

## Terms & Conditions of Sale (as of: Feb 2018)

### § 1 General - Scope

- (1) The customer's general terms and conditions of business – even if used by it at a later date – become an integral part of a contract without the written approval of SPANTEC only if such terms and conditions do not conflict with these terms of Sale and Delivery. Conflicting general terms and conditions shall not affect the legal validity of the concluded contract. In the event of conflicting terms and conditions, legal provisions shall apply.
- (2) In individual cases, individual agreements made with the customer (including side agreements, amendments and modifications) always take precedence over these performance conditions. The contents of any such agreement shall be governed and subject to proof and written confirmation.
- (3) Our terms and conditions of sale only apply if the customer (§14 BGB), is a legal entity under public German law or a public-sector fund entrepreneur.
- (4) Unless otherwise agreed, the terms and conditions of sale which apply are those communicated to the customer at time of order. The framework agreement applies for similar future contracts without us again having to refer to them in each individual case.

### § 2 Offer – Offer documents

- (1) The customer's order is a binding offer that SPANTEC can accept by sending an order confirmation or by starting to execute the order within 3 calendar weeks after the receipt of the offer. Offers submitted previously by SPANTEC are without obligation and free of charge, unless otherwise agreed.
- (2) We retain title and copyright to all illustrations, drawings and other documents. This also applies to any written documents that are marked "confidential". Before handing these to third parties the customer must obtain our express written consent.

### § 3 Prices – Terms of payment

- (1) Unless otherwise stated in our order confirmation our prices are ex warehouse / works excluding costs for packing (see separate list at the end), rust protection and freight.
- (2) The statutory VAT is not included in our prices; this will be charged separately on our invoice at the statutory rate on the day of invoicing.
- (3) Any deduction of discount requires a separate written agreement.
- (4) Prices are quoted in EURO. Should payment be agreed in foreign currency the customer must settle exchange rate differences accruing to us from the date of order confirmation. This exchange rate adjustment is due at the same time as purchase price payment.
- (5) At our request, the customer must at his costs provide adequate securities for our claims from this contract such as liens on properties, collateral or assignments of claims.
- (6) The purchase price is due and payable within 14 days of invoicing and delivery or acceptance of the goods. We are however, entitled at any time, in whole or in part, only to carry out a delivery against advance payment. We will advise at time of contract confirmation of any upfront payment due. The customer will be in default if the payment is not received within the time as advised above.
- (7) In case the customer fails to comply with the terms of payment or in case of circumstances of which

SPANTEC gains knowledge after conclusion of the contract which are suitable for lessening the creditworthiness of the customer, all receivables of

SPANTEC become immediately due and payable, irrespective of any payment extensions granted or the maturity of the bills accepted. In this case SPANTEC shall be entitled to perform outstanding services only against advance payment of provision of adequate security and – after a reasonable period of grace – to withdraw from the contract or to claim damages for non-fulfillment and, without prejudice to the aforementioned rights, to take back the items delivered under reservation of title at the expense of the customer.

- (8) Delivery promises of any kind, in particular, in terms of call-off orders are subject to deliveries being made without exceeding the maximum credit as agreed or determined by us.
- (9) The retention of payments or the offsetting of any counterclaims of the customer shall be permissible only if such counterclaims are undisputed or have been declared legally valid by a court of law. In case of defects of the delivery remain the customer's rights equal.
- (10) We are entitled to offset claims from the customer against our claims.
- (11) In addition, we are entitled to offset claims from the customer against claims from other companies that are entitled from the business relationship with the customer or other claims against the supplier. Decisive for the stipulation of companies so entitled is the last business report published at the time of conclusion of contract.

### § 4 Delivery Time

- (1) The start of the delivery time determined by us is subject to all technical questions having been clarified.
- (2) Furthermore, our adherence to delivery obligations is subject to the timely and correct fulfillment of the customer's cooperation obligation. We retain the right to object to the contract not being fulfilled.
- (3) An appropriate extension of the delivery time is granted when delivery is delayed due to unforeseen or exceptional circumstances at our premises, a sub supplier or freight company without fault on our part. The same applies in case of strikes or lockouts. Should this non-availability continue for more than a month we are entitled to withdraw from the contract. We shall refund any payments already made by the customer.
- (4) Should the customer delay acceptance of delivery or be liable for violating any other cooperation obligations, we are entitled to demand compensation for thus incurred damages including possible additional expenses. Goods that have been declared ready for dispatch at the agreed time must be called-off immediately; otherwise we are entitled to store them at the customer's cost and risk. Storage is charged at a daily flat rate of 0.2% of the total order value from the start of delay in acceptance, however, up to a maximum of 5% of the total order value. Further claims or rights are reserved.
- (5) In case of delivery delays for which we are responsible, the customer is entitled to withdraw from the contract, after an appropriate dead line for accepting goods set by the customer has expired, as

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long as the declaration reaches us before the goods have been produced.

