

## Terms & Conditions of Fischer Söhne AG

### 1. Scope of application

- 1.1. For each delivery to be carried out by Fischer Söhne AG (hereinafter referred to as “Supplier”), the following Terms & Conditions (“T&Cs”) in their current version published on the Fischer Söhne AG website (<https://www.fischersoehne.ch/en/documents>) shall apply through written reference in the corresponding order confirmation.
- 1.2. Any deviating provisions in individual cases shall only be applicable when agreed in written form. Such agreements shall have precedence over the T&Cs. The Purchaser’s terms and conditions shall only apply if Fischer Söhne AG has expressly accepted them in writing. In the event of conflict, the Supplier’s T&Cs shall apply.
- 1.3. The type and scope of delivery shall be based on the written order confirmation issued by the Supplier. All technical explanations and advice deviating from the usual guidelines as well as all agreements and consents regarding the prices, delivery times and payment conditions provided by Fischer Söhne AG employees shall only become binding upon confirmation of the order. Any (additional or subsequent) agreements deviating from the order confirmation must be confirmed in writing by the Supplier in order to become binding. With regard to international trade, all delivery terms contained within the Terms & Conditions are otherwise based on Incoterms 2010 rules.
- 1.4. Should individual provisions of these Terms & Conditions be or become invalid, the remaining provisions shall remain unaffected.
- 1.5. All required data provided by the Purchaser, such as name, address and order/booking information, are saved and are subject to statutory data protection regulations.

### 2. Content and weight information

- 2.1. Any information regarding the content and weight of the products is for guidance only; any deviations within the meaning of the currently applicable DIN standards (DIN 16742 “Plastics moulded parts”) are production-related and normal in the industry.

### 3. Prices

- 3.1. Prices are subject to change and are quoted net and ex works, including packaging and exclusive of VAT. Prices only become binding following an order confirmation sent in writing and/or by email sent to the last known address or following product delivery with the Supplier’s invoice attached.

- 3.2. The prices are quoted ex works of the Supplier (EXW designated location) in the currency indicated in the order confirmation (CHF Swiss Francs, US dollars or EUR euros) and ex paying agent of Fischer Söhne AG exclusive of transport insurance and other duties, plus value added tax at the statutory rate applicable at the time (additional charges in the event of changes to the tax regulations or the position of the tax authority are expressly reserved).
- 3.3. If the cost factors (raw materials, exchange rate premiums, etc.) should change after the Supplier's order confirmation has been issued (in the case of delivery times exceeding 8 weeks), price adjustments may be made.
- 3.4. In the event of any subsequently requested changes to tools or injection moulded parts and other customised products, prices are subject to change.
- 3.5. In the event of any follow-up orders, the Supplier shall not be bound by the prices indicated in previous order confirmations.

## 4. Payment terms

- 4.1. **Goods:** Payments must be made in accordance with the payment terms stipulated in the order confirmation. Further, all invoices are upon issue and must be paid within 30 days of the invoice date without any deductions to one of the bank/post office accounts indicated by the Supplier. Payments may not be made to the Supplier's employees or sales representatives, with the exception of cash payments at the head office reception. Depending on the order, different arrangements can be made, provided they are concluded in writing. In particular, advance payments and/or payments on account or other securities can also be requested.
- 4.2. **Tools:** As per the order confirmation.
- 4.3. **Default:** Should the Purchaser be in default with regard to an agreed payment or another obligation, Fischer Söhne AG may, at its own discretion, either:

insist upon performance of the contract and (cumulatively or alternatively)

- a) delay the performance of its own obligations until the outstanding payments have been made/until the other obligations have been complied with,
- b) make use of a reasonable extension of the delivery time,
- c) declare the entire outstanding purchase price due for payment

and, if there are no mitigating circumstances on the part of the Purchaser,

- d) charge interest in arrears in the amount of 5% from the due date or
- e) withdraw from the Contract, with all costs and damages payable by the Purchaser, and demand the return of all goods already delivered.

Furthermore, in the event of default, new payment terms may be specified for any outstanding orders. Starting with the second reminder, a fee shall be charged for each reminder. In addition, the Supplier is entitled to demand compensation from the Purchaser for the necessary debt collection and legal costs, including lawyers' fees. The Supplier expressly reserves the right to claim compensation for any further damages.

