

## **General Terms and Conditions of Purchase**

### **Section 1 - Scope of Application**

1. The following General Terms and Conditions of Purchase (GTC) are the basis for all our purchasing transactions.
2. These General Terms and Conditions of Purchase apply also to any future business relations with the supplier (Supplier), even if they have not been expressly agreed again.
3. These General Terms and Conditions of Purchase are deemed to be accepted at the latest upon performance of the ordered services by the Supplier. This also applies if the Supplier has previously expressly objected to these General Terms and Conditions of Purchase or if the Supplier had referred to any other terms and conditions of purchase in the order confirmation. Any conflicting confirmations of the Supplier that refer to the Supplier's terms and conditions of purchase/sale are hereby expressly objected to. Under no circumstances shall the lack of any response to such confirmation be deemed an acceptance of conflicting general terms and conditions of purchase.
4. Any deviations from these General Terms and Conditions of Purchase shall only be effective if we have expressly acknowledged such deviations in writing and shall only apply to the individual case.

### **Section 2 - Offers and Conclusion of the Contract**

1. Orders require the written form to be legally effective. In particular, any orders placed in advance in person or on the telephone as well as any ancillary agreements or subsequent amendments shall only be binding to the extent confirmed by us in writing.
2. We are not bound by any variations or additions contained in the Supplier's order confirmation. Section 1 para 4 applies accordingly.
3. We are entitled to cancel any order if we do not receive a reply of the Supplier within one week upon placing the order.
4. In the event of a material breach of the agreement by the Supplier we are entitled to rescind the contract without a grace period. We are furthermore entitled to claim damages for non-performance or to maintain the contract and claim damages provided that the Supplier was at fault.

### **Section 3 - Prices**

1. All prices referred to in the order are net prices and in EUR unless agreed otherwise in writing.
2. The prices referred to in the order are fixed prices. Any additional claims, in particular due to increased costs for labour or materials or technical improvements, are excluded. The fixed prices are subject to the incoterms specified in the order. In the event we have agreed in writing to pay the costs for shipping and packaging in the individual case, the Supplier shall ensure the most cost-efficient shipping.

#### **Section 4 - Payment**

1. Unless the order form provides otherwise, payments will be made by the payment method specified by us. Payments are due within 30 days upon receipt of a duly issued and verifiable invoice. We are entitled to a discount in the amount of 3 per cent if payment is instructed within ten banking days following receipt of a duly issued and verifiable invoice.
2. The Supplier is only entitled to set off claims, which have been finally determined by court or are undisputed.

#### **Section 5 - Place of Performance**

The place of performance is our registered office. The order can also provide for a different place of performance.

#### **Section 6 - Delivery dates/Delivery Periods/Partial Delivery**

1. The agreed delivery dates and periods must be complied with. Any provisions allowing the Supplier an excessively long period for the delivery or performance of services or any respective periods which are not specified in sufficient detail are not effective and are not deemed included in the agreement. The delivery periods commence on the date of the order.
2. If the Supplier does not comply with the agreed date or period for the delivery or the performance of services, he is in default. In this case we are entitled, at our discretion,
  - a) to rescind the entire contract or parts thereof at any time without any grace period;
  - b) to claim damages for the delay irrespective of any fault of the Supplier in an amount of 0.5 per cent per week of the entire order value, however, not exceeding 10 per cent of the net order value, without being required to provide evidence for any actual damages. We are entitled to claim damages exceeding the above contractual penalty. In this case any contractual penalty shall be offset against any damages incurred.
  - c) to claim any damages incurred (including additional costs for a replacement order or substitute performance) in accordance with law provided that the Supplier was at fault;
3. Partial deliveries are permitted if expressly agreed in writing.
4. The acceptance of a partial delivery, which has not been requested by us, does not prejudice our rights in connection with the entire delivery, even if this has not been reserved expressly at the time of the acceptance.
5. The Supplier has to notify us promptly if he cannot comply with the delivery date referring to the reasons and the expected delay.

#### **Section 7 - Warranty and Liability**

1. The Supplier is liable for any legal and quality defects. A defect is in particular the failure to comply with the agreed or assured specifications.
2. The warranty period is 36 months upon complete delivery of the agreed goods or performance of the agreed services. In the case of any rectifications of the defect, the warranty period commences again for the entire product affected by the defect. In the case

of any defects occurring during the warranty period, the Supplier undertakes, at our option, to:

- a) replace the defect service/delivery on-site at his own expenses (a “Replacement”);
- b) remedy the defect (an “Improvement”);
- c) to reduce the agreed consideration (a “Price Reduction”);

The Improvement, respectively Replacement is deemed to have failed upon the first unsuccessful attempt. In this case we are also entitled to request the rescission of the contract instead of a Price Reduction irrespective of the nature and extent of the defect.

3. The Supplier is also liable for any damages caused by inadequate packaging.
4. The contracted items must comply with the latest state of the art applicable at the delivery date even if this has not been requested expressly.
5. The Supplier also warrants that his deliveries/services remain free from any defect during the limitation period and are suitable for the customary purpose or the purpose assumed in connection with the relevant order form.
6. In the case of urgency, in particular, in the case of imminent danger or in the interest of another contractual obligation that cannot be delayed, we will procure the Improvement or Replacement (by way of replacement order) ourselves or through a third party without setting a grace period. The Supplier is liable for any damages caused in this regard.
7. Any goods and services are exclusively accepted subject to the reservation of any available rights. The parties agree that sections 377 *et seq* Business Code (UGB) shall not apply. A payment shall expressly not be deemed an acceptance of goods.
8. The Supplier is liable for all damages caused by the defective delivery/services, in particular consequential damages and lost profit. There shall be no limit to the amount of damages. Any exclusion of such damages by the Supplier is not effective. The Supplier is also liable for minor negligence.

