furthermore, the Supplier guarantees the suitability of the packaging for its actual application.
- 5.11. The Supplier shall pack, label and dispatch the goods with care so that damage during transport is ruled out and safe and efficient transshipment, unloading, storing and dispatching of goods is ensured.

6. Product liability – indemnification – third-party liability insurance

- 6.1. **IF THE SUPPLIER IS RESPONSIBLE FOR DAMAGE CAUSED BY THE PRODUCTS, IT SHALL BE OBLIGED TO HOLD US FREE AND HARMLESS ON OUR FIRST REQUEST FROM ANY THIRD-PARTY CLAIMS, PROVIDED THE REASON IS WITHIN THE SCOPE OF THE SUPPLIER'S CONTROL AND ORGANIZATION. THIS INCLUDES THE OBLIGATION TO PAY ALL DEFENSE COSTS AND ATTORNEYS' FEES.**
- 6.2. As part of its liability for damages in accordance with Clause 6.1 the Supplier is also obliged to reimburse us for the expenses arising from any recall conducted by us. We will inform the Supplier of the content and scope of the recall measures - as far as possible and reasonable - and give the Supplier the opportunity to make a statement. Any other claims we are entitled to shall remain unaffected.



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6.3. **PRIOR TO DELIVERY OF GOODS, SUPPLIER ASSUMES ALL LIABILITY FOR, AND HEREBY AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD HELM, U.S. AND THEIR INSURERS HARMLESS FROM AND AGAINST ALL DAMAGES, LOSS, LIABILITY, CLAIMS, DEMANDS AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, (INCLUDING ALL COSTS AND EXPENSES THEREOF AND REASONABLE ATTORNEYS' FEES) WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF, STRICT LIABILITY, OR THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE OR STRICT LIABILITY IS THE SOLE, CONCURRENT, ACTIVE OR PASSIVE NEGLIGENCE OR STRICT LIABILITY OF HELM, U.S., ARISING IN CONNECTION HEREWITH:**

1. ON ACCOUNT OF BODILY INJURY AND/OR DEATH TO PERSON AFFILIATED WITH US OR THE CUSTOMER AND/OR DAMAGE TO THE CUSTOMER'S PROPERTY.

2. IN FAVOR OF HELM, U.S. ON ACCOUNT OF LOSS OF OR DAMAGE TO HELM, U.S.' PROPERTY, EQUIPMENT, MATERIALS, GOODS OR PRODUCTS, INCLUDING BUT NOT LIMITED TO (A) WHILE IN TRANSIT OR BEING MOVED ON ANY FORM OF TRANSPORTATION OWNED OR FURNISHED BY SUPPLIER (B) WHILE LOCATED AT THE PROPERTY OF SUPPLIER, REGARDLESS OF WHETHER TITLE TO THE GOODS HAS TRANSFERRED.

7. Third-party rights

7.1. The Supplier guarantees that, in connection with its delivery, no third-party rights, including intellectual property rights, are violated within the country of destination made known to the Supplier.

7.2. If we are held liable by a third party for an infringement pursuant to Clause 7.1, the Supplier shall be obliged to hold us free and harmless on first written demand from such claims; we are not authorized to make any agreements, especially to conclude a settlement, with the third party without the prior written consent of the Supplier.

7.3. The indemnification obligation shall also apply to any costs of an appropriate legal defense incurred by us in connection with the claim of a third party.

8. Retention of title

8.1. We do not recognize any retention of title by the Supplier.

9. Governing law – place of jurisdiction – place of performance – severability clause

9.1. This agreement shall be governed by and interpreted in accordance with the substantive laws of Texas, excluding conflicts of law and choice of law principles.

9.2. The parties stipulate and agree that any litigation relating to this Agreement may only be filed in Harris County, Texas.

9.3. If any provision these General Purchase Conditions is wholly or partially invalid, unenforceable or void, the validity of the remaining provisions shall remain unaffected.