

## **General Terms and Conditions for the Procurement and Purchase of Media Services**

These General Terms and Conditions for the Procurement and Purchase of Media Services (hereinafter referred to as "Contract Terms") govern all related details which are necessary and relevant for the legal business relations between the parties. All personal designations apply equally to all genders.

For the purposes of these terms and conditions, "**MEDIA Central**" is the MEDIA Central Company named in the respective order confirmation and, on the basis of which, who enters into a contract with the respective service provider (hereinafter referred to as "MEDIA Central").

For the purposes of these terms and conditions, the "**service provider**" is the company, the trader, the legal person governed by private or public law or the special fund governed by public law, which is mentioned in the order confirmation as a contracting party of MEDIA Central (hereinafter referred to as "service provider").

For the purposes of these terms and conditions, the "**customer**" is the company, the merchant, the legal person governed by private or public law or the special fund governed by public law, which is mentioned either in the offer, the order confirmation, the confirmation of the terms and conditions or any other document belonging to the agreement between the service provider and MEDIA Central (hereinafter referred to as "customer"). MEDIA Central and the customer will hereinafter also individually be referred to as a "contracting party", and jointly referred to as "contracting parties".

For the purposes of these Terms and Conditions, "**affiliated companies**" shall mean legally independent undertakings which: (a) have a majority of the shares or a majority of the voting rights in another undertaking (majority holding), as well as undertakings under such majority holding; or (b) may exercise, directly or indirectly, a dominant influence over another undertaking (control relationship) and undertakings under such control; or (c) are managed jointly or are otherwise dependent on each other (group relationship) (hereinafter referred to as "affiliated companies").

### **§ 1 Subject of contract**

- 1) The subject of the contract is the content of the respective order confirmation (as well as its dispatch documents) of MEDIA Central together with the associated documents and agreements referred to therein (in their entirety hereinafter referred to as the "order confirmation") including these contractual conditions.
- 2) Offers and other draft agreements which deviate from the order confirmation and serve the evaluation of the cooperation and were exchanged during the negotiations between the parties are also non-binding with regard to price, quantity, delivery period, delivery possibility, technical data, specifications and quality and quality descriptions.

### **§ 2 Applicability of the contractual conditions**

- 1) The basis for all legal transactions between MEDIA Central and the respective service provider, and therefore the relevant legal relationship, in addition to the confirmation of the order, is these contractual conditions.
- 2) Deviating and/or conflicting contractual terms and conditions of the service provider shall not be recognised, regardless of whether they represent a significant change in the order confirmation and regardless of the acceptance and payment of the deliveries and services of the service provider by MEDIA Central.

These terms and conditions shall form an integral part of the order confirmation and shall, unless otherwise agreed between the parties, always apply downstream of the corresponding MEDIA Central terms and conditions agreement, the order confirmation and other related documents and agreements referred to therein.

- 3) In the case of existing framework agreements between MEDIA Central and the service provider, these terms and conditions shall not apply to the legal transactions of the contracting parties based on the corresponding framework agreement.

### **§ 3 Prices, allowances and other costs**

- 1) The amounts, prices and/or fees indicated in the order confirmation (hereinafter: "Remuneration") are binding.
- 2) Unless otherwise or otherwise agreed in an individual case, the fees indicated in the order confirmation include all deliveries and services as well as ancillary services of the service provider (e.g. installation, delivery, dispatch, printing, etc.) as well as all related and incidental costs (e.g. proper packaging, transport costs including any transport and liability insurance).
- 3) All remunerations specified in accordance with the terms of the agreement at the time of conclusion of the agreement shall apply, if applicable, plus statutory turnover tax and other applicable taxes, duties, surcharges and fees.

