



## **General Terms & Conditions of Business**

### **1. Validity**

The following General Terms & Conditions of Business shall apply to all orders. Conflicting terms and conditions on the part of the Client shall form no part of any contract.

### **2. Presentation**

No items of work or other performances presented or supplied by ourselves for the purpose of concluding contract (presentation), whether protected by copyright or not, may be used, wholly or in part, without our prior permission. This shall also apply to their use in amended or adapted form and to any use of the ideas on which such items of work or performances are based, unless these are already represented in the Client's previous advertising. Acceptance of a presentation fee shall not be taken to imply any agreement to use our items of work or performances.

### **3. Handling of orders**

3.1 Minutes of meetings as supplied by ourselves shall be binding, unless the Client disputes them immediately upon receipt.

3.2 Drafts, electronic files and other materials (particularly negatives, models, original illustrations etc.) which we produce or cause to be produced by way of fulfilling contract shall remain our property. There shall be no duty of surrender. We shall have no obligation to store such items.

### **4. Orders to Third Parties**

4.1 We shall be entitled to carry out the work with which we have been commissioned either ourselves or to instruct Third Parties to do so.

4.2 We shall be entitled to issue orders in the Client's name for the production of advertising which we are contracted to supply. The Client hereby explicitly grants an appropriate power of attorney.

4.3 We shall issue orders to advertising media in our own name and on our own account. Should we claim bulk discounts or CWD rates, and should the conditions for such discounts or CWD rates fail to be fulfilled, the Client shall receive a supplementary charge which shall be payable immediately. We accept no liability for defective performance by advertising media.



## **5. Delivery, delivery dates**

5.1 Our duties of supply shall be fulfilled as soon as we have dispatched the items of work and performances in question. The Client shall bear the risk of transfer (e.g. damage, loss, delay), irrespective of the medium used for transfer.

5.2 Delivery dates shall only be binding if the Client has fulfilled any duties of co-operation (e.g. provision of documents, release) which he may have.

5.3 No drafts or models which we may supply shall be binding in the design of their colour, pictorial illustration or sound until we have confirmed in writing that their realisation is possible.

5.4 It shall only be our task to undertake inspections by way of competition law if this is explicitly agreed.

## **6. Terms of payment**

6.1 Agreed prices are net, to which VAT shall be added at the rate valid from time to time. We shall pass on to the Client any social-security payments for self-employed artists, customs duties or other charges which may arise subsequently.

6.2 When placing advertising, the list prices of the advertising medium valid on the day of publication shall be binding.

6.3 Our invoices are payable strictly net within ten days following invoice date.

6.4 We reserve ownership of all documents and other items supplied until full payment of all invoices relating to the order. Rights to our performances, particularly those of copyright usage, shall pass to the Client only upon full payment of all invoices relating to the order.

## **7. Rights of use**

7.1 Upon payment of all invoices relating to the order, we shall transfer to the Client all rights of use required for the utilisation of our items of work and performances to the extent that has been agreed for the order in question or to the extent implied by such circumstances as we know of said order. In case of doubt we shall fulfil our duty by granting non-exclusive rights of use within the Federal Republic of Germany for the time during which the advertising material concerned is in use. Any utilisation over and above this, in particular that of adaptation, shall require our permission.



7.2 Should we use Third Parties to fulfil contract, we shall acquire their rights of use to the extent set out in Clause 7.1 and transfer them to the Client accordingly.

## **8. Guarantee, liability**

8.1 All items of work and performances supplied by ourselves must be inspected by the Client immediately upon receipt, and in any case before submitting them to any further treatment, and any defects notified immediately upon discovery. Should the Client fail to make immediate inspection or notification of defects, he shall have no recourse.

8.2 Should defects be present, we shall be entitled to make them good twice within a reasonable time.

8.3 Claims for damages of any kind shall be excluded if we, our legal representatives or vicarious agents have acted with minor negligence. This shall not apply to infringement of essential contractual duties. In this case liability shall be restricted to typical and foreseeable damage.

We shall further have no liability for damages vis-à-vis other businesses in cases of grossly negligent infringement of non-essential duties of contract by simple vicarious agents. Claims for damages of any kind vis-à-vis other businesses shall be restricted to the payment of typical and foreseeable damages.

## **9. Place of jurisdiction, applicable law**

9.1. If the Client is a trader, the court competent for our registered office is hereby agreed as the place of jurisdiction for all disputes.

9.2 German law shall apply.

## **General Terms & Conditions of Business for Supplies and Services**

### **1. Validity**

1. We shall issue our orders for the purchase of supplies and services solely in accordance with these General Terms & Conditions. By accepting an order the Contractor declares his agreement with these Terms & Conditions. Should the Contractor make a confirmation of order incompatible with our Terms & Conditions, our Terms & Conditions shall still apply, even if we do not protest. Different terms and conditions shall only apply if they have been explicitly recognised by ourselves in writing. Should the



Contractor wish to conclude the order under his own terms and conditions, he must notify us thereof in a separate letter. In such cases we reserve the right to withdraw our order. Our Terms & Conditions shall also apply to future business even if we do not explicitly refer thereto, once they have been bindingly agreed with the Contractor.

2. Our Terms & Conditions shall apply irrespective of whether we have issued the order in our own name or in that of a Third Party.

## **2. Order processing**

1. The supplies and services of the Contractor must correspond to the current state of technology and to all patterns, models and other designs supplied by ourselves.

