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General Terms and Conditions of Purchase (GTCP)
of Fachhochschule Vorarlberg GmbH (FHV)

1. Scope of application

- (1) The following Terms and Conditions of Purchase shall apply exclusively to business transactions with Fachhochschule Vorarlberg GmbH, hereinafter referred to as "FHV". Suppliers or other contractual partners are hereinafter referred to as "contractual partner".
- (2) These Terms and Conditions of Purchase shall be binding on all current and future business transactions with our contractual partners, even if they are not expressly referred to.
- (3) By accepting a purchase order or commissioning, the contractual partner agrees to the validity of the GPC in the respective valid version for the transaction in question as well as for future transactions.
- (4) Provisions deviating from these Terms and Conditions of Purchase – particularly the contractual partners' general terms and conditions – as well as supplements shall only become part of the contract if FHV has expressly confirmed this in writing.
- (5) The contractual partner's execution of the order shall be deemed acceptance of FHV's GTCP.
- (6) FHV's GTCP shall also apply exclusively, even if FHV accepts the contractual partners' deliveries or services without reservation despite knowledge of conflicting or deviating conditions. Reference to the contractual partners' offer documents shall not constitute acceptance of the contractual partner's terms and conditions of business.
- (7) Silence on the part of FHV shall never imply consent to a contract or approval of the contractual partner's conduct. No waiver of rights may be derived from an action or omission on the part of FHV, unless the latter expressly declares such a waiver in writing.

2. Offer and conclusion of contract

- (1) Offers made by the contractual partner shall be binding for at least six months, unless FHV specifies otherwise.
- (2) FHV shall only be bound by orders and purchase orders that are placed in writing. Each order and each purchase order shall be accepted within a reasonable period of time (no later than two weeks after receipt) by means of a written order confirmation, or the order shall be rejected in writing. Order confirmations of the contractual partner by e-mail (without stamp and signature) shall be legally valid. FHV may unilaterally deviate from the written form for orders and purchase orders.
- (3) FHV reserves the right to revoke the order free of charge if FHV has not received the proper order confirmation within two weeks of the order being placed.
- (4) If FHV's purchase order does not contain any price information or only indicative prices, the contractual partner shall supplement the order confirmation with binding prices, which, however, require FHV's written consent for the contract to be legally effective.
- (5) If the contractual partner deviates from the content of FHV's purchase order in the order confirmation, this fact must be expressly pointed out. However, FHV shall be entitled to regard such an order confirmation as a new offer and to accept it in writing within two weeks.
- (6) Unless otherwise agreed, indivisible overall services shall be agreed.
- (7) The preparation of offers submitted to FHV shall be free of charge, irrespective of the preparatory work this requires.
- (8) On the proviso that it pay a penalty (Article 909 ABGB [General civil code]) amounting to 5% of the price including VAT, FHV shall have the right to withdraw from the contract without stating reasons at any time. However, if the actual damage incurred is less, only this amount shall be reimbursed.

3. Secrecy, data processing

- (1) The contractual partner hereby irrevocably undertakes to maintain secrecy in relation to all business and trade secrets and personal data made accessible or provided to him/her by FHV or otherwise made known to him/her in connection with or on the basis of a business relationship or contact with FHV and not to make these accessible to third parties in any way whatsoever without

FHV's consent. Furthermore, the contractual partner undertakes to use information on a "need to know basis" only and within the framework of the concluded contract only.

- (2) The obligation to maintain secrecy shall remain in force even after the business relationship with FHV has been terminated or, irrespective of a business relationship, even after FHV has solicited offers.
- (3) Advertising and publications in relation to FHV orders as well as the inclusion of the latter in any reference list of the contractual partner require FHV's prior written consent.
- (4) The contractual partner undertakes to maintain comprehensive confidentiality in relation to FHV's data, insofar as it is not generally known or has otherwise become known to the contractual partner in a legally permissible manner.
- (5) He/she undertakes to take all reasonable and possible precautions within the meaning of the Data Protection Act to prevent unauthorised third parties from accessing all the aforementioned data.

