

Terms of Supply and Payment (as at March 2018)

1. Validity of these Terms

The object of the following Terms of Supply and Payment are the services and supplies provided by Speziallampenfabrik Dr. Fischer GmbH.

The following Terms of Supply and Payment apply for all business relations with our customers. In issuing a purchase order the customer recognizes these Terms. These Terms shall also apply for all future business relations even if they are not expressly agreed again. Deviating terms and conditions on order forms of the customer will not be recognized even if the order is accepted and delivery is made without reservation. Such deviating terms and conditions are instead expressly rejected hereby. Deviations from these Terms of Supply and Payment shall only be effective if this is expressly confirmed to the user by Speziallampenfabrik Dr. Fischer GmbH in writing.

2. Offers and Supplies

- a) All offers are made on a non-binding basis.
- b) Contracts negotiated by our agents shall only be effective for us if we either confirm them in writing or execute the orders.
- c) If we are prevented from timely fulfilment of the contract through disruptions to procurement, manufacturing or supply affecting us or our suppliers, e.g. resulting from loss of power, traffic disruption, strike or lockout, the delivery period shall be reasonably extended. The purchaser may only withdraw from the contract if he sets a reasonable period of grace in writing after the end of the extended period. Notice of withdrawal must be given in writing if we do not perform within the period of grace.
- d) If we are prevented from fulfilling some or all of the contract on the grounds set out in c) above, we shall not be bound by the delivery period.
- e) We will inform the purchaser without undue delay of the hindrance pursuant to c) and impossibility pursuant to d).
- f) Claims by the purchaser for compensation due to default or failure to perform shall be excluded unless we are guilty of intent or gross negligence.
- g) If the purchaser is in default with payment of an earlier delivery, we shall have the right to withhold supplies without being obliged to make up for any loss suffered thereby.
- h) We shall have the right to make partial deliveries.

3. Prices

- a) All prices are not binding and do not apply for subsequent supplies. The gross prices indicated in the confirmation of order shall prevail. We expressly reserve the right to change prices. Even confirmed price or supply agreements may be redefined in the event of error or a change in the purchasing or availability situation. Contracts already concluded are excluded from the reservation of price adjustments or changes. The publication of new prices shall invalidate all previous prices.
- b) Agreements on discounts and other benefits shall cease to be effective in the case that the purchaser suspends payments or enforcement proceedings against him are without success.

4. Payment

- a) Our invoices are payable within 30 days of the invoice date. However, we may make delivery dependent upon immediate payment.
- b) In the case of payment in cash, by cheque, bank transfer or bank debit within 14 days of the invoice date, we will grant a discount of 2% provided that no other due receivable exists at the time of payment. The date on which we receive the payment shall prevail. We will not grant any discount in the case of repairs, substitute deliveries and other services.
- c) We reserve the right to decide on a case-by-case basis whether to accept cheques and bills of exchange. They will only be accepted in lieu of payment and will be credited only subject to the usual reservations. We will charge the usual bank discounting and collection charges for bills of exchange. We do not offer any guarantee of timely collection or protest.
- d) In circumstances where a cheque or bill of exchange is not cashed on time or circumstances arise regarding the purchaser, which, in our view, no longer warrant the granting of credit, we can determine the whole amount due to us as falling due immediately, even if cheques or bills of exchange have been provided in respect of it.
- e) Only persons with our written power of collection or our commercial agents or representatives are entitled to receive payments with one of our receipt forms.
- f) Speziallampenfabrik Dr. Fischer GmbH shall further have the right to demand from consumers within the meaning of section 13 of the German Civil Code (BGB) penalty interest for late payment at 5% above the statutory base rate. In the case of transactions in which a consumer within the meaning of section 13 BGB is not involved, Speziallampenfabrik Dr. Fischer GmbH shall further have the right to demand penalty interest for late payment at 8% above the statutory base rate and to charge any dunning fees.
- g) The purchaser may only assert a right of set-off or reduction in price, even if defects are notified or counterclaims are asserted, if the counterclaims have been declared final in a court or law or are not disputed. The purchaser may only assert a right of retention on account of counterclaims arising from the same contractual relationship.

