

General Purchasing Conditions of Speidel Tank- und Behälterbau GmbH

I. Scope of terms

1. Our General Purchasing Conditions shall apply to all deliveries and services performed to us, unless agreed upon otherwise.
2. Our General Purchasing Conditions (hereinafter referred to as “**GPC**”) shall apply exclusively; we shall not accept any conflicting or different GPC of the Supplier, unless agreed upon in writing. Our GPC shall also apply when we accept deliveries of the Supplier without reservation while being aware of conflicting or different terms of the Supplier.
3. All agreements agreed upon between us and the Supplier for the purpose of executing this contract shall be put into writing in this contract.
4. The following GPC shall only apply to entrepreneurs according to Section 14 German Civil Code, legal entities under public law or an asset under public law (hereinafter referred to as “**Supplier**”).
5. Within a permanent business relationship between the Supplier and us, the following GPC shall also apply to all our future orders without requiring any further reference or agreement.

II. Conclusion of Contract – Offer Documents

1. The creation of offers and cost estimates by the Supplier are free of cost and non-binding for us.
2. Offers to us shall include all relevant details that are necessary for a technical and pricewise assessment.
3. Delivery contracts (order and acceptance) and call-offs as well as their amendments and additions require written form; oral and telephonic orders require our written confirmation in order to be valid; this shall also apply in case of a subsequent amendment of orders already placed.
4. If the order or the call-off is not confirmed in written form within 5 working days after receipt by the Supplier, we shall be entitled to cancel the order without the Supplier being able to derive any claims from this.
5. We shall be entitled to require modifications of the subject matter of the contract with respect to construction and design to a reasonable extent. Any effects resulting hereof, in particular with respect to costs and delivery date, shall be appropriately settled by agreement.
6. We reserve ownership and copyright in images, drawings, calculations and other documents; they shall not be made accessible to third parties without our expressed written consent. They shall exclusively be used for the production on the basis of our order; after completion of the order, they shall be returned to us without request. Towards third parties, they shall be kept confidential, in addition, section number XII. shall apply.

III. Prices and Terms of Payment

1. The price shown in the order shall be binding. It shall include all services and ancillary services, unless they are separately charged, which are necessary to provide the service, such as, for example, auxiliary means. Unless otherwise agreed upon in writing, the price shall include delivery “free house”, including packaging. The return of packaging requires a separate agreement.
2. Unless provided for otherwise, the statutory value added tax is included in the price.
3. We can only process invoices if they contain – according to the specifications of our order – the order number shown on our order form; for any and all consequences arising due to non-compliance with this duty, the Supplier

shall be responsible, unless it proves that it is not to be held responsible for these consequences.

4. We shall pay the purchase price, unless agreed upon otherwise in writing, within 14 days, calculated from delivery or assembly and installation and receipt of a proper invoice, with a 3 % discount or within 30 days after receipt of invoice net.
5. The invoice shall be sent in duplicate to our postal address imprinted. It **shall not** be attached to a delivery.
6. We are entitled to claim statutory setoff and retention rights.
7. We reserve the right to choose the method of payment. In case of payment by check or draft, the legitimacy of payment solely depends on whether the check or draft is received by the recipient or bank within the payment term.
8. Invoices deviating from the Supplier’s delivery or service shall be deemed to be received by us at the time we have received a corrected invoice.
9. Payments effected shall not imply the acknowledgement of the delivery or service as being in accordance with the contract.

