

VOESTALPINE ROTEC INC. STANDARD TERMS AND CONDITIONS OF SALE

1. DEFINITION

'Seller' means voestalpine Rotec Inc., 'Buyer' means the person or company placing an order with Seller, 'Goods' means the articles or things described in the Seller's acceptance of form, 'Terms and Conditions' means these standard terms and conditions of sale, and 'Contract' means the agreement between Seller and Buyer for the sale of Goods, which is comprised of Seller's acceptance of order form and these Terms and Conditions.

2. FORMATION OF CONTRACT

No order of Buyer shall be binding on Seller, and no contract between them shall be formed, unless and until Seller accepts such order in writing on Seller's acceptance of order form.

3. PRICE

(a) The price for Goods shall be that price stated in Seller's acceptance of order form. Seller may add the cost of any tax (exclusive of income tax) payable by Seller in connection with the production, sale or delivery of Goods.

(b) If after the date of Seller's acceptance of an order any change shall occur in the cost to Seller of any material, labor, transport, or other factor [including but not limited to overhead] used by Seller to perform the Contract, then the amount of any such change shall be added to or deducted from the price.

(c) Binding offers of Seller as well as the fulfilment of already existing contractual delivery obligations are subject to the express reservation that performance under the relevant contract does not conflict with any applicable import or export trade law or regulation, including, without limitation, the imposition of an antidumping or countervailing duty order or the filing of an antidumping or countervailing duty investigation with respect to the Goods or any restriction out of laws and regulation regarding national security, including but not limited to section 232 and 301. It is expressly acknowledged and agreed that the filing of such a proceeding constitutes an event beyond the control of Seller, the effect of which is to release seller from its contractual obligations with respect to the Goods. In such an event, Seller and Buyer shall consult in good faith regarding prices and delivery options. Buyer shall hold Seller harmless from and against any and all costs and expenses of the Buyer, direct, indirect or consequential, which arise in connection with any such release and/or failure to deliver the product.

4. DELIVERY

(a) Seller will use reasonable efforts to deliver Goods on the date requested by Buyer, but Seller shall not be liable for any penalty, damage or expense due to delayed delivery of Goods, nor shall such delay entitle Buyer to cancel any order, refuse to accept delivery or repudiate the Contract or any portion of it.

(b) All Goods sold hereunder shall be delivered to Buyer or its carrier at Seller's facility in Lafayette, Indiana.

(c) Seller may deliver Goods in instalments.

(d) Seller reserves the right to supply within plus or minus ten per cent of the quantity of Goods specified in an order accepted by Seller. Payment shall be based on the quantity actually delivered.

5. TITLE, RISK OF LOSS AND NON-PAYMENT

The risk of damage to or loss of Goods shall pass to Buyer upon delivery to the Buyer or its carrier at Seller's facility. Title to Goods shall remain vested in the Seller until Buyer has paid the full price. In the event of non-payment or the happening of any of the events specified in section 10 below, Seller shall be entitled to repossess the Goods and shall have the same rights in respect thereof as an unpaid Seller in possession.

6. TERMS OF PAYMENT

(a) Buyer shall pay for Goods on or before the 30th days following the date of invoice. Time of payment is of the essence. Any late payment will bear interest at the lesser of (i) 1.5% per month or (ii) the maximum rate allowable by law.

(b) For Goods delivered by instalments, Buyer shall pay for each instalment when invoiced in accordance with subsection (a) of this section.

7. WARRANTY / LIMITATION OF LIABILITY

(a) Buyer must make any claims for short weight, count or measure in writing to Seller within three days of delivery. If Buyer does not assert such a claim within said three-day period, Buyer shall be irrevocably deemed to have waived any claim for short weight, count or measure. Seller shall be given the opportunity to verify weights, counts or measures for seven days after receipt of a timely notice from Buyer asserting short weight, count or measure.

