General Terms and Conditions of Business and Delivery of voestalpine Turnout Technology Germany GmbH

A. GENERAL CONTRACTUAL PROVISIONS

1. Area of application and general

1.1 This section on General Provisions shall apply to all performances carried out by voestalpine Turnout Technology Germany GmbH (hereinafter: "vaTTG") for the client if and insofar as these General Terms and Conditions of Business and Delivery have been duly incorporated into the contractual relationship with the client.

1.2 The general terms and conditions of business of the other party (hereinafter: the "Client") shall only apply if vaTTG has explicitly agreed to them in writing.

1.3 Legally relevant declarations and notifications which the Client must submit to vaTTG after conclusion of the contract (e.g. the setting of deadlines, notifications of defects, declarations of rescission or price reduction) must be made in writing in order to be valid. Transmission by telecommunication, in particular by fax or e-mail, shall be sufficient to comply with the written form requirement, provided that a copy of the signed declaration is forwarded.

1.4 References to the applicability of statutory provisions shall be for clarification purposes only. The statutory provisions shall therefore apply even without such clarification, provided that they have not been directly modified or explicitly excluded in these General Terms and Conditions of Business and Delivery.

2. Conclusion of the contract

2.1 Orders submitted by the Client shall only become binding once they have been confirmed in writing by vaTTG or, if no written confirmation is issued, when the ordered goods have been delivered by vaTTG. This shall also apply if vaTTG made catalogues, technical documentation (e.g. drawings, plans, computations, calculations, references to DIN standards, specimens), other product descriptions or records - also in electronic form - available in advance.

2.2 Additions or amendments to the agreements concluded, including to these General Terms and Conditions of Business and Delivery, must be made in writing in order to be valid. Transmission by telecommunication, in particular by fax or e-mail, shall be sufficient to comply with the written form requirement, provided that a copy of the signed declaration is forwarded.

3. Intellectual property, confidentiality

vaTTG reserves title to all intellectual property rights to which it is entitled, in particular copyrights, copyrighted rights of use and other rights of use, in respect of any and all drawings, illustrations, calculations, prospectuses, catalogues, models, tools and other records and aids (hereinafter: "Documents") made available by vaTTG to the Client. The Client may not make these Documents available to third parties, publicise them, use or copy them itself or via third parties or carry out any other acts of use without the explicit prior written consent of vaTTG, unless this is necessary in order to implement the contract concluded with vaTTG. The Client must, at the request of vaTTG, return these Documents to vaTTG and destroy any copies thereof if they are no longer required by the Client in the ordinary course of business or if negotiations did not result in the conclusion of a contract. vaTTG shall likewise treat any and all documents of the Client as confidential.

4. Prices, terms of payment

4.1 Unless indicated otherwise, prices shall be ex works, excluding transport and packaging and plus VAT. Prices shall be quoted in EURO. The VAT shall be shown separately.

4.2 Unless agreed otherwise, the agreed prices shall be due and payable on delivery (cf. B.1) or acceptance (cf. C.2).

4.3 The Client may only offset prices against claims that are due for judgment, uncontested, final and incontestable or that have been explicitly acknowledged.

5. Limitation of liability

vaTTG's liability for damages shall in principle be excluded. This shall not apply

- to loss or damage based on the violation of a material contractual obligation. A material contractual obligation shall in particular be an obligation that is such that the contract can only be duly and properly executed if it is fulfilled and the other party generally can and does rely on compliance therewith. In such a case, vaTTG's liability shall be restricted to compensation of the foreseeable, typically occurring loss or damage;
- to loss or damage resulting from a violation of a warranty issued by vaTTG;
- to loss or damage based on an intentional or grossly negligent breach of duty on the part of vaTTG or a legal representative or vicarious agent of vaTTG;
- to loss or damage arising from injury to life, limb or health based on an intentional or negligent breach of duty on the part of vaTTG or a legal representative or vicarious agent of vaTTG;
- to claims pursuant to the Product Liability Act.

6. Force majeure

Should one of the parties be (temporarily) unable to fulfil a contractual duty as a result of an external event that is not connected to its operations, is not foreseeable and cannot be avoided even where extreme diligence is exercised ("Force Majeure") such as war, civil unrest, natural disasters, strikes, export and import restrictions, epidemics and pandemics caused by infectious diseases, travel warnings issued by the authorities or ministries, acts of piracy etc.), the relevant duty to perform shall be suspended for the duration of the Force Majeure plus a reasonable period thereafter to make it possible for such a party to restore its ability to meet its obligations. Should the Force Majeure last more than six months or should it be certain that the Force Majeure will last for at least a continuous period of this length, each of the parties shall be entitled to withdraw from that part of the contract affected by the Force Majeure. Should the remaining part of the contract then not be of interest to one of the parties, such party may also withdraw from that contract as a whole.

