

Terms & Conditions

of Pipe-Seal-Tec GmbH & Co. KG, as at: 12/2018

use towards companies

§ 1 Validity

(1) All deliveries, services and offers of Pipe-Seal-Tec GmbH & Co. KG are made exclusively on the basis of these Terms and Conditions. These are inherent to all contracts that are concluded on the goods, supplies or services offered. They also apply to all future deliveries, services or offers, even if they are not separately agreed again.

(2) Terms and conditions of the client or customer or third parties do not apply, even if Pipe-Seal-Tec GmbH & Co. KG does not separately contradict their validity in individual cases. Even if Pipe-Seal-Tec GmbH & Co. KG considers a letter which contains or refers to the terms and conditions of the client or customer or a third party, this does not constitute acceptance of the validity of those terms and conditions.

§ 2 Offer and conclusion of the contract

(1) All offers made by Pipe-Seal-Tec GmbH & Co. KG are subject to change and non-binding, unless they are expressly indicated as binding or contain a specific acceptance period. Orders or assignments can be accepted by Pipe-Seal-Tec GmbH & Co. KG within 14 days of receipt.

(2) The sole legal basis for the legal relations between Pipe-Seal-Tec GmbH & Co. KG and the client or customer is the written purchase agreement, including these Terms and Conditions. This completely represents all agreements between the contracting parties on the subject of the contract. Verbal promises by Pipe-Seal-Tec GmbH & Co. KG prior to the conclusion of this contract are legally non-binding and verbal agreements of the parties are replaced by the written contract

unless they expressly demonstrate that they are binding.

(3) Additions and amendments to the agreements made, including these Terms and Conditions, must be made in writing in order to be valid. With the exception of managing directors or authorised officers, the employees of Pipe-Seal-Tec GmbH & Co. KG are not entitled to make deviating verbal agreements thereto. For the validity of the written form telecommunication transmission suffices, in particular by fax or by E-Mail, if the copy of the signed explanation is submitted.

(4) Indications by Pipe-Seal-Tec GmbH & Co. KG on the subject of the delivery or service (e.g. weights, dimensions, use values, loading capacity, tolerances and technical data) as well as the illustrations thereof (e.g. drawings and illustrations) are only approximately relevant, unless the applicability for the contractually intended purpose requires an exact agreement.

They are not guaranteed qualities, but rather descriptions or markings of the delivery or service. Customary deviations and deviations, which occur due to legal regulations or represent technical improvements, as well as the replacement of components by equivalent parts are permissible, as far as they do not affect the usability for the contractually intended purpose.

(5) Pipe-Seal-Tec GmbH & Co. KG retains ownership or copyright of all offers and cost estimates submitted by it as well as drawings, illustrations, calculations, brochures, catalogues, models, tools and other documents and auxiliary means made available to the client or customer. The client or customer may not make these items accessible to third parties without the express consent of Pipe-Seal-Tec GmbH & Co. KG, or make them known, use them or reproduce them themselves or through third parties. At the request of Pipe-Seal-Tec GmbH & Co. KG, he must return these items in full and destroy any copies made if they are no longer required by him in the ordinary course of business or if negotiations do not lead to the conclusion of a contract.

§ 3 Prices and payment

(1) The prices apply to the goods, services and delivery listed in the order confirmations. Additional or exceptional services are calculated separately. The prices are in EURO plus value added tax, packaging, freight, customs duties as well as fees and other public charges or ancillary services.

(2) Insofar as the agreed prices are based on the list prices of Pipe-Seal-Tec GmbH & Co. KG and the delivery shall take place more than four months after the conclusion of the contract, the list prices of Pipe-Seal-Tec GmbH & Co. KG apply.

(3) Invoices are payable within 30 days without any deductions, unless otherwise agreed in writing. Decisive for the date of payment is receipt at Pipe-Seal-Tec GmbH & Co. KG. Cheques are only valid as payment after cashing. If the client or customer fails to pay on the due date, the outstanding amounts are imposed 8% points interest over the basic annual interest on the due date ; the assertion of higher interests and further damages in case of default remains unaffected.

(4) The offset against counter claims of the client or customer or the retention of payments due to such claims is only permitted if the counter claims are undisputed or legally binding.

(5) Pipe-Seal-Tec GmbH & Co. KG is entitled to execute or provide outstanding deliveries or services only against advance payment or provision of security, if after the conclusion of the contract circumstances become known which significantly reduce the creditworthiness of the client or customer and by which the payment of the outstanding claims of Pipe-Seal-Tec GmbH & Co. KG by the client or customer from the respective contractual relation (including from other individual orders, to which the same framework contract applies) is endangered.

