

## GENERAL TERMS AND CONDITIONS OF PURCHASE OF voestalpine ENTITIES IN GERMANY FOR PRODUCT DELIVERIES AND SERVICES NOVEMBER 2017

### 1. Applicability

(1) The following "General Terms and Conditions of Purchase" ("GTCP") shall apply to purchase orders placed by the voestalpine group company (hereinafter referred to as the "Customer") stated in the contract/purchase order (hereinafter referred to as the "Contract") with its contractors (hereinafter referred to as the "Contractor") as an agreed part of the contract.

(2) In the case of prolonged contractual relationships (limited or unlimited continuous obligations) applicability of the GTCP shall also extend to future contractual relationships with the relevant Contractor.

(3) Applicability or inclusion of general terms and conditions of the Contractor shall be excluded independent of the specific regulations of the same. They shall only apply if they have been expressly accepted by the Customer in writing.

### 2. Conclusion of contracts; Ordering process

(1) Legally binding purchase orders of the Customer shall exclusively be placed by the Customer's department in charge (usually the purchasing department) in written or text form (this shall include but not be limited to electronic data interchange, email or fax).

(2) In the case of a binding offer of the Contractor the Contract between the Customer and the Contractor shall come into existence upon the Customer's purchase order. In all other cases the Contract shall come into existence upon availability of the relevant acknowledgment of order by the Contractor in compliance with the regulations below.

(3) The Contractor shall acknowledge the Customer's purchase orders by means of an acknowledgment of order using the relevant form provided by the Customer within five (5) working days of submission of the Customer's purchase order (date of receipt by the Customer) or (except in the case of a binding offer) reject them within the same period. The Customer shall in any case be entitled to withdraw the purchase order free of charge without having to state any reasons before it receives an unconditional acknowledgment of order or within the said five-day period. The Customer shall immediately notify the Contractor thereof. The Customer reserves the right to reject acknowledgments of orders which it receives after the five-day period. If the purchase order is not expressly rejected by the Contractor within the said period of five days or if the Contractor starts the relevant work in a way that can be seen by the Customer, the Customer's purchase order, including the present GTCP, shall be deemed fully accepted and the Contract shall thus be deemed concluded, unless the Customer exercises its right of rejection as mentioned above.

(4) The Contractor may only rely on modifications of, amendments or additions to the purchase order if they were expressly ordered in writing or confirmed in writing by the Customer's department in charge. Where modifications, amendments and/or additions are ordered in a different way or by a different department of the Customer and/or where it cannot be seen without doubt that they have been made in agreement with the Customer's department in charge, the Contractor shall in any case immediately notify the Customer's department in charge in written or text form and obtain a confirmation in written or text form in this respect. Otherwise the Customer shall be entitled to regard such modifications, amendments or additions as not agreed in a legally binding manner. In that case all resulting costs and disadvantages shall be borne by the Contractor.

(5) The Contractor confirms that, on his part, only persons who are sufficiently authorised to make legally binding statements on behalf of the Contractor will be used to process the purchase order and to perform the contract.

(6) In the Contractor's correspondence with the Customer the purchase order number shall always be stated.

### 3. Deliveries and services; Periods and dates of delivery/service; Provision

#### 3.1 Deliveries and services ("Deliveries/Services")

(1) The Customer's contractual duties to cooperate and/or to provide material/staff are listed exhaustively in the Contract. Accordingly, the

Contractor shall provide the agreed Deliveries/Services (including a complete documentation as defined in these GTCP and/or the contractual agreements) properly, at the agreed time, completely and for the agreed, fixed lump sum (= guaranteed maximum price; reductions and savings shall be deducted for the benefit of the Customer).

(2) In the absence of expressly agreed duties of the Customer to cooperate and provide material/staff the Contractor shall, in view of the purpose of the contract that shall obviously be achieved, take any and all (additional) measures that may be required for proper performance of the Deliveries/Services without request and without delay and shall provide any additional Deliveries/Services that may be necessary at no additional cost for the Customer even if they have not been explicitly stated in the purchase order/contractual documents or have not been included by the Contractor in his original calculation.

(3) Any prices for cost-plus work that may have been agreed shall also be fixed and shall exclusively be charged as incurred upon the Customer's prior order.

(4) Unless otherwise agreed in writing, any quotations submitted by the Contractor shall be free of charge and binding on the Contractor.

(5) To perform the agreed Deliveries/Services, the related duties/obligations and, in particular, to ensure smooth processing of the purchase order, proper and quick assembly/putting into operation, as well as trouble-free, continuous industrial operation the Contractor shall, among other things, carefully check the contents of the documents underlying the purchase order, including but not limited to the technical specifications of the purchase order, for completeness, suitability and absence of errors and immediately point out any noticeable problems in this connection to the Customer. In addition, the Contractor shall also inform himself about the actual conditions on the site and regarding installation and operation at the place of operation/assembly of the Deliveries/Services as to whether functionality and performance capability of the Deliveries/Services for the identifiable designated purpose under the given framework conditions are ensured. For that purpose the Customer shall grant the Contractor reasonable access to the relevant sites and places/parts of operations within normal office hours upon the Contractor's timely prior request.

