

GENERAL TERMS AND CONDITIONS OF BUSINESS AND DELIVERY OF voestalpine Track Solutions Germany GmbH, August 2020

Mobile Grinding and Milling

A. GENERAL TERMS AND CONDITIONS

1. Applicability and general provisions

The provisions set forth in this Section A shall apply to all services provided by voestalpine Track Solutions Germany GmbH (hereinafter referred to as "vaTSG") to the customer, if and to the extent that these General Terms and Conditions of Business and Delivery have been effectively incorporated into the contractual relationship with the customer. Any general terms and conditions of the other Party (hereinafter referred to as the "Customer") shall only apply if these have been expressly accepted by vaTSG in writing.

Any legally relevant declarations and notifications that shall be made by the Customer to vaTSG after entering into a contract (e.g. deadlines, reporting defects, announcing a withdrawal or reduction) must be made in writing for them to be effective. It shall be sufficient to use telecommunications, such as fax or email, for the written form requirement to be met.

2. Entering into contracts

Any offers made by vaTSG are subject to change and non-binding. This is also the case if vaTSG provides the Customer with catalogues, technical documentation (e.g. drawings, plans, calculations, estimates, references to DIN standards, samples), other product descriptions or documents – including those provided electronically.

Any orders placed by the Customer shall only be binding once they have been confirmed in writing by vaTSG or, if the order is not confirmed in writing, when the ordered goods are dispatched by vaTSG to the Customer.

3. Intellectual property and confidentiality

vaTSG reserves all intellectual property rights to which vaTSG is entitled, including copyrights, copyrighted rights of use and other rights of use, as well as any drawings, illustrations, calculations, brochures, catalogues, models, tools, other documents and aids (hereinafter referred to as "Documents") provided to the Customer by vaTSG. The Customer shall not make available, disclose, use themselves or through third parties, reproduce or otherwise make use of these documents without the express prior written consent of vaTSG, unless required to perform the contract entered into with vaTSG. The Customer shall return these documents to vaTSG at the latter's request and destroy any copies that may have been made if they are no longer required by the Customer for normal business operations or no contract is ultimately signed after the conclusion of negotiations. vaTSG shall also treat documents of the Customer in a confidential manner.

4. Prices and terms of payment

Unless otherwise stated, all prices are ex works, excluding transport and packaging and net of value-added tax. Prices are stated in euro. Value-added tax is shown separately.

Unless otherwise agreed, the stated prices are payable upon delivery (see B.1) or, where relevant, acceptance (see C.2) and upon receipt of a correctly prepared invoice.

The Customer may only offset claims that are ready for adjudication, undisputed or that have been established with legal effect. The Customer may only assert rights of retention insofar as these relate to counterclaims that are undisputed by vaTSG, ready for adjudication or that have been established with legal effect.

5. Limitation of liability

vaTSG shall not be liable for damages. This shall not apply in case of

- damages caused by a violation of a material contractual obligation. A material contractual obligation is defined as being one that must be performed for the contract to be properly fulfilled and with which the contracting partner may normally expect compliance. In such cases, however, the extent of vaTSG's liability is limited to compensation for typical damages foreseeable when entering into the contract;
- damages caused by non-adherence to a guarantee given by vaTSG;
- damages caused by an intentional or grossly negligent violation of obligations on the part of vaTSG or a legal representative or vicarious agent of vaTSG;
- damages resulting from injury to life, limb or health attributable to an intentional or negligent violation of obligations by vaTSG or a legal representative or vicarious agent of vaTSG;
- claims arising out of mandatory statutory liability such as under the Product Liability Act [Produkthaftungsgesetz].

The provision set forth in this clause shall not affect the statutory distribution of the burden of proof.

6. Force majeure

If one of the Parties is unable to fulfil a contractual obligation at all or temporarily as a result of an external event that is not connected to the Party's operations, that could not have been foreseen and that could not have been avoided despite exercising a level of due care that can be

reasonably expected (force majeure), the performance obligation in question shall be suspended for as long as the case of force majeure exists and for an appropriate period of time thereafter to allow the Party to restore its ability to perform. Such events include war, internal riots, natural disasters, strikes, import and export restrictions, epidemics and pandemics caused by infectious diseases, travel warnings issued by authorities or ministries, piracy, etc.). If an event of force majeure lasts longer than six months or it is clear that the event of force majeure will last for a continuous period of at least six months, thereby meaning that a Party is unable to fulfil their contractual obligations, either Party shall be entitled to terminate the part of the contract in question with two (2) weeks' notice.