- 4.4. The Purchaser may only offset its own claims against the purchase price owned and/or the claim of Fischer Söhne AG when the offsetting claims of Fischer Söhne AG have been expressly declared as undisputed or legally established by a court of law. The Purchaser shall have no rights of retention or security interests in products and tools supplied by Fischer Söhne AG but as yet unpaid for. In particular, the Purchaser shall have no right to suspend or refuse payments based on warranty claims or other counterclaims not recognized by the Supplier.

## 5. Delivery, delivery times and delayed deliveries

- 5.1. The delivery times for goods, tools and samples are given in writing in the order confirmation and indicate the expected delivery date. A particular delivery date can only be considered binding when it is expressly confirmed as a fixed date in the order confirmation upon request by the Purchaser. The delivery period begins after receipt of all documents to be provided by the Purchaser and required for the performance of the order as well as of any advance payments and after a timely procurement of materials and/or tools. When the Purchaser is notified of the goods being ready for shipment, the delivery time shall be deemed to have been met. Should an agreed fixed delivery time be exceeded, the Supplier shall only be considered to be in default after receiving a special written reminder from the Purchaser; the exception of Section 5.2 below shall apply. In the event of default, the Purchaser shall only have the right to withdraw from the contract after granting the Supplier an adequate period of grace. Claims for damages on the part of the Purchaser cannot be accepted under any circumstances.
- 5.2. In the event of unforeseeable events, such as force majeure, virus or other attacks and disruptions to the Supplier's IT system, import restrictions and other delays in the procurement of goods, materials and tools by sub-suppliers, the Supplier shall be entitled to extend delivery times by the duration of the effects of such events; it shall be irrelevant whether such events occurred inside or outside our premises. In these circumstances, the Purchaser shall therefore not be entitled to make any default-related claims or any other claims for damages. Should the delivery time be extended by over 6 months, both the Supplier and the Purchaser may withdraw from the contract at no charge.

- 5.3. If insolvency proceedings are initiated or enforcement measures, seizures or other decrees or actions on the part of third parties are mandated, the Purchaser must notify Fischer Söhne AG immediately. In such cases, Fischer Söhne AG shall have the right to suspend or outright refuse to make any outstanding deliveries at its own discretion and to withdraw from the contract.
- 5.4. Should changes be requested to any ordered tools, plastic parts or customer-specific or processed goods, or should such changes prove necessary, new delivery times must be agreed. In such cases, previously agreed delivery times shall become invalid, including fixed delivery dates in particular.
- 5.5. Should the Purchaser be in arrears with its own obligations vis-à-vis the Supplier from any current or previous deliveries, the Supplier shall be released from its delivery obligations, and the delivery dates for all outstanding orders shall no longer be binding. New delivery terms shall be agreed upon receipt of payment. In such a case, the Purchaser shall have no right to compensation either.
- 5.6. Call-off orders/master agreements shall be agreed separately. The Supplier shall have the right to provide the entire batch at once or in parts. Delivery times shall be based on the agreements made, whereby Sections 5.1 through 5.5 shall apply. Any requests for changes between partial deliveries or any adjustment of delivery cycles may involve additional charges.
- 5.7. Should partial deliveries for call-off orders/master agreements (see Section 5.6) not be requested within the agreed period of time, the Supplier shall have the right to invoice for the amount not yet delivered and to insist that it be accepted within 14 days. Should the amount originally ordered not be called off within the agreed period of time, the Supplier shall be entitled to claim a proportionate refund for the volume discounts. Following the expiry of the acceptance period, the Supplier shall store the goods at the Purchaser's expense and risk for a maximum of 6 months. After that, the Supplier reserves the right to dispose of the goods at the Purchaser's expense; in such a case, the contract shall be considered performed. In the case of standard products, the Purchaser can settle a call-order/master agreement that has not been requested in full; in such a case, the Supplier shall be entitled to subsequently demand the refund of any volume discounts granted in advance.
- 5.8. If "full delivery" has not been expressly agreed in writing, the Supplier reserves the right to carry out partial deliveries. Partial deliveries are permissible in any case, should they be deemed acceptable for the Purchaser. They must be accepted by the Purchaser and paid in accordance with the agreed payment terms.

## 6. Minimum quantities/excess and short deliveries

- 6.1. For all articles for which a quantity price is indicated, the minimum order quantities/minimum order values must be observed; this applies in particular to disposable items, packaging items and items priced per 100/1000 pieces. A minimum order value of CHF 200.00 per order confirmation shall apply.
- 6.2. For articles with a quantity price, the Supplier reserves the right to carry out excess/short deliveries of up to 5% of the ordered quantity.

