

## General Terms & Conditions

### A. General, scope of application

- I. These General Terms & Conditions (hereinafter "GTC") apply to the company **voestalpine Specialty Metals Europe GmbH**, Betriebsweg 10, 51645 Gummersbach, Germany (hereinafter referred to as "VSME"). All deliveries (hereinafter referred to as "Object of Delivery"), services such as processing and consulting, as well as offers of VSME are effected exclusively on the basis of these GTC, which form an integral part of all contracts which VSME concludes with its contract partners (hereinafter referred to as the "Customer") for the deliveries and services offered by VSME. They shall also apply to all future deliveries and services or offers to the Customer, even where they (the GTC) are not separately agreed once more.
- II. These GTC apply with exclusive effect. Customer terms and conditions which differ from, conflict with or supplement these GTC will only become an integral part or a contract when and insofar as VSME has expressly consented to their applicability. This consent requirement shall for example also apply where VSME, having knowledge of the Customer's terms and conditions, executes an order for the Customer without demur.
- III. Individual agreements reached with the Customer in individual cases (including supplementary accords, additions and amendments) shall in every case have priority over these GTC. Subject to proof to the contrary, the content of such agreements shall be governed by a written contract or VSME's written confirmation.
- IV. All declarations and advices which have to be delivered by the Customer to VSME after conclusion of the contract (e.g. setting of time limits, notice of defects, declaration of withdrawal or reduced payment) must be in writing, that is in written or text form (e.g. by letter or email). This shall be without prejudice to statutory requirements and other verifications, particularly in case of doubt as to the legitimate status of the declaring party.
- V. References to the applicability of statutory provisions shall have clarifying significance only. The statutory provisions shall therefore apply even without such clarification except where they are directly amended or expressly excluded in these GTC.

### B. Offer and conclusion of contract

- I. All VSME's offers are without obligation and subject to confirmation. This shall also apply where VSME has supplied the Customer with catalogues, technical documentations (e.g. drawings, plans, calculations, pricing/costing, references to DIN standards), other product descriptions or documents – also in electronic form – to which VSME reserves title and copyright.
- II. The order by the Customer is deemed to be a binding offer of a contract. Except where the order determines otherwise, VSME shall be entitled to accept such offer of a contract within a limited period of 2 weeks after receipt thereof.
- III. Acceptance may be effected either in writing (e.g. through an order confirmation) or by delivery of the goods to the Customer.
- IV. Information given by VSME on the Object of Delivery (e.g. weights, dimensions, practical value, load capacity, tolerances and technical data) and presentations of same (e.g. drawings and illustrations) shall have only an approximately and not binding effect except where the usability for the contractually intended purpose is conditional on an exact match. The said information shall not represent guaranteed characteristics or features but descriptions or designations of the Object of Delivery. Discrepancies customary for the trade and discrepancies which are due to legal requirements or represent technical improvements, shall be admissible except where they compromise usability for the contractually intended purpose.
- V. VSME reserves title or copyright to all the offers and cost estimates it has submitted and to all the drawings, illustrations, calculations, brochures, catalogues, models, tools and other documents and equipment provided to the Customer. The Customer may not make these documents or items, whether as such or the content thereof, accessible to third parties without the express consent of VSME, nor make said items known, nor use them itself or via third parties, nor reproduce same. On request by VSME the Customer shall return these documents or items to VSME in full and destroy any copies that may have been made if and when they are no longer required by the Customer in the normal course of business or if negotiations do not result in the conclusion of a contract. All know-how, inventions, patents or similar rights to which VSME has title are provided for the purpose of performance of the contract and are not transferred to the Customer.

