

Terms and Conditions of Sale

R. Spitzke Oberflächen- und Galvanotechnik GmbH & Co KG

Effective: June 2014

1. General

The following Terms and Conditions of Sale apply to all agreements between us (hereafter referred to as R. Spitzke) and companies (hereafter referred to as the Customer) to the exclusion of all other such terms. Potentially conflicting conditions of purchase of the Customer only apply if we explicitly agree to them.

2. Contract finalization

Unless stipulated otherwise, our offers are binding for a period of 30 days.

The Customer must confirm an offer in writing (order). The Customer will receive an order confirmation upon request.

Orders differing from offers must be confirmed in writing by R. Spitzke.

3. Prices/Payment

Our prices are ex works net prices, excluding incidental costs such as shipping and packaging costs.

The invoice amount is due within 14 days of the invoice date. In the event of default and all rights resulting therefrom, the laws of the Federal Republic of Germany apply.

Otto R. Spitzke reserves the right to invoice the agreed service by surface mail or electronically via e-mail. E-mail bills without a signature have been lawful since 2011.

4. Scope of contract and services

The manufacture of a product is based on specifications predetermined by the Customer (design drawings, samples etc.) and which were available to us when drawing up the offer.

R. Spitzke is entitled to let third parties fulfill orders in whole or in part if this does not violate the obvious interests of the Customer.

R. Spitzke accepts no liability for the suitability of delivered goods for the purpose intended by the Customer.

5. Delivery

Delivery dates are only binding if so stipulated in a contract. After the expiry of a non-binding delivery date, a grace period of 30 days begins automatically. After this first grace period is over, the Customer is entitled to set an appropriate grace period for delivery. After this second grace period has fruitlessly lapsed, R. Spitzke is in default.

In case of force majeure, strikes, lockouts and/or other unforeseen circumstances beyond our control, the delivery date will be reasonably extended by the period of time until the hindrance to delivery is removed. If we cannot meet the delivery date, we will communicate this fact as soon as possible.

6. Shipping and passage of risk

When the goods have left our manufacturing facility, any and all shipping-related costs and risks pass to the Customer, including when delivered by our carriers. The Customer assumes the shipping risk for material supplied by him. Unless otherwise stipulated, we reserve the right to choose the type of shipping at our own discretion.

7. Retention of ownership

Our goods are delivered subject to exclusive and principal retention of ownership (conditional goods) and remain our property until all our claims have been settled in full.

The Customer may resell the conditional goods in the ordinary course of business at his customary terms and conditions under a retention of ownership agreement and collect the respective claims for us.

The Customer hereby assigns his claims from the resale of conditional goods to us, including in the context of labor contracts and/or contracts for manufacture and supply. These claims serve as security to the same extent as the conditional goods. The assignment to third parties is prohibited.

If the Customer sells the conditional goods together with other goods not obtained from us, the assignment of the claim from the resale shall be limited to the amount of the invoiced value of the conditional goods at the time of delivery. When goods are sold of which we have co-ownership, the assignment of the claim applies to the amount of this joint ownership.

If the Customer does not fulfill his obligations to us or if we become aware of circumstances which reduce his creditworthiness, the Customer shall give us the names of third-party debtors on request. We are entitled to prohibit the Customer to resell and process conditional goods and to combine and mix them with other goods, and we can revoke the debit authorization. We also retain the right to assert our claims with third-party debtors.

As manufacturers, we may process conditional goods in accord with § 950 BGB (German Civil Code) without committing ourselves. If the Customer processes the conditional goods or combines and mixes them with goods from another source to make a new product, we are entitled to co-ownership of it, in proportion of the invoiced value of our goods at the time of delivery to the value of the other processed goods. If our goods are combined or mixed with other items, and if one of the other items is considered to be a 'principal item' according to § 947 BGB, it is hereby agreed that we receive a co-ownership share in proportion of the invoiced value of our goods to the value of the principal item, and that the Customer will store the item for us without charge. The Customer will store the conditional goods for us. Upon request, our goods are to be surrendered to us, or we shall be allowed to adequately mark them.

8. Warranty

The Customer must make defect complaints immediately and in writing, with an exact description of the defect, at the latest within 14 days after the receipt of goods (hidden defects within 14 days after discovery, at the latest).

All contractual warranty and compensation claims expire 12 months after delivery to the Customer.

All warranty claims are void if the Customer does not give us the opportunity to examine the defect (within 4 weeks after receipt of the written complaint) or if repair work has been done without our consent. We are only liable for faulty or defective workmanship for which we are responsible. We are liable for faulty material provided by us only insofar as it should have been detected by applying expert care.

We are not liable for a defective good caused by force majeure.

Only those characteristics of goods shall be deemed as agreed to in writing which we have designated as such.

If the notification of a defect is justified and delivered in a timely manner, the warranty obligation is limited to repair or replacement of the goods at our own discretion. Of the resulting direct costs, we will defray the expenses of the repair and/or replacement, including shipping costs.

Should the repair or replacement not be successful, the Customer is entitled to rescind the contract or reduce the purchase price.

9. Limitation of liability

We are only liable for damages if the Customer can prove intent or gross negligence by us. Liability for ordinary negligence is ruled out.

Our liability is limited to contractually typical foreseeable damage. Further liability is expressly ruled out.

R. Spitzke is not liable if the faulty manufacturing or processing is due to incorrect, incomplete or unclear information from the Customer or to the fact that the Customer has not delivered faultless and correct parts, materials, plans, drawings and/or data sheets.

10. Intellectual property rights, confidentiality, data protection

The Customer is liable to us that the manufacturing commissioned with us does not infringe upon any intellectual property rights or other rights of third parties. The Customer shall indemnify us against any third party claims and reimburse us for all damages resulting from such violations.

All knowledge obtained by the Customer from us as a result of this business relationship and which is not public knowledge must be kept confidential from third parties.

The Customer should be aware that we will electronically store and process his data to fulfill the contract, under consideration of the provisions of the German Data Protection Act.

11. Place of performance / Miscellaneous

The place of performance for delivery and payment is our company headquarters in Hamburg.

The place of jurisdiction is our head office or the registered office of the buyer, according to our choice.

The contractual relationship is governed exclusively by the laws of the Federal Republic of Germany.

If individual provisions of these Terms and Conditions are or become invalid in whole or in part, this will not affect the validity of the remaining provisions.