



General Terms and Conditions for Use of the www.fairpartners.com Procurement Platform

§ 1 Subject of the Agreement; Scope

- 1.1 Skill Portal AG (See Legal Notice for operator data: www.fairpartners.com/impressum.htm) (hereinafter referred to as “Operator”) operates the www.fairpartners.com business-to-business Internet platform (procurement platform) and offers purchasers and suppliers of goods and services (hereinafter also referred to as “User(s)”) access to and use of the procurement platform.
- 1.2 These General Terms and Conditions (T&C) shall apply for all Users of the procurement platform beginning with their first access to the Internet services provided on the procurement platform. These T&C shall be supplemented by the Procurement Rules, Data Protection Information and the Price List in their respective current versions.
- 1.3 Counterstatements by Users referring to their own business terms and/or purchasing conditions are hereby rejected. Individual agreements shall not be affected by the above provision.
- 1.4 Users shall be entitled to use the Internet services provided by www.fairpartners.com subject to the following conditions:

§ 2 Services; Costs

- 2.1 The procurement platform enables Users to present their company profiles on the procurement platform and to initiate or conclude agreements on the sale of goods or services on the procurement platform. To this end, the procurement platform has an integrated, automated information system for the purpose of simplifying communication between Users and comprehensive functions for the administration and monitoring of ongoing business transactions.
- 2.2 The services offered on the procurement platform include the following:
 - access to use the procurement platform subject to user authorization in accordance with § 3
 - allocation of roles with various rights
 - opportunity to publish company profiles and information
 - facilitation of contract negotiations using procurement instruments initiated by purchasers
 - facilitation of contract negotiations using offers of goods and services published by suppliers
 - creation of opportunities for communication and the exchange of information among Users
 - provision of an Electronic Wizard to operate and use the procurement platform
 - services, consulting and other support services for Users subject to separate agreement with Operator



- 2.3 The costs and invoicing procedures for individual services are contained in the current price list on the procurement platform. The respective current price list, applicable at the time of entering into a contract with Operator (the order), shall apply in determining the price of the individual service. In case the agreement should be extended, the respective price list that was valid at the point in time of the extension of the Agreement shall be applicable and valid, insofar as User has been informed by Operator about the pricing change at least three months prior to the respective extension of the agreement, and User continued to use the services without contradiction. In case of price changes, User shall be separately informed by Operator about his right of objection and the legal consequences of remaining silent.
- § 3 **Authorization and Conditions of Use; Registration**
- 3.1 Use of the Internet services provided by www.fairpartners.com shall be subject to conclusion of a user agreement. For this purpose, Users shall submit an offer of contract by sending the registration form online to Operator with the required minimum information and by acknowledging their acceptance of these T&C, including Attachments, with a mouse click. Business persons and companies shall be entitled to register as Users. They shall be exclusively natural persons, legal entities, or unincorporated partnerships with the legal capacity to carry out their commercial or independent professional activities when making use of the Internet services offered on the procurement platform.
- 3.2 Operator shall review the company information supplied by User for plausibility and shall decide on whether to accept (authorization) User's offer to complete a user agreement in accordance with the registration procedure described in Item 3.1. Authorization shall enable User to access the non-public area of the procurement platform.
- 3.3 There is no legal right of authorization to use the procurement platform. Authorization shall expire as soon as the specified prerequisites are no longer fulfilled.
- § 4 **Procurement Instruments for Initiating or Concluding Agreements on the Procurement Platform**
- 4.1 Purchasers shall have the opportunity to initiate procurement instruments for the purchase of goods or services on the procurement platform and to invite bids from suppliers according to individually specified criteria. The various types of procurement instruments and their respective initiation and contract award procedures are described individually in the Procurement Rules. The legal regulations concerning the conclusion of agreements at auctions (§ 156 BGB (German Civil Code)) shall be expressly excluded.
- 4.2 Unless otherwise stated in the Procurement Rules or in the text of the procurement instruments, and with the exception of auctions in which the binding limit price is underbid, procurement instruments initiated by purchasers do not represent a legally binding offer; they only constitute an invitation to suppliers to submit a bid or to enter into business negotiations.
- 4.3 Suppliers shall be able to select purchasing organizations according to individually specified criteria and to submit bids for their procurement instruments. Unless otherwise stated in the Procurement Rules or in the text of the procurement instruments (e.g. in the case of a Request for Information), bids submitted by suppliers in response to procurement instruments shall be binding and irrevocable declarations of willingness to conclude the advertised contract. Supplier shall be bound by his offer until expiration of the validity or declaration period, provided it has not expired due to a previously granted contract award. Suppliers shall have no right of invitation to or participation in any specific procurement instruments. The same shall apply with respect to execution of advertised procurement instruments.



