



# Hirschvogel Aluminium

## Terms and Conditions of Purchase

Applicable to business transactions with companies, legal persons and special funds under public law.

### 1. General

- 1.1 Our terms and conditions of purchase apply exclusively; we do not recognize conflicting general business terms and conditions of the supplier or supplier terms and conditions differing from our terms and conditions of purchase unless we expressly agree with their validity in writing. Our terms and conditions of purchase also apply if we accept or pay for deliveries of products and services of the supplier (hereinafter: object of the contract) in the knowledge of conflicting supplier terms and conditions or supplier terms and conditions differing from our terms and conditions of purchase.
- 1.2 Our terms and conditions of purchase also apply to all future transactions with the supplier.

### 2. Conclusion and Modifications of Contract

- 2.1 Orders, contracts and order releases as well as their modifications and amendments must be in written form. Orders and order releases can also be issued via EDI or faxed.
- 2.2 To become effective, oral agreements during the contract negotiation require a written confirmation by the purchasing department. Item 2.1, sentence 2 remains unaffected.
- 2.3 To become effective, oral agreements after the conclusion of the contract, especially subsequent modifications and amendments of our terms and conditions of purchase - including this clause requiring written form - as well as collateral agreements of any kind also require written confirmation by the purchasing department.
- 2.4 Cost estimates are binding and are not to be compensated unless other provisions are expressly agreed upon.
- 2.5 We are entitled to cancellation if the supplier does not accept the order within two weeks after having received the order. Order releases become binding if the supplier does not object within five working days after receiving the order.
- 2.6 The QM (Quality Management) - agreements and environmental terms of Hirschvogel are an integral part of this contract.

### 3. Delivery

- 3.1 Deliveries deviating from the specifications agreed upon in our contracts and orders require our prior written approval.
- 3.2 Agreed-upon deadlines and time periods are binding. The receipt of the goods by us is the determining factor for having met the date of delivery or the period of delivery. Unless „Delivered Duty Paid“ Marksuhl (Incoterms 2010) is agreed upon, the supplier shall make the goods available in a timely fashion by taking into account the time for loading and shipping to be agreed upon with the forwarder.
- 3.3 If the supplier is responsible for setup or installation, and unless otherwise agreed upon, the supplier shall assume all required incidental costs such as travel expenses, availability of tools as well as daily allowances.
- 3.4 The legal stipulations shall apply if agreed-upon deadlines are not met. If the supplier anticipates difficulties with respect to production, the supply of required materials, meeting the delivery date or similar circumstances that might interfere with his ability to deliver in a timely fashion or delivery with the agreed upon quality, the supplier must immediately notify our ordering department.
- 3.5 The unconditional acceptance of a delayed delivery or service does not constitute a waiver of claims to which we are entitled due to the delayed delivery or service; this applies

until the complete payment of amounts owed by us for the delivery or service in question.

- 3.6 Partial deliveries are precluded as a rule, unless we expressly agreed to them or they are reasonable.
- 3.7 The values determined by us during the incoming inspection shall prevail with respect to quantities, weights and dimensions, unless different values were proved by the supplier.
- 3.8 With respect to software included in the scope of delivery, including its documentation, in addition to the right of use to a legally permissible extent (§§ 69a ff. UrhG [copyright law]), we have the right of use with the agreed-upon performance characteristics and to the extent necessary for the use of the product in accordance with the agreement. We have the right to make a backup copy, even without express agreement.

### 4. Force Majeure

Acts of God, labor disputes, operational disruptions not due to our fault, unrest, government measures and other unavoidable events entitle us - notwithstanding our other rights - to withdraw from the contract in whole or in part, as long as they are not of inconsiderable duration and result in a substantial reduction of our procurement need.

### 5. Advice of Dispatch and Invoice

The information in our orders and order releases shall apply. The invoice showing the invoice number and other references must be sent in one copy to the respective printed mailing address; the invoice may not be enclosed with the shipments.

### 6. Pricing and Passing of Risk

Unless otherwise agreed upon, the prices are „Delivered Duty Paid“ Marksuhl (Incoterms 2010) including packaging. The sales tax is not included. The supplier is responsible for the safety of the goods until the goods are accepted by us or our local representative to whom the goods must be delivered in accordance with the contract.

### 7. Payment Terms

Unless otherwise agreed upon, the invoice is paid either within 14 days by deducting a 3 % discount or within 30 days without deduction as of the payment due date and the receipt both of the invoice and the goods or services. The payment is subject to invoice verification.

### 8. Claims based on Defects (Warranty) and Recourse

- 8.1 The acceptance is subject to an examination for faultlessness, especially also for correctness, completeness and fitness. We have the right to inspect the object of the contract to the extent and as soon as it is advisable in the ordinary course of business; we will give notice of any defects found immediately after their discovery. To this extent the supplier waives the objection to a delayed notification of defects.
- 8.2 The legal stipulations regarding warranty shall be applied, unless other provisions are provided below. Any products or items delivered to us shall be fully in accordance with all applicable rules, regulations, ordinances etc.
- 8.3 We have the right to select the type of fulfilment measure. The supplier has the right to refuse the type of fulfilment measure selected by us pursuant to § 439 II BGB [German Civil Code].

