

## General Terms and Conditions of Supply and Payment ("Conditions of Sale") of VDF VOGTLAND Federntechnik GmbH (2014)

### Scope of validity

1. These Conditions of Sale apply to all master supply agreements ("agreement") and all individual agreements and/or orders ("orders") with business owners, legal entities under public law and special funds under public law ("partner"). Our deliveries and services are provided exclusively on the basis of the terms and conditions below. The business terms and conditions of the partner, unless expressly recognised by us, have no validity.

### General provisions

2. Full details of any verbal agreements will be immediately confirmed in writing by the contracting partners.
3. Orders will not be binding until they are confirmed by us.
4. Information and illustrations contained in brochures and catalogues are, in accordance with usual trade practice, regarded as approximations unless they have been expressly described by us as binding.
5. We are entitled to refuse an order of the partner if it becomes evident that our contractual right of payment is endangered because of a lack of capability of the partner. This is e.g. the case if and insofar as the insured sum provided by our commercial credit insurance for the insurance of our claims against the partner would be exceeded at the time of the acceptance of the order or if our deterrent fee in case of payment default of the partner will be increased by more than 10 Percent in relation to the deterrent fee at the conclusion of this agreement and the reasons for the increase of the deterrent fee are in the responsibility of the partner. This applies correspondingly to prolongations of the agreement. The same applies to the performance of an order, to which also § 321 para. 1 sent. 2 German Civil Code applies, regardless of the stipulations under no. 25.
6. We are entitled to cancel this contract without notice if an important reason is presented. Such an important reason is given if after the conclusion of the agreement it becomes apparent that our claims to payment are at risk because of a lack of financial capability of the partner and the partner upon request does not proof his capability within due time. Statutory rights of termination and cancellation and the rights according to no. 25 and 39 remain unaffected.
7. If parts of these conditions of sale are or become invalid the effectiveness of the remaining provisions is not affected.

### Long-term and call contracts, price adjustment

8. Unlimited contracts may be terminated by 1 months' notice.
9. In the event that any essential modification of labour costs, cost of materials or energy occurs with regard to long term contracts (contracts with a term of more than 6 months and unlimited contracts), each party to the contract shall be entitled to demand negotiations on an appropriate adjustment of prices in consideration of these factors.
10. Where a binding order quantity is not agreed, our calculation will be based on the non-binding order quantity expected by the partner for a specific period of time (target quantity). Where the partner purchases less than the target quantity, we are entitled to increase the unit price by an appropriate amount. Where the partner purchases more than the target quantity, we will reduce the unit price accordingly, provided that the partner has given notice of the surplus requirement not less than 6 months before delivery.
11. In the case of call supply contracts, unless otherwise agreed, binding quantities are to be notified to us by call not less than 2 months before the delivery date.  
Any additional costs caused by our partner through late calling or subsequent amendments to the call in respect of time or quantity are to be borne by the partner; in this respect our calculation will prevail.

### Confidentiality

12. Each of the contracting partners will use all documents (which will also include samples, models and data) and information received by them under the business relationship only for the contractual purpose, and maintain secrecy in respect of third parties with the same due care as applied to their own documents and information, where the other partner describes them as confidential or has an obvious interest in maintaining secrecy in respect of such documents or information.  
This obligation commences on receipt of the first documents or information and ends 36 months after the end of the business relationship.
13. The obligation does not apply to documents and information which are generally known, or which were already known to the contracting partner on receipt and where the contracting partner was not under obligation of secrecy, or where they are subsequently conveyed by a third party who is authorised to pass on such documents or information, or where the

documents or information are developed by the receiving contract partner without exploitation of documents or information of the other contracting partner.

### Drawings and specifications

14. Where one of the contract partners makes available to the other drawings or technical documents relating to the goods to be supplied, or to the manufacture of such goods, to the other partner, these remain the property of the contract partner submitting them.

### Samples and production materials

15. Manufacturing costs for samples and production materials (tools, moulds, templates, etc.) will, unless otherwise agreed, be invoiced separately from the goods to be supplied. This also applies to production materials which have to be replaced as a result of wear and tear.
16. The costs for maintenance and proper storage, together with the risk of damage to, or destruction of the production materials, will be borne by us.
17. Where, during the period of manufacture of samples or production materials, the partner abandons or terminates the co-operation, all manufacturing costs incurred up to that time will be borne by that partner.
18. Even where the partner has paid for them, the production materials remain our property at least until completion of the supply contract. The partner is then entitled to reclaim the production materials, where a mutual agreement has been reached in respect of the time of delivery and the partner has fully complied with his contractual obligations.
19. We will keep the production materials free of charge for 6 months after the final delivery to our partner. Our duty of storage will end if, within these 6 months, no such statement has been made, or if no new order has been given.
20. Purchaser-related production materials may only be used by us for supply to third parties with the prior written agreement of our partner.

### Prices

21. Our prices are in Euro, exclusive of surcharges for alloys, value added tax, packing, freight, carriage and insurance.