### **Section 8 - Assignment/Retention of Title**

1. Any assignment of claims by the Supplier to third parties is subject to the express consent of Fresenius Kabi Austria GmbH.
2. We are not required to obtain the Supplier’s consent to, or notify the Supplier of, any use or resale of goods, which are subject to the Supplier’s retained ownership.

### **Section 9 - Human Rights / Environmental Clause**

1. Supplier shall respect human rights and establish and maintain environmental standards, as defined below, within its own sphere of influence and not cause, be complicit in or any way contribute to the violation thereof. [Business Partner/Supplier] shall comply and shall ensure that its representatives including its subcontractors comply, with all human rights and environmental aspects listed under “Environmental Responsibility (section 5)” and “Employment Standards, Human Rights (section 17)” in Fresenius Kabi’s Third-Party Code of Conduct, the German Supply Chain Due Diligence Act, and other relevant laws within of the applicable legal system (hereinafter: “Human Rights and Environment”). [Business Partner/Supplier] shall take appropriate measures to provide for a Human Rights and Environment management system, establish and maintain a Human Rights and Environment due diligence process appropriate to its size and business and/or risk profile, identify, prevent

and mitigate Human Rights and Environment risks and address adverse Human Rights and Environment impacts in its own business area and in the supply chain. Supplier shall implement obligations corresponding to those contained in this General Terms and Conditions along its supply chain and encourage its subcontractors to comply with them.

Available at: [Third Party Code Of Conduct - Fresenius Kabi Global \(fresenius-kabi.com\)](https://www.fresenius-kabi.com)

2. Supplier] shall identify, assess, treat and report on potential or actual adverse impact of Supplier's activities on Human Rights and Environment. Supplier shall fully cooperate with and support Fresenius in its efforts to secure the respect for Human Rights and Environment along its supply chain. Supplier further shall provide its employees with an opportunity to make a complaint concerning potential or actual adverse impacts on Human Rights and Environment, and allow them to have access to Fresenius' grievance mechanism without retaliation or threat thereof.
3. In the event of actual or potential violations of Human Rights and Environment, within its own business or along the supply chain, Supplier shall inform Fresenius of adverse impacts on Human Rights and Environment and of the appropriate steps taken to address, end and mitigate the root causes of violations. If, in Fresenius' sole determination, steps taken by the Supplier to end, prevent and/or mitigate violations of Human Rights and Environment appear to be continually ineffective and inappropriate, Fresenius may, until the violations are redressed, temporarily suspend this Agreement. In case of severe adverse impacts on Human Rights and the Environment and the failure of the Supplier to address them adequately and to implement appropriate steps within reasonable time, Fresenius may terminate this Agreement. In case of serious violations of Human Rights and Environment and/or severe actual adverse impacts, Supplier's lack of preparedness to address them adequately and implement appropriate steps, Fresenius may terminate all business relationships between the Parties. A severe breach and/or severe adverse impact means an adverse environmental impact or an adverse human rights impact that is especially significant by its nature or affects a large number of persons or a large area of the environment, or which is irreversible, or is particularly difficult to remedy as a result of the measures necessary to restore the situation prevailing prior to the impact.
4. Supplier shall provide Fresenius with information as relevant and appropriate in regular intervals about its business activities, social welfare issues, environmental issues and foreseeable adverse impacts on Human Rights and Environment. To verify Supplier's compliance with this clause, Fresenius may request and obtain from Supplier information about their actual or potential adverse impacts on Human Rights and Environment, including information about any changes to operations, activities or operating context and corporate governance. Fresenius may audit the compliance of Supplier with Human Rights and Environment as defined in this clause. Fresenius shall give to Supplier reasonable advance notice of intended audits. In case of substantiated concerns of potential or actual adverse impacts on Human Rights and Environment, Fresenius may carry out audits without prior notice. Supplier shall fully cooperate with and provide conclusive documentation to Fresenius and any of its authorised affiliates or any auditor acting on its behalf with regard to the subject of audit.
5. Should Fresenius and/or an affiliated company be notified of a claim, request made by a third party or authority action in relation to an actual or potential violation of Human Rights and Environment in connection with Supplier's business activities ("Third-Party Claims"), Supplier shall, at its own costs, defend, indemnify and hold Fresenius and its affiliates, and their respective officers, statutory representatives and employees harmless from and against all such Third-Party Claims.

### **Section 10 - Procurement Requirements of Our Integrated Management System**

We implement management systems for quality, environment, occupational safety, and energy. We consider and evaluate not only the price, but also the quality, energy performance (energy use, energy consumption and energy efficiency) as well as the environmental impact of the goods. The Supplier undertakes to consider these objectives in his offers. In the case of orders placed with service providers, it is important to us that they are not only aware of the hazards at our locations, but also have sufficient technical expertise and resources to minimize the risks as far as possible.

### **Section 11 - Jurisdiction/Applicable Law/Severability**

1. The competent court for Graz shall have exclusive jurisdiction.
2. These General Terms and Conditions of Purchase and all legal relations between us and the Supplier are subject to the laws of the Republic of Austria without its conflict of law provisions of public international law. The application of United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.
3. Should any provision of these General Terms and Conditions of Purchase or a provision of any other agreement be or become ineffective, this shall not affect the effectiveness of any other provision or agreement.