

## GENERAL PURCHASING CONDITIONS HENSOLDT GERMANY

### 1. Scope

**1.1** These General Purchasing Conditions apply to companies of the HENSOLDT Group, which have their seat in Germany (hereinafter referred to as "Purchaser"), if they purchase or place orders for the supply of finished or manufactured, tangible or intangible objects (hereinafter referred to as "Deliveries") and/or services of any kind (hereinafter referred to as "Services") from another company based in Germany or abroad (hereinafter referred to as "Supplier").

**1.2** Any general terms and conditions of the Supplier governing its sales are non-binding for the Purchaser and hereby refused, even if the Purchaser does not object to them explicitly, or if the Supplier states that he wishes to deliver only according to his general terms and conditions, or if these are included in his declaration of acceptance pursuant to Section 2.1, or the Deliveries note or, as the case may be, the purchase order. Acceptance or payment of Deliveries and Services does not constitute agreement either.

### 2. Conclusion of Contract

**2.1** The Supplier may accept orders of the Purchaser only by written declaration within a period of two weeks following receipt of order. The receipt of the acceptance by the Purchaser shall be decisive for the observation of the deadline.

**2.2** The acceptance of orders shall contain all material order data, particularly the exact description of the ordered Deliveries and Services, the commission number, the order date and the Deliveries date. The Supplier shall be responsible for any delays, which result from a breach of these provisions by the Supplier.

**2.3** Amendments or changes of orders require the written confirmation of the Purchaser.

**2.4** The Supplier is not authorized to subcontract third parties without the prior written consent of the Purchaser. The unauthorized subcontracting of third parties entitles the Purchaser to rescind or terminate the contract in whole or in part and to claim damages.

### 3. Prices

**3.1** The agreed prices are fixed prices and exclude subsequent claims or price increases of any kind.

**3.2** Deliveries are made DAP, INCOTERMS 2020, unless agreed otherwise.

### 4. Payment Terms

**4.1** Invoices of the Supplier shall be submitted in duplicate and shall contain all information required in the order for each delivery.

**4.2** Subject to invoice verification, the Purchaser will effect payments by electronic bank transfer to the Supplier's bank account as notified to the Purchaser. The Purchaser will make payments only for those Deliveries and Services which are delivered/performed in accordance with the terms of the order.

**4.3** Unless agreed otherwise, payments shall be made 30 (thirty) days after receipt of a due and proper invoice at the Purchaser. The Supplier shall use its best endeavors to issue invoices at the time of Deliveries/performance of Services.

**4.4** Should the payment day be a Saturday, Sunday or a bank holiday the payment shall be made the following business day.

**4.5** Any interest rate for late payment of the Supplier shall be limited to the legal interest rate stipulated in Section 288 II in connection with Section 247 of the German Code Civil (BGB). Section 288 IV BGB shall be excluded.

**4.6** In the event of a dispute between the parties, the Purchaser shall be entitled to withhold the payment of any disputed invoice until resolution of such dispute.

**4.7** The Purchaser and the Supplier undertake to agree on a common standard as regards electronic accounting.

### 5. Delivery Date, Place of Fulfillment

**5.1** Agreed delivery dates and deadlines are binding. Advance Deliveries and advance Services as well as Deliveries and Services after the agreed delivery date are permitted only with the consent of the Purchaser.

**5.2** Relevant for the timeliness of Deliveries and Services is the receipt at the receiving place specified by the Purchaser. The Supplier shall notify the Purchaser without undue delay, if and as soon as it becomes apparent that he will be unable to meet the delivery or performance date. The acceptance of late Deliveries or Services by the Purchaser does not contain any waiver of compensation claims.

**5.3** If – in the event of delay – the Supplier cannot prove that he is not responsible for the delay, the Purchaser may charge liquidated damages in respect of each commenced working day of delay amounting to 0.2 % but not exceeding a total of 5 % of the total value of the contract.

