



# Bauer Media Group

## General Terms and Conditions for Procurement

### 1. SCOPE

- 1.1 These General Terms and Conditions for Procurement (“**GTC**”) shall apply exclusively to agreements with entrepreneurs within the meaning of Section 14 BGB (*Bürgerliches Gesetzbuch*, German Civil Code), legal persons under public law and with special funds under public law.
- 1.2 The subject of the GTC shall be (1) any delivery of goods by the supplier (“**Supplier**”) and (2) any service (“**Service**” – *Dienstleistung*) or work product (“**Work Product**” – *Werkleistung*) (together “**Services**” – *Leistungen*) rendered by the provider (“**Provider**”) (Supplier and Provider together “**Contractual Partner**”) to Heinrich Bauer Verlag KG or any of its affiliates (“**Bauer**”) (Bauer and Contractual Party together “**Parties**”). The deliveries and Services in accordance with sentence 1 shall be exclusively governed by the terms of the GTC. Other provisions, in particular the general terms and conditions of Contractual Partner, shall not apply, irrespective of whether or not they were expressly rejected by Bauer. Only the GTC shall apply, even if Bauer, being aware of other general terms and conditions, renders or accepts performance without reservations.
- 1.3 The special terms and conditions for the purchase of goods are set out below in Part A – Special Terms and Conditions for the Purchase of Goods and the special terms and conditions for the provision of Services and/or Work Products are set out below in Part B – Special Terms and Conditions for the Provision of Services and/or Work Products.
- 1.4 Unless agreed otherwise, the GTC shall apply in the version applicable at the time of the respective contract conclusion with Contractual Partner, in either case in the most recent text form communicated to Contractual Partner.
- 1.5 The GTC shall also apply to future similar legal transactions between Bauer and Contractual Partner. Furthermore, the GTC shall also apply to the purchase contracts and/or Service contracts concluded in deviation of the order process as set out in Clause 2 by Bauer and Contractual Partner.

### 2. ORDERS, CONTRACT CONCLUSION

- 2.1 Offers, cost estimates and other services by Contractual Partner that prepare the contract conclusion shall be exempt from charges. Contractual Partner shall be bound to its offer for two weeks.
- 2.2 By sending a purchase order which refers to Contractual Partner’s offer (e.g., by offer number) (“**Purchase Order**”), Bauer accepts Contractual Partner’s offer. Purchase Orders from Bauer shall be binding only if they were placed electronically by means of a Purchase Order. Orders placed verbally or by phone shall require a subsequent confirmation by means of an



electronic Purchase Order in order to be valid. The Parties clarify that a simple e-mail does not satisfy the formal requirements.

### **3. PAYMENT DUE DATE, DEFAULT IN PAYMENT**

- 3.1 The agreed price for the goods and/or the agreed remuneration for the Service shall be due for payment within 30 calendar days from complete delivery of the goods and/or provision of the Service as well as receipt of a proper invoice and related documents which may be necessary for tax reasons (e.g., customs tariff number, certificate of origin etc.), unless otherwise specified in the Purchase Order or in the purchase contract.
- 3.2 The invoice must include the Purchase Order number. Bauer shall not be responsible for any delay in payment if the invoice does not include the respective Purchase Order number.
- 3.3 If Bauer makes payment within 14 calendar days, Contractual Partner shall grant Bauer a 2% discount on the amount of the invoice. Invoices shall be sent by email as pdf document to the email account specified in the Purchase Order.
- 3.4 If Bauer is in default with its payments, Contractual Partner may charge interest in the amount of five percentage points above the base rate applicable in each case.

### **4. INSURANCE**

In order to secure any claims for damages, Contractual Partner shall take out business and product liability insurance with general coverage of at least EUR 5,000,000.00 (five million) per personal injury/property damage and maintain it until the expiration of the statute of limitations for warranty claims in relation to the last order confirmed by Contractual Partner.

### **5. COMPLIANCE WITH LAW**

- 5.1 Contractual Partner shall comply with all applicable laws as well as any guidelines, ordinances or other provisions under public law and regulations of agencies and trade associations (“**Applicable Laws**”). In particular, goods to be delivered or Services to be provided by Contractual Partner must be in compliance with Applicable Laws.
- 5.2 Unless expressly agreed otherwise, Contractual Partner shall, in its own business operations, act in accordance with human rights-related and environmental expectations specified in the Bauer Media Group (BMG) Supplier Code of Conduct (Supplier Code) (“**BMG Supplier Code**”), which is made part of this contract and can be found and downloaded at [Supplier Code of Conduct](#). Contractual Partner shall address violations and risks in Contractual Partner’s own business or supply chain appropriately and ensure that Contractual Partner’s business partners address and pass on expectations specified in the BMG Supplier Code along the supply chain.

