

# PART I Vectoflow GmbH – Terms and Conditions of Sale and Delivery

## 1 Scope

1.1 Supply contracts shall, as far as not expressly agreed to differently, be accepted and carried out according to the following sales and delivery conditions. This applies also to all subsequent contracts without further reference. Precious metal sales, repairs and assembly are subject to special conditions.

1.2 We (hereafter the supplier) contradict expressly all commercial trade conditions of the purchaser.

1.3 Arrangements amending these conditions shall be stated in writing. Verbal agreements shall immediately be confirmed in writing.

1.4 These conditions regulate the conduct of business.

## 2 Sales, Sales Brochures and Commercial Protection

2.1 Sale offers, unless stated differently, are valid for a period of 4 weeks or until stocks last. The supplier is only obliged to supply after an expressly issued confirmation of the order.

2.2 In the absence of any particular reference in the sales offer, technical data, material used etc., and standard values used in the trade should be assumed. Notification in the case of a variation will only be given when the product integrity warranty is affected.

2.3 All documentation provided to the customer by the supplier remains the property of the supplier. It should not be made available to third parties without the prior written permission of the supplier. If an order is not placed with the supplier and if requested by the supplier, all documentation including any copies that may have been made must be returned to the supplier without delay.

2.4 It is the responsibility of the purchaser to check all data contained in catalogues, sales brochures and published documentation that the intended application is suitable and appropriate, before acceptance and use. This also applies to the choice of suitable materials. The purchaser must ensure that the use of the product is appropriate.

2.5 The supplier is not duty-bound to check the correctness and/or legal conformity of the requirements and/or assumptions of the purchaser, as this is the sole responsibility of the purchaser. This applies in particular in the case of possible litigation for a breach of commercial protection laws.

2.6 The purchaser guarantees, that the execution of the contract does not result in any breach of commercial law by the use of components, drawings or samples supplied by the purchaser or third parties. The purchaser will conduct any possible defence procedures at his own expense and will compensate the supplier for any expenses resulting from such action.

2.7 Drawings, developments and discussion papers, which are generated in the course of contractual negotiations, are not binding. The purchaser cannot make demands based on such documents or services given by the supplier or his agents, except in the case of culpable intent or gross negligence.

2.8 Requested samples shall be billed by the supplier according to expense incurred.

## 3 Contract Order

Orders constitute a valid contract only after written confirmation of the supplier. The extent of the contract, thus generated, is determined by the actual text of the confirmation. The purchaser is obliged to check all relevant detail and draw attention to any discrepancy in writing.

## 4 Delivery Period and Extent

4.1 The delivery period starts when all technical and commercial questions have been resolved and terminates with the dispatch or the notification of dispatch. Keeping to delivery schedules assumes the keeping of obligations by the purchaser, particularly in respect to payments.

4.2 Purchaser initiated amendments to the supply contract cause the delivery schedule to recommence with the date of the revised confirmation of the order.

4.3 The supplier does not accept responsibility for any delivery delays in respect to acts of God or events not caused or predicted by the supplier, such as non-issue of permits by government instrumentalities, strikes etc. Delivery schedules are extended by the extent of the difficulty.

4.4 The supplier accepts liability for not maintaining the delivery schedule or for delayed delivery, including delivery scheduled by the supplier only in the case of willful intent, gross negligence or a breach of essential contractual duty – see definition of essential contractual liability Para. 9.2. However, this implies no change in the requirement of proof at the disadvantage of the purchaser.

4.5 The right of the purchaser to cancel an order after the passing of an appropriate delivery deadline agreed to by the supplier is not affected.

4.6 Part delivery is deemed acceptable at minor inconvenience to the purchaser.

## 5 Point of Delivery, Risk Transfer

5.1 Delivery is affected from the place of production or store of the supplier at the expense and risk of the purchaser. The means of delivery is chosen at the discretion of the supplier according to usual practice, unless the purchaser has made a particular request.

5.2 In the case of delivery without any installation or erection, the risk in respect of the delivered items, even if free delivery had been agreed to, transfers at the point of acceptance of the purchaser, transport company or transport driver, or at the latest at the point of leaving the factory or store. If acceptance by the purchaser is delayed, the risk is transferred at the point of readiness to deliver, even if the delay of acceptance occurs after readiness to deliver. The supplier may insure delivery against breakage, transport or fire damage at the request and at cost of the purchaser.