4. Intellectual property rights for software:

- (1) Intellectual property rights for standard software: FHV is free to use the number of purchased standard software licences spatially, factually and without further restrictions within the scope of its business purpose.
- (2) Intellectual property rights for individual software: For software developed individually for FHV, the contractual partner shall transfer exclusively and irrevocably to FHV all transferable, copyright and other exploitation rights to the services provided on the occasion of and in the performance of the contract - irrespective of their protectability - for all exploitation possibilities known at this time or becoming known later as they arise without separate remuneration (full right to use the work). This transfer shall apply to all rights of use without restriction in terms of time, place, subject matter, purpose and in any other way and shall also apply after termination of the contractual relationship for whatever reason. In particular, it includes the right to edit and transfer the rights to third parties under unlimited licensing. When subcontracting orders to third parties, the contractual partner shall ensure that FHV also exclusively acquires the aforementioned rights to any services provided by the third party.
- (3) No additional costs that are not shown in the offer shall be charged for these transfers of intellectual property rights.
- (4) The contractual partner shall only employ carefully selected and well-trained staff. The contractual partner shall disclose in writing the name and role of each employee responsible. Upon FHV's request, the contractual partner shall promptly replace employees who do not have the required expertise or who impair the fulfilment of the contract.
- (5) The contracting party shall provide FHV with complete, copyable documentation (e.g. manual, handbook, operating instructions) for the operation of the software. The FHV shall be entitled to reproduce and use the documentation for usage in accordance with the contract.
- (6) The contractual partner shall provide FHV staff with free initial training with a duration of at least 16 hours.
- (7) The contracting party confirms that the software is free of third-party rights.
- (8) The FHV is entitled to take legal action against infringements both in and out of court.

5. Intellectual property rights to other results

- (1) For other results created by the contractual partner for the FHV, such as models, concepts, plans, sketches, samples, documents, works, databases, etc., the contractual partner shall transfer exclusively and irrevocably to FHV all transferable, copyright and other exploitation rights to the services provided on the occasion of and in the performance of the contract - irrespective of their protectability - for all exploitation possibilities known at this time or becoming known later as they arise without separate remuneration (full right to use the work).
- (2) This transfer shall apply to all rights of use without restriction in terms of time, place, subject matter, purpose and in any other way and shall also apply after termination of the contractual relationship for whatever reason.
- (3) In particular, it includes the right to edit and transfer the rights to third parties under unlimited licensing. When subcontracting orders to third parties, the contractual partner shall ensure that FHV also exclusively acquires the aforementioned rights to any services provided by the third party.
- (4) No additional costs that are not shown in the offer shall be charged for these transfers of intellectual property rights.
- (5) In the event of termination of the contract, FHV shall be free to continue the project itself or have it continued by third parties, whereby it shall be entitled to process, modify and adapt the models, concepts, plans, sketches, samples, documents, works, etc. of the contractual partner and to use them in any way it wishes, including in particular the right to publish them.

- (6) The contractual partner undertakes to provide FHV with a corresponding copy of the other results such as models, concepts, plans, sketches, samples, documents and works without separate remuneration. The FHV shall be entitled to reproduce and use these documents for contractual use.
- (7) When subcontracting orders to third parties, the contractual partner shall ensure that FHV also exclusively acquires the aforementioned rights to any services provided by the third party.
- (8) The contractual partner confirms that the results are free of third-party rights.
- (9) FHV shall be entitled to take legal action against infringements both in and out of court.

