



# Terms and Conditions of Purchase for machines and equipment

Status as of: 12/18

Page: 1/5

## 1.0 Terms of Delivery

1.1 Any and all orders by HELLA GmbH & Co. KGaA, Rixbecker Str. 75, D-59552 Lippstadt, and/or by its subsidiaries (hereinafter "HELLA") for machines and equipment shall exclusively be subject to the following terms, unless otherwise expressly agreed in writing. The Contractor's general terms and conditions shall not apply even if in a particular case HELLA does not contradict them. Changes or supplements as well as other additional agreements shall only be valid if made in writing.

1.2 The specifications, drawings, descriptions and other documents agreed between HELLA and the Contractor shall apply to the execution of the services by the Contractor.

1.3 The Contractor shall not be reimbursed for any quotations or concepts prepared by the Contractor due to a request by HELLA, unless otherwise expressly agreed in writing.

## 2.0 Scope of Delivery

2.1 HELLA's order shall be decisive with regard to the scope of delivery. Any deviating acknowledgements by the Contractor shall be regarded as a new quotation and require written confirmation by HELLA. Changes or additional agreements shall only be valid if made in writing.

## 3.0 Prices and Payment

3.1 Prices shall be free domicile including loading and packaging unless specifically stated. Value-added tax at the statutory rate is to be added to the prices.

3.2 Unless otherwise agreed, payments shall be made 30 days after delivery or acceptance of the service and receipt of invoice in the format as required by HELLA.

## 4.0 Delivery Time

4.1 Delivery times agreed shall be binding and essential to the rendering of the service. Unless otherwise agreed, delivery times shall refer to the receipt of the delivery items at the delivery address agreed or, if this is part of the obligation, to the erection at the location agreed.



## **Terms and Conditions of Purchase for machines and equipment**

4.2 The delivery time shall be appropriately extended in the case of measures in connection with industrial action, in particular strike and lock-out, and in the event of unforeseen events occurring which

Page: 2/5

are outside the influence of the Contractor, provided such impediments are proved to have a considerable negative effect on the completion or delivery of the delivery items. The Contractor shall inform HELLA of the beginning and end of such impediments in important cases as soon as possible.

4.3 If HELLA suffers damage due to a delay caused by the fault of the Contractor, HELLA shall be entitled to claim compensation for the delay. Such compensation shall amount to 0.5% of the order value for each full week of delay, but not more than 5% in total. The Contractor shall have the right to prove that no damage or less damage has been incurred as a result of the delay. HELLA reserves the right to assert additional damages.

4.4 Keeping to the delivery time shall be conditional on the fulfilment of any applicable duties to cooperate on the part of HELLA. The Contractor shall only be entitled to allege non-fulfilment of such duties if he has notified HELLA without delay and in writing of the delay or non-fulfilment of a duty to cooperate.

### **5.0 Passage of Risk and Taking Delivery**

5.1 The risk shall pass to HELLA upon the delivery of the delivery items to HELLA. The Contractor shall insure the shipment against theft, breakage, transport, fire and water damage at his own cost.

5.2 HELLA shall take delivery even if the goods show minor defects, without prejudice to his rights in accordance with Section 7.

### **6.0 Retention of Title**

6.1 The Contractor retains the title to the delivery items until all payments have been made as set forth in the contract for delivery.

6.2 HELLA must not pledge the delivery items or assign them as security. In the event of attachment, confiscation or other disposal by a third party, HELLA shall inform the Contractor without delay.

6.3 Assertion of the retention of title and attachment of the delivery item by the Contractor shall not be regarded as cancellation of the contract.



# Terms and Conditions of Purchase for machines and equipment

Page: 3/5

## 7.0 Liability for Defective Delivery

7.1 The Contractor shall be liable for defects of the delivery, which includes the absence of warranted qualities, as set out below:

7.2 The Contractor shall at his reasonable discretion repair or re-deliver free of charge all parts which due to circumstances that occurred prior to the passage of the risk, in particular defective workmanship, poor materials or imperfect construction, are found to be unusable or usable only with considerable restrictions within a period of 36 months from commissioning or within any longer statutory period of limitation applicable to defects. HELLA may object to the warranty type selected by the Contractor if the type is unacceptable to him. The Contractor shall be notified in writing without delay of such defects. Replacement parts shall become the Contractor's property.

7.3 The Contractor cannot be held liable for damage resulting from the following reasons: unsuitable or inexperienced usage, faulty installation or commissioning by HELLA or any third party, wear and tear, faulty or negligent handling, unsuitable operating equipment, substitute materials, faulty construction work, unsuitable subsoil, chemical, electrochemical or electrical influences, unless they are the Contractor's fault.

