



Hall, 2020-06-01

Version - v05

GENERAL TERMS OF SALE AND DELIVERY
OF
TIROLER ROHRE GMBH

1. APPLICABILITY AND PLACE OF EXECUTION OF CONTRACT

Tiroler Rohre GmbH, hereinafter TRM, accepts and carries out orders and deliveries exclusively on the basis of these general terms of sale and delivery. Conflicting business terms of the customer are hereby rejected in their entirety. Other general terms of business of whatever kind do not become part of contractual obligations, even if they are not expressly rejected by TRM. Changes or amendments to these general terms of sale and delivery are only valid, if agreed upon in writing.

- 1.1 If the customer does not contest the applicability of these general terms of business in writing and within one week after receipt, it is deemed that he has accepted their validity in total. These general terms of business are also valid for all future contractual relations and in case of a continuous business relationship for all current contractual agreements. The customer expressly waives any possibility of altering these terms of TRM by submitting business terms of his own. If despite of this other business terms have been submitted, the customer hereby declares a waiver regarding all and any rights based on such terms. Should the customer intend not to accept these general terms of sale and delivery of TRM, he hereby represents that he will inform TRM of this fact in an individual letter, separate from any correspondence regarding numbers or types of orders, so that a negotiation on the applicable terms of business can take place.
- 1.2 Subsidiary to these general terms of sale and delivery the following general terms shall be applicable, whereby in case of any contradiction they shall apply in the following order: General terms of sale and delivery of TRM, terms of delivery of the European Association of Foundry Industry, INCOTERMS.
- 1.3 Unless other terms of business have been expressly agreed upon, these general terms of sale and delivery are also valid for e-commerce. These general terms of sale and delivery are equally valid and applicable for consumer business, unless they are derogated by mandatory Austrian laws on consumer protection. Place of execution for all deliveries and payments is 6060 Hall in Tirol, Austria.

2. OFFERS AND CONCLUSION OF CONTRACT

- 2.1 All offers of TRM are non-binding and subject to confirmation. Orders only become legally binding when they have been confirmed by TRM in writing. Until a contract has been formally concluded, TRM reserves the right to cancel any offers made without giving any reason.
- 2.2 Ex-post correction of all and any errors, in particular in offers or confirmations of order, is expressly reserved. Notwithstanding and with reserve to the stipulations under section 6. (PRICES) of these general terms of sale and delivery, quoted prices and offered conditions are valid for a period of four weeks from the date of offer.
- 2.3 Electronically processed and printed correspondence (e.g. confirmations, invoices, credit statements, statements of account, reminders) is also legally binding without signature.



- 2.4 If import or export licenses, exchange control approvals or other administrative authorizations should be necessary for international deliveries, TRM is responsible for providing all necessary Austrian national letters of authorization. The customer is responsible for providing and making available all necessary foreign authorizations to TRM, before the goods ordered are handed over for transport. The nature and extent of any technical inspections needed regarding products delivered must be agreed upon in advance. In lack of any prior agreement, all costs of such inspections are to be paid by the customer.
- 2.5 Catalogues and stock-price lists are valid as of the referenced date. The product range of TRM is subject to continuous improvement and update. As a result of this it can happen, that certain goods, sizes or groups of merchandise are no longer available on stock, whereas other assortments of goods which are not shown in a catalogue may nevertheless be available on stock in the meantime. In any case TRM will try to reobtain product assortments shown in their catalogue within a short term. Typing mistakes and other errors cannot be excluded and therefore are reserved. Illustrations, indicated dimensions and data given in technical specifications of TRM are not binding.
- 2.6 All deliveries are subject to the standards as indicated in the catalogue in effect at the time of order (company standards of TRM, Austrian Industrial Standards (Ö-Norm), European Standards (EN), German Industry Standards (DIN), ISO-Standards). Any design or construction deviating from these standards must be expressly agreed upon in writing in advance. All costs for acceptance tests (e.g. technical acceptance tests by TÜV, railway acceptance tests, etc.) and for the issuance of factory certificates are to be paid separately by the customer, unless they were expressly named as included in the price agreement.