6. Prices

Prices, discounts and payment terms are stipulated in FHV's purchase orders. If this does not apply in individual cases or to individual items, the following shall apply:

- (1) Unless otherwise agreed, the prices are fixed prices and include all services necessary for the proper fulfilment of the contract, in particular installation and documentation costs, costs for initial instruction, licence fees, packaging, transport, insurance and unloading costs, public fees and charges as well as any social security benefits and expenses. Any additional costs for a more expensive type of packaging than agreed shall be borne by the contractual partner.
- (2) The prices shall apply free installation, usage or delivery location (Incoterms 2010 - "DDP" unloaded).
- (3) Exchange rate and currency fluctuations as well as bank charges shall be borne by the contractual partner.
- (4) The contractual partner shall guarantee the prices for a period of twelve months effective from FHV's order acceptance. However, in the event that the contractual partner reduces its prices prior to the delivery date with general applicability, this price reduction shall also be applied to FHV's purchase order to the same extent.
- (5) Changes in the order volume, e.g. as a result of a partial withdrawal, shall not entitle the contractual party to a price increase of any kind or to a change in any discount; the latter shall not apply even if it is a quantity discount.

7. Invoice and payment terms

- (1) Invoices must comply with the regulations applicable in Austria, otherwise they shall not be accepted and shall not fall due.
- (2) The invoice shall be sent in original and in single copy to FHV's address unless another invoice address is requested.
- (3) Unless expressly agreed otherwise in writing, payment shall be made within 30 days of receipt of the invoice, the due date being calculated effective from the date of goods receipt or the date of invoice receipt, whichever one is later. In the event of payment within 14 days, FHV shall be entitled to deduct a discount of 3% from the invoice amount.
- (4) Cash on delivery shipments are not accepted.
- (5) If the goods have not been delivered in proper condition (i.e. on time and complete in terms of both quality and quantity) or if the invoice has not been submitted properly, FHV shall be entitled to retain the entire invoice amount.
- (6) Default in payment shall only occur if a fixed payment date has been agreed and FHV received a reminder after the due date, ten days after receipt of the reminder by FHV or, if no fixed payment date has been agreed, 30 days after invoice or goods receipt (see point 6 (3)). In the event of a default in payment by FHV, a flat rate of interest on arrears of 4% p.a. shall apply.
- (7) The claim to interest on arrears shall expire unless it is asserted in writing within six weeks of receipt of the invoice amount. No further claims for damages may be asserted in connection with the default in payment.

8. Dispatch, transport, transfer of risk

- (1) Dispatch to the place of performance specified by FHV is always at the contractual partner's risk and expense. Risk and costs shall not be transferred to FHV until the goods have been unloaded and receipt of the delivery has been acknowledged at the receiving point at FHV or the agreed delivery location.
- (2) The contractual partner shall take out transport insurance at its own expense.

- (3) Costs arising due to non-compliance with shipping regulations shall be borne by the contractual partner.

9. Declaration of release

- (1) If the contractual partner participates in a nationwide packaging disposal system in Austria (e.g. Altstoff Recycling Austria AG (ARA)), the following legally binding declaration must be included in the offer as well as in each delivery note and each invoice: "the packaging of all goods listed is exempt from obligations via licence number". FHV shall not recognise additional charges or costs such as deposit pending return of packaging or disposal costs.
- (2) If the contractual partner fails to make such a declaration of exemption, he/she shall collect or take back the packaging material at FHV's request. If the contractual partner does not fulfil this obligation, FHV is entitled to have the disposal carried out by third parties at the contractual partner's risk and expense. However, FHV is also entitled to retain the packaging material without separate remuneration.
- (3) The contractual partner shall inform FHV that hazardous waste or waste oils may accrue in the goods it has delivered and shall, in particular, indicate the type and possible disposal options.

