

## **General Terms and Conditions of Sale**

**Fa. TubroTec GmbH & Co. KG, D-Kirchheimbolanden**  
**- for use in business transactions with other companies -**

### **§1 Scope of application**

- (1) These General Terms and Conditions of Sale shall apply to any and all deliveries including those of future business transactions. Deviating agreements shall always be in writing in order to be effective. Any general terms and conditions of purchase of the Buyer shall not be accepted. If any part of these General Terms and Conditions of Sale is legally ineffective, this shall not affect the validity of the remaining contents.
- (2) Any order or replenishment order due to the Seller's offers shall explicitly be considered as acceptance of the Seller's delivery and payment terms. A contractual relationship shall only come into being including the Seller's general terms and conditions of sale.

### **§2 Pricing**

- (1) The offers made by the Seller are subject to confirmation. Orders are only binding if the Seller confirms them or fulfill them by delivering the goods. Supplementary agreements also apply only when confirmed in writing.
- (2) Unless otherwise agreed, all prices are calculated ex place of performance. The place of performance shall be Kirchheimbolanden. The contents of the delivery contract shall be based on the Seller's order confirmation. In the event an oral agreement, the burden of proof for any order deviation of invoiced quantities, prices and qualities shall lie with the Buyer.

### **§3 Obligation to buy**

A binding order shall obligate the Buyer to accept the ordered articles at the agreed price. A withdrawal from the contract without objective reason shall not be permissible.

### **§4 Product description**

- (1) The information verbally given by the Seller's employees concerning suitability, processing, usage and characteristics of the Seller's products as well as the technical advice is made to the best of the Seller's knowledge and belief. It is principally free and only represents non-committal recommendations the Seller is not liable for. It does not release the Buyer from its own examinations.
- (2) The Seller is only liable for compliance with the DIN EN standards in each product pass. Information of the Seller's employees exceeding this is not binding and only reflects the respective employee's personal opinion. The Seller does not assume any liability for it.

**TubroTec GmbH & Co. KG**  
Morschheimer Str. 15  
67292 Kirchheimbolanden  
Germany

info@tubrotec.de  
www.tubrotec.de  
Tel.: +49 (0)6359 / 9170-904  
Fax: +49 (0)6359 / 9170-906

Fidor Bank AG  
IBAN: DE71 7002 2200 0020 2025 13  
BIC: FDDODEMMXXX

Geschäftsführerin: Dr. Susanne Rupp  
Kommanditgesellschaft,  
Sitz: Kirchheimbolanden  
Registergericht Kaiserslautern HRA 30602  
KP: TubroTec Verwaltungs-GmbH,  
Sitz: Kirchheimbolanden  
Registergericht Kaiserslautern HRB 32305  
USt-IdNr.: DE260468582  
Steuer-Nr.: 274420204581

## §5 Delivery

- (1) The articles shall be shipped at the expense and, even with carriage paid, at the risk of the Buyer. The delivery date shall be deemed agreed upon as approximate. A slightly delayed delivery – with non-merchants a delivery that does not exceed the agreed delivery date by more than two business days – shall not entitle the Buyer either to withdraw from the sales contract or to claim damages, particularly not due to the delay.
- (2) In events of force majeure, interruptions in traffic and operations as well as lack of goods and fuel, strike, lockouts and interruptions at suppliers that prevent a timely delivery, the Seller shall be released from its obligation to delivery for the time of the occurred interruptions and their effects.

The obligation to deliver shall be subject to the Seller receiving correct and punctual deliveries from its suppliers. The burden of proof for any breach of duty related to the purchase of supplies that can be attributed to the Seller shall lie with the Buyer.

- (3) In case of impossibility or a substantial delay of delivery, the Seller may only be liable in accordance with the legal provisions, if the Seller or any of its representatives or vicarious agents acts on intent or gross negligence.

However, in the event of gross negligence, the liability of the Seller shall be limited to the typical, foreseeable damage, if none of the exceptions in sentence 5 of this section (3) is given.

Otherwise, the liability of the Seller due to impossibility or substantial delay in delivery and to reimbursement of futile expenses shall be limited up to a total of 10% of the value of goods. Any further claims of the Buyer shall be excluded.

