

# GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

Hirschmann Automotive Group

January 2025



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## 1 SUBJECT AND SCOPE

- 1.1 These General Terms and Conditions of Sale and Delivery (hereinafter referred to as "**Terms and Conditions of Sale**") shall apply to all contracts, orders, delivery schedules and other contractual declarations in connection with the manufacture, sale and/or delivery of goods as well as the provision of development services and other services by Hirschmann Automotive GmbH with its registered office in Rankweil, Austria, and its Affiliated Companies (hereinafter referred to as "**Hirschmann Automotive**"), unless expressly agreed otherwise in writing. These Terms and Conditions of Sale shall also apply to all future contracts, even if they are not agreed separately in individual cases.
- 1.2 In the absence of any written agreement to the contrary, these Terms and Conditions of Sale shall apply to all customers of Hirschmann Automotive, meaning all companies that receive deliveries of goods or performances of services from Hirschmann Automotive (hereinafter referred to as "**Customers**"). These Terms and Conditions of Sale shall also apply to all Affiliated Companies of the Customer, insofar as they are involved in the sales process.
- 1.3 "**Affiliated Companies**" means all companies that are directly or indirectly controlled by a party, control a party, are under common management with a party, or are under common control with a party, such control being presumed in any case if more than 50% of the shares or voting rights are held directly or indirectly. This also includes any future Affiliated Companies of the parties. Either party may at any time request from the other party a list of the current Affiliated Companies.
- 1.4 These Terms and Conditions of Sale apply to the entire supply relationship between the Customer and Hirschmann Automotive. These Terms and Conditions of Sale shall therefore also apply to all future deliveries of goods or performances of services by Hirschmann Automotive as well as to contracts already concluded, even if they are not separately agreed again in the individual case.
- 1.5 General terms and conditions of the Customer (including but not limited to terms and conditions of purchase, quality conditions, logistics conditions, delivery instructions) shall not apply, even if they are the basis of the order or if reference is made to them in portals, on forms or in other documents, or even if Hirschmann Automotive has not separately objected to their application in the individual case. Even if Hirschmann Automotive refers to a document containing or referring to the terms and conditions of the Customer or a third party, this shall not constitute an agreement to the application of such terms and conditions. Under no circumstances shall Hirschmann Automotive's conduct be construed as acceptance of the Customer's terms and conditions, in particular not through any acts of performance of the contract, silence or the unconditional transmission of an order confirmation.
- 1.6 Hirschmann Automotive reserves the right to amend these Terms and Conditions of Sale at any time, with the new version applying to all contracts entered into thereafter from the date of publication on the website <https://www.hirschmann-automotive.com>.

## 2 OFFER – CONCLUSION OF CONTRACTS

- 2.1 Offers from Hirschmann Automotive are subject to change and non-binding.
- 2.2 Content that deviates from the offer shall only become part of the contract if expressly acknowledged by Hirschmann Automotive to be binding when confirming the order.
- 2.3 Hirschmann Automotive reserves the right to review the Customer's order within a reasonable period of at least one week and, if necessary, to reject it. If the Customer's order deviates from the offer, this shall be considered as a new offer by the Customer, which Hirschmann Automotive expressly reserves the right to accept.
- 2.4 Any conclusion of a contract must be in writing in order to be legally binding (whereby e-mail, fax or EDI shall be deemed to fulfil the written form requirement).
- 2.5 Orders placed by the Customer shall be deemed to have been accepted by Hirschmann Automotive and shall become binding if Hirschmann Automotive has issued a written order confirmation or sent a delivery to the Customer or provided the service to the Customer after receipt of the order.
- 2.6 Deviations in the order confirmation or in the documents referenced therein from previously made declarations of the parties shall be deemed to have been approved if the Customer does not expressly object in writing within a reasonable period of time, at the latest within five calendar days from receipt of the order confirmation.
- 2.7 Once the contract has been concluded, changes to the order on the part of the Customer shall only be possible subject to Hirschmann Automotive's written approval and subject to indemnification.
- 2.8 The performance of several deliveries or services over a prolonged period of time shall not give rise to a continuing obligation or any other right to obtaining further deliveries or services unless and until expressly agreed in a contractual document signed by both parties.