10. Delivery and penalties

- (1) Agreed delivery periods, delivery dates and completion dates are binding. Delivery periods shall run effective from the contractual partner's receipt of the purchase order. FHV shall be informed immediately of any delays, stating the reasons. Such a notification shall not release the contractual partner from its obligation to pay damages or a contractual penalty. If the parties do not agree on a later date, FHV reserves the right to reject a delayed delivery. Any costs incurred in this context shall be borne by the contractual partner.
- (2) Early delivery is only permitted with FHV's express consent.
- (3) The delivered goods must correspond to the purchase order in terms of both quality and quantity. Otherwise, FHV is entitled to reject the delivery or to return all or part of the goods at the contractual partner's expense and risk.
- (4) A delivery note shall be enclosed with each delivery. By signing the delivery note, FHV only confirms that the goods have been transferred, not that the delivery has been fulfilled. Declarations to the contrary on the delivery note shall be legally invalid.
- (5) If an agreed deadline is not met or if the contract is not properly fulfilled at the right time, at the right place and in the stipulated manner, FHV is entitled, without prejudice to other claims, to withdraw from the entire contract without setting a grace period or to demand compensation for non-fulfilment. Furthermore, in such a case, FHV is entitled to undertake a covering transaction. The contractual partner shall reimburse all additional expenses arising from non-compliance with the agreed delivery dates. Acceptance of partial deliveries or delayed deliveries or services cannot be construed as a waiver of FHV's right to assert claims.
- (6) If the contractual partner is in default, FHV shall be entitled to charge a price reduction of 0.5% per day of the total order value for each day of default in delivery that has begun, up to a maximum of 10% of the total value excluding VAT. This shall also apply if the contractual partner provides a partial delivery and/or service after the agreed delivery and/or service date and this is accepted by FHV. This contractual penalty is due immediately. In addition, FHV shall be entitled to withdraw from the contract, and any costs and disadvantages incurred due to the delay in delivery shall be paid by the contractual partner (e.g. for a covering transaction, internal organisational expenses, any financial losses).

11. Acceptance and warranty

- (1) Deliveries shall only be accepted during general working hours and only by employees of FHV who are authorised to do so.
- (2) If instructions for use, factory drawings, operating instructions, special tools, etc. are necessary or customary for the commissioning, operation and maintenance of the delivery item, these shall form an integral part of the purchase contract and shall be handed over together with the goods upon delivery at the latest.
- (3) The mere acceptance of deliveries or services, their temporary use or payments made shall not constitute acceptance or a waiver of accrued rights.
- (4) The goods shall be accepted and inspected for completeness and visible defects within a reasonable length of time after their delivery.
- (5) Any defects detected shall be notified to the contractual partner as soon as possible. However, the commercial obligation to provide notice of defects pursuant to Articles 377f UGB [Austrian Commercial Code] is expressly excluded.

- (6) The price risk shall not be transferred to FHV until the goods have been accepted as fulfilment. The price risk shall therefore expressly not be transferred if, as a result of a qualitative or quantitative defect, the goods have been transferred to FHV but have not been accepted as fulfilment.
- (7) The contractual partner shall be liable to FHV for any damage or disadvantage resulting from improper delivery/service or defective or faulty goods. Insofar as a claim is made against FHV by a third party due to such a defect, the contractual partner shall indemnify FHV and hold it harmless.
- (8) The contractual partner shall be liable to FHV to the same extent and for the same period of time as FHV is liable to third parties and is obliged to pay particularly within the scope of compensation for damages, warranty or product liability.
- (9) In the case of warranty, FHV is entitled to determine the warranty type (improvement, exchange, price reduction or cancellation).
- (10) FHV has claims to recourse within the meaning of Section 933b ABGB in relation to the contractual partner even if the end customer is not a consumer as defined by Consumer Protection Act [KSchG] but an entrepreneur. The contractual partner waives the objection of delayed assertion of the right of recourse in accordance with Article 933b para. 2 ABGB.
- (11) Unless longer statutory periods apply, claims to recourse shall be deemed to have been made in due time if they are asserted by FHV within six months of the date of fulfilment of the liability insurance vis-à-vis third parties or FHV's date of fulfilment.
- (12) FHV is entitled to demand compensation from the contractual partner for all costs associated with remedying the defect, such as removal and installation. FHV shall be reimbursed for inspection costs if the inspection revealed defects for which the contractual partner is liable or has a warranty obligation.
- (13) Furthermore, the contractual partner shall grant a guarantee for a period of twelve months effective from acceptance of the goods, within which he/she shall be liable for all defects occurring regardless of fault, irrespective of when the defects arose. The contractual partner undertakes, in particular, to supply suitable spare parts and carry out repairs at his/her own expense during this period.
- (14) The contractual partner undertakes to draw attention to any risks of use by means of a clear notice permanently attached to the goods. Furthermore, he/she shall transfer to FHV the necessary documents and information material, such as maintenance instructions and safety data sheets in the respective current version.

