

General sales and delivery conditions of Tube-Tec Rohrverformungstechnik GmbH

I. Application / scope of validity

1. These Sales and Delivery Conditions (SDC) are an important part of all contracts regarding deliveries, services, works and other ancillary services of Tube-Tec Rohrverformungstechnik GmbH (hereinafter also referred to as the "**contractor**") and our respective contractual partner (hereinafter also referred to as the "**client**").

The SDC are used only with companies in the sense of Section 310 paragraph 1 of the civil code, legal persons under public law and fund assets under public law.

2. Through uncontested acceptance of these SDC, the client declares his acceptance of their exclusive validity.
3. General or deviating business conditions of the client are not recognized by the contractor unless they have been explicitly agreed to with the contractor. If other conditions or agreements are made with the client that deviate from these SDC, these SDC apply subordinately and supplementarily.
4. These SDC also apply to all subsequent transactions with the client.

II. Offer

1. Unless they indicate otherwise, our offers are nonbinding and subject to change.
2. Our written order confirmation which can be performed electronically is decisive for the type and scope of delivery or service.
3. Unless otherwise explicitly indicated in the offer, our offer include no project planning costs and no detailed inspection of data or documents provided by the clients to us. Drawings, illustrations, dimensions, weights or other significant contract data are only binding if we have confirmed them in writing.
If no order is issued, documents provided for use as part of offer preparation will be returned upon request. Otherwise we have the right to destroy these documents three months after offer preparation.
4. Oral and other collateral agreements and assurances are valid only if confirmed in writing.
5. The INCOTERMS in their current version are decisive for interpreting trade terms.

III. Performance / quality / provision

1. The client has the right to request only goods from our own production or services that we perform. We reserve the right to have third parties fulfil the deliveries or services to which we are obligated.
2. We have the right to change the design or manufacture of delivery items, as long as this is reasonable in regard to the client's interests. The measure of reasonableness is, for the client, the effects on the value and functionality of the delivery items, and for us the technical and especially production requirements.

We retain all copyrights and industrial property rights to the designs, models, moulds and devices, plans and drawings created by us or by third parties under contract to us.

If within the scope of our deliveries, services, work or other ancillary services proprietary rights or know how are achieved, we own all property and proceeding rights without limitation.

3. Partial deliveries by the contractor are permissible unless they are explicitly forbidden in the contract.
4. The dimensions and quality for delivery and service agreed upon with the client upon conclusion of the contract are based on applicable DIN/EN standards or material sheets but preferentially on our factory standards.
5. The agreed-upon standards, factory standards, material sheets or test certificates and data on dimensions, quality, weights and applicability are not assurances or guarantees.
6. If the client provides some or all of the materials for fulfilment of the contract, he is obligated to provide them on time, complete and without defect or cost, with prior date notification (including works certificates and appropriate transport documents). We assume no liability or insurance protection for the materials provided. We shall redispach or scrap residual material if not otherwise directed by the client.
7. The client is responsible for quality control and usability and completeness of the materials provided for the use the client intends. The contractor will perform inspection only upon prior agreement and at the client's expense. In each case, the client's obligations under Sections 377 and 378 of the German commercial code remain binding and shall continue in full.

IV. Delivery period / withdrawal / proof of export

1. The delivery periods indicated are nonbinding unless they are explicitly agreed to as binding. If, according to this, the delivery periods are binding, they begin no earlier than the day of binding order confirmation. A delivery period agreed upon does not begin until all details for performance of the delivery or service have been clarified, especially until the client has delivered all information, documents and materials that he is to provide. If prepayment or advance payment have been agreed upon, the delivery period does not begin until the client provides the agreed-upon price or agreed-upon advance payment.
2. The delivery deadline is appropriately extended if unforeseen hindrances arise that are beyond our sphere of influence. This particularly applies to force majeure. Failure to cooperate and requests by the client for modification or supplement to the delivery or service also lead to an appropriate extension of the periods and postponement of deadlines. The delivery deadline is appropriately extended if export approvals need to be provided.
3. Fulfilment of our delivery obligation assumes timely and proper fulfilment of the client's obligations, in the case of exports especially the procurement of the export approval. We reserve the right to defend nonfulfilment of the contract.

