

Standard Terms and Conditions for the Sale and Supply of Goods **by the Company of "SPIGA – Spitzen- und Gardinenfabrikation GmbH**

1. Scope of Application

These General Terms and Conditions for the Supply and Sale of Goods shall exclusively apply, save as varied by express agreement accepted in writing by both parties. Subsequently the Company of SPIGA-Spitzen-und Gardinenfabrikation GmbH will be referred to as the "seller"

The offer, order acknowledgment, order acceptance or the sale of any products covered herein is conditioned upon the terms contained in this instrument. Any conditional or different terms proposed by the buyer are objected to and will not be binding upon the seller unless assented in writing by the seller.

These conditions shall govern any future individual contract of sale between the seller and the buyer to the exclusion of any other terms and conditions.

Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document of information issued by the seller shall be subject to correction without on liability an the part of the seller.

The provisions of these Standard Terms and Conditions extend to standard contract conditions which are used in a contract with a merchant in the course of business only.

2. Orders and Specifications

No order submitted by the buyer shall be deemed to be accepted by the seller unless and until confirmed in writing by the seller or the seller's representative within 21 days after submittal.

The quantity, quality and description of and any specification for the goods shall be those set out in the seller's quotation (if accepted by the buyer) or the buyer's order (if accepted by the seller). Any such specification, sales literature, quotation etc. shall be strictly confidential and must not be made available to third parties.

The buyer shall be liable in case his order lacks sufficient precision. The buyer is obliged to provide the seller with all necessary, correct and sufficient product descriptions, especially specifications, to enable the seller to start the manufacture and the process of the goods promptly without alterations or adaptations. In the event alterations or adaptations will be necessary - especially technical changes of samples (patterns) – or in case sample documentations, which are not authored in German or English must be translated – the seller will not be

liable for exact compliance of the manufactured goods with the original guidelines or specifications.

The seller reserves the right to make any changes in the specification of the goods which are required to conform with any applicable statutory requirements or, where the goods are to be supplied to the seller's specification, as long as their quality or performance will not be materially affected.

The seller reserves the right to improve or modify any of the products without prior notice to the buyer, provided that such improvement or modification shall not affect the form and function of the product.

3. Price of the Goods

The price of the goods shall be the seller's quoted price or, where no price has been quoted, the price listed in the seller's published price list current at the date of acceptance of the order. Where the Goods are supplied for export from Germany, the seller's published export price list shall apply.

The seller reserves the right, by giving notice to the buyer at any time before delivery, to increase the price of the goods to reflect increase in the cost to the seller which is due to any factor beyond the control of the seller (such as foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of materials or other costs of manufacture) or any change in delivery dates.

Except as otherwise stated under the terms of any quotation or in any price list of the seller, and unless otherwise agreed in writing between the buyer and the seller, all prices are given by the seller on an ex works basis, and where the seller agrees to deliver the Goods otherwise than at the seller's premises, the buyer shall be liable to pay the seller's charges for transport, packaging and insurance.

The price is exclusive of any applicable value added tax, which the buyer shall be additionally liable to pay to the seller.

4. Terms of Payment

The buyer shall pay the price of the goods within 30 days after receipt of the seller's invoice.

Payment shall be effected by inter bank payment transaction only; no cheque or bill of exchange will be considered as fulfilment of the payment obligation.

If the buyer fails to make any payment on the due date, the seller without prejudice to any other right or remedy available to the seller, shall at his discretion be entitled to:

- cancel the contract or suspend any further deliveries to the purchaser; or
- charge the buyer interest on the amount unpaid, at the rate of 8 per cent per annum above the Base interest rate from then being valid, until payment in full is made. The buyer shall be entitled to prove that the delay of payment caused no or solely little damage.

5. Delivery

Delivery of the Goods shall be made by the buyer collecting the Goods at the seller's premises at any time after the seller has notified the buyer that the goods are ready for collection or, if some other place for delivery is agreed by the seller, by the seller delivering the Goods to that place.