### **§ 4 Payment, set-off, right of retention**

- 1) Unless otherwise agreed, the amounts of the fees charged by the service provider for the agreed, fully delivered deliveries and services shall be due to MEDIA Central (a) within the payment period agreed in the order confirmation, after deduction of the agreed discount rate and (b) by cash-free transfer to the service provider's bank account.
- 2) The service provider shall complete the service provider master data sheet provided by MEDIA Central in full - if applicable - and transmit it to MEDIA Central by e-mail at the latest with the order confirmation referred to in Paragraph 1, paragraph 1, of these contractual conditions; the data specified in the master data sheet are relevant and relevant to the contract, i.e. in particular the bank account deposited there. Changes must be notified to MEDIA Central in writing without delay - at least one week before the invoice date - and are solely the responsibility of the service provider.
- 3) MEDIA Central may only set off undisputed (or legally established) claims against payment claims of the service provider; these conditions for the claims shall apply equally to the payment claims of the service provider. MEDIA Central shall only be entitled to rights of retention in this context to the extent that they are based on the same legal transaction.
- 4) If MEDIA Central defaults more than fourteen (14) days on the payment of one of its invoices in accordance with paragraphs 1 and 2 above, the service provider is not obliged to provide the contractually agreed deliveries and services, unless the service provider and/or its vicarious agents are responsible for these circumstances. Any costs and expenses resulting from a delay caused by the fault of the parties shall be charged accordingly to the respective party responsible for said delay.

### **§ 5 Nature, scope and location of the deliveries and services**

Unless otherwise agreed, the service provider shall provide all deliveries and services agreed in the order confirmation in his own name and on his own account to MEDIA Central or the customer on behalf of MEDIA Central. Should the service provider provide goods and services in the form of the distribution of brochures or supplements ("distribution") and employ subcontracted third parties as vicarious agents ("subcontractors") for this purpose, he is in principle permitted to do so; in this case, the service provider MEDIA Central will notify these subcontractors in writing beforehand and name them by name with the correct name. MEDIA Central shall also be informed in writing in advance of any changes without delay.

- 1) Unless otherwise agreed between the parties, both the customer and MEDIA Central expressly reserve their consent at any time with regard to the use of the service provider itself as well as of the respective subcontractor. Consent shall not be unreasonably withheld and may be effectively enforced against the service provider on a regular basis only with a period of two (2) weeks.
- 2) Performance parameters, criteria and characteristics which are to be changed and which necessarily occur on the part of the service providers and which have been contractually assured to MEDIA Central or the customer for the agreed term of the contract must be maintained, unless this has been explicitly agreed in writing between the contracting parties in a different way or to the contrary; in particular, distribution in hamlets (places with up to 15 recognisable buildings), changes and redirections in tours, delivery periods and specifics for the machine processing of supplements are included. Should changes to such contractual and relevant parameters become necessary on the part of the service providers within the term of the contract, the service provider will explain the relevant factual reasons and will in principle notify these measures in writing to MEDIA Central with a period of three (3) months before entry into force.
- 3) MEDIA Central or the customer expressly reserves their consent at any time to the proposed changes referred to in paragraph 3. Consent must not be unreasonably withheld and is particularly reasonable if the proposed change would entail significant expenditure in terms of type and volume on the part of MEDIA Central or the customer and/or if there is a clear disproportion between the interests of the service provider and those of MEDIA Central or the customer.
- 4) The nature of the deliveries and services is based exclusively on the list of services valid at the conclusion of the contract according to the order confirmation.
- 5) Partial deliveries shall only be permitted if they are reasonable for MEDIA Central or for the customer; this does not apply to distribution.
- 6) Unless otherwise agreed, delivery within Germany will take place "free of charge" at the place indicated in the order. If the place of destination is not specified and nothing else has been agreed, the service provider is obliged to ask MEDIA Central in writing to indicate the place of delivery two (2) weeks before delivery. The respective destination is also the place of performance for the deliveries and services as well as for any subsequent performance (obligation to deliver).
- 7) The risk of accidental loss and accidental deterioration of the item shall pass to the appropriate recipient upon handover at the place of performance. Insofar as acceptance has been agreed, this is decisive for the transfer of risk. In the event of acceptance, the statutory provisions of contract law shall also apply accordingly.
- 8) For the observance of delivery dates and the transfer of risk, in the case of physical dispatch, the relevant point in time is the point in time at which the service provider or vicarious agents employed by it hands over the deliveries and services to the delivery address agreed in the respective order confirmation or within the scope of which they have agreed or distributes them in the context of distribution at the correspondingly agreed place. If no delivery date is specified in the relevant order and no other agreement has been made, the delivery date shall be deemed to be the delivery date already agreed in the previous order (in the case of a contract of the same type); if the order is a first order or not a contract of the same type, the service provider shall request information in writing from its contact person at MEDIA Central in good time (at the latest two (2) weeks) before delivery. The service provider is obliged to inform MEDIA Central in writing without delay if he is unlikely to be able to meet the agreed delivery date - for whatever reason.
- 9) All deliveries and services which are expressly provided with a delivery date are to be regarded as fixed transactions. If a delivery date not expressly agreed upon is exceeded for reasons for which the service provider and/or its vicarious agents are responsible, MEDIA