This restriction shall not apply to liability for injury to life, body or health in cases of intent or gross negligence.

The Buyer's right to withdraw from the contract shall remain unaffected.

## §6 Complaints on quality and quantity

Any complaints of the Buyer related to quantity differences, quality or transport damage shall immediately be raised upon receipt of the delivered goods. With non-obvious defects, the Buyer may notify the defect within one year.

If a defect has been notified properly and in time as defined by §377 of the German Code of Commercial Law (HGB), the Buyer shall give the Seller the opportunity to check the complaint. If a complaint is justified, the Seller shall not at any case be obliged to subsequent delivery or manufacture within its duty of supplementary performance.

The option to choose between rectification of deficiencies and subsequent delivery shall at any case be at the discretion of the Seller.

The Seller shall not warrant that the delivered goods are suitable for the purposes intended by the Buyer.

Claims based on defects shall not be admissible if the deviation from the agreed condition is only insignificant or the usability is only insignificantly affected.

## §7 Payment

- (1) The purchase price shall be due and payable within 14 days from the date of invoice unless a written agreement on any other terms of payment has been made. If the term of payment is exceeded, the Buyer shall be obliged to pay interests in the amount of 8 percentage points above the base interest rate from the due date. The Seller shall be entitled to prove a higher amount of damage. Any other claims for default shall be reserved. All payments shall be made in EURO. Cheques and bills of exchange shall only be accepted for payment purposes. Payments by bill of exchange shall only be admissible based on a prior written agreement.
- (2) The Buyer has the right to offset only if its counterclaims are undisputed or legally established in terms of merits and amounts. A right of retention shall only exist if it is based on the same contractual relationship and a gross breach of contract may be evidenced.
- (3) The Buyer shall not be entitled to assert any claims and rights for defects if the Buyer failed to settle any due payments and the amount due is in reasonable proportion to the value of defective goods.
- (4) The seller shall be entitled to assign outstanding debits for collection to a factoring company. In the event of an assignment the purchaser shall be informed.

## §8 Retention of title

- (1) The goods shall remain the property of the Seller until any and all claims to which it is entitled under the business relationship have been settled. If the Buyer is in breach of any of its obligations, particularly in case of payment delays, the Seller shall be entitled to request the goods to be returned and/or to withdraw from the contract without setting a grace period; the Buyer shall be obliged to return the goods. A request for the goods to be returned shall not constitute any declaration of rescission by the Seller except when otherwise stipulated.
- (2) The Buyer shall be obliged to handle the purchased object with care; it shall particularly be obliged to sufficiently insure it against fire, water and theft for its replacement value at its own expense.
- (3) The Buyer shall immediately notify the Seller in writing of any attachments or other interventions. If the third party is not able to reimburse the judicial and extrajudicial costs of an action in accordance with §771 of the German Code of Civil Procedure (ZPO), the Buyer shall be liable towards the Seller for any losses occurred.
- (4) The Seller shall be entitled to resell the purchased object within its ordinary course of business; however, it shall hereby assign to the Seller any and all claims that arise from such resale towards its purchasers or third parties, indifferent of whether the purchased object has been resold without or after any processing, to the amount of the invoice's final sum. The Buyer shall continue to be entitled to collect such claims even after such assignment. This shall not affect the Seller's right to collect the claim itself. However, the Seller shall undertake not to make use of this right unless the Buyer is in delay with its payment obligations and has particularly filed a petition for the commencement of composition of bankruptcy proceedings. If this is the case, the Buyer shall provide any and all information required for the collection of the claims by the Seller.

- (5) Any processing or transformation of a purchased object shall always be made for the Seller. If the purchased object is processed together with other objects, the Seller shall acquire joint ownership in the new object in proportion of the purchased object's value to the other processed objects at the point of time of their processing.
- (6) If the purchased object is inseparably compounded with other objects, the Seller shall acquire joint ownership in the new object in proportion of the purchased object's value to the other compounded objects at the point of time of their compounding.
- (7) The Buyer shall also assign to the Seller the claims for securing the claim of the Seller that arise from the combination of the purchased object with a property towards any third party.

