

General Conditions of Purchase and Payment

1 - Range of application

Orders issued by Fischer Panda GmbH (hereinafter referred to as "Fischer Panda") will be placed solely in accordance with these Conditions of Purchase and Payment.

Any terms and conditions of the seller contradicting or in deviation from these Conditions of Purchase and Payment shall not become part of the contract, even if Fischer Panda in an individual case does not explicitly object to them and/or accepts the delivery or service concerned. Order confirmations of the seller referring to his own general terms and conditions are hereby explicitly contradicted.

2 - Orders, confirmations

Orders, and agreements connected with them, shall be legally binding only if they are placed in writing. Orders from Fischer Panda must be confirmed by the seller within 5 working days after receipt, specifying the order data involved. If this confirmation is not issued, or not received within this deadline, Fischer Panda shall be entitled to cancel the order or withdraw from the contract by means of a written declaration within 14 working days after sending the order concerned.

If confirmations from the seller deviate from Fischer Panda's orders, the seller shall draw Fischer Panda's attention to this fact. In this case, a contract shall not come into being until Fischer Panda has issued written consent.

3 - Dispatch

Dispatch instructions, particularly dispatch addresses specified in the order, must be complied with. If no other agreement to the contrary has been concluded, deliveries shall be made franco dispatch address, including packing.

Dispatch information must be sent to Fischer Panda, stating the order data specially designated, the dispatch address and any further recipient addresses specified in the order, and enclosed with the consignment.

4 - Prices, invoicing, passage of risk

The prices agreed shall be fixed prices, and independent of the date of delivery. The prices shall cover delivery free dispatch address, including packing.

The invoice must be sent in duplicate to the postal address of Fischer Panda, showing the value added tax applying on the date of delivery as a separate item. Down-/part-payments made must be shown separately in the invoice.

Unless any divergent payment conditions have been agreed in the order, payment shall be made 30 days after receipt of invoice and delivery or acceptance of the work. Payments shall always be made subject to a correction if subsequently complaints should arise.

The dispatch risk (loss, damage, delay, etc.) shall be borne by the seller. Without being specifically so requested, he shall, at his own expense, take out insurance cover for transport or breakage.

5 - Deadlines

The delivery time stated in the order shall be binding.

The seller shall be obligated to notify Fischer Panda immediately if circumstances ensue or become recognisable such as to indicate that the agreed delivery deadline cannot be met.

6 - Assignment of claims / Offsetting

The seller shall not, without the prior consent of Fischer Panda, be entitled to assign his claims against Fischer Panda to third parties or to have them collected by third parties. Fischer Panda shall enjoy unrestricted rights of offsetting and retention to the extent permitted under statute law.

7 - Retention of ownership

When a delivery item is handed over, it shall become the property of Fischer Panda. A simple retention of ownership in favour of the seller shall be recognised by Fischer Panda; the obligation of a group retention or the obligation to pass on a retention of ownership to customers of Fischer Panda shall, however, require the explicit written consent of Fischer Panda.

8 - Ancillary material provided

Ancillary material provided by Fischer Panda, such as documents, samples, drawings, models, data and records on data carriers, must be kept safe free of charge by the seller, separate from other materials, designated as Fischer Panda's property, and with the diligence of a prudent and conscientious businessperson, until Fischer Panda requests their return. The materials must not be duplicated, nor may they be made accessible to third parties. The seller shall be prohibited from using them for purposes outside those contractually provided for, or for his own purposes either.

The above-mentioned obligations shall continue to apply even after the contract has been processed. The seller shall be liable for loss or damages arising from an infringement of the above-mentioned obligations.

Ancillary material provided by Fischer Panda shall remain the property of Fischer Panda.

Processing and modifications by the seller shall be carried out for Fischer Panda. If materials owned by Fischer Panda are processed using other objects not belonging to Fischer Panda, then Fischer Panda shall acquire co-ownership in the new item in the ratio of the value (purchase price plus value added tax) of the item belonging to Fischer Panda compared to the other objects processed at the time of such processing. The latter shall apply *mutatis mutandis* in the case of inseparable mixing and bonding. If mixing is performed



in such a way that the seller's item must be regarded as the main item, it shall be deemed to have been agreed that the seller transfer *pro rata* co-ownership to Fischer Panda. Sole property or joint property shall be kept safe by the seller for Fischer Panda.

9 - Industrial property rights

The seller shall be liable for ensuring that national and foreign patents and other industrial property rights of third parties are not infringed by the purchase and use of the items offered and supplied by him. The seller shall indemnify Fischer Panda against any claims asserted by third parties, and undertakes to assist Fischer Panda in any proceedings arising from infringement.

10 - Warranty and liability

The seller shall be liable for all loss or damage suffered as a result of a defective or delayed delivery. Fischer Panda reserves the right, irrespective of any other statutory defence, to demand at its own discretion a replacement delivery or reworking in the event of defects in the delivery items, or to assert diminution or redhibition. In urgent cases, Fischer Panda shall be entitled to remedy the defects concerned itself, have them remedied, or procure a replacement, at the seller's expense.

The seller shall be obligated to comply with the existing statutory safety regulations (VDE, Accident Prevention Regulations of the German Employers' Liability Insurance Associations, German Machinery Protection Act, etc.). Delivery items that fall under the 9th Ordinance on the German Equipment and Production Safety Act (German Machinery Ordinance) and/or electrical equipment that falls under the German Low-Voltage Guideline must be provided with a CE designation and supplied with an operating manual. The declaration of conformity and the operating manual must be handed over to Fischer Panda on request. Delivery items not ready for use must be supplied with a manufacturer's declaration. The seller shall, in the event of non-compliance, be liable for all loss or damage, and shall indemnify Fischer Panda in regard to all recourse claims.

Fischer Panda shall be obligated to check the goods within a reasonable period for any qualitative or quantitative non-conformities. Notification of a defect shall be deemed to have been made in good time if it is received by the seller within a period of 30 days after receipt of the goods concerned in the case of obvious defects or their discovery in the case of concealed defects. Restriction to a shorter period of the obligation to assert a complaint shall be ruled out.

The period of limitation shall be 36 months. The period shall begin with the date on which Fischer Panda has checked the goods delivered in accordance with the stipulations laid down in the paragraph above.

11 - Place of performance, place of jurisdiction, choice of law

The place of performance for the seller's deliveries and services shall be the dispatch address/place of use specified by Fischer Panda, or the place agreed for performance of the work.

The place of jurisdiction for all disputes arising from or in connection with this contract shall be the court responsible for Fischer Panda.

For all business and legal relations between Fischer Panda and the seller applies exclusively non-unified German law, in particular the BGB/HGB. The regulations of the Vienna UN Convention of 11.4.1980 on Contracts for the International Sale of Goods (UN-Uniform Law on the International Sale of Goods/CISG) do not apply.

Should individual provisions of these General Conditions of Purchase and Payment be or become in whole or in part null, void or illegal or should the contract contain an omission, this shall not affect the validity of the other provisions contained in these General Conditions of Purchase and Payment. Instead of the provision which is null, void or illegal a valid provision is deemed as agreed upon, which comes closest to what the parties intended; The same shall apply in the event that there is an omission in these provisions' coverage.

Fischer Panda GmbH
Otto-Hahn-Str. 32-34
D-33104 Paderborn

Tel: + 49 (0) 5254-9202-0
Fax: + 49 (0) 5254-9202-550
Mail: info@fischerpanda.de
Web: www.fischerpanda.de