Central may set the service provider a deadline of at least three (3) days in writing for the new delivery.

- 10) If the service provider is in default, MEDIA Central shall be entitled - in addition to other legal claims for damages - to suspend the agreed remuneration to the service provider completely and permanently; any obligation on the part of MEDIA Central to pay remuneration to the service provider for such contracts in respect of which the service provider is in default shall be completely extinguished.
- 11) As long as the service provider (a) is waiting for the participation or information of MEDIA Central or the customer, or (b) is hindered by strikes or lockouts in third companies or in the business of the service provider (in the latter case, however, only if the industrial action is lawful), or (c) is hindered by unforeseeable weather conditions (in particular snow, ice, storm, etc.), or (d) is hindered by interventions by public authorities, legal prohibitions or other innocent circumstances ("force majeure"), the delivery and performance periods shall be extended for the duration of the hindrance and there shall be no breach of duty for the duration of the hindrance. The service provider shall notify MEDIA Central without delay of any such impediments and their expected duration. If the force majeure persists for more than one (1) month without interruption, both parties shall be released from their performance obligations.
- 12) The performance of the contract by the service provider shall be subject to the condition that the service provider does not thereby violate any provisions of national and international export and foreign trade law or violate sanctions or embargoes or other competition, advertising or other applicable legal provisions.
- 13) If the respective order confirmation does not contain any term and/or notice period for the respective order, each party shall have the right to terminate the corresponding order in writing with a period of three (3) calendar months at the end of the month.

#### **§ 6 Obligations of the contracting parties to cooperate and provide information**

- 1) MEDIA Central shall grant or make available to the service provider, free of charge and in good time prior to the commencement of the agreed service provision, any prerequisites and parameters which can be provided or fulfilled exclusively by MEDIA Central or the customer, in particular approvals for distribution areas and requirements, to the extent that this is necessary for the contractual fulfilment of the agreed deliveries and services.
- 2) The details and necessary information within the meaning of paragraph 1 above (deadlines, technical details, delivery locations/places of performance, etc.) shall be determined in the context of the order confirmation.
- 3) Furthermore, the service provider MEDIA Central shall designate a specific contact person and his/her full contact details, who is authorised to (i) receive and deliver contractual declarations of intent and (ii) take decisions for the day-to-day operational business. Should the contact person or their contact details change, the service provider will inform MEDIA Central without delay - at least in text form.

#### **§ 7 Warranty and statute of limitations**

- 1) The deliveries and services shall be based on the performance characteristics agreed in writing and the scope of services according to the respective order confirmation as well as any associated performance overview. MEDIA Central will check the deliveries and services as part of its regular random checks and will report any outstanding defects to the service provider immediately after their discovery. Any defects shall be documented in a comprehensible manner and notified to the service provider in such a way that the service provider is enabled to remedy the defect immediately after becoming aware of the defect and all necessary and relevant information.
- 2) MEDIA Central shall be entitled, at its own discretion, to require the service provider to remedy material defects by means of subsequent performance, new delivery of the goods

and services or by presenting or providing an acceptable workaround that is suitable for avoiding the effects of the defect.

