



SPICER GELENKWELLENBAU

General Purchase and Delivery Conditions

1. General

1.1 Our purchase and delivery conditions (from this point forth referred to as purchase conditions) are applicable for all orders for goods which Spicer Gelenkwellenbau GmbH issues in business with other companies, within the scope of purchase-, work- and other contracts.

1.2 The most recent version of these purchase conditions, which is available from the internet on www.gwb-essen.de, is applicable for every order. On request we are willing to send the valid version of our purchase conditions by post. The most recent version of our purchase conditions is valid for all future business with the supplier and will supersede any earlier versions.

1.3 Our purchase conditions are also valid, if we have knowledge regarding conditions of supply, which contradict or deviate from our purchase conditions, and take a delivery unreserved.

1.4. Oral agreements are not valid.

1.5 We can accept reasonable changes and additions of the supplied goods referring to the design and execution. Effects upon delivery time and cost must be agreed to by both parties.

2. Offer

The supplier's offer has to correspond exactly with the inquiry relating to amount and quality. In case of changes, the supplier must inform us immediately. The offer must be made free of charge.

3. Ordering

The supplier is bound to accept and confirm our order within a one-week period of respite after receipt. Otherwise, we reserve the right to assume acceptance of the order.

4. Prices and payment conditions

4.1 All prices in our order are binding. Governmental VAT is not included in the price. One-sided changes to the order made by the supplier are invalid.

4.2 Unless otherwise requested by the supplier in writing, the price includes delivery carriage and packaging. If there is no special arrangement to the contrary, we are not bound to return the packaging to the supplier.

4.3 Invoices can only be dealt with, if – in accordance with the arrangements in the order – the correct order number is quoted. In the case that this liability is not observed, the supplier must accept the consequences, unless they can prove not to be at fault.

4.4 Payment shall be made, unless alternative terms have been agreed in writing, within 14 days of receipt of an appropriate and provable invoice, with 3% cash discount or, within 30 days of receipt of an appropriate and provable invoice, net. In the case of credit note proceeded and consignment warehouse contracts, the special conditions are valid. Early deliveries will be treated as though they arrived on the expected day.

4.5 By law, we have the right to offset or hold back payment.

5. Delivery time limit and delivery time delay

5.1 The delivery time, fixed in the order, is binding. The supplier is bound to inform us immediately in writing, if any circumstances occur, or are expected, which result in a longer than agreed delivery time.

5.2 If (production samples or) deliveries do not arrive at the specified time and place, we are justified, without loss of our statutory rights, as we see fit, to claim reparations or to cancel the contract partly or totally after an unsuccessful due time, and to demand indemnity insurance. If indemnity insurance is claimed, the supplier has the right to prove that they are not responsible for the delay.

If a fixed date is in the contract or the law does not require the time period, then we can apply our rights without giving the supplier this due time.

5.3 If products are delivered before the agreed date of delivery, we are justified to refuse receipt and to return them to the supplier at the supplier's own risk and expense.

5.4 The supplier must collect goods that are not in accordance to our order, from our company at their own expense. We are also justified to send them back at a cost to the supplier.

5.5 We are justified to change the agreed delivery date, where reasonable, if this is necessary to ensure a smooth production run in our facility.

5.6 We are justified to refuse receipt of larger or smaller than expected delivery size.

5.7 Part delivery is only valid by prior special agreement.

5.8 If the delivery is delayed, we are justified to claim compensation at a rate of 1% for every full week of the delay, but not more than 10%; this does not effect any other legal requirements. The supplier has the right to prove that no, or minimal, damage has been caused by the delay. If we can prove that the loss of earnings was higher than the compensation rate, stated above, then we can claim compensation from the supplier at this rate.

6. Delivery conditions

6.1 Delivery and dispatch of goods is at the supplier's expense and risk. If no delivery carriage has been arranged, all deliveries must be sent at the lowest costs, regardless of whether we expressed in writing for a special kind of transport to be provided.

6.2 Any increased transport costs incurred in order to fulfil the delivery date must be paid for by the supplier, unless they can prove that we are at fault for the late dispatch.

6.3 Consignments can be received at our plants on Monday till Thursday between 7.00h and 14.30h and on Friday between 7.00h and 13.00h.

6.4 Unless other arrangements are made, the delivery address is that specified on the order.

6.5 The goods should usually be delivered in commercial standard non-returnable packaging. If returnable packaging is requested then we shall return this at the supplier's expense and risk, provided that it is written in the contract that this packaging is loaned to us. If it is arranged that deliveries must be sent in SGWB-boxes, then the special arrangements are valid.

6.6 The supplier is bound to put the exact order number on the despatch and delivery notes. If this is not adhered to, we are not responsible for the delay in processing the paperwork.

7. Quality assurance and documentation.

7.1 The supplier must apply, and fulfil, at the time of delivery, the most recent version of the appropriately recognised laws, rules of technology and science and to keep to the safety regulations and the agreed upon technical data, in addition to implementing and proving compliance with a recognised standard of quality management systems (e.g. DIN EN ISO 14001, VDA 6.1, TS 16949, QS 9000 or similar).

7.2 We reserve the right to inspect the supplier's quality system and its effectiveness. Change to the delivery article requires our prior written consent.

7.3 It is the supplier's responsibility to inspect and maintain the product quality. The contracted partners must inform each other about any possibilities to improve quality.

