

Terms and Conditions of Purchase for the fischer group (Version: May 2020)

1. Scope, Conclusion of Individual Contracts

- a. Unless other terms and conditions have been agreed upon in writing, solely these Terms and Conditions of Purchase apply to all present and future orders from fischer and to the execution of these orders. The supplier's or subcontractor's (subsequently jointly referred to as the „Supplier“) Terms and Conditions of Business apply only when and to the extent that fischer has explicitly acknowledged them in writing for the respective contract.
- b. For the purpose of these Terms and Conditions of Purchase, „fischer“ is any company of the group located in Germany. This is fischer Edelstahlrohre GmbH, fischer Rohrtechnik GmbH, fischer Maschinentchnik-GmbH, fischer Hydroforming GmbH, fischer Power Solutions GmbH, fischer Coil Service Center GmbH and fischer eco solutions GmbH.
- c. These Terms and Conditions of Purchase also apply when fischer knows about the Supplier's differing or conflicting terms and conditions and accepts delivery from the Supplier without reservation.
- d. These Terms and Conditions of Purchase apply only to merchants according to § 14 BGB (German Civil Code), legal persons under public law and public special assets.
- e. Orders and agreements are only binding when they have been consented to in written form by fischer's purchasing department. The contract concluded in written form, including these Terms and Conditions, fully reflects all understandings of the parties to the contract concerning the object of the contract.
- f. The Supplier must confirm fischer's order in writing or by e-mail without delay („order confirmation“). Should fischer not have received the order confirmation within three work days after the order date, fischer may cancel the order without the Supplier being able to derive claims therefrom.

2. Delivery Period, Delivery, and Shipping Documents

- a. Agreed-upon delivery dates and delivery periods are binding. The date of the arrival of the delivery at the delivery address is authoritative for compliance with the delivery date or for delivery within the delivery period. Should the acceptance of the delivered products has been agreed upon or be required by law, the receipt date depends on the successful acceptance by a person authorized to do so by fischer.
- b. Early or partial delivery, excess or short delivery require fischer's prior written permission.
- c. As soon as the Supplier realizes that it is not possible to fully or partially complete its delivery and/or service (subsequently jointly referred to as the „Delivery“) in a timely manner, it must notify fischer in writing without delay, giving the reasons and the probable duration of the delay. All of fischer's expenses and damage resulting from

omitted or belated notification for which the Supplier is responsible are borne by the Supplier.

- d. Should there be a delay in delivery, fischer may demand a contractual penalty of 1 % of the agreed-upon total price of the Delivery for each full week of delay, up to a maximum of 5 % of this price. Further statutory rights are not affected. The Supplier may prove that the damage is less than this contractual penalty. fischer may claim this contractual penalty until the final payment has been made.
- e. The Supplier must include fischer's exact order number on all shipping documents (dispatch papers, shipping notes, packing list).
- f. The Supplier has not fulfilled its delivery commitment until fischer has received the proper delivery and shipping documents. Until these documents arrive, fischer may store the Delivery at the Supplier's risk and expense. fischer is not liable for handling delays resulting from missing delivery documents.
- g. fischer can process invoices only when they have been received by the ordering fischer company in duplicate and contain the order number given in the order. The Supplier is responsible for all consequences resulting from its failure to fulfill this obligation.

3. Packaging and Assumption of Risk

- a. The goods must be protected from damage by proper packaging as well as appropriate shipment. Machines, mechanical systems, and components must be equipped with attachment points / eyes for transportation / handling. The attachment points and eyes for transportation must be clearly indicated.
- b. Unless there is a differing written agreement, fischer assumes risk according to DDP delivery address (Incoterms 2010). This provision also applies in those exceptional cases in which fischer uses its own transport personnel. The delivery address is the location given in the order, or, should no location be given, the ordering fischer company's place of business. Should the acceptance of the delivered products have been agreed upon or be required by law, fischer, deviating from the first sentence of this paragraph, assumes risk upon successful inspection and approval by a person authorised to do so by fischer.

4. Quality and Liability for Defects

- a. The Supplier warrants that the delivered product is free of defects in title and of defects in quality and conforms to the recognized state of the art, the relevant laws, and accident prevention and safety regulations, as well as to the accepted and technical quality assurance standards (e.g., DIN, EN, TÜV, explosion danger guidelines of the appropriate professional organization, etc.) when fischer assumes risk. Should there be differences between these standards, the German version is authoritative.
- b. Changes to the delivered product requires fischer's prior written permission.