## 6 Prices

6.1 In the case of delivery with installation or erection, the risk in respect of the delivery transfers to the purchaser on the day of acceptance or no later than the day of commissioning by the purchaser. Acceptance shall be deemed to have occurred unless the purchaser has expressly refused acceptance within 14 days after the request.

6.2 All prices are ex store, freight/postage, packing, insurance and the respective applicable VAT are added that may legally apply for commissioning, installation, adjustment and similar services, which are listed separately on the account.

6.3 In the case of precious metals, the official stock exchange day trading rate on the day of delivery will be invoiced.

## 7 Settlement of Accounts

7.1 The agreed price is to be paid in full in EURO within 7 days of receipt of the account or equally valid request of payment, unless other arrangements have been agreed to. Risk and payment costs are born by the purchaser.

7.2 In the case of late payment, an additional 9 percentage points over and above the base rate according to Para 247 of the Federal Civil Code (BGB) is added to the account.

7.3 The purchaser has the right to withhold or add charges only in the case of indisputable or legally determined demands.

7.4 Costs incurred to ascertain credit, letters of credit in dealings with foreign countries or similar are at the expense of the purchaser.

## 8 Warranty for Material Defects

8.1 The purchaser should check goods immediately after receipt for possible defects. Obvious defects should be reported to us in writing within 5 working days after acceptance and hidden defects within 5 days of discovery of the defect.

8.2 The supplier has the discretion to repair or replace defects, which are reported to the supplier within 12 months after commissioning but not later than 15 months after delivery. This discretion is not waived even after repeated unsatisfactory repairs. The supplier must be given appropriate time and access to affect repairs.

8.3 The purchaser has the right to rescind the purchase order or demand a price reduction (decrease in the order value), if the defect cannot be repaired in an appropriate period of time.

8.4 In the case of defects, which could have been determined by the purchaser with little inconvenience before inclusion or use, all under warranty claims for defective materials are voided as soon as the product is included or used. This does not apply if the supplier, leading employee, consultant or contractor is guilty of culpable intent, gross negligence or injury to life, body or health or a liability for the breach of a major contractual duty (see Para 9.2) or of a mandatory product liability exists.

8.5 No warranty claims will be accepted for a predetermined life of products especially under extreme or unknown operating conditions. Claims for the premature failure of the product are excluded.

8.6 In the case of products, which were manufactured to customer drawings and specifications, supplier warranty for materials defects only extends to include compliance with the specification. Legal liability according to the product liability laws as well as liability for intentional and gross negligence is not affected.

8.7 The warranty for material defects does not cover normal wear and tear or damage caused after risk transfer by faulty or negligent use or inappropriate use outside the specifications or contractual utilization.

8.8 Material defects, which reduce the value or the usability only minimally or not at all, a liability is excluded.

8.9 Rights to referred warranty provisions according to §§ 478, 479 of Federal Civil Code (BGB) only allow the consumer to make claims within the scope of the legislation and do not regulate the understanding of good will provisions with the supplier and assume that any party with referred warranty rights will duly observe their duty, in particular the duty to report defects.

## 9 Liability

9.1 All claims for damages and compensation of the purchaser are excluded – whatever the legal base, including claims as to illegal action or material defect or damage caused by the defect, or culpable neglect of associated contractual duties or the loss of income. This does not apply if the supplier, leading employee, consultant or contractor is guilty of culpable intent, gross negligence or injury to life, body or health or a liability for the breach of a major contractual duty or of a mandatory product liability exists.

9.2 In the case of a major breach of contractual liability, which does not involve intent or gross negligence and which does not involve an injury to life, body or health or the product integrity warranty, the liability shall be limited to compensation to the extent of assessable damage, which is typical in these contractual contexts. Essential contractual duties are those duties, where failure to comply endangers the purpose of the contract, i.e. significant late compliance, not just insignificant failure to cooperation and communication or not insignificant duties which are essential to the success of the contract purpose.

9.3 Materials, which the purchaser is supplying to the supplier for the manufacture of products ordered by the purchaser, are only insured against theft. The supplier is liable for the loss or deterioration of such goods only in the case of intent or gross negligence.

9.4 Advice given to the purchaser by the supplier, particularly as to the usage of products, is binding only if given or confirmed in writing.

9.5 The legal requirements as to the need of proof are not affected.

## 10 Joint Ownership

10.1 The delivered product (hereafter the joint product) remains the property of the supplier until paid in full and all due demands, which the supplier derives from the business relationship with the purchaser, have been met. During this period of the joint ownership no seizure, nor transfer nor ceding of the demands from the purchaser without the express permission of the supplier may take place. The supplier is to be notified without delay in case of a seizure by a third party.