2. Unless otherwise agreed, all delivery dates set by ourselves shall be binding. We must be informed immediately of any delay in order processing.

3. The Contractor must convey the required supplies and services, at his own cost and risk, to the delivery address given by ourselves, otherwise to our Registered Office.

4. All cost estimates made by the Contractor shall be binding.

## **3. Changes to order**

The Contractor shall only be paid for any changes or additions to an order should these require additional expenditure and providing the Contractor has informed us immediately of such additional costs in writing.

## **4. Taking delivery**

Delivery shall be deemed to be taken once the work has been utilised, unless it is rejected within two weeks following delivery.

## **5. Defects**

Should it be necessary to make immediate complaint of a defect, such complaint shall have been made in proper time if it is conveyed to the Contractor within ten days.

## **6. Rectification**

Should a defect be present, there shall be an agreed entitlement to rectification, which we shall claim as we consider fit.



## **7. Period of grace**

Should the assertion of claims by way of fulfilment, guarantee, rectification or removal of defects, of whatever kind, involve granting the Contractor a period of grace, we may calculate this in such a way that, should the Contractor fail to comply therewith, we can place the order elsewhere and comply with subsequent deadlines.

## **8. Period of guarantee**

The period of guarantee shall be 12 months.

## **9. Special terms and conditions for individual contracts**

### **1. Art buying / photographs**

1. The Contractor must undertake the performance agreed personally.

2. We shall be entitled to prescribe the assistants, models, requisites, technical effects and location, which the Contractor shall use. Should such rules lead to additional costs subsequent to issue of order, we shall pay these upon agreement.

3. Unless stipulated otherwise, agreed payment shall cover all costs incurred by way of the order, particularly all payment for assistants, models, requisites, materials, technical effects, locations and costs of travel and overnight accommodation. The Contractor shall conclude the relevant contracts in his own name and on his own account. Should no fixed price have been agreed, payment will be made on production of receipts.

4. The Contractor shall have a duty to cause all models and others with legal entitlements to sign a written undertaking provided by the Client which shall guarantee publication of the pictures for advertising purposes, such advertising having an extent of which the Contractor has been informed, and shall exclude all injunctions, claims to payment or claims to damages deriving from rights to their own pictures, copyrights or other rights vis-à-vis the Client or his customer.

5. Any agreements with Third Parties in our name or that of our customer shall require prior written permission by ourselves or our customer.

### **2. Print production, final art work**

1. We must be supplied with all proofs, first prints, rushes etc. prior to start of production. Production may only commence when these



designs have been released by us in writing. Designs once released shall be binding.

2. We must be supplied with outturn samples immediately after production has begun. Unless agreed otherwise, delivery may only take place after we have released said outturn samples in writing.

3. We shall not be required to accept over-deliveries of more than 10%.

4. The agreed payment shall cover all intermediate typographical productions, particularly lithographs, even in electronic form, and such intermediate productions shall be handed over to us after completion of order as our own property and for our own use.

5. Should the designs or data supplied by ourselves for contractual purposes be unusable, or should they have obvious defects, the Contractor shall have a duty to inform us thereof immediately, and in any case prior to start of printing.

6. Following completion of order, the Contractor shall have a duty to archive all data and other intermediate typographical productions for a period of 12 months. He shall not be entitled to payment for this.

## **10. Rights of use**

The Contractor shall transfer to us or our customer all rights of use, rights of exploitation, intellectual or other copyrights, whether they be rights to which he or Third Parties commissioned by himself have become privy in the course of the work, or existing rights necessary for the exploitation of said work, such transfer to be unlimited as to time and place and to be for our own exclusive use and exploitation, unless otherwise agreed.

Such transfer of rights shall take place when the completed work is handed over.

Such transfer shall include in particular all rights of duplication, circulation, presentation, transmission, reproduction on picture or sound carriers, and all further treatment, including translation and synchronisation. It shall include all known reproduction processes, particularly exploitation on the internet or comparable systems.

Such transfer shall be made without right to creator's designation.

Such rights having been transferred to ourselves, we shall be entitled to transfer them further, either wholly or in part, to a customer with whom agreements to this effect existed at the time when the order was issued.



## **11. Rights of Third Parties**

The Contractor shall undertake that the exploitation of his productions does not infringe the rights of any Third Parties, particularly any personal rights or brand rights. He must present proper proof of this, should we so require.

## **12. Ownership of working materials**

1. Upon payment of the fees agreed, we shall enjoy perpetual ownership of all finished productions, designs and originals on which the rights of use transferred to us are based, particularly first prints, original photographs, negatives, illustrations, films and data carriers. Should these finished productions be in the possession of the Contractor, he shall store them and hand them over to us at his own expense and risk, should we so require.

2. The Contractor shall store all working materials or other items that he has received from ourselves or from Third Parties for carrying out the order and shall hand them over to us at his own expense and risk, should we so require. He shall have no right of retention.

## **13.**

All documents and all information to which the Contractor has been given access in the course of the order must be handled in the strictest confidence, even after the order is completed, nor shall Third Parties be given access thereto.

Should Third Parties be used to carry out the order, a corresponding duty shall be laid upon them.

## **14.**

1. German law shall apply.

2. Should the Contractor be a trader, the court competent for our Registered Office is hereby agreed as the sole place of jurisdiction for all disputes.