

# General Purchase Conditions

## 1. Scope and conclusion of contracts

1.1 These General Purchase Conditions shall apply to goods and services by the supplier (hereinafter "Supplier") to Voith (hereinafter "Customer"), unless otherwise agreed. Other general standard terms and conditions, in particular standard terms and conditions of the Supplier, shall not apply even if they are not expressly objected to in an individual case or if ordered goods/services have been accepted without reservation.

1.2 These General Purchase Conditions only apply to entrepreneurs (*Unternehmer*) within the meaning of the Austrian Commercial Code (*Unternehmensgesetzbuch*).

1.3 Purchase orders and their acceptance ("order confirmation") and all agreements between the Customer and the Supplier for the purpose of performing the contract shall only be valid if made in writing. Transmission by fax, remote transmission or email meets the requirements for the written form.

1.4 The Supplier undertakes, in case of acceptance of a purchase order, to send the order confirmation to Customer within a period of two weeks as of receipt of the purchase order. The Customer is entitled to cancel a purchase order at any time if the order confirmation is not received by the Customer within the aforementioned time period. In case the order confirmation deviates from the purchase order (even if such deviations are not material), a contract shall only come into existence if the Customer expressly consents thereto.

## 2. Delivery, place of performance and the consequences of failure to meet delivery times

2.1 Agreed delivery times shall be binding. The Customer shall be notified immediately of any circumstances which prevent the delivery time from being met or delay delivery. The time the goods are received or the service is completed at the Customer's premises or at the place where they are to be delivered/performed as stated in the order ("place of performance") shall determine whether the delivery time has been met.

2.2 Partial deliveries shall require the consent of the Customer.

2.3 In the case of a delay in delivery or performance the Customer shall be entitled – without proof of damages and fault – to demand flat-rate default damages of 1% of the (gross) value of the supplies or services for each full week by which delivery is delayed but up to a maximum of 10% of the (gross) value of the goods or services in the contract. Further statutory claims (cancellations and claims for damages instead of performance) remain unaffected. The Customer shall retain the right to assert proven higher losses.

2.4 The unconditional acceptance of the delayed delivery of goods or services does not imply that the Customer is waiving any rights that the Customer may have to compensation on account of the delayed delivery of goods or services.

## 3. Supply of spare parts

The Supplier shall ensure that spare parts for the item supplied will be available for a minimum of ten years after manufacture of the product series has ceased. The resources and drawings required to produce the spare parts shall also be kept for this period. This retention obligation shall lapse after the end of this period and written consent by the Customer which shall only be withheld for good cause.

## 4. Prices, transfer of risk and terms of payment

4.1 The price specified in the order shall be binding. The prices are "delivered at place", DAP Incoterms 2010, including packaging. The specified price does not include statutory value-added tax.

4.2 The transfer of risk occurs with physical receipt of the goods at the place of delivery. Upon due delivery also the legal title of the goods passes from Supplier to Customer.

4.3 Invoices are to be sent to the address specified in the purchase order, stating the purchase order number. If the purchase order is missing or the invoice does not comply with statutory requirements (in particular Sec 11 of the Austrian VAT Act (*Umsatzsteuergesetz*)), invoices do not become payable and will be returned to the Supplier; the Customer shall not be responsible for delays resulting therefrom. A separate invoice shall be issued for each purchase order. The invoice is to be structured in accordance with the purchase order and has to comply with statutory require-

ments (in particular Sec 11 of the Austrian VAT Act (*Umsatzsteuergesetz*)). Any invoices for down payments and part payments as well as final invoices shall be identified as such. If work has been supplied, worksheets (reports) signed by the Customer and the Supplier must be attached to invoices.

4.4 The invoice will be settled net within 30 days after complete and proper delivery or provision of the service and receipt of the invoice by the Customer.

## 5. Acceptance testing

If the Supplier has to perform work, a formal acceptance of it by the Customer is required. The Customer may choose whether to make the acceptance at the Supplier's plant or at the place of performance. Unconditional payments shall not constitute acceptance, approval of the items supplied or the waiving of claims for defects.