**C. Delivery periods and dates**

- I. The time of delivery is agreed for each individual case or stated by VSME on acceptance of the order. All delivery times and dates shall be subject to unforeseeable production breakdowns and VSME receiving its own supplies in timely manner.
- II. Where VSME cannot adhere to binding delivery times for reasons for which it is not responsible (performance not available), VSME will inform the Customer thereof without delay and at the same time state the expected new delivery time. If the performance is not available inside the new delivery period, VSME shall be entitled to withdraw from the contract wholly or in part; any payments made by the Customer by that time will be reimbursed without delay. Non-availability of performance shall, for the present purpose, in particular mean unpunctual delivery by VSME's supplier where VSME has concluded a congruent hedging transaction, where neither VSME nor the said supplier is at fault, or in an individual case where VSME is not obliged to ensure procurement.
- III. The relevant statutory provisions shall determine when default on delivery has occurred. In every case, however, a warning notice by the Customer shall be necessary. If VSME is in default within the scope of processing the material that goes beyond cutting to size, the Customer may require lump-sum compensation for the loss resulting from default. The compensation amount shall be 0.5 % of the net price (processing value) for each completed calendar week, but a maximum total of 5 % of the processing value of the goods delivered late. VSME reserves the right to provide evidence that the Customer has suffered no loss or a substantially lower loss than the aforesaid compensation amount.
- IV. The rights of the Customer under section I of these GTC and the legal rights of VSME, in particular in case of an exclusion of the obligation to perform (e.g. on grounds of contract performance and/or supplementary performance being impossible or unreasonable) shall remain unaffected.

**D. Delivery, shipment, packing and transfer of risk**

- I. Delivery shall be made ex works, which is also the place of performance for the delivery and any possible supplementary performance. On request by and at the expense of the Customer, the goods may be shipped to a different destination within Germany. Except where otherwise agreed, VSME shall be entitled to determine the mode of shipment itself (in particular carrier, route, packing). Transport insurance will only be taken out at the Customer's request. It will be conditional on a written order from the Customer stating the insurance amount. The costs of the transport insurance shall be met by the Customer.
- II. VSME shall be entitled to make partial deliveries and to reasonably exceed or fall short of the agreed delivery quantities by up to 10 %.
- III. If the customer does not fulfil contractual obligations, such as opening a letter of credit, providing domestic or foreign certificates, making an advance payment or similar, VSME is entitled to adjust the delivery periods and dates, without prejudice to the rights arising from default, according to the needs of the production process in a time frame appropriate to the delayed provision of the documents and required for technical production reasons (e.g. quota production).
- IV. Unless otherwise agreed in individual cases, the risk of accidental loss and accidental deterioration of the goods shall pass to the Customer not later than the time the goods are handed over to the Customer. In the case of shipment, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass at the time the goods are delivered to the forwarder, the carrier or other person or organisation designated for the execution of shipment. If acceptance has been agreed, this shall determine the time of transfer of risk. In other respects an agreed acceptance shall also be subject to the relevant statutory provisions of work and services contract law. The same provisions shall apply to hand-over or acceptance where the Customer is in default with acceptance.
- V. If the Customer defaults on acceptance or fails to fulfil a cooperation obligation, or if delivery by VSME is delayed for other reasons for which the Customer is responsible, VSME shall be entitled to require compensation for the loss resulting therefrom, including additional expenditure (e.g. storage costs). This shall be without prejudice to the statutory provisions governing default on acceptance.
- VI. Where customary for the trade, VSME will supply the goods in packed form; the costs shall be borne by the Customer. Packing, protective and transport equipment will not be returned, with the exception of items on deposit, loading equipment and means of transport. Packing exceeding transport requirements or the use of other special protective materials, e.g. for long-term safekeeping or storage, will be subject to an express agreement.
- VII. In the case of damage during transport the Customer must immediately initiate a statement of facts.

**E. Prices**

Except where agreed otherwise in an individual case, our current prices will apply as at the time the contract is concluded. The terms are ex works, in euros plus statutory VAT and other taxes, fees, customs duty, other public charges and costs such as transport, packing and acceptance-related costs.

