

## **GENERAL TERMS & CONDITIONS**

**of Studio Hamburg Design Works (STH) GmbH**

### **A. General Provisions**

#### **§ 1 Scope**

1. The following general terms and conditions shall apply to all purchase agreements, contracts for work and services, service agreements and installation contracts concluded by STH in which STH renders services for its clients. The specific services to be rendered in each case shall be defined by the relevant contract.
2. The provisions of Section 1 shall apply for all types of contracts mentioned in these general terms and conditions. The application of the provisions in II. shall conform to the legal nature of the agreed services and parts of the services. They shall thus be applicable on their own or simultaneously.
3. These terms and conditions shall apply only with respect to companies as defined by Section 310 (1) of the German Civil Code.

#### **§ 2 General terms and conditions of the contracting**

**party** You will conclude contracts with:

Studio Hamburg Design Works GmbH  
Jenfelder Allee 80  
22039 Hamburg  
Phone: +49 (0)40 6688-3300  
Fax: +49 (0)40 6688-3444  
[Email: werkstaetten@studio-hamburg.de](mailto:werkstaetten@studio-hamburg.de)  
Value-added tax ID: DE 1880 65 458  
Commercial register: Hamburg District Court HRB 63046

The general terms and conditions of STH shall apply exclusively. Conditions to the contrary or any conditions deviating from these general terms and conditions are hereby expressly contradicted, unless STH has expressly accepted them in writing. This shall also apply if reference is made to the client's general terms and conditions when the order is placed and if STH renders its services unconditionally.

#### **§ 3 Concluding the contract and provision of services**

1. STH offer to render services is subject to change, non-binding and subject to delivery possibilities, unless defined differently in the offer.
2. Service and quality descriptions do not represent guarantees. Guarantees are accepted solely through the preparation of a separate, written guarantee statement. In the event of material defects and defects of title, STH shall be liable exclusively as per the provisions of these general terms and conditions.
3. STH shall use staff having the required qualifications for rendering the services within the scope of the contract. STH shall decide which employees will be used and shall have the right to replace employees at any time.

4. Unless specified otherwise in the contract, STH shall be entitled to have services rendered by third parties without the client's prior agreement.

#### **§ 4 Changes to the scope of services**

1. If the client requests changes to some elements of the agreed scope of services during the course of the project, in particular the replacement of devices, machine parts or system components, this requires a written contract between the parties. Minutes of a phone call or project meeting with legally binding signatures by the parties shall also count as a written contract.
2. STH shall inform the client in writing, based on an objective justification by STH, about any additional services or additional time required due to the changes or if the change request has a significant impact on the staff or resources used.
3. In the written contract the parties shall define the scope and the details of the change in services as well as additional remuneration. Until the changes, including remuneration, schedules and delivery dates, have been agreed in writing, STH shall not be obliged to carry out the changes in services. If no such agreement is reached, STH shall render the services originally agreed in the contract.
4. If STH asks the client in writing to confirm the change in the scope of services, and if the client agrees, the client must provide the confirmation within seven (7) calendar days. If the confirmation is not provided in time, the changes in the scope of services shall be considered as not having been agreed.
5. If services have been rendered by STH with regard to the originally planned use of a replaced device (planning, installation), the client must provide remuneration for these services as agreed in the contract.
6. A list of increases and decreases must be maintained during the term of the project.

#### **§ 5 Client's duty to cooperate**

1. The client shall ensure that the cooperation duties required to render the services owed by STH are fulfilled on time and at no charge to STH.
2. The client shall designate an authorised contact person for STH in writing. In the event that this contact person is replaced, the client shall inform STH about the new contact person and the date of the change in due time and in writing. This contact person  
  
 Shall be considered as authorised to provide or accept legally binding statements on behalf of the client as well as to make binding decisions on behalf of the client, in particular with regard to services changes;

- Shall promptly review all documents provided to the client by STH so that STH can correct or change these documents, if applicable;
  - Shall promptly provide STH with information about the client that is necessary for rendering the services;
  - Shall give notice of required changes in due time.
3. The client shall ensure that staff providing support to STH in rendering the services is available at the agreed times. The client shall be responsible for ensuring that his staff has the required expertise, skills and experience to complete the tasks assigned to them.
  4. If the client finds that STH is acting on incorrect assumptions or that his instructions are incorrect or incomplete, he will inform STH promptly and in writing.

