

General Terms and Conditions of SPAUN electronic GmbH & Co. KG

Sec. 1. Applicability

- 1.1 Business transactions between us and the commercial buyer in the sense of sec. 14 German Civil Code (BGB), a public-law entity, or special public law funds (each "buyer") shall be governed exclusively by the following General Terms and Conditions of Sale as amended (hereinafter "GTC") and subsidiarily by the General Terms and Conditions of Delivery for Products and Services of the Electronics Industry" (ZVEI) "Allgemeine Lieferbedingungen für Erzeugnisse und Leistungen der Elektro-industrie", ZVEI+.
- 1.2 Our GTC shall apply exclusively also to all future contracts concluded between us and the commercial buyer, even if these GTC are not expressly included.
- 1.3 Ancillary agreements of any kind shall only be binding if set forth in writing or confirmed by us.
- 1.4 We herewith expressly object to the buyer's terms and conditions of purchase. They shall only apply as far as we have expressly agreed to them in writing. Our unconditional performance of a purchase order or any other performance despite our knowledge of conflicting terms and conditions of purchase shall not imply our consent.

Sec. 2. Quotations

- 2.1 Our quotations shall be governed by the selling prices and terms valid on the day of delivery unless agreed otherwise.
- 2.2 The documents which form a part of the quotation, in particular illustrations, drawings and dimensional data, shall be authoritative approximately only unless they are expressly referred to as binding.
- 2.3 Our quotations shall always be subject to change. Orders of the buyer shall be deemed accepted by us if we expressly confirmed them.
- 2.4 Every contract is concluded under our reservation of correct and timely self-supply. We will inform the buyer without undue delay of the unavailability of the ordered good and redeem any consideration made in case of cancellation.
- 2.5 Any statement on products specifications and other information in our catalogues are of a preliminary nature and non-binding and may be altered by us prior to the conclusion of a contract. The specifications of a product at the time of the conclusion of a contract shall apply exclusively.

Sec. 3. Delivery, Dispatch, Delivery Dates, Right of Retention, Force Majeure

- 3.1 All deliveries shall take place ex works Singen.
- 3.2 The risk of deterioration and of accidental destruction of goods we deliver shall pass to the buyer upon hand-over or dispatch.
- 3.3 In case of purchase by shipment (Versendungskauf) we shall perform the contract by handing over the goods to the forwarder or carrier or to any other person appointed to carry out the shipment. The buyer agrees that the day of dispatch of the goods, or of hand-over to the forwarder or carrier, shall be deemed equivalent to the day of hand-over and delivery, even if it is no purchase by shipment (section 477 of the German Civil Code [BGB]).
- 3.4 The period of liability for defects shall begin on the day of dispatch or hand-over of the goods as stipulated above.
- 3.5 Dates of delivery shall be non-binding at all times unless they have been expressly agreed upon in writing as fixed dates.
- 3.6 We are entitled to withhold every delivery, until all accounts receivable from orders which we already performed, in particular through delivery, or a balance of accounts are fully and finally settled.
- 3.7 Delays in delivery or performance due to force majeure or due to events which make it materially more difficult or impossible for us to make delivery, including in particular strike, lockout, official directives, acts of God, administrative decrees, operational disruptions, shortage of raw materials, unavailability of an important piece of work etc., shall not be imputable to us, even in the case of periods or dates bindingly agreed upon. They shall not entitle the buyer to withdraw orders or to assert damage claims of any kind unless the hindrance persists for more than six (6) months; in such case, the buyer shall, after having set a reasonable respite period, be entitled to cancel the contract in respect of the part not yet performed, without this resulting in any obligation on our part regarding compensatory damages.
- 3.8 Partial deliveries shall be permitted.

Sec. 4. Notifications of Defects, Liability for Defects, Liability Period, Compensatory Damages

- 4.1 In any event, our liability for defects shall depend on the buyer's examination of the goods for defects without undue delay, however no later than seven (7) days, upon receipt. The buyer must give notification of all apparent defects without undue delay. Any hidden defect must be notified by the buyer without undue delay, however no later than five (5) days, after its discovery. Every notification of defects by the buyer must be made in writing. The buyer's notification of defects must specify the respective goods and the respective defect in the goods. The date of receipt of the notification of defects at our company shall be authoritative for observance of the time limit. If the buyer omits to give notification of defects, the goods shall be deemed approved.
- 4.2 Immaterial deviations of the delivered good in product specifications, in particular in color, in dimensions or in quality of performance characteristics shall not result in any claims of the buyer, particularly no defect-related rights. A deviation is immaterial if it does not affect the usability of the delivered good. A deviation is also immaterial, if the removal of the deviation requires expenses of not more than 10% of the purchase price of the respective delivered good.
- 4.3 The buyer shall bear the burden of proof for the existence of a defect at the time of delivery.
- 4.4 At first, the rights of the buyer in case of a defect are limited to supplementary performance upon our choice, i.e. the replacement or the reinstatement of the delivered defective good. If the replacement or the reinstatement fails the buyer shall be entitled to abate the purchase price or, at its option, cancel the contract. Supplementary performance shall be deemed to have failed after the third unsuccessful attempt.
- 4.5 Damages claims shall be governed by the stipulations of these General Terms and Conditions.
- 4.6 The liability period for defects shall be one year upon delivery.