## 7. Shipping and transport risk/transfer of benefits and risks, ownership

- 7.1. Unless expressly agreed in writing with the Purchaser, the Supplier shall determine the dispatch route and the shipment method at its own discretion. Any transport and packaging costs paid by Fischer Söhne AG shall be invoiced separately and additionally.
- 7.2. Benefits and risks shall be transferred to the Purchaser as soon as the ordered goods leave the supplying plant or in accordance with the corresponding Incoterms 2010.
- 7.3. Should the acceptance or the dispatch be delayed due to the Purchaser's actions, the Purchaser shall bear the benefits and risks from the moment of handover/readiness for dispatch.
- 7.4. Upon the Purchaser's written request, goods shall be insured against breakage, transportation and fire damage at the Purchaser's expense.
- 7.5. The goods to be delivered shall remain the property of Fischer Söhne AG until they have been paid for in full. The Purchaser is prohibited from pledging the goods or using them as security in the event of default, and resale is only permissible in the normal course of business and only on condition that the reseller receives payment from its customer or requires that ownership does not pass and is not transferred to the customer until said customer has fulfilled its payment obligations.
- 7.6. Fischer Söhne AG assumes no liability for overloading, damage sustained during loading or the completeness of loading. Should defects nevertheless occur, they must be reported immediately and directly to the carrier, and Fischer Söhne AG must also be informed (see Section 15.3 below).

## 8. Returns

- 8.1. There shall be no obligation to take back any goods ordered erroneously or in excessive quantities. In exceptional cases, the Purchaser may make an agreement with the Supplier with regard to returns of goods; however, this shall always require the latter's prior written consent.
- 8.2. Should the Supplier agree to the return, it shall be entitled to demand a processing (restocking) fee.

- 8.3. The returned goods must be free of any defects. The return transportation shall be organized by the Supplier using its freight forwarder. The cost price of the return transportation shall be deducted from the credit note. Credit shall only be granted for products; transportation costs already paid to ship the goods to the Purchaser cannot be credited.
- 8.4. Products procured or manufactured specially for the Purchaser cannot be returned.

## 9. Projects and Prototypes

- 9.1. The costs of any samples and prototypes manufactured by the Supplier for the Purchaser shall be charged either on a time and material basis or at a rate specified in the order confirmation, or they shall be sufficiently compensated by means of the order for the manufactured parts.
- 9.2. The Supplier reserves the right to invoice the Purchaser for projects and preliminary studies should the Supplier not receive an order within 6 months of their being presented.
- 9.3. For extensive developments and projects, a separate contract must be concluded, which should define the monetary compensation for the expenses incurred.
- 9.4. In any case, projects, preliminary studies, prototypes and samples remain the property of the Supplier and must not be forwarded or made available to any third parties without its written consent. Any intellectual property rights to projects, preliminary studies, prototypes and samples shall belong exclusively and absolutely to the Supplier.

## 10. Tools (customer-specific)

- 10.1. Any tools and devices procured for the purpose of manufacturing customer-specific products shall remain the exclusive property of the Supplier in the absence of any deviating agreements and subject to Section 10.9.
- 10.2. The tools shall be used exclusively for work on the Purchaser's orders, subject to Section 10.8. Any other use shall require a special agreement between the Purchaser and the Supplier.
- 10.3. Any production of new tools or any changes shall only be possible upon receipt of the agreed advance payment (as per Sections 4.2 and 5.4).
- 10.4. Should the Purchaser demand any changes during the performance of the order or subsequently thereto, and should these be accepted by Fischer Söhne AG, said changes shall be invoiced in accordance with the agreement, and a new delivery date shall be agreed (as per Sections 3.4 and 5.3).