In the event that the appropriate reservation of rights is not made at the time of acceptance of Deliveries, Services or rectification, the liquidated damages may be claimed up until the date of final payment. The Purchaser shall be entitled to charge the liquidated damages in addition to performance. Further rights and claims shall be reserved herewith.

**5.4** The Purchaser is not obliged to accept partial Deliveries or Services. In the case of agreed partial Deliveries, the remaining quantity still to be delivered shall be stated in the Deliveries note.

**5.5** Place of fulfillment for the Supplier's Deliveries or Services is the receiving place specified in the order. If no receiving place is specified and it cannot be derived from the nature of the obligatory relationship either, the branch office of the Purchaser as per the order or, in lack thereof, the company seat of the Purchaser shall be deemed place of fulfillment.

### 6. Shipment, Transfer of Risk, Export Control, Offset Provisions

**6.1** The Supplier shall package, ship, and insure the Deliveries properly and comply with all relevant packaging and shipment provisions. The Supplier shall be liable for all damages, which the Purchaser suffers because of the improper or insufficient packaging, shipping, or insurance.

**6.2** Shipping papers such as e.g. Deliveries notes and packing slips shall be included with the Deliveries. All documents shall state the order number and the identification marks stipulated by the Purchaser in the order. No later than on the day of shipping, a shipping notice shall be sent to the Purchaser in advance by fax or e-mail.

**6.3** Additional costs, which the Purchaser incurs as a consequence of non-compliance with the above rules, shall be borne by the Supplier.

**6.4** In the case of Deliveries without installation or assembly, the risk passes when the goods are received at the receiving place specified by the Purchaser. In the case of Deliveries with installation or assembly, risk passes upon acceptance to be carried out at the place of assembly.

**6.5** The implied acceptance set forth in Section 640 paragraph 1 sentence 3 of the German Civil Code (BGB) is excluded.

**6.6** The Deliveries and Services may, in whole or in part, be subject to national and/or foreign export control laws and regulations (= "Export Control Laws"). The Parties herewith commit to comply at any time with the applicable Export Control Laws and that each will provide to the other Party all information necessary to evaluate the applicability of Export Control Laws. The Supplier shall in particular identify and accordingly notify Purchaser about the Export Control Laws applicable to the Deliveries and Services or any part of it (= "Export Control Classification"), at the latest at receipt of an order. Thereafter, Supplier shall notify in writing the Purchaser about any change in the Export Control Classification, if applicable, and/or any change in the Deliveries and Services which affect the Export Control Classification, until the relevant order has been completely delivered. Upon Purchaser's request, Supplier shall promptly complete and return to Purchaser the Export Control Classification Declaration form, which is available on the homepage of HENSOLDT ([www.hensoldt.net](http://www.hensoldt.net)) in the section "Supplier Information" and will be also provided anytime by Purchaser upon request.

**6.7** If all or part of the Deliveries and Services are subject to Export Control Laws, the Supplier warrants that it obtains in due time and at no cost to the Purchaser all relevant official export approvals, licenses and authorizations required for the supply of the Deliveries and Services to and use of them by the Purchaser or its customers, as provided by the Purchaser's end-use / end-user statement. Additionally, the Supplier warrants that the Purchaser and its customers are able to use, operate, maintain, implement in their products and/or to forward the Deliveries and Services in accordance with the Export Control Laws and the end-use / end-user statement given by Purchaser.

**6.8** The Supplier shall take reasonable efforts to support the Purchaser in the context of its international offset obligations by providing on request of the Purchaser relevant information about third party transactions in accordance with the "HENSOLDT Offset Provisions" as visible on the homepage of HENSOLDT ([www.hensoldt.net](http://www.hensoldt.net)) in the section "Supplier Information". On request, the Purchaser shall provide the Supplier with a printed copy of these provisions.

## **7. Rights of the Purchaser in case of defects**

**7.1** Unless the statutory warranty provisions according applicable law prescribe longer periods, the Supplier shall be responsible for defects of the Deliveries under a purchase agreement or a contract for works for a period of three years from the delivery respectively acceptance of works.