(b) Seller warrants that Goods will meet the specifications or description in Seller's acceptance of order form. Buyer must notify Seller in writing of any claim alleging failure to meet said warranty within three months of the date of delivery. If Buyer does not provide written notice of such a claim within said three-month period, Buyer shall be irrevocably deemed to have waived any claim that Goods fail to meet the specifications or description or are otherwise defective in any way (whether such claim is based in contract, negligence, strict or product liability, other tort or otherwise). If Buyer does provide written notice of such a claim within said three-month period, Seller's entire liability and Buyer's exclusive remedy with respect to such Goods will be, at Seller's option, for Seller either (i) to repair or replace the Goods at no additional cost to Buyer, or (ii) to refund the purchase price for the Goods to Buyer. Notwithstanding the foregoing, if prior to delivery Buyer or some person authorized by Buyer has examined the Goods, Buyer shall not be entitled to make any claim in respect of defects which such examination ought to have revealed.

(c) OTHER THAN THE WARRANTY SPECIFICALLY SET FORTH IN THE FIRST SENTENCE OF SECTION 7(b) ABOVE, SELLER MAKES NO WARRANTY EXPRESS OR IMPLIED, WITH RESPECT TO THE GOODS SOLD HEREUNDER, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

(d) Seller shall have no liability under the Contract or otherwise to Buyer under any circumstance for incidental, special, consequential, exemplary or punitive damages, regardless of whether or not Seller knew or had reason to know of the possibility of such damages in advance, including but not limited to loss of profits, revenues, or other economic loss; personal injury or property damage; cost of capital, downtime or business interruption; or claims made against Buyer or Buyer's customers by any third party.

8. INFRINGEMENT CLAIMS

Buyer shall indemnify and hold Seller harmless from and against all claims and damages of any type, including but not limited to reasonable attorney and expert fees and other litigation costs, alleging or based on infringement of any patent, trademark or other intellectual property right of any third party in connection with Goods which Seller made or sold in accordance with Buyer's specifications or instructions.

9. Force Majeure

A party that fails to perform its obligations under the Agreement (other than failure to make payments when due) shall be free from liability for failing to perform if such failure is caused due to acts of God, labor difficulties, fires, or other causes beyond the reasonable control of the affected party

10. TERMINATION

Seller may terminate the Contract upon the occurrence of any of the following: (i) if Buyer fails to cure a breach of the Contract within 15 days following receipt of written notice from Seller of such breach, (ii) the insolvency of Buyer or the filing of a voluntary or involuntary petition in bankruptcy or for reorganization under any bankruptcy act or law for the relief of debtors, (iii) the appointment of a receiver for Buyer or its property, (iv) the making of an assignment for the benefit of Buyer's creditors, or (v) the voluntary or involuntary dissolution, liquidation or winding up of Buyer. If any of the foregoing occurrences take place, Seller may, without prejudice to its other rights hereunder or under applicable law, suspend all further deliveries until the default has been made good or Seller terminates the Contract. Notwithstanding any such suspension or termination, Buyer shall pay the Contract price for all the goods delivered hereunder.

11. GENERAL PROVISIONS

(a) Nothing in this Agreement creates a partnership or joint venture or makes either party the agent of the other. The parties are independent contractors.

(b) Delay or failure in performing an obligation under the Contract (other than an obligation to pay money) is not a breach or default to the extent that the delay or failure is due to a cause beyond the reasonable control of the affected party.

(c) To be effective, any modification of the Contract must be in a writing which specifically refers to the Contract and must be signed by an authorized representative of both parties. For convenience, the parties may use their standard commercial forms with respect to the sale, purchase and delivery of Goods, but the parties agree that the terms in this Contract shall govern said transactions exclusively, and all terms and conditions in any such form, including but not limited to any terms and conditions in Buyer's order form, are hereby rejected and shall have no force or effect whatsoever.

(d) The Contract is governed by the substantive laws of Indiana without regard to its choice of law principles. The parties agree that any and all disputes arising under or in connection with the Contract shall be resolved in the state or federal courts in Tippecanoe County, Indiana. Each party hereby agrees not to commence any action relating to this Agreement in any other forum, and each party hereby irrevocably waives any claim or argument that such a court would lack personal jurisdiction or would constitute an inconvenient forum.