3. DATE OF DELIVERY AND SHIPMENT

- 3.1 The obligation to deliver does not become legally binding before acceptance of the order has been confirmed by TRM and not before all technical and commercial details of an order have been cleared. Changes or cancellations of orders are only valid if confirmed by TRM in writing.
- 3.2 The carrying out of orders taken is always subject to the business and employment situation and capacities of TRM at the time when an order is confirmed. Dates of delivery mentioned in confirmations are provisional and apply for deliveries ex works. For determining, whether agreed dates of delivery have been complied with, the date of shipment ex works/ex stock is decisive. The term for delivery does not commence before the customer has furnished all necessary documents, authorizations and statements of clearance and not before agreed advance payments have been received. If, without fault on the side of TRM, merchandise cannot be expedited or called upon by the customer in time, it is deemed that periods and dates of delivery have been complied with, as soon as the merchandise is held ready for shipment.
- 3.3 Claims based on non-compliance with delivery dates are only recognized, if TRM has confirmed such dates as binding in writing. If the customer fails to meet obligations to cooperate or other collateral duties in time, TRM reserves the right to extend periods and dates of delivery accordingly and without prejudice to her rights based on default of acceptance by the customer.
- 3.4 If the customer intends to cancel the purchase order in case of a non-compliance with delivery dates by TRM, the customer has to grant TRM a 4 weeks grace period first and inform about it in writing.
- 3.5 If the customer intends to claim damages based on non-fulfilment of the contract or to cancel the same, he must grant TRM a period for subsequent delivery of minimum four weeks and at the same time declare that after this period has run out, he will not accept fulfilment. This term for subsequent delivery starts as soon as the customer's notification is received. Claims for damages based on late delivery cannot be made before the term for subsequent delivery has run out.
- 3.6 In cases of late delivery by TRM and provided that the customer can prove damages that have incurred due to this fact, the customer can claim a compensation for late delivery of maximum 20 % of the price of those parts of the delivery which were late.



- 3.7 Compliance with agreed dates for delivery further depends on and is subject to timely receipt of agreed advance payments, timely payment of outstanding claims, proper clarification of any questions which arise after placement of orders and proper availability of all necessary devices and remedies. In case of any notable negative change in the economic situation of a customer, TRM reserves the right to demand additional down payments or to make deliveries only against payment of the full price in advance.
- 3.8 Advance or part-deliveries of ordered goods are admissible, if the business situation of TRM makes this necessary and such deliveries have not been explicitly excluded in writing. Invoices for partial delivery may be sent by TRM to the customer.
- 3.9 Impediments to the carrying out of orders and deliveries, which cannot be avoided or eliminated by TRM with economically reasonable effort (e.g. strikes, disruptions of operations, lock outs, delayed receipt of raw materials, traffic congestions etc.) as well as their consequences, are regarded as force majeure and, equal to force majeure itself, discharge TRM from any obligation to deliver, in which case all and any damage claims of the customer are excluded. TRM reserves the right to deliver after any such obstacle has fallen away.

4. SHIPMENT

- 4.1 All shipments are ex works or ex stock and are carried out at the customer's risk and expense. This means, that all peril and risk is transferred to the customer as soon as the goods ordered are placed ready for shipment ex works or ex stock. If shipment is delayed due to circumstances for which the customer is responsible, all risk and peril is transferred as of the date on which the customer is notified that the goods ordered are ready for shipment.
- 4.2 As soon as TRM notifies the customer about goods being ready for shipment, the customer must pick up the goods immediately. If the goods are not picked up immediately after notification, all risk and peril is transferred to the customer and TRM is entitled to invoice the contract value of the goods. After this, TRM must only keep the goods on stock, at risk and expense of the customer. The same applies when shipments taken over by TRM cannot be carried out due to circumstances for which TRM is not at fault. In such cases TRM is only liable for gross negligence.
- 4.3 In absence of any other agreement, TRM may choose the means of transport, as well as the carrier or shipping agent, as deemed reasonable. Damages or losses of goods must be claimed, ascertained and confirmed in writing by the respective railroad or other carrier, immediately upon taking over of the goods by the consignee. Claimed transport damages or losses do not entitle the consignee or the customer to refuse acceptance of goods or to contest or reject the respective invoice.
- 4.4 In case of transfer orders, all peril and risk is transferred to the customer as soon as the goods are ready for shipment at the warehouse or factory, from which TRM obtains the goods. Regarding services, all risk and peril is transferred to the customer as soon as the service or a service-in-part agreed upon has been carried out. In absence of any other agreement INCOTERMS "ex works" 2000, 6th revision, are applicable. All taxes, fees, dues, customs duties and tariffs of whatever kind must be paid by the customer.
- 4.5 In cases of visible transport damages the customer must make a written annotation describing these damages in the respective shipping documents, immediately initiate the inspection and documentation of such damages by officials of the appropriate and responsible authorities and inform TRM.

