

# General terms and conditions of purchase of Fischer Group, as of: 01/02/2017

Applies to the following companies:

- Fischer Surface Technologies GmbH
- Fischer Oberflächentechnologie GmbH
- Galvanoplast Fischer Bohemia s.r.o.

## I. Order and conclusion of contract

1. The following general terms and conditions of purchase apply to legal relationships between the supplier and us concerning our purchase, to the exclusion of all other terms and conditions. This expressly excludes the supplier's general terms and conditions. Our general terms and conditions of purchase also apply to all future deliveries and services on the part of the supplier.

2. Orders, agreements and changes are only binding if they are issued or confirmed by us in written form. Communication should be carried out with our purchasing department. Discussions with other departments, insofar as agreements are to be made which amend points defined in the agreement, shall require express written confirmation from the purchasing department.

3. Each order must be confirmed by the supplier within a week of receipt, under provision of the price and the binding delivery period. Once this period has expired, we are no longer bound to the order.

## II. Prices and terms of payment

1. The agreed prices are fixed and are to be understood - excluding applicable VAT - as duty paid including packing costs and freight charges, regardless of the place of delivery.

2. In so far as the parties do not agree otherwise, payment shall take place within 30 days with 3% discount or within 60 days at no discount. In the case of purchase contracts, this period begins on receipt of the contractually compliant service, in the case of contracts for work on acceptance of the orderly work service. In the case of the acceptance of early deliveries, the due date shall depend on the agreed delivery date.

3. Our complete order and article numbers as well as the cost centre must be included in order confirmations, dispatch notes, invoices and other correspondence. Invoices not including our order and article numbers and cost centre may be returned to the supplier without payment.

4. The supplier is entitled to offset against our claims or exercise a right of retention only and in so far as its claim is uncontested or its counterclaim is made legally binding.

5. Transfer of claims which the supplier has against us without our prior written consent is excluded. The stipulation of §354a of the German Commercial Code (HGB) is not affected by this.

## III. Delivery, delivery period and delay in delivery

1. Agreed deadlines and periods are binding. The receipt of the product by us or our assigned receiver shall be decisive for compliance with the delivery deadline.

2. The delivery note must be attached to the consignment. Copies of delivery notes for consignments delivered to third parties on our behalf must always be sent to us too. After successful shipping, the supplier must always send us the dispatch note without undue delay. Dispatch notes and delivery notes must include quantities and/or weight information as well as article numbers, drawing status and source data.

3. The supplier must inform our purchasing department as soon as it identifies difficulties in production, starting material supply, compliance with deadlines or similar circumstances which may prevent it from completing the delivery on time or may affect the quality of the delivery. The obligation to observe the agreed deadlines shall remain unaffected by this. The supplier may only appeal to delay through no fault of its own if it has observed its duty of disclosure.

4. In the event of a delay on the part of the supplier we are entitled, after the fruitless expiry of an appropriate grace period, to demand a contractual penalty from the supplier. This amounts to 0.5% of the purchase price or work wages of the delayed product or work service for every week or partial week of the delay, up to a maximum of 5% of the purchase price or work wages of the delayed product or work service. The agreement or imposition of the contractual penalty does not affect our legal claims due to delay. Any contractual penalties paid must be added to claims for compensation. The contractual penalty may be imposed at any point until the late-delivered product or work service has been paid for.

5. Partial deliveries are in principle forbidden, unless we have expressly agreed to partial deliveries or they are acceptable to us.

#### IV. Free-issue parts

1. Materials, parts, containers, special packaging, tools, measuring devices or similar (free-issue parts) remain our property and must be stored separately by the supplier until they have been processed. Free-issue parts may only be used for our orders. Should free-issue parts be damaged or destroyed through the fault of the supplier, the supplier shall be obliged to pay us compensation.

2. In the case of the processing, combination or mixing of provided articles, we shall receive co-ownership of the new article in the ratio of the value of the provided article to the value of the new product. Copies of provided articles may only be made following our prior written agreement. The tools shall become our property on manufacture.

3. The supplier shall only have right of retention, whatever the reason, due to uncontested or legally binding claims or claims which we have expressly recognised in writing.

#### V. Defect liability

1. We will investigate the product's freedom from defects within an appropriate period, especially for deviations in quality or quantity. Complaints regarding obvious defects are certainly in good time if they are made within 14 days of our receipt of the product; complaints regarding hidden defects are certainly in good time if they are made within 14 days of the discovery of the defects. In this regard the supplier waives the right to object due to delayed notice of defects (§377 HGB).

