



**T.T.I.- TUBACEX TUBOS INOXIDABLES AND ACERALAVA  
GENERAL TERMS AND CONDITIONS OF SALE**

**I. CONTRACTS**

1. Every agreement entered into by TUBACEX TUBOS INOXIDABLES, S.A. ("TTI") or ACERALAVA (hereinafter indistinctly referred to as the seller) with any of their purchasers (hereinafter referred to as the purchaser) of its goods will be exclusively subject to these terms, unless otherwise agreed in writing. In the event of conflict of these general conditions of sale with any other purchasing conditions of the purchaser, the ones contained herein shall at all times prevail save if previously confirmed by the seller in writing.
2. The offers of the seller are non binding and shall only become binding upon written confirmation of the order. Agreements, undertakings and declarations of all kinds must be made in writing in order to be legally valid. This also applies to a waiver of the written form requirement.
3. Any variations in quantities need to be specifically agreed in writing over the relevant order for their validity. The quantities binding for the invoiced amounts shall be those determined through the calibrated measuring means of the seller.
4. In case of unilateral suspension or cancellation by any of the parties for no cause, the non-terminating party shall be indemnified for all losses and damages arising from it. Notwithstanding the above, any confirmation order cancelled will have a penalty of 3% of the order value. Additionally, if the order has been launched in the mill, the seller will be indemnified by the value of the work in progress.
5. Incoterms as adjourned in their last valid version shall be applied, whenever stated in the confirmation of the relevant order.

**II. ACCEPTANCE AND DELIVERY**

1. Partial deliveries are admissible.
2. Delivery deadlines and other terms commence on the date of the confirmation of the order by the seller.
3. The delivery obligation is also considered fulfilled, when readiness for shipment or acceptance was notified, but the goods are not accepted or cannot be picked up or shipped in time without the seller's fault.
4. In case of an acceptance default, the seller reserves the right to withdrawal from the contract. As far as this default was caused by the purchaser - or the persons employed by him/her to fulfil the obligations- with gross negligence or wilful misconduct, the purchaser shall indemnify the seller for all damages and losses (including consequential damages and loss of profits) .
5. If the purchaser gets into acceptance default or if, in case of blanket orders, the relevant order is not affected within 30 calendar days after the agreed order date, the seller is entitled to ship the goods at the risks and costs of the purchaser at the choice of seller or to store them in an optional manner (being all storage costs to be assumed by the purchaser).
6. At this point of time, the goods are considered delivered as per agreement in every respect and the risk is transferred to the purchaser, in case it has not been transferred before. The purchaser immediately has to proceed with the corresponding payments, which are due for the case of delivery or which are caused by the delivery.

**III. SHIPMENT AND TRANSFER OF RISK**

1. All goods are considered shipped in orderly condition. Damages are considered to have occurred during transportation until the opposite is verified. If as per the applicable Incoterm, the damage has occurred in the area of risk taking of the seller, the purchaser has to preserve the rights of the seller against the carrier or its transport insurer with the otherwise loss of possible claims against the seller.
2. For possible losses, damages or confusions, the purchaser is obliged to immediately effect the official confirmation required for the assertion of claims for compensation on receipt of the goods and to pass it on to the seller.

**IV. PRICE AND PAYMENT**

1. All prices are understood net of domestic value added tax.
2. The agreed place of payment is the territory of the seller and it will be requested as agreed in the confirmation of the order. Payment is executed net cash, free of charges. Set-off or retention in connection with asserted counterclaims is excluded.
3. Seller reserves the right to accept discountable and regularly charged bills; it takes place, however, on account of payment in any case. Credit notes over received bills of exchange and checks are always valid subject to the correct entry of the value. The discount interests and charges resulting from that are the expense of the purchaser. Seller accepts no liability for the timely presentation, protesting, notification and re-transfer of the bill if not cashed.
4. In case of default in the payment of the invoices, the purchaser will be charged default interest and further applicable charges notwithstanding further legal consequences. It is agreed that default interest shall amount to 3% over the respective 3-month-EURIBOR valid at the point of time of the default in payment.
5. Incoming payments are notwithstanding contradictory payment dedications charged up against the respectively oldest outstanding claim; first of all to the costs and other supplementary fees, then to interests and finally to the capital.
6. The goods remain property of the seller and shall retain at all times their legal title, until the complete payment of purchase price (including interest and fees).
7. The purchaser undertakes to reimburse the fines and collection charges arising for the seller in case of default with the purchasers contractual payment obligations.
8. In case the terms of payment are not fulfilled or the seller learns about circumstances, which in their opinion are suitable to reduce the credit standing of the purchaser, all claims of seller, also such from other contracts, become immediately due, independent of the term of possibly taken in and credited bills. The seller is then also entitled to execute still outstanding deliveries against advance payment only.

