

GENERAL PURCHASE TERMS
for HIRSCH Gruppe Glanegg
(Effective: 06/2018)



1. General

Our legal relationship with the contracting party is based solely on these purchase terms and conditions. Any conflicting terms on the part of the contracting party do not apply, even if the contract is carried out and we have not expressly objected to them.

Our purchase order shall be deemed accepted either if there have been no objections in writing within three working days at the latest calculated from dispatch, or if execution has begun. Until such time as it is accepted, we shall be entitled to cancel the purchase order without any further liability.

Our purchase order number shall be quoted on all documents relating to our orders.

2. Prices

Prices are fixed and include costs of function and quality testing, painting, corrosion protection, any packaging required (see item 5 below), and documentation.

3. Delivery

The delivery date quoted in the purchase order is binding. After receiving of any purchase order the supplier is obliged to transfer a written, binding purchase order confirmation within three working days. The delivery date confirmed by the contracting party is binding. If a period for delivery is given, it shall begin, in case of no other agreement, on the date of transfer of the purchase order.

Shipments delivered prior to the specified time are only acceptable with our express permission and do not justify any changes in the agreed terms of payment.

Partial shipment, over and underdelivery of an item ordered shall only be permissible if expressly agreed beforehand.

What is decisive in deeming a shipment and / or service timely is complete performance of the contract, i.e. also including submitting the documentation, providing training / instructions, carrying out installation, handing over test reports, etc.

The supplier is obliged to provide with the order confirmation information about custom tariff number and country of origin for each position on the purchase order, latest with submission of the corresponding invoice. Alternatively a suppliers declaration can be transferred.

4. Delay in delivery, penalty

The contracting party undertakes to inform us in writing and in detail as soon as it discovers a risk of delay in schedule otherwise it shall be liable for damages, also for any damages that the end customer may sustain.

If there is a delay, we shall be entitled to set the contracting party an appropriate deadline for providing the agreed service with the provision that we shall refuse to accept the service after the deadline has expired. Should the contracting party fail to perform the contract before this deadline expires, we shall be entitled at our option to withdraw from the contract and demand compensation for all damages we or the end customer have incurred, including lost profits.

When the delivery date is delayed, we shall be entitled in every case to deduct a penalty of 1.0 up to 10 percent maximum of the total order value from the contracting party's invoice for each week's delay started and each order item. We reserve the right to wait until the final payment for claiming the penalty.

The deduction of a penalty does not release the contracting party from its obligation to deliver and/or provide the service, and does not exclude any claims for damages over and above the penalty demand.

5. Packaging

The packaging shall be customary in the trade, appropriate, in perfect condition, and of such a nature that it provides adequate protection of the goods to our plant or the ship-to location or installation site specified. We are entitled but do not undertake to return packaging at the contracting party's expense and risk.

6. Shipping

The delivery terms based on INCOTERMS 2010 defined in the purchase order shall apply. If shipping is within Austria, the contracting party shall assume the risk to the unloading point at the ship-to location.

Where third parties or we provide components, the contracting party shall assume the risk for these components from the time of delivery or handover to it. The party that requests or carries out the order shall assume the transport risk. The same applies to returning the goods to us or forwarding them elsewhere.

To ensure that the shipping and goods receipt processes run smoothly, the contracting party shall enclose a delivery note with every shipment giving details of our purchase order, such as order number, order item number, our part number and exact description of the contents. If this data required for acceptance of the shipment is not given in the delivery note or is not available, we shall be entitled to refuse delivery at the contracting party's expense and risk. Shipping several items together from various different purchase orders with one joint delivery note covering them is only permissible if there are clear indications of the different purchase orders and order items they relate to.

If shipments are from outside the EU, a customs invoice (three copies) and a valid certificate of origin (declaration of origin, movement certificate, etc.) for easier customs clearance during import shall be enclosed free of charge with the freight bill. The contracting partner is responsible for export customs clearance at its expense and risk. If goods are not manufactured in Austria and if duty paid, a supplier's declaration stating our part number shall be enclosed with the goods.

Goods shall solely be delivered to the incoming goods department at our plant in 9555 Glanegg 58 during the applicable receiving times (Mon-Thu 7:30 to 16:00 and Fri 7:30 to 11:30).

If these specifications are not met, all the damages, risks and expenses shall be borne by the contracting party.

We shall assume that export licenses are not required in the country of manufacture unless there is a note to the contrary in the contracting party's quotation. Should export licenses be required, the contracting party shall obtain them at its expense and risk.

7. Warranty

The contracting party shall provide full warranty for a period of 24 months for itself, its subcontractors and suppliers for complete execution free of defects and conforming to the purchase order, for the typical and assured properties of the shipment and / or services, and for complying with all the appropriate legal and official requirements applicable at the ship-to location. Furthermore, he shall guarantee that the order item's design, construction, fitness for purpose and manufacturing technology reflect the state of the art, and only material of first-class, appropriate quality was used that was suitable for the intended use. In the case of immovables or goods that are intended for installation in or use with immovables, a warranty period of 60 months shall apply.

If engineering, consulting, software or documentation services are provided and if staff is dispatched, the contracting partner shall assume unlimited warranty for the correctness and completeness of the oral and written details and instructions.

The contracting party shall warrant that training, maintenance, service and repair work relating to the products supplied shall be carried out and charged at market rates and that replacement and wearing parts shall be supplied for a period of 15 years from the time of performance of the contract.

The warranty period shall start from the time when the end customer receives the goods or, if for use at our plant, when the goods are used for the first time.

The contracting party is in agreement that we do not undertake to inspect the item supplied and report any defects until the finished product is handed over to our end customer.