(6) When performing the agreed Deliveries/Services the Contractor shall also comply with and observe any and all statutory provisions/regulations applicable at the place of performance of the Deliveries/Services, the state of the art and the technical standards applicable to the relevant Deliveries/Services as a minimum requirement. Any additional agreements made in the Contract with respect to technical specifications and design standards shall remain unaffected.

(7) Full performance of the agreed Deliveries/Services includes, above all, effective transfer of unrestricted, unencumbered title to all parts of the Deliveries/Services and obtaining unrestricted power to dispose of the same, including all records/documentation that are/is necessary for putting into operation, for continuous operation or regular maintenance of the same and/or any rights or records/documentations that may have been agreed in addition. Unless otherwise agreed in writing, the records/documentation shall be delivered at least in the Customer's local language and in English. The Contractor shall grant the Customer non-exclusive rights to use such records/documentation (including source codes, if any) in accordance with their/its purpose, which rights shall be unrestricted as to time, territory and contents and may be freely transferred and sublicensed within the voestalpine AG group of enterprises so that unrestricted usability of the Deliveries/Services (including putting into operation, repair/maintenance, partial or complete new production in connection with necessary replacement with the involvement of third parties) is ensured. When exercising the above rights the Customer shall appropriately take into account the Contractor's legitimate interests regarding know-how protection.

(8) The Contractor shall not be entitled to have the Service owed by him provided by a third party (e.g. subcontractor) without the Customer's prior written approval.

### **3.2 Periods and dates of delivery/service; Measures in the case of delays/default**

(1) As a matter of principle, the time at which all contractual and statutory duties/obligations of the Contractor in connection with the Deliveries/Services as specified in the purchase order, the bases of the purchase order (in particular the binding offer, technical specifications, etc.) and the present GTCP have been completely fulfilled shall be deemed the time of performance.

(2) All agreed periods/dates of delivery/service (including but not limited to production/manufacturing plans, dates as per the payment schedule, etc.) shall be binding and strictly observed by the Contractor. Unless otherwise agreed in writing, any delivery periods that may have been fixed in the purchase order shall commence on the date the purchase order is sent by the Customer. If no specific periods/dates for delivery/service are stated in the purchase order, the Contractor shall provide the Deliveries/Services immediately after conclusion of the contract and complete them without delay. If the Contractor notices that observance of the agreed periods/dates of delivery/service or other deadlines that may have been agreed might be jeopardised, he shall immediately notify the Customer thereof in written or text form and state the reasons and the expected duration of the delay/default. Concurrently he shall advise the Customer of necessary and suitable measures to prevent or reduce the imminent default/delays and implement the same.

(3) If the Contractor is already late in fulfilment of his contractual obligations (in particular with respect to agreed periods/dates of delivery/service and other agreed deadlines that may have been agreed) or if occurrence of such default is already foreseeable due to the actual course of the project, the Customer shall, *inter alia*, be entitled to carry out a reasonable concurrent check of the Contractor's activities related to performance of the Deliveries/Services and to enter the relevant production sites and other premises of the Contractor for that purpose if and to the extent necessary and upon prior notice and to demand that the Contractor take necessary, appropriate measures to prevent/reduce any (further) delays in the performance of the agreed Deliveries/Services.

(4) Both the default as such and the failure to take the requested necessary and appropriate measures to reduce/prevent any (further) delays by the Contractor shall each constitute a material breach of contract due to which the Customer shall, *inter alia*, be entitled to rescind the contract in whole or in part at the Customer's option and to claim damages after fruitless expiration of a reasonable grace period (that has at least been actually granted). Alternatively, the Customer may take the measures required to perform the Deliveries/Services at the Contractor's cost and risk.

### **3.3 Provision and subsequent change of the Deliveries/Services; Closing down (parts of) plants; Delays by the Customer**

(1) The Contractor shall provide the Deliveries/Services with a special focus on the Customer's interests, in particular in connection with the technical requirements of production and the necessity of the Customer's undisturbed continuous industrial operations. In particular in planning and technical provision of his Deliveries/Services the Contractor shall take the principles of efficiency, expediency and maintenance-friendliness adequately into account so that the Customer will be able to use the relevant Deliveries/Services as economically as possible and continuously and that the recurring expenditure for repair/maintenance/replacement will be within the contractually agreed scope and at least within the scope that can reasonably be expected according to the state of the art.

(2) Subsequent modifications of or amendments to the agreed Deliveries/Services (e.g. modified technical designs, etc.) which  
a) are not attributable to the Customer's sphere of responsibility or  
b) have not been expressly ordered by the Customer in derogation from the original Contract shall in any case require express approval from the Customer and, unless agreed otherwise in writing, shall not lead to any additional costs for the Customer, in particular with respect to

continuous industrial operation and regular repair/maintenance and replacement.

