

## **General Terms & Conditions for deliveries and services by STAUD STUDIOS GmbH to its Clients**

### I. Scope of Application

1. The service portfolio offered by STAUD STUDIOS GmbH (hereafter referred to as “STAUD STUDIOS”) to its clients (hereafter referred to as “client(s)”) encompasses in particular the development and implementation of communication initiatives, including consultancy, as well as the (also computer-generated) production of images and films, furthermore interactive applications, and all associated services, plus image usage contracts and/or rental and incidental service contracts in respect of studio facilities.
2. The following general terms & conditions for deliveries and services (hereafter referred to as “T&Cs”) apply to all orders placed with STAUD STUDIOS by clients, including contractual agreements with clients.
3. These T&Cs apply only inasmuch as the client is an entrepreneur (not a consumer).
4. Differing client T&Cs, changes or additions to these T&Cs are valid only with the written confirmation of STAUD STUDIOS. Silence on the part of STAUD STUDIOS in respect of contradictory conditions – even in a possible letter of confirmation – are under no circumstances to be considered as either recognition or approval.
5. Client T&Cs of the type referred to in order forms, delivery confirmations or similar are herewith rejected as a precautionary measure.
6. These T&Cs apply for the entire duration of the business relationship with the client, also without explicit inclusion in individual cases, insofar as no explicitly differing arrangements are made.

### II. Conclusion of Contract

Contracts with STAUD STUDIOS come into effect on the receipt of the confirmation of order or on receipt of a client order based on a proposal/cost estimate previously provided by STAUD STUDIOS or, in the absence of such, through confirmation of the implementation date. STAUD STUDIOS reserves the right to accept proposals (particularly in the case of small or rush jobs) by implication through immediate execution or verbally. In the event of differences between these T&Cs and an individual assignment, the agreed content of the assignment applies.

### III. General Rules of Cooperation

1. The client commits to providing all such information as may be required for executing an assignment. This includes in particular market, production and sales figures as well as product information. The client assures the accuracy of such information.
2. The client will provide STAUD STUDIOS with reasonable notice of planned initiatives and of available budgets insofar these are relevant to the assignment.
3. Approvals/authorisations by the client will be delivered within a timeframe that does not compromise the working processes of STAUD STUDIOS and that enables punctual execution of the assignment without additional costs or loss of quality. Delays in executing the assignment and any additional costs that may be incurred as a result of late authorisation/approval must be borne by the client.



#### **IV. Delivery, Delivery Time, Service Delay**

1. STAUD STUDIOS is authorised to send the completed work to the client at the client's cost without express agreement. Each shipment is charged to the client's account and sent at the client's own risk. STAUD STUDIOS is authorised to select an apparently suitable method of shipment, including express shipping in the event of rush jobs and fixed-date transactions.
2. Fixed dates must be explicitly agreed in writing. All other accepted delivery dates are considered non-binding.
3. In the event that STAUD STUDIOS exceeds a delivery deadline, the client is only authorised to withdraw from the contract following written specification of a reasonable period of grace.
4. Deadlines and timescales are suspended if the client seeks changes after the order has been issued that have a significant effect on scheduling. STAUD STUDIOS will inform the client as appropriate so that a new deadline can be agreed.
5. In the event that the client withdraws, if STAUD STUDIOS is not at fault in the delay, the client is obliged to provide contractual remuneration for work already completed on the corresponding part of the assignment. In the absence of any agreement, the client is obliged to provide reasonable remuneration.

