

Gedeponeerd op 14 april 2021 bij de Kamer van Koophandel te Lelystad onder nummer 39063428

Article 1: Definitions

- 1.1. User: A.S.F. Fischer BV and its legal successors.
- 1.2. Supplier: natural and legal persons who conclude an agreement with A.S.F. Fischer BV.

Article 2: General

- 2.1. These conditions apply to all offers and agreements between the user and the supplier, unless this is explicitly deviated from in writing.
- 2.2. The user explicitly rejects the applicability of any conditions from the supplier.
- 2.3. If any condition becomes fully or partly void or invalid, the remaining conditions remain in full force. The user will then work with the supplier to replace the void or voided condition by a new condition. The new condition is drawn up according to the purpose and intent of the condition to be replaced.
- 2.4. These conditions also apply to agreements whereby supplier uses third parties for implementation.
- 2.5. In case of lack of clarity concerning a condition, it must be interpreted in the spirit of these terms and conditions. This explanation is also used when a situation arises that is not covered in these conditions.
- 2.6. The user can, to the benefit of the supplier, deviate from these conditions or implement them in a different manner. However, this does not mean that these conditions do not apply. The user reserves the right to require compliance with these conditions.

Article 3: Offer and order

- 3.1. An offer made by the supplier is binding.
- 3.2. The user has the right to revoke an order, if the supplier has not confirmed the order within 4 (four) days after receipt. If the confirmation deviates from the original order, the user is only bound if the user explicitly agrees with the deviation. Acceptance of deliveries or performances or payments made by the user in this regard will not imply acknowledgement of the deviation. The user will not return any documentation and samples received with the offer.

Article 4: Agreement

- 4.1. The agreement is entered into digitally or in writing.
- 4.2. The user has the right to amend the agreement or withdraw when the agreement is based on inaccurate or incomplete information provided by the supplier. The user can suspend the agreement or charge extra when the supplier does not provide the required information in a timely, accurate or complete manner.
- 4.3. The user may terminate or modify the agreement at any time without prior notice if there are circumstances that prevent the execution of the agreement or in case the unaltered maintenance of the agreement cannot be demanded from the user. The supplier cannot make interim changes or terminate the agreement.
- 4.4. The user may suspend or terminate the agreement with immediate effect if the supplier fails to, or in a timely manner, comply with the obligations in the agreement or these conditions or the user has a well-founded fear that this will occur and this default justifies suspension or termination. In this case, the user has no obligation to pay damages or compensation, while the supplier is obliged to do so because of breach of contract.
- 4.5. The user has the right to terminate the agreement without further notice with immediate effect if the supplier requests suspension of payment, is granted a suspension of payments, in case of filing bankruptcy or applying for a debt rescheduling arrangement, is declared bankrupt or the debt rescheduling scheme is pronounced or his company is liquidated.

Article 5: Delivery and quality

- 5.1. Delivery takes place at the agreed delivery address and time.
- 5.2. Delivery will be made Delivery Duty Paid, in accordance with the applicable Incoterm, which means that all costs relating to transport, insurance, customs and other duties connected with the delivery will be borne by the supplier, unless otherwise agreed in writing or another manner of delivery has been agreed in accordance with the applicable Incoterm.
- 5.3. The supplier is obliged to make corresponding documentation available to the user prior to or simultaneously with the delivery.
- 5.4. The user is free to use this documentation, including copying it for its own purposes.
- 5.5. The delivery date(s) or term(s) of the contract will be considered as punctual and binding and will apply to the entire delivery, including any accompanying items or documents.
- 5.6. If circumstances arise due to which an agreed delivery date, dates or term may be expected to be exceeded, the supplier must inform the user immediately.
- 5.7. If the supplier exceeds any agreed delivery date(s) or term(s) or otherwise fails to perform the Agreement, the user will be entitled to impose a penalty on the supplier of 1% of the price of the delivery per calendar week or part thereof, up to a maximum of 10%, without prior notice of default. This penalty will be immediately payable on the date of imposition. The imposition, collection or set-off of this penalty will be without prejudice to user's right to performance, damages and termination.
- 5.8. The statutory interest on amounts that the user has paid in advance will be set off against invoices to be paid over the period of default.
- 5.9. The user will be entitled to postpone delivery. In this case the supplier will store, preserve, protect and insure the goods, properly packed, separately and in a recognisable manner.
- 5.10. The supplier guarantees that the delivery:
 - is of good quality and free from defects at the time of delivery;
 - is fully in accordance with the provisions of the Agreement, the specifications given and the user's reasonable expectations regarding the properties, quality and reliability of the delivery;
 - is suitable for the purpose for which the delivery is intended according to the nature of the good or as indicated in the order;
 - complies with the legal requirements applicable in the Netherlands and the other applicable (international) government regulations;
 - complies with the norms and standards in force in the relevant branch of trade or industry.
- 5.11. The supplier will actively endeavour to ensure that its products, packaging, raw and auxiliary materials have as little impact on the environment as possible. Activities that may adversely affect the environment must be explicitly reported in advance.
- 5.12. The supplier will comply with the (international) laws and regulations concerning working conditions of its employees.
- 5.13. The supplier will, at its own expense, ensure timely acquisition of the permissions, permits or licences required for the performance of the Agreement and compliance with the conditions laid down therein.
- 5.14. If the user observes that the delivered goods do not comply with what the supplier has guaranteed, the supplier will be in default, unless the supplier can prove that the shortcoming is not attributable to it.