**F. Terms of payment**

- I. The purchase price will be due and payable net without deduction no later than 20 days after invoicing and delivery or acceptance of the goods, unless otherwise agreed. If a payment period is stated on the invoice, payment must be made by that time at the latest. VSME shall however also be entitled at any time in the course of the current business relationship to carry out partial or full delivery, but only against payment in advance. VSME shall use the order confirmation, at the latest, to reserve its right to do so.
- II. The Customer shall be in default as of expiry of the payment period referred to above. Interest will then be due on the purchase price at the statutory default interest rate effective at the time. VSME reserves the right to assert claims for losses of greater extent due to the default. Vis-à-vis merchants the claim to interest on arrears (section 353 HGB, German Commercial Code) shall remain unaffected. The Customer shall have rights of offsetting and withholding payment only where its claim has been finally established at law or is undisputed. This shall be without prejudice to the Customer's counter-claims in case of defect, in particular under sentence 2 of section H VIII of these GTC.
- III. If it becomes apparent after conclusion of the contract that the claim to the purchase price is at risk due to the Customer's deficient capacity to make payment (e.g. through an application for the opening of insolvency proceedings), VSME shall, pursuant to the relevant statutory provisions, be entitled to refuse performance and – where appropriate after setting a time limit – to withdraw from the contract (section 321 BGB, German Civil Code). In the case of contracts on the production of unacceptable items, VSME may declare its withdrawal immediately, the statutory provisions on the dispensability of the setting of a time limit remaining unaffected.

**G. Retention of title**

- I. VSME reserves title to the Object of Delivery until payment has been made in full of all present and future claims under the contract and in a current business relationship (secured demands for payment). If the Object of Delivery is a processing service, VSME shall acquire joint title to the article ordered in the invoice value. The following rules for retention of title shall apply in every respect to the joint title.
- II. The goods under retention of title may not be pledged to third parties or assigned as security until the secured claims have been paid in full. The Customer must inform VSME immediately in writing if an application has been filed for the opening of insolvency proceedings and where access has been made by third parties (e.g. seizures) to the goods belonging to the Customer.
- III. In case of breach of contract by the Customer, in particular failure to pay the purchase price due, VSME shall be entitled under the relevant statutory provisions to withdraw from the contract and/or to require surrender of the goods on grounds of retention of title and the said withdrawal. The demand for surrender does not necessarily entail a declaration of withdrawal; instead, VSME is entitled only to require surrender of the goods and reserve the right of withdrawal. If the Customer does not pay the purchase price due, VSME may only assert these rights if it has previously, to no avail, set the Customer a reasonable deadline for payment, unless there are statutory provisions which allow VSME to dispense with setting a deadline.
- IV. The Customer shall until further notice be entitled to resell and/or process the goods that are under retention of title in the course of proper business. In this case the following provisions shall additionally apply:
  1. The retention of title shall extend to include, in their full value, goods resulting from processing, commingling or combining, VSME being deemed the manufacturer. If, in the course of processing, commingling or combining with goods of third parties, the latter's title continues to be effective, VSME shall acquire joint title in proportion to the invoice values of the processed, commingled or combined goods. In other respects, the same shall apply to the resulting product as to the goods supplied under retention of title.
  2. The customer hereby assigns to VSME by way of security any claims against third parties arising from the resale of the goods or the product in total or in the amount of VSME's possible co-ownership share in accordance with the above paragraph. VSME hereby accepts said assignment. The Customer's obligations specified in section II shall also apply in respect of the assigned claims.
  3. The Customer continues to be authorised, as well as VSME, to collect claims. VSME undertakes not to collect claims as long as the Customer fulfils its payment obligations vis-à-vis VSME, no defects are present in its performance capacity and VSME does not assert its retained title through exercise of a right referred to in section III. If, however, this is the case, VSME may require the Customer to make the assigned claim and their obligors known, to provide all the information necessary for collection, to hand over the appurtenant documents and advise the obligor (third parties) of the assignment. Furthermore, in this case VSME is entitled to revoke the authorisation of the Customer to resell and process the goods that are under retention of title.