(3) Administrative or statutory changes which lead to a subsequent modification of or amendment to the Deliveries/Services shall be attributed to the Contractor's sphere of responsibility and any additional costs caused by such changes may not be charged to the Customer.

(4) To the extent that plants or parts of plants must be closed down, even if only in part, to provide the Deliveries/Services, the Contractor shall inform the Customer thereof as early as possible (if possible, as early as at the time of conclusion of the contract). Plants or parts of plants may be closed down exclusively in agreement with the Customer and only to the extent absolutely required.

(5) Insofar as the Customer has to observe deadlines or is subject to a duty to collaborate under such agreements, the Customer shall observe or comply with the same properly and in due time. However, the Contractor may claim delays in the provision of his Deliveries/Services for which the Customer is demonstrably responsible only if he has asked the Customer to observe its deadlines/comply with its duties to collaborate in written or text form in due time and has granted the Customer a reasonable grace period to do so. This shall equally apply if a certain or determinable calendar day/time has been agreed for performance.

(6) In the case of delays for which the Customer is demonstrably responsible as defined above, the agreed periods/dates of delivery/service shall be extended/postponed for not more than the period of the delays for which the Customer is demonstrably responsible, with the Contractor at the same time being obliged to reasonably minimise the default.

(7) The Contractor shall claim exclusively direct additional costs that may arise as a result thereof without delay and not later than four (4) weeks after the delays on the part of the Customer have ceased to exist and provision of the Deliveries/Services has been dutifully resumed by the Contractor and shall present full and sufficient evidence of such costs to the Customer. Otherwise the claim to reimbursement of the respective additional costs shall be forfeited.

### **3.4 Suspension; Cancellation**

(1) Suspension: The Contractor agrees to suspend performance/provision of the Deliveries/Services temporarily (in whole or in part) for a total period of up to 12 months at the Customer's request, with the first six (6) months of suspension being free of charge and the Contractor not being entitled to assert any claims whatsoever vis-à-vis the Customer.

(2) For the period of suspension that is not free of charge the Customer shall reimburse exclusively direct additional costs of the Contractor (but no lost profit or actual loss suffered in the form of lost earnings) exclusively caused by the suspension in connection with the final invoice for the transaction, provided that the Contractor has provided the Customer with sufficient evidence of such costs within four (4) weeks of termination of the suspension.

(3) The Contractor shall keep the costs resulting from the suspension as low as possible and continue provision of the Deliveries/Services immediately after termination of the suspension.

(4) Cancellation: The Customer shall be entitled to cancel the purchase order/the agreed Deliveries/Services in whole or in part at any time and no reasons need to be stated. In the case of cancellation the Customer shall pay the Contractor a reasonable portion of the agreed contract price for the Deliveries/Services already provided and delivered by the time cancellation was declared by the Customer or for Deliveries/Services ready for delivery simultaneously with delivery and transfer of unrestricted title. Any other claims of the Contractor shall be excluded.

### **4. Packaging; Shipping; Delivery; Shipping documents; Export permits**

(1) Shipments shall be packed in accordance with the product properties, the specific forwarding and delivery terms for which the Contractor is responsible and with the relevant specific requirements.

(2) Packaging shall be in line with the statutory regulations applicable in the EU and, in particular, in the country of delivery and shall be made in

a form that is appropriate and, in particular, environment-friendly and can be removed easily.

(3) At the Customer's request packaging materials shall be taken back/disposed of by the Contractor free of charge after delivery has been effected.

(4) Where packaging materials have to be disposed of by the Customer as special waste, the resulting costs shall be borne by the Contractor.

(5) In connection with environmental protection the Contractor shall carefully and at his cost dispose of and/or take back any and all waste and special waste arising during or by delivery of the products in compliance with the applicable laws and regulations and in a professional manner.

(6) The Contractor shall monitor compliance with the foregoing provisions by means of a suitable management system.

(7) Unless otherwise provided in the purchase order, delivery shall be effected DDP according to the Incoterms® 2010 at the agreed lump sum (see Clauses 3.1(1) and 6(1)) and during normal business hours - unloaded at the stated place of destination or on the stated construction site on the Customer's premises.

(8) Unloading shall always be effected in coordination with the Customer and without unnecessary delay.

(9) Unless otherwise agreed in writing all costs and risks related to transportation (including but not limited to transport insurance, statutory export control permits, customs clearance, oversize and dangerous goods transports, special transport measures, etc.) shall be borne by the Contractor.

(10) Every shipment shall be accompanied by appropriate, customary shipping documents (including but not limited to a delivery note and a commercial invoice as defined in Clause 6(5)) stating in particular the quantity delivered, the actual recipient of the shipment at the Customer and the purchase order number.

(11) If necessary in a specific case or requested by the Customer, the Contractor shall provide appropriate valid preference certificates and/or information concerning export control permit regulations (e.g. ECCN/AL number, etc.).

(12) Any additional special terms regarding packaging/shipping/documentation or delivery may be seen from the relevant purchase order, if necessary.