7. Jurisdiction and applicable law

7.1 All contracts concluded between vaTTG and the Client shall be subject exclusively to the laws of the Federal Republic of Germany with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 1980 (CISG) and the conflict of laws provisions.

7.2 Should the Client be a merchant, a legal entity under public law or a special fund under public law or should it not have a general place of jurisdiction in the Federal Republic of Germany, the exclusive place of jurisdiction for all disputes in connection with this contract shall be the registered office of vaTTG. This shall not affect mandatory statutory provisions on exclusive places of jurisdiction.

8. Export licences

8.1 Unless explicitly agreed otherwise, the risks and costs associated with (not) obtaining any required export and/or import permits shall be for the account of the Client. This shall also apply should vaTTG support the Client, at the latter's request, in obtaining such permits.

8.2 Should the parties agree in an individual case that the risks and costs associated with (not) obtaining any required export and/or import permits are for the account of vaTTG, the following shall apply:

- In the case of material or financial loss or damage caused by simple negligence, the amount of vaTTG and its vicarious agents' liability shall be limited to the loss or damage that could be foreseen at the time of the conclusion of the contract and that is typical for this type of contract.
- The Client undertakes to provide vaTTG without undue delay with full and accurate information necessary for applying for and obtaining the required export and/or import permits.

- The Client undertakes to provide all the necessary cooperation required for applying for and obtaining any required export and/or import permits, in particular to issue the necessary declarations to the authorities.

- The Client undertakes to comply with regulations imposed by the authorities in connection with obtaining any required export and/or import permits, in particular to use products only for the purposes specified in the export and/or import permits.

- The Client indemnifies vaTTG against any and all claims of third parties arising from the culpable breach by the Client of the aforesaid obligations.

B. SPECIAL PROVISIONS FOR PURCHASE AGREEMENTS AND CONTRACTS FOR COMMISSIONED WORK

The provisions of this section B. apply exclusively to purchase agreements (section 433 German Civil Code) and contracts for work and materials (section 651 German Civil Code) between vaTTG and the Client concerning the delivery of movable items ("Goods").

1. Terms of Delivery

1.1 Unless explicitly agreed otherwise, delivery shall be EX WORKS (Butzbach, Brandenburg or Gotha) Incoterms 2010. This also applies where vaTTG tasks a freight forwarding company with transporting the Goods at the Client's request, expense and risk. In this case vaTTG shall assign any compensation claims to which it is entitled against the freight forwarding company to the Client.

1.2 The delivery period shall commence upon conclusion of the contract, if the Client has provided vaTTG with all necessary technical information (e.g. for the delivery of switches: position of the switch machine and insulated joints, vehicle data, type of switch machine or actuator system, type of track superstructure, rail profiles and rail grades etc.) in full and has granted the requisite authorisations and design approvals. Where the technical information has not been provided at the time of the conclusion of the contract, the period for delivery by vaTTG shall commence once vaTTG has received all necessary technical information in full and been provided with the authorisations and design approvals by the Client. Delivery dates or periods agreed by vaTTG shall become invalid if more than 8 (eight) calendar weeks lapse between conclusion of the contract and full receipt of all technical information.

1.3 Should the parties agree in an individual case that the risks and costs associated with (not) obtaining any required export and/or import permits are for the account of vaTTG, the delivery period shall be extended by such period caused by a delay in obtaining the required export and/or import permits plus a reasonable period for carrying out the delivery, if obtaining said permits is delayed for reasons for which vaTTG is not responsible.

1.4 vaTTG shall be entitled to make partial deliveries if and to the extent this does not unreasonably affect the interests of the Client. This shall particularly be the case where

- » partial delivery can be used by the Client for the purpose of the contract,
- » delivery of the remaining ordered Goods has been ensured, and
- » the Client does not incur considerable additional expenses or costs as a result thereof (unless the Client agrees to assume such costs).