- 10.5. The Supplier shall carefully store the tools for any subsequent orders and maintain them for a period of 3 years from the date of the last delivery. During that time, the tools shall be insured against fire damage and natural hazards as well as against theft. Three years after the last delivery, the Supplier shall no longer be under obligation to store, maintain and insure the tools. This period may be extended upon written request and at the expense of the Purchaser.
- 10.6. The Supplier and the Purchaser shall make an agreement with regard to the necessary manufacture of replacement tools and the assumption of costs. If a certain output quantity has been guaranteed in advance and in writing for a particular tool, said tool shall be replaced at the Supplier's expense should the guaranteed output quantity not be reached.
- 10.7. In the event of loss or damage (fire damage/natural hazards), the Supplier must be granted a sufficient period of time for recovery. The Purchaser shall not be entitled to claim compensation for damages resulting from impossible deliveries or delays.
- 10.8. Should the Purchaser not pay for deliveries and services in accordance with the agreement, the Supplier may use the tools for a different purpose.
- 10.9. If tools are owned by the Purchaser, they shall be clearly marked as third-party property for third parties to see. In this case, the Purchaser shall bear the costs of maintenance and any insurances. Should the Purchaser not comply with its contractual obligations, the Supplier shall have a right of retention with regard to these third-party tools.

## 11. Accessories

- 11.1. Should the Purchaser, either itself or through third parties and in agreement with the Supplier, supply accessories for press-fitting, over molding, assembly, printing, etc., the Supplier must be paid a reasonable surcharge of no less than 5% in addition to the purchase price.
- 11.2. Should accessories not be delivered on time, the Supplier shall no longer be under obligation to comply with the previously agreed delivery time.
- 11.3. The quality of the accessories provided is the sole responsibility of the Purchaser. If the accessories are of unsuitable or poor quality, the Supplier shall not be under obligation to carry out any testing nor shall it accept any liability for any resulting delays in delivery and related costs nor for the functionality of the end product. The Purchaser shall fully compensate the Supplier for any additional costs it has incurred as a result of the unsuitable or poor quality of the accessories.

## 12. Sampling/sample deliveries

- 12.1. Dimensional accuracy and conformity with the written specifications shall be determined solely on the basis of the reference samples approved by the Purchaser in writing and manufactured using the tool specially intended for this purpose. Only these, as well as DIN

- 16742, shall be binding with regard to compliance with the dimensions, finish, quality and colour for the batch.
- 12.2. The Purchaser shall approve the batch by means of a written confirmation.
- 12.3. In the case of sample deliveries of standard items, the Supplier reserves the right to invoice the Purchaser for the costs of goods and transportation.

## 13. Product changes

- 13.1. The Supplier reserves the right to make changes to the models, dimensions and construction of standard products at any time, subject to the Purchaser being informed in good time. The same shall apply to deviations in or changes to colours in the case of non-colour-coded items.

## 14. Warranty / liability

- 14.1. The Supplier shall be liable in accordance with the following provisions for thorough executive of the order pursuant to DIN 16742, whereby Sections 12 and 13 as well as the specifications expressly agreed in writing shall be the standards for the quality and execution of the goods supplied.
- 14.2. The technical data in the Supplier's documentation does not release the Purchaser/User from carrying out its own appropriate checks of the products' respective intended purpose or from complying with the statutory requirements in the country of destination. The Supplier shall not be liable for findings contained in the documentation or other communications.
- 14.3. If parts are manufactured based on the Purchaser's or the Supplier's designs or drawings, the warranty shall be limited to the execution agreed in writing and corresponding to the documentation and/or to the reference sample approved by the Purchaser, but not to the functionality and suitability of the parts for the Purchaser's intended purpose.
- 14.4. If the Purchaser requests advice or suggestions with regard to the selection of suitable materials, equipment or products, the Supplier shall provide, against payment of a fee, the corresponding services to the best of its knowledge and under consideration of the state of the art in the field concerned. However, the Supplier shall not accept liability for these consulting services, subject to an express written guarantee with regard to the quality, material characteristics and/or suitability for the stated purpose. It is the responsibility of the Purchaser to inform the Supplier about the intended use of the products and materials concerned and to obtain guarantees with regard to the possible uses and suitability of the proposed material. If products are used for a purpose that is unsuitable or unintended according to the material characteristics, the Purchaser shall be solely liable; the Supplier shall not accept any claims for damages. This applies especially to products intended for medical purposes or for food-related use.



- 14.5. The chemical and mechanical stability of the material used shall be determined based on the Supplier's stability lists and documentation. This data is for information purposes only. The material characteristics can change when the product is used in certain conditions. The Supplier shall not be liable for any consequential damage resulting from insufficient chemical or mechanical stability of the material used.
- 14.6. In the case of customer-specific products, the Purchaser shall be solely responsible for the correct design of the items and for their suitability for the intended purpose (including the materials), even if the Purchaser received advice from the Supplier in the course of development.
- 14.7. The Purchaser undertakes to indemnify the Supplier against any justified third-party claims for which the Purchaser is responsible and against any resulting costs in the event of a legal dispute and, in the event of such legal dispute, to join said dispute at the Supplier's request.