### **6. CONFIDENTIALITY**

- 6.1 Contractual Partner shall treat any information transferred to it by Bauer as part of the individual agreement as confidential and shall not disclose it to third parties.
- 6.2 Such information shall include in particular any information in written, including photocopied form, as well as drafts, sketches, technical protocols, models, electronic data, designs, art



works, images, content, layout, irrespective of the form in which this information is transferred (for example through discussions, phone conversations, on data carriers of different kinds, by means of data transmission of any kind or mailing). Any information and know-how perceived visually and/or acoustically shall also be included. The confidential information shall include in particular all technical data, plans, drawings, calculations, implementation instructions, information about developments in terms of the goods and services, about research projects as well as all company data.

- 6.3 The obligation to maintain confidentiality shall not include information that is generally known and was obtained lawfully by third parties.
- 6.4 If Contractual Partner finds out that confidential information was disclosed to third parties unlawfully, it must inform Bauer immediately.

## **7. THIRD-PARTY PROPERTY RIGHTS**

Contractual Partner shall ensure that no third-party property rights are infringed domestically or abroad in connection with the delivery and the intended use of the ordered goods and/or the provision of the Service and the intended use of the Work Product. If Bauer is subject to claims raised by a third party for property rights violations, Contractual Partner must indemnify Bauer from such claims and reimburse Bauer for any expenses necessarily incurred by Bauer from or in connection with the third-party claim, insofar as the damage is caused with fault by Contractual Partner.

## **8. FINAL PROVISIONS**

- 8.1 Contractual Partner shall not, without Bauer's prior written consent, use Bauer's trademark, company name, logos etc. for advertisement nor use Bauer as a customer reference.
- 8.2 Bauer reserves the right to withhold or set-off payments in an adequate amount with regard to warranty claims or other claims asserted by Bauer.
- 8.3 Offsetting or exercising a right of retention by Contractual Partner for disputed counterclaims, or counterclaims that have not been legally established, shall be excluded. However, this shall only apply to the exercise of a right of retention by Contractual Partner insofar as the counterclaims are not based on the same contractual relationship.
- 8.4 Contractual Partner shall not transfer, in whole or in part, the rights and obligations incumbent upon it in connection with deliveries and/or Services to third parties without the prior written approval of Bauer. Bauer is permitted to assign its rights and obligations in connection with deliveries and/or Services, notably to affiliated companies within the meaning of Section 15 of the German Stock Corporation Act (*Aktiengesetz*).
- 8.5 Bauer reserves the right to store and use personal data, within the meaning of the General Data Protection Regulation, of employees of Contractual Partner, to the extent that this is necessary and appropriate to fulfill the contractual arrangements.
- 8.6 German law shall apply to the GTC and all legal relationships between Bauer and Contractual Partner arising from or in connection with the supply of goods and/or the provision of Services



by Contractual Partner to Bauer to the exclusion of the United Nations Conventions on Contracts for the International Sale of Goods (CISG).

- 8.7 Unless stipulated otherwise, the place of performance shall be the relevant registered office of Bauer.
- 8.8 Exclusive – including international – jurisdiction for any disputes arising from or in connection with a good and/or Service shall be the regional court at the relevant registered office of Bauer. However, Bauer shall be entitled to sue Contractual Partner at its place of business as well.
- 8.9 Should individual provisions of the GTC be or become invalid, this shall not affect the validity of the remaining provisions.



