

Terms and Conditions of Delivery

of

Spieth-Maschinenelemente GmbH & Co. KG

Applicable in business transactions with companies, legal entities under public law and special funds under public law.

1 Scope / Contract conclusion

- 1.1 Only the terms and conditions hereinafter are authoritative for contracts concluded by us for the delivery of goods.
- 1.2 Deviating terms and conditions of the Purchaser shall not apply, even if we have not expressly objected to them.
- 1.3 The terms and conditions of delivery also apply for subsequent delivery contracts until their revocation or until the agreement of new terms and conditions of delivery.
- 1.4 Amendments or supplements to contracts require a written declaration from us in order to be effective.

2 Contractual contents

- 2.1 Our offers are subject to change and non-binding, unless we expressly designate these as binding in writing. Declarations of acceptance and orders by the Purchaser shall, insofar as they constitute offers pursuant to § 145 German Civil Code, only become binding by means of our written confirmation of order. We shall endeavour to accept orders from the Purchaser within 12 working days of receipt of the order.
- 2.2 Descriptions, illustrations, dimensions and weight specifications in printed materials and reproduced documents – even if attached to the offer – are only approximate, unless they are expressly indicated to be binding.
- 2.3 If special versions are ordered, we reserve the right to under- or over-deliver quantities ordered by 10 %.
- 2.4 For manufacturing and quality control standards for our products, it is always the case that only the Spieth proposal drawing or corresponding catalogue details are determinative. Where the Purchaser attaches documents to its order, such as connected drawings, models, patterns or similar, we shall treat these as binding for the order placement.

3 Pricing

- 3.1 Unless expressly agreed otherwise, our prices are "ex works" excluding packaging and plus VAT in the currently applicable amount. Packaging costs will be invoiced separately.
- 3.2 Our prices are calculated at the time of the offer. Where the underlying conditions on which the calculations are based change, we are entitled to adjust the prices for the date of delivery.

4 Payments

- 4.1 Unless otherwise agreed in writing, payments are to be made without any deductions and without charge to the payment office indicated by us at the latest within 30 days of date of the invoice date – also in the case of partial deliveries. We reserve the right to set deviating terms of payment. For execution of the order, the corresponding payment terms printed on offers, order confirmations and invoices are always determinative.
- 4.2 Payment may be made by bill of exchange, cheque or acceptances only with our express agreement and these forms of payment are only considered as conditional payment. Discounting, fees, bill of exchange taxes and collection charges shall be borne by the Purchaser; these are payable immediately. When paying by cheque, the value date for the payment recipient, and not the date of receipt of the cheque, is the point at which debtor's delay ends.
- 4.3 Where the period for payment indicated at Article 4.1 is exceeded – without any requirement of a special warning – interest shall be charged on the invoice amount at 9 percentage points above the basic interest rate. Non-compliance with payment terms further entitles us to refuse deliveries due and to make future deliveries dependent on advance payment or the lodging of a security. The same applies, if facts emerge, which suggest a deterioration in the Purchaser's financial position or where there is a change to the Purchaser's legal circumstances. In such cases, we are further entitled, after according a grace period for payment of the arrears by the Purchaser, to withdraw from any current contracts and to claim damages for non-performance.
- 4.4 Retention and set-off are only permitted, if the set-off claim is undisputed by us or has been legally established.

5 Retention of title

- 5.1 The goods delivered remain our property until complete payment of all claims under the commercial relationship between the Purchaser and us. The collection of individual claims in a current invoice or account balancing and recognition of these do not affect our retention of title.

