



TERMS AND CONDITIONS

TUBEFORCE AG

1. General information / validity

These Terms and Conditions ("T&C") apply to all deliverables and services from TUBEForce AG and form an integral part of our quotations, order confirmations and invoices.

Conflicting terms of business, agreements or deviations are only binding if we have explicitly agreed to them in writing. In particular, the customer's terms and conditions printed on orders or other correspondence or otherwise provided are not binding for TUBEForce AG. The rejection of other terms and conditions is not stated explicitly in each case. Matters not governed by these Terms and Conditions or written agreements are evaluated in accordance with the Swiss Code of Obligations (OR), the Swiss Civil Code (ZGB) and the Swiss Insolvency Law (SchKG).

If individual provisions in these T&C are found to be partially or wholly ineffective, this shall be without prejudice to the remaining provisions. These terms replace all previous T&C and enter into effect from September 2021.

2. Prices

All our prices are quoted in Swiss Francs, exclusive of VAT. Prices which have been confirmed shall remain valid for three months.

TUBEForce AG reserves the right to adjust prices if salaries, exchange rates or prices for materials change between the time the order was confirmed and the time of contractual fulfilment.

Prices will also be adjusted if

- the deliverable or service is delayed for any reason. Irrespective of whether the delay was caused by TUBEForce AG or the customer / builder or the construction cycle.
- the type or scope of the agreed deliverables or services has changed.
- the material or execution changed because the documents supplied by the customer / building owner did not accurately reflect conditions or were incomplete.
- force majeure occurs as per the terms under 'Force Majeure'.
- laws, regulations, or principles of interpretation or application have changed.

Unless included in quotations or confirmations, the customer shall bear all ancillary costs, such as for freight, insurances, export, transit, import and other permits as well as certifications. The customer shall also be liable for all taxation, levies, fees, tariffs and similar, as well as all associated administrative costs, which are charged in connection with the contract or its fulfilment.

3. Quotations

Our quotations remain valid for three months and are subject to change and without obligation until we have provided confirmation in writing.

Obvious calculation errors in the prices in quotations may be charged subsequently. The quoted prices and conditions derive from the system as a whole. If only part of the project is commissioned, or if fulfilment occurs in stages, the prices may be adjusted accordingly.

Quotations can involve a lot of work and are generally provided free of charge. They may not be disclosed to third parties without written consent from TUBEForce AG. If quotations, plans or sketches are shared with third parties without our consent, TUBEForce AG will invoice the customer for the work involved up to that point.

4. Technical documentation

Brochures and catalogues are not binding unless otherwise agreed. Information in technical documentation is only binding insofar as it has been expressly guaranteed.

TUBEForce AG reserves the right to make changes to the designs and measurements of utilised components. Materials and components may be substituted with equivalents.

5. Pictures, mass, weight and the use of equipment

Corresponding information is supplied by us without commitment. TUBEForce AG reserves the right to make changes to the designs and measurements. TUBEForce AG may substitute equipment, material and parts thereof with equivalents. If the customer procures replacements from third parties, installing them will void the TUBEForce AG warranty.

If replacements affect the function or safety of the delivery system, any warranty for the system is explicitly excluded. Moreover, our requirements regarding the guarantee as per section 16 of these T&C must be observed.

6. Term of delivery

The term of delivery commences with the signing of the contract or written confirmation of the order, but no earlier than after the customer has supplied all the requisite information, building permits and documents (including technical data) and, where applicable, provided collateral and made down payments. The term that is set reflects the conditions at the time the contract is signed and is communicated to the customer as a written order confirmation.

The term of delivery may be extended within reason if obstacles arise which are outside of our responsibility, such as late payments, late provision of technical details, subsequent changes to the order, or late or faulty delivery of the required equipment and components. Late delivery does not entitle the customer to compensation, penalties for non-fulfilment, or a rescission of the contract. Any obligation to deliver is forfeited if the customer becomes insolvent.

7. Obligation to deliver

The obligation to deliver comes into effect upon delivery of the written order confirmation to the customer. Delivery is made on account at the customer's risk. Where goods are shipped, the obligation to deliver is deemed fulfilled once they have been turned over to the forwarder.

