(1) The following Terms and Conditions apply to all business relationships with customers, unless otherwise expressly stipulated in writing. The version valid at the time of concluding the contract shall apply.

(2) Differing, conflicting or supplementary General Terms and Conditions shall not form part of the contract, even if they are known, unless their applicability is expressly agreed in writing.

Conclusion of the contract (2)

(1) All our offers are non-binding and subject to alteration. Within reasonable limits, we reserve the right to make technical and other alterations. The documents and information accompanying our offers, such as drawings, illustrations and samples as well as weight, measure, performance and consumption information, serve as a mere information and do not represent any special agreed characteristics. We reserve the proprietary rights and copyrights to any information about our products, such as drawings, illustrations, samples and data; these documents, information and data shall not be made available to third parties or used for their own purposes.

(2) The customer’s order shall be deemed to be his binding acceptance of the offer. In cases of doubts about whether an order has been placed within three days, the confirmation of receipt does not constitute an acceptance of an order.

(3) Our order confirmation constitutes the only binding acceptance of an order.

(4) We are entitled to refuse acceptance of an order e.g. after reviewing the creditworthiness of the customer.

(5) If the consumer orders the goods electronically, the legally effective GTCs shall be sent to the customer by e-mail.

(6) Oral agreements are not binding. Written counter-confirmations by the customer only become binding by means of our written order confirmation.

(7) Under no circumstances shall silence be considered as consent. Changes or amendments to the contract, or order cancellations, or suspensions are only binding with the written agreement of both parties. Any expenses or disadvantages resulting thereof shall be for the exclusive account of the customer, unless otherwise agreed.

(8) We reserve the right to make changes to the chemical composition of our products within the framework of legal standards and/or applicable product standards, as well as other product modifications that the customer can reasonably accept.

Payment & payment terms (5)

(1) The offered prices are daily rates and apply until revoked. Price indications are non- binding, unless we have given the customer a price which is applicable VAT. Regarding small quantities ≤1,000kg, we reserve the right to refer customers to a distributor, or to apply a surcharge of up to EUR 300 for minimum order quantities.

(2) Unless otherwise stated, all offers and prices are submitted on an FCA basis, Incoterms 2020®, excluding packaging, insurance and transportation.

(3) Any applicable alloy surcharge at the time of delivery, as well as surcharges relating to a change in price of input materials and raw materials, and changes relating to additional or increased official charges shall be applied in full.

(4) Unless otherwise agreed notated, the type of packaging shall be determined by us. Increases in freight charges occurring between the date of the order confirmation and the actual shipment shall be charged separately to the customer.

(5) The customer undertakes to transfer the invoiced amount to our business account after receipt of the total or partial delivery within 30 days from the date of the invoice. We reserve the right to cancel the terms of payment. Nevertheless, we are entitled, without giving any explanation, to make deliveries conditional upon advance payment or the presentation of collateral.

(6) We only accept letters of exchange and cheques when this has been explicitly agreed in writing, and only as payment for outstanding amounts. All discounting and collection charges are for the customer’s own account.

(7) In the event of default, we shall charge interest on default of 9.2% above the applicable base rate of the European Central Bank plus VAT. In cases of default, the customer commits us to serving the right to cancel the terms of payment. Nevertheless, we are entitled, without giving any explanation, to make deliveries conditional upon advance payment or the presentation of collateral.

(8) If the customer does not comply fully or in part with his payment obligations, or a letter of credit is dishonoured, or if we receive information that makes his creditworthiness questionable, or if an application for the initiation of insolvency proceedings is filed, or the customer proposes terms of a voluntary arrangement to his creditors, we reserve the right to demand immediate payment of all unpaid, as well as not yet due or deferred invoices, and to demand advance payment, or the presentation of securities for all outstanding deliveries. In addition, we are entitled to demand that the re-sale and processing of delivered goods be terminated immediately. In the event of the customer not reacting to our request for advance payment, for securities or to our running letter within a reasonable period, we shall be entitled to withdraw from the contract, or to repossess the goods, and to invoice the customer for all costs and expenses, including lost profit, that have accumulated up to that time.

Transfer of risk (4)

(1) The customer bears the risk of the loss and accidental deterioration of the goods from the moment of the handover of the goods, in accordance with the agreed Incoterms 2010.

Storage Instructions (5)

(1) The customer is aware of the requirement to store our products properly and is conversant with our product storage conditions. Improper storage results in our warranties and guarantees being null and void. The storage conditions can be found on our website under “Technical Data”.

Use of products (6)

(1) The customer is aware of the proper use of our products. Improper use leads to exclusion of any liability and warranty. When using the products supplied by us, the customer is obliged to comply with all regulations, technical regulations, operating and user instructions that protect against dangers.

Obligation to accept, storage period and storage costs (7)

(1) Unless otherwise agreed, we will confirm receipt of the goods on the contractually agreed delivery terms and conditions within 14 calendar days, otherwise the customer is in default of acceptance.

(2) In the event that the customer unjustifiably refuses the acceptance of the goods, he must pay all transport and storage costs, notwithstanding his payment obligations.