### § 5 Liability for defects

- (1) The customer's claims for defects are subject to the customer having correctly complied with the obligation to examine and to complain according to § 377 HGB (German Commercial Code).
- (2) Technical advice and recommendations on our behalf are based on appropriate testing but are beyond contractual obligations; especially, assessing the suitability of the goods ordered or recommended by us for the contractual purposes intended by the customer is entirely the customer's responsibility.
- (3) If the delivered goods are defective, we can choose whether we repair the item(s) by remedying the defect (rectification) or by delivering a faultless item (substitute delivery). Our right to refuse to repair the item under the legal conditions remain unaffected.
- (4) We are entitled to repair any defaults owed subject to the customer paying the purchase price due. However, the customer is entitled to retain a part of the purchase price in proportion to the defect.
- (5) The customer shall give us the time and opportunity required for the cure owed and, in particular, shall hand over the complained of goods for purposes of inspection. If we deliver a replacement, the customer shall return the defective item to us in accordance with the statutory provisions.
- (6) We shall bear the expenses necessary for the purpose of inspecting and curing the defect, in particular costs of transportation, travel, work and material if there actually is a defect. However, if the customer's request to cure a defect turns out to be unjustified, we may demand reimbursement of the related costs incurred from the customer.
- (7) Regardless of legal reason we shall be liable for compensation in the event of willful intent and gross negligence. In the case of ordinary negligence, we shall only be liable for damage arising from the breach of a substantial contractual obligation (an obligation whose fulfillment enables the proper execution of the contracts in the first place, and whose observance is relied upon regularly and may be relied upon by the contracting parties). However, in this case our liability is restricted to compensation for predictable damage that may typically occur. The aforementioned restrictions do not apply to damage causing injury to life, limb or health due to willful intent or gross negligence on our part or on that of one of our legal representatives or vicarious agents. Neither do the aforementioned restrictions apply to other damage due to willful intent or gross negligence on our part, or on that of one of our legal representatives or vicarious agents, or if the other damage was caused by the absence of a guaranteed quality or by fraudulent concealment of a defect.
- (8) The limitations of liability stated in No (4) do not apply to the extent that SPANTEC has fraudulently concealed a defect or has accepted a guarantee for the nature of the goods. the same applies to claims of the customer based on the Product Liability Act.
- (9) Defects to partial deliveries do not constitute a right to compensation for the remaining partial deliveries.
- (10) DIN tolerances apply to complaints regarding DIN standardised goods.

### § 6 Other liability / overall liability

- (1) Unless otherwise specified below, the rights of the customer for defects as to quality and defects of title shall be governed by the statutory provisions
- (2) Any claims of the customer for damages or for a reimbursement of futile expenditure shall only exist in accordance with para. 5 abs. 7 and abs. 8 and shall otherwise be excluded.
- (3) Any liability for damages that has been excluded or limited also applies to the personal liability of our employees, workers, assistants, representatives and agents.
- (4) The customer may only rescind or terminate the agreement the agreement for a breach of duty not consisting in a defect if we are responsible for the breach of duty. The customer's right to freely terminate the agreement (in accordance with Section 651, 649 BGB (German Civil Code) is excluded. In all other aspects, the statutory requirements and legal consequences apply.