5. PACKAGING

- 5.1 If necessary or requested by the customer, goods to be delivered will be packed. All packaging costs must be borne by the customer. In absence of any other written agreement, the selection of protection and packaging materials as well as the choice of shipping route is at the discretion of TRM, whereas all liability is excluded.



- 5.2 For ex-works deliveries, TRM is not responsible for timely transportation, flash rust, deformation, twisting, or effects of weather, regardless whether the delivery is carried out by a vehicle of TRM or of a third party and regardless whether the transport is organized or conducted by TRM or a third party.
- 5.3 German customers have to comply with the German packaging law and take all necessary actions (registration, participation, etc.) for packaging which requires licensing.

6. PRICES

- 6.1 In absence of any other written offer or agreement, all prices are given ex works (ex works INCOTERMS 2000), excluding packaging costs and V.A.T., and are not binding. TRM will invoice the prices valid as per date of delivery. This applies also for orders for which no price was agreed upon. All offered prices are net prices. Applicable V.A.T. will be added.
- 6.2 For deliveries ex stock, the valid list-prices of TRM apply. All related charges, public dues, possible new taxes and freights as well as increases thereof, which are directly or indirectly connected with the delivery, are borne by the customer.
- 6.3 If due to explicit agreement TRM has granted the customer a right to return delivered goods and the customer exercises this right, TRM is entitled to charge a flat fee of 10 % of the total originally invoiced amount of the returned goods to cover the costs incurred. In case a repair of the returned goods is required, TRM is entitled to charge a flat fee of 50% of the total originally invoiced amount of the returned goods to cover the costs incurred. Returned goods which cannot be repaired will be scrapped and are not refunded.
- 6.4 Loading, transport, discharging and moving of delivered goods as well as costs for transport insurance are not included in prices offered by TRM. Therefore, in lack of any other agreement the forenamed services are always invoiced in addition, unless the customer has taken over these services at his own cost.
- 6.5 If TRM offers several services or deliveries in an overall offer and the customer then places an alternative order, TRM is entitled to adjust prices accordingly, in which case especially volume discounts or other price reductions can fall away. Unless the price lists or catalogues of TRM expressly determine, otherwise, all prices refer to materials of ordinary commercial quality.
- 6.6 If prices include freight and transport costs, such costs presuppose ordinary and regular freight and transport conditions. Additional costs which arise due to complications in or impediments to freight or transport conditions are to be carried by the customer. The customer must provide for adequate access conditions for delivery. Vehicles delivering must be unloaded without delay. Dead freights or damages resulting from one of the above titles, especially delayed unloading, are borne by the customer. When goods are picked up for transport to non EU destinations (third party countries) Austrian customers will be charged with Austrian V.A.T., which is refundable upon presentation of the necessary export certificate.
- 6.7 For contracts for which TRM has not offered fixed unit rates, TRM may invoice the customer a material price surcharge. This surcharge is calculated based on the CAEF index of the European Foundry Association. The exact calculation formula will be provided by TRM upon request.

7. TERMS OF PAYMENT

- 7.1 All invoiced amounts are due and payable immediately upon receipt. Deductions of cash discounts are not accepted. If cash discounts were agreed upon, such discounts are not admissible regarding new invoices as long as earlier, due invoices have not been balanced. In case of delayed payment default interest of 6 % p.a. above the primary refinancing rate of the Austrian National Bank or an interest rate introduced to replace the aforesaid is payable. If however the interest or capital loss is higher, the customer must reimburse TRM for the higher loss in interest or capital.