The goods are deemed accepted three months after our notice of readiness to despatch, and the total purchase price becomes due at this point. Storage costs and any additional costs relating to the goods are borne by the customer. Even if the goods were declared ready for dispatch, but were not delivered to or collected by the customer.

Long-term and call-off contracts (6)

(1) All open-ended contracts can be terminated by either party with a notice period of 3 months.

(2) In the event, that in connection with long-term contracts (contracts with a duration of more than 4 months and generally open-ended contracts), there is a change in the cost of labour, material, charges or energy, we reserve the right to provide the customer with our contracts are eligible for a reasonable price adjustment, taking into account the aforementioned factors.

(3) In connection with call-off contracts, the customer must inform us, in written, of the definitive contract must be notified by registered letter.

(4) In the case of call-off orders, all as yet undelivered quantities of products ordered by the customer shall be delivered, at the latest, on the day when the validity period of the order confirmation expires.

(5) The customer must bear the risk of any foreign exchange deviation against the Euro until the date of payment, and in such a case, the purchase price shall be adjusted accordingly.

Delivery Periods (9)

(1) We are entitled to effect partial deliveries. The contracting parties agree that partial deliveries of goods or services are deemed the subject of an independent contract separate from the order confirmation, and that they are subject to these General Terms and Conditions.

(2) Production-related deviations from the total order quantity of plus or minus 10% are permissible. The purchase price shall change according to the actual volume.

(3) Our liability for goods not delivered on time is explicitly limited to those cases in which we have confirmed the shipping date in writing.

(4) Unless otherwise agreed, the delivery periods shall be calculated from the date of the order confirmation, and they are subject to the timely receipt of the input goods required by us. The purchase price shall be due when the goods are shipped prior to the deadline, or the customer has been notified of the readiness of the goods for collection.

(5) The customer is only entitled to withdraw from the contract when the delay in the delivery date is attributable to gross negligence on our side, and he has conceded us, but unsuccessfully, a reasonable period of grace of 1 month for the delivery. The withdrawal from the contract must be notified by registered letter.

Retention of Title (10)

(1) We retain title to the goods until full payment of the purchase price has been made. The customer is obliged to notify us immediately in writing of any seizure of the goods by third parties, in particular in case of enforcement measures, damage to, or destruction of the goods. We are entitled to withdraw from the contract and to demand handover of the goods in cases of breach of contract, in particular in the event of a delay in payment. The customer is entitled to resell the goods in the course of his ordinary business. The customer henceforth assigns to us all receivables to the full invoice amount, which are due by the resale of the goods to third parties, and he undertakes to make a corresponding remark in his books or invoices. We herewith accept this assignment. Following this assignment, the customer is entitled to collect the amounts due him. We reserve the right to collect the receivables ourselves if the third party is in default of payment.

(2) If the goods are purchased by the customer, we acquire co-ownership of the new item proportionally to the value of the goods delivered by us. The same shall apply if the goods are processed or mixed with other objects which do not belong to us.

Warranty (11)

(1) We offer guarantees to customers as defined in law. Addective goods, we shall demand warranty for the defect, at our choice, by way of improvement or exchange. If an improvement or exchange is not possible, or has failed, the customer shall be entitled to demand a price reduction or, when it is not a minor defect, to rescind the contract.

Minor deviations from quality, form, colour, weight or design, that are technically unavailable, or are in line with commercial practice, are not deemed defects and may not be claimed against the same. The supplier delivers based on samples and specifications. Damaged packaging falls under minor defects and does not convey the right to refuse acceptance.

(2) In cases in which the buyer is entitled to issue notices of defects, such notices must be given, in written, within 14 days after the delivery of the goods; otherwise the assertion of a warranty claim is excluded. Hidden defects must be reported, in writing, immediately upon discovery and any processing must be terminated. The notice of defects must be specified exactly.

(3) The warranty period for the goods is 12 months from the date when the risk has transferred to the customer. This period also applies to hides, which upon the unpection of defective nature at the time of delivery shall be explicitly understood.

(4) In the event of hidden defects that were notified in time, the customer shall be obliged to give us an opportunity to review the delivery in question within a reasonable period of time.

(5) We offer no guarantees to customers as defined in law. Unless otherwise contractually agreed, we do not warrant or accept any liability for the characteristics or the usability of the goods for a specific purpose, other than those explicitly agreed to by us.

Liability (12)

(1) Other than in those cases provided for by the Product Liability Act, our liability is limited to intent and gross negligence. The liability for slight negligence, such as, but not limited to, compensation for consequential damages, financial loss, loss of interest, loss of profit and damages from claims of third parties against the customer are excluded.
(2) The above limitations of liability do not apply to injury to body or health, or loss of the customer’s life.
(3) To the extent permissible by law, joint and several liability, irrespective of their legal grounds, is limited to the total net value of the order of the individual shipment related to the damage, and where possible, to the part that has not yet been fulfilled, without the customer having the right to raise legal claims against us. The customer commits to holding us harmless of any damages and disadvantages resulting to us from any culpable non-compliance with the European, Austrian or US (re-)export regulations.
(4) To the extent permissible by law, all rights to claim for compensation cease 12 months after becoming aware of the damage and of the injuring party.
(5) Technical consultations and information about processing and possible uses of our goods that we provide free of charge are deemed a service without commitment, and for which we assume no liability.
(6) We are only liable for our own content on the company’s website. In the event that we provide links to other websites, we are not liable for the content of these websites. In the event that we obtain knowledge of illegal content on external websites, we shall immediately block access to such sites.