8. Defect testing and defect liability

8.1 We are bound to inspect the products within a reasonable period of time for any quality and quantity defects. If we make a claim for obvious product defects this must be made within 5 working days of receiving the parts. We shall fulfil our inspection requirement by performing a spot check of parts to approve the delivery. If parts are purchased that are manufactured according to approved patterns, we are not bound to blame the supplier if the delivery differs.

8.2 We have full rights of warranty without limitation, as implied by law or statute. We are obliged to request the supplier to repair the defect or replace the parts with new, independent from the existence of a purchase or works contract. Furthermore, if work services are at fault, we are entitled to correct this, at the supplier's expense, if they have not fulfilled their obligation to do so themselves within the agreed due time. With purchased articles, in special cases where a quick result is required or there is a danger caused by delay, we may correct the fault ourselves, at the supplier's expense.

8.3 We are particularly entitled to cancel the contract or to claim damages instead of the services in the case of substantial problems, if the supplier does not fulfil their obligations to make reparations within

the agreed due time. Rather than claiming damages in the place of services, we can claim reimbursement for wasted expenditure.

8.4 Furthermore, we reserve the right to make a claim, as entitled by law, against losses incurred due to faults. We especially reserve the right to claim reimbursement for all consequential damages, if we have the legal grounds to do so, caused as a result of faults with the delivered articles – such as product recalls and loss of income due to lost production.

8.5 We shall only return faulty parts, at our discretion, if new problems arise with the supplier that appear to make this necessary, or to fulfil the supplier's interest in accordance with their product quality and reliability. We shall not return faulty goods that have been delivered from overseas unless we deem the product is of high importance and special inspection is required.

8.6 The period of limitation for rights according to faults is 4 years if it is for a purchase or works contract, or 5 years if it is for works on buildings or for new buildings. The period of limitation begins with the transfer of risk for a purchase contract, or for a works contract with the reception. §§438.3 and/or 634a.2 German BGB stay untouched.

9. Product liability, exemption, liability insurance protection and resort

9.1 In so far as the supplier is liable for the fault of the product he is bound to release us from a claim for damages by a third party, as any failure will have originated within their organisational area and scope of control, and because they are liable externally. For reimbursement of the damages, the principles of §254 in German BGB must be used. We shall accept an obligation for replacement, in so far as we have limited the liability towards our customers.

9.2 According to this the supplier, without affecting any other claims, is also bound to reimburse any expenditure incurred by a product recall. We will inform the supplier, so far as is possible and reasonable, of the nature and extent of the recall, and we will give them an opportunity to make a statement on this matter.

9.3 The supplier is bound to take out product liability insurance with a maximum coverage limit of at least €5 million for personal injury or damage to property. For damage claims larger than this, the requirement remains unaffected.

10. Design patent right, copyright and tools

10.1 We reserve our intellectual property and copyrights according to drawings, calculations and other documents. These may not be made available to third parties without our written consent. They are exclusively for the manufacturing according to our order. After completion of the order, they must be returned to us without need for prompting. They should be kept secret from third parties.

10.2 The supplier is liable for all claims that come from use of the goods, according to the contract, from a breach of patent rights and patent right registration, from which, at least one from the patent right family must be published in the home country of the supplier, from the European Patent Office, or in one of the states of the European Union, Japan or the USA.

10.3 If a third party makes a claim against us based upon the violation of proprietary rights, the supplier will exempt us first request. The indemnity obligation of the supplier covers all expenditures that arise necessarily out of or in coherence with the claim of third parties.

10.4 The parties to the contract obligate themselves to inform each other immediately of violation risks and alleged violation cases in order to enable them to counteract jointly such claims.

10.5 We acquire sole ownership at the time of production of tools and equipment that are produced for the purpose of filling our order and completely or partially invoiced to us by the supplier in order to fill our order. Such tools are held free of cost by the supplier as our agent, may only be used to fill our order, and at our sole option, must be given to us at the completion of our order. The supplier shall bear all costs associated with maintenance and repair of such tools and equipment.

11. Confidentiality, Retention of Title and Disposal

11.1 In so far as we give articles to a supplier, these shall remain our property. These articles can be used or modified, but can only be used to fulfil our order. If goods delivered from us are mixed with other goods not belonging to us, we shall become co-owner of the new good in ratio of the value of the goods, subject to retention of title to the other goods at the date of combination. If the supplier acquires co-ownership as a result of combination, it hereby assigns us joint ownership as a result of combination. The supplier must hold the sole or co-ownership in custody for us.

11.2 The supplier is obligated to treat all non-obvious commercial and technical details it acquires in the course of the business relationship a trade secret.

11.3 Drawings, models, pattern designs, samples, calculations, information, etc., must not be handed over or made accessible to third parties. The reproduction of such documents is only allowed within the scope of operational requirements and the copyrights. The pledge of secrecy is also valid after the completion of this contract.

11.4 Reference to our existing business relationship in advertising is only allowed with our explicit written consent.

12. Final Provisions

12.1 The supplier is only entitled to transfer or collect their rights from this contract by third parties without our consent in writing.

12.2. If stipulated differently in the order, the place of performance is the place of delivery respectively the place of performance we prescribe officially. For payment the place of performance is ESEN.

12.3 Our legal relations to the supplier are governed by German law. The application of UN Vienna Convention on the International Sale of Goods (CISG) is excluded.

12.4 The exclusive jurisdiction for all disputes according to the contract, or referring to the effectiveness of the contract, is Essen, in so far as the supplier is a salesman or his residence is not in the Federal Republic of Germany. We are entitled, in special cases, to claim under the jurisdiction of the supplier's residence or within another responsible jurisdiction according to domestic or foreign laws.

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