IV. Term of Delivery

1. Terms of deliveries agreed upon shall be binding. The date of receipt of the delivery at our works shall be authoritative for adherence to the delivery date.
2. Early deliveries shall only be accepted after prior written agreement.
3. The Supplier shall immediately notify us in writing if circumstances occur or become apparent which indicate that the agreed delivery time cannot be adhered to.
4. In the event of delay of delivery we shall be entitled to exercise the statutory rights. Especially, we shall be entitled to claim damages instead of performance and withdrawal after fruitless expiration of a reasonable period of time. In case we claim for damages, the Supplier shall be entitled to prove that it is not responsible for the breach of duty.
5. Unless expressly agreed upon otherwise in writing, the Supplier shall not be entitled to make part deliveries or to provide surplus or short deliveries.
6. If the agreed delivery date is not met due to a circumstances for which the Supplier is responsible, we are entitled, at our choice and without prejudice to further statutory claims, to withdraw from the contract after the expiry of a reasonable grace period, to obtain replacement from a third party and/or to demand damages for non-performance. We are entitled to claim compensation for all additional costs occurred due to delayed deliveries or performances for which the Supplier is responsible. The acceptance of delayed delivery or performance does not imply a waiver of any compensation claims.
7. Furthermore, if the Supplier fails to comply with the agreed delivery date, we are entitled to demand a contractual penalty of 0,5 % of the order value for each commenced calendar week, however to a maximum of 5 % of the total order value. Any payable contractual penalty shall not exclude the right to claim further damages under deduction of the contractual penalty. If we accept the goods or service despite a delay, we shall be entitled to demand the contractual penalty without having reserved this right when accepting the goods or the service. The Supplier shall be entitled to demonstrate that the actual damage incurred was lower or that no damage whatsoever has been incurred.
8. Due to operational reasons, we reserve the right to change the volume or quantity or to request the temporary suspension of scheduled deliveries.
9. In case a delivery is made earlier than agreed upon, we are entitled to refuse acceptance or to return the goods at the Supplier’s cost and expense. If we do not return the goods, we are entitled to store the goods at our works at the cost and risk of the Supplier. With respect to the payment, the agreed

delivery date shall be authoritative.

10. The Supplier undertakes to comply with the Code of Conduct of Business Social Compliance Initiative (BSCI) (www.bsci-eu.org). In particular, the Supplier ensures that children and youngsters shall only be employed in compliance with the regulations of the International Labour Organisation (ILO), the United Nations (UN), and the national law of the country concerned. The Supplier shall also impose this obligation upon its suppliers.

V. Packaging, Transport, Passing of Risk and Documentation

1. The transport of goods shall be carried out at the expense and risk of the Supplier "free agreed place of delivery". Where delivery "freight collect" was exceptionally agreed, we shall only bear the most favorable freight costs, unless we have required a certain kind of shipment.

2. The deliveries shall be carried out with the carrier designated by us, if exceptionally "freight collect" was agreed.

3. If hazardous substances are being supplied, the Supplier shall comply with all governing standards, laws and regulations, especially the governing provisions regarding environmental protection, hazardous substance, dangerous goods and accident prevention.

4. Any costs incurred due to the non-compliance with the stated delivery provisions and conditions have to be borne by the Supplier.

5. Irrespective of the allocation of costs, the risk shall not pass to us before delivery and acceptance of the goods or the service at the agreed place of delivery.

6. The Supplier shall indicate our exact order number, order date and shipping route on all shipping documents, order confirmations, invoices etc. Additionally, the Supplier shall enclose with each shipment a delivery note in duplicate with this information in a sealed envelope. In the event the Supplier fails to do so, the delays resulting therefrom shall not be attributable to us.

VI. Transfer of Rights

The supply agreement concluded with us shall not be transferred either wholly or partly to a third party without our written consent. The assignment of claims towards us is only effective with our prior written consent. This shall not apply if the legal transaction on which the claim is based is a commercial transaction for both parties or if the Supplier is a legal entity under public law or an asset under public law.

VII. Warranty, Inspection and Notification of Defects

1. The statutory provisions regarding defects in materials and workmanship shall apply unless set forth otherwise below.

2. We shall immediately give notice of defects to the Supplier as soon as they are identified in the ordinary course of business. In this respect, Supplier waives the objection to delayed notification.

3. The Supplier shall undertake quality controls during the production and shall carry out a check at the dispatch and shall accordingly check deliveries extensively as to their quality.

4. We are entitled to choose the type of subsequent performance. The Supplier shall be entitled to reject the type of subsequent performance chosen by us under the provisions of Section 439 subsection (3) German Civil Code.