**7.2** The Purchaser will notify the Supplier in writing without undue delay about any defects as soon as these are determined during the ordinary course of business. Insofar, the Supplier waives the objection of late complaint of defects.

**7.3** If, in case of a purchasing contract, the Deliveries deviate in their quality or suitability for use from the objective requirements which are generally applicable to such deliverables, the Supplier shall inform the Purchaser thereof in text form and at the latest prior to contract conclusion. Negative deviations, from the Purchaser's point of view, of the Deliveries from the objective requirements shall not constitute a defect only if such deviations have been expressly agreed between the Parties at least in text form. Objective requirements (article 434 (3) German Civil Code (BGB)) of the Supplies and Services shall mean that the Supplies and Services:

- are suitable for normal use,
- have a quality which is customary for supplies and services of the same kind and which the Purchaser can reasonably expect, taking into account the nature of the thing and the public statements made by or on behalf of the Supplier or the manufacturer, in particular in advertisements or on the product label,
- conform to the nature of a sample or specimen provided by the Supplier to the Purchaser earlier; and
- are provided with the accessories, including packaging, assembly or installation instructions and other instructions, which the Purchaser can reasonably expect to receive.

**7.4** The Purchaser shall be entitled to the statutory claims for defects without restrictions. The Purchaser shall have the right, at its option, to demand from the Supplier to rectify the defect or deliver an item free of defect or, as the case may be, the production of a new

work. The right to claim damages, particularly the right to claim damages instead of performance, shall remain explicitly reserved.

**7.5** In addition to the statutory claims, the Purchaser may in the case of a defect, after the fruitless expiration of a reasonable period set by the Purchaser for subsequent performance, rectify the defect itself and demand reimbursement of the necessary expenses, unless the Supplier has a right to refuse subsequent performance. In this respect, the statutory provision pertaining to self-remediation of defects for contracts to produce a work (Section 637 BGB) shall apply to purchase agreements accordingly. The Purchaser may demand advance payment from the Supplier for the expenses required to rectify the defect.

## **8. Rights of the Purchaser in case of breach of Services**

Notwithstanding Section 7, the statutory rights of the Purchaser shall apply in case of bad performance of Services.

## **9. Quality and Safety, Access Right**

**9.1** The Supplier shall comply with the recognized rules of technology, the safety regulations and the agreed technical data and standards. He shall furthermore advise the Purchaser about any special, not generally known handling and disposal requirements and shall provide for each delivered good a manufacturer's certificate or certificate of conformity (CE) within the meaning of the applicable Directives of the European Union or other statutory provisions. Changes of the Deliveries and Services require the prior written consent of the Purchaser. The manner and nature of the cooperation on the quality sector, such as e.g. first sampling and documentation, is set forth in the respective product specification.

**9.2** Employees authorized by the Purchaser and the representatives of public authorities have during regular business hours access to all business premises of the Supplier in which work is carried out for the Purchaser. They may inspect all applicable and order-related documents for auditing purposes or to verify legal requirements. These access rights during visits shall particularly be granted to all persons authorized by the Purchaser, who are responsible for monitoring progress of the work commissioned by the Purchaser from the Supplier and for related audits, examinations, or for the qualification of the Supplier.

**9.3** The representatives of other customers of the Purchaser shall have access to the relevant business premises at all times during regular business hours, where customer related work is carried out for the Purchaser, if this is agreed between the Purchaser and the Supplier, whereas the Supplier shall not withhold its consent unreasonably.

## **10. Provision of Materials**

**10.1** All documents and objects of any kind provided to the Supplier by the Purchaser remain the property of the Purchaser. They may be used exclusively for providing the ordered Deliveries or Services. The Supplier shall insure all objects provided to him against loss and deterioration. The Supplier does not have any retention right with respect to the objects of the Purchaser.