#### **V. Acceptance, Deficiencies, Obligation to Examine and Object**

1. If the assignment was for the production of images, STAUD STUDIOS chooses those images to be presented to the client for acceptance on completion of the production process.
2. The acceptance of work is based on the rule of law. If the client uses or pays for the work done by STAUD STUDIOS, this represents acceptance of said work. Furthermore, work is considered accepted if the client does not accept work ready for acceptance within a period of 14 days, insofar as no other time period has been agreed.
3. Within the scope of the specifications set out in the respective assignment, STAUD STUDIOS is free in the artistic design of commissioned material. Claims made in respect of factors such as image composition, the selection of photographic models, shoot location and the optical technology used are therefore insofar excluded. Only those products/services that have been executed in a grossly improper manner or those by which the client's creative wishes, specifications or instructions have been completely disregarded can be considered deficient. The same applies to products/services that do not comply with the current state-of-the-art.
4. The client is obliged to examine within a reasonable time period the material sent, and to raise any potential objections with STAUD STUDIOS. The objection to obvious deficiencies must be submitted in writing within two weeks following delivery of the material. The objection to non-obvious deficiencies must be submitted within a period of two weeks following recognition of the deficiency. In the event of a breach of the obligation to examine and object, the material is considered accepted in respect of said deficiency.
5. In compliance with the statutory regulations STAUD STUDIOS is primarily entitled to a supplementary performance if a rendered work shows a deficiency which is not in accordance with the agreement and regarding to which the client has submitted a timely objection.



#### **VI. Fee, Remuneration for Rights of Use, Expenses etc.**

1. The products/services provided by STAUD STUDIOS are charged at an hourly or daily rate or at an agreed fixed project price. All prices are additionally subject to the applicable statutory value added tax. Fees must always be agreed with STAUD STUDIOS prior to placing an order.
2. If a fee is agreed based on time, STAUD STUDIOS will receive the agreed hourly or daily rate also for any extended period of time required to undertake the work.
3. Changes and/or additions requested by the client will incur an additional charge from STAUD STUDIOS insofar as these require additional work or outlay.
4. Unless otherwise agreed, each use of the products/services provided by STAUD STUDIOS is subject to a fee to be paid in addition to the service fee. This also applies within the scope of a commissioned production. This furthermore applies to the use of image material as the template for drawings, caricatures, adapted photographs, its use for layout purposes and client presentations as well as the use of image details that become part of a new image through montage, composition work, electronic image carriers or similar techniques.
5. The usage fee is based on the extent of the permitted rights of use (time, region, content, intended use) and will be agreed accordingly in advance. It applies only to the agreed usage. All further and/or additional usage will be subject to a new fee and requires the prior written consent of STAUD STUDIOS.
6. Third party and additional expenses (postage, packaging, duplication, film material, digital processing, photographic models etc.) are passed on to the client.
7. Travel expenses incurred within the scope of executing the assignment are borne by the client.
8. The client also bears the fees payable to copyright collection organisations (GEMA, VG Wort, etc.), taxes, fees associated with rights of use, customs charges and social insurance payments for artists, even if these are charged retroactively.
9. The client acquires rights of use only once all financial obligations associated with the respective product/service have been paid in full, particularly the fee and reimbursement of all costs.

#### **VII. Payment Conditions**

1. STAUD STUDIOS is entitled to deliver services in part and to invoice them accordingly. If the execution of an assignment extends over a longer period, STAUD STUDIOS may seek part payment in accordance with the extent of the products/services provided.
2. Invoices must be paid within 14 days of invoicing.
3. Offsetting or exercising right of retention on the part of the client is permissible only for uncontested or legally established claims.