- 4.7 We do not make any independent warranty promises to the buyer or third parties beyond our statutory liability for defects. 4.8 Independent warranty promises to any third-party end-purchaser do not contain any independent warranty promise to the buyer.

Sec. 5. Reimbursement of Expenses, supplier's regress

- 5.1 If the buyer demands compensation for expenditures according to sec. 478 para. 2 German Civil Code [BGB], this shall be limited to a maximum of 2 % of the original net value of the goods as invoiced.
- 5.2 To the extent permitted under statutory law and unless agreed otherwise, claims regarding costs which are incurred due to supplementary performance or due to any other reason, in particular due to transport, shipment, reconsignment, travel, work or assembly, against us are excluded.
- 5.3 The buyer shall be liable to us for all our further expenses and costs as caused by the buyer which exceed what is necessary for supplementary performance. Further expenses are in particular expenses which are increased because the good was brought to another place than the business seat of the buyer.
- 5.4 Unjustified complaints for defects or the return shipment of defect-free goods as defective shall entitle us to charge the buyer with all costs and expenses incurred due to the handling, the examination, the reconsignment or due to respective other reasons.
- 5.5 Costs of shipment of defective goods or wrongfully specified goods as being defective shall be borne by the buyer at all times.

Sec. 6. Exclusion of rights

- 6.1 Rights for defects shall be limited to delivered goods.
- 6.2 Our liability is excluded in particular regarding
 - a) normal wearing as well as natural deterioration of the delivered goods.
 - b) losses which have not arisen in the goods themselves, as well as consequential losses in general,
 - c) losses or disruptions which caused by
 - (i) improper or feature-adverse use, handling, storage or transport
 - (ii) non-observance of instructions of use or installation
 - (iii) the operation of the good with the wrong type of electric power or voltage or to the connection to unsuitable electric power sources.
 - d) damage and losses due to fire, lightning, explosion, grid-related excess voltage, moisture of all kinds, or incorrect or lack of programming
- 6.3 The buyer remains entitled to prove that the respective defect exists at the time of delivery regardless of the circumstances stated in sec. 6.2 of these GTC.
- 6.4 The defect-related rights and other claims shall not, or cease to, exist, if the buyer tampers with and/or repairs the goods itself or through third parties not authorized by us, and has not given us a prior deadline for supplementary performance.

Sec. 7. Attention with devices containing an integrated power supply unit and/or with power packs

Self-made or improper repairs or alterations to the goods may be life-threatening

Sec. 8. Default

In case of our default, cancellation of the contract as well as claiming compensatory damages shall require the setting of a reasonable respite period by the buyer, whereas the respite period must be proportionate to the type and scope of the order. If we are at fault, our liability for damages due to default shall be limited to an amount equivalent to 30 % of the foreseeable and typical loss.

Sec. 9. Liability

Our liability shall be unlimited in cases of intent and gross negligence, as well as in cases of fraud. Any liability arising out of minor negligence on our side shall only give rise to damages that, based on this agreement, were typically predictable and only if an obligation with significant meaning to the achievement of the purpose of this agreement was violated. We shall not be liable beyond the foregoing, regardless of the basis of the claim. The above-mentioned limitations and exclusions of liability shall not apply to claims based on losses arising from injury to life, body or health or to claims under the Product Liability Act [Produkthaftungsgesetz]. To the extent our liability is limited or excluded, the personal liability of our agents in contract and agents in tort shall likewise be limited or excluded.