- c. The Supplier must conduct an outgoing goods inspection. Upon arrival of the products, fischer will inspect the goods for identity and shortages on the basis of a comparison of the shipping documents (shipping notes and/or packing list) with the order documents, by taking random samples for obvious defects, as well as for externally visible transportation damage. A duty to inspect the products further does not exist. fischer will report defects to the Supplier without delay after discovery. In this respect the Supplier waives the right to claim a delayed formal complaint.

This obligation to inspect the products upon arrival does not exist when an acceptance of the delivered products has been agreed upon or is required by law.

The Supplier must consult with its business liability insurer in order to make certain that this provision is compatible with its insurance coverage.

- d. Should there be defects, fischer has the choice of demanding rectification or delivery of replacements for the defective goods. In addition, after a reasonable additional extension period has expired without results, or, should it no longer be possible to set an additional extension period because of particular urgency, fischer may, after notifying the Supplier, itself undertake to remedy the defect, have the defect remedied by a third party, or obtain replacement goods elsewhere. Unless the Supplier is not responsible for the defect, it must bear the resulting costs.
- e. The Supplier must bear all expenses for rectification at or delivery of replacement goods to the place at which the goods are in use. fischer will inform the Supplier of the place at which the goods are in use at the Supplier's request.
- f. The Supplier warrants that no third-party industrial property rights (e.g., patents or design patents, other rights, or trade or business secrets) are violated – including in the country of use – by the use of the supplied products. The Supplier must indemnify fischer in this respect from any possible claims by third parties at fischer's first written request.

The Supplier is not liable insofar as it manufactures the goods solely according to fischer's drawings and/or specifications and did not know or was not required to know that manufacturing these products violates third party rights.

- g. Unless other conditions have been agreed upon in writing, claims for damages expire 36 months after delivery of the delivered product or, should an acceptance of the delivered products have been agreed upon or be required by law, after acceptance. Insofar as fischer has non-contractual claims for damages due to a defect, the normal statutory limitation applies, unless application of the commercial law limitation period in a particular case leads to a longer limitation period.
- h. Unless repair or replacement was an insignificant supplementary performance or an express act of goodwill by the Supplier, should the delivered goods be repaired or replaced after a notice of defects, the limitation period according to Section 4 g for these products with respect to this defect begins again.
- i. The Supplier warrants that

- the Products are only manufactured, stored, handled and processed at secured premises and that they are always secured against unauthorized access and
- it shall only assign absolutely reliable personnel.

The Supplier shall oblige its sub-suppliers and sub-contractors to comply with these requirements, too.

5. Prices and Terms of Payment

- a. The price given in the order is binding. The statutory value added tax must be included in the price. The price is DDP delivery address (Incoterms 2010). Unless in a particular case other terms and conditions have been agreed upon in writing, the price includes all of the Supplier's services and incidental services (e.g., assembly, installation), as well as all incidental costs (e.g., proper packaging, transportation costs including transport and liability insurance).
- b. Should fischer in an exceptional case assume freight charges on the basis of an explicit written agreement, this means only that fischer bears the least expensive freight charges. Fischer bears freight charges going beyond the least expensive freight charges only when this has been explicitly agreed upon in writing or fischer has prescribed a particular type of shipping (e.g., the carrier).
- c. The invoice must be sent to the ordering fischer company.
- d. Unless other terms have been agreed upon in writing, payment is within 14 days with a 3 % discount, or within 30 days net. The payment period begins after the invoice has arrived, but not before the goods have been received completely and according to the contract and the arrival of the documents as given in Section 2, as well as receipt of documentation or similar documents belonging to the Delivery, but not before the agreed-upon delivery date, or should an acceptance of the delivered products has been agreed upon or be required by law, successful acceptance.
- e. fischer may choose payment by bank transfer to the bank account given on the invoice. For payment by bank transfer, the receipt of the bank transfer at fischer's bank is authoritative for punctual payment.
- f. fischer has retention rights and set-off rights to the extent allowed by law.

6. Tools - Confidentiality

- a. Upon full payment, fischer assumes title to tools or other means of production, e.g., models, forms, jigs, patterns, dies, etc. (subsequently jointly referred to as „Tools“) made on fischer's behalf and paid for by fischer. The handing over of the Tools will be substituted by the Supplier borrowing the Tools from fischer. The Supplier must store the Tools belonging to fischer separately from other items not belonging to fischer. fischer's ownership must be noted both on the Tools themselves and in the Supplier's business

records. Upon termination of the business relationship, the Tools must be returned to fischer at fischer's request. The Supplier may neither use the Tools for its own purposes nor make them accessible to third parties. The Supplier must insure the Tools for their replacement value against fire and water damage and against theft at its own expense. In addition, the Supplier must perform the necessary maintenance and service in a timely manner at its own expense. The Supplier must report any disturbance without delay. Should the Supplier culpably fail to do so, claims for damages are not affected.