(13) Any and all damage/additional costs resulting from non-compliance with the packaging/shipping/documentation or delivery terms stated or otherwise agreed in writing shall be reimbursed or borne by the Contractor.

## 5. Passing of risk; Transfer of title

(1) The risk shall, in principle, pass according to the agreed Incoterms® clause.

(2) Unless otherwise agreed in writing, title to the Deliveries/Services (in particular also with respect to documentation, including transfer of the relevant rights to use the same as defined in Clause 3.1(7)) shall, in principle, pass simultaneously with the risk or, if payment by instalments has been agreed, with respect to the part of the Deliveries/Services concerned in no case later than upon payment (including by setoff, where applicable) of the instalment agreed for that part and provided that the payment date is before the date the risk will pass according to the agreed Incoterms® clause.

(3) Where the Deliveries/Services to be provided by the Contractor also include setting up, installation, assembly and/or putting into operation, title shall, unless otherwise agreed, in any case be transferred upon delivery of the relevant shipment (part) according to the agreed Incoterms® clause, whereas the risk shall pass not earlier than upon unconditional acceptance of all Deliveries/Services according to the regulations of the Contract.

(4) To the extent that the Customer has already made a down payment, the Customer shall acquire the right to have unrestricted title to parts or components of plants (including documentation already available) that have been provided already or are already available in the Contractor's sphere of control transferred to the extent of the equivalent of the down payment already made (vested right). Any additional security interests of the Customer shall remain unaffected hereby.

(5) To avoid that such title to/co-ownership shares and/or vested rights of the Customer will be attached or otherwise compromised by third

parties and/or official measures, the Contractor shall take all legally permitted measures to prevent such a situation (labelling as the Customer's property, separate storage, etc.). If the Customer's rights should be attached or otherwise compromised nevertheless, the Contractor shall immediately notify the Customer of those circumstances in writing and hold harmless and indemnify the Customer.

(6) For the rest, the Contractor represents that his Deliveries/Services are free of any reservations of title and/or restrictions on use whatsoever.

## 6. Prices; Terms of payment; Invoicing; Setoff

(1) Unless otherwise agreed in writing, all prices for Deliveries/Services shall be deemed fixed lump-sum prices (see Clause 3.1(1)), inclusive of all taxes, fees and charges (however, exclusive of value added tax (or similar excise taxes)), DDP Incoterms® 2010 Customer's premises (see Clause 4(7)), inclusive of all costs of packaging, shipping, transportation, customs clearance, documentation, licences, CE marking (where applicable), technical inspections, appropriate coating and corrosion protection, labelling/lettering and assembly, putting into operation and acceptance.

(2) The agreed price basis and the terms and conditions for the Deliveries/Services (e.g. project discount) agreed in this connection shall at the Customer's request also apply to follow-up orders/supplements/amendments to the purchase order and to orders for spare parts, wearing parts and change parts for the Deliveries/Services.

(3) Unless expressly agreed otherwise in writing, the Customer shall make payments upon complete and proper fulfilment of all contractual and statutory duties/obligations of the Contractor (see in particular Clause 3) within 45 days of receipt of a proper invoice less a 2% cash discount or within 90 days of invoicing with no cash discount.

(4) Late payment by the Customer shall be governed by the statutory regulations.

(5) Invoices shall be presented to the Customer at least in duplicate plus a copy of the advance shipping notice and/or delivery note. Invoices of the Contractor must in any case meet all requirements of Section 14 (4) of the German Value Added Tax Act [*Umsatzsteuergesetz/USTG*] as amended and state a valid VAT number of the Contractor. Electronic invoices must be in line with the relevant statutory regulations and shall, in addition, be subject to the Customer's prior consent. The Customer is entitled to reject invoices that do not meet the above requirements or electronic invoices that are submitted without the Customer's consent.

(6) The Customer is entitled to offset claims to which the Contractor is entitled vis-à-vis the Customer or any of its affiliates of the voestalpine AG group of enterprises against claims to which the Customer or any of its affiliates is entitled vis-à-vis the Contractor or any of his affiliates and which have been assigned to the Customer, even if they are not of the same kind or due. This shall apply independent of the legal basis of the relevant accounts payable or receivable. The Contractor shall not offset his own claims against counterclaims out of the same transaction or other transactions, unless such counterclaims have been ascertained by court in a non-appealable manner or have not been contested by the Customer.

## 7. Collateral; Insurance

(1) a) To secure the Customer's claims for defects the Customer shall, to the extent agreed by and between the Contractor and the Customer in writing, be entitled to withhold 10% of the net total of the final invoice. The Customer shall notify the Contractor of the amount withheld from time to time and pay the same into a frozen account with a bank selected at the Customer's equitable discretion within 18 working days of such notification. The Contractor shall have no entitlement to interest.

b) Withholding 10% of the net total of the final invoice by the Customer may be replaced by presentation of a guarantee for warranty obligations (performance bond) of the Contractor.

c) The guarantee for warranty obligations shall meet the following requirements: the guarantor must be a credit institution or credit insurer licensed in the European Union, Switzerland, Iceland or Norway. The statement of guarantee must be made for an indefinite period of time in writing and include a waiver of a plea of unexhausted remedies [Art 771 of the German Civil Code BGB]. The right of deposit must be

excluded. In addition, the guarantor must state that the law of the Federal Republic of Germany shall exclusively apply in the case of disputes arising out of such a guarantee and that the place of jurisdiction shall, at the Customer's choice, be the place of the construction project or the Customer's registered office. Moreover, he shall state that the guaranteed claim will not become time-barred before the secured principal claim.

d) The Customer shall return any collateral for claims for defects that has not been realised after expiry of the agreed period of limitation for claims for defects. However, to the extent that the claims raised by the Customer have not yet been fulfilled at that time, the Customer may withhold a corresponding share of the collateral.