**V. OBLIGATION FOR EXAMINATION AND FOR GIVING NOTICE OF DEFECTS**

1. The purchaser has to examine deliveries of the seller immediately after receipt and has to notify the seller immediately, not later



than the following calendar week, about any possible complaints, especially deviations from the order. This applies to material defects, short deliveries and differing deliveries.

2. Hidden defects as well as other deviations from the order, which are not immediately recognizable, have to be asserted judicially within 12 calendar months in any case.
3. On violation of the obligation for examination and to give notice of defects or on assertion later than 12 months (not in service) after delivery, all legal dispositive rights and claims for damages of the purchaser from a possible deviation of the delivery from the order are barred and excluded.

#### **VI. FORCE MAJEURE**

1. Events of force majeure and other circumstances beyond the sphere of influence of the seller, like e.g. operational interferences, traffic interferences as well as difficulties in the supply of the factories with power, raw materials, fuels and auxiliary materials, acts of god, and further hindrances in production and delivery exclude claims for damages of the purchaser and entitle the seller either to extend the delivery deadline or to completely or partially withdraw from the contract.
2. Force majeure further includes strike, lockout and further circumstances, which essentially complicate the delivery or even make it impossible, whereby it is of no importance, whether they occur at the seller or one of its sub-suppliers.
3. The seller undertakes to inform promptly the purchaser about the occurrence and the termination of such delivery hindrances.
4. In case of a justified withdrawal of the purchaser due to force majeure or similar delivery hindrances, the costs and charges accrued at the seller are borne by both contract parties by one half each according to equity.
5. If the circumstances, under which the contract was concluded, changed that considerably, that rightly it may be assumed, that the conclusion would not have taken place at all under the changed circumstances or at least at other terms, seller is entitled to withdraw from the contract or to demand a change of the contractual provisions, like e.g. payment in other currency, change of the delivery modalities, etc., which would take the changed circumstances into account.
6. The change of the circumstances can also be justified with substantial changes of the economic and financial conditions of the purchaser.

#### **VII. WARRANTY**

1. Saved for proven otherwise, upon their handover, the goods are considered delivered as per contract and fit for purpose. The warranty obligation is 12 months in any case from delivery of the goods.
2. In case of defects, which need to be perfectly verified and exclude the applicability of the warranty to the goods in the event of absence of verification, the seller accepts to either –at its choice- (i) take back the goods at the calculated price; (ii) eliminate the defect; or (iii) free of charge replaces the goods by new ones, which correspond the order. The complained goods are to be sent back on demand or after request for the approval of seller.
3. Warranty claims going beyond this, from whichever title, are expressly excluded, as far as this is legally admissible.
4. Warranty does not cover the goods (i) if processing is done to the goods after the delivery that may deteriorate the characteristics of the material (e.g. thermal treatments, inaccurate welding, etc) and/or (ii) if there are material upgrades not previously accepted in written by the seller.

#### **VIII. LIABILITY**

1. All claims for damages, especially such for consequential damages of defects against seller or the persons employed in the performance of its obligations, are excluded, as far as this is legally admissible and they are not based on wilful misconduct or gross negligence of the seller.
2. The purchaser has to furnish the proof of the presence of wilful misconduct or gross negligence.
3. The purchaser relinquishes possible claims of recourses, which could arise to him against the seller due to own liability. The purchaser undertakes to pass the relinquishments on damages and recourse as well as the obligation for passage in case of reselling of the goods to his/her purchasers. In case of violation of this obligation, the purchaser indemnifies the seller for all claims of third parties caused by that and indemnifies also against legal actions.
4. Claims for damages and recourses have to be legally asserted against the seller within 12 months (not processed material), with otherwise forfeiture.
5. Seller will not be responsible in any case of the processing done to the goods after the delivery that may deteriorate the characteristics of the material (e.g. thermal treatments, inaccurate welding, etc).
6. Seller will not be responsible in any case of consequences derived of material upgrades if not previously accepted in written by the seller.

#### **IX. GENERAL**

1. Should individual provisions of these terms of sale be or become completely or partially ineffective, invalid or unenforceable, this does not affect the effectiveness, validity or enforceability of the further provisions.
2. TTI or Aceralava products procured by the purchasers from TTI, Aceralava or any subsidiary of Tubacex Group may not be used, resold, diverted, transferred, or otherwise exported, directly or indirectly in any manner that would violate none of applicable Export rules and controls. The purchaser undertakes to comply with these rules and controls and to indemnify the seller in any case of breach of those rules and controls.
3. Sellers territorial law is applicable to the legal relations of the contract parties.
4. In case of lawsuits, both parties submit to the relevant competent court of the corporate domicile of seller but the seller reserves the right to attend to the Courts of the purchaser's country to claim any amount pending of payment.