

## General Purchasing Terms and Conditions

### 1. Scope

These General Purchasing Conditions (GPC) apply to the procurement procedures of FISBA AG, head-quartered in St. Gallen (Switzerland), in the following Purchaser mentioned. Unless otherwise agreed and explicitly accepted by the Purchaser in writing, these GPC form the basis of our Purchase Agreements with suppliers. Agreements that deviate from these GPC are specified exclusively by the Purchaser's Procurement Department in writing by countersigned letter. Deviating conditions of the Vendor are hereby expressly rejected.

### 2. Offers

The enquiry is a request for the Supplier to submit an offer. Offers, advice, demonstrations, technical documentation and sample consignments are provided by the supplier without cost to the Purchaser. The supplier shall submit the final offer in writing, by e-mail, fax or letter. The offer is binding for three months from submission.

### 3. Orders

Orders are obligatory only when submitted by the Purchaser in writing. The Agreement becomes binding as soon as the supplier receives the order.

### 4. Prices, invoicing

Unless otherwise agreed, the prices stated in the offer are fixed prices and binding for the entire acceptance quantity. In the absence of any other express specification, the prices are net values and include transport packaging.

If the supplier reduces its list prices, the lower prices also apply for the pending orders and the agreed price will reduce accordingly. Any other special or additional charges must be approved in writing by the Purchaser beforehand and appear as a separate item on the supplier's invoice.

### 5. Documentation

Drawings, calculations, models, matrices, tools, samples and all other documents provided to the supplier remain our legally protected property. They may not be disclosed to third parties in any form without our written permission. Specifically, they may not be used to manufacture products for third parties. Unless otherwise agreed, all documentation must be returned to us after completion or cancellation of an order. Devices, gauges, tools, models etc. we have paid for must be duly stored; they must also be insured against damage.

### 6. Labour

The products delivered for processing remain our property. Processing and finishing orders must be completed exactly to our drawings and standards. The supplier may not use the material we provide to offset claims asserted against us. The supplier is liable for improper handling, storage, damage or loss of the products. If the supplier intends to have a service ordered from it, which would normally come from its proprietary production, manufactured by a third party, written consent must be obtained from the Purchaser in advance.

### 7. Delivery

We regard our delivery dates to be the date on which the service is to be supplied or in the case of software transferred to the Purchaser. In the event of delivery in accordance with specific, agreed Incoterms, the supplier is obliged to have the products provided at the earliest possible opportunity so that the deadline can be met. If according to this Clause and/or Agreement between the parties, the Purchaser is obliged to handle the transportation, the supplier must use the shippers/forwarders specified by the Purchaser. These are listed at [www.fisba.com](http://www.fisba.com). Agreed dates and periods are binding. If delivery delays are anticipated, we expect the supplier to notify the Purchaser immediately on receiving knowledge of the facts. If the specified deadline is missed without the Purchaser being notified, the Purchaser shall be entitled to cancel the delivery in writing within three days. If immediate delivery is agreed without a specific date being stated and delivery is not made immediately, the supplier falls into arrears by way of a warning from the Purchaser and a deadline is set for retrospective fulfilment. Failure to observe this deadline may result in the Purchaser immediately cancelling the delivery, withdrawing from the Agreement and claiming compensation on account of non-fulfilment.

Partial and/or advance deliveries are subject to written approval from the Purchaser. Additional costs incurred through failing to follow instructions, incomplete or delayed submission of required shipping documents or incomplete delivery shall be paid by the supplier.

In the event of a delivery delay, the Purchaser shall be entitled to claim a contractual penalty of at least 0.5% of the total order value (excl. VAT) for each week or part thereof that the deadline is missed. The total amount, however, must not exceed 10% of the total order value.

### 8. Liability and warranty

The supplier guarantees that the product exhibits the assured characteristics and has no faults that would reduce its value or impair its suitability for the intended use. It is guaranteed that the ordered products conform to the recognised rules of technology in terms of safety and satisfy the applicable regulations at their destination. The supplier is responsible for the services rendered by its secondary suppliers as if they were its own. If the ordered service has to be manufactured by the supplier, the Purchaser shall be entitled, following appropriate advanced notice, to conduct a quality and schedule audit at the supplier or its secondary suppliers. Such monitoring measures do not relieve the supplier from fulfilling its contractual obligations in full, namely contractual supply and warranty obligation.

The supplier must ensure that the protection and ownership rights (patents, samples, models etc.) of third parties are not infringed as a result of the products being supplied and used. Otherwise, the Purchaser will be entitled to demand compensation.

The warranty period is at least twelve months from the date of commissioning and/or installation, no more, however, than 18 months from when the consignment is handed over to the Purchaser. Where by law or according to market standards, longer warranty periods are provided, they shall apply.

### 9. Notification of defects

The products of the supplier are accepted by the Purchaser with reservation. The Purchaser shall inspect the products within 14 days. Concealed defects may be notified as late as commissioning and/or when the products are used.

With regard to the permitted quantity and quality tolerances, the standards of the industry associations and/or the specifications of the Purchaser shall apply.

Payment and acceptance procedures are not considered a waiver of defect notification. The Purchaser may demand that faults are made good free of charge, an amount consistent with the reduced value be deducted from the purchase price, may withdraw from the Agreement with appropriate indemnification or demand a replacement consignment.

Replacements can take the form of replacing defective components. The Purchaser retains the right to claim damages and/or appropriate refund of expenditure in all cases.

### 10. Payment

The agreed payment term begins on the date on which the invoice is received, the earliest time being, however, at hand-over to the Purchaser.

### 11. Discretion and data protection

The provisions regarding data protection must be observed with regard to the relationship between the parties to the Agreement. The parties to the Agreement and/or their personnel must treat all facts concerning this Agreement as confidential and neither disclose nor make generally available.

Confidentiality must be maintained even prior to the Agreement being concluded and the obligation continues to apply for at least five years. If the supplier intends to use this contractual relationship for advertising or publishing purposes, the Purchaser's written approval must be obtained.

### 12. General

Should any one provision of these General Terms & Conditions be or become invalid, all other provisions shall remain applicable.

In the event of contradictions between individual documents, the order of priority is: 1. Order, 2. Any written agreements (e.g. Partnership Agreement and/or Framework/Supply Agreement and/or Quality Assurance Agreement), 3. Our General Purchasing Conditions

**13. Applicable Law and Place of Jurisdiction**

These GPC are governed exclusively by Swiss substantive law, with the exclusion of the UN Agreement of 11th April 1980 (referred to as „Viennese Purchase Law“)

The exclusive Place of Jurisdiction is the Purchaser's principle place of business.

St. Gallen, 04/2006