§ 5 **Structuring and Processing of Agreements Initiated or Concluded on the Procurement Platform**

- 5.1 The structuring and implementation of agreements initiated or concluded via the **procurement platform** shall be the sole concern of the respective Users. Operator shall neither guarantee contractual performance nor accept liability for any breach of warranty of fitness or title in connection with goods or services traded. In particular, Operator shall assume no responsibility for the accuracy of the information provided by Users and published **on the procurement platform**. Operator shall not be obliged to ensure fulfillment of any agreements concluded between Users.
- 5.2 Insofar as Operator should be a contracting party to any agreements concluded via the procurement platform, e.g. as a central contracting party, Item 5.1 shall not apply.
- 5.3 Operator shall accept no responsibility for the true identity of User or User's power of disposal. In case of doubt, both contracting parties shall inform themselves in an appropriate manner as to the true identity and the power of disposal of the other contracting party.

§ 6 **Electronic Wizard**

- 6.1 The procurement platform is equipped with an Electronic Wizard that provides user tips and recommendations regarding its operation and also describes how to use individual services of the procurement platform.
- 6.2 No legal responsibility shall be incurred in connection with tips and recommendations given by the Electronic Wizard. It shall be User's sole concern whether the recommendations and/or tips are followed or not. User shall be solely responsible for his decisions concerning the execution or non-execution of all transactions on the procurement platform.
- 6.3 Operator shall assume neither a guarantee for the recommendations and tips made by the Electronic Wizard, nor a guarantee that following a tip or recommendation will lead to a successful outcome for User.

§ 7 **Rating System**

- 7.1 Users herewith consent to be rated by the respective other User regarding their actual business transactions that appear in the non-public area of the procurement platform.
- 7.2 Information provided in the ratings given by User must be truthful and in accordance with law. Ratings submitted by Users must be objective.

§ 8 **User's Rights and Obligations**

- 8.1 User shall be authorized to utilize the services of the procurement platform in a proper way and within the scope of access rights granted to him by Operator. He shall refrain from any unlawful acts and misuse of the access to the Internet services provided on the procurement platform.
- 8.2 User shall regularly check and update company information for accuracy. Company profiles, procurement instruments and offers of goods and services shall not display any content that or the intended agreement of which would violate legal or official regulations and/or the rights of third parties and/or that would conflict with moral standards. User may only upload virus-free files to procurement platform.
- 8.3 Purchasers may only initiate procurement instruments on the procurement platform for actually existing requirements or use an appropriate type of procurement for expected future requirements (the so-called Request for Information).
- 8.4 Suppliers shall only publish and submit bids in response to procurement instruments that they are able to fulfill.
- 8.5 Purchasers shall realistically assess the technical requirements for their procurement instruments. In return, suppliers shall make an accurate representation of the professional qualification of their bids.
- 8.6 In case Users should be unable to adhere to a commitment due to a change in circumstances, they shall immediately inform the other User and Operator of the procurement platform.



- 8.7 If a claim should be made against Operator due to breach of agreement - as specified under Items 7.2, 8.1 through 8.6 - committed by third parties or by User, the User responsible for the breach of the agreement shall indemnify Operator against all claims. This obligation of indemnification shall apply to all expenses incurred by Operator resulting from a claim asserted by a third party. Operator expressly reserves the right to assert a claim for compensation of damages over and above the aforementioned compensation.