12. Assignment of claims

- (1) Assignments of claims require the express written consent of FHV. If claims against FHV are assigned to third parties with FHV's consent, the contractual partner shall reimburse FHV for all costs arising or incurred in connection with the processing and implementation of the assignment of claims.
- (2) Offsetting declarations against FHV shall be excluded in this respect, unless the contractual partners' counterclaims are covered by a legally binding execution title or are/were expressly recognised by FHV.

13. Sketches and drawings

Manuscripts, sketches, drawings and samples etc. provided to the contractual partner shall remain the property of FHV. The contractual partner shall not be entitled to use them elsewhere or transfer them, otherwise he/she shall be liable for damages. The manuscripts, sketches, drawings and samples etc. shall be returned to FHV upon delivery of the ordered goods.

14. Trademark, patent and design protection rights, copyright protection

The contractual partner shall guarantee that the delivery does not constitute an infringement on any trademark, patent and design protection rights or copyrights. Furthermore, the contractual partner warrants the unrestricted use of the purchased goods. He/she undertakes to indemnify FHV and hold it harmless (with regard to court and out-of-court costs) if third parties claim the infringement of such property rights in connection with the respective delivery or service.

15. Place of performance, place of jurisdiction and language of negotiation

- (1) The place of performance is specified in the order form or in the tender documents. In the exceptional event that this is not the case, the place of performance shall be the headquarters of FHV in Dornbirn.
- (2) The exclusive jurisdiction of the relevant courts at the headquarters of FHV is agreed for the resolution of all disputes arising from a contract – including disputes concerning its existence or non-existence.
- (3) The language of negotiation shall be German.

16. Applicable law

Contracts of FHV shall be governed exclusively by Austrian law, excluding the conflict of laws rules and the UN Convention on Contracts for the International Sale of Goods as well as such provisions that would lead to the applicability of non-Austrian law.

17. Termination

- (1) In the case of ongoing debt, FHV and the contractual partner may terminate the contract by giving 30 and 90 days' notice respectively, with effect from the end of the month.
- (2) A waiver of termination on the part of FHV requires the latter's express written confirmation, otherwise it shall not be validly agreed.
- (3) FHV may terminate a contract at any time without notice for good cause. In particular, the reasons mentioned in item 17. shall be deemed good cause.

