

## **GENERAL TERMS AND CONDITIONS OF SALE – April 2020**

### **1. General provisions:**

All transactions and agreements shall become binding on us only through our written confirmation. The buyer's conditions of purchase shall place us under an obligation only if we expressly accept them. Lack of contradiction certainly does not mean our approval. Offers are always subject to change and subject to prior sale of products in stock.

### **2. Prices**

Prices stated shall, unless otherwise agreed in writing, be understood as EXW prices (supplying plant), Incoterms 2010, excluding packaging and excluding wagon provision fees, plus the respective statutory value-added tax.

If, owing to changed legal standards, additional or increased charges, especially duties, levies and currency adjustment arise between the conclusion of the contract and delivery, we shall be entitled to increase the agreed price accordingly. In the absence of an agreement to the contrary services rendered by us will be charged in accordance with our actual performance and the respective hourly rates.

### **3. Delivery times**

The specified delivery and fulfilment times are non-binding, i.e. without any legal effect. Any claims for damages with reference to delivery and performance dates are hence excluded. The buyer is not entitled to reject partial deliveries.

### **4. Fulfillment and shipping**

Loading and dispatch are always at the risk of the buyer, even if deliveries are made carriage paid. The method of dispatch and means of transportation and protection, which are charged separately in the same way as covered wagons, are at our discretion and all liability is excluded. However, wherever possible we shall take the wishes of the buyer into consideration. Goods which are ready for dispatch must be called off immediately; otherwise they will be stored at the expense and risk of the buyer.

### **5. Specifications**

Unless otherwise agreed, the relevant standards and applicable deviations shall determine the order specifications in terms of quality, dimensions and weight; in the absence of existing standards, normal commercial practice shall apply. In the case of deliveries, the calculations shall be based on total weight or dimensions, irrespective of the means of transport.

## **6. Blanket contracts and contract overruns**

In the case of continuous transactions of longer duration, call-off orders shall be placed and the relevant specifications furnished to us for approximately equal monthly quantities. If the goods are not ordered or the specifications made on time, after unsuccessful granting of a grace period we shall be entitled to make our own specifications and to deliver the goods, or to withdraw from the remainder of the transaction, or to claim damages for non-performance. If the contractual quantity is exceeded through call-off orders placed by the buyer, we shall be entitled, but not obliged, to deliver the excess amount at the prices applicable on the day the order is placed. If the buyer defaults the acceptance of our goods, such goods shall be deemed accepted and we shall be entitled to invoice the goods and store them against payment of a storage fee while insisting on fulfilment of the contract or, after granting a reasonable grace period, to withdraw from the contract and dispose of the goods otherwise.

## **7. Acceptance inspections**

Unless otherwise agreed, the buyer is obliged to inspect the goods at our premises upon notification of readiness for acceptance. If the buyer expressly fails to inspect the goods, or does so tacitly by failing to include a provision regarding acceptance inspection in the order, the goods shall be deemed to be duly delivered and accepted upon leaving the works. In the case of materials without quality specifications, the buyer is entitled to confine acceptance inspection of the goods at our premises to determining their external condition and measuring the goods in the stack, i.e. without removing the goods from the stack. Goods that have been accepted or are deemed to be accepted shall be considered to be duly delivered and handed over. Any objections made subsequently cannot be taken into consideration.

## **8. Complaints and warranty**

The buyer has to examine the goods upon arrival and – in case of any visible defect – lodge a complaint in writing within a reasonable time, however latest ten days after receipt of the goods or completion of the service at the place of fulfilment. The buyer must in all cases prove that the defect was already present at the time of hand-over of the goods.

If an item is defective, we shall be entitled at our own discretion to supplementary fulfilment in the form of removal of the defect, return delivery for a replacement free our plant, a reduction in the purchase price or its reimbursement. In the event of return delivery, our order number shall be indicated on the bill of freight, in the dispatch documents and on the bill of conveyance.

## **9. Payment terms**

Our invoices, including for part deliveries, shall be paid in cash and without deduction by the due date or, if a due date has not been agreed, within 30 days of receipt of the invoice. The

buyer shall bear any bank charges. Given delay of payment, interest charges at a rate of 8 percent above the basic lending rate of the European Central Bank shall be paid to us. Noncompliance with the payment terms, or circumstances which entail a deterioration of the creditworthiness of the buyer shall result in all our claims becoming due and payable. In addition, we shall in these cases be authorized, given protection of our other rights, to perform outstanding deliveries only against cash payment or to withdraw from the contract or to demand compensation for nonfulfillment. The withholding of payments based on the buyer's alleged counterclaims which are not recognized by us is not allowed. The same applies to the offsetting of such counterclaims.

