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Kälin+Fischer AG
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General Terms and Conditions

1. General

The following General Terms and Conditions (GTC) shall apply to business transactions between the contractual partner and Kälin + Fischer AG.

Purchasing, ordering or other general terms and conditions of the contractual partner shall not apply unless these terms and conditions are accepted by us in their entirety and in writing. By placing an order (in writing, by email), the contractual partner shall irrevocably agree to our GTC.

2. Prices and payment terms

In principle, the contractual partner shall pay the prices in accordance with the price lists valid at the time of order placement. In cases of significant price fluctuations (in particular currency and raw material fluctuations), we shall reserve the right to charge the prices valid at the time of delivery. The prices quoted shall be exclusive of VAT and any customs duties and levies. We shall be entitled to demand partial or full advance payment where reasons exist which require the contractual partner to secure payment, in particular when the contractual partner is located abroad. Invoice amounts shall be due for payment within 30 days of the invoice date. Deviating payment terms may be agreed upon in writing. In cases where no payment is made by the end of the payment period, the contractual partner shall automatically enter into default, without requiring notice on our part, and with all associated consequences (in particular default interest at 5%). Failure to comply with our payment terms shall release us from the supplier's obligations, however, not from the contractual partner's obligation to accept the goods.

3. Retention of title

We shall retain the title and all other rights to the goods delivered until all claims have been paid in full (plus default interest) (Article 715f, Swiss Civil Code – ZGB). The contractual partner shall agree to any entry in the retention of title register. The contractual partner shall inform third parties of our retention of title and shall notify us forthwith in the event of third-party access. Failure to comply shall entitle us to repossess goods subject to retention of title at the contractual partner's expense.

4. Delivery

Delivery times and dates shall only be binding where this is expressly agreed upon and described as binding. Otherwise, delivery times and dates shall only be deemed to be notification and shall not imply a definite undertaking for a fixed or due date. Partial deliveries shall be permitted. Deliveries may exceed or fall short of the quantity ordered by an amount of up to 10%. Delivery shall be subject to product availability. If we are unable to deliver products as a result of discontinued production or other causes attributable to third-party suppliers, this shall result in the termination of the contract following notice in writing by us. Should the entire delivery be delayed by more than three months following the expected delivery date and no suitable replacement is available, the contractual partner shall have the right to written cancellation of the order of the corresponding product. In the event of cancellation of the contract due to non-delivery of the products, the contractual partner shall waive the right to assert further claims against Kälin+Fischer AG.

5. Transport and risk transfer

Deliveries shall be made in accordance with the provisions of Incoterms 2021. The risk of loss or damage to the item for delivery shall pass to the purchaser in accordance with the agreed trading terms, which in turn shall be interpreted in accordance with the Incoterms 2021 valid at the time of contract conclusion. In the absence of any such delivery clause in the contract, Incoterms 201 "Ex Works" (EXW) shall be deemed agreed.

6. Complaints, warranty, liability

The contracting party shall inspect the products after delivery and shall give notice of any defects in writing without delay, but no later than 6 days after receipt. Consignments with any transport damage must be accepted with reservation and the relevant transport company must be notified within one day. Notifications of defects must include a precise description of the defect. Late, unacceptable and unjustified defects shall release us from any warranty obligation. We shall replace at no expense to the contractual partner, any material shown to have manufacturing defects. Return of material by the contractual partner shall only be permitted in exceptional cases and following prior agreement. The warranty obligation shall not apply in the event of defects resulting from improper use or misuse by the contractual partner or due to force majeure. The aforementioned scope of the warranty shall be exhaustive. Any further warranty (in particular for hidden defects or consequential damage) shall be expressly excluded to the extent that the law permits.

7. Force majeure

Neither Kälin + Fischer AG nor the contractual partner shall be held liable for the non-fulfilment of one of their contractual obligations where this is due to an impediment beyond their control and in particular to one of the following reasons: fire, natural disasters, war, seizures, general shortage of raw materials, restriction of energy consumption or a strike. The same shall apply where a supplier is threatened with these circumstances and as a result is unable to fulfil their contractual obligations. Either party shall be entitled to terminate the contract immediately in writing if such an event prevents the fulfilment of the contractual obligations for more than three months.

8. Data protection

The contractual partner shall accept the inclusion of their data in our customer file and its use for business purposes. Both contractual partners shall observe the statutory data protection provisions. The disclosure of personal data is prohibited except for where this serves the fulfilment of the parties' contractual obligations or mandatory statutory provisions. We shall accept no liability for the security of any data transmitted via the Internet.

9. Assignment, transfer and pledging

Rights and obligations arising from the business relationship may not be assigned, transferred or pledged by the contractual partner to third parties without our prior written consent.

10. Severability clause

Should any provision of these GTC prove to be invalid in whole or in part, this shall not preclude the validity of these GTC. The contractual partners shall replace the invalid provision with a new provision which comes as close as possible to the legal and economic objectives of the GTC.

11. Place of fulfilment and jurisdiction

12.

Place of fulfilment and jurisdiction shall be CH-8733 Eschenbach SG

We shall reserve the right to bring proceedings before the court at the contractual partner's registered office. Swiss law shall apply to the contractual relationship to the exclusion of the United Nations Convention of 11.4.1980 on Contracts for the International Sale of Goods (UN Convention on Contracts for the International Sale of Goods) and the conflict of laws rules.

8732 Neuhaus SG, September 2021



since 1994