7. Place of jurisdiction and applicable law

All contracts entered into between vaTSG and the Customer shall be governed exclusively by the laws of the Federal Republic of Germany, with the UN Convention on Contracts for the International Sale of Goods of 1980 (CISG) and conflict-of-law rules being excluded.

If the Customer is a merchant, a legal entity incorporated under public law, a special fund under public law or has no general place of jurisdiction in the Federal Republic of Germany, the exclusive place of jurisdiction for all disputes arising in connection with contracts entered into between vaTSG and the Customer shall either be the registered office of vaTSG or the general place of jurisdiction of the Customer, at the discretion of vaTSG. This rule shall not affect any mandatory statutory provisions on exclusive places of jurisdiction.

8. Export licences

Unless expressly agreed otherwise in writing, the risks of costs of any necessary export and/or import permits (not) being granted shall be borne by the Customer. This also applies if vaTSG helps the Customer in their efforts to acquire such permits, either voluntarily or at the Customer's request.

Should the Parties agree that the risks of costs of any necessary export and/or import permits (not) being granted shall be borne by vaTSG in individual cases, the following shall apply:

- The Customer undertakes to provide vaTSG with any and all information required to apply for and receive the requisite export and/or import permits without undue delay and to ensure that such information is full and correct.
- The Customer undertakes to cooperate as required to apply for and receive the requisite export and/or import permits, such as submitting the necessary declarations to the authorities.
- The Customer undertakes to fulfil any and all official requirements that must be met for the requisite export and/or import permits to be granted, such as to use products only within the scope of the purpose stipulated in the export and/or import permits.
- If vaTSG is required to render services to third parties, the Customer shall indemnify vaTSG against legitimate claims of such third parties if and to the extent that these claims are in fact attributable to culpable violation by the Customer of the obligations set forth under this clause, regardless of the legal justification of these claims by the third party.

9. Privacy

Please refer to the current version of our privacy policy, available at <https://www.voestalpine.com/welding/de/Datenschutzerklaerung> as regards compliance with information obligations under data protection laws.

B. SPECIAL CONTRACTUAL PROVISIONS FOR PURCHASE AND SUPPLIER CONTRACTS

The provisions set forth under this Section B shall apply exclusively to purchase contracts (section 433 of the German Civil Code [BGB]) and work delivery contracts (section 650 BGB) entered into by and between vaTSG and the Customer and which relate to the delivery of movable items ("Goods").

1. Delivery terms

Unless expressly agreed otherwise in writing, delivery shall be made ex works from vaTSG's facilities in accordance with Incoterms 2020. This also applies if vaTSG commissions a transport company to transport the Goods at the Customer's request, this being done at both the Customer's expense and risk. In this case, vaTSG shall assign any potential claims for compensation vis-à-vis the transport company to the Customer.

The delivery period shall begin if and when the Customer submits all the necessary technical information (for turnout deliveries: geometry, turnout dimensions, sleeper type, sleeper drillings, rail fastenings, under rail or tie padding, position of the point operating gear and insulated joints, vehicle data, type of point operating gear or setting system, type of superstructure, rail profiles and rail grades) in full to vaTSG within a week of the Customer receiving the order confirmation and has given the

respective approvals, including for the drawings. If the technical information has not been provided by the aforementioned time, the delivery period for vaTSG shall only begin once it has received all of the aforementioned technical information in full and the Customer has given the respective approvals, including for the drawings. Any delivery dates or times originally agreed to by vaTSG shall no longer apply if more than 8 (eight) calendar weeks elapse between receipt of the order confirmation and all technical information being provided in full.

If the Parties agree in individual cases that the risks and costs associated with any necessary export and/or import permits (not) being granted shall be borne by vaTSG, the delivery period shall be extended by the period of time arising as a result of the delay in granting the necessary export and/or import permits plus a reasonable period of time to carry out the delivery, provided that the reason for the delay is not attributable to vaTSG. vaTSG shall be entitled to make partial deliveries if and to the extent that such action does not unreasonably affect the interests of the Customer. This is the case in particular if

- the Parties have contractually agreed as such
- the partial delivery can be used by the Customer as per the purpose defined in the contract,
- delivery of the rest of the order is guaranteed, and
- the Customer does not incur any significant additional work or costs as a result (unless the Customer states in advance that they are willing to accept such additional work or costs).