§ 9 **Operator's Rights and Obligations**

- 9.1 Operator shall check his own editorial articles and other services for best possible relevance, correctness of material content, completeness and dependability.
- 9.2 Operator reserves the right to remove, without prior notice, any information, content or files of doubtful objective accuracy submitted by Users that contravene legal or official regulations, the rights of third persons, is immoral or infected by viruses. No claims resulting from the deletion of such information or files may be asserted against Operator.
- 9.3 Should User contravene an obligation pursuant to §§ 7 and 8, Operator shall be entitled to delete the relevant data and/or to partially or completely withdraw access rights to the procurement platform. The same shall also apply in the case of any other serious breaches of the user agreement as well as in the case of any justified complaints made by Users to the Marketplace Surveillance.
- 9.4 The contextual and technical structure of the procurement platform, including but not limited to its form and content, shall be at the exclusive discretion of Operator. In this respect, Operator herewith reserves the right to discontinue, limit, extend, supplement or improve all free-of-charge services offered at any time.

§ 10 **Marketplace Surveillance**

The www.fairpartners.com Marketplace Surveillance monitors the platform to ensure that Users comply with general legal requirements and the provisions of agreements when utilizing the services offered on the procurement platform. The Marketplace Surveillance shall investigate user complaints concerning violations of the rules and shall decide on what action is to be taken in case of any such violations.

§ 11 **Availability of Services and Reimbursement of Charges; Rules for Procurement Instruments in Case of System Failure**

- 11.1 The www.fairpartners.com procurement platform and the services offered via this procurement platform shall be provided without any guarantee as to their availability. In the case of any major non-availability (> 2 % non-availability) of services, the charges made for billable services shall be reimbursed on a pro rata basis.
- 11.2 Should the communications equipment of the procurement platform fail either partially or totally, Operator may, in the case of procurement instruments with deadlines that would expire during the system breakdown period, with the consent of purchaser, extend them until the next possible deadline, reissue them or declare them as concluded. Bids submitted up to this time shall remain valid until the end of the validity / declaration period. In this case, suppliers shall not be entitled to demand a continuation or restart of the procurement instrument nor to assert a claim for compensation for damages against Operator or purchaser.

§ 12 **Term of the Agreement ; Termination**

- 12.1 The user agreement based on these T&C shall be valid for a period of one year. It shall begin upon authorization of User by Operator in accordance with § 3, and shall be tacitly extended for a further year, insofar as it has not been terminated by one of the contracting parties by giving one month's notice prior to the end of the validity period.
- 12.2 Operator's right to either partially or entirely withdraw User's access to the procurement platform according to § 9.3 shall remain unaffected.
- 12.3 The contract period for chargeable services, as well as, where applicable, the right of contractual termination with notice for chargeable services shall be specified in Operator's price list.



- 12.4 Either party shall have the right to terminate this agreement for good cause without notice. For Operator, good cause includes in particular:
- a serious breach by User of the provisions of these T&C
 - a criminal act by User or the attempt to commit such an act
 - a declaration of insolvency covering User's assets or dismissal of an application for insolvency proceedings due to the absence of such assets
- 12.5 Notice must be given in writing. Termination notices sent by fax or e-mail (to Operator at: communicationcenter@fairpartners.com) shall be considered to be in written form.
- § 13 System Time**
- 13.1 The system time displayed on the procurement platform of the fairpartners' system shall be applicable and shall apply to the validity period of procurement instruments and to agreements between User and Operator. The system time is displayed on the procurement platform.
- 13.2 The system time shall be based on Central European Time as it applies in Germany; however, it may occasionally deviate from the official time indicated.
- § 14 Country Partners**
- Operator shall be entitled to provide individual services covered by this agreement to Users based outside Germany with the help of associations and companies (country partners) from the respective country. Country partners may at the same time offer Users their own services.
- § 15 Liability; Limitation of Liability**
- 15.1 Operator shall be liable without limitation for premeditated acts and acts of gross negligence. In case of breaches of essential contractual obligations of this user agreement caused by slight negligence of Operator or his legal representatives or vicarious agents, Operator's liability vis-à-vis Users shall be limited to the foreseeable, direct and average damages typical for such an agreement. Total liability shall be limited to a maximum of EUR 1 million for each liability case. Any further liability shall be herewith excluded.
- 15.2 Insofar as the procurement platform permits access to other web sites via links, Operator shall not be responsible for the third party content of these other web sites. Operator shall assume no ownership of third party content. Liability for third party content of other web sites shall be herewith excluded. Insofar as Operator becomes aware of any illegal content on external web sites, Operator shall promptly delete the links to such web sites.
- 15.3 Operator shall not be liable for the objective accuracy of data entered by Users in the portal, nor obliged to ensure that files uploaded by Users to the procurement platform are virus-free.
- 15.4 Operator shall not be liable for any damages incurred by User as a result of following or not following recommendations or tips made by the Electronic Wizard.
- 15.5 The above limitations of liability and exclusions shall not affect User claims asserted in connection with product liability. Furthermore, the limitations of liability shall not apply to physical harm or damage to the health of Users attributable to Operator.
- 15.6 Insofar as suppliers provide services to purchasers on behalf of Operator, in this instance the related liability of the contracting parties shall be determined in a separately concluded special agreement.
- 15.7 Insofar as Operator provides services to purchasers as a central contracting party, in this instance the related liability of the contracting parties shall be determined in a separately concluded agreement between the contracting parties.



