

## General Terms and Conditions (Terms) of Scholz & Friends Wien GmbH („Agency“) for Suppliers

### I. Definitions

These General Terms and Conditions (hereinafter referred to as “Terms”) apply to agreements for the purchase and supply of goods and services (hereinafter referred to as “Supply Agreements”) concluded by Scholz & Friends Wien GmbH (hereinafter referred to as “the agency”) in its own name or in the name of and for the account of our clients. The party acquiring rights and assuming obligations under such a Supply Agreement – either AGENCY or the Client – is hereinafter also referred to as the “Customer”; the other party to the Supply Agreement is referred to as the “Supplier”. The Customer’s offer to the Supplier to conclude a Supply Agreement is hereinafter referred to as the “Order”. All documents, templates, and items such as slides, data and data carriers, films, proofs, etc. which are provided by the Customer or a third party to the Supplier in connection with a Supply Agreement are referred to as “Documentation”.

### II. Scope of application

These Terms shall apply to all orders and Supply Agreements unless expressly agreed otherwise in writing on a case-by-case basis. These Terms shall also apply to future Supply Agreements, even if no reference is made to them in an individual instance. These Terms shall also apply when the Supplier uses conflicting terms and conditions of sale.

### III. Conclusion of the agreement

We expect a written declaration of acceptance for all orders. A Supply Agreement is concluded upon receipt of this declaration of acceptance. If we do not receive a declaration of acceptance from the Supplier within the period specified by us in the order (by default, within one working day) after the order, the Customer may declare the order null and void. If THE AGENCY specifies the name or company of the Customer in an order, the order shall be deemed to have been placed in the name of and for the account of our Client. This also applies if an abbreviated reference is given which sufficiently identifies the Client instead of the full company name of the Client.

### IV. Stated quantities

Dimensions and weights, quantities, prices, other descriptions and other data as provided in catalogues, circulars, advertisements or price lists are only approximate indications and shall not be binding on the Customer unless explicitly included in the Supply Agreement. Such data shall be treated confidentially and may not be made available to third parties.

### V. Checking the order

The supplier shall check the information received from the Customer and the documentation without delay, but no later than within one working day, for plausibility, clarity and technically flawless processability, as well as for feasibility within the agreed delivery period, and to notify us without delay in writing in the event of the delivery’s unsuitability. The Supplier shall also inform THE AGENCY in writing and without delay of any technical deviations with regard to color, material, quality of workmanship, intended use and the like. In the event of a failure to check the order and the documentation in good time, the Supplier shall be liable to the Customer for all resulting disadvantages (e.g., due to quality defects, delay, or other damage).

### VI. Price

The price stated in the order is binding, subject to the conditions stated here and – unless expressly stated otherwise – includes VAT, transport costs, packaging costs and other ancillary costs (lithography, printing, etc.). An increase in the price is only permitted if the Supplier has incurred additional expenses due to a subsequent change request of the Customer if the Supplier has pointed this out in writing and the Customer has expressly agreed to the concrete increase in writing.

### VII. Payment terms

In the absence of a specific agreement, payment should generally be made within 14 days of delivery and receipt of a proper invoice subject to a 2% discount for early payment or within 30 days net. Compensation in accordance with section 1438 et seqq. ABGB and offset are permitted. Default interest shall be calculated at the Euribor rate plus 1% p.a.



## **VIII. Documentation**

All documentation remains the property of the Customer and shall be returned to THE AGENCY immediately and free of charge after the order has been fulfilled. No right of retention applies. If the Supplier produces pre-printed products (e.g., graphic data, films, proofs, punching forms) to fulfil the Supply Agreement, ownership in them shall be transferred to THE AGENCY, and they shall be handed over upon request. Documentation provided by THE AGENCY or templates produced by the Supplier in connection with the Supply Agreement may not be destroyed (even after the Supply Agreement has been fulfilled) without the consent of THE AGENCY.

## **IX. Delivery terms**

Supplier shall ship deliveries free of charge ("frei Haus") including packaging and transport insurance, on the delivery date specified in the Supply Agreement or in the order to the recipient. If no recipient is named, the Supplier shall obtain instructions from the Customer regarding the place of delivery and performance. The Supplier shall notify us in writing if a delay in delivery occurs or is foreseeable. If, for any reason, the Supplier fails to perform on the agreed delivery date and place, the Customer may demand compensation from the Supplier for any additional costs incurred (e.g., for replacement, transport, insurance, storage, etc.), regardless of the Supplier's degree of fault. Irrespective of the above, the Customer may withdraw from the Supply Agreement and claim damages (including loss of profit) if the performance is no longer of any interest.

## **X. Transfer of risk**

The risk of accidental deterioration of the object of performance shall only pass to the Customer upon delivery of the goods to the Customer.

## **XI. Print quality**

Inking, material, and processing specifications, as well as references to the suitability of printing units for a specific purpose (e.g., with regard to light, rubbing, heat resistance or other special material stresses) shall be provided by THE AGENCY to the Supplier as part of the Order or in the form of samples. Color definitions are defined by provided color samples by common color specifications (e.g., Pantone) and are binding. If customized inks are used that are mixed specifically for the order mixed inks are used instead of original inks, THE AGENCY shall be provided with a binding color sample on the print substrate. In the event of a defective print quality, it is presumed that such defects are the responsibility of the Supplier, unless the Supplier provides proof to the contrary.

## **XII. Manufacturer's label**

The Supplier is not permitted to affix any manufacturer's labels without the express written consent of the Customer. A manufacturer's label affixed without this consent entitles the Customer to refuse to accept the goods or services.