## **Part A – Special Terms and Conditions for the Purchase of Goods**

### **1. DELIVERY TIME, DELIVERY AND DEFAULT IN DELIVERY AND ACCEPTANCE**

- 1.1 The delivery time specified by Bauer in the accepted Purchase Order shall be binding. If no delivery time is specified in the Purchase Order and if it was not agreed otherwise, the delivery time shall be two weeks from the contract conclusion. Supplier shall be obliged to inform Bauer immediately if it is likely that the agreed delivery times – for whatever reason – cannot be observed. Despite such information Supplier shall remain fully liable for the respective late delivery.
- 1.2 Deliveries shall be made "delivered duty paid" (DDP Incoterms® 2020) to the shipping address specified in the order. Early delivery or partial delivery shall be permitted only if this was expressly agreed to beforehand. Otherwise, Bauer shall have the right to return the delivery at the Supplier's expense and risk. Should Bauer accept such a delivery, the payment period in accordance with Clause 5.2 shall not begin before the agreed delivery date.
- 1.3 All release notes, waybills or other shipping documents, invoices or other correspondence must specify the complete order numbers and other agreed information. A packing slip must be included with the delivery. If the packing slip is missing, or if it is incomplete, Bauer shall not be responsible for the resulting delays concerning processing or payment.
- 1.4 In case of a delay in delivery, Bauer shall be entitled to demand a contractual penalty from Supplier in the amount of 0.5% of the delivery value of the delayed performance for each elapsed week of delay, however no more than 5% of the delivery value of the delayed performance in total. Further claims shall remain unaffected. The contractual penalty shall be set off against any claim for damages.
- 1.5 The statutory provisions shall apply with regard to the occurrence of the default in acceptance by Bauer. However, Supplier must expressly offer Bauer its performance, even if a determined or determinable calendar time was agreed for Bauer to act or cooperate.

### **2. TRANSFER OF RISK**

The risk of accidental perishing and accidental deterioration of the goods shall pass to Bauer at the time of delivery at the shipping address according to the agreed Incoterms® 2020.

### **3. PRICES**

- 3.1 The agreed prices shall be fixed prices. Unless otherwise agreed, prices are to be understood DDP Incoterms® 2020 and including packaging to the shipping address specified in the order, plus statutory value added tax, provided this is listed separately in the invoice.
- 3.2 The agreed price shall be paid in the currency stated in the Purchase Order.

### **4. RETENTION OF TITLE**

Retentions of title of Supplier that go beyond the simple retention of title shall be excluded. If Supplier retained title to delivered items, this title shall be in force only until these items have

been paid, unless Bauer already became the owner of these items by processing, combining or mixing them.

## **5. QUALITY, WARRANTY RIGHTS**

- 5.1 Deliveries must be in compliance with the quality agreements and the state of the art. In particular, the reference values of sample approvals as well as the agreed specifications shall be considered a quality agreement.
- 5.2 Unless specified otherwise below, the rights of Bauer shall be based on the statutory provisions in case of defects.
- 5.3 Bauer shall be entitled to warranty claims without limitation, even if Bauer remained unaware of the defect at the time of the contract conclusion as a result of gross negligence.
- 5.4 The statutory provisions (Section 377, Section 381 HGB (*Handelsgesetzbuch*, German Commercial Code)) shall apply to the commercial obligation to inspect the goods and to notify defects with the following proviso: Bauer's obligation to inspect shall be limited to defects that are readily apparent during the incoming goods inspection under external physical examination (including the shipping documents) (e.g., transport damage, wrong or short delivery). The obligation to notify defects shall remain unaffected. Irrespective of Bauer's obligation to inspect, the notification of defects shall in either case be considered prompt and on time if notified within two weeks from discovering it or, in the case of obvious defects, from the time of delivery.
- 5.5 Without prejudice to Bauer's statutory rights, the following shall apply: If Supplier fails to meet its obligation to subsequent performance – at the choice of Bauer through the removal of defects (repair) or delivery of an item free from defects (replacement) – within a reasonable period set by Bauer, Bauer may remove the defect itself and demand reimbursement from Supplier of the expenses required in this regard.
- 5.6 In urgent cases, if for example the operational safety is at risk or to prevent the occurrence of unreasonable damage, Bauer shall be entitled to remove the defect itself without setting an appropriate deadline, and demand reimbursement from Supplier of the expenses required in this regard. Supplier will be promptly notified of such self-help, if possible before the self-help is carried out. The right to self-help shall not exist if Supplier would be entitled to refuse the relevant supplementary performance in accordance with the statutory provisions.
- 5.7 The limitation period for claims for defects shall be three years from the passing of risk. Insofar as acceptance has been agreed to, the statute of limitations shall begin with the acceptance.
- 5.8 Bauer shall be entitled to the statutory rights of recourse without limitation. Bauer shall be entitled to claims for supplier recourse even if the defective goods were processed by Bauer or another contractor, for example by installing them into another product.



**6. COMPLIANCE WITH IMPORT AND EXPORT; PROVISION OF NECESSARY INFORMATION AND DOCUMENTATION**

- 6.1 In particular, Supplier shall be solely responsible for ensuring that the goods to be delivered by it, or parts thereof, are not subject to national or international import or export restrictions. If a product, or parts thereof, is subject to such an import or export restriction, Supplier shall obtain the necessary import or export licenses for the global export at its own expense.
- 6.2 Supplier shall provide all necessary information and documentation that Bauer reasonably requires to use the delivered goods.