## 3 DELIVERY

- 3.1 Deliveries of goods shall be made FCA from the delivering plant or warehouse of Hirschmann Automotive in accordance with INCOTERMS 2020, unless otherwise agreed in writing.
- 3.2 The place of performance for the deliveries of goods or performance of services is the plant or warehouse of Hirschmann Automotive. The risk shall pass to the Customer as the delivery is made available for pick-up at the plant or warehouse or when the service is provided by Hirschmann Automotive. This shall apply also in cases where the transportation is performed or organized by Hirschmann Automotive.
- 3.3 In the event of loss and damage during transport, the Customer is responsible submitting a complaint with the carrier.
- 3.4 Unless otherwise agreed, the delivery period shall be deemed to have been met when the goods are ready for delivery at the place of performance.
- 3.5 The delivery is properly packaged and labelled according to the standards of Hirschmann Automotive.
- 3.6 Hirschmann Automotive is entitled to carry out partial deliveries. Partial deliveries will be invoiced immediately and separately.

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- 3.7 If the Customer does not collect the delivery provided by Hirschmann Automotive on time, Hirschmann Automotive reserves the right to invoice the Customer for the resulting costs incurred.

## 4 DELAY

- 4.1 Hirschmann Automotive's delivery dates and deadlines shall only be binding if explicitly confirmed as binding in writing. If the delivery date falls on a public holiday, delivery will take place on the following working day.
- 4.2 Hirschmann Automotive's compliance with delivery dates and deadlines requires that the Customer fulfils its obligations to cooperate, in particular that it provides all necessary drawings, documents, approvals and approvals in good time or at the agreed time. If these obligations to cooperate are not fulfilled by the Customer or are not fulfilled in time, the delivery periods shall be extended appropriately and thus do not constitute a delay of the originally agreed delivery dates.
- 4.3 If appointments (e.g. delivery dates, SOP dates, etc.) are postponed at the request of the Customer, the Customer is obliged to compensate Hirschmann Automotive for all damages and costs incurred as a result.
- 4.4 If the agreed delivery dates are exceeded, Hirschmann Automotive will be in delay and will only compensate the costs for accelerated transport (special transport costs), provided that the Customer has not made any short-term changes to the required quantities, has demonstrably already used up an adequate safety stock of goods and Hirschmann Automotive is at fault for the delay. Within the scope of the above restrictions, Hirschmann Automotive shall not be liable for any further claims, costs or damages of the Customer.

## 5 FORCE MAJEURE

- 5.1 In the event that the timely fulfillment of a party's obligation is prevented due to a proven force majeure event (i.e. unforeseeable and unavoidable circumstances, in particular as a result of natural disasters, official restrictions, labor disputes, embargoes, fire or similar circumstances caused by forces of nature, energy and raw material shortages, unforeseeable transport or customs clearance problems as well as delays in the delivery of raw materials or supplier parts, failures of essential suppliers or circumstances caused by government agencies, which prevent the respective party from its own performance to such an extent that the force majeure event – despite preventive risk management – is beyond the reasonable control of the respective party), the respective party shall be released from its contractual obligations for the duration of this event and to the extent of its effect.
- 5.2 In such cases, the party affected by the force majeure event shall immediately inform the other party in writing and shall state the expected duration of the disruption, the expected effects and the remedial measures taken.
- 5.3 The party affected by the force majeure event shall restore its performance as soon as possible.
- 5.4 The Customer continues to pay for the deliveries of goods or performance of services made prior to the

force majeure event and bears all storage costs incurred as well as material price increases.

- 5.5 In the event of force majeure events on the part of Hirschmann Automotive (or also on the part of its sub-supplier), the delivery period shall be extended by the duration of these circumstances. This shall not give rise to any compensation or other claims against Hirschmann Automotive for the Customer.

