

**General Terms of Sale and Delivery**  
of  
**voestalpine Automotive Components**  
**Schwäbisch Gmünd GmbH & Co. KG**

**1. Scope**

The following Terms of Sale and Delivery (hereinafter referred to as the "Terms of Delivery") shall apply exclusively for the entire ongoing and future legal relationship between voestalpine Automotive Components Schwäbisch Gmünd GmbH & Co. KG (hereinafter: „voestalpine“) and Buyer concerning the purchase of goods ("Delivery Items") and the services associated with them ("Services"). Upon the grant of contract by Buyer, but by no later than upon the receipt of the delivery of the ordered Delivery Items and Services, Buyer acknowledges the exclusive, binding nature of these Terms of Delivery. Should Buyer use contradictory, conflicting or supplementing terms and conditions, their application in relation to voestalpine shall be excluded even if voestalpine does not expressly object to them.

**2. Offer and Conclusion of Contract, Release of Drawings**

- 2.1 The offers by voestalpine are non-binding and only to be understood as a request for the placing of an order. With each order, Buyer delivers an offer to which he is bound for two weeks as of the date of receipt at voestalpine. A contract is not made until voestalpine has issued a written confirmation of order, and it is governed exclusively by the content of the confirmation of order and/or these Terms of Delivery. Oral agreements or commitments shall require confirmation in text form (cf. Sec. 126b German Civil Code) to come into effect.
- 2.2 voestalpine reserves all rights to its own sales materials (including, but not limited to, drawings, illustrations, declarations of weight and sizing, production and performance specifications and process descriptions) and samples. They may not

be made available to third parties and must be returned to voestalpine without undue delay upon demand.

2.3 The ordered Delivery Items, including the Services, shall always be produced and provided by voestalpine in accordance with Buyer's requirements, partially upon involvement of third parties. Accordingly, Buyer must accompany the relevant order with the appropriate quality descriptions, technical data, weights, plans, sketches, measurements, most recent drawings, etc. (hereinafter: "Quality Specifications"). These Quality Specifications must therefore be expressly agreed in writing between the parties.

2.4 The Quality Specifications come exclusively from Buyer, shall be provided to voestalpine by Buyer, and voestalpine shall produce the Delivery Items in accordance with them. voestalpine is not obliged to review the Quality Specifications and other documents provided by Buyer for their accuracy and feasibility. The Quality Specifications shall always require an express written release by Buyer; voestalpine is otherwise not obliged to make performance. All responsibility on the part of voestalpine for the construction and design of the Delivery Items is thus excluded.

### **3. Delivery Periods and Dates**

3.1 Delivery periods and delivery dates are only binding if they have been confirmed by voestalpine in writing and Buyer has informed voestalpine of or provided to voestalpine all of the information, Quality Specifications, released plans, documents, approvals and clearances for executing delivery in good time and has paid any agreed down payments. Negotiated periods shall commence upon the date of the confirmation of order or the notice of acceptance. These periods shall be extended accordingly in the event of subsequently issued additional or expanded orders.

3.2 Unforeseeable, unavoidable events that are outside voestalpine's area of influence and for which voestalpine bears no responsibility (such as force majeure, war, natural disasters, strikes, lock-outs, governmental measures,

energy and fuel shortages, damage from fires and explosions, traffic and operating disturbances, sovereign directives or similar events) shall release voestalpine from its duty to make time delivery or performance for their duration. Agreed periods shall be extended by the duration of the disturbance; Buyer shall be informed in a reasonable manner of the occurrence of the disturbance. If the end of the disturbance is not foreseeable or should it last for more than two months, each party is entitled to rescind the contract with respect to the affected scope of performance.

3.3 A late delivery of raw materials or supplier parts, as well as transport problems for which voestalpine is not responsible shall result in a reasonable extension of the delivery period. voestalpine is obliged in these cases to notify Buyer without undue delay of the occurrence of said circumstances. Should the extension of the delivery period exceed 4 weeks, a timely delivery from own suppliers shall be reserved.

3.4 If deliveries by voestalpine are delayed, Buyer shall only be entitled to rescission if voestalpine bears responsibility for the delay and a reasonable period of grace for delivery set down by Buyer has passed.

3.5 If Buyer is in default of acceptance or is in breach of other duties to cooperate, voestalpine shall be entitled, notwithstanding any of its other rights, to appropriately warehouse the Delivery Item at the risk and cost of Buyer or rescind the contract.

3.6 voestalpine may make partial deliveries on justified grounds, provided this can be reasonably expected from Buyer.