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4. We are also not responsible for delivery and service delays due to force majeure or due to events that render the delivery significantly more difficult or impossible — also including later material procurement difficulties, operational interruptions, strikes, lockouts, lack of personnel, lack of means of transport, directives by authorities or delays caused by approval procedures, even if they arise with our suppliers or sub-suppliers — even if binding deadlines and periods have been agreed upon. They give us the right to postpone the delivery or service by the duration of the hindrance including a reasonable lead time or to partially or fully withdraw from the unfulfilled contract.

If the hindrance lasts more than three months, after a reasonable deadline postponement, the client has the right to withdraw from still unfulfilled portions of the contract.

5. If the client is in default of acceptance or culpably violates other cooperation duties, we have the right to demand compensation for damages, including any additional expenses. Further claims or rights remain unaffected.
6. If the prerequisites for No. 5 are present, the risk of accidental destruction or accidental deterioration of the object of purchase or the work transfers to the client at the time at which he is in default of acceptance or payment.
7. Claims by the client to compensation of damages due to delay, particularly to reimbursement of damages due to delays and for damage compensation instead of delivery according to Sections 280 and 281 of the civil code are excluded. This liability exclusion does not apply
- a) to damages due to injury to life, body or health caused by negligent breach of obligation on our part or by intentional or negligent breach of obligation by one of our legal representatives or agents,
 - b) to other damages caused by a gross negligent breach of obligation on our part or by intentional or grossly negligent breach of obligation by one of our legal representatives or agents,
 - c) to other mandatory liabilities under the product liability act, and
 - d) to culpable — even slightly negligent — breach of a significant contractual obligation on our part (however in this case, for slight negligence, damage compensation liability is limited to foreseeable, typically occurring damage).

8. If the delivery/service is picked up from us by a client located outside the Federal Republic of Germany or his representative and is conveyed or dispatched abroad, the client must prove this to us by handing over documents that meet the requirements of the Federal Republic of Germany's value-added tax law. If the proof is not provided within 30 days after handover of the goods, the client must pay, on the amount of the invoice, the value-added tax applicable to the delivery/service in the Federal Republic of Germany.

If the goods are delivered into a country outside the European Union, the client has to procure the necessary documents according to the German Law on Export Trade (Außenwirtschaftsgesetz). The

client has to show the import documents and to confirm the acceptance of the enduser without undue delay.

V. Shipping / packaging

1. If no delivery condition is agreed to in the contract, delivery is agreed to be "ex works" (EXW). For purchase contracts, the risk transfers to the client no later than upon dispatch of the delivery item, and for work contracts no later than upon acceptance, unless IV No. 5 and 6 or the law provides for earlier transfer of risk. This also applies to partial deliveries or services or to still other performances, such as when we have assumed dispatch, transport, assembly or installation.
2. In the absence of instructions from the client, the contractor has the right to determine the method and means of transport and the carrier.
3. For special loads and pick-ups, the client must provide appropriate means of transport and arrange approval by the authorities.
4. If the delivery is made free to the delivery address of the client, the client is responsible for unloading. This delivery assumes availability of an access road that can bear heavy tractor-trailer vehicles.
5. Unless otherwise agreed, the goods will be delivered in conventional packaging or unpackaged and not protected against rust. Insurance against transport damage will be provided only upon the request and at the expense of the client.
6. Packing and transport equipment are property of the client and are invoiced by the contractor separately. The client is responsible for environmentally compliant disposal of packing.

