

# voestalpine Rotec

## GENERAL CONDITIONS OF PURCHASE, Sept. 2012, Revision 1

### A Scope

1. These conditions ("**General Conditions**") shall apply to the purchase of Goods by Rotec. The General Conditions of the Supplier as well as those of Rotec are valid. In case of a conflict the General Conditions of Rotec shall prevail. Each deviation from these General Conditions has to be agreed upon in writing to be valid.
2. The parties will in general conclude a Framework Agreement regarding the delivery of Goods by the Supplier to Rotec ("**Framework Agreement**"). In case of any conflict between the General Conditions and the Framework Agreement, the latter shall prevail.
3. The cooperation between Rotec and the supplier should be based on the principles of the enclosed "**Code of Conduct for voestalpine Business Partners.**"

### B Definitions

The following terms shall have the meaning set out below:

"**Agreement**" = shall mean the Framework Agreement, Technical Specifications, Orders, Delivery Schedules, the General Conditions and all other agreements in relation to the delivery of the Goods.

"**Confidential Information**" = shall mean any information (including documents, drawings, electronically stored data, samples etc.) that is not public and that belongs to a party, any company belonging to the same group as a party or a third party in relation to which any of the parties has an obligation to treat information as confidential.

"**Delivery Schedule**" = shall mean the document (in electronic or written form), in which Rotec's future demand is indicated (forecast) up to twelve weeks in advance; only quantities of the first four weeks of the Delivery Schedule are binding orders by Rotec.

"**Goods**" = any goods and services provided by the Supplier to Rotec

"**Order**" = shall mean a non-binding order of Goods, which also may include binding terms and conditions regarding the delivery of the Goods, including the price for the Goods and terms of payment.

"**Rotec**" = shall mean voestalpine Rotec GmbH, Linz or any of its subsidiaries respectively, depending on which company acts as the purchaser of the Goods.

"**Supplier**" = shall mean the Supplier of the Goods to Rotec.

"**Tools**" = shall mean tools, jigs, fixtures, patterns, dies, moulds, other toolings, drawings and free issue material.

### C Communication of binding orders of Rotec

1. Each party shall continuously inform the other party on all matters that are of importance to the Agreement
2. Rotec shall issue Orders to the Supplier, which may also include future quantities needed by Rotec, but which shall not constitute a binding firm order of certain quantities needed by Rotec unless expressly provided otherwise in the Order. Firm binding orders of quantities by Rotec are normally included in the Delivery Schedule issued by Rotec. If in an Order by Rotec, it is expressly set out that the order is binding, such Order shall be deemed to have been accepted by the Supplier, if the Order is not rejected by the Supplier within five days after its receipt.
3. Binding firm orders of Rotec shall be included in the Delivery Schedule, which are issued by Rotec on a regular basis. Delivery Schedule are forecasts of Rotec's future demand up to twelve weeks in advance. The first four weeks of the Delivery Schedule are firm binding orders of Rotec. The period of the first four weeks of the Delivery Schedule sets out the binding quantity ordered by Rotec and which is to be supplied by the Supplier. The Delivery Schedule shall always be deemed to have been accepted by the Supplier, if the Delivery Schedule is not rejected by the Supplier within three working days after its receipt.

### D Quality and Environmental Management

1. The Supplier shall observe and comply with all applicable environmental and health and safety laws and standards including such laws and standards applicable in the countries where Rotec is established and active. All legal requirements and security standards for restricted, toxic and hazardous materials including such requirements and standards in the countries where Rotec is established and active must be fulfilled by the Supplier.
2. The Supplier has to demonstrate quality consistency by first obtaining the product approval by Rotec and installing robust processes and equipment. Material data sheets must be available and issued upon the request of Rotec.
3. Rotec reserves the right to audit the quality and environmental management system and standards of the Supplier and its subcontractors. The Supplier shall guarantee and ensure that Rotec is provided with any information and is granted access to the respective facilities for such audits. The Supplier is aware that customers of Rotec may also want to perform audits with the Supplier and / or its subcontractors.
4. In order to reach the agreed quality objectives the Supplier has to work with and show process plans. The process of quality performance has to be reviewed continuously and presented to Rotec on demand.