- 3) If subsequent performance fails within a reasonable period of time or if subsequent performance is impossible, MEDIA Central shall be entitled to withdraw from the contract or to reduce the price or the remuneration if MEDIA Central has previously set the service provider an appropriate written period for rectifying the defect and this period has expired unsuccessfully or such subsequent performance is impossible; in the event of repeated requests for subsequent performance, MEDIA Central shall also be entitled to withdraw from the contract. The service provider shall be obliged to pay damages or compensation for futile expenses due to a defect within the limits of the damages laid down in the contract.
- 4) The limitation period for claims under this § 7 shall be two (2) years from the conclusion of the contract.
- 5) All other details and necessary information regarding the complaints regarding the poor or non-existent performance of the service provider or its agents are described in the relevant service description, if any.

#### **§ 8 Liability**

- 1) In accordance with the statutory provisions, the service provider shall be liable for damages caused intentionally, grossly negligently or by the negligent violation of essential contractual obligations by the service provider or a vicarious agent of the service provider. Material contractual obligations are understood as those, the fulfilment of which is essential for the proper execution of the contract and on whose compliance MEDIA Central may regularly rely (so-called "cardinal obligations").
- 2) Liability for indispensable statutory provisions to the contrary and for cases of injury to life, limb or health and for claims under the German Product Liability Act (Produkthaftungsgesetz) and under guarantees shall hereby remain unaffected by the following limitations of liability.
- 3) In the event of a negligent breach of non-essential contractual obligations, the service provider shall be liable for the resulting property damage and financial loss that could typically and reasonably be expected to occur at the time the contract was concluded. The benchmark for this shall be the total volume of remuneration agreed for the service provider under the contract. MEDIA Central shall be free to prove that the service provider should have expected higher damages.

#### **§ 9 Confidentiality and data protection**

- 1) The parties shall undertake to keep secret and not to disclose to third parties any information of a technical, financial or other commercial nature or of a confidential nature of which they become directly or indirectly aware in connection with the contract in question or in the course of its performance; companies affiliated to the parties shall not be considered as third parties. Furthermore, the contracting parties shall be prohibited from using the information obtained for purposes other than those expressly mentioned in the contract or which are necessary for the implementation of the contract.
- 2) These confidentiality obligations do not apply to such information that is known/generally known to the public or that was already known to the other party or that the other party has legally obtained from a third party or has developed without breaching confidentiality obligations. The burden of proof shall lie with the party who invokes it.
- 3) Notwithstanding the aforementioned confidentiality obligations, the service provider shall be expressly permitted to disclose to other vicarious agents all information, key figures and other relevant data which the service provider receives from MEDIA Central and/or the customer for the performance of the contractual deliveries and services and which the service provider must necessarily receive for the aforementioned purpose, provided that the service provider has previously informed MEDIA Central in writing. In this respect, the service

provider will, of course, impose confidentiality obligations on such agents that are no less stringent than those agreed between the service provider and MEDIA Central.

- 4) These obligations to maintain comprehensive secrecy and confidentiality shall remain in force even after termination of the contract.
- 5) The service provider shall also ensure that all employees of the service provider have been obliged in writing to comply with the data protection requirements under the General Data Protection Regulation (EU-GDPR) and to maintain special confidentiality in accordance with applicable data protection, telecommunications and other relevant laws.
- 6) The parties hereby agree that personal data may be stored and processed within the scope of the business relationships in accordance with the provisions of data protection law (in particular, in accordance with the Federal Data Protection Act [BDSG], new version, and the EU GDPR), insofar as this is necessary for the implementation of the respective contract. The parties shall also ensure that employees are informed of (and obligated to comply with) the data protection requirements under the EU GDPR and other obligations under specific local and applicable laws.
- 7) If the deliveries and services to be provided by the service provider require the conclusion of agreements required under data protection law (e.g. agreement on the processing of orders) or other measures that can only be carried out jointly with the service provider, the service provider shall be obliged to carry out the aforementioned measures jointly with MEDIA Central. The service provider will process the personal data provided to it by MEDIA Central exclusively within the scope of the respective contract on behalf of MEDIA Central and in accordance with the instructions of MEDIA Central.