- 7.2 Payments by cheque or bill of exchange are not recognized as effective payment but merely as undertaking to pay. All bank charges and commissions which arise in connection with the carrying out of money transfers and encashment of bills of exchange and cheques are at the cost of the customer. Independent of any dedication indicated, payments are always deducted from the longest due liabilities. Thereby payments are first allotted to costs, default interest and charges and only thereafter to the unbalanced capital amount.
- 7.3 In absence of a written agreement stating something different, claims of TRM must be paid immediately and concurrently when handing over the goods. If the customer's ability to pay outstanding amounts is doubtful, TRM reserves the right to make deliveries dependent on payment of the full purchase price in advance.
- 7.4 Payments are only accepted when made directly to TRM; no employee or any other agent (especially forwarding agent, carrier etc.) or third party is authorized to collect payments. The customer's obligation to pay is only fulfilled, when the entire amount owed is at full disposal of TRM.
- 7.5 Any offset of the customer's claims of whatever kind against those of TRM is expressly excluded. Rights of retention can only be exercised if they are based on the same business transaction for which TRM demands payment. The customer on the other hand explicitly grants TRM the right to offset claims of TRM, in dependent of their mutuality or due date, or claims of companies with which TRM is associated, as well as those of companies which emerge from these, against his own. This also applies when in one case payment in cash and in another case payment by bill of exchange is agreed, or if mutual claims are due at different dates, in which case accounts are discharged at the value date. In case of current payments, the right of TRM to offset claims refers to the current account balance.
- 7.6 Without explicit written consent of TRM, claims against TRM may not be assigned to third parties. If TRM should accept changes in orders on a goodwill basis, TRM is entitled to charge an administrative fee of € 100,-.
- 7.7 In cases of bill protests or failure to pay a due invoice, all invoices automatically fall due immediately. This independent of whether the further claims are connected legally or in fact with the unpaid claim and independent of any grace period granted and notwithstanding any further going lawful claims of TRM. In particular, based on the reservation of title as agreed under section 8 of these general terms of sale and delivery, TRM is entitled to disallow any resale or processing of delivered goods and to demand their return or the transfer of indirect possession of the goods delivered, at the cost of the customer. In case of late payment default interest as stipulated above is payable.
- 7.8 In case the price is payable by instalment, the delay of the payment of one instalment will make the entire open payment amount of the contract overdue.
- 7.9 If a customer has not made payments or carried out other services or deliveries within due date or if circumstances arise which give reason to question the financial standing of a customer, TRM is, in addition to automatic payability of all claims, further entitled to
- a) suspend fulfilment of all contractual obligations until outstanding payments or services have been fulfilled by the customer and
 - b) immediately terminate all open contracts and demand reimbursement for all damages incurred.
- TRM hereby reserves the choice to exercise one or both of the above cited possibilities. All and any price reductions or cash discounts are only granted under the condition of full payment within due date.
- Any circumvention of these conditions of sale and delivery, especially through transactions on a commission basis, is illegitimate.



8. RESERVATION OF TITLE

- 8.1 TRM reserves full title and property in all goods until all amounts owed, including premature and conditional claims, have been received in full. This reservation of title also remains valid until TRM has been released from all and any obligations taken over in customer's interest, especially guarantees and acceptance liabilities. Any transfer or resale of goods delivered under reservation of title before full payment has been received, is only permissible with express consent of TRM. Further, goods delivered remain full property of TRM until all earlier claims based on deliveries to a customer have been fully paid. Title and property regarding goods delivered in the future is only transferred, if all claims of TRM from earlier deliveries have been paid up entirely.
- 8.2 If a customer breaks or disregards his contractual obligations, TRM is, after having sent a dunning letter, entitled to take back delivered goods and the customer must release and hand over the same. The customer hereby agrees in advance, that in such case TRM is entitled to retrieve all goods to which title is reserved on her own and to enter the business and premises of the customer for this purpose. The customer hereby declares that any retrieval of goods by TRM does not constitute an infringement to his possessory or any other rights. The retrieval of goods through TRM only constitutes a cancellation of the contract, if cancellation is expressly declared by TRM.
- 8.3 If the goods delivered are treated or processed by the customer, the reservation of title of TRM extends and continues as a title of full ownership of the relevant semi-finished or finished product. The same applies if the goods delivered are mixed, mingled or combined with other goods.
- 8.4 Goods regarding which title is reserved may only be resold in course of the ordinary business activities and under the regular business conditions of the customer. The same applies for contracts regarding work and services. In case goods should be resold, the customer already now assigns and transfers all claims and rights to cash payments to TRM. In case of resale after processing, this assignment refers to the value of the claim of TRM with respect to the goods processed. This assignment in advance also extends to all substitutes (surrogates), e.g. claims against third parties (insurance companies, liable third parties) which may be claimable due to loss, destruction or damage.
- 8.5 Until revocation by TRM, the customer is allowed to collect payments for resold goods from third parties. This authorisation will only be revoked for good reasons. In such cases the customer must hand over all information and data regarding the assigned claims and the debtor, so that TRM can collect these claims. Further the customer must hand over all respective documents (delivery receipts, invoices) in copy and inform the third party concerned of this assignment.
- 8.6 The customer must hold all proceeds from sales separate from his other monies and property and in trust for TRM. Any resale of goods subject to reservation of title to third parties granting a deferment of payment to such third party, is only permitted and recognized, if the customer has informed the second customer of the existing assignment (for security) to the benefit of TRM and has made an annotation in his commercial books.
- 8.7 Before full payment of all claims of TRM, delivered goods may not be in any way given in mortgage or as security. In any case of danger or threat to the interests of TRM in the goods delivered, especially due to seizure for execution by third parties, the customer must immediately inform TRM and make the reservation of title to the benefit of TRM clearly visible for any third party. The customer must bear all and any costs which may arise in such connection.
- 8.8 The customer must inform and notify third parties of an existing reservation of title and make this reservation of title effectively binding upon any third party. In cases of delayed or default payment the customer must immediately submit a complete listing of all goods, including processed goods, which are subject to reservation of title and a list of all claims against third parties including invoice copies.
- 8.9 If the customer works with a factoring bank, the above authorisation for resale is only granted and valid under the condition, that the factoring bank has in advance given its written confirmation and consent, that the claims for payment of all proceeds from the factoring contract have been assigned to TRM. Otherwise assignments are not permitted and any resale of goods delivered under reservation of title is expressly excluded. With respect to all goods delivered by TRM the customer here and now assigns all of his present or future claims against any factor to TRM and is bound to know notify the factor of this assignment and advice the factor to make payments only to TRM.