VI. Receipt / transfer of risk / acceptance

1. Upon handover of the goods to the carrier or freight forwarder or other party for dispatch to a specific person or establishment, risk transfers to the client. This also applies to partial deliveries.
2. Transfer of the goods is not called into question by the fact that the client has not accepted them.
3. The client can refuse our delivery/service only if significant defects are present.
4. If dispatch or acceptance is delayed or does not occur due to circumstances beyond the contractor's control, the risks transfer to the client from the day on which readiness for dispatch or acceptance is reported.
5. If acceptance is agreed upon, this occurs at the supplier's facility or at the delivery address, unless agreed otherwise. It must occur immediately after report of readiness for approval. The contractor covers the ex-works acceptance costs, and any remaining acceptance costs are born by the client.
6. If, through no fault of the contractor, acceptance does not occur or is only partial, the contractor has the right to perform delivery without acceptance or to store it at the client's expense.

VII. Prices / payment / settlement

1. Unless otherwise agreed, our prices apply ex works and include loading, but do not include packing,

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customs duties, freight and fees. Prices are subject to value-added tax at the legally applicable rate.

2. Unless otherwise agreed, payment is due 7 days net from date of invoicing without any deduction.
3. Price changes are permissible if three months have passed between conclusion of the contract and the actual delivery date and the delay is caused by the client. We further reserve the right to price adjustments for variable price factors (such as surcharges for inflation, alloys or other materials) and for any order modifications caused by the client.
4. Payments by the client are always applied to the oldest debt, and then to costs, including any intervention costs and then to interest.
5. In the event of payment delinquency, the contractor has the right to charge interest in the amount of 9 percentage points above the base interest rate.
6. The client has set-off rights and rights of retention only if his counter-claims have been legally established, are uncontested or have been acknowledged on our part. Moreover, exercise of a right of retention — without prejudice to the aforementioned limitations — is permissible only regarding such counter-claims as proceed from the contractual relationship.
7. If, after conclusion of the contract, the client comes into circumstances that reduce his creditworthiness, thus threatening our payment claims, the contractor has the right to perform outstanding deliveries only upon prepayment or furnishing of a bank guarantee and to cease further processing until submission of required collateral. Moreover, if the client does not submit adequate collateral within a reasonable extension period, the contractor has the right to withdraw from the contract and to demand reasonable damages compensation due to nonfulfillment.
8. Pricing is based on the material and energy prices, taxes, freight forwarding rates, wages and salaries and production costs known at the time of the proposal. If, for reasons beyond our control, the costs for materials and energy, taxes, freight forwarding rates, wages and salaries and other production costs or statutory levies increase, we are entitled to increase the agreed-upon price on disclosure of the affected portions of the original calculation and specific representation of the increased cost factors corresponding to the scope of the cost increase to be compensated for and to calculate the increased price at the time of delivery.

VIII. Retention of title

1. We retain ownership of the delivery item until receipt of all payments owed by the client under the contract. If the client is in breach of contract, especially in the event of payment delinquency, we have the right to take back the object of purchase. Our taking back the object of purchase does not constitute withdrawal from the contract. After taking back the object of purchase, we are entitled to sell it and apply the proceeds of the sale to the client's obligations — including reasonable cost of sale.
2. The client is obligated to treat the object of delivery with care and is especially obligated to insure it adequately against fire damage, water damage and theft at replacement value. If maintenance and

inspection is required, the client must perform them in timely manner at his own expense.