**H. Claims for defects**

- I. The rights of the Customer in case of defects of quality and title (including short and incorrect delivery) are governed by statutory provisions, except where determined otherwise below. Claims for recourse against suppliers are excluded where the defective goods were further processed by the Customer or another entrepreneur, e.g. through installation in another product.
- II. The Object of Delivery conforms to the contract if, at the time of transfer of risk, it deviates not at all or only insignificantly from the agreed specifications. The Object of Delivery's conformity with contract and absence of defect are determined exclusively according to explicit agreements on the quality and quantity of the Object of Delivery ordered. A warranty for a specific purpose of use or a specific suitability is only assumed where this was expressly agreed in writing; in other respects, the risk of suitability and specific use is borne exclusively by the Customer.
- III. The contents of the specifications and e.g. an expressly agreed intended use shall not constitute a warranty; a written agreement is required for the assumption of a warranty.
- IV. The Customer's claims for defects are conditional on its having fulfilled its statutory obligations of inspection and complaint (sections 377 and 381 HGB). The Customer must inspect received goods immediately after receipt. Claims for defects shall only be possible if a written complaint is made without delay; complaints about hidden defects must be made as soon as they are detected. In any case, written notice of manifest defects must be given within 5 days of delivery, and the same time limit applies after detection of non-manifest defects through inspection of the goods. If the Customer does not do the proper inspection and/or give notice of defect, liability for a defect which is not properly reported or not in due time is, under the relevant statutory provisions, excluded. After an agreed acceptance has been carried out it is not possible to complain about defects which could have been detected during the acceptance process. Claims under warranty are also excluded where the Customer or third parties carry out inappropriate or unsuitable modifications or repairs to the Object of Delivery.
- V. In case of complaints the Customer must immediately give VSME an opportunity and time to examine the Object of Delivery complained about; on request VSME must be provided with such Object of Delivery or a sample thereof at VSME's expense. The expenditure necessary for inspection and supplementary performance, in particular transport, road maintenance, labour and material costs and, as appropriate, disassembly and installation costs, shall, under statutory requirements, be met by VSME provided that there is in fact a defect. If, however, a request by the Customer for the remedying of a defect proves to be unjustified, VSME may require the Customer to reimburse the costs incurred except where the absence of defect could not become apparent to the Customer.
- VI. Where a quality defect is present, VSME shall, at its discretion – taking into account the interests of the customer – have the option of supplementary performance by way of either delivery of replacements or rectification. This shall be without prejudice to VSME's right to refuse supplementary performance subject to the relevant statutory conditions.
- VII. VSME shall be entitled to make the required supplementary performance dependent on payment by the Customer of the invoice amount due. The Customer shall however be entitled to withhold an appropriate part of the purchase price, the amount being proportionate to the defect. The supplementary performance shall include neither the disassembly of the defective part nor the renewed installation if VSME was not originally obliged to effect installation.
- VIII. If the supplementary performance was unsuccessful, or if the reasonable time limit set by the Customer for supplementary performance expired to no avail or can in law be dispensed with, the Customer may withdraw from the contract or reduce the agreed purchase price. However, if the defect is insignificant there is no right to withdraw.
- IX. In the case of a defect of title, VSME shall have the right of supplementary performance through correction of the defect of title within two weeks of receipt of the goods.
- X. The following special provisions apply in addition in the case of processing services:
  1. Deviations of dimensions, weight and quality shall be treated as contractually correct performance where they are regarded as permissible by DIN standards or accepted practice. Other deviations require a separate contractual agreement.
  2. The weight is established on calibrated scales and determines this aspect of the invoicing. Evidence of weight is given by presentation of the weight log. Except where it is usual for individual items to be weighed, the total weight of the shipment shall apply.
  3. The workpieces to be treated must be in perfect condition, clean of chips, oil or emission residues and correspond to the specified values. If necessary, they must have normal machining allowances.
- XI. Claims by the Customer for damages or compensation for wasted expenditure shall be dependent on the provisions of the following subsection and are otherwise excluded.