Non-disclosure (13)
(1) The customer shall exclusively use all documents and knowledge that we declare as confidential and in whose confidentiality we are obviously interested, which he obtains in the course of our business relationship, for the jointly pursued purposes and treat them with the same care towards third parties that he would use in the treatment of his own documents and knowledge.

Data protection (14)
(1) To comply with the data protection obligations, we refer to our privacy policy, available at https://www.voestalpine.com/welding/Data-Privacy in the currently valid version.

Force majeure (15)
(1) In the event that circumstances change under which the contract has been concluded, or events of force majeure occur that include, without limitation, natural catastrophes, non-delivery of input material, breakdown of machinery, interruption of operations of any kind, strike, lockout in our own company or in companies related to the fulfillment of the performance, or hindrances due to official directives, or sanctions by international authorities, as well as any causes that would make the delivery unrealistically difficult or impossible, relieve us of our duty to perform for the duration and the scope of the impact of such disturbances, or entitle us to withdraw from the contract entirely or from that part that has not yet been fulfilled, without the customer having the right to raise legal claims against us.

Export controls (16)
(1) Our goods and services are supplied with the provision that their delivery is not permitted by national or international regulations, especially export control regulations such as embargoes or other sanctions.
(2) The customer commits to not selling the products to third parties of whom he has reason to assume will disregard such regulations or circumvent them. Upon request, the customer must provide, without delay, all required information, especially as regards the final recipient, final destination and end-use of the goods or services.
(3) The customer (ordering party, consignee) commits to not using the goods, neither directly nor indirectly, in any way in connection with the development, production, handling, processing, maintenance, supply, detection, identification or dissemination of chemical, biological, or nuclear weapons, or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons, unless he holds the required official licenses for these purposes.
(4) The customer also undertakes to ensure that the items are not put either directly or indirectly to a military end-use in the People’s Republic of China, or in a country which is subject to an arms embargo pursuant to section 5 para. 2 of Regulation (EC) No. 428/2009 and which is included in the current lists of the European Commission of countries subject to arms embargoes, unless he holds the required licences.
(5) In addition, he undertakes to be in possession of the required authorisations in accordance with applicable Standards of the Austrian Foreign Trade Act 2005 (AußWG) as well as the Austrian Foreign Trade Regulation 2011 (AußHV).
(6) The customer (purchaser, consignee) commits to neither directly nor indirectly selling, exporting, re-exporting, supplying, transferring or making the supplied goods otherwise accessible to persons, organizations, or in countries when this would contravene European, Austrian, or, to the extent applicable, US (re-)export regulations.
(7) The customer (purchaser, consignee) commits to making his customer aware of all export-related regulations and to passing on all obligations resulting therefrom.
(8) On request, the customer commits to issuing an end-use certificate and to sending the original to us, in order to enable us to prove the end-use and intended purpose.

Warranty for welding accessories (26)
(1) We guarantee a supply of spare parts and other replacement material of our welding machines for 5 years from the date of order confirmation by us.

CE conformity of welding machines (23)
(1) We declare that our welding machines are CE compliant and labeled accordingly.

Software of welding machines (24)
(1) We reserve all intellectual property rights, such as copyrights, trademarks, design rights, patent rights, utility model rights, know-how, and non-proprietorial inventions, commercial experience, company secrets, etc., regardless of when they are disclosed to the client.

III. Special terms and conditions of sale for welding accessories (25)
(1) For deliveries and other services in connection with welding accessories, the provisions of the General Terms and Conditions of Sale (I.) shall apply, if the following special provisions for welding accessories do not deviate.

Warranty for welding accessories (26)
(1) The warranty period for welding accessories is 26 months from the date when the risk has transferred to the customer. This period also applies to hidden defects.

CE conformity of welding accessories (27)
(1) We declare that our welding accessories are CE compliant and labeled accordingly.

Place of jurisdiction and applicable law (18)
(1) The place of performance of our goods and services is the location of our plant, and the exclusive place of jurisdiction is agreed to be the competent court in Vienna.
(2) However, we are also entitled, at our option, to initiate legal proceedings against the customer at his domicile. The customer is obliged to refund any dunning and collection expenses, as well as those relating to pre-litigation. Incoterms 2010® and Austrian law, under the exclusion of the International Conflict of Law Rules, as well as of the United Nations Convention on Contracts for the International Sale of Goods (Federal Law Gazette 1988/76) apply.
(3) If one or more of the provisions become ineffective, the other provisions remain binding.