The Customer is obliged to inform vaTSG without undue delay of any potential delay in respect of them accepting the Goods.

If the Customer fails to accept the Goods in the time agreed, the risk of accidental loss or deterioration of the Goods shall be transferred to the Customer from this point in time and vaTSG may set a reasonable deadline for the Customer to accept the Goods. Once this deadline has expired without compliance, vaTSG shall be entitled to withdraw from the contract and demand compensation for damages as per statutory provisions. It is not necessary for vaTSG to set a deadline if the Customer is responsible for unloading the Goods at the place of delivery and said unloading is delayed by circumstances that are attributable to the Customer.

2. Material defects and defect-related rights

Statutory regulation shall apply to the rights of the Customer in the event of material defects and defects of title, unless otherwise stipulated below. The mandatory statutory regulations for the ultimate delivery of the Goods to a consumer (in particular sections 445a, 445b and 478 of the German Civil Code [BGB]) remain unaffected in all cases.

In the event of material defects in the delivered goods, vaTSG shall be obliged and entitled to choose, within a reasonable period of time, between first repairing the Goods or having them replaced.

The Customer shall lose any defect-related rights if the Customer modifies the Goods or has them modified by a third party without the prior consent of vaTSG and this modification is the source of the defect or makes it impossible or unreasonably difficult to remedy the defect. In any case, the Customer shall be responsible for bearing the additional costs incurred for remedying the defect as a result of this modification.

The warranty period shall be one year, calculated from the moment when the risk is transferred, unless the mandatory provisions under sections 445a, 445b, 478 BGB apply. This shall not apply to any liability for damages incurred as a result of an intentional or grossly negligent violation of obligations on the part of vaTSG or a legal representative or vicarious agent of vaTSG, nor to any liability for damages incurred as a result of injury to life, limb or health stemming from an intentional or grossly negligent violation of obligations on the part of vaTSG or a legal representative or vicarious agent of vaTSG. The statutory period of limitation shall apply here.

Any warranty or liability for used goods shall be excluded by mutual agreement.

3. Extended and prolonged retention of title

When it comes to a specific contract, vaTSG shall retain ownership of the Goods until all claims under the respective contract have been settled in full ("Reserved Goods"), regardless of the legal grounds on which vaTSG's claims vis-à-vis the Customer are based. This also includes balance claims relating to a current account. The Customer shall store the Reserved Goods for vaTSG free of charge.

The Customer shall inform vaTSG in writing without undue delay of any third-party interventions such as seizure or execution affecting the rights of vaTSG (especially the latter's retention of title). If the third party is unable to reimburse vaTSG for the court fees and out-of-court expenses relating to an action under section 771 of the German Code of Civil Procedure (ZPO) or for a similar action provided for in the legal system of the location where the Reserved Goods are stored, the Customer shall be liable for the resulting loss.

The Reserved Goods supplied to the Customer shall always be processed or altered for vaTSG as the manufacturer. vaTSG acquires ownership directly without it being subject to any resulting obligations. If the reserved product is processed with other items that do not belong to vaTSG, the latter shall acquire co-ownership of the new item proportionate to the

value of the reserved product as compared with the other processed items at the time of processing. In all other respects, the same shall apply to the item resulting from the processing as to the reserved products delivered subject to retention of title. If vaTSG loses ownership as a result of processing, combining or mixing, the Customer shall transfer to vaTSG a share of its ownership or co-ownership that corresponds to the invoice value of the reserved product.

The Customer shall only be allowed to resell the Reserved Goods within the framework of their ordinary business activities. The Customer shall be entitled and authorised to resell the Reserved Goods on condition that any and all claims accruing to the Customer vis-à-vis their customers or third parties from the resale of said goods shall pass to vaTSG. It is at this time already that the Customer's claims arising from the resale of the Reserved Goods shall be assigned to vaTSG in the amount of the invoice value of the Reserved Goods (in the event of vaTSG owning a share of the item resulting from processing, the assignment shall be proportionate to the share owned). vaTSG shall accept such an assignment. The Customer shall not be entitled to use the Reserved Goods in any other way; in particular, the Customer shall not pledge the Reserved Goods or surrender them as security. The Customer's entitlement to sell the Reserved Goods may be revoked by vaTSG i) in the event of a significant deterioration in the Customer's financial situation (in particular if there are grounds for insolvency pursuant to sections 17-19 of the German Insolvency Statute [InsO] or if insolvency proceedings are applied for or opened), ii) if the Customer stops meeting their payment obligations from the proceeds received or iii) falls into arrears. In such cases, vaTSG shall also be entitled to withdraw from the contract and to require the Customer to surrender the Reserved Goods.