### E Prices

1. The parties shall agree in writing on the price for the Goods. The price for the Goods will be set out in the Order issued by Rotec. In the case of a dispute regarding the price for the Goods set out in the Order, the Supplier shall inform Rotec thereof within three working days, otherwise the Price is deemed to have been accepted by the Supplier.
2. The prices for the Goods are fixed. No price change shall be accepted by Rotec unless the price change has been agreed upon in writing by the parties and, in case of an price increase by the Supplier, has been communicated in writing to Rotec at least three months in advance.
3. Unless otherwise stated in the Order of Rotec, prices are net prices without value added tax, delivered to the final destination DDP according to Incoterms 2000, including costs for documentation, technical test certificates, customs duties etc. Where Goods are subject to tax or any similar impost, the amount legally demanded shall be shown as a separate item on the invoice and the Supplier shall, if required by Rotec, produce evidence of the amount paid or to be paid by the Supplier in respect thereof. Any tax, customs duty or similar impost other than value added tax (V.A.T.) shall be born by the Supplier. On request by Rotec, the Supplier shall supply all documents and any other information needed to prove that taxes and customs duties have been paid.

### F Payment Conditions

1. Unless otherwise stated in the Agreement or the Order, the term of payment for delivery of Goods shall be 90 days, calculated from (a) the day of receipt of the invoice by Rotec or (b) an effective delivery by the Supplier was made in accordance with the Agreement, whichever of these two events occurred later. If payment is made within 10 days from the beginning of the term of payment, a discount of 3% shall be applicable.

2. Any payment by Rotec to the Supplier shall neither constitute an acknowledgement by Rotec as to the performance by the Supplier of its obligations nor any waiver of rights of Rotec against the Supplier.
3. Invoices must bear all necessary information, e.g. Rotec's official Order Number and the Supplier's allotted Account Code. Invoices received not bearing this information will be returned to the Supplier and will therefore not initiate the term of payment of subsection 1 above.
4. Invoices shall be sent to the Purchasing Invoice Department at the address requested on Rotec's Order within a few days of the despatch of the Goods. Invoices should be addressed to the "Accounts Payable" Department at the delivery address unless otherwise specified in the Order.
5. Rotec is entitled to deduct or set off its claims against the Supplier against debts of Rotec to the Supplier.

#### G Subcontracting

1. The Supplier must obtain the consent of Rotec in writing, if the Goods or parts of the Goods will be subcontracted. If the consent is granted by Rotec, the Supplier must ensure that the subcontractor is directly liable to Rotec or must obtain from the subcontractor rights and obligations no less favourable for Rotec than the provisions of the Agreement.
2. The Supplier is fully liable for its sub suppliers, in particular with regard to the criteria: quality, quantity, environment, technical standards, sub supplying defaults, duty note, duty transit, import and transport, on time delivery, etc.