## **§ 6 Dates, deadlines, delays and force majeure**

1. Together with the contract offer, STH shall provide the client with a preliminary schedule based on the information available. Dates and deadlines shall be binding unless expressly and in writing agreed to be binding in a schedule signed by both parties.
2. If any dates are adjusted due to a change in services as per Section 4, STH shall no longer be bound by the originally agreed schedule.
3. The schedule shall also include expected dates for meetings between the parties' project managers. STH shall prepare meeting minutes about the results of the meetings and decisions taken. These meeting minutes shall be made available to the parties no later than 4 working days after the meetings. Objections to the minutes shall be raised immediately and must be made in writing. If no objections are raised, or if they are not raised in time, the client must provide proof that the minutes are incorrect in the event of a dispute.
4. Unless fixed dates are expressly specified in the contract, STH's obligation to render services shall not be considered to be in default until the client has given STH a written warning and a reasonable grace period in which to render the service has expired without success.
5. If the client fails to provide a service, does not provide the service on time or not entirely, the agreed binding dates and deadlines for services to be rendered by STH shall be extended accordingly. If a delay caused by the client leads to additional work by STH, the client shall pay the standard remuneration for this. STH shall inform the client promptly about the delay as well as additional costs and expenses already incurred or that are likely to be incurred due to the delay.
6. If it is temporarily impossible for one of the parties to render a contractually agreed service or duty to cooperate or if these are delayed due to circumstances outside their risk area (force majeure, such as strikes, acts of war or terrorism, network failure neither of the parties is responsible for), the agreed dates shall be extended according to the duration of the circumstance. The affected party shall promptly inform the other party in writing that it is impossible to render the service. If these circumstances exist for a period of more than 90 days, each party shall be entitled to terminate the contract in writing effective immediately and without prior notice. If the client terminates the contract for this reason, he shall pay adequate remuneration to STH for services already rendered as well as compensation for costs and expenses already incurred by STH in 3

connection with the services and that prove to be  
useless. **§ 7 Remuneration and payment terms**

1. The agreed remuneration shall be based on the respective individual contract. Unless otherwise agreed, remuneration shall be ex works or ex stock, excluding packaging; packaging shall be invoiced separately.
2. STH reserves the right to change the prices agreed in the contract if decreases or increases of more than five percent occur in essential cost factors in STH's calculation, in particular due to currency fluctuations or changes in material costs, e.g. the cost of copper cables, between the date of the contract and the invoice date. STH shall provide proof of such changes upon request.
3. Services rendered by STH at the client's request that are not included in the list of services (additional services) shall be invoiced based on standard remuneration, unless otherwise agreed in writing.
4. Unless otherwise specified in the list of services, the client agrees to pay for any expenses required to have the services rendered by STH or initiated by the client, in particular expenses, travel and accommodation expenses of STH staff. STH shall be remunerated for travel times based on the agreed hourly rate; if there is no separate contract, the client agrees to pay the standard remuneration. All taxes, fees, customs duties, and payment transaction costs related to the services must be paid by the client.
5. Unless otherwise agreed in the relevant contract, costs of transport and any transport insurance to be obtained shall not be included in the price.
6. All amounts stated do not include the applicable German value added tax.
7. Any discounts require a prior written contract.
8. Invoiced amounts are due immediately and must be paid without any deductions within 14 calendar days from the invoice date.

9. In the case of late payment by the client, STH may set a deadline of at least 14 days for the client – irrespective of legal rights for default – with the threat of suspending all services if the client does not pay. If the deadline expires without payment and STH suspends its services, STH shall be entitled to demand reimbursement from the client for additional costs and expenses incurred as a result of the suspension of services. During default, Section 6.5 shall apply.
10. The client may offset his own claims or claim the right of retention only to the extent that his claims have been determined by declaratory judgement, are undisputed or recognised.

