

## **GENERAL TERMS AND CONDITIONS OF PURCHASE**

### **Clause 1 Scope**

- 1.1 The object of the General Terms and Conditions of Purchase are all agreements ("*Purchasing Agreements*") regarding the purchase of movable property ("*Goods*") and services of any kind by companies of the Ströer Group ("*STRÖER*") with suppliers, service providers and other contractors which are traders pursuant to Section 14 BGB (Civil Code) ("*Supplier*").
- 1.2 These General Terms and Conditions shall apply exclusively. Any differing, contradictory or supplementary general terms and conditions of the Supplier shall form part of the agreement only if and to the extent that STRÖER has expressly approved their validity in writing. The General Terms and Conditions of Purchase also apply in the event that STRÖER accepts the Supplier's delivery or service without reservation in knowledge of general terms and conditions of the Supplier that oppose or deviate from our General Terms and Conditions of Purchase. Individual agreements reached with the Supplier in specific cases (including subsidiary agreements, additions and amendments) shall take precedence over these General Terms and Conditions of Purchase. The contents of such agreements require a written agreement in order to be valid.
- 1.3 Declarations and notices to be submitted to STRÖER by the Supplier after conclusion of the Agreement (e.g. setting of deadlines, reminders, declaration of withdrawal) are required to be in writing in order to be effective.

### **Clause 2 Conclusion of agreement**

- 2.1 Offers from the Supplier must be made in writing. Any costs arising in connection with preparation of the offer shall be borne by the Supplier. This also applies if STRÖER has requested preparation of the offer beforehand. Such a request shall not constitute a request for conclusion of an agreement.
- 2.2 In the event that the order confirmation from the Supplier deviates from STRÖER's order, the deviation must be accepted by STRÖER in writing in order for a purchasing agreement to be formed.
- 2.3 Only orders placed by STRÖER in writing e.g. by letter, email and fax or electronic orders via the order platform, are binding for STRÖER. Verbal or telephonic agreements must always be confirmed by STRÖER in writing to be effective. Any order or order change from STRÖER is to be confirmed to STRÖER within 14 days after their receipt in writing by letter, email or fax from the Supplier (order confirmation). If the order confirmation is received after expiry of the aforementioned acceptance period, this shall be considered a new offer on the part of the Supplier pursuant to Section 150 para. 2 BGB and requires consent from STRÖER.

### **Clause 3 Prices, invoicing and payment methods**

- 3.1 The price specified in the order shall be binding upon order confirmation by the Supplier. Unless otherwise specified, the

price indicated in the order includes the respective statutory VAT.

- 3.2 Unless otherwise expressly agreed, the price includes delivery of the Goods in accordance with INCOTERM 2010 "DDP", all additional services (e.g. packaging, assembly, installation) as well as all additional costs (e.g. for any transport and liability insurance agreed).
- 3.3 Unless otherwise agreed, payment of the agreed price shall be made by STRÖER within 45 days after receipt of the Goods at the latest, or after complete provision of services and approval and after receipt of a proper invoice in accordance with Clause 4.3. If payment is made within 14 calendar days, STRÖER is entitled to a discount of 3 %.
- 3.4 Invoices are to be sent separately for each individual order to the invoice address indicated. Invoices must correspond to the current statutory requirements of Section 14 UStG (VAT Act) and include the information specified in Sec. 14 UStG and (if applicable) the Ströer ID indicated in the order by STRÖER. Invoices without this information shall be deemed not provided and the payment terms referred to in Clause 3.3 shall not begin.

### **Clause 4 Delivery**

- 4.1 The Supplier is not entitled to transfer essential parts of its service obligations from the Purchasing Agreement to a third party without the prior consent of STRÖER. The involvement of third parties without the consent of STRÖER is only permitted if it concerns a non-essential part of the service from the assigned service within the scope of the Purchasing Agreement.
- 4.2 Agreed delivery/service periods and deadlines are binding for the Supplier. Unless otherwise explicitly agreed, the Supplier must deliver the Goods DDP in accordance with the INCOTERMS 2010 or perform the service owed at its cost at a location indicated by STRÖER. The respective destination is also the place of performance (debt to be discharged at creditor's domicile). The risk of destruction or damage to the Goods shall pass to STRÖER upon delivery of the Goods or performance of the service at the agreed place of performance/delivery location, if the delivery/service has not already been expressly accepted by STRÖER beforehand. The Supplier must take back single-use packaging material at the request of STRÖER free of charge at the delivery location either directly on delivery or at a later point in time.
- 4.3 The Supplier is obliged to quote STRÖER's order number as well as the item number, the number of packages per item, the total quantity per item and the total weight on all accompanying documents; if it neglects to do this, the resulting delays and costs in processing are to be reimbursed to STRÖER by the Supplier.
- 4.4 If the agreed delivery/service period is exceeded, the Supplier shall automatically be in default. The Supplier is obliged to inform STRÖER immediately in writing if circumstances occur or become apparent to it, which mean that it will not be able to comply with the agreed delivery/service times and deadlines.