10.2 If the purchaser processes the joint product into a new product, the processed article remains the property of the supplier. Ownership by the purchaser is excluded under Federal Civil Code (BGB) § 950. By processing, mixing or reconstructing the joint product with other products, not the property of the supplier, the supplier gains a share in ownership of the resultant product in proportion of the monetary value of the product, delivered by the supplier, together with other component products at the time of processing. It is the duty of the purchaser to store and control the

resultant product with appropriate care.

10.3 Therefore, under these conditions, the resultant product is treated the same as the joint product. In the case of a sale of the resultant joint product, the purchaser reduces his claim on the product value by the amount proportioned according to the purchase value of the joint product of the supplier in respect to all other products contained in the resultant product. In the case of the sale of the resultant product, together with other components not owned by the supplier for a total all-inclusive price the purchaser shall pay the supplier the proportion of the total price that represents the share of the supplier.

10.4 The purchaser also accedes to a claim of the supplier in respect to any third party, if the joint product is incorporated in real estate property.

10.5 The purchaser is empowered, unless the power is revoked, to satisfy claims resulting from the resale in the course of normal business transactions. Furthermore, the supplier has the right to independently seek an order, if the purchaser has not fulfilled his contractual duty, in particular to settle due accounts on time. The purchaser is obliged to name, if requested, the debtors of outstanding claims and show the amounts owing. Making a claim on the reserved ownership goods and in particular a demand to transfer same constitutes in case of doubt a contract cancellation.

10.6 The supplier undertakes upon request by the purchaser to free the purchaser from any obligation to accede to claims of the supplier exceeding 10% of the actual value of the goods.

## 11 Legal Venues

11.1 The laws of the Federal Republic of Germany are exclusively valid, excluding UN Commercial Laws (UNCITRAL- Commercial Laws). The contract language is German.

11.2 In the case of the purchaser being a purchasing agent, a legal representative of the public instrumentality or utility, also for all disputes involving documents, exchange and cheque transactions, the legal venue for both parties is the local court of the supplier. The supplier has the right to take legal action against the purchaser in any other legal court.

## 12 General Clause

Invalidation of any one of the clauses in this contract does not affect the validity of other paragraphs. Should a clause be or become ineffective, the contractual parties to this contract shall endeavour to replace the ineffective clause with a new agreed clause, to reflect as fully as possible the commercial and legal purpose.

## PART II Vectoflow GmbH – Terms and Conditions of Purchase (Incoming Goods and Services)

All orders and purchases and incoming goods and services are fulfilled exclusively according to these terms and conditions of purchase. Other terms and conditions are not governed by the contract, insofar as we do not accept those terms and conditions in writing prior to submission of the order confirmation. If we take delivery of the goods and services without expressed objections, it can in no way be considered that we accept different terms and conditions of contract.

### 13 Terms and conditions of contract

13.1 Only the text of our order and additional information in addition to these general terms and conditions of purchase are decisive for the terms and conditions of contract. The currently valid edition of the standard is to be applied for the public national or international standards detailed in the text of the order.

13.2 Verbal agreements with our purchasing staff only become binding following our written confirmation.

### 14 Orders and contracts

14.1 If our orders are not accepted by the supplier via letter, e-mail, or fax within a week of receipt, with binding confirmation of the delivery time, we are entitled to withdraw them.

14.2 We may request changes to the delivery items even after conclusion of the contract, insofar as these are reasonable for suppliers. Where there are changes to the contract, the effects for both sides should be taken into account appropriately, particularly with regard to additional costs and cost reductions as well as delivery schedules.

### 15 Delivery time and delayed delivery

15.1 Agreed schedules and deadlines are binding. The prerequisite for their observance is the arrival of goods at the agreed place of receipt.

15.2 Early delivery and partial delivery require our agreement.

15.3 The supplier is obliged to let us know in writing immediately, indicating the reasons and the predicted duration of the delay, if circumstances occur or are recognised, which mean that the agreed delivery time

cannot be maintained.

15.4 Where there is a delivery delay, we are entitled to request a contractual penalty of 1% - not subject to judicial mitigation - of the amount of the invoice per week commenced, but to a maximum of 5%, irrespective of proof of damage or fault. Enforcement of other damages not arising from a delay that may or may not be the fault of the supplier, are not affected by this.