- b. The Supplier may neither itself use products made from fischer's designs or ideas (such as schematic diagrams, drawings, models, etc.), or according to fischer's confidential information, or with the Tools or copies of the Tools, nor offer or deliver them to third parties.
- c. The Supplier must keep secret from third parties all details of the order (such as quantity, technical details, conditions, etc.), as well as all further information of a confidential nature (e.g., drawings, patterns, specifications, models, etc.), that it has deliberately or accidentally received from fischer (subsequently referred to as „Confidential Information“). Adding fischer to a reference list or using fischer's order for advertising purposes is allowed only after fischer's prior written consent.

As soon as the Supplier no longer needs the Confidential Information to carry out the order, it must return it to fischer without charge. The Supplier may not use the Confidential Information for its own purposes nor make it available to third parties.

7. Prohibition of Assignment

The Supplier may assign or pledge rights accruing from the contract only with fischer's prior written consent. This condition does not apply to monetary claims, however fischer may effect payment to the Supplier with a discharging effect.

8. Title

- a. If fischer provides the Supplier with parts, fischer retains title to these parts. The provided parts must be kept separate from items not belonging to fischer. fischer's title to the provided parts must be indicated on the parts themselves and in the Supplier's business records. The Supplier must inform fischer in writing without delay of all defects in the provided parts at the time they are delivered. The Supplier is liable for all other damage or loss. The provided parts may be used only for their intended purpose. The Supplier must insure the provided parts for their replacement value against fire and water damage and against theft at its own expense.
- b. Should the provided parts be processed together with or transformed with items not belonging to fischer, fischer acquires co-ownership in the new goods in the relationship of the value of the provided parts to the other processed items at the time of processing.

- c. Should the parts provided by fischer be inseparably mixed with other items not belonging to fischer, fischer acquires co-ownership in the new goods in the relationship of the value of the provided parts to the other mixed items at the time of processing. Should the mixing occur in such a manner that the Supplier's parts are to be regarded as the principal part, it is assumed to be agreed that the Supplier transfers proportional co-ownership to fischer. The Supplier stores fischer's share for fischer without charge.
- d. The Supplier must examine the parts provided by fischer for possible transportation damage, incorrect delivery, and shortfall on arrival and must inform fischer about complaints immediately.
- e. The Supplier may process only defect-free provided parts. The Supplier must thereby proceed properly and in particular neither damage nor endanger the intended use of the provided parts during the processing or treatment.

9. Product Liability, Indemnity, and Traceability

- a. Should a customer or another third party assert claims against fischer on the basis of product liability and should and to the extent the damage be caused or also caused by a defect in a product provided by the Supplier, the Supplier must indemnify fischer from these claims for damages upon the first written request. This provision does not however apply to instances of fault-based liability in which the Supplier is not responsible for the breach of duty.
- b. In cases covered by Subsection 9a, the Supplier must also reimburse fischer for any expenditures according to §§670, 683 BGB (German civil law) or §§ 830, 840, 426 BGB (German civil law) resulting from or in connection with a product recall conducted by fischer or one of fischer's customers. fischer will, to the extent possible and reasonable, inform the Supplier of the subject and extent of the recall actions and give the Supplier an opportunity to provide a statement. Further statutory rights are not affected.
- c. Unless there are other agreements, the Supplier shall label the delivered products so that they are permanently recognizable as its product. The Supplier must, through this labelling and other tracking methods, ensure that upon occurrence of a defect in the delivered goods it can without delay determine which further products could be affected.
- d. The Supplier is as liable for the negligent or intentional acts and omissions of third parties involved by him (e.g. his vicarious agents, sub-suppliers and subcontractors) as he is for his own faults.

10. Changes to the Product or to the Production Process

Suppliers with which fischer has a business relationship are obligated to inform fischer in good time should they intend to change products or production processes concerning products supplied to fischer.

11. Place of Jurisdiction and Place of Performance

- a. Provided that the Supplier is a merchant according to German commercial law (Handelsgesetzbuch, HGB), the place of jurisdiction is Achern. However, fischer also has the right to initiate legal proceedings at the court of competent jurisdiction for the Supplier's place of business.
- b. Place of performance for all Deliveries is the delivery address.

12. Applicable Law

For these Terms and Conditions of Purchase and the entire legal relationship, including the individual delivery contracts, between the Supplier and fischer, the laws of the Federal Republic of Germany apply. The United Nations Convention on Contracts for the International Sale of Goods from 11 April 1980 (uniform law on the sale of goods) does not apply.

13. Severability Clause

Should an individual provision of these Terms and Conditions of Purchase be invalid or become be invalid, the validity of all other provisions or agreements is not affected.