- 4.5 In the event of a culpable delay in delivery, STRÖER is entitled to demand liquidated default damages of 1.5 % of the delivery value per completed week of delay, but not more than 5 % of the order value. All additional statutory claims, particularly withdrawal or compensation due to non-performance, remain expressly reserved. The Supplier has the right to prove to STRÖER that no damages at all or that significantly lower damages resulted from the delay. The unreserved acceptance of a late delivery or service does not mean that STRÖER waives the right to make claims for compensation.
- 4.6 If STRÖER commissions the Supplier with the production of the Goods to be delivered (contract for work and material / Werklieferungsvertrag), STRÖER is entitled to carry out inspections of the production at the Supplier's. The scope of the inspections is to be coordinated in the individual case between the Parties. The inspection must enable STRÖER to get the overview necessary to ensure the quality and quantity of the Goods commissioned.
- 4.7 Delivery of the ordered Goods before the agreed deadline can only take place with the prior consent of STRÖER. If an instance of force majeure occurs, such as for example, acts of war or terrorism, riots, strikes, industrial action as well as other unforeseeable, unavoidable and serious events, STRÖER is relieved of the duty of timely acceptance of the Goods for the duration of the event and the extent of its effect, in so far as the event makes acceptance or receipt impossible or unreasonable for STRÖER.

#### **Clause 5 Guarantee, product liability**

- 5.1 The Supplier guarantees that the Goods delivered correspond to the contractual agreements with regard to their quality. Unless otherwise agreed, all Goods and services must correspond to the current state of the art in science and technology as well as to the statutory safety requirements at the time of the delivery or services.
- 5.2 The Supplier alone is responsible for compliance with the applicable laws, regulations, standards and provisions. This also applies for the transport of the goods owed by the Supplier up to the point of the transfer of risk to STRÖER. Suppliers of electronic devices and components for advertising units are obliged to hand over to STRÖER up-to-date CE declarations of conformity and inspection certificates from independent VDE testing institutes free of charge on first request.
- 5.3 The statutory provisions for the duty to inspect and give notice of defects pursuant to Sections 378, 381 HGB (Commercial Code) shall apply with the following stipulation: STRÖER's duty to inspect is limited to defects which are discoverable by an external examination of the goods during the incoming goods inspection, including the delivery documents and defects which are discoverable during quality control by sampling procedures (e.g. transport damage, incorrect or insufficient delivery). If the parties have agreed on an acceptance procedure, no duty to inspect shall apply. In all other respects, it shall depend on the extent to which an inspection is customary in the ordinary course of business, taking into account the circumstances of the individual case.

For the delivery of advertising units, a further inspection is only feasible upon assembly of the advertising units.

- 5.4 The warranty period amounts to 36 months, unless the law stipulates a longer period for the specific Goods or service. The period begins upon proper delivery of the Goods or from acceptance of the service. In the event of supplementary performances (subsequent repair or subsequent delivery), it shall be extended by the time in which the delivery item cannot be used contractually by STRÖER. In the event of defects, STRÖER is entitled to the full statutory claims for defects; in every case STRÖER is also entitled to demand, at its own discretion, that the Supplier remedy the defects or a new delivery.
- 5.5 The Supplier shall bear the costs necessary for the purposes of testing and subsequent performance, even if it turns out that the Goods were not actually defective. In the case of an unjustified request for remedy of a defect, STRÖER shall only be liable if STRÖER has recognised or failed through gross negligence to recognise that there was no defect.
- 5.6 Regardless of the statutory rights, the following shall apply: If the Supplier does not meet its obligation for supplementary performance by, according to STRÖER's choice, correcting the defect (subsequent repair) or by delivering a defect-free item (replacement delivery) within a reasonable deadline set by STRÖER, STRÖER can correct the defect itself and demand compensation for the efforts required or a corresponding advance payment from the Supplier. If the supplementary performance by the Supplier fails or is unacceptable to STRÖER (e.g. because of urgent requirement, endangerment of operational safety or the threat of the occurrence of disproportionate damages), no deadline needs to be set; STRÖER shall inform the Supplier of such circumstances immediately.
- 5.7 If the Supplier is responsible for the damages caused to a product delivered by it, it must indemnify STRÖER from claims by third parties, provided that the cause is within its sphere of control and organisation and it is personally liable to third parties. As part of its obligation to indemnify, the Supplier must reimburse any expenses pursuant to Sections 683, 670 BGB that arise from or in connection with any recourse taken by third parties, including product recalls carried out by STRÖER. STRÖER shall notify the Supplier, as far as is possible and reasonable, regarding the content and scope of the recall measures being carried out and shall give the Supplier an opportunity to comment. This shall not affect further statutory claims.