The Customer shall be authorised to collect the assigned claims from vaTSG. The Customer's entitlement to collect the assigned claims may be revoked or amended by vaTSG (in particular, vaTSG may require the proceeds from the assigned claims to be deposited on to a different or trust account). vaTSG shall only exercise its right of revocation or amendment i) in the event of a significant deterioration in the Customer's financial situation (in particular if there are grounds for insolvency pursuant to sections 17-19 of the German Insolvency Statute [InsO] or if insolvency proceedings are applied for or opened), ii) if the Customer stops meeting their payment obligations from the proceeds received or iii) falls into arrears. The Customer shall not be permitted to assign the claim to a third party. The Customer shall inform its customers of the assignment to vaTSG, at the latter's request, and provide vaTSG with the information and documents required to collect the claim.

vaTSG undertakes to release the securities to which it is entitled under the aforementioned provisions at the request of the Customer, provided that their realisable value exceeds the claims to be secured by more than 10 percent. vaTSG may choose which securities are released.

If, at the request of the Customer, the Reserved Goods are delivered to a country in which the aforementioned retention of title is not recognised or does not have the same effect (to provide security) as in the Federal Republic of Germany, the Customer shall be obliged to take any action and make any declarations required to establish a comparable security interest. The same applies if the Customer moves the Reserved Goods to any such country.

C. SPECIAL CONTRACTUAL PROVISIONS FOR WORKS

The provisions set forth under this Section C shall apply exclusively to contracts for work and services (section 631 BGB) entered into by and between vaTSG and the Customer. Examples of such contracts include those providing consultancy, training, planning, maintenance, repair and restoration work, as well as welding, grinding and milling work on rails and turnouts or supporting installation work.

1. Duty of the Customer to cooperate

In the event of maintenance, repair and restoration work, the Customer shall provide information about the safety regulations applicable to the work being carried out at the place of installation along with the means required to comply with the applicable safety regulations (provided that special equipment is required here) in a timely fashion but no later than one (1) week before work begins.

The Customer must ensure in good time that there is sufficient space for the installation work to take place, yet no later than the time of the agreed start of the work. This includes in particular ensuring that the installation site is freely accessible to the vaTSG staff and vehicles required to carry out the commissioned work.

The Customer must make provisions to ensure that all relevant occupational and operational safety regulations are followed and monitored before, during and after the work has been carried out by vaTSG.

The Customer shall ensure that any permits and/or access authorisations are obtained in good time for the vaTSG staff to carry out the work.

2. Acceptance

The Customer shall be required to accept the work. To this end, both Parties shall prepare an acceptance report in which any defects identified during

acceptance shall be recorded. This acceptance report must be signed by both Parties. It is also possible to accept work in stages at the request of either Party. (Partial) work may not be rejected due to minor defects.

The work shall be deemed accepted if

- vaTSG asks for the Customer to accept all or some of the work after its completion and
- the Customer does not accept the work despite being given additional time to do so by vaTSG and
- the work is not accepted due to a reason other than a material defect as notified to vaTSG in writing by the Customer.

The work shall also be deemed accepted if the Customer uses the contractual object with having first formally accepted it.

3. Defect-related rights

Statutory regulation shall apply to the rights of the Customer in the event of material defects and defects of title, unless otherwise stipulated below.

If the Customer accepts the work despite it having defects, and the Customer is aware of the defect when accepting the work, the Customer shall forfeit their defect-related rights, notwithstanding the preceding paragraph, unless the Customer reserves their right to assert any such rights when accepting the work.

The Customer shall lose any defect-related rights if the Customer modifies the work or has it modified without the consent of vaTSG and this modification is the source of the defect or makes it impossible or unreasonably difficult to remedy the defect. In any case, the Customer shall be responsible for bearing the additional costs incurred for remedying the defect as a result of this modification.

Insofar as vaTSG provides information or acts in an advisory capacity and such information or advice does not form part of its contractually agreed scope of services, this shall be free of charge and free from any liability.