#### H Delivery

1. Goods shall be delivered by the Supplier to the place and in the manner specified in the Order. Incoterms 2000 shall apply. Unless otherwise stated in an Order or in this General Conditions, the delivery Term shall be "DDP, by Rotec named place of destination". Delivery shall be effected in the delivery point when the Goods have been unloaded and accepted by Rotec. Title to and risk for the Goods shall pass over to Rotec, when Delivery has been effected. Rotec is not obliged to inspect the Goods upon delivery. Any acceptance of the Goods by Rotec shall neither constitute an acknowledgement by Rotec as to the performance by the Supplier of its obligations nor any waiver of rights of Rotec against the Supplier, especially shall not limit or exclude any warranty obligation of the Supplier.
2. The dates and terms for delivery set out in the Order and / or in the Delivery Schedules must be strictly adhered to. All agreed deadlines and periods shall be considered to be fixed.
3. Goods or materials in excess of quantities ordered or not to specification will remain the property of the Supplier and shall be collected at the Supplier's own risk and expense. Rotec's prior consent must be obtained for any delivery of the Goods in advance of the specified dates. Rotec shall also have the right to return any excess quantities, Goods not meeting the specifications or advanced deliveries at the Supplier's risk and expense.
4. The Supplier shall immediately inform Rotec if it is or risks coming into delay with its performance, stating the reasons for the delay.
5. The Supplier shall compensate Rotec for all direct or indirect damage and costs arising out of any late performance. In addition to its right to be compensated, Rotec shall always have the right to completely or partly terminate the purchase of the delayed Goods and any other Goods which Rotec deems it has no use of due to the late delivery and to make substitute purchases from other suppliers, if the delay exceeds three working days. If the Supplier cannot fulfil the agreed delivery dates, he is obligated to organize his order processing as flexible as possible in order to minimise the delay.
6. In case of a delay of more than two weeks from the confirmed lead time, Rotec has the right to deduct (i.e. independently of Rotec's actual damage and costs) 0,5% of the Order value for each commenced week of delay of delivery. Such liquidated damages shall not exceed 5% of the order value. For the avoidance of doubt, Rotec shall always have the right to claim compensation due to the late performance for its actual damage or costs, if those are higher than the liquidated damages.
7. Should the agreed dates of delivery change due to any cause beyond the reasonable control of the Supplier, the Supplier agrees to store the Goods up to three months at the expense and risk of the Supplier.

#### I Shipment, Storage, Certificate of Origin

1. The agreed delivery clause shall be construed in accordance with Incoterms 2000. The Supplier shall be responsible for the transport costs and insurance of Goods to their full value against all risks of damage or loss prior to completion of delivery.
2. The Supplier shall remedy to the satisfaction of Rotec or replace free of charge any Goods damaged in transit and in the event of such damage, effective delivery shall not be deemed to have taken place until repaired or replacement Goods have been delivered.
3. The Supplier shall pack, mark, label and transport the Goods in accordance with instructions issued by Rotec and Rotec's Customers or, in the absence of such instructions, in accordance with applicable standard requirements. The Supplier shall use environmentally friendly packaging. Packaging which constitutes hazardous waste will be returned to the Supplier or disposal costs will be charged to the Supplier. The Supplier is responsible for organising all relevant export papers at the Supplier's cost unless otherwise stated. Despatch papers must indicate purchase number, identification number, agreement number and item number as well as the Goods identification and the quantity of Goods supplied. The Goods identification must have the same wording on all documentation. The wording must be the same in drawings, parts lists, packaging lists and shipping papers.
4. Before despatching the Goods, the Supplier shall carefully inspect and test them for compliance with the specifications as detailed on the Order and/or the Delivery Schedule. Any Goods which deviate from the specifications shall not be delivered to Rotec.
5. The Supplier has to carry along the certificate of origin which shall contain: name of the exporter and receiver, order number of Rotec, specific Goods specification, gross and net weight. Goods value and prices are not allowed to be shown, unless required by law. The certificate of origin is to be added to the delivery or delivery documents or made available upon request.
6. All costs incurred through failure to show such documents will be charged to the Supplier. The Supplier must refund any advance payments or expenses for non-fulfilment of the shipment or contract.

#### J Indemnity

1. The Supplier shall bear all costs for damage, errors or defects in documentation, packaging, loading, corrosion protection, wrong marking and also non-procurement of all licenses and governmental documents.
2. The Supplier shall reimburse Rotec for all direct or indirect damage and costs arising out of violations by the Supplier of applicable legislation, in particular legislation regarding product liability and safety, to the extent the relevant circumstance is within the Supplier's area of responsibility. The Supplier shall also reimburse Rotec for all direct and indirect damage and costs arising out of or relating to the Goods having caused personal injury or property damages, to the extent the relevant circumstance is within the Supplier's area of responsibility. The Supplier shall hold harmless and indemnify Rotec from and against all liability claims third parties may assert in connection with the Goods delivered. The liability under this subsection shall be unlimited in time and shall not be affected by a termination or an expiration of the Agreement.
3. The Supplier shall at its own expense enter into and maintain at all times adequate insurance coverage in connection with the Agreement, especially regarding product liability. Furthermore, Rotec advises that the Supplier should reduce the risk by concluding an auto recall insurance which is appropriate to the turnover and also valid for the American continent. Rotec shall be informed immediately about the insurance coverage and of any change thereof.