### VIII. Rights of Use, Responsibility and Release

1. To the extent that products/services provided to the client by STAUD STUDIOS within the scope of an assignment are subject to copyright or any other rights, the extent of the rights of use of those STAUD STUDIOS products/services to be transferred, regardless of their protectability, are based on the agreement reached for each individual case, or otherwise in accordance with § 31 Abs. 5 UrhG.
2. The granting of rights of use does not apply to drafts, designs and ideas rejected by the client or not approved by the client for implementation. STAUD STUDIOS has free use of such drafts, designs and ideas.
3. Rights of use to source files and their handing over are granted only if this has been expressly agreed in advance and if said source files arise from special programming undertaken specifically for the client and not e.g. from standard software or such programmes that STAUD STUDIOS has developed itself for repeated use for or on behalf of diverse/future clients.
4. Transferral of STAUD STUDIOS products/services to third parties is permissible only to the extent necessitated by the contract. Transferral to third parties (including other group companies or subsidiaries) or onward licensing is furthermore not permitted without the prior consent of STAUD STUDIOS.
5. Unless agreed, copies, duplications, reproductions or similar regardless of how these are used are not permitted.
6. In the event of exclusive rights of use being granted, the transferral and granting of the rights of use acquired by the client to a third party requires the express written consent of STAUD STUDIOS.
7. Each and every use, exploitation, duplication, dissemination or publication beyond the agreement reached requires the prior express consent of STAUD STUDIOS and is subject to a separate charge. Furthermore, the remuneration rules of §§ 32 - 32 d UrhG shall be analogously applicable to the contractual relationship between the parties.
8. Use of STAUD STUDIO products/services is fundamentally permitted only in original format. Any change, processing or redesign and any alteration in image transmittal (also e.g. publication in cut or cropped form) requires the prior written consent of STAUD STUDIOS.
9. The client acquires rights of use only once all financial obligations associated with the respective product/service have been paid in full, particularly the fee and reimbursement of all costs.
10. Should STAUD STUDIOS draw on third parties (photographers, photographic models, etc.) to provide external services within the scope of executing the assignment, their rights will – where possible – be acquired to the extent defined in advance by the client in the client's name and at the client's cost. STAUD STUDIOS will inform the client in advance of any restrictions to those rights, to the extent that they are known.
11. STAUD STUDIOS accepts no liability for legal claims for retrospective increases in compensation in accordance with §§ 32 - 32 c UrhG made by originators and others entitled to copyright protection contracted on the instruction of the client. The client indemnifies STAUD STUDIOS against all such claims. This indemnity also encompasses the assumption of all necessary legal costs on first demand.

The client's indemnity obligation in respect of STAUD STUDIOS also applies in the event that third parties submit claims because the client used or is alleged to have used their products/services beyond the agreed scope of the usage rights granted. STAUD STUDIOS reserves the rights to make its own damages claims.



#### **IX. Copyright Notice**

In the digital logging of the image material, a suitable copyright notice must be electronically linked to the image data indicating the copyright ownership of STAUD STUDIOS. The client must also ensure through suitable technical provisions that this link is retained in every data transfer, in the transmission to other data carriers, in the reproduction on a screen and in any other public reproduction and that STAUD STUDIOS can be identified at all times as the originator of the image material.

#### **X. Ownership, Storage, Archiving, Transfer to Third Parties**

1. The material supplied remains the property of STAUD STUDIOS at all times. The material is made available on a temporary basis only for the exercise of usage rights.
2. Data can only be archived for the client's own purposes and only for the duration of the rights of use. Digital data must be deleted and/or the data carriers destroyed at the end of the usage period.
3. STAUD STUDIOS is not liable for holding the data and/or for enabling redelivery of the data.
4. The transfer of digital image and film material in the form of data transmission or on data carriers is permissible only to the extent this form of duplication and dissemination is called for in exercising the rights of use granted.
5. Storing image and film data on online databases or other digital archives that are accessible to third parties requires a special agreement.
6. The client protects the license material against unauthorised access by third parties with suitable state-of-the-art measures, e.g. a suitable firewall. The client also undertakes to ensure that third parties used to execute its services likewise uphold this obligation and will contractually oblige said parties accordingly to this effect.

#### **XI. Authorisation of External Services**

If implementing the work commissioned necessitates the services of a third party agreed with the client or if any other contract is agreed with third parties, STAUD STUDIOS is authorised to enter the respective obligations in the name of and on account of the client. In such cases, STAUD STUDIOS accepts no liability for payment of the products/services provided by the third party or for fulfilling any other contractual obligations of either the client or the third party. STAUD STUDIOS accepts no liability for the creditworthiness of the third party that it has not checked. The client must provide STAUD STUDIOS with the necessary original authorisation on request.