1.5 The Client undertakes to notify vaTTG immediately of any imminent delay in acceptance of the Goods.

1.6 Where the Client is in default with acceptance, the risk of accidental destruction or deterioration of the Goods shall pass to the Client as from said time, and vaTTG shall be entitled to set the Client a reasonable period for acceptance. Should such period expire without results, vaTTG shall have the right to rescind the contract and claim damages in accordance with statutory provisions. The setting of a period by vaTTG can be dispensed with if the Client is responsible for unloading the Goods at the place of delivery and unloading is delayed for reasons attributable to the Client.

2. Material defects, defect-related rights

2.1 The Client shall inspect the Goods without undue delay upon delivery to it or to a third party designated by it, to the extent to which such an inspection is feasible in the ordinary course of business and, where a defect is discovered shall notify the seller thereof immediately. Where the Client fails to do so, the Goods shall be deemed approved unless the defect was not recognisable during the inspection. Where such a defect is subsequently identified, it must be notified immediately upon its discovery; otherwise the Goods shall also be deemed approved with regard to said defect. Timely dispatch of the notification shall be sufficient to protect the Client's rights. Where vaTTG has fraudulently concealed the defect it cannot invoke this provision.

2.2 Unless otherwise provided for herein, the rights of the Client with regard to material or legal defects shall be subject to the statutory provisions. In all cases, the statutory provisions regarding final delivery of the Goods to consumers shall remain unaffected (sections 478, 479 German Civil Code).

2.3 In the case of material defects of the delivered Goods, vaTTG shall be entitled and obligated to choose, within a reasonable period, whether to repair or replace the Goods. Should the subsequent performance fail, the Client may rescind the contract or reduce the purchase price appropriately.

2.4 The Client's defect-related rights shall lapse if it makes changes to the Goods without the prior consent of vaTTG or has them changed by a third party, thus causing the defect in the first place or making it impossible or unreasonably difficult to remedy the same. In any event the Client shall bear any additional costs of remedying the defect that result from such changes.

2.5 The warranty period shall be one year from the transfer of risk, except where the mandatory provisions of sections 478, 479 German Civil Code apply. This neither applies to loss or damage based on an intentional or grossly negligent breach of duty on the part of vaTTG or a legal representative or vicarious agent of vaTTG nor to loss or damage arising from injury to life, limb or health based on an intentional or negligent breach of duty on the part of vaTTG or a legal representative or vicarious agent of vaTTG. The statutory limitation period shall apply in this respect.

3. Retention of title

3.1 For each specific contract vaTTG reserves title to the goods until all the claims arising out of said contract are settled in full ("ROT Goods"). The legal basis for vaTTG's claims against the Client is irrelevant. For the purposes hereof, 'claims' also includes amounts outstanding based on a negative current account balance. The Client shall store the ROT Goods for vaTTG free of charge.

3.2 The Client shall inform vaTTG in writing without delay in the event of attachments or enforcements by third parties that affect vaTTG's rights (especially vaTTG's retention of title). If the third party is not in a position to reimburse vaTTG the judicial and extrajudicial costs for an action pursuant to section 771 Code of Civil Procedure or some equivalent form of action provided for in the legal system in place at the location where the ROT Goods are stored, the Client shall be liable for the loss sustained by vaTTG.

3.3 Where the ROT Goods are processed or reconfigured by the Client, this shall always be done on behalf of vaTTG as the manufacturer. vaTTG shall acquire title directly and shall not incur any obligations as a result. If the ROT Goods are combined with other objects that do not belong to vaTTG, vaTTG shall become co-owner of the resulting goods in proportion to the value of the ROT Goods relative to the value of the other objects at the time of processing. The same shall apply to the goods resulting from processing as applies to the ROT Goods. If vaTTG's title lapses owing to processing, combining or mixing, the Client shall transfer a share of its (co-)title to vaTTG in proportion to the invoice value of the ROT Goods.

3.4 The Client may only sell ROT Goods within its normal course of business. The Client is entitled and authorised to resell ROT Goods on condition that all claims it may have against its customers or third parties out of the resale are assigned to vaTTG. As of the date hereof the Client hereby assigns its claims from the resale of ROT Goods to vaTTG in the amount of the invoice value of the ROT Goods - on a pro rata basis in the event that vaTTG is co-owner of processed goods. vaTTG hereby accepts this assignment. The Client has no right to dispose of the ROT Goods in any other manner; in particular, the Client may not pledge the ROT Goods or transfer title to them by way of security. vaTTG can revoke the Client's right to sell the ROT Goods i) if the Client's financial position deteriorates substantially (especially if one of the grounds for insolvency pursuant to sections 17-19 Insolvency Code applies or if insolvency proceedings are applied for or opened), ii) if the Client ceases to perform its payment obligations from the proceeds collected, or iii) if the Client defaults on payment. In these cases vaTTG also has the right to rescind the contract and to require the Client to return the ROT Goods.