- 8.10 If the above outlined reservation of title should not be enforceable or effective by the laws of the country where the goods are located, a reservation of title or a corresponding form of security as lawful and enforceable by the laws of this country is deemed to be agreed upon. The customer is bound to undertake, observe and participate in all measures necessary for the enforcement and/or conservation of comparable rights and securities to benefit TRM.

9. TECHNICAL STANDARDS AND CONDITIONS OF ACCEPTANCE

- 9.1 All deliveries are subject to the standards as indicated in the catalogue in effect at the time of placing of order (company standards of TRM, Austrian Industrial Standards (Ö-Norm), European Standards (EN), German Industry Standards (DIN), ISO-Standards). Any design or construction deviating from these standards must be expressly agreed upon in writing in advance. All costs for acceptance tests (e.g. technical acceptance tests by TÜV, railway acceptance tests, etc.) and for issuance of factory certificates are to be paid separately by the customer, unless they were expressly included and named in the price agreement.
- 9.2 Illustrations, measurements and weights indicated in catalogues, pricelists, offers and confirmations are only approximate and are not binding, unless this has been explicitly declared in writing. Any question of compliance with measurements and technical data shall be judged on the basis of the standards as listed in the above paragraph. For calculation purposes the weight measured on the weighing machines of TRM is to be applied.
- 9.3 Delivery of pipes in short lengths is admissible.

10. RECLAMATIONS, WARRANTY AND COMPENSATION

- 10.1 Based on of the agreed technical terms of delivery, TRM grants warranty for the faultless production of the goods delivered by TRM. If deliveries are to be made based on drawings, specifications or samples of the customer, the customer bears all risk that such goods are appropriate and suitable for the use intended.
- 10.2 For judgement of compliance with the contractual agreement, the condition of the goods at the time of transfer of risk is decisive. The customer must examine all goods immediately upon delivery. Warranty claims are only acceptable, if the customer has fully met his obligation to examine the goods and has made a complaint in accordance with § 337 of the Austrian Commercial Code (UGB). After appropriate examination by the customer all complaints regarding deficiencies which can be detected upon proper examination, are expressly excluded. Deficiencies which can be detected upon proper examination must be reported to TRM immediately, at the very latest within seven days, within which TRM must receive a written notification including a clear and thorough description of their type and extent. This notification must be made by mail or e-mail. Deficiencies which despite of proper examination cannot be detected upon delivery must be claimed immediately after their detection by mail or e-mail. Deficiencies can only be removed or repaired if the goods subject to complaint are presented to TRM for examination. If it is expressly agreed, that the period of warranty shall not commence before acceptance of goods has been confirmed, and subsequently TRM receives no proper confirmation, the goods are deemed to have been accepted three months after delivery and that the period of warranty has begun to run, from this time on.
- 10.3 TRM does not assume liability for minor deviations from agreed quality, for minor curtails to usability or for any damages resulting from incorrect or inappropriate use, improper assembly or initiation, or for regular wear and tear. Further, TRM does not assume liability for improper changes or repairs undertaken by the customer or third parties, or for any results or consequences thereof.