#### **10. Reservation of ownership**

Until complete payment of all the buyer's financial liabilities, we reserve the right of ownership to the goods delivered. The buyer is entitled to resell the goods subject to reservation of ownership in the ordinary course of business. In this case, however, he transfers all liabilities arising from such a resale to us now.

#### **11. Force Majeure**

Force majeure, which includes natural phenomena (for instance earthquakes, floods, storm, fire), strikes, major industrial disruptions, epidemics and diseases, wars, civil wars, revolutions, embargos, the occurrence of rejects among delivery items, and the non-arrival of supplies of starting materials, as well as all circumstances which make delivery very difficult or impossible, shall entitle us to suspend delivery for the duration of the impediment and a reasonable initial period or to withdraw from the contract with regard to the part not yet performed. The buyer may seek a declaration from us as to whether we intend to withdraw or deliver within a reasonable period. If we fail to provide a declaration, the buyer may withdraw.

All offers made and supply agreements concluded by us, including all supply obligations resulting therefrom, shall be subject to the express proviso that their fulfillment is not made legally or factually impossible or becomes considerably more difficult by measures imposed or urgently recommended by governmental authorities or other sovereign entities in an effort to combat the coronavirus pandemic (SARS-CoV-2) or other circumstances in this context. This shall apply particularly to cases where (further) execution of supply agreements can simply no longer be justified, either by reason of economic feasibility or due to health & safety reasons of our employees and/or employees of the respective sub-suppliers and contractors. We shall take into account the legitimate interests of the customer to the extent possible, whereby, however, no liability of any kind whatsoever shall arise from such non-fulfillment of delivery obligations, nor shall we bear the cost of such non-fulfillment, and the customer shall fully indemnify and hold us harmless in this respect.

## **12. Intellectual property, confidentiality**

Plans, sketches, design drawings, price quotations, and any other documents such as brochures, catalogues, samples and presentations shall remain our intellectual property. Any use, including transmission, reproduction and publication, requires our express written consent. All documents may be reclaimed by us at any time and must be returned immediately if the contract is not formed. The contractual partner is obliged to maintain confidentiality vis-à-vis third parties with regard to any knowledge obtained by it by reason of the business relationship.

## **13. Privacy and information requirements**

To comply with legal data protection obligations, we refer to our privacy policy which is available at <https://www.wwg.co.at/wwg/en/company/data-protection/> in the currently valid version.

## **14. Limitation of Liability**

Our contractual and non-contractual liability is limited to intent and cases of severe gross negligence.

The contractual and non-contractual liability for simple negligence is limited to contract-typical and foreseeable direct material damages up to the value of the order. Liability for indirect, accidental or consequential damage, e.g. loss of production, loss of use, loss of profit, missing savings and financial losses resulting from third-party claims are excluded in the event of slight negligence.

In all of these cases, buyer is responsible for providing evidence of the amount of the damages, the type of damage and the degree of fault. Parties waive § 1298 ABGB in its entirety.

The above limitations of liability do not apply in the event of loss of life or injury to body or health, for a defect after assumption of a guarantee for the quality of the contractual product and for maliciously concealed defects. Liability under the Product Liability Act and other mandatory statutory provisions remains unaffected.

To the extent that WWG's liability is excluded or limited, this exclusion or limitation shall also apply to the liability of WWG employees, subcontractors, representatives and agents.

Damage claims become time-barred 6 months beginning from recognition of the damage and the tortfeasor, but in any case no later than 5 years after the performance of services or delivery of goods.

## **15. Compliance**

The buyer hereby confirms receipt and acknowledgment of the Code of Conduct for WWG Business Partners. The Code of Conduct for WWG Business Partners is available at <https://www.voestalpine.com/group/en/group/compliance/code-of-conduct-for-voestalpine-business-partners/>

The buyer undertakes to comply with the provisions of the Code of Conduct for WWG Business Partners at all times and will indemnify WWG in the event of a violation.

## **16. Place of performance and jurisdiction**

The place of performance for all transactions, even if carriage paid to point of delivery is agreed, shall be the supplying plant. The place of jurisdiction for all disputes shall exclusively be the court of substantive competence at the principal place of business of our company, although we are also entitled at our discretion to go to any other court, which is competent in relation to the buyer.

This agreement and any non-contractual obligations arising out of or in relation to this agreement shall be governed by and construed in all respects in accordance with Austrian law, excluding the Austrian conflict of law rules and excluding the United Nations Convention on Contracts for the International Sale of Goods.

## **17. Severability clause**

Should individual provisions of this agreement be in breach of statutory regulations or otherwise invalid or unenforceable, or should an omission be identified, this shall not prejudice the validity of the remaining terms of the agreement. In such cases, a provision shall be deemed agreed that covers the economic intention of the parties most closely or the invalid provision shall be replaced by a valid provision that covers the intended economic purpose of the agreement as closely as possible.