

## **General Terms and Conditions of Business for delivery of goods and services to third parties**

- 1 Scope of Application**

These terms and conditions shall become an integral part of all of the Agency's (Supplier) contracts with third parties (Clients) in its capacity as a supplier.
- 2 Order Volume**

The quantity ordered in the order is binding. The Client must pay for any excess quantities due to production reasons.
- 3 Delivery Time, Place of Performance**
  - 3.1** The Client must be notified of any exceeding of the delivery dates and delivery deadlines together with notification of the reasons and the probably duration. It shall always be a prerequisite for damages and rescission that a previously set deadline has expired to no avail.
  - 3.2** The place of performance shall be the Supplier's registered office (seat). The Supplier shall make delivery at the Client's cost and risk.
- 4 Acceptance of Performance, Defects**
  - 4.1** Only goods and services rendered improperly or carelessly are defective as are such goods and services where the tasks set and the desired design has been completely disregarded and/or the instructions have been derogated from grossly or which do not correspond to the state of the art.
  - 4.2** Quantity shortfalls shall not constitute a defect.
  - 4.3** It shall be incumbent upon the Client to check whether the goods and services rendered as part of the order breach competition law, the rights of third parties (trade mark rights, copyrights, rights of personality etc.) or other rights. The liability for any breaches shall lie with the Client. He must indemnify and hold the Supplier harmless from and against claims by third parties.
  - 4.4** The acceptance of performance shall be in accordance with the statutory provisions. Taking delivery and payment constitute acceptance of performance. Unless a different deadline has been set or agreed in the individual case, it shall be deemed to be the equivalent of acceptance of performance if the Client fails to accept work that is ready for acceptance within a period of one week.
- 5 Prices, Invoicing, Payment**
  - 5.1** The agreed price is binding and only includes in-house services of the Supplier. In the event of any requests for amendments or additions a special fee shall be payable for the Supplier's extra work or cost. Any reduced work or cost shall be to the benefit of the Supplier and shall not lead to any reduction in the agreed price. Incidental costs (e.g. freight, packaging, postage, customs, taxes, duties, etc.) and outside services must be remunerated separately or must be settled directly.
  - 5.2** All invoices to the Client shall be due within 14 days.
- 6 Rights of Use, Performers' Rights and Proprietary Rights**

Any grant of rights of use and application that may have been granted shall be effected only after the remuneration has been paid in full.
- 7 Maintaining Secrecy**

All of the Supplier's information that becomes accessible in connection with the order must be treated as strictly confidential, even after the order has been completed. In the event of any breach of the obligation to maintain secrecy the Client shall pay the Supplier a contract penalty in the amount of € 25,000 for every case of breach. This shall be without prejudice to any claims for damages.
- 8 Assignment of Rights**

The Client's rights arising out of or in connection with this Agreement may not be assigned.
- 9 The Client's Insolvency**

If the Client becomes insolvent or if a petition is filed for the opening of insolvency proceedings over his assets, the Supplier shall be entitled to terminate this Agreement with immediate effect for good cause. The same shall apply in the event that the Supplier's claim against the Client for payment of the production price is attached and the Client does not cause the enforcement measures to be set aside within a deadline set by the Supplier.
- 10 Limitation Period, Set-Off**
  - 10.1** Claims by the Client against the Supplier shall be subject to a limitation period of 12 months.
  - 10.2** Claims may be offset against claims of the Supplier only if the Client's claims are uncontested or have become res judicata.
- 11 Liability**
  - 11.1** Liability on the part of the Supplier, its representatives and vicarious agents for ordinary negligence is excluded. Liability for gross negligence, intent, breaches of cardinal duties and in the case of an injury to life, body or health shall remain unaffected thereby. The liability shall furthermore be limited to compensation for damage that was foreseeable for the kind of service and typical for the contract up to a quantum of treble the order value.
  - 11.1** Unless the circumstances to be proven derive from the Supplier's sphere of responsibility, the burden of proof shall be incumbent upon the Client.

## **12 Subcontracts**

- 12.1** If the Supplier commissions third parties to render services, said commissioning shall be on behalf of and in the name of and for the account of the Client. In that case the Supplier shall not be liable for performance of the contractual obligation of the Client or of the third party, nor shall it be liable for their credit worthiness, which it has not checked. The Client shall indemnify and hold the Supplier harmless from and against all claims by third parties in this connection.
- 12.2** If the instructions are, as an exception, given in the name of and for the account of the Supplier, the latter shall be entitled to demand a reasonable payment on account at any time.

## **13 Miscellaneous**

- 13.1** Any derogating or supplementary provisions in individual contracts and regarding these General Terms and Conditions of Business or the order placed shall require written form in order to be valid and shall only apply to the respective order. This also applies to any agreement to derogate from the clause requiring writing. There are no verbal side agreements. In the event that one of the provisions of these General Terms and Conditions of Business or of the order is or becomes void, this shall not affect the validity of the remainder of the General Terms and Conditions of Business or of the order. The ineffective or impracticable provision shall be replaced by such valid and practicable provision, the effects of which come closest to the economic objective which the contract parties intended by the ineffective or impracticable provision. The same shall apply in the event of a lacuna in the provisions.
- 13.2** The place of jurisdiction and place of performance shall be the Client's registered office (seat) unless some other place has been mandatorily prescribed by statute. German law shall apply.
- 13.3** Insofar as there is a requirement of written form under these General Terms and Conditions, said form shall also be fulfilled by facsimile.

Issued: July 2010