Where delivery of the Goods is to be made by the seller in bulk, the seller reserves the right to deliver up to 5% more or 5% less than the quantity ordered. The quantity so delivered shall be deemed to be in the quantity ordered. In this case, buyer is obliged to pay the price for the delivered quantity.

If a fixed time for delivery is provided for in the Contract, and the seller fails to deliver within such time or any extension thereof granted, the buyer shall be upon prior written notice entitled, to claim a reduction of 0,1 % per day (up to a maximum of 5 %) of the price payable under the contract starting from the 10th day of seller's delay, unless it can be reasonably concluded from the circumstances of the particular case that the buyer has suffered no or just minor loss. This limit shall not apply if the business had to be settled on a fixed date or if the delay was caused by gross negligence or premeditation of the seller, his agents or representatives or if there is any breach of a major and essential contractual obligation.

If for any reason whatever the seller fails within such time of effecting delivery, the buyer shall be entitled by notice in writing to the seller to fix a deadline. After the expiry of this deadline the buyer shall be entitled to terminate the contract. In this event the buyer may recover from the seller possible losses suffered by the buyer by reason of the failure of the seller. The liability of seller is restricted according to clause No. 8 of these Terms and Conditions.

If the buyer fails to realize or accept delivery on due date, he remains obliged to pay the contract price as if the goods had been promptly delivered. In this case, the seller shall arrange for the storage of the goods at the risk and cost of the buyer. If required by the buyer the seller shall insure the goods at the cost of the buyer.

6. Transfer of Risks

Risk of damage to or loss of the goods shall pass to the buyer as follows:

- in the case of goods to be delivered otherwise than at the seller's premises, at the time of delivery or, if the buyer wrongfully fails to take delivery of the goods, the time when the seller has tendered delivery of the goods;
- in the case of goods to be delivered at the seller's premises ("ex works", Incoterms 2000) at that time when the seller notifies the buyer that the goods are available for collection.

7. Retention of Title

The seller and the buyer agree that the samples, produced by the seller, will become and remain the property of the /buyer. The seller is obliged to protect the samples from theft and the access of third parties.

Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these conditions, the property in the Goods shall not pass to the buyer until the seller has received payment in full of the price of the Goods and all other Goods agreed to be sold by the seller to the buyer for which payment is then due.

After termination of the contract the seller shall have absolute authority to retake, sell or otherwise deal with or dispose of all or any part of the goods.

Until such time as the property in the Goods passes to the buyer, the buyer shall hold the Goods as the seller's fiduciary agent, and shall keep the Goods properly stored, protected and insured.

Until that time the buyer shall be entitled to resell or use die Goods in the ordinary course of its business, but shall account to the seller for the proceeds of sale or otherwise of the Goods including insurance proceeds, and shall keep all such proceeds separate from any moneys or properties of the buyer and third parties.

The buyer is permitted to sell the delivered goods to third parties in the ordinary course of its business. The buyer hereby assigns to the seller all claims up to the amount of the invoices thereof (inclusive VAT), which accrue to the buyer from to the sales of the delivered goods – regardless whether they have been processed by seller or not – to recipients or third parties. The buyer remains authorised to collect the assigned claims. Besides the buyer the seller shall entitled to collect the claims, but the seller commits himself not to collect the claims as

long as the buyer meets his payment obligations and is not in default of payments. In case of default payments or not meeting the terms of payment obligations, the buyer is obliged by request of seller to inform the seller about the debtors and the amount of the assigned payment. Furthermore the buyer must provide the seller with all necessary information to enable seller to collect the claim, hand over all documentation regarding the assigned claim and disclose the assignment to the debtors or third parties.

Processing or transformation of the delivered good by the buyer is always in favour of the seller. If the delivered good is processed with other objects which are not property of the seller, the seller becomes co-proprietor of the goods according to the relation of the delivered good to the other processed objects at the time of processing.