§ 4 Delivery and delivery time

(1) Unless otherwise agreed deliveries take place from the factory (Uechtingstraße 74, 45881 Gelsenkirchen).

(2) Deadlines and terms for deliveries and services provided by Pipe-Seal-Tec GmbH & Co. KG are only approximate, unless a fixed deadline or a fixed term has been expressly approved or agreed. If shipment has been agreed, delivery periods and delivery terms refer to the time of transfer to the carrier, transport company or other third party instructed with the transport.

(3) Pipe-Seal-Tec GmbH & Co. KG may - without prejudice to its rights arising from default by the client or customer - require the client or customer to extend delivery and service periods or postpone delivery and service terms with the time the client or customer does not comply with his contractual obligations to Pipe-Seal-Tec GmbH & Co. KG.

(4) Pipe-Seal-Tec GmbH & Co. KG is not liable for impossibility of delivery or for delays in delivery, if these are due to force majeure or other unforeseeable events at the time of the conclusion of the contract (e.g. disruptions of any kind, difficulties in material or energy procurement, transport delays, strikes, lawful lock-outs, lack of manpower, energy or raw materials, difficulties in obtaining the necessary official approvals, official actions or the lack thereof, inappropriate or untimely supply by suppliers) Pipe-Seal-Tec GmbH & Co. KG is not liable. If such events of Pipe-Seal-Tec GmbH & Co. KG make the delivery or service considerably more difficult or impossible and the obstacle is not only of temporary nature, Pipe-Seal-Tec GmbH & Co. KG is entitled to withdraw from the contract. In the case of temporary obstacles, the delivery or service terms will be extended or the delivery or service dates shall be postponed by the period of the hindrance plus an appropriate start-up period. Insofar as the customer or customer can not reasonably be expected to accept the delivery or service as a result of the delay, he can withdraw from the contract by immediate written statement to Pipe-Seal-Tec GmbH & Co. KG.

(5) Pipe-Seal-Tec GmbH & Co. KG is only entitled to partial deliveries if

- the partial delivery can be used by the client or customer within the scope of the contractual purpose,
- the delivery of the remaining ordered goods is ensured and
- the client or customer thereby do not incur significant additional expenses or additional costs (unless the Pipe-Seal-Tec GmbH & Co. KG agrees to bear those costs).

(6) If Pipe-Seal-Tec GmbH & Co. KG is in default with a delivery or service or if it becomes impossible to deliver or perform any service, Pipe-Seal-Tec GmbH & Co. KG shall be liable for damage compensation, limited in accordance to § 8 of these Terms and Conditions.

§ 5 Place of performance, shipping, packaging, transfer of risk, acceptance

(1) Place of fulfilment for all obligations arising from the contractual relation is Gelsenkirchen, unless otherwise specified.

(2) The shipping method and the packaging are subject to the dutiful discretion of Pipe-Seal-Tec GmbH & Co. KG.

(3) The risk shall pass to the client or customer at the latest upon the handover of the delivery item (whereby the beginning of the loading process is decisive) to the freight forwarder, carrier or other third party designated for carrying out the shipment. This also applies if partial deliveries are made or if Pipe-Seal-Tec GmbH & Co. KG has taken on other services (e.g. shipping or installation). If the shipment or transfer is delayed as a result of a circumstance caused by the client or customer, the risk passes to the client or customer from the day on which the delivery item is ready for shipping and Pipe-Seal-Tec GmbH & Co. KG has indicated this to the client or customer.

(4) Storage costs after risk transfer are borne by the client or customer.

(5) The shipment is only insured by Pipe-Seal-Tec GmbH & Co. KG against theft, breakage, transport, fire and water damage or other insurable risks at the express request of the client or customer and at its own charge.

(6) If acceptance has to take place, the purchased item shall be deemed accepted when

- Pipe-Seal-Tec GmbH & Co. KG has communicated this to the client or customer with reference to the acceptance of the goods in accordance with this § 5 (6) and has requested him to accept,
- twelve working days have passed since the delivery or installation, or the client or customer has started to use the purchased goods (e.g. put the delivered equipment into operation) and in that case six working days have passed since delivery or installation, and
- the client or customer has failed to accept the goods within this period for any reason other than a defect informed to Pipe-Seal-Tec GmbH & Co. KG, which makes the use of the goods impossible or substantially impairs it.

§ 6 Guarantee, material defects

(1) The guarantee period is one year from delivery or, if acceptance is required, from acceptance.

