Terms and Conditions of Purchase 02/2016
fischer A/S

1. General

1.1 The legal relationship between the Supplier and fischer A/S - hereinafter called the Purchaser -shall be governed exclusively by these Terms and Conditions of Purchase. Terms and conditions of the Supplier which conflict with these Terms and Conditions will not be recognised by us unless expressly accepted by us in writing. Our Terms and Conditions of Purchase shall continue to apply even if we should unreservedly accept Supplier's delivery despite having knowledge of Supplier's terms and conditions which conflict or are at variance with our own Terms and Conditions.
1.2 Our Terms and Conditions of Purchase shall also be applicable to future transactions with the Supplier.

2. Delivery Contract - Delivery Calls

2.1 Offers shall be without cost for the Purchaser. Where an offer deviates from the Purchaser's inquiry, attention shall be expressly drawn thereto in the offer.
2.2 Delivery contracts (order and acceptance) and delivery calls as well as any amendments or additions thereto shall only be valid if made in writing. Orders, delivery calls as well as any amendments or additions thereto may also be made by remote data transfer or by machine-readable data carriers which are not signed.
2.3 Should the Supplier not accept an order within 2 weeks from receipt thereof, the Purchaser shall have the right to revoke the order.
2.4 By accepting an order, the Supplier acknowledges having informed himself of the nature and scope of his performance by inspecting the documents provided. In the case of any evident errors or orthographic or calculatorial mistakes in documents, drawings and plans provided by us, we shall not be bound thereby. The Supplier shall have a duty to notify us of any such errors or mistakes so as to enable our order to be corrected and replaced. The same shall also apply in the absence of any documents or drawings.
Should the Purchaser not respond to proposals, demands, notifications or information of the Supplier, this shall not, unless expressly agreed otherwise in writing, be deemed acceptance or acquiescence in respect thereof.
2.5 Where the Purchaser has concluded a general agreement with the Supplier about future deliveries, any order placed by the Purchaser shall be deemed binding unless rejected by the Supplier within 5 working days.
2.6 We reserve title and copyright to all illustrations, drawings, calculations and other documents, which may not be disclosed to any third party except with our express written consent and may be used only for purposes of production pursuant to our order. After completion of our order, they shall be returned to us with no request to this effect being necessary on our part. They must be kept secret from all third parties.

3. Prices - Terms of Payment

3.1 The price stated in an order shall be binding. Except as may be agreed otherwise in writing, the price shall include delivery "free house" to the place specified by the Purchaser and shall include packing. Packing will only be returned by special agreement.
3.2 We can only process invoices and delivery notes if they state the order number, the quantity and quantity unit, the gross, net and billed weight if any, the article description with our article number and the residual quantity in the case of part deliveries. The Supplier shall be responsible for the consequences of any failure to comply with the foregoing requirements.
3.3 Except as may be agreed otherwise in writing, we shall use the agreed Payment terms.

3.4 At the latest on payment being effected, goods shall become the unencumbered property of the Purchaser.
3.5 We shall have the right of offset and withholding within the scope provided by the law. Claims of the Supplier against us may be assigned to third parties only with our consent.

4.Delivery Dates and Periods, Delay and Force Majeure

4.1 Any dates and periods agreed for delivery shall be binding. Receipt of the goods by the Purchaser shall be authoritative for compliance with a date or period agreed for delivery.
4.2 The Supplier shall inform us without delay in writing if any circumstances occur or appear to him to be likely to occur which may render it impossible for him to meet an agreed date or period for delivery.
4.3 In the case of any delay in delivery, we shall be entitled to the rights permitted by law. We shall, in particular, have the right to claim compensation if we have allowed a reasonable additional time for delivery and delivery is not made within such time.
4.4 In the case of any circumstances of a force majeure nature, the parties shall be released from their contractual duties for the duration of such circumstances and within the scope of their effects. This shall also apply where such circumstances arise at a time when the party affected is already in delay. The parties shall have a duty, to the extent reasonably possible, to give each other all necessary information and to accommodate their contractual duties in accordance with the changed circumstances, whereby they shall act on the principles of good faith.

5. Delivery, Passing of Risk, Packing

5.1 Delivery shall be effected at the Supplier's expense and clear of charges to the Purchaser to the receiving point designated by the Purchaser.
5.2 The risk shall only pass to the Purchaser on acceptance of the goods by the Purchaser at the designated receiving point or, where the delivered goods are to be set up or installed by the Supplier, on being taken into operation in the plant of the Purchaser.
5.3 Except as may be agreed otherwise, the goods to be delivered must be packed in a customary and appropriate manner or, on the Purchaser's request and in accordance with his instructions, be provided with original packing of the Purchaser or other special packing. The Supplier shall be liable for any damage resulting from faulty packing.
5.4 The Supplier shall mark or label the goods and the packing in the manner specified by or agreed with the Purchaser. The goods must be delivered on Euro-pallets in accordance with the packing plans of the Purchaser.
5.5 The Supplier may supply goods which are provided with a registered trademark of the Purchaser or other such get-up or are packed in original packing of the Purchaser only to the Purchaser or to a third party designated by the Purchaser.

6. Acceptance and Notice of Defects

6.1 Acceptance shall be as set forth in the provisions agreed in the delivery calls.
6.2 The Purchaser shall notify the Supplier in writing of any defects in a delivery as soon as they are discovered in the normal course of orderly business operation. Provided this is the case, the Supplier shall waive the protest of late notice of defects.