TUBEForce AG is entitled to provide the deliverables and services in full or as partial deliveries.

Unless written instructions stipulate otherwise, TUBEForce AG will choose the type of delivery and packaging. Packaging, excluding original packaging, will be invoiced. Transit damage must be claimed from the forwarder immediately.

8. Force majeure

Events which are unforeseeable, unavoidable, or for which we are not responsible, such as strikes, pandemics, fires, disruption of operations, material shortages at suppliers, or which result from global economic crises or governmental measures will extend the delivery term and associated obligations by the duration of the disruption and its repercussions. The customer will be notified of the delay.

TUBEForce AG may withdraw from the contract without providing compensation. The customer may withdraw from the contract without providing compensation if the deliverable or service is delayed by 12 months due to force majeure. Any expenses incurred and costs for procured material up to that point shall be borne in full by the customer.

9. Obligation to accept

The customer's obligation to accept the delivery remains unaffected by delays. If delivery of the ordered goods is not possible after notification that they are ready to be delivered, and TUBEForce AG is not responsible for the delay, the material will be invoiced and stored with a third party or the supplier at the customer's expense and risk. Any resulting costs and damage due to a delayed acceptance by the customer will be invoiced in full.

10. Defects

Notices of defects due to the deliverable or service not being fulfilled as per the contract must be made in writing within eight calendar days from receipt of the material or acceptance of the service. If complaints are made any later, they cannot be given consideration and the deliverable or service will be deemed as having been accepted by the customer.

11. Taking back delivered materials and equipment

TUBEForce AG will decide whether to take back material, equipment or instruments at its sole discretion. We expressly advise that TUBEForce AG is under no obligation to take these back.

The effective costs for inspections, handling and repairs, but at minimum 10% of the value of the goods, will be charged to the customer or deducted from a credit note. The customer shall bear the shipping costs. Job productions and custom-made productions cannot be returned and must be paid for by the customer in full.

As a rule, material and equipment that was delivered over a year ago cannot be returned. The same applies for instruments which are dirty or damaged.

12. Installing, commissioning, operation and servicing

The deliverables and services rendered must be installed, commissioned, operated and serviced in accordance with the information and instructions prepared by TUBEForce AG. They may be carried out by TUBEForce AG or by third parties authorised by TUBEForce AG. Warranty claims carried out by authorised third parties for the functioning of plants may only be asserted with documentation that commissioning was carried out in accordance with the guidelines issued by TUBEForce AG and upon production of a signed commissioning report. The commissioning report must be turned over to TUBEForce AG no later than two weeks after commissioning.

13. Payment terms

The payment terms referenced in the order document, order confirmation or a quotation signed by the customer must be observed and are binding for the customer (automatically considered to be in default after the due date has expired). Any unjustified trade discounts will be reclaimed.

Generally, instruments and tanker deliveries are invoiced immediately. If shipment / on-call assembly takes longer than one month, the service or deliverable is invoiced in advance.

Moreover, TUBEForce AG reserves the right to demand partial payments or the full invoice total as per the order document in advance, even if the service or deliverable has not yet been provided, or has not been fully provided. If advance payments are demanded, the payment term is 30 days. If the term expires without payment, the customer defaults automatically without further notice.

Moreover, the customer is not permitted to withhold or reduce payments due to complaints or counterclaims which TUBEForce AG does not recognise.

14. Ownership, use and risk, transport, insurance and packaging

The delivered goods remain the property of TUBEForce AG until paid for in full. The benefits and risk pass to the customer when the delivery leaves the factory, even if it will be installed at a later date. If the shipment is delayed for reasons beyond the control of TUBEForce AG, the delivery will be placed in storage at the customer's express risk and cost. TUBEForce AG may choose the type of temporary storage at its own discretion. The customer is responsible for insuring the goods against losses of all kinds.

15. Liability

The liability of TUBEForce AG for all losses and consequential losses lapses if any interventions or changes were made to plants or their parts by third parties not expressly authorised to do so by TUBEForce AG. Likewise, TUBEForce AG is not liable for any omissions by the customer, such as omitting periodic maintenance. If a deliverable / service is not as specified in the contract, we shall be granted the opportunity to remedy the defects. If third parties are brought in to determine or remedy the damage, we will only bear the associated costs if we commissioned them. Claims which go beyond this, in particular claims for compensation, consequential costs or a rescission of the contract, are excluded.