#### **§ 10 Provision of services and works**

- 1) In the case of services under contract for work, the service provider shall be responsible in particular for the provision of services as well as the results achieved - e.g. delivery of the prospectuses in accordance with the deadline and the contract - (hereinafter individually referred to as "services under contract for work"). Contractual services are only services provided to support MEDIA Central (hereinafter referred to individually as "contractual services").
- 2) Any material costs incurred during the acceptance shall be borne by the service provider. Each party shall bear its own costs for acceptance of personnel costs incurred by each of the parties.
- 3) The acceptance - both of the total performance and of partial performances - shall only be deemed to have been granted with written confirmation by MEDIA Central. MEDIA Central shall confirm acceptance by means of the acceptance report signed by MEDIA Central. The legal consequences, such as the transfer of the risk or the beginning of the limitation period for liability for material defects and defects of title, are not affected by partial acceptance. In case of defects, MEDIA Central shall be entitled to refuse acceptance.
- 4) In the provision of the goods and services (hereinafter referred to as "provision of services"), the service provider is dependent on MEDIA Central fulfilling the necessary cooperation obligations, which are mentioned under § 6 of these contractual conditions.

#### **§ 11 Changes in scope of services**

- 1) Either party may request in writing changes to the agreed scope of services from the other party before and after the start of the service provision. In the event of changes before the service provider starts providing services, changes in the scope of services can only be effectively communicated in good time (maximum two (2) weeks) before the planned service provision begins. Upon receipt of an amendment request, the service provider shall review the amendment, or have it reviewed, whether and under what conditions it is feasible and shall notify MEDIA Central in writing and, if appropriate, give reasons for its acceptance or

rejection without undue delay after the review, at the latest three (3) days after receipt of the amendment request.

- 2) If a MEDIA Central amendment requires a comprehensive review, the MEDIA Central service provider shall inform MEDIA Central before the start of the review. If MEDIA Central agrees to the review by the service provider, the service provider shall invoice MEDIA Central for the time and effort required for the review following prior written approval by MEDIA Central; alternatively, the contracting parties may agree to offset the required time and effort against the remuneration agreed in the amendment request or to integrate it into it when the amendment request is submitted.
- 3) Changes to the agreed scope of services will only become valid after the conclusion of the corresponding amendment agreement in accordance with the principles laid down in these contractual conditions. Until then, the service provider shall be entitled and obliged to continue the deliveries and services on the basis of the existing contract.
- 4) If a change in the scope of services is not notified in good time and can therefore no longer be taken into account by the service provider or can only be implemented at considerable cost, the service provider will - at the sole discretion of MEDIA Central or the customer - provide the contractually agreed deliveries and services on the basis of the existing contract or cancel them at the expense of MEDIA Central.
- 5) MEDIA Central has the right to change the agreed distribution volume as well as the frequency at any time at the request of the customer. The provisions of this § 11 (1) to (4) shall apply to all and any further changes to the scope of services.

#### **§ 12 Ownership, copyright and usage rights**

- 1) Insofar as the work results are protected by copyright, the service provider shall grant MEDIA Central an unlimited, irrevocable, spatially unrestricted, non-exclusive and non-transferable right of use (with the exception of affiliated companies - in which case transfer shall be expressly permitted) in the services covered by the contract, unless otherwise stipulated in the respective contract, whereby the content of the right of use shall be restricted to the exclusive use of the work results within the scope of the contract; the granting of the rights of use shall be subject to full payment of all claims for remuneration to which the service provider is entitled under the relevant contractual relationship. All property rights, instances of copyright and other rights of use shall remain with the service provider, subject to other regulations.
- 2) MEDIA Central hereby reserves all rights to MEDIA Central's expertise, i.e. in particular, MEDIA Central's knowledge of business, workflow and communication processes, concepts, plans, ideas, methods, models, formulas, findings and formats, as well as software and other tools that MEDIA Central has developed or is developing in the context of the contractual service provision or otherwise and temporarily makes available to the service provider within the term of the contract.