**10.2** To the extent that objects provided by the Purchaser are processed or transformed by the Supplier into a new movable object, the Purchaser is deemed to be the manufacturer. In the case of a connection or inseparable mixing with other objects, the Purchaser acquires joint ownership in the new object in proportion of the value, which the objects had at the time of connection or mixing. If the connection or mixing occurs in a manner, where the objects of the Supplier have to be considered the main object, it shall be agreed that the Supplier transfers proportional joint ownership to the Purchaser, while the Supplier stores the joint ownership for the Purchaser free of charge.

**10.3** The Supplier shall carry out any maintenance and inspection work that may be necessary at his own expense and shall insure the provided objects sufficiently and prove this to the Purchaser upon request.

## 11. Confidentiality

**11.1** The order of the Purchaser shall be treated confidentially. The Supplier furthermore shall keep all commercial and technical information and documents, which become known to him through the business relationship and which are not generally known, secret and use these exclusively for providing the ordered Deliveries. Drawings, models, samples, and similar objects shall not be submitted or made available to unauthorized third parties. Duplicating such objects is permitted only within the limits of copyright provisions and to the extent required in order to fulfill the obligations incumbent upon the Supplier. Any subcontractors shall be bound to confidentiality accordingly.

**11.2** The Supplier is only entitled to mention, depict, or use the company name, the logo or the trademarks of the Purchaser in any other way for purposes of advertising materials, when naming references, or for other publications, if the Purchaser has consented to this in writing in advance.

**11.3** The Purchaser may demand observance of further security regulations.

## 12. Spare Parts, Readiness to Deliver

**12.1** The Supplier shall supply spare parts to the Purchaser under fair and reasonable conditions throughout the period of the usual technical lifetime, but in any case for a period of at least ten years after the last Deliveries.

**12.2** If the Supplier discontinues the Deliveries after expiration of the period set forth in Section 12.1 or during that period, it shall provide the Purchaser with the opportunity for a last order under fair and reasonable conditions.

## 13. Rights to the Deliveries and Services; Open Source Software

**13.1** If the Deliveries or the Services provided by the Supplier are subject to industrial property right or copyright protection, the Purchaser shall be granted all rights of reproduction, use, operation, release, adaptation, modification or translation of the Deliveries or Services as far as this is necessary for the purpose of the purchase order. The grant of rights under this Section is included in the compensation according to Section 3. Upon the Purchaser's request, Supplier shall draw up and provide an industrial property rights catalogue in which, as far as relevant for the respective purchase order, all Purchaser's copyrighted works (in particular software), production documents, industrial property rights and material bases are listed. For the avoidance of doubt, this also includes naming of any third-party licenses which are used in the Supplier's Deliveries or Services (in particular Software).

**13.2** The Purchaser acquires full property of the Deliveries or the Services covered by the respective purchase order, in particular insofar as folders, plans, technical memos, drawings, models, prototypes or tooling are concerned.

**13.3** The Supplier shall inform the Purchaser as early as possible during the pre-contractual phase, however, no later than before the order is confirmed whether the Deliveries or Services to be delivered contain Open Source Software and, if yes, what specific kind of Open Source Software. If the Supplier is obliged to deliver with its Deliveries or Services also source codes of its software, then the information shall be given at the latest at the concept review and thereafter before any update to the concept. In the context of this provision "Open Source Software" (= "OSS") means a type of software in which the source code is released under a license where the copyright holder grants users the rights to use, study, modify, and distribute the software to anyone and for any purpose and which fulfills the criteria of Open Source Definition from the Open Source Initiative ([www.opensource.org](http://www.opensource.org)). By means of example and without limitation, such licenses are: the GNU General Public License (GPL), the GNU Lesser GPL (LGPL), the BSD License, the Apache License or the MIT License.