- 10.4 Defects which despite of due examination when receiving the goods cannot be detected, must be reported and claimed immediately after detection whereby all further processing - of whatever kind - must be stopped immediately. Notification of such defects must be made to TRM at the latest within seven days after discovery of a defect, by letter or e-mail. Fluctuations in weight and amounts, as well as defects of whatever kind regarding which notification is not made and effected within the above time limit, are not recognized and the delivered goods are deemed to have been accepted under waiver of all and any claims. In such cases all claims for warranty and indemnity as well as any right to contestation on grounds of error are excluded.
- 10.5 All warranty claims expire at the latest within one year from the day on which the goods delivered where shipped from the factory of TRM or – if this is the case – from the storage premises from which the goods were despatched.
- 10.6 If goods have defects upon delivery or if defects are detected and claimed within the term of warranty, the customer's claims are limited to cost-free repair or replacement within an adequate and appropriate term. Unless expressly agreed upon otherwise with TRM in writing, all other or further claims, especially claims for price reduction, no matter which legal grounds they are based on are expressly excluded. All and any further claims for indemnity or reimbursement of whatever kind are limited to the value of the immediate damages to the goods delivered, whereby liability for such damages is only assumed in cases of proven gross negligence or wilful intent on the side of TRM.
- 10.7 In cases of proven material defects, execution errors, or if a delivered moulded or cast item or piece should be damaged or become unusable within the business premises of the customer due to sole fault of TRM, after return delivery by the customer, TRM will at her own discretion either grant an adequate credit to the delivery price or replace such pieces free of cost. Within 30 days for single cast pieces and 3 months for series deliveries, both counting from the date of the bill of delivery, rejections based on claimed defects are no longer accepted. TRM must be given reasonable opportunity to examine rejected goods within the premises of the customer before the goods are delivered back. Without express consent of TRM, rejected goods may not be subjected to any changes; otherwise all claims of the customer are excluded.
- 10.8 Warranty claims which have been rejected by TRM are subject to a statute of limitation of one month after the date on which such claims were rejected by TRM.
- 10.9 Regular wear and tear and other circumstances which are beyond any influence of TRM, such as errors or mistakes in specifications given by the customer, inadequate handling and implementation and overuse, discharge TRM of all and any responsibility. Claims for reimbursement or damages of whatever kind (consequential costs and damages, laying and exchanging costs, lost profits, freight and access costs, etc.) are excluded.
- 10.10 If a customer recedes from a contract or demands annulment without being entitled hereto, TRM may insist on fulfilment of the contract at her own discretion or agree to its annulment. In the latter case the customer must, at the discretion of TRM, even if he is not at fault and if no damage has incurred, pay a lump sum indemnity charge amounting to 20 % of the gross invoice amount concerned or, if the damages exceed this amount, reimburse the total damage suffered by TRM; this notwithstanding any other claims of TRM.

11. LIABILITY

- 11.1 Unless determined otherwise in den following paragraph all claims of customers against TRM are expressly excluded, regardless of the title upon which they may be based, in particular breach of contract and tort. In cases of breach of major contractual obligations and except for cases of wilful intent or gross negligence TRM only assumes liability for damages typical to the respective contract and within a scope which is reasonably foreseeable in advance. All limitations and exclusions of liability of TRM expressly extend to and apply for any personal liability of employees, workers and authorized representatives of TRM.