## 6. Shipping

6.1 Notification of shipment of the goods shall be given at the latest when the deliveries leave the Suppliers' plant.

6.2 The Supplier agrees to specify the purchase order number and the Customer's exact delivery address on all shipping documents and delivery notes. Should the Supplier fail to do this, the Supplier shall be responsible for all the resulting delays.

6.3 Shipments for which the Customer is paying all or part of the freight costs shall be transported using the most cost-effective freight rates and in accordance with the Customer's shipping specifications.

6.4 The applicable shipping instructions are specified in the purchase order.

## 7. Packaging

7.1 The Supplier undertakes to pack the goods that need to be transported in accordance with the purchase order and the applicable specifications so that the goods will not be damaged if they are handled in the normal way.

7.2 Irrespective of whether the packaging concerned is transport packaging, retail packaging or an outer protective wrapping, the Supplier agrees to take it back after use without any additional charge and to reuse or recycle it.

## 8. Notice of defects

An inspection obligation and/or obligation to give notice of defects (*Untersuchungs- und Rügepflicht*) of the Customer pursuant to Sections 377 et sq. of the Austrian Commercial Code (*Unternehmensgesetzbuch*) are expressly excluded. The omission to notify any defects (*Mängelrüge*) within the meaning of Sec 377 of the Austrian Commercial Code (*Unternehmensgesetzbuch*) does, therefore, not result in the loss of any rights or claims of Customer.

## 9. Liability for defects

9.1 The Supplier warrants to the Customer that the ordered goods or services are free of defects and legal imperfections in title at the time of the transfer of risk.

9.2 If the Customer informs the Supplier of the intended use and place of use of the goods and/or services to be supplied, the Supplier warrants that its delivery and service are suitable for that use and place.

9.3 If a defect or imperfection in title exists, the Customer shall be entitled to the full statutory warranty claims without any limitations.

9.4 The Customer shall have the right to select the manner of remedy (rectification (*Verbesserung*) (i.e. improvement or supplementary delivery (*Nachbesserung oder Nachtrag des Fehlenden*)), replacement (*Austausch der Sache*), price reduction (*Preisminderung*) or – in case of non-minor defects (*nicht bloß geringfügigen Mängeln*) – rescission (*Wandlung*)). If the Supplier does not immediately begin with the rectification or replacement, as soon as the Supplier has been requested to do so by the Customer, the Customer shall have the right in these cases, and furthermore also in order to avert danger or avoid/limit damage, to carry out the manner of remedy selected by the Customer, or to have it carried out by a third party, at the expense of the Supplier. The Customer shall have the same right if rectification or replacement fails or is refused.

9.5 Should removal and installation costs be incurred during remediation work following a defect, the Supplier shall cover these costs together with the transport costs of the replacement item to and from the site in cases where the Supplier had an obligation to install the delivered item as part of the delivery or if the Supplier was responsible for the defect.

9.6 If claims are asserted against the Customer by a third party due to the infringement of third-party rights in connection with the Supplier's goods/services, the Supplier shall be obligated to indemnify the Customer against these claims at the first written request. The Supplier's obligation to indemnify the Customer shall relate to all expenses necessarily incurred by the Customer from or in connection with the claims asserted against it by a third party.

9.7 Claims for defects shall become time-barred in 36 months starting from when the goods were received at the place of performance or the work was accepted, except in cases of malice or fraud (*Arglist*) or hidden defects (in which cases the respective claims shall become time-barred in 36 months as of detection of the defect). If the Supplier meets its obligation to remedy a defect by supplying substitute goods, the period of limitation for said goods shall commence anew after they have been delivered.

## 10. Software

The Customer shall receive the right to use software that is part of the scope of delivery, including the documentation for it, with the agreed features and to the extent necessary for ensuring use of the software in compliance with the contract or permitted by law. Before the software is shipped or installed on a system of the Customer or its end customers, the Supplier shall check it for viruses, Trojans and other computer malware using up-to-date, customary antivirus programs and any such malware shall be eliminated. The additional purchasing conditions for the procurement of software shall also apply. These can be viewed at <http://www.Voith.com>.