3. In the event of seizure or other interference by third parties, the client must inform us immediately in writing so that we can file suit under Section 771 of the code of civil procedure. If the third party cannot compensate us for the legal or extra-legal costs of a lawsuit under Section 771 of the code of civil procedure, the client is liable for our remaining loss.
4. The client has the right, in the ordinary course of business, to sell the delivery item. However, he shall assign to us all receivables that accrue from the resale to his buyer or third party in the amount of the invoice total (including VAT) of our receivable, regardless of whether the delivery item has been sold without or after being manufactured. The client is authorized to collect this receivable even after assignment. Our authority to collect the receivable ourselves remains unaffected by this. However, we are obligated not to collect on the receivable if the client meets his payment obligations from the collected proceeds, is not delinquent on payment and in particular if no application has been made to initiate bankruptcy or insolvency proceedings or there is no suspension of payments. If this is the case, we can demand that the client notifies us of the assigned receivables and their debtors, provides all information necessary for collection, hands over the associated documents and informs the debtors (third parties) of the assignment.
5. Processing or transformation of the delivery item by the client is always done for us. If the delivery item is processed with other objects that do not belong to us, we acquire joint ownership of the new object in relation of the value of the delivery item (invoice total plus VAT) to the other processed objects at the time of processing. The object resulting from processing is subject to the same provisions as the conditionally delivered object.
6. If the delivery item is inseparably mixed with other objects that do not belong to us, we acquire joint ownership of the new object in relation of the value of the delivery item (invoice total plus VAT) to the other mixed objects at the time of mixing. If the mixture is done in such a way that the client's object is to be seen as the primary object, it is agreed that the client will transfer to us proportional joint ownership.

The client shall retain the resulting sole or joint ownership for us.
7. The client shall also assign to us the receivables to secure our receivables toward him that arise toward a third party due to connection of the delivery item to a piece of land.
8. We are obligated to release collateral owed to us upon the request of the client to the degree that the realizable value of our collateral exceeds the receivables to be secured by more than 10%; the choice to release the collateral is ours.

IX. Liability for defects

1. Defect claims from the client require that his investigation and notification obligations under Section 377 of the commercial code have been properly met.
2. There is no warranty for damages occurring for the following reasons: unsuitable or improper use,

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defective construction or assembly or commissioning by the client or a third party, natural wear, defective or negligent handling, unsuitable equipment, substitute materials, deficient construction work, unsuitable foundation; chemical, electromechanical or electrical influences etc. as long as these are not attributable to the contractor. For modifications or repairs improperly made by the client or a third party without our prior consent, liability is excluded for any resulting damages.

The warranty exists only on the basis that the delivered machines, systems or components be operated in single shifts. We assume no liability arising from the delivered

systems, machines or components being operated on multiple shifts. There is no warranty on damage due to faulty information from the client upon order issuance, due to faulty connection to the power grid or due to operating errors or false or incomplete information from the client, especially regarding the use, dimensions and technical requirements and due to faulty or incomplete construction drawings from the client.

If the client has not followed the instructions on handling, maintenance and care for the delivery item, even though these were reasonable to him, the warranty is void. The same applies if parts other than our original replacement parts or replacement parts that we have recommended in writing are installed in the delivery item or the delivery item has been tampered with without our consent. The warranty does not extend to normal wear and tear, especially of wearing parts and material carrying parts.

3. If a defect exists, we are obligated to our choice of secondary fulfilment in the form of defect repair or delivery of a new defect-free item. In the case of defect repair or replacement delivery, we are obligated to bear all expenses necessary for secondary fulfilment, especially transport, travel, work and material costs, unless these are increased because the object of purchase has been taken to a location other than the fulfilment location.
4. The client has the right to withdrawal or reduction to the degree allowed by statutory regulations.
5. If there is a legal defect, we have the right to secondary fulfilment by resolving the legal defect within four weeks of receipt of the goods.
6. Claims by the client to compensation of damages due to defects, particularly to damage compensation instead of delivery according to Sections 280 and 281 of the civil code are excluded. This liability exclusion does not apply
 - a) to damages due to injury to life, body or health caused by negligent breach of obligation on our part or by intentional or negligent breach of obligation by one of our legal representatives or agents,
 - b) to other damages caused by a gross negligent breach of obligation on our part or by intentional or grossly negligent breach of obligation by one of our legal representatives or agents,
 - c) to other mandatory liabilities under the product liability act, and

d) to culpable — even slightly negligent — breach of a significant contractual obligation on our part, on which the client can rely in particular (however in this case, for slight negligence, damage compensation liability is limited to foreseeable, typically occurring damage).