5. The limitation period is 36 months, calculated from the passing of risk, unless the statutory mandatory provisions of Sections 478, 479, 634a German Civil Code apply.

6. The Supplier guarantees that the products delivered or

the services provided are free from defects in materials and workmanship, have the contractually agreed characteristics and quantities, meet our specifications, and correspond to the recognized technical rules as applicable at the time of delivery as well as to the legally required standards of quality and safety. Amendments hereto have to be approved by us before the delivery of the products and services.

7. If a defect is discovered, the Supplier shall bear the costs of the examination and determination of the defect, irrespective of other or further rights.

8. In case of replacement deliveries, the warranty period for defects in materials and workmanship starts again.

9. If the Supplier fails to fulfil its duty to remove the defect or provide replacement delivery immediately, within 7 business days at the latest, or if it is unable to do so, we are entitled to withdraw from the contract and/or to demand compensation instead of performance as well as to return the goods to the Supplier at its own risk and to purchase the required goods from a third party. The necessary costs incurred thereby are to be borne by the Supplier.

10. In urgent cases, if the immediate removal of a defect is justified by reason of a particular need on our part or if there is reason to suspect that the removal of a defect by the Supplier would cause delays which would make it more difficult for us to meet our obligations towards our contractual partners, or that a removal of the defect by the Supplier would cause higher costs than a removal of the defect by us, we have the right to remove the defect of the defective delivery or service ourselves or have this done by a third party to the extent necessary without informing the Supplier in advance at the expense of the Supplier (self-repair). In such events, we shall also have the right to procure goods or services which are free of defects from a third party (replacement purchase). The Supplier shall bear the necessary costs for the self-repair or the replacement purchase.

11. We have the right to return nonconforming goods at the expense and risk of the Supplier.

12. If a defect of the goods delivered by the Supplier is only discovered on further processing or further delivery, the Supplier shall bear all costs associated with the exchange or rectification of the defective goods, in particular costs for testing, transport, travel, labor and material.

13. In the event of insolvency or bankruptcy, we are entitled to withhold an appropriate security, at least however 10 % of the agreed price, until the expiry of the limitation of warranty claims.

14. The Supplier assigns its warranty claims against its pre-suppliers to us. We are entitled to disclose this assignment in the event of bankruptcy of the Supplier. Furthermore, we are entitled to cancel orders which have not yet been delivered at this time.

15. The Supplier indemnifies us and holds us harmless against all claims of third parties based on a defect in the Supplier's performance of its obligations. The Supplier shall bear all costs associated with a defect, including potential costs of a recall.

16. To the extent that the delivered goods are processed to an end product which is sold to a consumer, we shall have a right of recourse against the Supplier pursuant to Section 478, 479 German Civil Code in case of a claim by customers.

VIII. Execution of Works at our Plant

Persons, who perform work for the fulfilment of the contract in one of our works, shall observe the provisions of the respective plant rules. The provisions for entering and leaving our plants must be observed.

IX. Product Liability, Indemnification and Obligation of Liability Insurance

1. In the event we are liable towards third parties in accordance with the provisions of the Product Liability Act or other provisions due to a product defect, the Supplier shall indemnify us upon first demand against all claims for damages, including damages due to necessary recall, refitting, mounting and dismounting, if and to the extent such damages are caused by a defect of the good delivered by the Supplier. If and to the extent such a damage is caused by the Supplier, the Supplier shall bear the burden of proof. In such cases, the Supplier shall also bear all expenses and costs including any costs for a legal defense.

2. In order to comply with its obligations of the supply agreement concluded with us, the Supplier shall effect a business liability insurance and a product liability insurance at its own cost including the risks of recall at a sufficient level, at least with a coverage total of 5 Million € per personal/property damage claim, and to maintain the insurance continuously and at least for the duration of 10 years after delivery. Upon request, the Supplier shall provide written evidence of conclusion and continued existence of such insurance. Any further claims for damages remain unaffected hereby.