- 5.2 The Purchaser is entitled to resell the goods subject to retention of title in the normal course of business. However, it may neither pledge goods subject to retention of title nor assign nor transfer these by way of security. The Purchaser shall assign its receivables from the resale to us; we shall accept such assignment. Regardless of this assignment, the Purchaser is entitled to collect its receivables, to the extent that it meets its obligations to us and does not become insolvent. Upon our request, it must provide the necessary information for collection of the assigned receivables, handing over associated necessary documentation and informing the debtor of the assignment of the receivable.
- 5.3 If goods delivered by us to the Purchaser are combined with other objects into one unit, the Purchaser shall grant us co-ownership to the new item in proportion to the invoice value of the newly processed or combined, mixed or blended goods subject to retention of title and shall store these for us free of charge. If the Purchase resells the goods, in respect of which we are entitled to co-ownership, 5.2 applies by analogy.
- 5.4 The Purchaser must inform us immediately of enforcement measures initiated by third parties against the goods subject to retention of title or against the receivables assigned in advance and against goods, in respect of which we are entitled to co-ownership, providing the documents required for an intervention.
- 5.5 The Purchaser undertakes to insure goods subject to retention of title against improper treatment and storage including cover for fire, water and consequential damage, at its own expense.

6 Delivery

- 6.1 Delivery times are strictly non-binding and approximate. In the event of uncertainty, the delivery period begins with dispatch of the confirmation of order by us. For deliveries of goods where the payment terms specify that payment in advance is required, the delivery period only begins upon receipt of payment. Agreed delivery periods begin upon dispatch of our confirmation of order, but not before provision of documents, approvals and releases to be furnished by the Purchaser. The delivery period ends upon dispatch by us of the goods or their readiness for collection. Where delivery is dependent on advance performance by the Purchaser, the agreed delivery period shall be calculated from our receipt of the advance performance by the Purchaser.
- 6.2 Upon delivery, no warranty is given as to the suitability of the process, equipment and materials for the actual needs of the Purchaser.
- 6.3 Force majeure and unforeseen events including strikes and lock-outs shall entail an appropriate extension of the delivery period.
- 6.4 Where we are culpable of default in delivery, the Purchaser can – insofar as it can prove that it has incurred resultant loss – demand damages for each complete week of delay of 0.5 % of the net price for that part of the delivery which cannot be put into useful operation, up to a maximum, however, of 5 %.
- 6.5 Both damages claims by the Purchaser due to default in delivery and compensation in lieu of performance exceeding the limits specified at Article 6.4 are excluded in all cases of delayed delivery, even after expiry of any deadline that we set for delivery. This will not apply in the event of mandatory liability for intent, gross negligence or injury to life, limb or health. The Purchaser may only withdraw from the contract within the scope of statutory provisions, insofar as the delay to delivery is attributable to us.
- 6.6 The risk of accidental loss transfers to the Purchaser upon readiness of the goods for dispatch.
- 6.7 We reserve the right to make changes in design and construction in the course of the ongoing development of the product.

7 Warranty

- 7.1 The Purchaser warranty rights require that it inspects and submit complaints in relation to defects in compliance with § 377 German Commercial Code.
- 7.2 Claims for defects become time-barred after 12 months following delivery of the goods supplied by us to the Purchaser. Where there is multi-layered use of the parts delivered, the period amounts to 6 months from delivery. These periods do not apply, to the extent that the law in accordance with §§ 438(1) No.2 (building structures and components for structures), 479(1) (right of recourse) and 634 a(1) No.2 (construction defects) German Civil Code provide for longer periods.
- 7.3 For third-party components, our liability is limited to assignment of our liability claims against the Supplier of these components.
- 7.4 Claims are excluded after resale or processing of the delivered goods or in the event of improper installation or improper use. Claims are also extinguished if parts delivered are reworked, modified, improperly stored or repaired by the Purchaser or a third party without our consent.