#### **4. Shipping, Passage of Risk, Insurance**

The following clauses 4.1 to 4.4 shall only apply if the parties have not validly agreed to Incoterms 2010 or those provisions do not contain appropriate and valid rules:

- 4.1 Provided the parties have not made any other arrangements, shipment shall be EXW ex works. If the Delivery Item is not collected within one week as of the agreed delivery date, voestalpine shall provide for transport by reasonable means of transport at the expense and risk of Buyer.
- 4.2 Should a delivery be agreed but not exactly defined, the means of transport and the carrier or freight forwarder shall be determined accordingly by voestalpine. The Delivery Items shall be made ready or delivered by voestalpine unpackaged and without protection against corrosion.
- 4.3 Risk shall pass to Buyer upon delivery of the Delivery Item to the shipping company or Buyer himself. Should delivery or shipment be delayed on grounds for which Buyer is responsible, risk shall pass to Buyer on the date of notification of the readiness of the Delivery Item for shipment.
- 4.4 Where Delivery Items are sent by voestalpine, voestalpine shall insure the shipment against transport, breakage, fire and accidental damage upon Buyer's request and at his expense.

## **5. Prices, Payment Terms**

- 5.1 The prices negotiated between voestalpine and Buyer are fixed prices, provided the parties have not agreed to anything to the contrary.
- 5.2 All voestalpine prices are in euro, ex delivery warehouse or works and exclusive of the relevant statutory value-added tax, packaging, shipment and insurance costs and any taxes and customs duties.
- 5.3 In the event of cost increase of any nature whatsoever, particularly price increases for raw materials, voestalpine is entitled to enter into price negotiations with Buyer. Both parties must conduct these negotiations in good faith. If the parties are unable to come to an agreement on new prices within three months of the initiation of price negotiations by one of the parties, voestalpine is entitled to terminate the contract existing between them or the

relevant price arrangement and any and all of the delivery contracts entered into thereunder with a notice period of 3 months. Contracts that are already in execution shall continue to be settled after the termination.

5.4 voestalpine is entitled to issue partial invoices for the partial deliveries within the meaning of clause 3.6.

5.5 Provided the parties have not agreed anything to the contrary, each voestalpine invoice is due for payment within 30 days upon receipt by Buyer without any deductions. Default shall occur upon the expiration of this period without payment.

Buyer's payments shall not be deemed to have been made until voestalpine is able to make disposals over the amount.

5.6 If Buyer is in default of payment, voestalpine is entitled to charge default interest in the statutory amount. The assertion of broader default damages remains unaffected.

5.7 Buyer is only entitled to a set-off if his counterclaim is uncontested or has been finally adjudicated.

5.8 Buyer is only authorized to assert a right of retention if his counterclaim is based on the same contract and is uncontested or has been finally adjudicated.

5.9 If the threat of Buyer's inability to make performance becomes noticeable to voestalpine after the conclusion of contract, voestalpine is entitled to only execute outstanding deliveries against prepayment or the provision of a bond. If the prepayments or provision of bonds do not take place even after the expiration of a reasonable period of grace, voestalpine may cease making delivery until such prepayments or bonds are provided or may rescind individual or all affected contracts in full or in part. voestalpine remains entitled to assert further rights.

**6. Reservation of Title**

- 6.1 The Delivery Items shall remain in the ownership of voestalpine until any and all receivables of voestalpine under the business relationship with Buyer have been paid in full.
- 6.2 In the event of a current account, reserved property shall be deemed to secure the claim to the balance to which voestalpine is entitled.
- 6.3 Buyer is only allowed to sell the Delivery Items subject to a reservation of title ("Reserved Products") in regular business transactions. Buyer hereby assigns the receivables under such resale to voestalpine, and voestalpine hereby accepts such assignment. Buyer is irrevocably authorized to collect in his own name and in trust for voestalpine the receivables assigned to voestalpine. voestalpine may revoke this authorization and the right of resale if Buyer is in default of major obligations such as payment to voestalpine; in the case of revocation, voestalpine is entitled to collect the receivable itself. Buyer is not entitled to pledge the Reserved Products, create chattel mortgages or otherwise make disposals that would threaten voestalpine's ownership. If Buyer sells the Reserved Products following processing or transformation or after connecting or mixing them with other goods or otherwise sells them with other goods, the assignment of receivables shall only apply for the amount of the portion equivalent to the price agreed between voestalpine and Buyer plus a security margin of 10 % of this price.
- 6.4 Buyer's processing or transformation of the Reserved Products shall always take place for voestalpine. If the Reserved Products are processed with other items, voestalpine shall acquire co-ownership to the new item in the ratio of the value of the Reserved Products to the value of the other processed items at the time of processing. In all other respects, the same rules shall apply for the new item arising through processing as for the Delivery Items delivered under reservation of title.