#### **Clause 6 Property rights**

- 6.1 If STRÖER commissions the Supplier with the production of Goods, to whose design STRÖER has industrial property rights (e.g. registered design), STRÖER shall authorise the Supplier to use these property rights for the duration and purposes of fulfilment of the Purchasing Agreement. Authorisation is simple, revocable at any time and non-transferable. STRÖER shall have ownership to all documents, samples, images, drawings etc. (together referred to as documentation) created or still to be created for the design of the products. The Supplier shall store the aforementioned

documentation for a period of at least five years after the last delivery to STRÖER. All documentation is to be used exclusively for production on the basis of STRÖER's order and is to be returned to STRÖER on request together with all duplicates or copies, even in electronic and/or digital form, such as disks and CD ROM data storage, at any time immediately on request but at the latest after 5 years without being requested.

6.2 With the delivery of a product protected by copyright or industrial property rights through registration of a property right, the Supplier grants to STRÖER a simple right of use unrestricted as to content, location and time in all types of use on delivery or service performance. If STRÖER commissions the development of further development of Goods and a product arises therefrom to which registrable property rights may apply, such property rights shall be due to STRÖER alone. The Supplier is not entitled to register or claim for itself patents, samples, models, brand or other industrial property rights in connection with the commissioned development or further development.

6.3 The Supplier guarantees that no third-party rights are culpably infringed in connection with its delivery. If a claim is made against STRÖER by a third party for these reasons, the Supplier is obliged to indemnify STRÖER from these third-party claims. The costs of appropriate legal defence are also covered by this indemnification.

#### **Clause 7 Confidentiality**

7.1 All information communicated by STRÖER to the Supplier as part of the preparation and/or implementation of the collaboration are to be treated as strictly confidential and kept secret and may not be passed on to third parties without the prior written consent of STRÖER. This obligation to secrecy includes all mutually entrusted information, including all documents, files and materials, particularly images, drawings, calculations, models and all other information or documents that were entrusted to the Supplier for its service performance or that were produced by the Supplier according to STRÖER's specifications. Verbal declarations are likewise included.

7.2 The confidentiality obligations shall continue to apply after the end of the Purchasing Agreement. However, it shall lapse if and to the extent that the information becomes generally known.

7.3 The Supplier must obtain written consent from STRÖER before making its business relationship with STRÖER public.

#### **Clause 8 Transfer of ownership, provision of tools**

8.1 The ownership of the Goods shall pass to STRÖER unreservedly upon full payment of the purchase price for the Goods delivered. In the ordinary course of business, STRÖER remains authorised, even before payment of the purchase price, to resell the Goods under advance assignment of the purchase price claim arising therefrom.

8.2 If STRÖER provides accessories for the implementation of the Purchasing Agreement, STRÖER shall retain ownership even

after incorporation of the accessories into the Goods and before payment of the agreed purchase price. The Supplier is obliged to use any tools provided by STRÖER that remain in STRÖER's possession properly and to handle them carefully. Any required maintenance and inspection tasks on the tools are to be carried out by the Supplier at the request of STRÖER.

#### **Clause 9 Right of retention and offsetting**

9.1 A right of retention for the Supplier due to any claims against STRÖER is excluded, unless the right of retention claimed is based on the same contractual relationship as the claim against STRÖER.

9.2 The Supplier may only offset claims against STRÖER insofar as the Supplier's claim is undisputed by STRÖER, i.e. it has been acknowledged in writing or has been legally established.

#### **Clause 10 Miscellaneous**

10.1 This Agreement is subject to the law of the Federal Republic of Germany, excluding UN sales law (*United Nations Convention on Contracts for the International Sale of Goods, CISG*).

10.2 In addition to these General Terms and Conditions, the "Code of Conduct for Suppliers of the Ströer Group" is applicable, which is accessible at any time under [https://www.stroeer.de/fileadmin/de/Buchung/AEB/Code\\_of\\_Conduct\\_for\\_Suppliers.pdf](https://www.stroeer.de/fileadmin/de/Buchung/AEB/Code_of_Conduct_for_Suppliers.pdf).

10.3 The exclusive place of jurisdiction for all disputes arising from or in connection with this Purchasing Agreement is Cologne, insofar as this is legally permitted.

**As of: May 2019**