**13.4** In case the Deliveries or Services to be delivered by the Supplier contain OSS, the Supplier must comply with the license terms applicable to the OSS and shall provide to the Purchaser the following, before the order is confirmed:

- The source code of the relevant OSS, as far as the applicable OSS license terms require the disclosure and provision of the source code;
- A list of all open source files used, indicating the applicable OSS license and including a copy of the complete text of such license; and
- All further documentation, data and information as required by the applicable OSS license term or as necessary for Purchaser to assess the impact of the OSS on the Deliveries or Services.

If the Supplier is obliged to deliver with its Deliveries or Services also source codes of its software, then the Supplier shall give additional and more detailed information by completing an excel list (or similar) which will be provided by Purchaser, and the duly completed excel list together with the data/information as described above shall be sent to Purchaser for its approval before any order is confirmed.

Furthermore, the Supplier warrants that:

- No other OSS is used in the Deliveries or Services than the OSS that Supplier has noticed to Purchaser according Section 13.3;
- The affected Deliveries or Services contain a copyright notice in accordance with the applicable OSS license terms;
- Any other license obligations and duties of the relevant OSS have been fulfilled and complied with by Supplier; and
- The OSS is used and implemented in the Deliveries or Services in a way that a Copyleft Effect to all other parts of the Deliveries or Services as well as to the Purchaser's products, which are using the Deliveries or Services, is excluded. In cases a Copyleft Effect cannot be excluded, the Supplier has to inform the Purchaser before the order is confirmed and obtain its written confirmation.

In the context of this provision, "Copyleft Effect" means that the provisions of the OSS license require that certain of the Supplier's Deliveries and Services, as well as any Purchaser's products derived from these, may only be distributed further in accordance with the terms of the respective applicable OSS license, e.g. only if their source code is disclosed.

**13.5** If the Deliveries or Services contain OSS, but the Supplier has not indicated this fact to the Purchaser latest immediately after receipt of the order, then the Purchaser is entitled to terminate the order with no liabilities within 21 days after obtaining knowledge that the Deliveries and Services contain OSS. The right of termination can be exercised either in full or in part, if parts of the Deliveries or Services remain usable and are still of interest for the Purchaser. Furthermore, in the aforementioned case or any other case of Supplier being in breach of this Section 13, the Purchaser reserves all its rights under contract and applicable law to claim damage compensation and/or indemnification.

## 14. Product Liability; Infringement of Rights of Third Parties

**14.1** The Supplier shall meticulously examine its Deliveries for defects and undertakes to do everything feasible in order to avoid any product liability. If the Purchaser is held responsible by a third party because of the defectiveness of a product and if the defectiveness is due entirely or in part to a defect of the Supplier's Deliveries, the Purchaser may instead of compensation of all losses also demand indemnification vis-à-vis the third party. The Supplier's obligation to pay damages shall also include the costs of a precautionary recall measure in order to prevent damage, if this is appropriate.

**14.2** The Supplier shall indemnify the Purchaser against any liability based on claims that the Deliveries and Services of the Supplier intentionally or negligently infringe any third-party rights. In this case, the Supplier shall indemnify and hold harmless the Purchaser on first written demand from all cost, expenses and payment obligations arising from the infringement. The Purchaser shall refrain from concluding any agreements with the third party related to the infringement, in particular from any settlement agreement, without the Supplier's prior approval.

## **15. Employee Protection, Environment and Hazardous Materials / Supplier Code of Conduct**

**15.1** The Supplier shall observe the "Hensoldt Provisions on Employee Protection, Environment and Hazardous Material" as accessible on the homepage of HENSOLDT ([www.hensoldt.net](http://www.hensoldt.net)) in the section "Supplier Information". On request, the Purchaser shall provide the Supplier with a printed copy of these provisions in the German or the English language.

**15.2** The Supplier shall observe HENSOLDT's provisions on responsible and sustainable sourcing as contained in the "HENSOLDT Supplier Code of Conduct", which is accessible on the homepage of HENSOLDT ([www.hensoldt.net](http://www.hensoldt.net)) in the section "Supplier Information". On request, the Purchaser shall provide the Supplier with a printed copy of these provisions.