The Seller shall undertake to release the securities to which it is entitled upon the Buyer's request if the realizable value of the securities exceed the claim to be secured by more than 10%. The selection of the securities to be released shall be at the discretion of the Seller.

## §9 Damages

- (1) In case of deliberate action or gross negligence by the Seller or any of its vicarious agents, the Seller shall be liable in accordance with the legal provisions.

Any liability for a damage caused by the delivered item on legally protected interests of the Buyer, e.g. damage to other objects, shall be excluded.

The provision of sentence 2 shall not apply in the event of deliberate actions or gross negligence or in case of liability for injury to life, body or health.

- (2) Section 1 shall accordingly apply to damages to be paid in addition to performance on whatever legal grounds, particularly for defects, breach of duty or tortuous acts.

It shall also apply to claims for the reimbursement of futile expenses. The liability for delay or impossibility, however, shall be based on §5.

- (3) Unless an intentional breach of contract is accused, the Seller shall only be liable for the typically foreseeable damage.
- (4) The liability for injury to life, body or health shall remain unaffected; this shall also apply mandatory liability in accordance with the German Product Liability Law.
- (5) Unless otherwise regulated above, any liability shall be excluded.

## §10 Limitation

The limitation period for any claims and rights concerning defects in the delivered items – on whatever legal grounds – shall be 1 year.

The limitation period above shall not apply in the event of deliberate actions, if the Seller has fraudulently concealed the defect and in cases of injury to life, body or health or violation of liberty and in the event of claims in accordance with the Product Liability Law, a grossly negligent breach of duty or the breach of substantial contractual obligations.

**TubroTec GmbH & Co. KG**  
Morscheimer Str. 15  
67292 Kirchheimbolanden  
Germany

info@tubrotec.de  
www.tubrotec.de  
Tel.: +49 (0)6359 / 9170-904  
Fax: +49 (0)6359 / 9170-906

Fidor Bank AG  
IBAN: DE71 7002 2200 0020 2025 13  
BIC: FDDODEMMXXX

Geschäftsführerin: Dr. Susanne Rupp  
Kommanditgesellschaft,  
Sitz: Kirchheimbolanden  
Registergericht Kaiserslautern HRA 30602  
KP: TubroTec Verwaltungs-GmbH,  
Sitz: Kirchheimbolanden  
Registergericht Kaiserslautern HRB 32305  
USt-IdNr.: DE260468582  
Steuer-Nr.: 274420204581

## §11 Applicable law & place of jurisdiction

- (1) These General Terms and Conditions as well as all legal relationships between the Seller and the Buyer shall mandatorily be governed by the law of the Federal Republic of Germany.
- (2) Other national law as well as the UN Sales Convention (CISG) shall be excluded. If the Buyer is a merchant who has been entered as such in the commercial register as defined by the German Code of Commercial Law, a corporate body under public law or a public special fund, Kaiserslautern (Germany) shall be the exclusive place of jurisdiction for any and all disputes that directly or indirectly arise from the business relationships.

## §12 Data protection

The Seller shall be entitled to process the Buyer's data received due to the business relationship or in relation with such either from the Buyer or any third party in accordance with the Federal Data Protection Act. This not shall replace the notification required under the terms of the Federal Data Protection Act stating that personal data on the customer are stored and processed via EDP.

Kirchheimbolanden, November 2017

**TubroTec GmbH & Co. KG**  
Morschheimer Str. 15  
67292 Kirchheimbolanden  
Germany

info@tubrotec.de  
www.tubrotec.de  
Tel.: +49 (0)6359 / 9170-904  
Fax: +49 (0)6359 / 9170-906

Fidor Bank AG  
IBAN: DE71 7002 2200 0020 2025 13  
BIC: FDDODEMMXXX

Geschäftsführerin: Dr. Susanne Rupp  
Kommanditgesellschaft,  
Sitz: Kirchheimbolanden  
Registergericht Kaiserslautern HRA 30602  
KP: TubroTec Verwaltungs-GmbH,  
Sitz: Kirchheimbolanden  
Registergericht Kaiserslautern HRB 32305  
USt-IdNr.: DE260468582  
Steuer-Nr.: 274420204581