#### **XII. Responsibility for Photographic and Film Subjects and other Items provided, Own Personnel**

1. STAUD STUDIOS is only obliged to apply reasonable care and attention to the safekeeping of photographic and film subjects or other items belonging to the client and provided for executing the assignment.
2. The client is obligated to insure at its own cost such photographic and film subjects and other items provided against damage, loss, theft and the like.
3. If the client uses its own personnel in association with executing the assignment, it is obligated to ensure that the relevant specifications of work protection law are observed and to guarantee that the corresponding insurance is in place.



### **XIII. Liability and Damage Compensation**

1. STAUD STUDIOS accepts unlimited liability for damages arising from wilful or grossly negligent breach of duty as well as for claims in accordance with product liability law and within the scope of an assumed guarantee.
2. STAUD STUDIOS also accepts unlimited liability for damages arising from harm to life, limb or health resulting from a negligent breach of duty.
3. The liability of STAUD STUDIOS in the event of slightly negligent breach of a major contractual obligation (known as cardinal obligation) is limited in its extent to the foreseeable and contractually typical damages based on the nature of the commissioned work. Major contractual obligations are such the fulfilment of which is vital to being able to execute properly the assignment and in the adherence to which the client might reasonably trust.
4. In all other situations, STAUD STUDIOS bears no liability.
5. To the extent that the liability of STAUD STUDIOS is precluded or limited, this also applies to its employees, representatives and vicarious agents.
6. STAUD STUDIOS provides its product/services with the professional care and attention that is usual for the sector.
7. STAUD STUDIOS does not accept liability for product-related statements made by the client.
8. STAUD STUDIOS does not accept liability for the protectability of its products/services in respect of patent, copyright, design patent or trademark law or any other type of protectability. In the development of brands, strategies, concepts and/or advertising STAUD STUDIOS does not conduct subsequent legal checks unless asked to do so by the client, in which case it will be in the name of and at cost to said client.
9. It is the obligation of the client to check whether products/services provided within the scope of the work commissioned and/or the usage of such products/services are in contravention of competition law, third-party rights (trademark law, copyright law, personal rights etc.) or any other rights/laws. Liability for any contravention rests with the client. The client indemnifies STAUD STUDIOS and its legal representatives personally in respect of any claims raised by third parties and will release them from same on first demand. This indemnification also encompasses acceptance of all necessary legal and/or defence costs. STAUD STUDIOS reserves the right to make further claims for damages.
10. Beyond any obligation of selection and supervision, STAUD STUDIOS accepts no liability for the proper completion of orders assigned to third parties that are not vicarious agents of STAUD STUDIOS in providing its own service obligations in relation to the order. However, STAUD STUDIOS will, on request, cede to the client all possible claims to which it may be entitled in respect of third parties and support the client where possible in the assertion of those claims.



11. STAUD STUDIOS shall not be liable for any events of force majeure making the rendering of services or the fulfilment of the contract substantially difficult. The same applies if the rendering of services or the fulfilment of the contract are temporarily impeded or made impossible by an event of force majeure. Cases of force majeure are events that are beyond the control of STAUD STUDIOS, in particular natural disasters, epidemics, military conflicts, terror attacks, labour strikes, riots, official measures or other events of such kind. It shall not be deemed as breach of contract if the fulfilment of contractual obligations by STAUD STUDIOS is hindered or made impossible in the above mentioned manner. The same applies if the fulfilment of contractual obligations by STAUD STUDIOS depends on preparatory or supplementary services by third parties that are affected by an event of force majeure. The parties shall take all reasonable measures to minimise the effects of an event of force majeure on the fulfilment of the contract and shall make appropriate adjustments if necessary.

12. Client claims arising from a breach of duty on the part of individuals authorised to represent STAUD STUDIOS or its vicarious agents lapse one year after the beginning of the statutory limitation period. Exceptions to this are claims for damages arising from a wilful or grossly negligent breach of duty on the part of persons authorised to represent STAUD STUDIOS or its vicarious agents as well as claims according to product liability law and arising from an assumed guarantee, furthermore, claims for damages relating to injury to life, limb or health, including those arising from a slightly negligent breach of duty on the part of persons authorised to represent STAUD STUDIOS or its vicarious agents. The legal statutes of limitations apply to such claims.