- 8.4 In the event the supplier does not immediately begin with the correction of the defect after our request to correct the defect, in urgent cases, especially to ward off imminent risks or to prevent major damage, we are entitled to undertake such correction ourselves or have it undertaken by a third party at the expense of the supplier. Warranty period shall be two years, unless the delivered products were used in a structure in accordance with its customary use and caused the structure's deficiency. The warranty period starts with the delivery of the supplies and services (Transfer of Risk).
- 8.5 In case the supplier does not transfer title free of third parties rights, the supplier also holds us harmless against any alleged third party claims. Warranty period to this respect shall be 10 years.
- 8.6 With respect to parts of the delivery that were reconditioned or repaired within warranty, the warranty period starts anew at the moment the supplier has completely satisfied our claims for performing a fulfilment measure.
- 8.7 The supplier shall assume the costs if as a result of defective supplies or services we incur costs, especially transportation, labour, material costs or costs for incoming inspection in excess of the customary extent.
- 8.8 If we take back products built and/or sold by us as result of the defectiveness of supplies or services, or if therefore our customers reduced the purchase price or claims of what ever nature are made against us on that account, we reserve the right to request reimbursement from the supplier, whereby an otherwise required notice is not needed to assert our warranty claims.
- 8.9 We are entitled to demand a reimbursement for expenses from the supplier for expenses incurred because our customer may claim against us the reimbursement of expenses incurred for the purpose of fulfilment measures, especially transportation, labour and material costs.
- 8.10 Notwithstanding the provision in Article 8.5, the period of limitation as to warranty-issues ends at the earliest two months after the date at which we satisfied the claims asserted against us by our customer, however it ends five years after the receipt of the supplies and services at the latest.
- 8.11 If a material defect becomes evident within six months after the transfer of risk, it is alleged that the defect was already present at the time of the transfer of risk, unless this is in contradiction to the nature of the product or defect concerned. The parts provided by us to the value of the entire product we become a co-owner of the products manufactured with our materials and parts which will be kept safe for us by the supplier.

## 9. Product Liability and Recall

In the event a product liability claim is asserted against us, the supplier agrees to hold us harmless from such claims if and to the extent the damage was caused by a defect of the supplies or services. If the cause of the damage falls within the area of responsibility of the supplier, the supplier shall have the burden of proof to that extent. In the above cases the supplier assumes all costs and expenses, including the costs for any legal action or a recall campaign. In addition the legal stipulations shall apply.

## 10. Conducting Work

Persons who carry out work on our premises in fulfilment of the contract must observe the respective plant regulations. The liability for accidents suffered by these persons on our premises is excluded unless caused by wilful or gross negligent acts of our legal representatives or employees.

## 11. Provision

Materials, parts, Containers and special packaging provided by us remain our property. These may only be used as agreed. The materials are processed and parts assembled for us. It is agreed that in relation of the value of

## 12. Documentation and Confidentiality

- 12.1 The supplier shall keep confidential all business or technical information made accessible by us (including features which might be learned from objects, documents or software submitted and any other information or experiences) towards third parties, as long as and to the extent they are not public knowledge, and may only be made available in the supplier's premises to persons who need to make use of the information for the purpose of supplying to us and who must also be required to maintain confidentiality; the information remains our exclusive property. Without our prior written approval, such information – except for deliveries to us - may not be duplicated or exploited commercially. At our request, all information originating from us (including any copies or recordings made, if applicable) and loaned items must be immediately returned to us completely or proved to be destroyed. We reserve all rights to such information (including Copyrights and the right to file for industrial property rights such as patents, Utility models, semiconductor protection, etc.). In the event these are provided to us by third parties, this reservation of rights also applies to these third parties.
- 12.2 Products built on the basis of documentation such as drawings, models and the like prepared by us or based on our confidential information or our tools or tools modelled on our tools may neither be used by the supplier himself nor be offered or supplied to third parties. This also applies to our print orders correspondingly.

## 13. Place of Performance

The place of performance is the place to which the goods are to be delivered in accordance with the contract.

## 14. Miscellaneous

- 14.1 If one provision of these terms and conditions and of additional agreements should be or become ineffective, this will not affect the validity of the terms and conditions in other respects. The parties shall agree upon a provision to replace the ineffective provision that reflects as closely as possible the economic intent of the previous provision.
- 14.2 The venue for all disputes arising out of or in connection with contractual relationships based on these terms and conditions of purchase shall be Mühlhausen. We further have the right to initiate legal action against the supplier at a court near the supplier's headquarters or his place of business or at a court near the place of performance at our discretion.
- 14.3 The contractual relationships shall be governed exclusively by German law, except for the conflict of law provisions and of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 14.4 The English version of these terms and conditions of purchase shall be for convenience purposes only. In case of any inconsistencies, the German version shall prevail.