

General Terms and Conditions of Purchase and Ordering of Merseburg University of Applied Sciences (AEB)

§ 1 General, scope of application

1.1. Merseburg University of Applied Sciences is a public corporation with its registered office in Merseburg (06217).

1.2. These General Terms and Conditions of Purchase and Ordering (GTCP) apply to all deliveries and services commissioned by **HoMe** between Merseburg University of Applied Sciences (hereinafter: HoMe) and contractors (hereinafter: **Contractor**).

1.3. The Chancellor or the members of staff at HoMe, authorised and empowered by her, shall be the only persons authorised to represent and sign.

1.4. Only these GTCP apply. HoMe does not recognise any terms and conditions of the contractor that conflict with or deviate from these GTCP and objects to them unless it has expressly agreed to their validity in writing. These GTCP shall also apply if HoMe accepts the delivery without any reservations in the knowledge of terms and conditions of the contractor that conflict with or deviate from these GTCP.

1.5. The Contractor already complies with these GPC when submitting a bid and/or participating in the award procedure.

§ 2 Contractual components

The components of the contract are in the following order and in the version valid at the time of the conclusion of the contract:

1.1. Description of services, list of services, quotation, order confirmation and attachments

1.2. The General Terms and Conditions of Purchase and Ordering (AEB)

1.3. The current LSA Public Procurement Act

1.4. The Public Procurement and Contract Regulations for Services (VOL/B)

1.5. The German Civil Code (BGB).

§ 3 Offer and Acceptance / Prices

1.1. The Contractor shall submit a free, binding offer in accordance with the inquiry or the tender documents. The tender price shall be understood to include any freight and delivery costs, costs of loading and unloading, packaging and other costs to the place of use § 5, unless otherwise agreed. Reference is made to Regulation PR No. 30/53 on prices for public contracts.

1.2. The tender must indicate the legal form of the contractor.

1.3. The tender shall refer to the respective invitation to tender. The tender or award number must be indicated.

1.4. Prices are net prices plus VAT.

1.5. The contract is concluded by acceptance of the offer or awarding of the contract in written form. The contractor shall confirm acceptance to HoMe with order confirmation without delay, at the latest within 10 working days after receipt of the order.

1.6. Insofar as HoMe has to perform acts of cooperation for the timely rendering of the service, the contractor must draw HoMe's attention to them at the latest upon acceptance of the order, insofar as they are known to the contractor or must be known to the contractor.

§ 4 Place of Rendering and fulfilment of the service

1.1. The place of rendering and fulfilment of the service is the place of business of HoMe.

1.2. The service is to be provided Monday - Friday between 9:00 am - 3:00 pm.

1.3 Deliveries should be made to the HoMe post office: The post office, main building section Hg/G.

1.4 Clauses 1.1.-1.3. shall not apply insofar as otherwise agreed.

§ 5 Minimum wage

The Contractor is obligated to comply with the Act on the Regulation of a General Minimum Wage (MiLoG). The Contractor is liable to HoMe pursuant to § 13 MiLoG in conjunction with § 14 AEntG (§ 14 Employee Posting Act) § 14 AEntG, and the Contractor shall also be liable to HoMe for any subcontractors employed.

§ 6 Dates, Deadlines, Delay

1.1. Delivery times and delivery deadlines as well as schedules are binding.

1.2. The contractor is obligated to inform HoMe immediately in writing if circumstances arise or become apparent which indicate that agreed contract deadlines cannot be met.

1.3. In the event of a delay, the contractor must inform HoMe immediately of the reasons for the delay and the duration thereof. Should the cooperation of HoMe be required, notification of the type and scope of the cooperation

1.4. and the duration of the delay caused by the action must be given immediately by the contractor.

§ 7 Acceptance, transfer of risk, delivery note

1.1. Performance shall be free domicile, see § 4.

1.2. The risk of loss or deterioration of the item shall be borne by the contractor until handover at the place of performance. This also applies if the delivery date is exceeded.

1.3. Delivery shall be made on presentation of a delivery note. The contractor is obligated to quote the order number assigned by HoMe on the delivery note; if the contractor fails to do so, HoMe is not responsible for the resultant delays in processing.

§ 8 Warranty

1.1. HoMe is entitled to the statutory warranty claims. HoMe has the right to choose between rectification of defects and new delivery. If rectification is required, the rectification shall be deemed to have failed after the first unsuccessful attempt at rectification. The right to damages, in particular the right to damages in lieu of performance, is expressly reserved.

1.2. HoMe is entitled to remedy the defect itself at the contractor's expense if the contractor is in default with the remedy.

1.3. The limitation period for claims for defects pursuant to § 438 I No. 3 BGB is 24 months. It begins with the unobjected acceptance of the performance, if an acceptance is not provided for, with the transfer of risk.

1.4. The Contractor shall cover all expenses which are necessary for the purpose of remedying the defect.

§ 9 Contractual penalty / Lump-sum compensation

1.1. In the event of the contractor culpably violating contractual obligations, HoMe is entitled to claim a contractual penalty.