16. Guarantee

TUBEForce AG provides a two-year guarantee for the correct functioning and contractually stipulated performance and characteristics of the systems we deliver, provided that the schematic diagram, installation, functional test, commissioning and adjustment were all performed by us. If one or more of the preceding services are omitted, the guarantee is limited to the manufacturer's or supplier's warranty for the respective devices or instruments.

The guarantee period commences once the service has been rendered, the deliverable has left the factory, or where plants are commissioned, once commissioning is completed or a valid acceptance report has been provided. If system functioning is disrupted in the guarantee period, we will provide troubleshooting free of charge and as quickly as possible. If the malfunction is due to a faulty piece of equipment supplied by us, we will repair or replace it. TUBEForce AG shall decide at its own discretion whether a repair or replacement is in order. A reduction in price or withdrawal from the contract is excluded.

Other obligations, such as assessing the cause of the damage, costs for replacements, experts and so forth, are excluded. In particular, TUBEForce AG is not liable for consequential losses (interruption of operation, etc.).

In all cases, a guarantee claim is only valid if:

- the equipment was installed and deployed in accordance with the manufacturers' standards.
- It was used appropriately after installation.
- No alterations were made by third parties.
- Appropriate servicing was provided by an authorised specialist company, which the customer is able to document.

Defects which are covered by the guarantee are limited to those which seriously impede serviceability.

Irregularities in appearance due to production factors and an expected wear and tear of parts with a limited operating life (electronic parts, seals, etc.) are not defects.

The guarantee does not extend to damage due to force majeure, overloading, improper operation, third-party interventions and changes, aggressive media, or damage to equipment, seals or security seals due to excessive media or ambient temperatures. The guarantee is also voided if the payment terms are not observed.

In all cases, the guaranteed amount is limited to the invoice total. Any further liability is excluded.

17. Rescission of the contract by TUBEForce AG

The contract shall be amended appropriately if unforeseeable events occur which substantially alter the economic significance or content of the deliverable or service, or substantially affect its fulfilment by TUBEForce AG, or if the contractual performance subsequently proves to be partially or entirely impossible. If performance is not economically feasible, TUBEForce AG is entitled to rescind the contract or the sections concerned.

If TUBEForce AG intends to rescind the contract, it must notify the customer thereof immediately. In the event of a rescission of the contract, TUBEForce AG is entitled to payment for performances provided and materials supplied up to that point.

Claims for compensation by the customer are excluded.

18. Reductions of the order and annulments by the customer

Reductions of the order and annulments are only valid if we have confirmed them in writing. Any costs incurred for order processing up to that point will be invoiced in full.

19. Confidentiality, ownership of technical documentation and calculations

All technical documentation, calculations, schematic diagrams, plans, proposed solutions, etc. created by us remain the intellectual property of TUBEForce AG and may not be copied, reproduced or disclosed to third parties in any manner. Moreover, the data may not be used to create a system or its components. The customer must keep the documents and information confidential. They may only be used for operation and servicing insofar as they are provided for that purpose.

If the customer violates the aforementioned confidentiality obligation or ownership rights, it shall be liable to pay TUBEForce AG a penalty of 20% of the price agreed in the contract. Payment of the penalty shall not release the customer from its obligation to uphold confidentiality. Likewise, the ownership rights shall remain with TUBEForce AG. Moreover, the legal consequences of such violations as set forth in law shall apply.

20. Place of fulfilment

Trogen AR is the place of fulfilment for deliverables, services and payments.

21. Place of jurisdiction and applicable law

Trogen AR is the place of jurisdiction for both parties. The laws of Switzerland apply. The United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

22. Validity

These T&C are binding for all contracts, deliverables and services. Arrangements which depart from these terms require written consent from TUBEForce AG.

23. Service

There are additional, generally binding terms for servicing contracts and service orders which do not encroach on the validity of these T&C or which supplement these T&C.