Article 6: Packaging and shipping

- 6.1. The supplier will pack goods to be delivered as economically, safely and carefully as possible and in such a way that the shipment is manageable during transport and unloading.
- 6.2. The supplier will ensure that the delivery reaches its destination in good condition.
- 6.3. The user will be entitled to return the transport and packaging materials at the expense of the supplier.
- 6.4. Processing or destruction of transport and packaging materials will be the responsibility of the supplier. If, at the supplier's request, packaging materials are processed or destroyed, this will be done at the supplier's risk and expense.
- 6.5. The packaging, transport, storage and processing of the delivery must comply with the applicable laws and regulations on safety, the environment and working conditions.
- 6.6. If there are safety data sheets for a delivery or the packaging, the supplier must always provide these sheets immediately.
- 6.7. The supplier will mark the shipment with the number of packages, order number, reference number and delivery address of the user. The outside of the package will be provided with a packing list stating the contents of the shipment. A delivery that does not meet these requirements may be refused by the user.

Article 7: Inspections

- 7.1. The user has the right to have the delivery inspected or audited by officials appointed by the supplier before the time of delivery. The supplier will provide all necessary cooperation, free of charge.
- 7.2. The supplier cannot derive any rights from the results of a prior inspection.
- 7.3. The user will be entitled to inspect the delivery upon delivery at the agreed place prior to acceptance.
- 7.4. If the goods are rejected, the user will inform the supplier accordingly and the user may, at its discretion, demand replacement or repair or proceed to dissolve or cancel the Agreement. The foregoing will not affect the user's right to compensation.
- 7.5. All costs related to inspections and re-inspections will be borne by the supplier, except for the costs of third parties designated by the user.
- 7.6. If an inspection as referred to in this article cannot take place at the intended time because of the supplier's actions, or if an inspection must be repeated, the ensuing costs incurred by the user will be borne by the supplier.
- 7.7. If the delivered goods are rejected, the supplier will ensure repair or replacement of the delivered goods within 5 (five) working days. If the supplier fails to meet this obligation, the user will be entitled to purchase the necessary goods from a third party, or to take measures or to have measures taken by a third party at the expense and risk of the supplier.

- 7.8. If the supplier does not take back the rejected goods within 10 (ten) working days, the user has the right to return the goods to the supplier at their expense.

Article 8: Change of scope

- 8.1. The user is entitled to change the scope of delivery, even if this results in additional or less work. Changes will be agreed in writing.
- 8.2. If the supplier is of the opinion that the change has consequences for the agreed price or delivery time, they will inform the user immediately.
- 8.3. Additional work will, in any event, not be considered additional work which the supplier could or should have foreseen when it concluded the Agreement in order to be able to provide the agreed performances and functionalities or which is the consequence of a shortcoming on the part of the supplier.

Article 9: Price, invoicing and payment

- 9.1. The agreed price is in euros. The agreed prices are inclusive of turnover tax and additional costs, including transport costs, insurance, costs of packaging, costs of quality control, import duties, government and other public levies and any other fees, unless agreed otherwise.
- 9.2. Invoices will bear the reference number of the order. If the number is missing, the user will be entitled to suspend the payment obligation. Duplicate invoices must be marked as such.
- 9.3. Price increases after the agreement has been concluded will be and remain at the expense of the supplier, regardless of the period elapsed between the date of conclusion of the agreement and its execution.
- 9.4. The user will pay within 30 days after acceptance of the delivery and after correct invoicing.
- 9.5. The user will be entitled to suspend payment if the user observes a shortcoming in the goods and the possible installation or assembly thereof.
- 9.6. The user will be entitled to reduce the amount of the invoice by amounts owed by the supplier to the user.
- 9.7. Payment will in no way constitute a waiver of any right to withdraw from the performance of the Agreement.
- 9.8. In the case of advance or instalment payments, the user will be entitled to demand that the supplier provide sufficient security for compliance. If the supplier fails to do so within the set period, they will be in default. In that case, the user will be entitled to rescind the Agreement and to recover the damages from the supplier.

Article 10: Guarantee

- 10.1. If, within the guarantee period, the delivery proves not to comply with that which was agreed upon, the supplier will, at their own expense, replace, repair or re-execute the delivery within a reasonable period of time, at the first request and at the discretion of the user, without prejudice to the user's other rights by law.
- 10.2. If the supplier fails to meet its guarantee obligations, the user will be entitled to replace, repair or re-execute, at the supplier's expense, with or without the help of third parties. The user will inform the supplier of the use of this right in advance to the extent possible.
- 10.3. If the parties have not agreed on a guarantee period, the guarantee period will be 13 (thirteen) months from the date of delivery.
- 10.4. For goods destined for incorporation in products, installations or systems, the guarantee period will only commence at the time of delivery of such products, installations or systems, provided that the guarantee period ends no later than 24 (twenty-four) months after the date of delivery of the goods.
- 10.5. For replaced, repaired or re-performed parts of a delivery, a guarantee period equal to the original one will again apply.