15.5 Insofar as no delivery deadline has been given, delivery within 14 days of conclusion of the contract as agreed, is applicable.

15.6 In case the supplier of incoming goods or services acts as customer of any product or service, which requires the acceptance of the incoming goods or services based on an agreed schedule or deadline. The seller of the finished products or services may withdraw from the contract. Any subsequent schedule or deadline maybe refused by the seller, within 7 days.

### 16 Packaging, transportation and insurance

16.1 The goods must be protected from damage through appropriate packaging approved by us, as well as through proper transportation.

16.2 Wood as part of shipments entering the EU from all third countries must be treated in line with

16.3 ISPM15 procedures and officially marked with the ISPM15 mark.

16.4 Costs and risks are the responsibility of the supplier up to the time they reach the place of delivery including unloading. They must have specifically agreed premiums for reasonable transportation insurance, if nothing has been agreed to the contrary in writing.

16.5 Risk transfers from the supplier to us at the place of delivery indicated.

### 17 Transportation regulations

17.1 Dangerous goods are generally freely moveable according to GGVSEB (ADR, RID).

17.2 The most current version of INCOTERMS applies for all trade terms.

17.3 The "DAP" terms and conditions of delivery apply exclusively for all purchases, whereby the destination, type of transportation and means of transportation must be agreed with our purchasing department for each delivery.

## 18 Quality and guarantee

18.1 The supplier must adhere to the accepted technical regulations, the safety regulations and the agreed technical data for their deliveries and services. The current valid edition of the standards must be applied. Perfect quality as well as dimensions must be ensured by the supplier via thorough final inspection. Changes to the items delivered require our prior written agreement.

18.2 Acceptance is given on the condition of inspection, based on the absence of defects, and particularly on correctness, completeness and validity. We are entitled to inspect the goods, insofar as, and as soon as, this is feasible according to the proper course of business; any faults discovered will be notified immediately. Should a fault become apparent at this inspection, we are entitled to consider the entire delivery as faulty based on this partial result, and to send it back at the expense of the supplier. In this respect the supplier foregoes objection to delayed complaints.

18.3 The terms of guarantee for our claims for defects begin with the delivery of the goods or the acceptance of the service, and is two years for claims by reason of, or associated with, the supply of goods, and five years if items have been used for their usual application for a construction. Apart from that, the legal periods apply. The guarantee period for reserve parts, which are thus marked or identified in individual contracts, is two years from successful installation, but ends with the expiry of the guarantee period for the ordered item at the earliest.

18.4 We may request the rectification of the defect, the supply of a defect-free item, a price reduction or cancellation of the contract, as we choose. For supplementary performance, the guarantee period begins again for replaced and repaired parts. The expenses incurred by our purchase are also included in the charges required for the purpose of supplementary performance.

18.5 Should the supplier not commence with rectifying the fault immediately after our request for rectification of the fault, in urgent cases, we have the right to undertake this ourselves or via third parties, at the cost of the supplier, particularly to defend ourselves against acute risks or to prevent major damage.

## 19 Product liability

19.1 Insofar as the supplier is responsible for product defects, he is obliged to exempt us from claims for replacement of defects by third parties at our initial request.

19.2 In this context, the supplier is also obliged to refund any expenses to us that arise from, or in association with, product recalls.

19.3 The supplier will insure himself at the appropriate level against all risks to do with product liability, including recall risks, and provide us with a copy of the insurance policy upon request.

19.4 The supplier conducts appropriate quality control according to the type and scope, and provides us with proof of this upon request.

19.5 The supplier is obliged to provide all documents, instructions, drawings and other documentation required for use in the German language, unprompted and complete, in accordance with the regulations (installation, application, etc.) for the products he has supplied.

19.6 If circumstances subsequently become known to the supplier, which may lead to product liability claims arising, he is obliged to inform us of these immediately and to make good any expense and damage, which we may suffer, or have to reimburse to third parties, in connection with recalls as a result of faulty products.

19.7 The supplier is obliged to compensate us for product damage that has arisen through defective parts, as a result of products with which he has supplied us, including partial products.

## 20 Trade mark rights

20.1 The supplier ensures that the rights of third parties and commercial trade mark rights, are not damaged through the delivery or application of goods supplied.