## 11. Quality assurance

11.1 The Supplier undertakes to continuously monitor the quality of its goods by using a suitable quality assurance system, e.g. DIN EN ISO 9001 ff or a comparable system, and to conduct the quality checks and inspections specified by the Customer or which are otherwise appropriate during and after the manufacture of its goods. The Supplier shall document these inspections and retain this documentation for a period of ten years.

11.2 The Customer or a person engaged by the Customer has the right to demand proof that the delivery items and the quality assurance system of the Supplier are of the quality specified in the contract and also to convince themselves at all times that the quality and/or the way in which the checks and inspections are carried out at the plant of the Supplier or the sub suppliers are adequate and also to undertake acceptances or an audit in the plant of the Supplier or its sub supplier at the Supplier's expense..

11.3 Without being requested to do so, the Supplier shall immediately in the form set out in Section 1.3 inform the Customer of changes in the composition of the processed material or design of its goods or services. The changes shall require the prior written consent of the Customer.

11.4 Where the Supplier intends to arrange for goods or services to be provided wholly or mainly by a sub supplier, the Supplier shall inform the Customer of this beforehand. In this case, the subcontracting requires the prior written approval of the Customer.

11.5 The quality assurance policy of the Customer disclosed to the Supplier and the quality assurance agreements concluded with the Supplier shall be part of the contract.

## 12. Marketing products and product liability

12.1 The Supplier undertakes to comply with the legal requirements that apply at its registered office and the place of performance to the goods and/or services to be supplied.

12.2 If it supplies products which fall under the scope of application of a European Directive for first-time marketing, such as the EU Machinery Directive, Pressure Equipment Directive, EMC Directive, etc., the Supplier undertakes to comply with the relevant health and safety requirements and processes specified in them and issue the documents provided for in these. In the case of partly completed machinery according to the EC Machinery Directive No. 2006/42/EC, the Supplier shall provide the Customer with a declaration of incorporation according to Annex II B of the EC Machinery Directive in the form requested by the Customer (extended declaration of incorporation) as well as in addition provide instructions for use in accordance with Section 1.7.4 of Annex I of the EC Machinery Directive. The Supplier shall at the request of the Customer and as chosen by the Customer hand over to the Customer the risk assessment that the Supplier has produced or allow the Customer to inspect this.

12.3 If the Supplier is responsible for damage outside the supplied goods and claims are asserted against the Customer pursuant to applicable law, the Supplier shall be obliged to indemnify the Customer in this regard against claims for damages by third parties at the first time of request if the cause of the damage is in the sphere of responsibility of the Supplier.

12.4 As part of its liability under Section 12.3, the Supplier is also obliged to reimburse any expenses incurred by the Customer from or in connection with a warning issued or recall conducted by the Customer.

Where possible and reasonable, the Customer shall inform the Supplier of the content and scope of the measures to be performed and coordinate them with the Supplier. Other claims under product liability law shall remain unaffected.

12.5 The Supplier undertakes to take out product liability insurance with minimum cover of 1,000,000.00 euros per event of damage. If the Customer is entitled to further claims for damages, these shall not be affected.

## 13. Safety at work, environmental protection and conflict minerals

13.1 The Supplier shall ensure that its goods and services satisfy environmental protection, accident prevention and occupational safety regulations that apply at the Customer's site or the other known place of performance, as well as with other safety-related rules so that negative effects on people and the environment are avoided or reduced. The Supplier will set up a management system for this purpose, e.g. in accordance with DIN EN ISO 14001 or a comparable system. The Customer has the right, if required to demand evidence of the management system operated by the Supplier and to carry out an audit in the Supplier's company.

13.2 The Supplier undertakes to comply with the requirements of the EU regulation on chemicals REACH (EU Regulation No. 1907/2006), in particular that the registration of the substances has taken place. The Customer is not obligated to apply for, or obtain, admission for a delivery item provided by the Supplier within the framework of the REACH regulation.