Article 11: Transfer of ownership and risk

- 11.1. The user will be at supplier's risk until it arrives at the agreed place of delivery and is expressly accepted by user. Ownership of the goods will pass to the user after they have been delivered and assembled or installed.
- 11.2. Models, samples, moulds, drawings and suchlike which the supplier acquires or manufactures for the benefit of the delivery, will be deemed to have been made available to the supplier by the user at the time these goods are delivered to the supplier or have been manufactured by him.
- 11.3. If the user has made goods available to the supplier for the delivery, these remain or become the property of the user and the supplier is obliged to keep these goods clearly marked as the property of the user.
- 11.4. Goods created by mixing, blending or otherwise, become the property of the user at the moment of their creation. The supplier will be deemed to have formed the goods for the user and will hold these new goods as the user's property. The supplier will draw the attention of third parties wishing to recover title to these goods to the ownership of the user.
- 11.5. Without prejudice to the provisions of these conditions, the supplier will only use the goods referred to in this article to carry out deliveries and work for the user and will not show them to third parties.
- 11.6. The supplier will bear the risk of loss or damage and is obliged to insure this risk at its own expense.

Article 12: Obligation to provide information and confidentiality

- 12.1. The supplier will provide the user with all information concerning the delivery that may be of importance to the user.
- 12.2. All changes to products and packaging are communicated to the user by the supplier.
- 12.3. If there are organisational changes which (may) affect the performance of the Agreement, the supplier will inform the user thereof immediately.
- 12.4. The supplier will not provide any confidential information regarding the delivery and activities for the user to either its own employees or third parties who are not involved in the delivery.
- 12.5. The supplier is not permitted to use the name of the user in advertisements or other commercial expressions.
- 12.6. The supplier is entitled to use the information provided by the user, but only in connection with the Agreement. This information is and remains the property of the user.

Article 13: Liability

- 13.1. The supplier is liable for all damage suffered by the user as a result of the supplier's non-performance, late performance or improper performance of the Agreement or the breach of any other contractual or non-contractual obligation. This explicitly includes loss of turnover, loss of profit, loss of and/or other consequential loss, which the user or third parties may suffer as a result.
- 13.2. The supplier is liable towards the user for all damage that they, their personnel or any third parties engaged, cause to the user, to persons employed by or for the user or their buyers.
- 13.3. With respect to its liability on the grounds of the law or agreement vis-à-vis the user, the supplier will take out and maintain sufficient insurance and furthermore insure itself and keep all risks insured in its business operations that can be insured under normal conditions. At the user's request, the supplier will immediately submit (an authenticated copy of) the policies and proof of premium payment. The supplier hereby assigns to the user in advance all claims to payment of insurance proceeds, insofar as they relate to damage for which the supplier is liable vis-à-vis the user.
- 13.4. The supplier indemnifies the user against any claims of third parties suffering damage in connection with the execution of the agreement and of which the cause can be attributed to another than the user. If for this reason the user is addressed by third parties, the supplier is obliged to assist the user both outside and in law and immediately do for him which can be expected in that case. Should the supplier fail to undertake adequate measures, the user is, without notice, entitled to undertake these measures. All costs and damages that result on the part of the user and third parties are for the account and risk of the supplier.

Article 14: Intellectual property

- 14.1. With regard to the performance of an agreement to manufacture (parts) of goods, the supplier guarantees that it will not infringe on the intellectual property rights to products, production process and/or product specifications of the user.
- 14.2. If the delivery or accompanying documentation is subject to intellectual property rights, the user will acquire the right of use thereof free of charge by means of a non-exclusive, worldwide, perpetual licence.
- 14.3. All intellectual property arising as a result of the execution of the delivery by the supplier, their staff or engaged third parties, belongs to the user.
- 14.4. The supplier guarantees that the delivery does not infringe on the intellectual property rights of third parties.
- 14.5. In the event of an infringement, the user will, without prejudice to the right to compensation, impose an immediately payable penalty of € 5,000.00 on the supplier for each infringement. The amount of the penalty will be paid by the supplier immediately after it has been established and notified to the supplier.

Article 15: Applicable law and disputes

- 15.1. To all legal relationships whereby the user is party, Dutch law is exclusively applicable, also if an agreement wholly or partly executed abroad or if the party involved in the legal relationship resides there. The applicability of the Vienna Sales Convention is excluded.
- 15.2. The court in the location of the user is exclusively competent to take note of any disputes, unless the law requires otherwise. Nevertheless, the user has the right to submit the dispute to the legally competent court.
- 15.3. The parties will first appeal to the courts after they have done their utmost to settle a dispute in mutual consultation.

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