7. The limitation period for defect claims (material and legal defects) is 12 months from the time of risk transfer. The limitation provision above does not apply to cases named under No. 6 letters a) to d) or in the event of assumption of a guarantee of the quality of the delivered item. In these cases a two-year limitation period applies.
8. The limitation period in the event of a delivery recourse according to Sections 478 and 479 of the civil code remains unaffected; it lasts for 5 years and is calculated from delivery of the defective item.
9. If a defect claim by the client is found to be unjustified, he is obligated to reimburse us for all substantiated costs that have arisen due to the defect claim through inspection of the alleged defect or performance of the alleged resolution.

X. Other limitations on liability

1. There is no liability for damage compensation other than that provided for in IX — without regard to the legal nature of the claim exercised. This especially applies to damage compensation claims due to indebtedness at the time of contract conclusion, due to other breaches of contract or due to tort claims for reimbursement of property damage per Section 823 of the civil code.
2. The limitation under No. 1 also applies if instead of a claim to damage compensation in lieu of performance, the client demands reimbursement of useless expenses.
3. If damage compensation liability against us is excluded or limited, this also applies to personal damage compensation liability of our employees, workers, colleagues, representatives and agents.

XI. Special provisions for work contracts

1. Acceptance of the work is considered to have occurred no later than upon commissioning by the client. After completion of the work, we are entitled to inform the client of completion and to set a deadline for his acceptance. If the client does not respond by this deadline, acceptance is considered to have occurred.

We are also entitled to request work acceptance at our place of business. An acceptance log is established for this work acceptance. If, despite written request, which must be sent seven days before work acceptance, the client has not taken part in work acceptance, this will be performed without his participation. In that case, the acceptance log we have established is decisive. If the client does not contest in writing the acceptance log sent to him within five business days and requests a second work acceptance within this period, objections to the acceptance log are excluded. Additional costs arising from the client's failure to participate in the first work acceptance appointment, especially the cost of a second work

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acceptance are to be born by the client. The result of the work acceptance is that the scope of delivery or service from our company is fulfilled except for transport.

compensation at a flat rate of 15% of the agreed-upon purchase price or labour rate. The client is free to prove that our damages are actually lower. We reserve the right to exercise a higher damage claim in accordance with statutory regulations.

2. Upon delivery of the system, machine or other work to the client, the client assumes responsibility for safety and the obligation to protect the delivered items. The client is also obligated to see to the safety of the workplace at his company and for observance of existing safety regulations, as well as to appropriate work conditions for our service personnel.
3. Unless agreed otherwise, the labour rate is to be paid as follows:
 - a) 50% of payment after receipt of order confirmation and issuance of a payment invoice.
 - b) 40% after the client's receipt of our notification that the machine, system or other work is completed and ready to dispatch and is

ready for work acceptance, as well as after receipt of the next payment invoice, and
 - c) the remaining sum of 10% after acceptance and receipt of final invoice. Repair, replacement part and service invoices are payable immediately without delay.

XII. Law / jurisdiction

1. All legal relationships between the client and contractor are exclusively subject to the substantive law of the Federal Republic of Germany to the exclusion of UN purchasing law and excluding the connection standards of international private law.
2. The jurisdiction is the court responsible for the contractor's domicile. However, the contractor has the right to bring action at the client's main domicile.

XIII. Closing provisions

1. The client agrees that the contractor will record and process his data on computer to the extent permissible under the European Law on Personal Data Protection (BDSG).
2. If individual provisions of these Sales and Delivery Conditions are or become fully or partially null and void, this does not affect the validity of the other provisions. Applicable legal regulations apply in place of the void provisions.
3. The client cannot assign accounts receivable or claims under this contract without our written consent.
4. Set-off by the client or exercise of a right of retention by the client is impermissible unless the client's counter-claim has been legally established, uncontested or acknowledged on our part.
5. If the client is obligated to damage compensation instead of delivery (such as due to breach of significant contract obligation, especially for payment of the agreed purchase price or agreed labour rate after futile setting of a deadline), we can seize the delivery item and demand damage