5. Reservation of Title

- a) Until such time as all claims (including all claims from the current account) to which Speziallampenfabrik Dr. Fischer GmbH is entitled on the basis of on any legal grounds against the customer now or in the future have been settled, Speziallampenfabrik Dr. Fischer GmbH shall be granted the following securities, which will be released according to the choice of Speziallampenfabrik Dr. Fischer GmbH if and insofar as their value permanently exceeds the claims by more than 20%:
 - Speziallampenfabrik Dr. Fischer GmbH reserves the right to suspend shipping wholly or temporarily and to demand surrender of the goods at any time if satisfaction of the claim is at risk or the contracting partner breaches a duty incumbent upon it.
 - The goods shall remain the property of Speziallampenfabrik Dr. Fischer GmbH until payment has been received from the customer in full. The customer shall treat the goods with due care. If maintenance and inspection work is required, the customer shall perform this regularly at his own expense.
 - Processing or transformation shall always be for Speziallampenfabrik Dr. Fischer GmbH. If the (joint) title of Speziallampenfabrik Dr. Fischer GmbH expires through combination, the (joint) title of the customer to the single item shall pass to Speziallampenfabrik Dr. Fischer GmbH in proportion to the value (invoice value). The customer shall preserve the (joint) title of Speziallampenfabrik Dr. Fischer GmbH free of charge. Goods to which Speziallampenfabrik Dr. Fischer GmbH acquires (joint) title are referred to below as Reserved Goods.
 - The customer has the right to process and to sell the Reserved Goods in the ordinary course of business for as long as he is not in default.
 - Pledges, transfers by way of security, leasing or the removal of the Reserved Goods abroad are not permitted.
 - The customer hereby assigns to Speziallampenfabrik Dr. Fischer GmbH in full by way of security any claims arising in the event of a breach of this clause or on other legal grounds (insurance claims, tortious act) relating to the Reserved Goods (including all claims from the current account).
- b) In the event that third parties demand possession of the Reserved Goods, the customer shall advise of the title of Speziallampenfabrik Dr. Fischer GmbH and shall inform the latter of this at once in writing. If the third party is unable to reimburse the court and out-of-court expenses of any legal action pursuant to the German Code of Civil Procedure (ZPO), the customer shall be liable for the resulting shortfall.
- c) If the customer acts in breach of contract, Speziallampenfabrik Dr. Fischer GmbH shall have the right to collect the Reserved Goods and to this end to enter the place where the Reserved Goods are preserved or used, even without having previously declared withdrawal or asserted its rights under the BGB. The customer waives the rights that would accrue to him on the basis of unlawful interference with possession and shall grant Speziallampenfabrik Dr. Fischer GmbH access to the premises in which the Reserved Goods are located. The recovery and the seizure of the Reserved Goods by Speziallampenfabrik Dr. Fischer GmbH shall not constitute withdrawal from the contract.

6. Packing and Shipping

- a) Deliveries will be made in packing and shipping units.
- b) Deliveries with higher order values will be made free of freight and packing charges within the Federal Republic of Germany.
- c) Speziallampenfabrik Dr. Fischer GmbH will determine the forwarder, excluding liability for selecting the cheapest and fastest method of shipping.
- d) The customer shall bear the costs arising from any incorrect or incomplete address details he has provided.
- e) Special packaging for lamps and bulbs will be invoiced at cost.
- f) Any particular shipping methods requested by the customer, e.g. express or air freight, will be charged to the customer in full.
- g) The return of supplied goods is excluded. Should return be arranged by prior written agreement in the individual case, not more than 70% of the charged value will be credited. Any necessary reworking will be charged separately.
- h) Customizations may not be taken back.