- 6.5 If Reserved Products are connected or mixed with other items, voestalpine shall acquire co-ownership to the new item in the ratio of the value of the Reserved Product to the other items at the time of connection or mixing. If the connection or mixing occurs in such manner that Buyer's items is to be deemed to be the main item, it shall be deemed to have been agreed that Buyer transfers proportionate co-ownership to voestalpine. The co-ownership created in this manner shall be held in safekeeping for voestalpine by Buyer.
- 6.6 Buyer shall provide all requested information to voestalpine on the Reserved Products or claims that have been assigned hereunder. Seizures of or claims to Reserved Products by third parties must be reported by Buyer to voestalpine immediately and upon delivery of the necessary documents. At the same time, Buyer shall advise the third party (parties) of voestalpine's reservation of title. The costs of the defense against such seizures and claims shall be borne by Buyer.
- 6.7 Buyer is obliged to label the Reserved Products separately as the property of voestalpine for the duration of the reservation of title, wherever possible, and to handle them with care.
- 6.8 If the realizable value of the security exceeds voestalpine's receivables to be secured by more than 10 %, Buyer is entitled to demand their release.
- 6.9 If Buyer is in default of major obligations such as payment to voestalpine, and notwithstanding any other rights, voestalpine may take back the Reserved Products and, following the rescission of contract, may otherwise realize them for the purpose of satisfying its receivables against Buyer that are due for payment. In the event of a demand for the surrender of the Reserved Products, Buyer shall grant voestalpine or the authorized agent of voestalpine immediate access to the Reserved Products and surrender the same. If voestalpine demands that they are surrendered under this provision, this alone shall not be deemed to be a rescission of contract.

6.10 To the extent the reservation of title cannot come into effect in the foreign country of destination for the Delivery Items or Reserved Products or not to the extent provided for here, Buyer shall cooperate in the creation of those securities that come closest in scope and effect to this reservation of title.

## **7. Acceptance**

7.1 Where an acceptance of the Delivery Items and the Services by voestalpine that constitute a work is expressly agreed between the parties, acceptance shall take place, in the absence of provisions to the contrary, at voestalpine's (delivery) plant.

7.2 Following the manufacture of the Delivery Item, including the Services, voestalpine shall inform Buyer in writing of its completion and give notice of its readiness for acceptance (RfA). Acceptance must take place without undue delay following the RfA, and the parties shall agree an appropriate date for it. Acceptance shall take place upon the simultaneous presence of an employee from voestalpine and from Buyer. An acceptance certificate must be prepared which must contain information on the time and place and any established defects of the Delivery Item, including the Services, as well as other comments, and must be signed by both voestalpine and Buyer.

Unless otherwise agreed, each party shall bear its own costs incurred during acceptance.

7.3 Acceptance cannot be refused because of insignificant defects.

7.4 A Delivery Item, including the Services, is also deemed to be accepted if voestalpine has set a reasonable period for acceptance by Buyer after completion of the Delivery Item and Buyer has not refused acceptance within such period by citing at least one defect.

7.5 Following acceptance, voestalpine is entitled to execute the delivery of the Delivery Items to Buyer or have the Delivery Items warehoused at Buyer's expense and risk.



7.6 Upon acceptance, risk for the Delivery Items shall pass to Buyer.

**8. Quality, Rights of Buyer in the Event of Defects, Duty to Inspect**

8.1 The Delivery Item, including the Services, shall exhibit the agreed quality upon the passage of risk; the agreed quality shall be measured exclusively by the specific agreements concerning the properties, features and performance characteristics of the Delivery Item, including Services ("Quality Agreement") made in writing between the parties. voestalpine shall not assume any general warranty for the suitability of its Delivery Items or Services for certain purposes of use pursued by Buyer unless voestalpine has expressly guaranteed the suitability of the Delivery Item or the Services for the intended purpose of use in writing.

Buyer is alone responsible for the decision on whether a Delivery Item that corresponds to the specific agreements on properties, features and performance characteristics is suitable for a certain purpose and for the nature of its use.

8.2 In the event of production in accordance with the Quality Specifications (cf. clause 2.3) drafted and/or cleared by Buyer, quality shall be measured exclusively in accordance to those Quality Specifications (and any further Quality Agreements made between the parties). Buyer is not entitled to any warranty claims whatsoever against voestalpine for defects to the Delivery Item that are based on Quality Specifications. In particular, Buyer is solely responsible for the accuracy and feasibility of all Quality Specifications and amendments thereof prepared by Buyer and released and delivered to voestalpine.

8.3 Information within the scope of pricing and in other informational material, as well as information describing products (including factory standards, materials specifications, test certificates, etc.) provided to Buyer by voestalpine shall not be deemed in any way to be guarantees for a special quality of the Delivery Item; such guarantees of quality must be expressly agreed in writing.

8.4 Discrepancies in volume and weight customary to the industry are permitted within a range of up to 10 % of the order volume. Also permitted are

discrepancies in quality/properties that are caused by the Delivery Item and its manufacture.