### Payment terms

22. All invoices are due for payment within 30 days of the invoice date.
23. Where we have indisputably supplied goods which are partly defective, our partner is nevertheless obliged to pay for the non-defective part, unless partial delivery is of no use to him. In other respects the partner may only set off payment against counter-claims which have been determined by final judgement or are not disputed.
24. If the payment terms are not met, we shall be entitled to bill interest on arrears at the rate charged to us by the bank for current account overdrafts, but at a minimum of 8 percentage points above the base interest rate of the European Central Bank at the time.
25. In the event of any delay in payment we may, after giving notice in writing to the partner, suspend our obligations until payments have been received.
26. Bills of exchange and cheques will only be accepted where this has been agreed, and only on account of performance and on condition that they may be discounted. Discount charges will be calculated from the due date for payment of the invoice amount. A guarantee for presentation of bills of exchange and cheques at the due and proper time and for the lodging of a protest is excluded.

### Delivery

27. Unless otherwise agreed, we will deliver "ex-works". Compliance with the delivery date or delivery period will be based on our notification of readiness for dispatch or collection.
28. The delivery period commences on dispatch of our order confirmation and will be extended as appropriate where the provisions of Article 58 below apply.
29. Partial deliveries are permitted within reason. They will be invoiced separately.
30. Production-related long or short deliveries are permitted within a tolerance of 10 per cent of the total order quantity. The total price will be adjusted accordingly.

#### Dispatch and transfer of risk

31. Goods which are notified as being ready for dispatch are to be taken over immediately by the partner. We are otherwise entitled, at our option, to dispatch them or to store them at the cost and risk of the partner.
32. In the absence of any special agreement, we will select the transport method and routing.
33. The risk is transferred to the partner on handover to the railway, forwarding agent or freight carrier, or on commencement of storage, but in any case not later than departure from the factory or warehouse; this also applies if we have undertaken delivery.

#### Delay in delivery

34. If we are able to anticipate that it will not be possible for the goods to be delivered within the delivery period, we will immediately inform the partner in writing of the reasons for this, and also if possible indicate the probable delivery date.
35. In the event of delivery being delayed by one of the circumstances as set forth in Article 58 below, or as a result of any action or omission on the part of the partner, an extension of the delivery period will be granted appropriate to the circumstances.
36. The partner is only entitled to withdraw from the contract if we are responsible for the delivery date not being met and the partner has allowed us a reasonable period of grace without result.

#### Reservation of title

37. We reserve the right of ownership in respect of the goods supplied until such time as all claims under the business relationship with the partner have been met.
38. The partner is entitled to sell these goods in the regular course of business, provided it meets its obligations arising from the business relationship with us in good time. However, it may neither pledge the reserved goods nor transfer ownership of them as security. It is obliged to protect our rights if goods which are subject to reservation of title are resold on credit.
39. In the event of breaches of its duties by the partner, in particular in the case of delayed payment, we shall be entitled, after a reasonable period of grace allowed to the partner for performance has elapsed without result, to withdraw from the contract and take back the goods; this shall not affect the statutory provisions concerning cases where it is not necessary to allow a period of grace. The partner shall be obliged to surrender the goods.
40. With immediate effect the partner assigns to us as security all claims and rights deriving from the sale or any hiring, for which we may have given the partner permission, of goods over which we have rights of ownership. We hereby accept the assignment.
41. Any working or processing of the goods which are subject to reservation of title shall at all times be carried out by the partner on our behalf. If the goods which are subject to reservation of title are processed or inseparably mixed with other items not owned by us, we shall acquire joint ownership of the new product in the proportion of the invoice value of the goods which are subject to reservation of title to the other processed or mixed items at the time of processing or mixing. If our products are combined or inseparably mixed with other moveable items to form a single product and the other product is deemed to be the principal product, the partner shall transfer joint ownership to us on a pro rata basis, as far as the principal product is owned by it. The partner shall maintain ownership or joint ownership on our behalf. In all other respects the same shall apply to the product created by processing or combination or mixing as to the goods which are subject to reservation of title.
42. The partner must inform us immediately of enforcement measures being taken by third parties in respect of the reserved goods by handing over to us the documents required for any intervention. This also applies to infringements of any other kind.
43. If the value of the existing securities exceeds the secured claims in total by more than 20 per cent, we undertake, at the partner's request, to release securities of our choice in this respect.

#### Material defects

44. The quality of the goods is determined exclusively by the agreed technical supply specifications. In the event of our having to supply in accordance with drawings, specifications, samples and the like provided by our partner, the latter will take over the risk of fitness for the intended use. The condition of the goods in accordance with the contract is determined as at the time of transfer of risk in accordance with Article 33 above.

- 44a. When delivering we comply with the legal regulations as applicable in the European Union and the Federal Republic of Germany, e.g. the REACH regulation (regulation EU number 1907/2006), the law about the electrical and electronic equipment (Electrical and Electronic Equipment Act) and the electrical and electronic substance regulation (Electrical Substance Directive) as national implementation of the directive 2002/95/EG (RoHS I) and 2011/65/EU (RoHS II) and the directive 2002/96/EG (WEEE) and the End-of-life Vehicles ACT as national implementation of the EU directive 2000/53/EG.