13.3 Furthermore the Supplier undertakes not to supply any delivery items that contain substances specified in Annexes 1 to 9 of the REACH regulation, the Council Decision 2006/507/EC (Stockholm Convention on persistent organic pollutants), EC Regulation 1005/2009 on substances that deplete the ozone layer, the Global Automotive Declarable Substance List (GADSL) and the RoHS Directive (2002/95/EC) for products in accordance with their field of application. The aforementioned legal acts shall apply as amended from time to time.

13.4 Should the delivery items contain substances that are on the Candidate List of Substances of Very High Concern (SVHC list) as specified in REACH, the Supplier undertakes to notify this without delay. This shall also apply if substances that have previously not been listed are added to this list while deliveries are being made. Furthermore, the delivery items shall not contain asbestos, biocides or radioactive material.

13.5 Should the delivery items contain substances specified in Sections 13.3 and 13.4, the Customer shall be notified of this in writing before the delivery, stating the substance, the identification number (e.g. CAS No.) and a current safety data sheet. The supply of these delivery items requires separate approval by the Customer.

13.6 The Supplier undertakes through appropriate measures in its organization and with reference to its own delivery chain to work towards ensuring that the products to be delivered to the Customer do not contain conflict minerals as defined by Sections 1502 and 1504 of the Dodd-Frank Act of the United States of America (including but not limited to columbite-tantalite (coltan), tin, wolframite, gold and their derivatives originating from the Democratic Republic of Congo and its neighboring states).

13.7 The Supplier has an obligation to indemnify the Customer from all liability in relation to the Supplier's non-compliance with the above legal acts and/or to compensate the Customer for losses incurred as a result of the Supplier's non-compliance with these legal acts or in relation to this.

13.8 Furthermore the Supplier shall observe the relevant rules for the disposal of waste and residual materials and make the Customer aware of any product treatment, storage and disposal requirements.

## 14. Reservation of ownership, models tools and confidentiality

14.1 Any rights of the Supplier reserving ownership (*Eigentumsvorbehalte*) are not accepted.

14.2 Where the Customer provides the Supplier with substances, parts, containers, etc., the Customer shall retain ownership of these. The processing or transformation of these parts shall be on behalf of the Customer. If the reserved goods are processed with other items that do not belong to the Customer, the Customer shall acquire joint ownership of the new object in proportion to the value of the Customer's property in relation to the other processed items at the time of processing.

14.3 Any models and tools which are produced by the Supplier at the Customer's expense shall become the property of the Customer upon

payment for them. They shall be treated with care by the Supplier, used exclusively for manufacturing the ordered goods, indicated as property of the Customer and – where possible – stored separately from the other products of the Supplier, as well as insured at the expense of the Supplier against disasters such as fire, water, theft, loss and other damage. The Supplier undertakes to carry out in a timely manner any maintenance and servicing work that may be required on the tools and to perform maintenance and repair work at the Supplier's own cost. Resale of the parts produced using these models and tools shall not be permitted without the express prior written approval of the Customer.

14.4 Documents, drawings, plans and sketches and other know-how of the Customer which the Customer entrusts to the Supplier for producing the ordered delivery and/or service, in whatever form shall remain the property of the Customer. They are trade secrets of the Customer and shall be treated confidentially. The Supplier undertakes to treat them with care, to make them available only to employees who need them for fulfilling the contract and who are in turn obligated to maintain confidentiality, not to make them available to third parties, to make copies only for the purpose of executing the order, and to return all documents, including copies of them, to the Customer upon completion of the goods/services or, if requested by the Customer, to destroy them.

#### **15. Data protection**

The Customer is entitled to collect, store, use and transfer the Supplier's personal data, provided this is required for performing the legal transaction or consent has been obtained from the persons concerned. Persons concerned have the right to obtain information on the personal data stored about them and the purpose for which it is being processed and used. Any requests for information or the enforcement of further rights on the part of those concerned must always be submitted to the Customer and are provided within the framework of national legislation.