- 8.5 Buyer's warranty claims against voestalpine are excluded in the following cases: (i) unsuitable or improper use of the Delivery Item; (ii) faulty installation or commissioning of the Delivery Item by Buyer or a third party; (iii) normal wear and tear of the Delivery Item and its expendable parts; (iv) no proper maintenance and/or handling of the Delivery Item in accordance with the instructions provided by voestalpine; (v) chemical, electrochemical and/or electrical influences for which voestalpine bears no responsibility.
- 8.6 Buyer's rights due to defects in the Delivery Item require that he has inspected the Delivery Item upon delivery and has informed voestalpine upon quotation of the invoice number of the defect without undue delay, but by no later than 7 calendar days after delivery. Obvious shipping damage and incomplete or evidently false deliveries must be reported without undue delay to voestalpine in any event. Hidden defects must be reported to voestalpine without undue delay in writing upon their discovery.
- 8.7 In the case of each notice of defect voestalpine shall have the right to inspect and test the rejected Delivery Item. Buyer shall grant voestalpine the necessary time and opportunity to this end. voestalpine may also demand of Buyer that he return the rejected Delivery Item to voestalpine at voestalpine's expense.
- 8.8 Defects shall be remedied by voestalpine at its own election through a removal of the defect at no charge to Buyer or by a replacement delivery of a defect-free item (jointly referred to as "Subsequent Performance").
- 8.9 The costs of shipping, travel, labour and materials incurred for the purpose of Subsequent Performance shall be assumed by voestalpine. If the notice of defect is revealed to be intentionally unjustified or unjustified due to gross negligence and if this was recognizable for Buyer prior to the issue of the notice of defect, he

is obliged to compensate voestalpine for all of the expenses and damages incurred in this context (e.g. travel and shipment costs).

8.10 Where Subsequent Performance fails, cannot be reasonably expected of Buyer or has been refused by voestalpine under Sec. 439 (4) German Civil Code, Buyer may, at his election in accordance with the statutory provisions, rescind the contract, reduce the purchase price and/or demand damages pursuant to Section 9 hereof or compensation for his expenses.

8.11 The limitation period for Buyer's rights due to defects shall be twelve months since the delivery of the Delivery Item to Buyer. The statutory limitation periods shall apply for Buyer's claims on grounds other than defects in the Delivery Item and with respect to Buyer's rights due to fraudulently undisclosed or intentionally caused defects and for Delivery Items that have been used in accordance with their customary use for a building and have caused the defectiveness of the building.

## **9. Liability and Damage Compensation**

9.1 voestalpine's liability for the breach of material contractual duties or "cardinal duties" through slight negligence is limited in amount to the damage typical to the contract that is foreseeable upon the execution of contract. Material duties (or cardinal duties) are those duties that procure a legal position for Buyer that the contract is specifically intended to grant to him in accordance with its content and purpose, as well as those duties whose fulfillment is essential for allowing for the proper performance of the contract and upon whose fulfillment Buyer regularly relies and may rely.

9.2 voestalpine is not liable for the breach caused by slight negligence of duties under the contract other than those stated in clause 9.1.

9.3 In all other respects, the statutory claims by Buyer to damages shall remain unaffected; in particular, voestalpine is liable to the full amount in the event of intent and gross negligence.

9.4 The aforesaid limitations of liability in clauses 9.1 and 9.2 shall not apply in cases of mandatory statutory liability (including under the Product Liability Act), culpable personal injury and death caused by voestalpine, guarantees delivered by voestalpine or fraudulently undisclosed defects.

## **10. Product Liability**

If Buyer sells a Delivery Item, he shall hold voestalpine harmless within their internal relationship from the product liability claims of third parties, provided he is himself responsible for the fault triggering liability.

## **11. General Provisions**

11.1 Buyer may not assign his claims against voestalpine to third parties without voestalpine' written consent.

11.2 Changes and supplements to contractual arrangements between voestalpine and Buyer and/or these Terms of Delivery and any side agreements shall require written form. This also applies for the modification of this written form requirement.

11.3 If a provision of the contract and/or these Terms of Delivery are fully or partially invalid, this shall not affect the validity of the remaining provisions. The parties undertake in this case to replace the invalid provision by a valid provision that comes closest to the business purpose of the invalid provision.

11.4 Place of performance for all reciprocal claims is [Schwäbisch Gmünd].

11.5 Exclusive venue for all disputes under the contractual relationship is Ellwangen. voestalpine is entitled, however to file actions against Buyer at any other court of jurisdiction under law.

- 11.6 The law of the Federal Republic of Germany shall apply upon exclusion of the Convention of the United Nations for Contracts Governing the International Sale of Goods (CISG).