## **§ 8 Liability, compensation for damages**

1. Compensation for damages in place of the service in accordance with Section 281 of the German Civil Code or reimbursement of expenses according to Section 284 of the German Civil Code cannot be claimed until STH has first been granted an adequate deadline to render the service or a supplementary service including the declaration that the service or supplementary service would be rejected after the deadline and that the service or supplementary service was not rendered within the specified deadline.
2. Statutory liability for damages due to a guaranteed quality of the services shall not be limited by this contract, subject to the preceding Paragraph 1. In other respects, the client shall be liable exclusively in accordance with the subsequent Paragraphs 3 to 10
3. STH shall be fully liable in the following cases, subject to the subsequent Paragraphs 5 and 6.
  - (a) In cases of wilful intent and gross negligence;
  - (b) In cases of culpable breaches of obligations of his legal representatives and executives that lead to damages resulting from harm to life, limb or health.
4. Unless a case as per the preceding Paragraph 3 b) exists, STH shall only be liable for ordinary negligence if an obligation has been violated that is essential for achieving the purpose of the contract. An essential contractual obligation shall be deemed to exist if fulfilling the obligation is what makes the proper implementation of the contract possible and the parties can rely on the obligation being fulfilled (cardinal obligation). This shall also apply for the actions of assistants. In the case of violation of a cardinal obligation, liability shall be limited to the amount of the contractually typical, foreseeable damage.
5. Except in cases of wilful intent, the liability of STH for loss of profits and other purely financial losses shall be limited to contractually typical, foreseeable damage.
6. With regard to software, except in cases of wilful intent, liability for loss of data shall be limited to the typical recovery expense that would have occurred for the regular preparation of backup copies according to the risks involved and to the extent that the client has taken appropriate data backup measures to ensure that data from data material stored in machine-readable form could be reconstructed at reasonable expense.

7. Exclusions of liability and limitations of liability shall also apply for noncontractual liability in accordance with the preceding Paragraphs 2 to 6.
8. Liability in accordance with the German Product Liability Act shall not be affected by the above provisions.
9. In the relationship between the client and STH, the client shall be solely responsible for monitoring the products and work results delivered by STH after they are introduced into the market (product monitoring duty) and for reacting to potential risks or hazards. The client agrees to inform STH promptly about any defects, problems and/or hazards in connection with the products and work results delivered by STH. The client shall be solely liable for any damages or injuries caused by violations of the product monitoring duty.
10. STH shall not be liable to the client for damage caused by the fact that the third-party companies involved and contracted by the client do not render their services, render their services late or do not render their services properly.

### **§ 9 Retention of title and reservation of rights**

1. STH shall retain ownership and all rights to the service objects until its claims from the contract have been fully settled. The client shall promptly inform STH in writing about any access to the property subject to the retention of title by third parties and inform third parties about the rights of STH.
2. The client shall promptly, and no later than after 3 working days, inform STH about any seizures or other infringements of rights of the service objects owned entirely or partially by STH.

### **§ 10 Term of the contract and termination of the contract**

1. In the case of contracts for work and services and purchase contracts, the contract shall not end until the services owed under the contract have been completed.
2. In the case of service contracts, the contract shall be concluded for an indefinite period. Each party shall be able to terminate the contractual relationship by giving the agreed notice. If no notice period has been agreed, the parties shall be able to terminate the contract by giving three months' notice for termination at the end of the month.
3. The right to terminate the relevant contract for cause shall not be affected. Cause shall also be considered to exist under the following conditions:
  - Bankruptcy proceedings or similar proceedings regarding the other party's assets are opened or if such proceedings are rejected due to a lack of assets;
  - There is cause for insolvency of the other party in accordance with Sections 17-19 of the German Insolvency Act;
  - The other business partner has ceased business operations;

Court-ordered collection proceedings to collect the payment obligations under this contract are unsuccessful;

The other party has not eliminated a fundamental breach of contractual obligations within 30 days in spite of a written warning so that the terminating party cannot be expected to adhere to the contract.

4. The termination of a contract must be delivered by registered letter with receipt.

## **§ 11 Non-disclosure agreement**

1. The parties agree to keep confidential all confidential information they become aware of while carrying out the respective contract and to use that information for contractually agreed purposes only. The confidentiality obligation shall not apply to persons who are authorised to have knowledge and who are obliged to maintain confidentiality by law or under a contract, or in as far as the confidentiality obligation prevents them from the pursuit of their own claims. Confidential information for the purposes of this provision shall mean information, business secrets, documents, information and data that are designated as such or that must be considered confidential due to their nature. The term confidential information shall not include information that

Is in the public domain and is or becomes generally accessible (unless there is a breach of this agreement by the informed party or one of its representatives);

Was already in the possession of the informed party, legitimately and without confidentiality obligation, before the informed party received this information from the informing party; or

Has been transmitted by a third party who is authorised to disclose this information without limitation. Proof of the existence of one of the above exceptions must be provided by the party that invokes it.