3. We and the Supplier shall inform and support each other with respect to any legal defense.

X. Provided Material and Manufacturing Equipment

1. Technical and commercial documents of any kind including prototypes, models, samples, drawings and manufacturing equipment which we provide to the Supplier remain our property and shall be returned to us unrequested as soon as they are no longer required for executing the order, as well as anytime upon request. They shall permanently be treated confidential and shall only be used in order to perform the ordered deliveries and services. In particular, they shall not be used for other purposes, neither copied nor made accessible to third parties.

2. The same shall apply to any documents and manufacturing equipment which the Supplier has produced or developed according to our instructions or with our assistance.

3. Provided material and manufacturing equipment shall not be handed out to any third party, sold, pledged or made accessible or used in a similar way without our prior written consent.

XI. Intellectual Property Rights and Liability for Defects of Title

1. The Supplier shall warrant that the goods delivered by it do not infringe any national or foreign intellectual property rights or any other third party rights.

2. In the event of an infringement of any third party rights, we are entitled to all legal claims arising out of defective goods and defective title against the Supplier, even where the Supplier had procured the goods involved from a third party.

3. The Supplier shall indemnify us from and against all claims based on the infringement of such third party rights. This shall not apply if the Supplier has produced according to samples and drawings provided by us.

XII. Confidentiality and Data Protection

1. The Supplier shall keep confidential all information received by us under a purchase order, including, but not limited to product and process drawings, product specifications and all documents created by the Supplier within

the context of an order (“**Confidential Information**”) and shall only use them for the purpose of the performance of the order. Without our prior written consent, Confidential Information shall not be copied, used commercially or made accessible to third parties. This confidentiality obligation shall apply to the contents of all contracts with us, particularly with respect to the new or further development of products.

2. The Supplier shall make accessible Confidential Information, also in its own enterprise, only to persons who need to be deployed for the execution of the order and who also have been bound by the Supplier to the confidentiality obligation. The Supplier shall impose equivalent confidentiality obligations on this group of persons, if this is not already the case. Furthermore, the Supplier shall take all reasonable steps in order to prevent that third parties have access to work results or to Confidential Information received from us. The Supplier shall be liable for any infringement of the confidentiality obligations by a third party to whom Confidential Information was made accessible by it.

3. The obligations set out in section XII.1 and XII.2 shall not apply to Confidential Information that is demonstrably generally known, becomes generally known through no fault of the Supplier, has been rightfully obtained by a third party or was already known to the Supplier.

4. Advertisement which contains the business relation with us and other statements towards the public or towards authorities shall only be permitted with our prior written consent, unless these statements are necessary due to mandatory statutory law.

5. This confidentiality obligation shall also apply after the end of the delivery agreement or business relationship for the duration of 5 years subject to the provisions of the following sentence 2. If the information subject to confidentiality represents a trade or business secret, the confidentiality obligation shall be valid for an unlimited period of time. This confidentiality obligation shall apply accordingly to documents as set out in subsection (1) above received during contract negotiations if no contract is concluded, provided that the term of the confidentiality obligation shall start where it is established that contract negotiations have failed.

6. Documents received shall be returned to us without request after the end of the supply and business relationship in proper condition.

7. The Supplier shall ensure that all persons entrusted with the performance of contract in connection with the supply and business relationship shall comply with the statutory provisions of data protection law.

XIII. Place of Performance, Place of Jurisdiction, Applicable Law

1. The place of performance for deliveries and performances shall be our place of business.

2. If the Supplier is a businessman, a legal entity under public law or an asset under public law, our place of business shall be the exclusive place of jurisdiction; however, we shall also be entitled to sue the Supplier at its general place of jurisdiction.

3. All legal relations between the parties shall be governed by German law excluding the rules of United Nations Convention on Contracts for the International Sale of Goods (CISG) and international private law.

XIV. Final Clauses

Should one or another provision of these General Purchase Conditions be or become fully or partly invalid, the validity of the remaining provisions shall remain unaffected hereby.

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Status: February 1, 2016