20.2 The supplier exempts the purchaser and his purchasers from all claims to the use of such trade mark rights.

## 21 Payment

21.1 Payments are made, provided that nothing has been agreed to the contrary, within 14 days with a 3% discount, within 30 days with a 2% discount or within 90 days net, in all cases calculated from the receipt of the invoice, but not before receipt of the goods or services and not before their acceptance and, insofar as documentation, inspection certificates or similar documents are part of the scope of services, not before their contractual transfer to us. We are only considered to be late in paying if the supplier has reminded us of the due date expressly and in advance in writing.

21.2 For defective delivery we are entitled to reasonably withhold payment, maintaining our right to a discount, until proper fulfilment.

21.3 Assignment of a claim is only possible with our written agreement.

21.4 Payment does not signify recognition of a properly executed delivery, and is therefore not a waiver of vested claims against defects in performance due to the guarantee and damages.

## 22 Invoices and delivery notes

22.1 Our full order number is to be indicated on each invoice and delivery note if given in our order.

22.2 Invoices must include precisely specified details on the order number, order date and goods supplied (description of the type and amount) and must conform to the provisions of statutory VAT. Where this fails to conform, we reserve the right to alter the due date of the invoiced amount.

22.3 Invoices shall be sent via e-mail to [re@vectoflow.de](mailto:re@vectoflow.de) where it is legally possible.

22.4 The delivery note and a copy of the invoice must be included with the goods delivered.

## 23 Force majeure

23.1 Forces majeures, industrial disputes, riots, official decrees and other unavoidable events exempt the contract partner from their obligations to perform for the duration of the disturbance and in the scope of their effects. The contract partners are obliged, within reason, to give each other the required information immediately and to adapt their obligations to the changed circumstances in good faith. Moreover, we are also entitled to cancel the agreement at no cost to us, as we choose.

23.2 The supplier's appeal due to force majeure is excluded for the purchase of metals.

## 24 Tool costs, means of production and information

24.1 The tools and facilities required for production of the ordered goods, as well as their maintenance and renewal are basically the responsibility of the supplier. We have the right to acquire and use such tools, dies or models (if necessary with consideration of the wear and tear and amortisation) against payment of the cost price.

24.2 Models, matrices, templates, patterns, tools, drawings, construction details, calculations and other

means of production as well as drafts and other information remain, or become, our property and may only be used for supply and services to third parties with our prior written agreement. The means of production we hold must be safeguarded carefully and free of charge by the supplier and released to us at any time we request without right of retention.

## 25 Ownership and provision

25.1.1 We recognise regulations in the terms and conditions of delivery of the supplier on their title retention. We agree to assignments made based on extended title retention at the outset, provided that we reserve all rights with regard to the assignee, which would apply to us in terms of the supplier without assignment.

25.2 Goods provided by us remain our property. They may only be used according to their specification. The supplier must undertake appropriate receipt inspection for the correctness of the goods provided and must inform us of the results of the receipt inspection. Where our goods are processed by the supplier, we are considered to be the manufacturer, without any obligations applying to us, and we acquire ownership of the newly created goods. If the processing is carried out along with other materials, we acquire ownership in proportion to the invoice value of our goods compared to the other materials. In the event of our goods being combined or mixed with an item from the supplier, this is to be viewed as the main item, and co-ownership of the item reverts to us in proportion to the invoiced value of our goods compared to the invoice, or in the absence thereof, to the market value of the main item. In these cases, the supplier counts as the custodian.

## 26 Subcontracts

The following also applies to subcontracts:

26.1 The supplier must immediately inspect the subcontracted goods for any transportation damage or obvious material defects, wrong deliveries and incorrect amounts upon receipt, and inform us immediately of any complaints.

26.2 The supplier may only process and manufacture perfect subcontracted goods. He must therefore only proceed appropriately so that the specified purpose of application of the subcontracted goods is neither affected nor put at risk through processing and manufacturing. The supplier is liable under the extent of the law.

## 27 Place of delivery and place of jurisdiction

27.1 The place of delivery for all contractual commitments is the place of reception specified by us.

27.2 If the purchaser is registered trader then the place of jurisdiction is Munich. However, we may also choose to specify the relevant court to suit the supplier in terms of region and function.

## **28 Legal provisions and applicable law**

Provided that there is nothing to the contrary stated above, the legal provisions of the law of the Federal Republic of Germany apply exclusively for the contract and its execution, with the exclusion of the application of the United Nations Convention on Contracts for the International Sale of Goods, 11/04/1980.

Gilching 12/2018