2. Where the object of the delivery is defective, our claims shall be oriented according to legal stipulations, in so far as the terms and conditions below do not say otherwise. If operational safety is threatened, there is a danger of unusually large damages or to maintain our ability to deliver to our customers we may, after notifying the supplier, undertake the repairs ourselves or employ a third party to do it for us. Associated costs shall be borne by the supplier.

3. The supplier shall be liable for all damages and expenses incurred by us as a direct or indirect result of defects of an object. The expense of an unusually thorough incoming goods inspection must also be reimbursed if at least parts of the delivery were found to be faulty. This also applies to partial or complete checking of the deliveries received in the further course of business by us or our customers.

4. The supplier shall also reimburse expenses incurred by us or our customers as a result of premature damage prevention, absorption or reduction (e.g. recall of goods). The supplier shall also reimburse expenses which we are legally required to bear for our customers or which are caused by the delivery received from it.

5. Should outturn samples or appropriate samples from a delivery deviate completely or significantly from contractual or legal stipulations, we are entitled to withdraw from the whole contract. Further claims to reduction or compensation are not affected.

6. In so far as the law does not provide for a longer limitation period, the limitation period for defect claims is 3 years. The period shall begin when we receive or accept the delivery. The expiry of claims due to defects shall occur 2 months at the earliest after we have fulfilled our customers' claims, but shall end 5 years at the latest after the delivery to us.

#### VI. Product liability/property rights

1. If we are held liable due to product liability under German or foreign law, the supplier shall vouch for us as if it were directly liable. Any contractual liability on the part of the supplier is not affected. The supplier is obliged to

release us from all third party claims at the first time of asking, in so far as the damages were caused by a defect in the object of a delivery carried out by the supplier. In cases of fault-based liability, however, this shall only apply if the supplier is at fault. In so far as the cause of the damages lies within the supplier's area of responsibility, it shall bear the burden of proof. In such cases the supplier shall assume all costs and expenses, including the costs of any prosecution or recall action. Otherwise statutory regulations shall apply.

2. We will inform the supplier without undue delay if we intend to involve it according to the previous paragraph. As soon as is acceptable to us we will give the supplier occasion to investigate the case of damage and agree with us on the measures to be taken, e.g. settlement proceedings.

3. The supplier shall guarantee that the contractually compliant use of the object of delivery does not violate the commercial property rights of third parties. If we are nonetheless subject to a third-party claim due to violation of commercial property rights, the supplier is obliged to release us from all claims exercised against us by third parties unless the supplier is not responsible for the defect of title.

## VII. Force majeure/long term hindrance to delivery

1. Industrial action, unrest, official measures and other unforeseeable and unavoidable events such as natural disasters shall free the supplier and us from service obligations for the duration of the disruption and in the scope of its effect. The contracting parties shall fully inform each other immediately and do everything within reason to limit the effects of such events.

2. In the event of a long term hindrance to delivery or a threat to the supplier's performance, as well as in the event of the opening of insolvency proceedings or the rejection of the opening of such proceedings due to a lack of assets or the bringing of comparable proceedings concerning a contracting party, the other contracting party is entitled to withdraw from the contract with regards to the as-yet-unfulfilled part. Should the supplier be affected by one of the above events, it shall do its best to support us in relocating production of the object of delivery to us or a third party.

## VIII. General provisions

1. The place of fulfilment for deliveries and services is the destination designated by us.

2. The place of jurisdiction is Montabaur, subject to a different exclusive place of jurisdiction. We are, however, entitled to bring claims against the supplier at another responsible court.

3. In addition to the terms of the contract, the law of the federal republic of Germany having relevance to the legal relationships of domestic parties shall apply exclusively, under exclusion of collision of laws and the United Nations Convention on Contracts for the International Sale of Goods (CISG).

4. Changes and additions to the contract including these general term and conditions of purchase must be made in writing. This also applies to additions and changes to this provision.

5. Should individual provisions of these general terms and conditions of purchase be or become invalid, the validity of the remaining provisions shall not be affected by this. In such a case the contracting parties shall be obliged to work together in creating provisions which will achieve a result as similar to that of the invalid provision as possible in a legally effective manner.