## 6 PRICES AND PAYMENTS

- 6.1 The prices are quoted in the currency stated in Hirschmann Automotive's offer and include the ancillary costs (such as shipping, taxes and customs duties) indicated in the offer. Any ancillary costs not indicated in the offer shall be borne by the Customer, unless expressly agreed otherwise.
- 6.2 All prices are based on the presumptions present at the time of the offer. In the event of a significant change in cost-relevant circumstances (e.g. increase in raw material, material, labor, customs or transport costs, change in technical requirements), Hirschmann Automotive reserves the right to increase the price accordingly. A significant change is indicated by a cost increase of at least 5% in comparison to the date of the offer or the date of the last price adjustment.
- 6.3 The offered annual quantities constitute the basis for the calculation of the offered prices. If, however, the actually called-off quantity of goods per year falls significantly below the offered annual quantities, despite consideration of the offered flexibility, Hirschmann Automotive reserves the right to adjust prices accordingly and with retrospective effect due to reduced call-offs.
- 6.4 In the event of a premature termination of the project, Hirschmann Automotive reserves the right to invoice the actual expenses incurred up to that point as well as development and investment costs at the respective residual book value.
- 6.5 Payments shall be made without any deduction, with all bank charges paid, to Hirschmann Automotive's bank account, in the agreed currency and within 30 days of the date of issue of the invoice. Deviating payment terms or agreements require the written consent of Hirschmann Automotive.
- 6.6 Any payment will be deemed made on the day the funds are available for disposition by Hirschmann Automotive.
- 6.7 The Customer is not entitled to withhold or offset payments on the basis of warranty claims or other counterclaims.
- 6.8 If the Customer does not pay the full amount by the due date and is thus in default of payment, Hirschmann Automotive is entitled (without prejudice to all other contractual or statutory rights) to: (a) demand advance payments before future deliveries, (b) suspend the delivery of any goods without Hirschmann Automotive incurring any liability towards the Customer, (c) terminate the contract with the Customer or withdraw from it or (d) declare all outstanding receivables from this or other transactions due and payable and to charge the applicable statutory default interest on these amounts from the respective due date, as well as (e) claim further costs (in particular collection charges and other costs reasonable for appropriate legal prosecution).

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- 6.9 The Customer may only withhold payments or offset them against counterclaims without the prior written consent of Hirschmann Automotive if these counterclaims of the Customer are either undisputed or their legal validity has been confirmed by court.

## 7 RETENTION OF THE TITLE

- 7.1 Hirschmann Automotive reserves title to any and all goods delivered by Hirschmann Automotive until payment in full of the invoiced amounts plus possible interest and costs (hereinafter referred to as "**Reserved Goods**") and is entitled at its own discretion to make this reservation of title known until full payment has been received and, where possible or necessary, to register it with competent domestic and foreign authorities. The further processing and resale of Reserved Goods by the Customer shall be permitted until revoked.
- 7.2 The Customer hereby assigns to Hirschmann Automotive its claims arising from the resale of Reserved Goods – even if they have been processed, transformed or mixed – as security for Hirschmann Automotive's claim to the purchase price and undertakes to make a corresponding note in its books or on its invoices. Upon request, the Customer shall notify Hirschmann Automotive of the claim assigned as well as of the name of the debtor, provide all particulars and documentation required by Hirschmann Automotive for collecting the claim and notify the third-party debtor that the claim has been assigned. In the event of seizure or any other claim to the Reserved Goods, the Customer shall be obliged to disclose Hirschmann Automotive's right of ownership and to notify Hirschmann Automotive immediately.
- 7.3 If the applicable law of a country in which the goods are located does not allow the retention of title under the previous provisions but allows to maintain other comparable security interests in the goods, Hirschmann Automotive is entitled to enforce these other security interests. The Customer is obligated to take all necessary measures at its own expense to confirm and maintain the retention of title or other security interests.