2. The client agrees to grant access to the contractor's confidential information only to those employees who have been entrusted with carrying out the project. At the request of STH, the client shall have the employees named in the preceding clause 1 sign a non-disclosure agreement.

3. If a party is obliged to make confidential information of the other party available to a public agency, the other party must be informed promptly and, if possible, before the information is made available to the public agency.

4. The rights and obligations in Paragraphs 1 to 3 shall not be affected by the termination of a contract. Both parties agree to return confidential information of the other party upon termination of the contract if requested to do so or to destroy the information unless it has been consumed properly.

## **§ 12 Final provisions**

1. There are no verbal or written supplementary agreements to these general terms and conditions and to the respective contract.
2. The following order of priority shall apply for the contractual agreements for the relevant contractual relationship:  
  
 Individual contracts including attachments;  These terms and conditions;  Statutory provisions.
3. Changes or additions to the relevant individual contracts must be made in writing. If these are not sufficient, they shall be null and void. This shall also apply for changes to this written form clause. Email communication shall not be considered as being in writing for the purposes of this requirement for written form.
4. These general terms and conditions and all individual contracts shall be subject exclusively to the laws of the Federal Republic of German with the exclusion of the UN Sales Convention (CISG).
5. The courts of Hamburg shall have exclusive jurisdiction for all disputes arising from the contract, unless a different jurisdiction is prescribed by law.
6. Should any provision of the contract be or become invalid, the validity of the remaining provisions shall not be affected. In such a case, the parties agree to participate in drawing up provisions that serves to achieve a result that most closely reflects the intended economic purpose of the invalid provision and is legally effective. The above shall also apply for the closure of any contractual gaps.

## **B. Special provisions**

### **I.**

#### **§ 1 Acceptance of work and services**

1. If STH renders work and services, fully or in part, for the client based on the individual agreement, the law applicable to contracts for work and services shall be deemed to have been agreed. Work and services shall be subject to acceptance by the client in accordance with the subsequent Paragraphs 2-7. The services to be rendered by STH shall be work and services only if the parties have agreed on a success expressly and in writing.
2. STH shall inform the client in writing about his readiness for acceptance of the respective services. STH may request the acceptance of partial services if these are self-contained service sections or if the parties have agreed this.
3. The client agrees to promptly verify the contractuality of the services rendered by STH and made available for acceptance. The inspection period is five (5) calendar days from the date the written notification from STH is received by the client in accordance with the preceding Paragraph 2. STH shall be entitled to attend each acceptance or partial acceptance and to monitor the inspection procedure.



4. Acceptance must be documented by means of an acceptance report. The acceptance report must include a list of the service objects to be inspected. The acceptance report must document all significant and insignificant defects found. The acceptance report must be signed promptly by the parties after the acceptance procedure has been completed. By signing the report, the object shall be deemed to have been accepted, unless there is a significant defect; any significant defect must be noted in the acceptance report.
5. Work and services shall also be deemed as having been accepted if the client has complained to STH in writing within the inspection period stated in Paragraph 3 (defect notification). Section 2.2 of this section shall apply accordingly for the defect notification.

Defects hindering acceptance are

- Defects that result in the fact that the service overall or the part of the service to be accepted cannot be used;
- Defects that unreasonably limit or hinder the economically viable use of important functions.

Defects not hindering acceptance are

- Defects that were recognised by the client as part of the cooperation before the inspection was performed and that he did not inform STH of in writing;

or

- Insignificant defects or defects that only marginally restrict functional usage.

The assignment of defects to a defect category shall be performed by the mutual agreement of the parties.

6. If the client refuses acceptance for justifiable reasons, STH shall eliminate all defects hindering acceptance within an appropriate time and inform the client in writing about his readiness for acceptance. The parties shall perform the inspection or parts of the inspection again and until it is successful. Section 2.4 shall apply accordingly to the elimination of all other defects.
7. Work and services shall be deemed as having been accepted in any case if the client
  - Uses them before the inspection is performed as part of his business operations, or
  - Uses them after the inspection is performed for a period of four weeks as part of his business operations without having complained about the defects that hinder acceptance.

## **§ 2 Liability for material defects**

1. STH shall not be liable

For the compatibility of additional components acquired by the contractor in the future if the current version of the software release has not been installed in the client's system;

If and as far as the object purchased or manufactured under the contract is changed without authorisation, unless evidence can be provided that the intervention was not the cause of the defect;

For defects that can be attributed to improper use or operating errors.