(2) The Contractor shall take out appropriate insurance as necessary for the relevant transaction and maintain the same until the end of the warranty or guarantee period and provide the Customer with adequate confirmations by the insurance company (in particular with respect to coverage/the sum insured and exclusions from coverage) upon the Customer's request before commencement of performance of the contract. Otherwise the Contractor shall be in culpable delay and the Customer shall at its option and independent of any other claims and rights vis-à-vis the Contractor be entitled to prohibit the Contractor from providing the Deliveries/Services until he presents an acceptable confirmation by the insurance company at the Contractor's cost and risk or may take out appropriate insurance at the Contractor's cost or rescind the contract.

(3) In those cases the Contractor shall indemnify and hold harmless the Customer. Existing insurance contracts shall, however, in no case limit any liabilities or other obligations of the Contractor.

## **8. Defaults in performance: Delay in delivery; Warranty**

### **8.1 Delay in delivery**

(1) If the Contractor is late in performing his contractual obligations (in particular with respect to agreed periods/dates of delivery/service or other agreed deadlines) (non-performance/malperformance), the Customer shall at its option be entitled to rescind the contract in whole or in part, to claim damages for the damage/additional costs caused thereby and to bring about the necessary substitute performance at the Contractor's cost and risk through third parties or itself after having granted a short but reasonable grace period (with actually granting of the grace period by the Customer being sufficient), irrespective of any and all other rights and claims to which the Customer may be entitled.

(2) In this respect the Contractor shall provide any materials, information, parts of documentation (including but not limited to workshop drawings, calculations) and licences, etc. that are absolutely necessary for substitute/self-performance and to achieve the purpose of the contract free of charge.

### **8.2 Contractually modified warranty; Duty to inspect and notify defects; Periods; Remedy of defects; Substitute performance**

(1) The Contractor warrants that the Deliveries/Services will be provided as agreed in the contract and will be free from defects in quality and/or title of any kind both at the time of delivery and throughout the warranty period and will have the usually expected and, in particular, the specifically agreed properties.

(2) Moreover, the Contractor expressly warrants that his Deliveries/Services will meet all requirements as agreed in Clause 3 of these GTCP throughout the warranty period.

(3) In addition, for the above purposes the Contractor warrants accuracy and completeness of his engineering, consultancy and documentation work and in the case of assignment of staff accuracy and completeness of oral and/or written instructions. The Contractor shall, therefore, be liable for actions of the Customer and/or third parties taken on the basis of such instructions.

(4) If the place of designated use/provision of the Deliveries/Services should be outside Germany, the Deliveries/Services shall, in addition to the requirements stated in this Clause and in Clause 3, also fulfil the standards and regulations applicable at the place of execution of the purchase order or of designated use.

(5) Normal wear and tear and damage caused by improper/incorrect use of the Deliveries/Services by the Customer shall expressly be excluded from warranty.

(6) The burden to prove non-existence of a defect as defined in these GTCP that occurs/arises during the warranty period shall be borne by the Contractor.

(7) The commercial duty to inspect and notify defects shall be governed by the statutory regulations (Section 377 and Section 381 of the German Commercial Code [HGB]) subject to the following conditions: the duty to inspect shall be limited to defects that are apparent in the course of the incoming goods inspection when inspecting the exterior of the goods including the shipping documents (e.g. transport damage, deliveries of goods other than agreed or short deliveries) or that are identified in the course of the Customer's quality check when carrying out a spot check. If acceptance has been agreed, the Customer shall be under no obligation to inspect the goods. For the rest, the decisive factor is the extent to which an inspection is possible in the ordinary course of business taking into account the circumstances of the specific case. The Customer's duty to notify defects that are identified later shall remain unaffected. Notwithstanding the duty to inspect the Customer's notice (notification of defects) shall in any case be deemed given immediately and timely if it is given within ten (10) working days of identification or, in the case of apparent defects, of delivery.

(8) With respect to assertion of warranty claims in court that have arisen during the warranty period, the statutory period of limitation is 24 months from expiry of the warranty period stated in Clause 8.2(12).

(9) The Contractor shall remedy defects occurring/arising during the warranty period free of charge within a short but reasonable period of time at the Customer's choice either by improvement, substitute delivery or subsequent performance. When remedying defects the Contractor shall safeguard the legitimate interests of the Customer, in particular in connection with the requirements of production engineering and the necessity of undisturbed continuous industrial operation.