## 15. Liability for defects

- 15.1. The statutory warranty period shall apply. The warranty period shall not be extended as a result of defect rectification. If a defect is discovered, it must be reported to the Supplier in writing within 8 days of receipt of the goods; such notice of defects must be precise and substantiated. After such time, the goods shall be deemed to be approved. Any defects subsequently identified must likewise be reported in writing immediately upon discovery. The notification period for qualitative inspections may be extended by prior written agreement. Should the Purchaser not fulfil its contractual obligations in a proper fashion and, in particular, be in default with any outstanding payments, the Supplier shall not be under any obligation to rectify defects, in particular to carry out repairs or new deliveries.
- 15.2. The notice of defects shall be deemed justified if it can be proved that the goods concerned do not comply with DIN 16742 and are faulty or unusable due to poor material quality or flawed execution and/or do not exhibit the guaranteed characteristics agreed in writing. Only those characteristics that were expressly guaranteed in writing shall be considered guaranteed. Any deviations customary in the trade and/or deviations due to the manufacturing process which concern the dimensions, the layout or the material shall not entitle the Purchaser to give notice of any defects any more than in the case of deviations in color or the like. Should a notice of defects prove unjustified, the Supplier shall have the right to invoice the Purchaser for the costs incurred.
- 15.3. Under no circumstances shall the Supplier be liable for any transport damage. Transport damage must be reported immediately and directly to the carrier.
- 15.4. Any subsequent work carried out on supplied parts without the Supplier's consent, as well as any improper handling or storage, shall result in the loss of all warranty rights granted by the Supplier.

- 15.5. The Purchaser's approval of the reference samples in accordance with Section 12 shall preclude any subsequent notice of defects, provided the parts supplied correspond to the approved samples.
- 15.6. Should the notice of defects prove to be justified, the Supplier shall, at its own discretion and free of charge, repair the goods or deliver replacements or credit the invoice amount or reduced value. Fischer Söhne AG shall only pay the costs of a defect rectification carried out by the Purchaser itself if this is done with prior written consent. The Supplier shall not accept any further claims on the part of the Purchaser, especially with regard to a loss of profits or any kind of consequential damage. The extent of the Supplier's liability shall be limited to the value of the product delivered in a defective state. The Purchaser's claims for damages against Fischer Söhne, whether due to delayed deliveries, withdrawal from contract, defective deliveries or for any other reason, can only be asserted in the event of the Supplier's gross negligence or intent. Nor shall any other claims for damages be accepted, in particular due to positive breach of contract or culpa in contrahendo, unless the Supplier can be accused of gross negligence or intent.
- 15.7. Any goods replaced or refunded become the property of the Supplier and must be sent back to the Supplier upon request and at its expense.

## 16. Property rights

- 16.1. If parts are manufactured based on the Purchaser's ideas, proposals, samples, drawings or models, the Purchaser warrants that this manufacture does not infringe upon any third-party property rights. In the event of a legal dispute, the Purchaser shall indemnify the Supplier against any third-party claims and against any costs incurred as a result, including reasonable defence costs, and shall join a legal dispute at the Supplier's request.

## 17. Privacy

- 17.1. The Supplier undertakes to exercise diligence when processing customer data and to comply with the applicable data protection provisions. In the course of processing the company and/or personal data required for the conclusion or performance of a contract, the Supplier may exchange data with or provide data to authorities and companies instructed to carry out debt collection or issue a credit report, should this be required for checking creditworthiness or for the assertion of claims.

## 18. Place of performance/place of jurisdiction/applicable law

18.1. Place of performance and exclusive jurisdiction (excluding any other jurisdictions) for all liabilities resulting from the legal relationship between the Purchaser and the Supplier shall be the location of Fischer Söhne AG's headquarters: Muri, Canton of Aargau, Switzerland. The legal relationship between Fischer Söhne AG and the Purchaser shall be exclusively subject to substantive Swiss law (excluding the Convention on Contracts for the International Sale of Goods (CISG)).

Muri AG, June 18, 2018