## K Warranty and Liability

1. The Supplier warrants its expertise in relation to the manufacture and supply of the Goods and provision of any associated services and confirms all statements and representations made in respect of the Goods, work or services prior to the Order and Rotec hereby confirms reliance upon such expertise, statements and representations by the Supplier. The Supplier warrants that the Goods correspond to the state of the art, are produced according to applicable regulations, with new material of prime quality.
2. The Supplier guarantees that Goods are produced and shipped according to the norms and standards of the country of destination of Rotec. Unless otherwise expressly agreed, Goods shall be shipped based on the metric system.
3. The Supplier warrants that the Goods supplied are free from defects. The Goods shall be considered defective if they are (a) not free from defects and deficiencies in material, design or workmanship, or in any respect deviate from the Technical Specifications or any other requirement, (b) do not possess the characteristics referred to through samples or prototypes, or (c) do not conform with all rules and regulations or requirements of public authorities with regard to safety, design or production of the Goods in the countries, to which the Goods are delivered according to the designation by Rotec.
4. Rotec is not obliged to examine the Goods upon delivery. However Rotec shall always inform the Supplier that the Goods are defective within reasonable time after the defect has been discovered.
5. Rotec has the right, at its sole discretion and in the order determined by Rotec, to demand rectification, replacement of or price deduction for defective Goods. In addition Rotec may always itself or through a third party carry out the rectification or purchase replacement goods from a third party. The Supplier is given an adequate time limit for rectification or replacement for defective Goods. The Supplier is at all liable for all work, risks and costs for the rectification, replacement or purchase of replacement goods. The rights of Rotec under this section shall be in addition to Rotec's rights for compensation of any costs and damage or rights to terminate.
6. In case of Goods being rectified or replaced by the Supplier, the warranty period mentioned in subsection 7 below starts again with delivery of the rectified or replaced Goods to Rotec.
7. The warranty shall expire at the end of 36 months after the Goods have been delivered in accordance with section H above.

## L Termination

9. Any Order and / or any Delivery Schedule may be cancelled by Rotec at any time by giving written notice to the Supplier. Immediately upon receipt of any such notice of cancellation, the Supplier shall cease work on the Goods and services in question and shall deliver to Rotec all completed Goods. The Supplier shall at Rotec's request deliver such quantity of work in progress, return to Rotec all goods, provided prematerials, paperwork, etc. belonging to Rotec and in the possession of Seller for the purpose of the contract.
10. Rotec will pay for all Goods delivered at the agreed price within the limits of the defined liability. Rotec will also pay for the requested work in progress and all prematerials, which the Supplier has acquired due to a binding Delivery Schedule issued by Rotec. Rotec shall have no further liability to the Supplier and in particular shall not be liable for any consequential losses incurred as a result of the cancellation. The Supplier shall keep costs which have to be paid by Rotec as low as possible.
11. Rotec shall further be entitled to terminate the Agreement by giving written notice, (a) if the Supplier breaches the Agreement, especially by failing to observe delivery deadlines or to uphold the requested quality of the Goods or (b) if on request by Rotec the Supplier fails to give assurance of the Supplier's future performance under the Agreement, (c) if the Supplier enters into bankruptcy or liquidation or becomes insolvent or is likely to become insolvent, (d) if the Supplier is acquired by a competitor to Rotec.
12. In case of a termination of the Agreement in accordance with subsection 3 above, Rotec's obligation to reimburse the Supplier shall be limited to (a) unpaid Goods already delivered to Rotec and being in accordance to the specifications, (b) undelivered, completed Goods, which are in accordance with the specifications and have been manufactured due to an issued Delivery Schedule, (c) costs, the Supplier has incurred in reasonable reliance on an issued Delivery Schedule, for the acquisition of parts, semi products or raw materials, which cannot be returned by the Supplier and (d) actual costs of the Supplier incurred for the protection of Rotec's property.
13. If the Agreement is terminated or expires, the Supplier shall make all necessary arrangements to protect Rotec's property, cooperate with Rotec to avoid production disturbances, return or transfer all Goods, property of Rotec and on request of Rotec all work in progress and raw materials, terminate all orders and agreements with subcontractors and sub suppliers and cease all work, unless otherwise requested by Rotec.