(10) Irrespective of the fact that improvement or substitute delivery shall principally have priority, there shall also be the possibilities/remedies of price reduction and rescission at the Customer's equitable discretion.

(11) In the case of minor defects (cost of repair less than EUR 10,000 per case) or in the case of defects that must be repaired immediately (imminent danger) the Customer shall be entitled to remedy/repair the defects itself or have the defects remedied/repared by third parties at the Contractor's cost and risk and the warranty claims shall remain unaffected thereby, provided that the defects have in principle been repaired professionally. In the case of such work for remedying defects the Customer shall ensure that the costs incurred in connection with the same are reasonable and can be evidenced.

(12) For the above purposes the warranty period shall be 24 months for movable items from the time of complete fulfilment of all contractual and statutory duties/obligations of the Contractor and unconditional taking delivery of or, if agreed in the contract, unconditional acceptance of the Deliveries/Services by the Customer, and 36 months from the aforementioned dates for immovable items.

(13) Where special acceptance of Deliveries/Services has been agreed, the Customer shall not unreasonably/inequitably refuse or delay the same.

(14) For latent defects and defects in title the warranty period shall start to run not earlier than from the time they are noticeable. In the case of improvement, substitute delivery, repair or subsequent performance the warranty period for the Deliveries/Services concerned shall start to run anew after the defect has been remedied successfully.

(15) Furthermore, the warranty period for the entire Deliveries/Services shall start to run anew if the defect considerably reduces or prevents the functionality or use of the Delivery/Services.

(16) The warranty period defined above shall in any case end 48 months after original commencement of the warranty period for Deliveries/Services. The warranty period, including the 48-month period described above, shall be interrupted by downtimes/times during which the entire Delivery/Service cannot be used that have been caused by the Contractor and/or are due to the defect. This shall, in particular, apply to times during which defects are remedied.

(17) Apart from claims for defects the Customer shall have the Customer's statutory rights of recourse within a supply chain (supplier's right of recourse pursuant to Section 478 and Section 479 of the German Civil Code [BGB]) without limitation. In particular, the Customer

shall be entitled to demand the type of subsequent performance (improvement or substitute delivery) from the Contractor which the Customer owes its customer in a specific case. The Customer's statutory option right (Section 439 (1) of the German Civil Code [BGB]) shall not be restricted thereby.

(18) Before the Customer acknowledges or fulfils a claim for a defect asserted by its customer (including reimbursement of expenses as laid down in Section 478 (2) and Section 439 (2) of the German Civil Code [BGB]) the Customer shall notify the Contractor, shortly describe the facts and circumstances and ask him to comment in written or text form. If the Contractor fails to comment within a reasonable period of time and if no amicable solution is reached between the Customer and the Contractor either, the claim for a defect actually granted by the Customer shall be deemed owed to the Customer's customer; in that case the Contractor shall prove the contrary.

(19) The Customer's claims related to the supplier's right of recourse shall exist also in cases where the goods have been processed further before being sold to a consumer by the Customer or a customer of the Customer, e.g. by installation in another product.

(20) Any other rights to which the Customer may be entitled due to defectiveness of Deliveries/Services shall remain unaffected hereby.

#### **9. Damages; Product liability; Indemnification**

(1) The Contractor shall be liable according to statutory provisions (including product liability provisions) for damage caused by him (or persons attributable to him).

(2) The Contractor shall be liable both for his subcontractors and his suppliers as for himself, independent of the relevant influence on the provision of Deliveries/Services.

(3) No limitations of liability are agreed.

(4) To the extent that the Customer is held liable by third parties under national/international product liability laws on the ground of faulty deliveries of the Contractor, the Contractor shall indemnify and hold harmless the Customer from and against such claims. This shall, in principle, also apply if and when the Customer is held liable by third parties on the ground of culpable actions and/or omissions by the Contractor or persons attributable to him.

(5) Under his indemnification obligation the Contractor shall reimburse the expenses stated in Section 683 and Section 670 of the German Civil Code [BGB] that are incurred due to or in connection with claims raised by third parties, including recalls effected by us.

(6) The Customer shall inform the Contractor about the content and scope of recalls to the extent that this is possible and reasonable and give him an opportunity to comment.

(7) Additional statutory claims shall remain unaffected.

(8) The Contractor shall take out and maintain product liability insurance with a sum insured that is adequate for the business and acceptable to the Customer.

#### **10. Compliance; Code of Conduct**

(1) The principles and guidelines for sustainable, ethical/moral and legally unobjectionable business conduct defined in the "Code of Conduct of voestalpine AG" and the related "Code of Conduct for voestalpine Business Partners" as amended from time to time may be retrieved from the internet address <http://www.voestalpine.com/group/en/group/compliance> and shall expressly be acknowledged and accepted by the Contractor.

(2) The Contractor shall ensure in an appropriate manner that compliance with those principles and guidelines will be warranted by his agents/major subcontractors.