## Part B – Special Terms and Conditions for the Provision of Services and/or Work Products

### 1. SERVICES

- 1.1 Provider shall provide the Services in a professional manner and in accordance with the Purchase Order and appropriate instructions by Bauer.
- 1.2 Provider shall comply with all applicable laws as well as any requirements, rules or regulations imposed by Bauer or authorities, notably concerning health, safety, data protection and security.
- 1.3 Provider shall ensure that Bauer is given at least equal priority with any other customer of Provider.
- 1.4 In principle, the statutory provisions applicable to service contracts (Sec. 611 et seq. BGB) shall apply to the Service provision. If, in individual cases, a Work Product is agreed, the statutory provisions applicable to contracts for work (Sec. 633 et seq. BGB) shall apply. Further details may be found in the respective Purchase Orders.
- 1.5 Unless otherwise agreed in writing, Provider shall provide the Services and the Work Product shall be ready for acceptance (*Abnahme*) by Bauer within the timeframe and at the point in time set out in the Purchase Order.
- 1.6 Bauer may request that changes be made to the Services at any time before its acceptance. Provider shall take such change requests into account, unless Provider proves this is unreasonable. If the changes requested by Bauer affect the Services, particularly the remuneration, the Parties shall make a written adjustment to such contract provisions without undue delay. Minor effects shall not be taken into consideration.
- 1.7 In case of a delay in performance, Bauer shall be entitled to demand a contractual penalty from Provider in the amount of 0.5% of the performance value of the delayed performance for each elapsed week of delay, however no more than 5% of the performance value of the delayed performance in total. Further claims shall remain unaffected. The contractual penalty shall be set off against any claim for damages.
- 1.8 The statutory provisions shall apply with regard to the occurrence of the default in acceptance by Bauer. However, Provider must expressly offer Bauer its Services, even if a determined or determinable calendar time was agreed for Bauer to act or cooperate.

### 2. REMUNERATION, PAYMENT, DEFAULT IN PAYMENT

- 2.1 The remuneration agreed in the Purchase Order shall be fixed. Unless otherwise agreed in writing, the remuneration includes any costs and expenses of Provider which are necessary for the performance of the Services. In the Purchase Order, the Parties may agree upon hourly rates and the number of hours to be spent on the Services.
- 2.2 Provider shall issue an invoice for the Services rendered in the past calendar month within ten working days after the end of the relevant period as outlined in the respective Purchase Order. In case Bauer and Provider agreed on the payment of an hourly rate, Provider shall in addition to the invoice provide a detailed service description for the working hours provided, listing the



date, hours worked and description of the nature of Services. VAT is to be set out separately on the invoice.

### **3. SUBCONTRACTORS**

Provider may not appoint any subcontractors or other third parties ("**Subcontractors**") to perform the Services without Bauer's prior written consent. Notwithstanding the appointment of Subcontractors upon Bauer's prior written consent, Provider shall remain responsible and liable for the due performance of the Services, and shall see to it that Subcontractors likewise duly perform the subcontracted parts of the Services. In case Provider uses any subcontractor upon the prior approval of Bauer, Provider will be fully responsible for any acts or defaults of such subcontractor, its employees and agents as if they were the acts or defaults of Provider. Provider shall, immediately following notification from Bauer to do so, cease using any particular subcontractor(s).

### **4. QUALITY, RIGHTS FOR DEFECTS IN CASE OF WORK PRODUCTS**

- 4.1 Services must be in compliance with the agreed quality and the state of the art. In particular, the agreed specifications shall be considered the agreed quality.
- 4.2 Unless specified otherwise below, the rights of Bauer shall be based on the statutory provisions in the case of defects.
- 4.3 The limitation period for claims for defects shall be three years from the passing of risk. Insofar as acceptance has been agreed to, the statute of limitations shall begin with the acceptance.

### **5. INTELLECTUAL PROPERTY**

If in course of the rendering of the Services by the Provider a copyright or other intellectual property right arises with respect to materials created for this purpose, the Provider irrevocably grants Bauer a perpetual, exclusive and royalty-free license for worldwide use in all currently known and in the future emerging forms of use and media. This applies in particular to concepts, reports, guidelines, operating procedures, analyses, evaluations, presentations, handouts or other documents, regardless of their form, which may be created for example in connection with the provision of consulting services, training courses or the organization of events. The rights of use include in particular copy, reproduce, distribute and make them available to the public. This also entails the right to modify or adapt them or to create derivative works. Bauer may provide them to third parties and grant sub-licenses to the extent outlined above. Provider warrants that it holds all rights to the materials and is able to transfer them.