**15.3** If there is a suspected or actual case of Supplier being in breach of the "Hensoldt Supplier Code of Conduct" and/or the "Hensoldt Provisions on Employee Protection, Environment and Hazardous Material", Hensoldt has the right to request all information that is reasonably required to investigate and assess the case and, within its own reasonable discretion, to audit the Supplier's relevant compliance management systems, if the breach must be considered as material breach; the Supplier is obliged to co-operate as far as it can reasonably be expected.

**15.4** The Supplier shall employ only such employees for works at the Purchaser who have the qualification required for this work. The Supplier shall make corresponding proof available to the Purchaser upon request with short notice for a sample examination.

## **16. Termination of Services**

**16.1** The statutory provisions of the German Civil Code concerning the termination of Deliveries and Services shall apply.

**16.2** Moreover, the Purchaser may terminate the relevant purchase order(s) if the Supplier has failed to observe or perform any of the conditions of the order(s) and has failed to remedy any such breach within thirty (30) days of notice thereof from the Purchaser. Any claims for damages shall remain unaffected by such termination.

## **17. Insurance**

**17.1** The Supplier shall conclude and maintain with insurers of recognized reputation and security adequate insurance policies to cover its liabilities under the purchase orders issued by the Purchaser. At a minimum, Supplier shall maintain a General Third Party liability Insurance for an amount of no less than 5.000.000 (five million) EUR per occurrence and in the yearly aggregate. The Supplier shall also conclude and maintain Product Liability Insurance. The limit of coverage of such insurance shall be not less than 5.000.000 (five million) EUR per occurrence and 10.000.000 (ten million) EUR in the yearly aggregate.

**17.2** The Supplier shall provide certificates of such insurances on request of the Purchaser at any time.

## **18. Data Protection**

**18.1** In the context of their cooperation, the Parties undertake to comply with all applicable laws and regulations on data protection, in particular on the protection of personal data. If personal data are processed, this shall only be done if and to the extent that the processing is legally permissible.

**18.2** If the Supplier processes personal data on behalf of the Purchaser and is deemed to be a processor within the meaning of Art. 4 and 28 Regulation (EU) 2016/679 'General Data Protection Regulation' (GDPR), then the Supplier shall conclude a separate and written agreement with the Purchaser on the processing which complies with the relevant data protection law requirements, in particular the requirements of Art. 28 GDPR. The Supplier shall not carry out any such processing before such an agreement has been concluded.

**18.3** Information on the collection and processing of personal data by the Purchaser is made available on the homepage of HENSOLDT ([www.hensoldt.net](http://www.hensoldt.net)) in the section "Supplier Information".

## **19. Final Provisions**

**19.1** The laws of the Federal Republic of Germany excluding the provisions of the UN Convention on the International Sale of Goods (CISG) shall apply to all legal relationships between the Purchaser and the Supplier.

**19.2** Should the Supplier cease to make payments, or if an interim insolvency administrator is appointed or if insolvency proceedings are commenced in relation to the assets of the Supplier, the Purchaser may terminate the contract and/or any purchase orders issued there under. In the event of termination, the Purchaser may continue to utilize existing facilities, Deliveries or Services already performed by the Supplier in exchange for reasonable payment.

**19.3** Place of venue for all disputes arising from the business relationship as governed by these General Purchasing Conditions shall be Munich. The Purchaser is furthermore entitled to file a claim against the Supplier at any other place of general or special jurisdiction.

**19.4** Changes and amendments to these General Purchasing Conditions as well as side agreements require the written form. This shall also apply to any waiver of this written-form clause.

**19.5** If any of the above provisions should be or become ineffective, the validity of the remaining provisions shall remain unaffected. The parties hereto are obliged to agree upon a provision to replace the ineffective provision that approximates as closely as possible the economic intent of the ineffective provision.