In addition, the contracting party shall remedy defects at its expense and risk by repairing, exchanging and / or reshipping at short notice. Should it fail to meet its obligations without delay, we shall be entitled to remedy defects or provide services ourselves that were not rendered or have them provided by third parties at the contracting party's expense and risk. This does not affect the contracting party's other obligations.

If contract goods are repaired by replacing defective parts, the warranty period for the parts shall restart. At the same time, the warranty for the entire product shall be extended by the period during which the product could not be used because of the defect and its remedy.

Should we as the manufacturer of the finished product be liable for damages due to defects in the raw material or a part provided by the supplier, the supplier shall save us harmless from any such liability and indemnify us fully, irrespective of any negligence. Furthermore, it undertakes to support us in the best possible way in any litigation with third parties. Should the contracting party claim that there is not a fault in the product supplied or service provided under the product liability provisions, it shall also provide us with appropriate proof.

8. Payment

Unless otherwise agreed, payment shall be at our option within 30 days with three percent discount or within 60 days net once all the requirements stated in the purchase order have been met and the invoice has duly been received.

Any payments on account agreed shall be made within 30 days with three percent discount or within 60 days net once an advance payment invoice has been received, unless otherwise agreed.

Payment does not signify acknowledgement that the deliveries or services have been duly provided and does not therefore constitute a waiver of any claims due to us of any kind.

9. Billing

Invoices meeting the applicable formal requirements under sales tax legislation shall be sent to us as single copies.

If staff are required for installation, repair or maintenance work, the contracting party's employees shall report to the person responsible named in the purchase order before starting the work. Original work and material sheets signed by our employee responsible shall be enclosed with the invoices. No payment shall be made for work and material that is not confirmed by our employee responsible.

10. Documentation

The contracting party shall provide us with proper documentation together with the shipment, in particular on the product's properties, its use, operation, processing or installation, etc., such as product descriptions, instructions for storage, operation and maintenance, directions for installation, spare and wearing parts lists in German and in English if requested, and guarantee its completeness and accuracy, otherwise it shall be liable to us and the end customer for damages arising from any violation of these provisions.

11. Confidentiality

The documentation submitted to the contracting party, such as specifications, drawings, computer documents and similar, shall remain our property, must be kept confidential from third parties and may not be reproduced or made accessible to third parties without our prior permission.

The purchase order, our logo or corporate logotype may only be used for advertising purposes with our prior written permission.

We are entitled to carry out checks at any time regarding the quality and production stage at the contracting party's, its subcontractor's or supplier's premises

Except in the case of standard parts, the names of the subcontractors and suppliers that are involved in performance of the contract shall be given to us on demand. This does not however constitute a legal relationship between us and the contracting party's subcontractors and suppliers.

The contracting party is responsible for selecting its subcontractors and suppliers and any negligence on their part.

12. Place of performance, transfer of title

The place of performance is our plant at 9555 Glanegg 58 or the delivery address stated in the purchase order.

Tools, components or materials supplied by us shall remain our property. The contracting party undertakes to inspect these tools, components or materials after receipt, report any damage in transit to the forwarding agent and any deviations to us immediately, then clearly mark them and carefully store them separately at its risk.

After payment, title to drawings, models, printing plates, samples, production equipment, tools and other aids that are required to carry out an order is transferred to us, provided that they were produced by the contracting party or one of its subcontractors at our expense. They shall be surrendered to us after performance of the contract or on first demand. Their storage, service and maintenance shall be at the contracting party's expense and risk for their own purposes, but is not permissible for third parties in particular.

Transfer of title is similar to transfer of risk.

13. Cancellation of contract

In the event of fundamental breach of contract, we shall be entitled to withdraw from the agreement by giving appropriate notice. Fundamental breach of contract includes but is not limited to failure to observe delivery dates and defects that could jeopardize performance of the contract with the end customer.

In such cases, we shall have the right without prejudice to our other legal options to remedy the defects or provide the services that were not rendered at the place the item ordered is used ourselves or through third parties at the contracting party's expense and risk. This does not affect the contracting party's other obligations.

In the event of insolvency proceedings being opened against the contracting party or the ownership structure being changed, we shall be entitled without prejudice to procedural consequences to withdraw from the contract wholly or in part. The contracting party undertakes to notify us of any such circumstances without delay.

14. Other rights

The contracting party is responsible for ensuring that the use of goods or services supplied as per agreement does not violate any third party property rights (patent, trademark, design rights, territory protection, etc.). It shall indemnify us against all claims arising from violation of such property rights and undertakes to obtain the necessary authorization (licenses) for us at its expense.

We are entitled to pass technical documentation from the contracting party on to the end customer to the extent required.

15. Certifications/Audits

Due to existing certifications of the Hirsch Group (e.g. ISO 9001, ISO 14001), we reserve the right to carry out an audit at the supplier if this is necessary to maintain the certifications of the Hirsch Group.

16. Applicable law; competent court

It is hereby agreed that Austrian substantive law shall solely apply, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods.

All disputes arising out of the agreement signed regarding its interpretation, etc. shall be referred to the competent court in Klagenfurt.

17. Other provisions

Express contractual agreements with the contracting party that deviate from these purchase terms shall have priority over the purchase terms.

Amendments to contractual agreements, changes to the purchase terms and any other statements to be made arising from or in connection with the contractual relationship shall only be deemed effective when made in writing; statements made by fax or e-mail shall meet the written form requirement.

If any provision of this contract is or becomes invalid or if the contract should prove incomplete, the validity of the remaining provisions shall not be affected. The parties agree to replace any invalid provision with a valid provision which most closely approximates the intent and economic effect of the invalid provision. Gaps or omissions shall be filled in the same way.