We shall immediately inform the partner about relevant changes in the product in particular due to the REACH regulation, its supply availability, use or quality and shall in individual cases agree with the partner on suitable measures to be taken.

45. Any material defects in respect of any defect deriving from unsuitable or improper use, defective assembly or operation by the partner or third parties, normal wear and tear, defective or negligent handling, will also be excluded as the consequences of unsuitable modifications or repairs undertaken by the partner or third parties without our approval.

The same shall apply to defects which only reduce the value of the goods or their fitness for their intended use to an insignificant extent.

46. Claims for material defects shall become statute-barred after 12 months. This shall not apply where the law prescribes longer periods of time as mandatory, particularly for defects in a building and in a product which has been used in accordance with its customary form of use for a building and has caused the latter to be defective. Sentence 1 shall also not apply for damages suffered from the injury of life, health or in case of deliberate acting or gross negligence or any other infringement of fundamental duties (i.e. duties that actually allow the duly execution of the agreement and on which the partner usually can rely upon) by our representatives or managers.

47. Where it is agreed that the goods are to be accepted after completion or that initial samples are to be tested, notification of defects which could have been discovered by the partner under careful acceptance or testing of initial samples is excluded.

48. We must be given the opportunity of assessing the notified defect. The goods complained of must be returned to us immediately; we will take over the transport costs where the notice of defect is justified. In the event of the partner failing to observe these obligations, or carrying out modifications of the goods which are complained of without our consent, he will lose any claims for material defects.

49. In the event of notice of defect which is justified and made at the due and proper time, we will, at our choice, make improvements to the goods complained of or supply a replacement free of defect. In case of justified notice of defect the business partner allows us to separate the incorrect goods.

50. In the event of our failing to meet these obligations, or failing to do so within a reasonable time in accordance with the terms of the contract, the partner may set in writing a final deadline within which we must fulfil our obligations. In the event of this period expiring without result, the partner may demand reduction of the price, withdraw from the contract or himself carry out, or have the necessary subsequent improvement carried out by a third party at our cost and risk. There shall be no reimbursement of costs if the expenses increase because the goods have been brought to another place after delivery by us, unless this means that the goods are being used as they were intended to be.

51. The partner has statutory rights of recourse against us only in so far as the partner has not reached any agreements with its customer which go beyond the statutory claims for defects. In addition, Article 50, last sentence, applies accordingly to the scope of the rights of recourse.

#### Other claims, liability

52. Unless otherwise specified below, any additional or more extensive claims by the partner against us are excluded. This shall apply in particular to claims for damages for a breach of duties arising from the obligation or from unlawful acts. We are therefore not liable for any damage not deriving from the delivered goods themselves. We are in particular not liable for any loss of profit or other financial losses by the partner.

53. The limitations of liability indicated above do not apply in the case of specific intent, gross negligence on the part of our legal representatives or managers, and in the event of culpable violation of fundamental contractual duties, i.e. duties that actually allow the duly execution of the agreement and on which the partner usually can rely upon. In the event of culpable

violation of significant contractual obligations we are liable - other than in cases of specific intent or gross negligence on the part of our legal representatives or senior employees - only for standard contractual loss, or loss which might reasonably have been expected.

54. The limitation of liability is also not applicable in those cases where there is liability in accordance with product liability laws in the case of defects in goods supplied for private use. It is also not applicable in case of injury of life, body or health and in the absence of guaranteed characteristics, if, and insofar as the object of the guarantee was to cover the partner against any losses not deriving from the goods supplied themselves.
55. In case of ordinary negligence the duty of replacement by the vendor for material damages and financial losses is limited to 10 million Euro each case of damage. This also in case of infringements of substantial duties of the contract.
56. Insofar as our liability is excluded or limited, this is also applicable to the personal liability of our employees, workers, personnel, legal representatives and vicarious agents.
57. The legal provisions relating to burden of proof are not affected by this.

#### **Force majeure**

58. Acts of God, industrial disputes, disturbances, official measures, non-arrival of deliveries from our suppliers and other unpredictable, unavoidable and serious events will release the contracting partners from their duty to perform for the duration of the disturbance and to the extent of their effect. This is also applicable where these events occur at a time when the contracting partner concerned is in default, unless the delay is caused intentionally or gross negligently. The contracting partners are obliged, so far as is reasonable, to provide the necessary information immediately and in good faith to adjust their obligations to the changed conditions.

#### **Place of performance, place of jurisdiction and applicable law**

59. Unless otherwise indicated in the order confirmation, the place of performance is our principal place of business.
60. The place of jurisdiction for all legal disputes, including any action relating to payment bills of exchange or cheques, is our principal place of business. We are also entitled to bring an action at the place of business of the partner.
61. The contractual relationship is exclusively subject to the laws of the Federal Republic of Germany.  
The Application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG - "Vienna Sales Convention") is excluded.