## 8 WARRANTY

- 8.1 Hirschmann Automotive warrants that Hirschmann Automotive's deliveries of goods or performance of services are free of defects and in accordance with the agreed specifications at the time of transfer of risk. Any further warranty is excluded. In particular, Hirschmann Automotive assumes no warranty (a) for customary sealing, (b) for improper, unprofessional, faulty or unsuitable use of the goods or services, (c) that the deliveries of goods or performance of services comply with all legal or official regulations of all sales markets of the Customer or (d) are suitable for the intended use by the Customer.
- 8.2 The warranty period is 12 months from delivery or performance. To the extent permitted by law, this also applies in the event that the Customer or its customer must provide a longer warranty to a consumer.
- 8.3 The Customer shall expressly notify Hirschmann Automotive in writing of any defects within a reasonable period of time – in case of obvious defects or wrong deliveries within five calendar days after delivery or performance of the service at the latest, in case of hidden defects within five calendar days after

discovery at the latest – otherwise, the assertion of claims under warranty, damages due to the defect itself as well as due to error about the absence of defects shall be excluded.

- 8.4 In the event of a defect or a deviation from the agreed specifications, Hirschmann Automotive shall supply a replacement or remedy the defect at its own expense. Hirschmann Automotive shall not be liable for any further costs in connection with the defect, in particular installation and removal costs.
- 8.5 The principle of cost minimization on the part of the Customer shall apply to all above-mentioned warranty remedies. Hirschmann Automotive shall be granted the right to choose the most favorable solution for Hirschmann Automotive to remedy the defect. Subsequent performance shall not lead to a recommencement of the warranty period.
- 8.6 If Hirschmann Automotive does not comply with the warranty obligation within a reasonable period of time or if subsequent performance fails, the Customer is entitled to reduce the price by an appropriate amount or – in the case of significant defects – to rescind the contract; but in either case only with respect to the defective delivery.
- 8.7 Insofar as Hirschmann Automotive supplies the Customer with non-customized catalogue parts (hereinafter referred to as "**Standard Products**"), Hirschmann Automotive warrants that these conform to the specifications as set out in the technical description and product data sheet. In such cases, Hirschmann Automotive reserves the right to make insignificant changes that do not affect the function of the Standard Products without informing the Customer and without this giving rise to any warranty claims on the part of the Customer. The conditions outlined in VDA Volume 2 are only valid for customer-specific goods.

## 9 LIABILITY

- 9.1 Subject to mandatory law, Hirschmann Automotive shall only be liable for damages in connection with these Terms and Conditions of Sale and resulting from the delivery of goods or performance of services by Hirschmann Automotive if proven to have acted with intent or gross negligence and only up to the amount paid by the Customer to Hirschmann Automotive in connection with the concerned goods or services.
- 9.2 Hirschmann Automotive's liability for slight negligence, compensation for consequential damage and pecuniary damage, savings and/or profits not made, loss of interest, line stoppages, compensation for loss of production and for damage arising from third parties asserting claims against the Customer are excluded. This exclusion of liability shall not apply to personal injury and product liability claims.
- 9.3 Hirschmann Automotive's liability is also excluded if (a) Hirschmann Automotive supplies samples according to point 11 (b) the occurrence of damage is due to incorrect or incomplete information, drawings, specifications, provision or other instructions of the Customer, (c) the Customer or third parties make unauthorized changes to the goods or services, (d) the operating, installation, removal and maintenance instructions of Hirschmann Automotive are not complied with, (e) the Customer or third parties use or handle the goods or services improperly, unprofessionally, incorrectly or unsuitably.

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9.4 The limitation period for claims for damages is 12 months from knowledge of the damage and the damaging party.

9.5 Hirschmann Automotive shall only be liable for damages and costs in connection with a legally mandatory or officially imposed recall action, which is carried out in order to prevent damage/danger to persons, provided that the recall action is demonstrably attributable to the goods or services of Hirschmann Automotive, the procedure for determining the costs was agreed between Hirschmann Automotive and the Customer and these costs were demonstrably incurred by the Customer.