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- 7.5 Where a claim for defects is justified, we are entitled to provide rectification or a replacement delivery, at our discretion. Within the scope of supplementary performance, we are obliged to reimburse the Purchaser for the expenses required to remove the defective goods and for installation or fitting of repaired goods or subsequently delivered defect-free goods. Reimbursement of costs is excluded, insofar as expenses increase due to the fact that the goods are taken to another location after our delivery, unless this is in conformity with the intended use of the goods. This shall apply accordingly to claims for reimbursement of expenses by the Purchaser pursuant to Section 445a (seller's recourse) of the German Civil Code (Bürgerliches Gesetzbuch, BGB), provided that the last contract in the supply chain is not a consumer goods purchase. If one of the two types of subsequent performance or both prove impossible or unreasonable, we are entitled to refuse them. As long as the Customer fails to meet payment obligations to an extent that reflects the defect-free portion of the performance, we are entitled to refuse subsequent performance.
- 7.6 Where the defect cannot be remedied in this way, the Purchaser is entitled to withdraw from the Contract or to reduce the remuneration. Where the claim for defects is based on insignificant deviations from the agreed characteristics or an insignificant impairment of usability, the Purchaser's rights are limited to price reduction.
- 7.7 Claims for compensation by the Purchaser due to a material defect are excluded. This does not apply in the event of malicious concealment of the defect, non-compliance with a quality guarantee, injury to life, limb, health or liberty nor in the event of wilful or grossly negligent breach of obligations by us. Further claims or claims for damages other than those regulated in these GTC's on the part of the Purchaser owing to a material defect are excluded.
- 7.8 The costs of sending contested goods to us must be borne by the Purchaser, if the defect does not exist. A warranty claim is extinguished, if the returned goods are not packaged properly or it is ascertained that the delivered goods were not properly stored by the Purchaser.
- 7.9 The Purchaser's right of recourse against us in accordance with Section 445a (seller's recourse) shall only exist insofar as the Purchaser has not made any agreements with its customer that exceed the statutory claims for defects

8 Other damages claims / Limitation

- 8.1 Damages claims by the Purchaser on any legal grounds, in particular, due to violation of obligations under the contract or liability in tort, are excluded.
- 8.2 This does not apply, where liability is mandatory, for example, in accordance with German Product Liability Law, in the event of wilful intent, gross negligence, as a result of injury to life, health or limb or as a result of the violation of fundamental contractual obligations. Damages for violation of fundamental contractual obligations are, however, limited to reasonably foreseeable, contractually-typical damages insofar as there is no wilful intent or gross negligence and liability does not result from injury to life, health or limb.
- 8.3 Insofar as the Purchaser is entitled to claim damages, such claims become time-barred with expiry of the limitation period of one year pursuant to Article 7.2. The same applies for claims of the Purchaser in connection with measures to prevent damages (e.g. recall campaigns). In the event of damages claims under the German Product Liability Law, the statutory limitation provisions apply.

9 Return of goods

- 9.1 As a matter of principle, sold and properly delivered goods shall not be returned. Exceptions could be made in special cases – after prior discussion. In such cases, we charge a fee for an incoming goods inspection and re-storage in the amount of 20% of the value of the goods invoiced, at minimum, however, an amount of 40.00 euros.
- 9.2 Return is excluded for custom-made designs.

10 Non-disclosure

- 10.1 The Purchaser undertakes to treat as strictly confidential all images, drawings, calculations and other documents and information, of which it obtains knowledge on the occasion of conclusion of a contract for the delivery of goods. These may only be disclosed to third parties with our express permission. The duty of confidentiality also applies after termination of a contract. It expires only if and to the extent that the knowledge contained in the images, drawings, calculations and other documents provided has entered the public domain. For each case of contravention of the preceding duty of confidentiality, the Purchaser undertakes to pay a contractual penalty in the amount of 25,000.00 euros. This shall not affect our right to assert further claims, in particular, for injunctive relief and higher damages.

11 Data protection

- 11.1 The Purchaser acknowledges that data from the business relationship, including personal data, is stored and processed within the scope of business needs and must be communicated to third parties. The Customer agrees to this data collection and processing.

12 Other provisions

- 12.1 This contract and all legal relations between the Parties shall be governed by the law of the Federal Republic of Germany, to the exclusion of UN Sales Law (CISG).
- 12.2 Insofar as the Purchaser is a merchant, a legal entity under public law or special fund under public law, the place of jurisdiction for all disputes arising from the contractual relationship shall be our business headquarters. We are also entitled to initiate claims at the Purchaser's registered office.
- 12.3 All arrangements made between the Parties for the purpose of implementing this Contract, are set down in the Contract in writing.

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