

Purchase Terms and Conditions

of

Spitzer Silo-Fahrzeugwerke GmbH, Brühlweg 10, 74834 Elztal-Dallau

I. General provisions

- (1) Exclusively these purchase terms and conditions apply to all contracts, orders and mandates of the Spitzer Silo-Fahrzeugwerke GmbH, Brühlweg 10, 74834 Elztal-Dallau (hereinafter referred to as Spitzer), even if Spitzer do not expressly make reference to them. The same applies for latter orders and repeat order of all forms - in corresponding application - for the allocation of factory services.
- (2) Should the supplier not agree to the purchase terms and conditions of Spitzer, he must expressly inform Spitzer of this by registered mail within one week of the conditions taking effect. The validity of all general terms and conditions of the suppliers' are hereby expressly objected to.
- (3) The terms and conditions of purchase of Spitzer apply 2 days following dispatch by Spitzer in the sense of paragraph 2 in accordance with § 193 BGB.
- (4) Arrangements made orally must be confirmed in writing by Spitzer to take effect. The same applies to the effective annulment of this security requirement.
- (5) For damages that the supplier incurs through incorrect or unauthorised processing of data, Spitzer is only liable if the supplier is able to prove gross negligence or malicious intent on the part of Spitzer or their vicarious agents. The rights of the supplier with regard to the Federal Data Protection Act remain unaffected, especially with regard to information, revision, blocking of the data and its deletion.

II. Contract

Only the written order from Spitzer is binding. The order is to be immediately confirmed by the supplier together with associated delivery time through returning the countersigned duplicate intended for Spitzer countersigned. Subsequent deviations from the order must be made in writing to be effective for all oral agreements.

III. Price and terms of payment

- (1) The supplier commits himself to also granting Spitzer all cheaper prices and miscellaneous conditions that he grants to all other purchasers of the goods that Spitzer ordered or which are conferred upon comparable articles to those ordered.
- (2) Should no other term of payment have been agreed upon, Spitzer pays the invoices of the supplier as follows: within 10 days with 3% trade discount or after 90 days net, dependent upon the closure of the goods receipt decade.

IV. Delivery of the contract goods

- (1) All deliveries are to be carried out by freight forwarders carriage paid depending on the choice of Spitzer postage-free Mosbach or Elztal-Dallau (receiving rail station for rail transport). The packaging may not be included in the calculations. All additional costs connected to the delivery including storage costs, customs, etc. are to be born by the supplier.
- (2) The delivery is to be carried out at the determined time without extension of time. In the case of late delivery without prior extension of time, Spitzer reserves the right to choose whether to rescind the contract or demand restitution for damages. Without infringing on this right, in the case of late delivery by the supplier Spitzer immediately requests a confirmation with information concerning a possible new delivery time.
- (3) Strikes, lockouts, interruption of business or transpositions, states of war, unrest, fire damage or flood, lack or raw material of fuel, actions taken by the authorities by Spitzer or the customers of Spitzer, are seen as force majeure and release Spitzer (depending on the situation fully or partially) from the obligation to accept. Spitzer is not liable for restitution of damages in such car.
- (4) The dispatch is to be announced including the order number and date. The shipping note is to be included with the announced dispatch. The invoice is valid as a shipping notice.

V. Warranty

- (1) Spitzer reserves the right to give notice of defects within 14 days of goods receipt. However, should hidden defects later become apparent in the course of manufacturing that were not recognisable in a random sampling of the external characteristics of the goods, Spitzer has the right to make a claim against these hidden defects even after the expiry of the above-mentioned deadline. The presence of defects does not affect the other statutory rights of Spitzer to return the goods. In the case of return of goods, Spitzer may choose whether the supplier is obliged to supply replacement goods within a suitable period of time or whether Spitzer has the right to replace the goods themselves using a third party, the costs of which to be born by the supplier. In both cases Spitzer has additionally the right to demand compensation for damages incurred through the defective delivered goods. Payments rendered do not apply as a waiver of the notice of defect. In the case of a notice of defect, the payment date for Spitzer only applies once the claim has been dealt with in accordance with the above conditions.
- (2) If goods that have been recognised by Spitzer as being defect are not accepted by Spitzer, then Spitzer is not obliged to store the goods for longer than is necessary to enable the supplier to pick up the goods after being informed of the return. Following expiry of this deadline, Spitzer has the right to either store the goods elsewhere at the cost and risk of the supplier or to dispose of them. 3. The evaluation and obligation to give notice of defects of § 377 HGB is excluded.

VI. Liability of the supplier

- (1) If a claim is made against Spitzer by a Customer (end consumer) or a third party, the supplier is obliged to exempt Spitzer from the liability as far as the damages caused can be traced back to a defective delivery or an infringement of obligations on the side of the supplier or when the obligation of subrogation is given due to autonomous debt liability. Paragraph 1 is valid especially in cases in which defective goods provided by the supplier (e.g. axles, rims, springs, mountings, cast parts, etc.) have been built into products that Spitzer has manufactured and distributed and which were the foundation for the incurred liability.
- (2) Spitzer also reserves the right to cede the claims named in paragraph 1 against the supplier to the Customer in advance.

VII. Patent infringements

The supplier provides full guarantee that no patent rights or copyright of third parties are infringed through the delivery and use of the purchased objects. In the case of a patent or copyright infringement, Spitzer reserves the right to claim all legal demands against the supplier arising from legal infringements of defective quality and receive compensation for all damages from the supplier.

VIII. Rescission

The demands accrued against Spitzer can not be legally transferred without prior written permission from Spitzer. Moreover, the supplier is to exempt Spitzer from claims made by third parties.

IX. Final provisions

- (1) The place of execution for all obligations of the contractual partners from this contract as well as from the other conditions of business is the headquarters of Spitzer.
- (2) The court of jurisdiction for all disputes between the supplier and Spitzer arising from this contract as well as from the other conditions of business is Mosbach/Bd., provided that the supplier is a merchant. It is the choice of Spitzer whether the district court of the regional court is responsible in the first instance - independent of whether the value in dispute exceeds the value required for court registration.
- (3) Solely German law applies to the exclusion of the UN Convention on the International Sale of Goods.
- (4) If any provision of these terms becomes invalid, then this shall not affect the validity of the other provisions.

Status May 2014