(2) The delivered items must be inspected carefully immediately after delivery to the client or customer or to the third party appointed by him. They shall be considered approved by the client or customer in the case of obvious defects or other defects which would have been apparent in the course of an immediate, careful examination, if Pipe-Seal-Tec GmbH & Co. KG does not receive a written notice of defects within seven working days from delivery. Regarding other defects, the delivery items shall be considered approved by the client or customer if the defects complaint does not reach Pipe-Seal-Tec GmbH & Co. KG within seven working days from the time the defect was revealed; if the defect was already apparent to the client or customer under normal use at an earlier point in time, that earlier time shall be decisive for the start of the complaint period. Upon request of Pipe-Seal-Tec GmbH & Co. KG, a rejected delivery item shall be returned prepaid to Pipe-Seal-Tec GmbH & Co. KG. In the case of a justified complaint, Pipe-Seal-Tec GmbH & Co. KG pays the costs of the cheapest shipping route; this does not apply if the costs increase because the delivery item is located in a place other than the place of intended use.

(3) In the event of material defects of the delivered goods, Pipe-Seal-Tec GmbH & Co. KG is obliged and entitled to repair or replace the goods after the choice of a reasonable period has been made. In case of failure, i.e. the impossibility, unacceptability, refusal or inappropriate delay of the repair or replacement, the client or customer can withdraw from the contract or reduce the purchase price accordingly.

(4) If a defect is due to default of Pipe-Seal-Tec GmbH & Co. KG, the client or customer may claim compensation under the conditions specified in § 8.

(5) In case of defects of components from other manufacturers, which Pipe-Seal-Tec GmbH & Co. KG can not remove for licensing or actual reasons, Pipe-Seal-Tec GmbH & Co. KG shall, at its discretion, assert its guarantee claims against the manufacturers and suppliers on behalf of the client or customer or transfer these to the client or customer. Guarantee claims against Pipe-Seal-Tec GmbH & Co. KG only exist in such defects under the other conditions and in accordance with these terms and conditions if the judicial enforcement of the above claims against the manufacturer and supplier was unsuccessful or, for example, due to bankruptcy, is futile. During the legal dispute, the limitation period of the respective guarantee claims of the client or customer against Pipe-Seal-Tec GmbH & Co. KG is suspended.

(6) The guarantee is void if the client or customer changes the delivery item or has it modified by third parties without the consent of Pipe-Seal-Tec GmbH & Co. KG and the elimination of defects becomes impossible or unreasonably difficult. In any case, the client or customer has to bear the additional costs incurred by the change to remedy the defect.

(7) A delivery of used items agreed in individual cases with the client or customer is made under exclusion of any guarantee for material defects.

§ 7 Property rights

(1) Pipe-Seal-Tec GmbH & Co. KG is responsible in accordance with this § 7 that the delivery item is free from industrial property rights or copyrights of third parties. Each contracting party will notify the other contracting party in writing without delay if claims against the contracting party are asserted against it.

(2) In the event that the delivery item violates a commercial property right or copyright of a third party, Pipe-Seal-Tec GmbH & Co. KG shall modify or replace the delivery item at its choice and charge in such a way that no rights of third parties are no longer violated, the delivery item, however, continues to fulfil the contractually agreed functions, or grant the client or customer the right of use by concluding a licensing agreement. If he fails to do so within a reasonable period, the client or customer is entitled to withdraw from the contract or to reduce the purchase price accordingly. Any claims for damages of the client or customer are subject to the restrictions of § 8 of these Terms and Conditions.

(3) In the event of infringements by other manufacturers of products supplied by Pipe-Seal-Tec GmbH & Co. KG, Pipe-Seal-Tec GmbH & Co. KG will assert its claims against the manufacturers and upstream suppliers on behalf of the client or customer or assign it to the client or customer. In that event, claims against Pipe-Seal-Tec GmbH & Co. KG only exist in accordance with this § 7 if the enforcement of the aforementioned claims against the manufacturers and upstream suppliers was unsuccessful or, for example, due to insolvency, futile.

§ 8 Liability for damage compensation due to fault

(1) The liability of Pipe-Seal-Tec GmbH & Co. KG for damages, for whatever legal reason, in particular impossibility, delay, inadequate or incorrect delivery, breach of contract, breach of obligations in contract negotiations and prohibited action is, as far as it concerns a fault, restricted in accordance with this § 8.

(2) Pipe-Seal-Tec GmbH & Co. KG is not liable in case of slight negligence on the part of its bodies, legal representatives, employees or other agents, insofar as it does not

concern a violation of essential contractual obligations. Essential to the contract are the obligation of timely delivery and installation of the delivery item, whose freedom from defects that affect its functionality or serviceability more than insignificantly, and advisory, protective and care obligations, which should enable the client or customer contractual use of the delivery object or the protection of life or limb of the personnel of the client or customer or the protection of its property against significant damage.