3.5 The Client is authorised to collect the claims it has assigned to vaTTG. vaTTG can revoke or amend the Client's authority to collect the assigned claims (in particular, vaTTG can require the Client to transfer the proceeds from the assigned claims to a separate fiduciary/trust account). vaTTG shall only avail itself of its right to revoke or amend the Client's authority i) if the Client's financial position deteriorates substantially (especially if one of the grounds for insolvency pursuant to sections 17-19 Insolvency Code applies or if insolvency proceedings are applied for or opened), ii) if the Client ceases to perform its payment obligations from the proceeds collected, or iii) if the Client defaults on payment. The Client has no right to assign the claims to third parties. At vaTTG's request, the Client shall inform its customers about the assignment of the claims to vaTTG and provide vaTTG with the information/documentation necessary to collect the claims.

3.6 At the Client's request vaTTG agrees to release the collateral it is entitled to in accordance with the above insofar as its realisable value exceeds the secured claims by more than 10%. vaTTG can choose which collateral to release.

3.7 If the Client asks for the ROT Goods to be delivered to a country that does not recognise the above retention of title or where it does not have the same effect as in Germany, the Client must take all measures/make all declarations necessary to create comparable security rights. The same shall apply if the Client introduces the ROT Goods into such a country.

C. SPECIAL PROVISIONS FOR COMMISSIONED WORK PERFORMED

The provisions of this section C. apply exclusively to contracts for work and services (section 631 German Civil Code) between vaTTG and the Client. Such contracts can, for example, have as their subject planning work, maintenance, repair and overhaul work, switch or rail grinding or installation support.

1. Cooperation obligations of the Client

1.1 In the case of maintenance, repair and overhaul work, the Client shall, in a timely manner before the work is commenced, provide the relevant safety provisions that apply at the respective site and – should special equipment be required for this – the necessary means for complying with such safety provisions.

1.2 The Client shall, in a timely manner, ensure that there is sufficient installation space at the time of the agreed commencement of the work. This includes, in particular, ensuring unimpeded access for the personnel and vehicles of vaTTG required to carry out the commissioned work.

1.3 The Client shall take precautions to ensure that all relevant occupational and operational safety provisions are complied with and monitored before, during and after vaTTG's performance of the commissioned work.

1.4 The Client shall ensure that permits and/or access permits for vaTTG personnel for performance of the commissioned work are obtained in a timely manner.

2. Acceptance

2.1 The Client shall accept the commissioned work performed. Both parties shall prepare an acceptance report documenting the acceptance which shall include any defects recognised within the acceptance process. This acceptance report shall be signed by both parties. Partial acceptance is also possible upon request by one of the parties. The acceptance or partial acceptance cannot be refused due to insignificant defects.

2.2 The commissioned work shall be deemed accepted if

- vaTTG, after completing its work, asked the Client for acceptance or partial acceptance and
- the Client did not accept the work in spite of a grace period set by vaTTG, and
- acceptance was refused for a different reason than due to a significant defect notified to vaTTG.

2.3 The commissioned work shall be deemed accepted if the Client, in breach of contract, makes use of the contractually agreed work before acceptance has taken place.

3. Defect-related rights

3.1 The rights of the Client in case of material and legal defects shall be subject to the statutory provisions unless otherwise specified below.

3.2 If the Client accepts the commissioned work even though it is defective, and if the Client is aware of the defect upon acceptance, the Client's rights in case of defects shall, notwithstanding the preceding paragraph, be excluded unless it has reserved the right to assert claims.

3.3 The Client's defect-related rights shall not apply if the Client changes the commissioned work or has it changed without vaTTG's consent, and the defect only arises as a result of this or, due to this, it becomes impossible to remedy the defect or such remedying is made unreasonably difficult. In any event the Client shall bear any additional costs of remedying the defect that result from such changes.

3.4 Where vaTTG provides information or advice and such information or advice is not part of the contractually agreed scope of performance owed by it, this is done free of charge and excluding any liability.

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