2. Defects must be reported immediately in writing and in a comprehensible way by indicating the information necessary to detect defects. The client agrees to work with STH on defect identification, diagnosis and elimination. Without restriction. If the client does not meet this obligation, his rights will be void in the event of defects.
3. Potential measures by STH for the mitigation of damages shall not constitute the acknowledgement of a defect. Negotiations about complaints shall not constitute a waiver of the objection that the complaint was not in time, objectively unfounded or otherwise insufficient.
4. STH must eliminate any defects for which a timely and proper complaint has been issued at its choice or supply a replacement ("supplementary delivery"). Costs incurred as a result of supplementary delivery shall be borne by STH unless the client has transported the object to an address other than the delivery address, leading to unreasonable costs for supplementary delivery for STH.
5. In the event of defects, the client shall not be able to claim his legal rights to cancellation, reduction in remuneration, compensation for damages and/or compensation for expenses until he has first set an appropriate deadline for STH for supplementary delivery in accordance with Section 4, with the statement that the client will reject supplementary delivery after the deadline and supplementary delivery has not taken place within the deadline. If the second attempt at rectification of the defect fails, the client shall be entitled to cancel the contract or to executive substitute performance. Beyond this, the assertion of claims for damages or compensation for expenses shall only be possible if the requirements of Section 8 in Part A have also been met.
6. In the event of cancellation or "compensation for damages instead of the complete service", the client must delete the delivered software from all storage media, destroy all copies of the standard software and documentation or return them to the contractor and confirm both in writing.
7. STH shall be able to demand remuneration for its costs in so far as they have performed work due to a reported defect without such a defect existing and/or without the client providing proper evidence of such a defect.
8. The provision of replacement parts after the warranty period has expired requires a written agreement.

9. The period of limitation for warranty claims shall be 12 months, calculated from the passing of the risk. The statutory period of limitation shall not be affected in the following cases:
  - In the case of claims for damages regarding the replacement of a damage to body or health because of a defect caused by STH or based on willful intent or gross negligence;
  - In the case of claims for damages based on simple negligence, if an obligation is violated compliance with which is essential for achieving the purpose of the agreement. An essential contractual obligation is present if fulfilling the obligation is what makes the proper implementation of the contract possible and if the parties can rely on compliance with the obligation (cardinal obligation);
  - In cases where the object of the contract is a structure, an object that has been used for a structure according to its customary use or the rendering of planning and monitoring services intended for a structure;
  - In case of a delivery recourse in accordance with Sections 478, 479 of the German Civil Code.
10. Sections 2 to 9 shall apply accordingly for errors in user manuals and/or other documentations.

### **§ 3 Usage rights**

1. STH reserves property rights and copyrights to all images, drawings and documents. All drawings and block diagrams, all text descriptions as well as the relevant list of services and deliveries are intended for the client only and must not be disclosed to third parties. Even after the contractual relationship has been terminated, disclosure requires the written agreement of STH.
2. All rights to the software or other service results, in particular, copyrights, property rights and usage rights, shall remain with STH unless such rights have been granted expressly to the client in these general terms and conditions by written agreement. The client acknowledges that the software produced by STH, including user documentation, is protected by copyright and that it represents a trade secret.
3. The client shall be granted the non-exclusive usage right, throughout the universe in perpetuity, to the software delivered by STH (standard software and customised software) that is transferable only if his own use is waived and if STH has agreed to this in writing.
4. When providing software from third parties designated as such ("third-party software"), usage limitations that result from the manufacturer's licensing conditions supplied with the software shall have precedence.
5. The client shall be permitted to make changes to the software only in so far as this serves to eliminate a defect and STH is in default regarding the elimination of this defect or has rejected the elimination of the defect.

The client shall only be permitted to contract a commercially operating third party if the elimination of the defect is not likely to reveal important software functions.