§ 16 Data Protection

- 16.1 Operator has implemented comprehensive technical and organizational safeguards to ensure the confidentiality and appropriate handling of data. However, misuse due to unlawful acts of third parties cannot be entirely excluded.
- 16.2 Operator shall only use data stored during registration and use for his own purposes or for purposes of initiating agreements or implementing agreements initiated or concluded via the procurement platform, or to forward (e.g. to the respective country partner); he also shall not forward this data to external third parties unless public authorities have obligated him to do so or User has expressly given his approval to the forwarding of such data. This provision governing data handling is explained in detail and supplemented by the Data Protection Information.
- 16.3 Operator shall obligate all employees entrusted with the administration and/or the operation of the procurement platform to adhere strictly to the data protection regulations.
- 16.4 To ensure correct operation of the platform and to prevent misuse, Operator shall be entitled to observe and record the actions of Users. Item 16.2 shall apply accordingly to such data.
- 16.5 Insofar as User uploads personal data of a vicarious agent to the procurement platform, he shall assure that he is authorized to do so. User shall inform the vicarious agent about the transmission of his personal data.
- 16.6 Users shall only be entitled to use the personal data transmitted to them by Operator or by another User for the purpose of initiating or implementing agreements.

§ 17 Data from Electronic Business Transactions: Exclusion of Applicability of § 312e Par. 1, Sentence 1, Nos. 1-3, Sentence 2 BGB (German Civil Code)

- 17.1 User shall be able to download as a file and save these T&C in a reproducible form from the Download Area of the procurement platform at any time.
- 17.2 The procurement platform provides User with extensive information about its functional capabilities and how to use the platform using e.g. FAQs and the Electronic Wizard. Furthermore, the application of § 312e Par. 1, Sentence 1, Nos. 1-3, Sentence 2 BGB shall be herewith excluded.

§ 18 Copyright and Protective Rights

- 18.1 Operator shall be the owner of all property rights, protective rights and copyrights relating to his own articles and other content.
- 18.2 User shall neither remove nor render unrecognizable copyright references or other references to such kinds of rights on the procurement platform.

§ 19 General Provisions

- 19.1 This agreement shall be governed solely by the law of the Federal Republic of Germany; the UN Convention on Contracts for the International Sales of Goods (CISG) shall not be applicable. The sole place of jurisdiction shall be Frankfurt am Main in the Federal Republic of Germany insofar as User is a businessman. Operator shall also be entitled to take legal action in User's general place of jurisdiction.
- 19.2 In case of doubt, the German version of these T&C and their constituent parts shall take precedence over translations thereof in other languages.
- 19.3 The invalidity of one or several provisions of this agreement shall not affect the validity of the remaining provisions of this agreement.
- 19.4 All supplementary parts of these T&C can be accessed in the public area of the procurement platform.
- 19.5 These T&C shall replace all previous T&C. Operator shall notify Users in writing by e-mail of any further changes to these T&C. If User does not object to such changes within 14 days after receipt of notification thereof, such changes shall be deemed to have been agreed if User continues to use Operator's services provided at www.fairpartners.com. In case of changes to these T&C, User shall be separately informed about his right of objection and the legal consequences of remaining silent.



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