7. Passage of Risk

Speziallampenfabrik Dr. Fischer GmbH shall be free of its duty to perform as soon as the shipment has been delivered to the company or person executing transport or has left the warehouse for the purpose of shipping. The risk of accidental destruction or accidental deterioration of the goods shall pass to the customer upon handover, in the case of sale by dispatch upon delivery to the forwarder, haulier or other person person appointed to execute shipping, if part deliveries are made and/or Speziallampenfabrik Dr. Fischer GmbH has assumed the costs of transport or delivery.

8. Liability for Defects and Compensation

- a) The goods will be supplied in the design and with the attributes usual for us at the time of delivery.
- b) Our deliveries shall be inspected for correctness upon receipt. Short or incorrect deliveries and any defects may only be reported in writing within 14 days of receipt.
- c) The duty of warranty shall lapse if the supplied goods are interfered with or modified by another party or if the purchaser does not respond immediately to our request for the return of the object about which the complaint is made.
- d) If the complaint is justified, we will rectify the defects at our option by substitute delivery free of charge.
- e) Any further liability, in particular for damage not incurred to the supplied goods themselves, is excluded.

This will not apply if our liability is mandatory, e.g. in the case of personal injury or damage to privately used items under product liability legislation or in cases of intent, gross negligence or the absence of warranted characteristics.
- f) Goods which are returned to us as the subject of complaint must be packed properly.
- g) The original warranty periods will not be interrupted by the repair of the supplied goods.

9. Repairs and Corrective Maintenance

- a) Any repair or corrective maintenance shall be without liability if there is no fault report.
- b) In the case of deficient repair or corrective maintenance, obvious defects must be reported within 2 weeks of receipt of the goods. Non-obvious defects must be asserted within 6 months.
- c) Claims to compensation will only be recognized in accordance with section 8d) 2nd sentence.

10. Other Compensation Claims

- a) All other compensation claims of the purchaser against us are excluded, regardless of their legal basis.
- b) This will not apply if our liability is mandatory, e.g. in the case of personal injury or damage to privately used items under product liability legislation or in cases of intent or gross negligence.

11. Resale

When distributing goods bearing our trademark, the purchaser shall be bound to refrain from any act that could be seen as unfair under the applicable laws and regulations.

12. Labelling of Goods, Export Restrictions, Patent Guarantee

- a) The modification of our goods, the removal of our embossed mark or stamp on goods or folding boxes or the application of a special stamp, whether as a mark of origin of the purchaser or of a third party, that could give the impression that the goods are a special product, is prohibited.
- b) We warrant that the goods sold are as such free of third-party property rights in the Federal Republic of Germany. Should third parties assert legitimate claims under property rights, we will at our option and expense either bring about a licence for the purchaser or replace the goods sold with goods that are free of property rights or take the goods back against return of the purchase price. For any further claims our liability will be governed by section 10. We do not offer any warranty that the use of the goods sold does not interfere with third-party property rights.

13. Foreign Transactions

The provisions of the Hague Convention on the International Sale of Goods shall not apply.

14. Effectiveness

- a) Should one or more provisions be ineffective, this shall not alter the effectiveness of the remaining provisions. An ineffective provision shall where possible be replaced through supplementary interpretations by a clause that comes as close as possible to their purpose.
- b) Amendments and additions to the provisions contained in these Terms must be made in writing in order to have effect. This shall apply in particular for this clause also.

15. Place of Jurisdiction

The place of performance for all claims arising from the contractual relationship – including rescission – and for any disputes between the customer and Speziallampenfabrik Dr. Fischer GmbH – including those relating to cheques and bills of exchange – shall be Limburg a.d. Lahn if the purchaser is a full merchant, a legal person under public law or a federal special asset. In this case we may also bring an action at the registered office of our relevant branch. The contractual relations shall be governed by the laws of the Federal Republic of Germany, in particular the provisions of the German Civil Code (Bürgerliches Gesetzbuch) and the German Commercial Code (Handelsgesetzbuch).

Speziallampenfabrik Dr. Fischer GmbH

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