#### **§ 13 Third-party property rights**

- 1) The service provider assures that the goods and services do not infringe on any commercial or other license, protection or copyright of third parties.
- 2) If MEDIA Central or its customers are invoked by third parties on the basis of the deliveries and services due to an infringement of such rights, the service provider shall be obliged to exempt MEDIA Central and/or the customer from these claims. The exemption shall cover all expenses, costs and measures incurred by MEDIA Central in connection with the enforcement.
- 3) In particular, the service provider shall be obliged to obtain from MEDIA Central or the customer the contractual use of the goods and services and the corresponding authorisation at the service provider's expense from the corresponding third party. This exemption

obligation does not apply if the service provider is not responsible for the infringement of the intellectual property rights of third parties.

#### **§ 14 Insurance and protection of interests**

- 1) The service provider shall undertake to protect the interests of MEDIA Central and its customers and to refrain from any action that may damage the reputation of MEDIA Central and its customers, employees and/or bodies. In particular, they undertake not to place, transport and/or distribute any printed matter or other material that is recognisably political, religious, pornographic, racist and/or glorifies violence or is otherwise contemptuous of human beings or personalities. In the event of any disagreement and/or ambiguity regarding the ineligibility of material, the service provider shall immediately contact MEDIA Central to agree on how to proceed. It goes without saying that the above obligation is not intended to restrict the freedom of the press of any service provider.
- 2) The service provider shall always and at all times observe and fully comply with advertising bans and any notices that are to be understood and could be understood as such as well as all applicable and mandatory laws and regulations - in particular any statutory provisions on the minimum wage, labour, social and youth protection regulations or rules on competition law. If vicarious agents or subcontractors provide the contractually owed supplies and services to the service provider, the service provider shall also oblige such auxiliary persons to comply with the aforementioned obligations. Evidence of violations of such prohibitions, which have legal and financial consequences, constitutes a breach of the essential contractual obligations. The service provider will fully exempt MEDIA Central and/or its customers from claims arising from the infringement or non-compliance with the aforementioned prohibitions and legal framework conditions. The exemption obligation shall relate to all expenses, costs and measures incurred by MEDIA Central and/or the customer in connection with the use of the service.
- 3) The service provider shall undertake to take out liability insurance for the duration of the respective contractual relationship with the following sums insured per claim and to provide MEDIA Central with evidence of this unsolicited personal injury/property damage and financial loss (per insured event) of at least € 500,000 each.

#### **Section 15 Final provisions**

- 1) Amendments and supplements to these contractual terms and conditions and/or the respective contract must be made in writing (including fax and e-mail), and must be expressly labelled as such. This shall also apply to the amendment of this Clause. No verbal collateral agreements have been made.
- 2) Should a provision of these contractual conditions be or become invalid, or contain an inadmissible deadline provision or a loophole, the legal validity of the remaining provisions shall remain unaffected. In such a case, the parties shall agree on a valid provision in place of said invalid provision that comes as close as possible to the economic and legal intentions of the parties.
- 3) In the event of a change of control or a change in the ownership or share structure of the service provider, which either changes the majority of the company (>50%) or else any veto or other rights relevant to business decisions arise or are changed or are essential for MEDIA Central (e.g. participation of a competitor), the service provider will notify MEDIA Central in writing immediately after such changes take effect. MEDIA Central shall be entitled to terminate the respective contractual relationship in writing with a period of two (2) weeks.
- 4) These contractual terms and conditions and the entire legal relationship between the parties shall be subject to the law of the Federal Republic of Germany – excluding the UN Convention on Contracts for the International Sale of Goods (CISG) and private international law, as well as its choice of law clauses or conflict of law rules.

- 5) The exclusive place of jurisdiction for all disputes arising from (and in connection with) these contractual terms and conditions shall be the place of business of the defendant party.
- 6) The service provider may not assign or transfer the contract to a third party without the prior written consent of MEDIA Central (which may not be unreasonably withheld), unless the transferee is a successor by virtue of the merger, assignment, amalgamation, acquisition, legal reorganisation, sale of assets or purchase of substantially all of the assets to which the subject matter of the contract relates of the assigning or transferring party.