#### **XIV. Naming of References**

STAUD STUDIOS is entitled to use the work result or extracts thereof for the purposes of self-promotion (particularly on its own website) and for participation in regular sector competitions with no limits placed on time or place and free-of-charge, and to name the client as a reference client insofar as this does not infringe on any of the client's legitimate confidentiality interests.

#### **XV. Special Provisions Studio Rental**

1. The client is bound by agreed fixed lease dates in the sense of fixed-date business. If the contractually agreed lease is delayed for reasons resting within the responsibility of STAUD STUDIOS, the client is only entitled to withdraw without prior notice if the fixed-date lease has been contractually agreed as such with STAUD STUDIOS.

2. In the case of studio or facility rental, should a contract not be fulfilled on the planned date due to causes within the client's sphere of operation or attributable to it, STAUD STUDIOS is entitled to withdraw from the contract without notice after expiry of the agreed start of the lease or as soon as it is established that usage will not take place on the agreed date. Fixed compensation of 50% of the order amount excl. expenses and value-added tax is then payable unless the client demonstrates that no or lesser damages have been incurred.

3. The same applies if the client has reserved a studio date and does not use it without cancelling the reservation without due notice (in the absence of a differing agreement, at least two weeks prior to start date).

4. In other cases, the same legal consequence always applies if the client releases itself from the contract without justifiable grounds. The demand for compensation is an implied declaration of withdrawal.



5. Should the client use the rented object for longer than agreed, STAUD STUDIOS has the right to decline or agree – possibly only partially – this extension of use. For usage duration in excess of that contractually agreed, STAUD STUDIOS is entitled in the latter case to demand coverage of expenses for redistribution with an additional fee of 10% of the contractually agreed sum.

6. The client also owes this increased fee in cases of untimely clearing or return of the facilities. Furthermore, in such cases, the client is liable also without further fault for all damages caused as a result, particularly for the loss of subsequent fixed bookings and the resulting claims of other clients.

7. If the client requires incidental services that extend beyond the lease of the contracted facilities and equipment, these will be charged separately in addition to the agreed fee. This applies in particular to all material – and other incidental costs such as model fees, props and their acquisition, travel expenses, labour etc. STAUD STUDIOS is entitled, if required to do so, to incur such costs on behalf of the client and to pass them on to the client. In urgent cases, STAUD STUDIOS is entitled to enter into such commitments without prior consultation on account of the client insofar it is to the best possible belief in keeping with the objective interest or presumed will of the client.

8. If the client works in the rented studio with its own construction team, it is liable for any damage to the inventory, equipment and facilities and to the props made available by STAUD STUDIOS. Otherwise, the client is liable in all cases for damage to or loss of items in its possession. To the same extent, the client is liable for damage caused by it to the spaces used.

#### **XVI. Confidentiality**

All information belonging to the parties accessible in association with the assignment must be treated in the strictest confidence by the respective recipient party. This also applies to the time after completion of the assignment.

Non-confidential information is information

- that is generally known or becomes known to the receiving party without breach of contract,
- which the receiving party can prove it already possessed prior to the start of the business relationship with the other party,
- which the receiving party can prove it developed independently of the confidential information and
- which the receiving party can prove it received legitimately from a third party authorised to disclose said information.

#### **XVII. Final Provisions**

1. Should one of the aforementioned conditions or an assignment be or become ineffective, this does not affect the validity of the remaining conditions. In such cases the ineffective condition is replaced by such, the effect of which comes closest to achieving the commercial target pursued by the parties. The same applies in the case of a gap or loophole.

2. The place of execution and court of jurisdiction for all mutual claims is Stuttgart insofar as no other place is stipulated as legally compulsory.

3. German law is applicable at all time, excluding the provisions of UN Convention on Contracts for the International Sale of Goods (CISG).

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