(3) The Customer reserves the right to check compliance with the Codes of Conduct upon prior notice, including on the Contractor's premises, to a reasonable extent and safeguarding the Contractor's legitimate interests.

#### **11. Quality and environmental management; REACH; RoHS 2; Conflict Minerals**

(1) The Contractor shall apply the quality principles and environmental management principles of the relevant standards ISO 9001, ISO TS 16949 (relevant to automobile-relevant upstream suppliers) and/or ISO 14001 or EMAS in providing his Deliveries/Services.

(2) The Contractor shall ensure in an appropriate manner that the said obligations will also be complied with at the level of his agents/upstream suppliers. The relevant regulations of the Customer's QSE policy applicable at the time of conclusion of the contract and the regulations on REACH/RoHS 2/Conflict Minerals to be observed by the Contractor may be retrieved from the following internet addresses.

<http://www.voestalpine.com/group/en/group/environment/reach>

<http://www.voestalpine.com/group/en/group/environment/rohs>

<http://www.voestalpine.com/group/en/group/environment/conflictminerals>

(3) The criteria of energy efficiency and greenhouse gas efficiency will also be taken into account in the process of procuring energy-related goods. At the Customer's request the Contractor shall provide additional data, such as information on consumption, the product life cycle (Life Cycle Assessment LCA) and relevant classifications according to efficiency classes.

#### **12. Confidentiality; Marketing**

(1) The Contractor undertakes to treat as confidential all voestalpine data of which he obtains knowledge due to the business relationship with voestalpine group entities. voestalpine data means all information attributable to a group entity of voestalpine or any of its staff, independent of whether such data is protected by the laws applicable to the Contractor.

(2) The Contractor shall be prohibited from handling voestalpine data that is not absolutely necessary to fulfil statutory or contractual obligations. This shall apply in particular to transmission of voestalpine data to third parties or use of the same for marketing purposes.

(3) To the extent that transmission of voestalpine data is absolutely necessary for performance of the contract the Contractor may transmit voestalpine data only to third parties he has bound by contract to comply with the duties to which he is subject according to the GTCP.

(4) The Contractor shall be liable vis-à-vis the voestalpine group entity with whom he maintains a business relationship for compliance with the duties under the GTCP by the recipient of the transmission.

#### **13. EC declaration of conformity; Declaration of incorporation Product safety; Putting into the stream of commerce; CE marking**

(1) The Contractor represents that all of his Deliveries and Services comply with all applicable EU(EC) Directives, harmonised standards and German law in a way that can be proved and checked at any time. This shall also apply to Deliveries and Services that are imported from non-European countries.

(2) The Contractor shall prepare the entire technical documentation as required by the EU(EC) Directives applicable to the relevant Delivery and/or Service and the German provisions implementing those Directives, such as hazard analyses, risk assessments, operating instructions, validation documents, declarations of manufacturers/incorporation/conformity, etc. and shall deliver those documents to the Customer in German immediately upon delivery and/or service.

(3) The Contractor shall inform the Customer of all data that may be required for CE certifications to be obtained and all related safety/security devices and measures in writing, accurately and in German upon provision of his Delivery and/or Service.

(4) In the case of non-compliance with this contractual provision the Contractor shall be liable for any and all costs and damage resulting from the Contractor's Deliveries/Services, independent of fault, and shall fully indemnify and hold harmless the Customer vis-à-vis third parties from and against any and all claims raised on whatever legal ground.

#### **14. Spare parts, wearing parts and change parts**

(1) To the extent that for use of the delivery items for the designated purpose in continuous industrial operation an adequate supply of spare parts and wearing parts is necessary as well, the Contractor shall submit to the Customer, upon its request, an appropriate offer for spare parts/wearing parts that will suffice at least for the duration of the warranty period. Any other agreements shall remain unaffected by this regulation.

(2) Independent thereof all offers for spare parts/wearing parts shall in any case include relevant information on delivery periods for the parts

concerned (including but not limited to system-critical components) and the relevant OEM specifications (exact name of the OEM including address, type/description of part, standards, specifications of material, dimensions, layout drawings, detailed drawings, etc.) in a format that can be edited electronically, so that the Customer will be able to also order the relevant spare parts/wearing parts directly from the OEM.

(3) In addition, spare parts and wearing parts shall in any case be offered by the Contractor at fair market and competitive prices.

#### **15. Safety policies; Safety and health at work**

(1) The Contractor and all persons used by him to provide services for the Customer shall attend safety trainings of the Customer on risks related to health, the environment, operations and construction sites and on the safety and visitor regulations applicable on the Customer's premises and shall comply with all applicable provisions.

(2) The Contractor shall warrant the safety of all persons used by him to provide the Deliveries/Services to/for the Customer and of all staff of the Customer being involved or third parties through his conduct and the measures taken by him or by the persons attributable to him (e.g. use of appropriate items for safety and health at work; safety precautions).