## M Tooling

1. Where applicable, all Tools supplied by Rotec or manufactured or acquired by the Supplier for and at the expense of Rotec shall be and remain the property of Rotec. All costs for tooling inspection, storage and maintenance have to be covered by the Supplier. The Supplier may not use any Tool owned by Rotec for production for its own account or that of any third party.
2. Any Tool manufactured or acquired by the Supplier for and at the expense of Rotec shall become the property of Rotec, as soon as the Tool has been manufactured or acquired by the Supplier.
3. Rotec shall have the right to demand back from the Supplier any Tool owned by Rotec or any Tool manufactured or acquired by the Supplier for and at the expense of Rotec at any time.
4. On completion of the contract, the Tools owned by Rotec or manufactured or acquired by the Supplier for and at the expense of Rotec shall be returned to Rotec.
5. Regarding Tools owned by Rotec, the Supplier shall mark such Tools in a way that Rotec's ownership is clearly shown.

## N Force Majeure

1. Fires, floods, strikes, lockouts, epidemics or other causes beyond the reasonable control of the parties, which prevent the Supplier from delivering or Rotec from receiving any of the Goods covered by the Agreement, shall constitute an event of Force Majeure. Neither party will be liable for any delay in performing or failure to perform any of its obligations, if an event of Force Majeure exists.
2. The party claiming the Force Majeure event will immediately notify the other party in writing about the start and foreseeable end of the hindrance or impediment and will take all reasonably steps to overcome the hindrance or impediment.
3. In the event of Force Majeure, Rotec is entitled to purchase the Goods from other sources and to take any other measure for the purpose of minimising disturbances of production.
4. Both contracting parties shall make every effort to remove or reduce the difficulties and to provide the other contracting partner with a regular update on the situation.
5. In the event that Rotec is unable to take delivery of all or some of the Goods due to the event of Force Majeure, Rotec shall not be liable for any loss or damage caused thereby and shall have the option to cancel wholly or in part, to suspend the delivery without incurring liability to the Supplier.
6. If the hindrance or impediment due to an event of Force Majeure continues for more than 30 continuous days, Rotec shall have the right to terminate the Agreement and or cancel any Order or Delivery Schedule with immediate effect by giving written notice to the Supplier. In case of termination point L.2 shall apply respectively.

## O Bankruptcy / Liquidation

1. If the Supplier becomes insolvent or bankrupt or if there is a risk of the Supplier becoming insolvent or bankrupt, the Supplier shall inform Rotec immediately in writing.
2. Rotec shall have the liberty to give a receiver, liquidator or other person the option of carrying out the contract subject to the provision of a guarantee for the due and faithful performance of the contract up to an amount to be agreed.

## P Confidentiality

1. Confidential Information which has been disclosed to a party shall be treated as confidential and may not be used for any purpose other than for the performance of the Agreement. A party shall not pass forward any Confidential Information to a third party or publish such Confidential Information without the express written consent of the other party. This confidentiality obligation shall remain valid after completion or termination of the Agreement.
2. Each Party shall insure that the Confidential Information is not disclosed to anyone but the party's employees, subcontractors or consultants, which are directly engaged with the performance of the Agreement and or the Order. Each party shall make sure, that any consultant or subcontractor engaged by it agree also to these confidential obligations.
3. The obligations under this section shall not apply, if the Confidential Information (a) is or becomes generally available to the public without any fault or breach of the Agreement, (b) has been received lawfully from a third party that is not under an obligation of confidentiality or (c) has to be disclosed by law.