18. Withdrawal from the contract

- (1) FHV shall be entitled to declare withdrawal from the contract if there is good cause, in particular
 - in the event that the service already rendered is lost;
 - if the contractual partner dies or, in the case of a legal entity, is liquidated;
 - if the opening of insolvency proceedings in relation to the contractual partner's assets has been suspended or rejected due to lack of assets to cover costs, or if the contractual partner sells his/her company;
 - if insolvency proceedings have been opened in relation to the contractual partner's assets and the statutory provisions do not prohibit withdrawal from the contract;
 - if a final court decision has been issued against the contractual partner or against physical persons who are active in the management, which calls their professional reliability into question;
 - if, after the order has been placed, it transpires that the contractual partner has provided incorrect information in the offer which was essential to their being awarded the contract;
 - if circumstances exist which obviously make the proper fulfilment of the order impossible, insofar as the contractual partner is responsible for these;
 - if the contractual partner
 - a) has acted with the intention of fraudulently causing damage to FHV, in particular if FHV has entered into agreements with other companies that are disadvantageous, contrary to public policy or contrary to the principle of competition;
 - b) has directly or indirectly promised or granted advantages contrary to good morals to FHV bodies involved in the conclusion or implementation of the contract, or has directly threatened or inflicted disadvantages;
 - as soon as it becomes apparent that the provision of essential services is not possible due to an impediment which lasts or will last longer than three months. Interruptions due to seasonal reasons or interruptions provided for in the contract are not to be taken into account.
 - if the contractual partner violates official regulations or the provisions of these Terms and Conditions of Purchase.
- (2) Insofar as the reasons stated in paragraph (1) exist, FHV shall be entitled to withdraw from either the entire as yet unfulfilled contract or only from individual parts. Alternatively, it may demand the reversal of the services rendered concurrently, provided this is not disproportionate based on the nature of the transaction and the scope of the services already rendered.
- (3) If the reasons entitling it to withdraw from the contract exist, FHV shall have the right, after issuing the contractual partner with a once-off written request and setting a grace period of 14 days (effective from the date of the postmark) to the contractual partner, but immediately in case of imminent danger, to carry out a substitute performance at the contractual partner's risk and expense without further notice. All costs and damages incurred as a result of substitute performance shall be borne by the contractual partner. FHV may offset such amounts against the contractual partner's claim.
- (4) Insofar as FHV demands settlement of the services provided to date, the following shall apply: If the circumstances that led to the withdrawal of FHV are on the contractual partner's side, the latter shall be obliged to reimburse FHV for the additional costs incurred through completion of the service. If circumstances that led to the contractual partner's withdrawal are on FHV's side, the latter shall be obliged to reimburse the contractually agreed prices for the services not yet rendered, deducting the expenses actually or potentially spared due to the non-completion.

19. Formal requirement

Amendments or supplements to a contract must be made in writing. This shall also apply to any amendment of the written form requirement.

20. Prohibition of disclosure

The awarded contract may not be passed on to subcontractors, either in part or in full, without the consent of FHV.

21. Code of Socially Responsible Production

- (1) The contractual partner undertakes to ensure that all persons employed in the manufacture of the products and components produced are granted sufficiently high wages and humane working conditions.
- (2) The contractual partner generally undertakes to comply with the conventions of the International Labour Organization (ILO) and the United Nations Declaration of Human Rights and to make compliance with them a condition of all agreements concluded with sub-suppliers. This includes, among other things, non-discrimination, the prohibition of child labour and forced labour.
- (3) Employment security: The legal provisions on compliance with labour law and social obligations resulting from regular employment must not be circumvented.
- (4) Anti-corruption: The contractual partner undertakes to behave correctly in competition and in business dealings. He/she undertakes neither to accept nor to grant bribes, nor to offer, give or receive inappropriate benefits. Furthermore, any involvement in money laundering is to be refrained from.
- (5) Environmental protection: The contractual partner undertakes to comply with the relevant applicable environmental laws and regulations for the protection of the environment and the climate.
- (6) Animal welfare: The contractual partner undertakes to comply with all applicable local and national laws and regulations relating to animal welfare.
- (7) FHV reserves the right to inspect suppliers for compliance with the Code. Alternatively, the contractual parties may agree on an independent, suitable organisation for the inspection within a reasonable period of time.

22. Severability clause

Should individual provisions of these GPC be invalid or unenforceable or become invalid or unenforceable after conclusion of the contract, this shall not affect the validity of the rest of the GPC. The invalid or unenforceable provision shall be replaced by a valid and enforceable provision whose effects come as close as possible to the economic objective that was pursued by the contractual parties through the invalid or unenforceable provision. The above provisions shall apply mutatis mutandis in the event that the GPC is found to contain omissions.

23. English translation

This General Terms and Conditions of Purchase (GTCP) are published in German and English. In the case of litigation, the German text of these GTCP shall be binding.

Status 30.04.2024