If the inseparably delivered good is mixed with or attached to other objects which are not property of the seller, the seller the relation of the delivered good to the other processed objects at the time of processing. In case the good of the seller must be considered a major component, it is agreed that the buyer transfers proportionate property to the seller and hold the goods as seller's fiduciary agent.

If third parties start to pledge or otherwise dispose of the goods, the buyer shall immediately notify the seller in order to enable the seller to preserve his rights. If the buyer fails to do so in due time he will be held liable for any damages caused.

The seller shall on demand of the buyer release any part of the collateral if the value of the collateral held in favour of the seller exceeds the value of the claims being secured. It is to the seller's decision to release those parts of the collateral suitable for him.

8. Warranties and Exclusion Clauses

The seller warrants that all items delivered under this agreement will be free from defects in material and workmanship, conform to applicable specifications, and, to the extent that detailed designs have not been furnished by the buyer, will be free from design defects.

The seller shall not be liable for the Goods being fit for a particular purpose, unless the seller has explicitly accepted liability.

In case the goods are subject to manufacture or processing by the seller in accordance to specifications provided by the buyer, the seller is not obliged to investigate and/or verify buyer's design and construction for any defects or in sufficiencies. The seller is not obliged to monitor these goods in respect of proper and sufficient construction, adequate safety and product information and is not obliged to any product surveillance in future.

If the goods are to be manufactured or any process is to applied to the goods by the seller in

accordance with a specification submitted by the buyer, the buyer shall indemnify the seller against all loss, damages, costs and expenses awarded against or incurred by the seller in connection with or paid or agreed to be paid by the seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual rights of any other person which results from the seller's use of the buyer's specification.

The buyer must inspect the delivered goods immediately after delivery regarding possible defects and notify the seller immediately in writing in case he has stated any defects. If the buyer fails to immediately notify the seller in writing, the delivered goods are considered approved, unless the defect was not noticeable by buyer during his inspection. If such a defect appears in the aftermath, written notification has to be given to seller immediately after recognition of the fault. Otherwise the delivered goods are deemed approved in consideration of that defect.

The above warranty is given by the seller subject to the following conditions:

- the seller shall not be liable in respect of any defect in the goods arising from any design or specification supplied by the buyer; the seller is not obliged to monitor the manufactured or processed goods in respect of their construction, product information or product surveillance
- the seller shall not be liable under the above warranty if the total price for the goods has not been paid by the due date for payment;
- the above warranty does not extend to parts, materials or equipment manufactured by or on behalf of the buyer unless such warranty is given by the manufacturer to the seller.

The liability of the seller for simple negligence is excluded. In case of simple negligence the seller is neither liable for any loss or harm directly caused by the defect nor is he liable for any consequential losses caused by the defect, especially, in the event of process or further manufacture of the delivered goods by the buyer or his customers.

In the event of simple negligence, the seller remains liable for damages arising out of death, injury of body or health. Furthermore the seller remains liable for breach of major and essential contractual obligations. In this case the liability of seller is limited to a maximum of €50.000 for each and every case.

Where any valid claim in respect of any Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the seller in accordance with these Conditions, the seller shall be entitled at the seller's sole discretion to either replace the Goods free of charge or repair the goods. If the seller is neither willing nor able to repair or replace the goods the buyer shall be entitled at the buyer's sole discretion to claim

for a reduction of price or the cancellation of the contract.

9. Choice of Law, Place of Jurisdiction

The contractual relations between seller and buyer according to these terms and conditions shall be governed by and construed in accordance with German law and each party agrees to submit the jurisdiction of the courts having jurisdiction for the seller, which is Chemnitz. It is agreed between the parties that contractual- and court language is German.

The seller shall have the right to bring a claim before a court at the buyer's principal place of business or at his discretion before any other court being competent according to any national or international law.