## Q Intellectual Property Rights

1. The Supplier shall be responsible for ensuring that the Goods do not infringe on the intellectual property rights of a third party. In the event that a Good infringes on the intellectual property rights of a third party, the Supplier undertakes to indemnify Rotec or its Customers for all costs arising out of or relating to the Goods or their use and to either replace the Goods by another equivalent Good or to obtain all necessary consents. Said undertaking shall not apply to the extent Rotec has performed development or design work. In this case the Supplier shall immediately inform Rotec of the infringement. On request by Rotec the Supplier shall assist Rotec in a dispute, in which Rotec has become involved due to such an infringement.
2. The Supplier is aware that production for its own account or for that of a third party is not allowed when Rotec possesses an intellectual property right to a Good. The Supplier undertakes not to produce a Good for its own account or for that of a third party in cases where Rotec has provided the Supplier with such know-how or equipment as was necessary for the Supplier to be able to fulfil the development or production of the Good. The production of the Good by the Supplier, for which Rotec possesses an intellectual property right, shall not constitute a licence for the Supplier. The Supplier shall have no right in regard of the intellectual property right owned by Rotec.
3. The Supplier is not granted the right to use any corporate name or trademarks belonging to Rotec.

## R Related Documents

1. Rotec may conclude a Service Level Agreement (SLA) with the Supplier. The SLA shall set out the main quality requirements, the logistics and service rules regarding non-performance. In case of any conflict between the General Conditions and the SLA, the latter shall prevail.

## S Law of the Agreement

1. The Agreement shall be governed by and construed in accordance with the laws of the country, in which Rotec or the respective subsidiary of Rotec, which ordered the Goods, has its registered seat. The application of rules regarding the conflict of laws and the application of the United Nations Convention for the International Sale of Goods (UN Sales Convention) shall always be excluded.
2. All disputes arising out of the Agreement or related to its violation, termination or invalidity shall be finally settled by arbitration in accordance with the Rules of Arbitration and Conciliation of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules). The place of arbitration shall be Vienna. The language of the arbitral proceedings shall be German, if the Supplier has its registered seat in Austria or Germany and English, if the Supplier has its registered seat outside Austria or Germany.



# Code of Conduct for voestalpine Business Partners

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This Code of Conduct defines the principles and requirements voestalpine imposes on its suppliers of goods and services and on business intermediaries, advisors, and consultants and other business partners. These principles and requirements are based on voestalpine's Code of Conduct and on the principles set forth in the UN Global Compact.





### **Compliance with the legal regulations**

- The Business Partner undertakes to comply with the legal regulations of the applicable legal system(s).

### **Fair competition**

- The Business Partner undertakes not to restrict free competition and not to infringe on national or international antitrust law rules.

### **Prohibition on active or passive corruption/prohibition on granting benefits (e.g., gifts) to employees**

- The Business Partner undertakes that it shall not tolerate any form of active corruption (offering and granting benefits; bribery) or passive corruption (demanding and accepting benefits), nor shall it collude with such conduct in any manner whatsoever.
- The Business Partner undertakes that it shall not offer gifts or other personal benefits (e.g., invitations) to voestalpine employees or their close family members, where the total value of such benefits and the specific circumstances create the impression that a particular action is expected from the recipient of the benefit in return. The question of whether this is the case will depend on the specific circumstances of the individual case.

Gifts of de minimis value and hospitality falling within the range of what is customary in business will, in any event, be permissible.

- The Business Partner furthermore undertakes that it shall offer customary market prices to employees procuring goods or services for their own personal use, and/or that it shall only grant rebates or other price reductions if they are granted to all voestalpine employees.

### **Respect and integrity**

- The Business Partner hereby undertakes that it shall respect and comply with human rights as fundamental values on the basis of the European Convention for Human Rights and the UN Charter. In particular, this applies to prohibitions on child labor and forced labor, equal treatment of all employees, and the right of employee representation and collective bargaining.
- The Business Partner furthermore undertakes that it shall assume responsibility for the health and safety of its employees.

### **Supply chain**

- The Business Partner will appropriately promote compliance with the substance of this Code of Conduct by its own business partners.

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**voestalpine**  
ONE STEP AHEAD.