Sec. 10. Payment

- 10.1 The prices are understood to be ex works and plus the respective applicable statutory value-added tax.
- 10.2 Our invoices shall be due as follows unless agreed otherwise in annual arrangements or condition agreements: 30 days of the invoice date net free of charge to the point of payment of Spaun electronic GmbH & Co. KG. In case of payment within 14 days of the invoice date 3% cash discount are granted, unless the buyer is in arrears of payment of previous invoices.
- 10.3 In the event of arrears of net payment, we shall have the right to charge default interest at the rate of 9 percentage points above the respective valid statutory base interest rate.
- 10.4 If the buyer is in arrears of payment or if justified doubts about its financial standing arise, we are entitled to declare all outstanding accounts receivable due for payment with immediate effect.
- 10.5 We are entitled at all times to reject quotations or to accept quotations only on the condition that unsettled invoices are paid, irrespective of their due date, or that a balance of accounts receivable in our favor with respect to the buyer is settled.
- 10.6 Bills of exchange shall not be accepted as a means of payment.
- 10.7 We shall always, in particular in case of first-time purchase orders, be entitled to request of cash on delivery or advance payment.
- 10.8 The buyer shall only be entitled to offset on the basis of claims which are undisputed or have been determined with legal finality. The assertion of rights to refuse performance or of rights of retention shall be limited to the same legal relationship.

Sec. 11. Retention of Title

- 11.1 All delivered goods including software shall remain our property until the buyer has fully settled all accounts receivable (including all balances due on an open account) which have ensued from our business relationship.
- 11.2 At least, all delivered goods including software shall remain our property until the buyer has fully paid the respective purchase price.
- 11.3 The buyer shall properly hold the goods in safekeeping until the transfer of title. The buyer shall be entitled to resale the delivered goods in the ordinary course of business. The buyer shall not be entitled to make any other dispositions, in particular not the pledging or the transfer of title as security.
- 11.4 If the delivered goods are resold to third parties, whether by reselling or by installation into buildings or land property, the buyer's claim against the third party shall be assigned to us up to the sum of the purchase price, including VAT, shown in the order confirmation. We accept the respective assignment.
- 11.5 In the event of default in payment, the buyer shall be obligated to disclose the address of its debtors and the sum of the account receivable concerned.
- 11.6 As long as the goods which we delivered within the territory of the Federal Republic of Germany are under retention of title, they must not be exported out of the Federal Republic of Germany without our prior written consent.
- 11.7 Furthermore, if the buyer is in default with the payment of the agreed purchase price the account receivable against the third party shall be assigned beyond the amount of the purchase up to the additional amount of our loss caused by the default. We accept this assignment. In the event of default, we shall be entitled to immediately disclose the assignment of the receivable to the third party and collect.
- 11.8 In the event of default with payment, we shall be entitled, even without exercising our cancellation rights and without setting a respite period, to demand the provisional surrender of the goods belonging to us at the buyer's expense. Our request for surrender shall not be deemed to be a cancellation of the contract unless we expressly declared the cancellation of the contract. Subject to prior notice, we shall be entitled to dispose of the surrendered good and, following payment, supply the buyer anew within the customary period for delivery.
- 11.9 Loss, damage, seizure, or any other access by third parties in respect of the goods under retention of title or seizure of the accounts receivable assigned to us shall be notified to us without undue delay. Costs arising as a result of the assertion of our claims shall be reimbursed by the buyer.
- 11.10 Any processing (including the alteration) of a delivered goods under retention of title by the buyer shall be made for us. If the good under retention of title is processed together with other goods which do not belong to us, in particular becomes part thereof, we shall receive joint ownership of the new good in relation of the value of the good under retention of title (purchase price plus VAT) to the value of the other processed good(s) at the time of processing. The buyer shall keep possession of the processed jointly owned new good for us free of charge.
- 11.11 If a good under retention of title is inseparably mixed or combined with other goods which do not belong to us, in particular through fitting, we shall receive joint ownership in the new good in relation of the value of the good under retention of title (purchase price plus VAT) to the value of the other processed good(s) at the time of combination or mixing. The buyer shall keep possession of the solely or jointly owned new good for us free of charge.
- 11.12 Goods, in which we hold sole or joint ownership according to sec. 11.10 as well as 11.11, shall be governed by the stipulations of this sec. 11 like goods delivered under the retention of title according to sec. 11.1 and sec. 11.2 respectively.

Sec. 12 Place of Performance, Place of Jurisdiction and Applicable Law

- 12.1 The place of performance for the delivery and payment is the registered business seat of Spaun electronic GmbH & Co. KG.
- 12.2 If the buyer is a merchant Singen is the exclusive place of jurisdiction for all present and future claims arising from the business relationship. However, we shall be entitled to bring an action against the buyer at its place of general jurisdiction.
- 12.3 The legal relations in connection with this contract shall be governed exclusively by German substantive law, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

Sec. 13 Alternative Dispute Resolution for Consumer Disputes

We do not commit to participate in alternative dispute resolution procedures in front of an alternative dispute resolution entity to resolve disputes with consumers.

Sec. 14 Language

These General terms and conditions exist in the German and English language. In case of discrepancies the German version shall prevail over the English version.

Valid per 13 June 2017

SPAUN electronic GmbH & Co. KG

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