## 10 SUB-SUPPLIERS

10.1 Hirschmann Automotive is entitled to commission sub-suppliers or to delegate the execution of the delivery or the provision of services to sub-suppliers.

10.2 Hirschmann Automotive shall not be held responsible for any fault on the part of its sub-suppliers or sub-contractors and shall not be responsible for them.

## 11 SAMPLES AND PROTOTYPES

11.1 If agreed, goods shall be individually developed, manufactured and delivered to the Customer by Hirschmann Automotive in accordance with the agreed Customer's requirements. In the course of such development activities, Hirschmann Automotive shall produce development samples or prototypes of the goods (hereinafter referred to as "**Samples**"). These Samples shall be made available to the Customer solely for the purpose of examination, evaluation and/or review of the development progress. The Samples are therefore unsuitable for productive use, further processing by the Customer and incorporation into the Customer's products, as well as for any serial delivery. Any such use of the Samples by the Customer shall therefore be at the Customer's own risk and to the exclusion of any warranty and liability of Hirschmann Automotive.

11.2 Hirschmann Automotive warrants only that the Samples have the characteristics expressly agreed with the Customer in writing and corresponding to the respective development stages or sample classes. Beyond this, Hirschmann Automotive shall not assume any warranty for further characteristics of the Samples and/or liability for circumstances, damage and other consequences in connection with them.

## 12 INTELLECTUAL PROPERTY RIGHTS

12.1 Intellectual Property Rights means any and all copyright protected works (including software and drawings), ideas, inventions, patents, patent applications, designs, specifications, techniques, discoveries, trade secrets, know-how, processes, compilations of information, trademarks, samples, test results, research results, design rights and all similar or equivalent industrial or intellectual property rights (hereinafter referred to as "**IPR**").

12.2 All IPR related to the delivery of goods or performance of services of Hirschmann Automotive as well as IPR related to drawings, design information, specifications, ideas, know-how or other information made available to the Customers by Hirschmann Automotive remain exclusively with Hirschmann Automotive. Hirschmann Automotive's IPR also extend to items

produced through the processing or use or exploitation of Hirschmann Automotive's IPR.

12.3 Hirschmann Automotive grants the Customer (after full payment) a non-exclusive right of use to the IPR embodied in the goods or services of Hirschmann Automotive, which is transferable only to Affiliated Companies and customers of the Customer and cannot be sublicensed. The Customer is only entitled to use, process and distribute the goods or services in accordance with the purpose of the contract. In particular, however, the Customer is not entitled to produce or provide the goods or services itself, to manufacture them itself or to have them provided or manufactured by a third party.

12.4 If goods are produced by Hirschmann Automotive on the basis of design specifications, drawings, models or other specifications provided by the Customer, the Customer shall indemnify and hold Hirschmann Automotive harmless in respect of any infringement of IPR and, if so requested by Hirschmann Automotive, shall join the respective proceedings as a party or intervener at its own cost and litigate for the benefit of Hirschmann Automotive.

## 13 CONFIDENTIALITY

13.1 The parties undertake to keep all non-public commercial, technical or other information that becomes known to them in the course of the cooperation (hereinafter referred to as "**Confidential Information**") confidential for an indefinite period of time, to use it exclusively for the purpose of the cooperation, not to use it for their own benefit and not to disclose it to third parties or to use it for any cooperation with third parties.

13.2 The parties shall oblige their employees, subcontractors and any other parties involved in the business relationship to maintain confidentiality.

13.3 Hirschmann Automotive may request the return of documents and items containing Confidential Information at any time.

## 14 INSOLVENCY

If insolvency proceedings are applied for against the assets of the Customer or out-of-court settlement proceedings are applied for or if the Customer is no longer in a position to properly fulfil the contract due to a deterioration in its financial circumstances, Hirschmann Automotive shall be entitled to withdraw from the unfulfilled part of the contract without consequences.