(3) Insofar as Pipe-Seal-Tec GmbH & Co. KG is liable for damages in accordance with § 8 (2), this liability is limited to damages which Pipe-Seal-Tec GmbH & Co. KG had anticipated or as a possible consequence of a contract violation at the time of concluding the contract or should have anticipated in the application of usual diligence. Indirect damage and consequential damage, which are the result of defects in the delivery item, are also only replaceable if such damage can typically be expected in the case of the intended use of the delivery item.

(4) In the case of liability due to simple negligence, the replacement liability of Pipe-Seal-Tec GmbH & Co. KG for damage to property and the resulting further financial loss is limited to EUR 10,000,000 per claim (corresponding to the current cover of your product liability insurance or personal liability insurance), even if it is a violation of essential contractual obligations.

(5) The above exclusions and limitations of liability apply to the same extent in favour of the bodies, legal representatives, employees and other agents of Pipe-Seal-Tec GmbH & Co. KG.

(6) Insofar as Pipe-Seal-Tec GmbH & Co. KG provides technical information or acts in an advisory capacity and this information or advice does not belong to the contractually agreed scope of services owed by it, this is done free of charge and to the exclusion of any liability.

(7) The restrictions of this § 8 do not apply to the liability of Pipe-Seal-Tec GmbH & Co. KG for intentional behaviour, for guaranteed characteristics, for injury to life, limb or health or under the Product Liability Act.

§ 9 Retention of property

(1) The goods delivered by Pipe-Seal-Tec GmbH & Co. KG to the client or customer remain the property of the seller until full payment of all secured claims. The goods as well as the goods which come under the following provisions and which are subject to retention of title are hereinafter referred to as "reserved goods".

(2) The client or customer shall store the reserved goods free of charge for PipeSeal-Tec GmbH & Co. KG.

(3) In the event of resale of the goods subject to retention of property, the client or customer already assigns the resulting claim against the purchaser - in the case of co-ownership of Pipe-Seal-Tec GmbH & Co. KG of the reserved goods in proportion to the co-ownership share - to the Pipe Seal Tec GmbH & Co. KG. The same applies to other claims that take the place of the reserved goods or otherwise arise in respect of the reserved goods, such as e.g. insurance claims or claims from unauthorised handling in the event of loss or destruction. Pipe-Seal-Tec GmbH & Co. KG authorises the client or customer revocably to collect the claims assigned to Pipe-Seal-Tec GmbH & Co. KG in its own name. Pipe-Seal-Tec GmbH & Co. KG may only revoke this direct debit authorisation in the event of enforcement.

(4) If third parties access the reserved goods, in particular through seizure, the client or customer shall immediately inform them of the ownership of Pipe-Seal-Tec GmbH & Co. KG and inform Pipe-Seal-Tec GmbH & Co. KG to enable it to enforce its property rights. If the third party is not in a position to reimburse Pipe-Seal-Tec GmbH & Co. KG for the legal or extra-judicial costs incurred in this matter, the client or customer of Pipe-Seal-Tec GmbH & Co. KG shall be liable for this ,

(5) Pipe-Seal-Tec GmbH & Co. KG shall release the goods subject to retention of property as well as the goods or receivables which replace them if their value exceeds the amount of the secured claims by more than 50%. The selection of the items to be released thereafter is done by Pipe-Seal-Tec GmbH & Co. KG.

(6) If Pipe-Seal-Tec GmbH & Co. KG withdraws from the contract in the event of breach of contract by the client or customer - in particular default of payment - (recovery case), it is

entitled to demand the return of retention of property.

§ 10 Final provisions

(1) If the client or customer is a merchant, a legal entity under public law or a special fund under public law or if he has no general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for any disputes arising from the business relation between Pipe-Seal-Tec GmbH & Co. KG Co. KG and the client or customer is, at the discretion of Pipe-Seal-Tec GmbH & Co. KG, Gelsenkirchen or the place of registered office of the client or customer. For complaints against Pipe-Seal-Tec GmbH & Co. KG, however, Gelsenkirchen is the exclusive place of jurisdiction. Mandatory statutory provisions on exclusive jurisdictions remain unaffected by this provision.

(2) The relations between Pipe-Seal-Tec GmbH & Co. KG and the client or customer are exclusively subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) does not apply.

(3) Insofar as the contract or these Terms and Conditions contain gaps in the rules, those legally effective provisions shall be deemed to have been agreed, which the contracting parties would have agreed according to the economic objectives of the contract and the purpose of these Terms and Conditions if they had known the gap in the regulations.

Note:

The client or customer accepts that Pipe-Seal-Tec GmbH & Co. KG stores data from the contractual relationship in accordance with § 28 of the Federal Data Protection Act for the purpose of data processing and reserves the right to use the data as necessary for the fulfilment of the contract (e.g. insurance).