## **XIII. Warranty for material defects**

The Supplier warrants that the goods and services supplied by them are of the contractually agreed quality, free from defects, are TÜV (technical inspection service)-compliant or CE-compliant and have the guaranteed properties, meet the Customer's requirements and, in particular, are consistent with the provided samples. The inspection and notification period for delivered items and works pursuant to section 377 of the Austrian Commercial Code (HGB) is two weeks from receipt of the items at THE AGENCY or from the time when the concealed defects could have been first detected. The Supplier's liability for defects shall expire after two years from the date of delivery. If there is a defect for which the Supplier is responsible, the Customer may, at their discretion, demand that the Supplier remedy the defect or provide a replacement delivery or service, for which the Supplier shall bear the costs. If a remedy for a defect or replacement delivery or service cannot be provided due to the intended use of the service at an event or on a certain date or for some other reason, the Customer may demand a reduction of the price in proportion to the value of a defect-free compared to a defective performance. Based on the above, the Customer can demand a reduction of half without further proof, unless the Supplier provides proof of a lesser reduction in value. All replacement deliveries or repairs are also subject to the warranty agreement set out in this paragraph.



## **XIV. Warranty for legal defects**

The Supplier warrants that all items covered by an order are their full and unrestricted property and that no other rights of third parties (such as liens, other creditor positions from the assignment of receivables or other credit collaterals, purchase of receivables, hire purchase, purchase subject to retention of title, etc.) preclude delivery. The Supplier warrants that fulfillment of the order will not result in any infringement of the law, in particular with regard to compliance with statutes, regulations or other general provisions of the law. The Supplier further warrants that the delivered goods, works and services do not infringe any rights of third parties (such as copyright, patent or trademark rights or other industrial property rights).

## **XV. Power of Attorney**

If THE AGENCY places an order in the name and on behalf of the Client, the Supplier acknowledges that THE AGENCY is also authorized to assert all rights of the Client arising from the respective order, in particular termination and withdrawal rights as well as any claims for damages or reimbursement of expenses.

## **XVI. Scope of the protection of the agreement**

If THE AGENCY concludes the Supply Agreement in the name and for the account of the client, THE AGENCY itself will not become a party to the agreement, but THE AGENCY is hereby expressly included in the scope of protection of the Supply Agreement in question. Likewise, if THE AGENCY concludes a Supply Agreement in their own name, but in economic terms for the benefit of a Client, this Client is included in the scope of protection of the Supply Agreement in question. In particular, this means that the Supplier is also liable for the effects of a performance that does not comply with the agreement on the contractual relationship between THE AGENCY and the Client. Any limitation of liability of the Supplier shall be void. If THE AGENCY places an order in the name of and for the account of the Client, the processing of the order shall nevertheless be carried out or monitored by THE AGENCY. In principle, the Supplier is not permitted to correspond directly with the Client about the order. The Supplier shall, however, in any event inform THE AGENCY of any direct correspondence with the Client.

## **XVII. Right to audit**

Supplier agrees that during the term and for a period of three years thereafter it will keep proper records and books of account relating to the services in accordance with generally accepted accountancy practices (Records), and will permit THE AGENCY and/or agency's client to inspect the Records and any policies and procedures applicable to the services (including any policies and procedures relating to the handling, storage and security of any confidential information and/or personal data provided to Supplier by THE AGENCY in the course of the services) upon reasonable written notice at any time (Audit). This right to Audit shall include all subcontractors to which services have been subcontracted by Supplier (Subcontractors). Supplier shall ensure THE AGENCY and/or agency client has equivalent rights with all Subcontractors. In connection with any Audit, Supplier agrees that it will provide reasonable co-operation to THE AGENCY and/or agency's client and agrees that where an Audit indicates any errors or overpayments or any other breach of this Agreement, Supplier shall promptly correct any errors and refund in full to THE AGENCY and/or agency's client any overpayment and in such circumstances the costs of any Audit.

## **XVIII. Contractual penalty**

In the event of a breach of essential performance obligations by the Supplier, the Customer shall be entitled to a contractual penalty of up to 15% of the contract value, regardless of the evidence of the specific damage. The amount of the contractual penalty is not subject to reduction by a court. The Customer may assert any further damage beyond the amount of the contractual penalty (including loss of profit). The amount of damages is not limited to the interest in fulfillment of the agreement.

## **XIX. Other Provisions**

Rights under an individual agreement may not be assigned by either party without the written consent of the other party. This does not apply to assignments between THE AGENCY and the Client. Each party is responsible for its own costs in connection with the implementation of an amendment to the Supply Agreement. If any provision of these General Terms and Conditions is not effective, this shall not affect the validity of the remaining provisions and agreements which are based on them. The valid provision shall be replaced by one that comes closest in sense and purpose to the original provisions. Any terms and conditions of the Supplier that contradict these General Terms and Conditions as well as any verbal ancillary agreements shall be invalid. The Supplier agrees that the written communications can also be transmitted by fax or email. The parties will seek to create technical facilities to reduce associated risks (transmission errors, viruses, manipulations), however, without assuming any liability for the intended success.



## **XX. Applicable law, Place of jurisdiction**

This agreement is governed by Austrian law with the exclusion of international private law and the UN Convention on Contracts for the International Sale of Goods. The competent court for the First District of Vienna shall have exclusive local jurisdiction for all disputes arising from or in connection with agreements concluded between the parties.