(3) In addition, the Contractor undertakes to comply with all statutory provisions on the employment of staff and the compulsory social security system. He shall, in particular, observe the German Trade Code [GewO], the German Working Time Act [ArbZG], the German Act to Combat Illicit Work and Illegal Employment [SchwarzArbG] and the German Minimum Wage Act [MiLoG] with respect to his staff and the staff of his subcontractors.

(4) In the case of violations of the above laws which lead to liability of the Customer the Contractor shall assume responsibility for the same and fully indemnify and hold harmless the Customer and in particular assume the costs of the Customer's legal counsel.

#### **16. Customer's rights to rescind/dissolve the Contract**

(1) Apart from the rights of rescission explicitly resulting from these GTCP the Customer expressly reserves all rights to rescind or dissolve a contract to which the Customer may be entitled by law or Contract in connection with specific transactions or continuous supply relationships with the Contractor.

(2) In addition, the Customer shall, in particular, be entitled to dissolve existing contracts with the Contractor for important reason (cause) without notice or meeting formal requirements (notice of default, granting of a grace period, etc.) and with immediate effect.

(3) Important reasons/causes include but are not limited to situations where the Contractor violates material (in particular contractual) obligations, reorganisation or insolvency proceedings or proceedings having similar effects are petitioned for or opened over the Contractor's assets or a petition for the opening of such proceedings is dismissed for lack of sufficient assets, in the case of a material change in the Contractor's corporate structure due to which it is unacceptable for the Customer to adhere to the relevant contract for understandable reasons (e.g. an imminent loss of or harm to reputation or image) or in the case of violations of the regulations of Clause 10 of these GTCP.

(4) In the case of rescission or dissolution of the Contract by the Customer the Customer shall be entitled to all statutory and additional contractually agreed rights and claims vis-à-vis the Contractor. In addition, the Contractor shall indemnify and hold harmless the Customer in the case of a justified rescission or dissolution of the contract by the Customer.

#### **17. Force majeure**

(1) The parties shall be released from the duty of timely performance of the contract in whole or in part if they are hindered by events of force majeure.

(2) Events of force majeure shall exclusively be war, strike organised by a union, riot, acts of God and fire.

(3) However, a Contractor who is hindered by an event of force majeure may claim force majeure only if he informs the Customer about the start and the expected end of the disruption immediately and not later than five (5) calendar days after the event occurred.

(4) The parties shall use all efforts to remove and/or minimise the difficulties and damage the event of force majeure is expected to cause and shall keep the other party informed on a regular basis.

(5) Dates or periods which cannot be observed due to the impact of force majeure shall be extended by the duration of the effects of force majeure.

(6) If an event of force majeure lasts longer than four (4) weeks, the Contractor and the Customer shall discuss a regulation of the procedural effects by way of negotiation.

(7) If an event of force majeure lasts longer than six (6) months and no amicable solution can be reached, either party may rescind the contract in whole or in part.

#### **18. Miscellaneous**

(1) If any regulations of these GTCP are or become void or ineffective in whole or in part, the effectiveness of the remaining regulations shall, in principle, not be affected thereby. In that case the void or ineffective regulation shall automatically be replaced by a valid, effective lawful and enforceable regulation which comes as close as possible in a legally admissible form to the business purpose of the regulation to be replaced.

(2) The Customer and the Contractor undertake to agree without unreasonable delay and instead of the void or ineffective regulation on a valid and effective regulation which comes as close as possible to the business purpose of the valid and effective regulation they would reasonably have agreed on if they had known of the nullity or ineffectiveness of the relevant regulation at the time they agreed on these GTCP.

#### **19. Place of jurisdiction; Choice of law; Place of performance**

(1) All (legal or arbitration) disputes that may arise shall be subject to German law. Applicability of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG as amended) and of other conflict of laws rules of private international law is expressly excluded.

(2) For purchase orders placed by the Customer with Contractors whose registered office is in the territory of the European Union, Switzerland, Iceland or Norway and who are merchants as defined in the German Commercial Code [HGB], public-law legal entities or public-law special funds the exclusive place of jurisdiction shall be the court having jurisdiction over the subject matter at the place of the Customer's registered office in Germany.

(3) For purchase orders placed by the Customer with Contractors whose registered office is outside the territory of the European Union, Switzerland, Iceland or Norway all disputes that arise and cannot be settled amicably shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Düsseldorf, Germany.

(4) The language to be used in the arbitration shall be German. For application of this provision the United Kingdom shall no longer be considered part of the territory of the European Union.

(5) Alternatively, the Customer shall always be entitled to refer any and all disputes that may arise to arbitration according to the Rules of Arbitration of the International Chamber of Commerce (ICC) to be settled by one or more arbitrators appointed in accordance with the said Rules even if the place of jurisdiction (Customer's registered office) is principally applicable. The place of arbitration shall again be Düsseldorf, Germany. The language to be used in the arbitration shall be German.

(6) Unless stipulated otherwise the place of performance shall be the Customer's business address stated in the purchase order.

(7) At the Customer's request the Contractor shall confirm the contents and the existence of the above clause on the place of jurisdiction, arbitration and choice of law by his signature.