1.2. A breach of contractual obligations shall be deemed to have occurred in particular if the Contractor:

a. is in default of delivery, § 6,

b. does not render the service (non-performance)

or

c. violates §§ 12 and 13 AEB.

1.3. In the event of delay of a contractually agreed deadline, a contractual penalty of 0.2% of the gross order value for the delayed performance per day is agreed. In total, the contractual penalty may not exceed 5% of the gross order value.

1.4. In all other respects, the contractual penalty shall be governed by the Act of the State of Saxony-Anhalt on Ensuring Compliance with Tariffs, Social Standards and Competition in the Awarding of Public Contracts (TVergG LSA).

1.5. The Contractor shall be at liberty to prove that no damage or lesser damage has occurred.

1.6. The assertion of further claims for damages remains unaffected.

§ 10 Control rights of the HoMe

1.1. At the request of HoMe, the contractor's remuneration statements as well as documents on the payment of taxes and social security contributions pursuant to section 17 of the Act of the State of Saxony-Anhalt to Ensure Compliance with Tariffs, Social Standards and Competition in the Awarding of Public Contracts (TVergG LSA) and the contracts concluded between the contractor and subcontractors shall be submitted. The contractor must instruct his subcontractors to hand over the specified documents to HoMe.

1.2. Employees of the Contractor or their subcontractors must be able to show proof of their identity as employees or subcontractors to staff at HoMe at all times.

§ 11 Invoice, terms of payment

1.1. Invoices shall be sent by e-mail to rechnung@hs-merseburg.de

after rendering of the service /partial rendering of the service. The provisions of the §§ 14, 14 a UStG must be observed. Furthermore, electronic invoices can be sent in accordance with the E-RechVO. Invoices must always be issued in the invoice formats XRechnung and ZUGfeRD.

1.2. Invoices shall be paid in accordance with the contractual agreements, at the latest 30 days after the due date and receipt of the invoice. The due date shall not occur until the service has been rendered in accordance with the contract.

1.3. The day of payment shall be deemed to be the day on which the payment order is submitted or sent to the financial institution.

1.4. In all other respects, Section 17 VOL/B shall apply.

1.5. The assignment of claims of the contractor against HoMe to third parties requires the written consent of HoMe.

1.6. Contractors are obligated to state the contract award number/order number assigned by HoMe on the invoice and to send the invoice to the e-mail specified under 1.1; if the contractor fails to do so, HoMe is not responsible for the resultant delays in processing.

§ 12 Cash discount

If discounts have been contractually agreed or offered by the contractor on the invoice, the discount period begins with receipt of the invoice and with proper performance of the contract by the contractor. If HoMe asserts justified objections or defences, the cash discount period shall be suspended for this period. The discount period should not be less than 14 days.

§ 13 Secrecy

1.1. The contracting parties undertake to disclose the contents of the contract to third parties only if and

insofar as this is necessary for the performance of the contract or within the scope of statutory obligations to provide information (reporting obligations, tax obligations).

1.2. If the Contractor, its employees and its vicarious agents obtain knowledge of HoMe's business secrets in the course of fulfilling the contract, the Contractor and the persons named must maintain confidentiality in this regard.

1.3. HoMe reserves the property rights and copyrights to illustrations, drawings, calculations and other documents. These are to be used exclusively for production on the basis of the order; after processing the order, they are to be returned to HoMe without request. Disclosure to third parties shall only be permitted with express written consent.

§ 14 Data protection

The Contractor undertakes to comply with the provisions of the DSGVO (The General Data Protection Regulation), the Federal Data Protection Act and the Data Protection Adjustment Act LSA.

1.1. The use of personal data is only permitted for the execution/provision of the service for HoMe. Disclosure to third parties is prohibited.

1.2. In the event of data protection violations, the Contractor must inform HoMe immediately thereof.

1.3. IT services, software products, applications or anything else must comply with generally recognised data protection and IT security standards.

1.4. On termination of the order, the Contractor shall delete all documents and data in his possession, unless these documents are to be retained for legal reasons. All data carriers are to be destroyed. HoMe must receive proof of the deletion and destruction of these data carriers.

§ 15 Jurisdiction

If the contractor is a merchant within the meaning of the German Commercial Code (HGB), the place of jurisdiction is the registered office of HoMe (AG Merseburg, LG Halle).

§ 16 Written clause

The text form (e-mail) shall suffice at least to preserve the legally binding nature of declarations of intent, amendments and supplements to the contract.

§ 17 Final provisions

1.1. If individual provisions of the above General Terms and Conditions of Purchase and Order (AEB) are invalid or unenforceable, this shall not affect the validity of the remaining provisions.

1.2. The contracting parties undertake to replace invalid or void provisions by new provisions which do justice to the economic regulatory content contained in the invalid or void provisions in a legally permissible manner. In all other respects § 2 shall apply.

1.3. The law of the Federal Republic of Germany shall apply.

The Chancellor