7.4 By arrangement with the Contractor, HELLA shall allow the Contractor time and opportunity to carry out repairs and substitute deliveries which the Contractor at his reasonable discretion deems necessary. Only in urgent cases when operating safety is threatened or to avert disproportionately large damage (in which case the Contractor must be informed without delay), or if the Contractor is in default of removing a defect, HELLA shall be entitled to remedy the fault himself or have it remedied by third parties and demand reimbursement of necessary costs from the Contractor.

7.5 The Contractor shall bear the cost of repair or substitute delivery.

7.6 The warranty period for substitute parts and repairs shall end at the end of the original warranty period applicable to the delivery item but shall not be less than 12 months. The period for liability for defects in the delivery item shall be extended by the time business was interrupted by the subsequent improvement activity.

7.7 Additional claims by HELLA, in particular claims for damages which did not occur in the delivery item itself and claims for damages on the basis of a violation of contractual subsidiary duties shall be governed by legal provisions.



# Terms and Conditions of Purchase for machines and equipment

Page: 4/5

## 8.0 HELLA's Right to Cancellation and other Liabilities of the Contractor

8.1 HELLA shall be entitled to cancel the contract if the entire service should become impossible for the Contractor to perform prior to the passage of the risk. The same shall apply in the case of incapacity of the Contractor. HELLA shall also be entitled to cancel the contract if part of the shipment of an order for objects of the same kind cannot be delivered and HELLA has a justified interest in declining part delivery. If this is not the case, HELLA shall be entitled to reduce the consideration accordingly.

8.2 If the Contractor is in default of his service and if HELLA grants the Contractor a reasonable period of grace expressly stating that he will decline acceptance of the delivery after expiry of that period, and if the period of grace is not kept to, then HELLA shall be entitled to cancel the contract.

8.3 Beside any rights of HELLA to rescind from the contract according to the applicable legal provisions, HELLA shall be entitled to rescind the contract if the Contractor fails to repair or provide substitute delivery for a defect. HELLA's right to cancel the contract shall also apply to other cases of unsuccessful repair of substitute deliveries by the Contractor.

8.4 In cases in accordance with Section 8, Paras 1 to 3, HELLA reserves the right claim damages, provided the necessary legal prerequisites exist.

8.5 HELLA's right to terminate the contract in accordance with §649 BGB shall be reserved.

## 9.0 Compliance

9.1 The Contractor undertakes to observe the principles described in the HELLA Code of Conduct for Suppliers and Service Providers and shall ensure that these principles are also observed by his own suppliers and service providers. The Code of Conduct is available on the HELLA homepage in the section Company > Purchasing > Purchasing Philosophy.

9.2 The Contractor is obliged to abstain from any act or omission which may cause a criminal liability for fraud or embezzlement, bankruptcy offenses, competition law infringements, granting or acceptance of an undue benefit, bribery, corruption, or comparable offenses of the Contractor's employees or third Parties. In the event of a breach of such obligation, HELLA shall be entitled to extraordinarily withdraw from or terminate all existing legal transactions and negotiations with the Contractor. Notwithstanding the foregoing, the Contractor is obliged to comply with all laws and regulations applicable to him and the business relation to Hella.

[https://www.hella.com/hella-com/assets/media\\_global/supplier\\_code\\_of\\_conduct.pdf](https://www.hella.com/hella-com/assets/media_global/supplier_code_of_conduct.pdf)



# Terms and Conditions of Purchase for machines and equipment

Page: 5/5

## 10.0 General

10.1 Any provision herein stipulating that notifications or statements by the parties hereto shall require the written form shall also be complied with if such notification or statement is sent by fax.

10.2 In the event of any of the provisions herein being or becoming invalid, this shall not affect the legal validity of the remaining provisions. The parties hereto undertake to replace by mutual agreement such an invalid provision by a valid provision coming as close as possible to the commercial purpose of the invalid provision.

10.3 Place of delivery shall be HELLA's registered offices or any receiving location indicated by HELLA.

10.4 The law at the domicile of the ordering HELLA location applies exclusively with the exception of the choice-of-law rules if any. Application of the UN Purchasing Law (United Nations Convention Regarding International Goods Purchasing Contracts of 11 April 1980) shall be excluded.

10.5 Any suit with regard to disputes arising out of the contractual relationship shall be brought before the court having jurisdiction for the registered offices of the HELLA's branch or subsidiary indicated in the order. HELLA shall also be entitled to take legal action at the place where its registered offices are located.