- 11.2 The liability of TRM regarding all and any claims – regardless of their legal grounds – is (to the extent legally permissible) limited to the sales price of the delivered product or item which caused the damage, and in any case to a maximum of EUR 8.000. All liability for minor negligence of TRM and her assistants, authorized representatives and executives is, in absence of any applicable regulations of mandatory law contrary hereto, excluded entirely.
- 11.3 The foresaid also applies regarding liability for damages suffered by third parties, consequential damages, lost profits or any other pecuniary damages of the customer, such as contractual penalties, business interruptions or expected but lost savings, as well as for all and any type of damages which were not immediate physical damages to the goods delivered. In any case the customer must bear the burden of proof for gross negligence of TRM.
- 11.4 For goods which were sold as declassified materials, so called B-stock, all liability of TRM is excluded, as far as this exclusion is legally admissible. Notwithstanding any regulations of mandatory law, all claims for damages and warranty against TRM are limited to a period of one year after the date of transfer of peril and risk.
- 11.5 All and any regress claims raised against TRM by the customer or third parties based on product liability in the meaning of the Austrian Law on Product Liability (PHG) are expressly excluded, unless the claimant can prove, that a defect was caused in the sphere of responsibility of TRM and was caused at least by gross negligence on the side of TRM. TRM and their sub-suppliers and sub-contractors are not liable for material (property) damages of any type, if the customer is not a consumer. In case of resale of delivered goods, the customer must extend to and bindingly impose this exclusion of liability upon third parties and can be held liable by TRM or any damages due to customer`s failure to fulfil this obligation.
- 11.6 If claims based on defectiveness of a product delivered by TRM should be raised against a foreign customer, all legal disputes over this customers regress claims are subject exclusively to the laws of the Republic of Austria under express exclusion of the regulations on the conflict of laws as contained therein (IPRG). TRM does not accept or recognize any limitations to the obligations and liabilities of her customers resulting from the Austrian Product Liability Law (PHG), or limitations to her own claims based on this law or on other legal regulations.
12. DATA PROTECTION - Declaration of consent
- 12.1. TRM will treat the (personal) data of the customer confidentially and in accordance with the statutory data protection provisions and this data protection declaration.
- 12.2. The customer gives his consent that all personal data provided to TRM in the context of his business activities may be used and processed by TRM.
- 12.3. Personal data is any information by which the customer can be identified (e.g. name, address, telephone number, email address, contract data, etc.).
- 12.4. The (personal) data provided by the customer will be processed for the execution of pre-contract measures, for the fulfilment and performance of the contract, for maintaining the business relationship and for marketing purposes.
- 12.5. As far as it is necessary to achieve the abovementioned objectives, the customer gives his consent that his personal data may also be transferred to companies that are used for fulfillment of the contract (third parties). Recipients of transmission may also be located in countries with a lower level of data protection.
- 12.6. TRM will save all customer data for as long as necessary for the above mentioned purposes.
- 12.7. The customer has the right to information, correction, deletion, restriction of processing, data transferability, revocation and objection. The customer also has the right to lodge a complaint with your national Data Protection Authority (in Austria: Datenschutzbehörde, Barichgasse 40-42 1030 Wien).
- 12.8. The legal basis for the processing of this data is the given consent to the data processing (Art 6 para. 1 lit a DSGVO) the fulfilment or initiation of a contract (Art 6 para. 1 lit b DSGVO), as well as the legitimate interest of the person responsible (Art 6 para. 1 lit f DSGVO).



12.9. Responsible for data processing: Tiroler Rohre GmbH, Innsbrucker Straße 51, 6060 Hall in Tirol, office@trm.at

13. APPLICABLE LAW, JURISDICTION, PARTIAL INVALIDITY, LANGUAGE

- 13.1 All contracts with TRM and for services performed in connection therewith are governed exclusively by and on the basis of Austrian Law under express exclusion of the regulations regarding the conflict of laws (IPRG) contained therein. Applicability of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.
- 13.2 The competent court in 6020 Innsbruck, Austria, shall have sole and exclusive (national and international) jurisdiction regarding all disputes arising from, with regard to or in connection with contracts concluded with TRM and the fulfilment of such contracts.
- 13.3 Notwithstanding the above agreements regarding jurisdiction and applicable law, TRM reserves the right to take legal action and file claims against a customer before any other Austrian or foreign court the jurisdiction of which can be sought under applicable law, at her own discretion, in particular at the seat or residence of a customer. The interpretation of this and the above agreement on competent jurisdiction and applicable law shall again be grounded upon and governed exclusively by Austrian Law under express exclusion both of the regulations regarding the conflict of laws (IPRG) contained therein and of the United Nations Convention on Contracts for the International Sale of Goods.
- 13.4 If one or several stipulations of these General terms of sale and delivery or any other agreement made with a customer should become or prove to be invalid, all and any other agreements and conditions remain in full force and unaltered. The customer expressly agrees that in such case the invalid clause or agreement shall be replaced by such a permissive and valid clause, as comes closest to its financial and legal object and purpose.
- 13.5 The contract language is German only. In case of any dispute over the meaning or content of contractual or any other agreements – in particular between the German and the English language version of these general terms of sale and delivery - the contents and meaning of this German language version shall be regarded as only authoritative version.