## 15 EXPORT CONTROL

15.1 Hirschmann Automotive and the customer are obliged to comply with all applicable national and international regulations for the import and export of goods, services, software, technologies and information. This includes in particular the applicable export control regulations, trade restrictions, embargoes, sanctions lists and other relevant regulations. The customer warrants that Hirschmann Automotive's deliveries or services to the customer and its Affiliated Companies do not violate any applicable trade restrictions or export control regulations. Furthermore, the customer declares and guarantees that (a) it is not listed on any national or international sanctions list and (b) the goods, services, software,



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technologies and information supplied will not be used for purposes related to the development, production or use of nuclear, biological or chemical weapons or ballistic missile systems.

- 15.2 The customer shall not directly or indirectly use, supply, sell, export, re-export, acquire or otherwise transfer Hirschmann Automotive's products for or to a prohibited or restricted end use, end user, destination or certain restricted third countries (in particular Russia and Belarus) in violation of applicable trade restrictions and export control regulations.
- 15.3 The customer shall undertake its best efforts to ensure that the purpose of these conditions is not frustrated by any third parties further down the commercial chain, including by possible resellers. In addition, the customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of these conditions.
- 15.4 Any violations of trade restrictions and/or export control regulations by the customer shall constitute a material breach of these Terms and Conditions of Sale and Hirschmann Automotive reserves the right (also in case of suspected violations) to seek appropriate remedies, including but not limited to (a) cancellation of the customer's orders, (b) termination of the respective contracts without any liability and (c) claiming compensation for any and all damages, costs, expenses, fines, claims from third parties and other disadvantages incurred by Hirschmann Automotive.
- 15.5 Should the customer become aware of a violation of trade restrictions and/or export control regulations, the customer is obliged to inform Hirschmann Automotive immediately in writing in addition to immediately notifying the competent authorities. In addition, the customer shall immediately inform Hirschmann Automotive about any problems in applying these conditions, including any relevant activities by third parties that could frustrate the purpose of these conditions. The customer shall make available to Hirschmann Automotive any and all information concerning compliance with the obligations set out in these Terms and Conditions of Sale within one week of request of such information.

## 16 PLACE OF JURISDICTION – APPLICABLE LAW

- 16.1 Unless otherwise agreed by the parties, the exclusive place of jurisdiction for all legal disputes in connection with all deliveries of goods or performance of

services of Hirschmann Automotive, with all contracts concluded between Hirschmann Automotive and the Customer and with these Terms and Conditions of Sale shall be the registered place of business of the respective company within Hirschmann Automotive Group which has concluded the respective contract with the Customer. However, Hirschmann Automotive shall be entitled, at its discretion, to assert claims against the Customer at the Customer's place of business.

- 16.2 Unless otherwise agreed by the parties, the relationship between the Customer and Hirschmann Automotive shall be governed exclusively by the law of the registered place of business of the respective company within the Hirschmann Automotive Group which has concluded the respective contract with the Customer, to the exclusion of conflict of laws and the Convention on the International Sale of Goods (CISG).

## 17 GENERAL PROVISIONS

- 17.1 In case these Terms and Conditions of Sale are translated into other languages, the English version shall prevail.
- 17.2 These Terms and Conditions of Sale will not be deemed as establishing any labor relationship between the parties nor between their employees or sub-suppliers, which will act as independent parties. The parties are independent and none of the provisions of these Terms and Conditions of Sale will be considered as a joint venture or agency, mandate nor employer relationship between them.
- 17.3 The Customer shall not be entitled to assign its rights and obligations under these Terms and Conditions of Sale in whole or in part without the prior written consent of Hirschmann Automotive. Hirschmann Automotive shall be entitled to assign its rights and obligations in whole or in part.
- 17.4 Any modification and amendment to these Terms and Conditions of Sale shall only be effective if agreed in writing and duly signed by Hirschmann Automotive and the Customer. This shall also apply to any amendment of this written form clause.
- 17.5 If individual provisions of these Terms and Conditions of Sale are invalid, the remaining provisions shall not be affected thereby. The invalid provision shall be replaced by a valid provision which comes as close as possible to the intended purpose. The same applies to the extent that these Terms and Conditions of Sale should have any gaps.