7. Scope of Obligations

The Supplier warrants that the delivered goods are in conformity with the respective sample and the statutory and agreed conditions relating to quality and packing or, where such do not exist or have not been agreed, at least the customary quality conditions, and further that they are free or faults and defects within the meaning of product liability law. The Supplier further warrants that the delivered goods correspond to the state of the art as generally acknowledged at any time, that they are in conformity with the latest DIN or other relevant standards and official regulations and safety requirements in force from time to time, and that any markings already provided or added relating to properties, designations, descriptions or instructions for use of the goods are correct in terms of content, without legal infirmity, complete and comprehensible.
Should the Supplier fail to comply with any of the foregoing duties, he shall be liable for fault of any kind as provided by the law. This shall, however, be without prejudice to the right of the Supplier to prove that he is not responsible for any such failure to comply.
The Purchaser reserves the right to conclude a quality assurance agreement with the Supplier.

8. Warranty

8.1 Except as may be agreed otherwise in writing, warranty shall be as provided for in the law. The Purchaser shall have the right, at his option, to first demand that remedy be effected or goods which are in perfect condition be delivered free of charge. He may also demand the delivery of goods which are in perfect condition in respect of deliveries which have not yet been made but which can already be expected not to be in conformity with contract. In all other respects he shall be entitled to the rights and claims provided for in the law.
8.2 Claims for defects shall lapse after 5 years, calculated from the time of delivery of the goods.

9. Product Liability

9.1 The Supplier shall have a duty to indemnify the Purchaser against claims of third parties arising on grounds of product liability if and insofar as he is responsible, pursuant to the principles of product liability law, for the product fault and the loss or damage resulting therefrom. This shall be without prejudice to the right to assert other legal claims.
9.2 Within the scope of this duty, the Supplier shall further have a duty to reimburse the Purchaser for any costs incurred by him through or in connection with a product recall campaign. The Purchaser shall - to the extent possible and reasonable - inform the Supplier of the nature and scope of any such product recall campaign and give him the opportunity to put forward his response.
9.3 The Supplier undertakes to conclude and maintain product liability insurance with appropriate amounts of cover for personal injury and damage to property.

10. Indemnification from the Rights of Third Parties

The Supplier warrants that his deliveries violate no industrial property rights (patents, registered designs or the like) or any other rights of third parties. The Purchaser draws attention in this context to the fact that the Purchaser's products are sold throughout the world. Should any claim be made against the Purchaser by a third party on grounds of violation of such third party's rights, the Supplier shall have a duty to indemnify the Purchaser against such claims. The duty to indemnify shall also include all costs and expenses necessarily incurred by the Purchaser in connection with such third party's claims.

11. Reservation of Title - Provision of Materials -Tools

11.1 We reserve ownership and title to any items or materials provided by us to the Supplier. Processing or transformation of such items or materials by the Supplier shall be done on our behalf. Where items or materials to which we reserve title are processed with other items not belonging to us, we shall have co-title to the new object thereby created in the same proportion as that of the value of our items or materials to the other processed items at the time of processing.
11.2 Where items or materials provided by us are inseparably combined with other items not belonging to us, we shall have co-title to the new object thereby created in the same proportion as that of the value of our items or materials to that of the other items combined at the time of combination. Should combination be done in such wise that the items or materials of the Supplier are to be seen as the main item, it is agreed that the Supplier shall assign us proportional co-title thereto. The Supplier shall preserve the property to which we have sole or co-title on our behalf.
11.3 We reserve ownership and title to tools. The Supplier shall have a duty to use the tools solely for the production of goods ordered by us. The Supplier shall have a duty to insure tools belonging to us at his own expense and at new value against damage or loss by fire, water and theft. He shall further have a duty to perform all necessary service and maintenance work in good time at his own expense. He shall notify us without delay of any faults or disturbances. Should he culpably fail to do so, we shall have the right to claim compensation.

12. Manufacturing Aids and Confidential Information of the Purchaser

12.1 Samples, patterns, models, drawings, printing artwork, technical instructions and manufacturing equipment such as tools (hereinafter referred to as samples and manufacturing equipment) which are provided by the Purchaser to the Supplier or are paid for by the Purchaser in full may be used for supplies or deliveries to third parties only with the prior written consent of the Purchaser.
12.2 In all other respects, the production, servicing and maintenance, use and preservation of the manufacturing aids shall be subject to the directions and instructions of the Purchaser.

13. Confidentiality

13.1 The Supplier shall have a duty to treat our orders and all commercial and technical details in connection therewith as business secrets.
13.2 The Supplier shall keep all samples and manufacturing equipment as well as all other documents and information received from the Purchaser in strictest confidence. They may be disclosed to third parties only with the express consent of the Purchaser. The duty to maintain confidentiality shall remain in force also after completion of a particular order or contract.
13.3 Documents relating to the design and manufacture of products of the Purchaser which are made available by the Purchaser to the Supplier in the course of or in connection with purchasing negotiations which do not result in the placing of an order shall be returned to the Purchaser immediately on termination of the purchasing negotiations.
13.4 A duty of confidentiality as set forth in this Figure 13 shall likewise be imposed on all sub-suppliers.
13.5 The parties may use the business relationship between them for purposes of advertising only with the prior written consent of the respective other party.

14. Applicable Law, Legal Venue

14.1 All legal relationships between the Supplier and the Purchaser shall be governed solely by German law. Application of the provisions of the United Nations Convention on Contracts for the International Sale of Goods is barred.
14.2 The place of performance shall be the Purchaser's domicile, except as may be agreed otherwise in respect of delivery.
14.3 Where the Supplier is a registered trader, the legal venue shall be Stuttgart.
14.4 These Terms and Conditions of Purchase shall be valid with effect from Feb 01.2016.