### § 7 Limitation

- (1) By derogation from Section 438 paragraph 1 No. 3 BGB (German Civil Code) the general limitation period for claims based on defects as to quality and defects of title shall be one year from the delivery date. Where acceptance has been agreed, the limitation period will begin when the good are accepted.
- (2) However, if the goods are a building or an object that was used for a building in accordance with its typical use and has caused its deficiency (construction material), the limitation period shall be five years from the delivery date in accordance with the statutory provisions (section 438 paragraph 1 No. 2 BGB). Special statutory provisions such as Section 438, 444 and 479 in BGB shall not be affected either.
- (3) The aforementioned statutory limitation periods of purchase legislation also apply to contractual and noncontractual claims for compensation by the buyer that are based on a defect, except if application of the regular statutory limitation period (section 195, 199 BGB) would result in a shorter limitation period in specific cases. This shall not affect the limitation periods of product liability legislation. Otherwise, only the statutory limitation periods apply to claims for compensation by the buyer

### § 8 Retention of title

- (1) We retain the title to all goods delivered until all, including future claims arising out of the business relationship have been settled.
- (2) The customer is responsible to protect all goods under reservation of title. In particular, the customer is responsible to protect and insure all goods under reservation against fire, water and theft on their own costs. Should any maintenance and inspections be required the customer is responsible to ensure these are fulfilled.
- (3) Goods being subject to a reservation of title may neither be pledged to a third party nor provided as security until full satisfaction of the secured claims. The customer has to notify us immediately in writing if third parties attempt to seize or take possession of the delivered goods.
- (4) Should the customer violate the contract, particularly by not paying the due purchase price, we shall be entitled to rescind the contract in accordance with the

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statutory provisions and to request the return of the goods on the basis of the reservation of title and the rescission. If the customer fails to pay the purchase price, we may exercise such rights only if we have set a reasonable deadline for payment which has expired without results or if the setting of such deadline is not required under statutory provisions.

- (5) The customer is entitled to resell and/ or process the goods being subject to a reservation of title in the ordinary course of business. In this case, the following provisions shall apply additionally: a) The reservation of title extends to the full value of any products resulting from the processing, mixing or combination of the seller's goods, provided that we are considered to be the manufacturer. If our goods are processed, mixed or combined with third party goods and if title to such goods remains with the third party, we shall obtain joint title pro rata in proportion of the sums invoiced for the processed, mixed or combined goods. In other respects, the same shall apply to the resulting products as applies to the delivered goods being subject to a reservation of title. b) The customer hereby assigns as security any claims against third parties based on the resale of the goods or products either in the full amount or in proportion of the joint title pursuant to the paragraph above. We hereby accept the assignment. The customer's obligations set forth in para. 3 shall also apply in consideration of the assigned claims. c) Besides us, the customer shall continue to be authorized to collect the receivables. We will not collect the receivables if and as long as (i) the customer fulfils any payment obligations vis-à-vis, (ii) the customer does not get into arrears with any payments, (iii) no petition to commence insolvency proceedings has been filed, and (iv) no other deficiencies in the customer's financial capacity occur. However, should this be the case, we may request the customer to inform us about the assigned claims and the respective debtors, to furnish all information required to collect the receivables, to deliver all related documents and to notify the debtor (third party) of the assignment. d) Should the value of the securities exceed our claims by more than 10%, we will, to that extent, at the purchaser's request, release securities of our choice.

### § 9 Utilization of products

The customer is solely responsible for the utilization of the purchased item. Hereby, he ensures that all the applicable provisions as well as the relevant technical instructions and information are adhered to. Should personnel be assigned within the framework of utilization, we shall select suitable experts. Personnel provided by us will only have general advisory function; we do not assume any liability for this.

### § 10 Choice of law and place of jurisdiction

- (1) All disputes that may arise out of or in connection with the performance of supplies and/or services by SPANTEC shall be subject to German law. Applicability of the UN Convention on Contracts for the International Sale of Goods shall be expressly excluded.
- (2) Venue for all contractual and non-contractual disputes shall lie in the city in which our registered office is located, if the customer is an entrepreneur. However, we are entitled to also bring suit against the customer

in the court of the city in which its registered office is located.

This English translation is provided for your convenience only. In the event of discrepancies, the German original text shall prevail over the English translation.

### List of prices for packaging materials:

iron barred box	65,00 EUR / pcs
euro-pallet	9,00 EUR / pcs
one-way pallet	4,00 EUR / pcs
timber framing	10,00 EUR / pcs
round sling 2 to	7,50 EUR / pcs
special frame	according to effort
hoisting sling 5m / 0,7 to	4,00 EUR / pcs
packaging	17,90 / delivery

All packaging materials will be credited in full with redelivery (Costs for redelivery will be paid by customer).