**I. Other liability**

- I. Except where regulated otherwise in these GTC, VSME is liable under the relevant statutory provisions for a breach of contractual and extra-contractual obligations.
- II. VSME is liable for damages – for whatever legal reason – within the limits of liability for fault in the case of wilful intent or gross negligence. In the case of minor negligence VSME is liable, subject to application of a milder measure of liability, under the relevant provisions of statute law (e.g. for due care in its own affairs) only for
- III. damage or loss resulting from loss of life, physical injury or damage to health,
- IV. damage or loss resulting from serious breach of an essential contractual obligation (an obligation which makes the correct performance of the contract possible in the first place and on whose fulfilment of which the contract partner relies and is entitled to rely); in this case VSME's liability is limited to foreseeable damage or loss occurring in standard situations.
- V. The limitations resulting from subsection II shall also apply to breaches of obligations by persons for whose culpability VSME is responsible by law. They do not apply where VSME has intentionally failed to mention a defect or has assumed a warranty for the properties and/or condition of the goods and for claims by the Customer under the German product liability act.
- VI. The Customer may withdraw from or terminate the contract on grounds of a breach of obligation which does not involve a defect only if VSME is responsible for the said breach. The Customer does not have an unrestricted right of termination. The statutory requirements and legal consequences apply in other respects.

**J. Time-barring**

- I. The period of limitation for claims on grounds of defects of quality and title is one year as from delivery or making the goods available for collection or as from acceptance.
- II. This period of limitation shall also apply to contractual or extra-contractual claims for damages by the Customer which are based on a defect in the goods, except where the application of the standard statutory limitation (sections 195 and 199 BGB) would in an individual case lead to a shorter period of limitation. Claims for damages by the customer under section I, subsection II, sentences 1 and 2, no. 1 of these GTC and under the said product liability act, however, become time-barred exclusively as laid down in the relevant statutory provisions.

**K. Export controls**

The Customer undertakes to become familiar with and comply in every respect with all the national, European and international laws, regulations, sanctions and embargoes as most recently amended concerning exports and re-exports, including but not limited to restrictions related to domestic business transactions, brokering services and other bans on circumvention which directly or indirectly affect its (the Customer's) activities (including the resale of our products). This shall also apply to decisions taken inside the voestalpine group – if and insofar as they were made known to the Customer – regarding the delivery of products or services to specified countries, to specified end customers or for specified final uses.

**L. Export certificate**

If a Customer based outside the Federal Republic of Germany (extra-territorial buyer) or its authorised agent collects goods or ships them to a territory outside Germany, the Customer must submit to VSME the export certificate necessary for tax purposes. If this certificate is not provided, the Customer will have to pay the VAT rate applicable to deliveries inside the Federal Republic of Germany on the invoice amount.

**M. Applicable law**

These GTC and the contractual relations between VSME and the Customer are governed by the law of the Federal Republic of Germany to the exclusion of international unitary law, in particular the United Nations CISG Convention.

**N. Place of performance and jurisdiction**

The place of fulfilment and jurisdiction for both contracting parties is Gummersbach. VSME will however also be entitled to bring actions at the place of fulfilment of the delivery obligation, subject to these GTC or to an overriding individual agreement, or at the general place of jurisdiction of the Customer. Overriding statutory provisions, in particular regarding exclusive jurisdictions, shall remain unaffected.

**O. Final provisions**

If a provision of these GTC is or becomes void, this shall not affect the remaining provisions of the GTC. In this case the provision which is or has become void must be replaced with a provision which serves the intended purpose and is legally admissible.