#### **16. Origin of goods and export controls**

16.1 If requested to do so by the Customer, the Supplier undertakes to provide proof of origin that complies with the applicable legal requirements on the date on which it is issued. The Supplier shall provide this for the Customer free of charge. If long-term supplier declarations are used, the Supplier shall, when the purchase order is accepted, without being prompted to do so inform the Customer of changes in the originating status. The actual country of origin shall in every case be stated in the documentation for the transaction, even if there is no eligibility for preferential customs treatment.

16.2 The Supplier has an obligation to inform the Customer of any authorization obligations that may exist if the Supplier's goods are (re-)exported, as required by Austrian, European and US American legislation as well as other applicable export and customs requirements. For this purpose, unless such information has already been provided in the Supplier's quotation, the Supplier shall provide the following information in the order confirmation and in every invoice for each relevant item: the commodity code, the AL No. (Export list number) of the EC Dual-Use Regulation (or the respective information pursuant to other applicable legal acts), and the ECCN (Export Control Classification Number) in accordance with US export legislation (all respective legal acts as amended from time to time).

16.3 At the request of the Customer, the Supplier shall be obligated to inform the Customer in writing of all further foreign trade data related to the goods and its components, as well as inform the Customer immediately in writing of all changes to the data specified in Sections 16.1 and 16.2.

16.4 If the above details are not provided or are provided incorrectly, the Customer shall be entitled to terminate the contract without prejudice to further claims.

#### **17. Cancellation and termination rights**

In addition to Customer's rights at law, the Customer is entitled to terminate the contract if the Supplier's financial circumstances have deteriorated significantly or there is a risk that this will occur and as a result the obligation to supply goods and services is put at risk or if the Supplier becomes unable to pay its debts as they fall due or suspends payments. The Customer may also terminate the contract if the Supplier comes under the controlling influence of a competitor of the Customer.

#### **18. Corporate responsibility, code of conduct and minimum wage**

18.1 The Supplier declares its commitment within the scope of its corporate responsibility to ensuring that it complies with legal provisions, including environmental protection laws, regulations relating to labour law and legislation on the maintenance of employees' health, and does not tolerate child or forced labour in or in relation to the production and sale of its goods or the provision of its services. Upon accepting the order, the Supplier further confirms that it shall not commit or tolerate any form of

bribery and corruption. In this context the Customer draws the Supplier's attention to the "VOITH Code of Conduct" that can be consulted at <http://www.Voith.com>. The Customer expects the Supplier to agree to comply with the rules and principles contained therein and provide assistance to ensure that these are observed.

18.2 More especially the Supplier undertakes to comply with minimum remunerations foreseen by statutory law or collective bargaining agreements and to impose this obligation to the same extent on its sub-suppliers. The Supplier shall furnish proof that the above assurance has been complied with, if requested to do so by the Customer. If the above assurance is not adhered to, the Supplier shall indemnify the Customer against claims by third parties and undertakes to reimburse fines imposed on the Customer in connection therewith.

#### **19. General provisions**

19.1 Persons who work on the Customer's premises or on the premises of companies associated with the Customer to perform the contract must observe the terms of the respective work rules. Liability for accidents that befall these persons on works premises shall, to the extent permitted by law, be excluded.

19.2 The use of inquiries, purchase orders and the associated correspondence for advertising purposes is not permitted. The Supplier shall only be allowed to use the business relationship with the Customer or use the Customer as a reference with the prior written permission of the Customer.

19.3 The assignment of claims without the prior express written approval of the Customer shall be excluded.

19.4 The contractual relationship shall be governed by Austrian law with the exclusion of conflicts of law rules and the United Nations Convention on the International Sale of Goods (CISG).

19.5 The exclusive legal venue for the Supplier is the competent court at the Customer's registered office. The Customer may take legal actions at the court of its registered office, at the court of the registered office of the Supplier or any other statutory court.

19.6 If individual provisions of these General Purchase Conditions are or become invalid in full or in part, this shall not affect the remaining provisions.