6. The decompilation of any software codes that have been provided shall only be permitted for the purpose of creating interoperability with other computer programs and only if the required information cannot be obtained otherwise. The client must initially request such information from STH or, in the case of third-party software, from the relevant manufacturer. STH shall be prepared to make the required information available to the client, in particular via interfaces with other programs, subject to separate remuneration of costs. This information may be made available to the client's other contractors.
7. Removal of copy protection or similar protection shall be permitted only if this protection impairs or prevents the trouble-free operation of the software. The client shall be responsible for providing evidence of the impairment or prevention of trouble-free usability. The relevant actions for the purposes of clause 1 may not be left to commercially operating third parties until STH has failed to respond to the request for defect elimination within an appropriate period of time. If the client contracts a commercially operating third party, the provisions in the preceding Paragraph 5 (2) shall apply.
8. The client shall not be entitled to eliminate or change names, brands, serial numbers or other marks serving identification purposes as well as property right notices in the software. The client shall reproduce such marks and notices in all software copies in the same way as they appear in the original. If the originals bear a notice referring to copyrights, this notice must also appear on the copies.
9. The client shall be permitted to copy the user documentation for his own use only.
10. Granting of usage rights assumes the full payment of all claims by STH under this contract, in particular the payment of the remuneration by the client.

#### **§ 4 Third-party rights**

1. STH shall guarantee that the service objects owed under this contract are free from third-party rights within the territory of the Federal Republic of Germany and that there are no other rights limiting or excluding the contractually agreed use.
2. If such rights are claimed by third parties, the client shall inform STH of all details promptly and in writing. STH shall do everything in its power to defend the services rendered by STH or the software against the rights claimed by third parties or to eliminate the impairment of such rights. The client shall grant STH all relevant powers and shall grant all relevant authorisations. If the client does not meet his obligations in accordance with the preceding clause 2, he agrees to reimburse STH for any additional costs incurred due to the late information. STH shall be entitled to decide at its own discretion and at its own cost about legal defense and settlement negotiations and to take proceedings to avert any claims or to end a dispute through settlement.
3. The client shall recognise claims by third parties without the agreement of STH. He shall not be entitled to take over the negotiations or legal proceedings until STH is unable to resolve the matter within an appropriate period of time or until STH agrees to this in writing. The client shall cooperate with STH and provide appropriate support to STH for the rejection of claims or in negotiations. STH shall bear all reasonable costs incurred by the client in this regard.
4. In so far as defects of title are present, STH shall be obliged,

□ At its own choice, either to acquire the rights of third parties that affect the contractually agreed use of the service and/or software at its own cost or to

use legitimate means to eliminate the basis for their enforcement, in particular to change or replace the service and/or software in a way that the rights of third parties are no longer violated, provided that this does not substantially affect the guaranteed functioning of the service and/or software;

If the client assumes the legal defense himself, to reimburse the client for all costs incurred from this in an adequate amount,

Any further statutory claims shall not be affected.

5. The liability limitations in Section 8 of Part A shall apply for all contractual claims for damages and compensation.

## **§ 5 Processing**

If the delivered object is processed, STH shall be deemed to be the manufacturer.

## **§ 6 Service / maintenance /other services**

1. Service maintenance work shall only be part of the contract if this has been expressly agreed in writing.
2. If STH has been contracted to perform service and maintenance work, STH shall be entitled to subcontract other companies STH cooperates with on a regular basis without requiring the client's agreement.
3. Services to be rendered by STH shall not be subject to acceptance. STH shall provide the results of the services rendered to the client as a draft in order to obtain approval. If the client does not inform STH in writing of change requests within fourteen (14) days of receiving the results, STH shall provide the client with a final version of the service results. If the client informs STH about a change request within the approval period, STH and the client discuss the change request. STH shall include agreed changes in the service results and make a new version of the service results available to the client.
4. If the parties have expressly agreed in writing that the delivery of documentation or plans is a service to be rendered by STH, the client shall review these within five (5) working days of sending the final version and declare acceptance, provided that the documentation does not contain any considerable errors. STH must be informed of any considerable errors within the period indicated in the preceding clause. Section 1.6 of Part B Number I shall apply accordingly. The documentation and/or plan shall be deemed as having been accepted unless the client sends a written complaint about considerable errors within the period indicated in clause 1.

## **§ 7 Installation**

If the contract specifies the installation of equipment or equipment parts at the client's premises, the following regulations shall apply in addition to the above provisions

1. The client shall ensure the sufficient supply of light and power to the work area as well as the load carrying capacity of ceilings, walls and floors and the easy accessibility of the installation site and supply routes. He shall provide STH with at least one telephone connection for its exclusive use.
2. The client shall be responsible for the proper delivery of all provisions and their operability.

3. All rooms must be free of dust when made available to STH at the time agreed in the schedule. The absence of dust must be documented in a delivery report according to the following aspects:
  - All work generating dust and chips must have been completed.
  - All construction work has been completed; all break-throughs have been completed.
  - STH has full access to the relevant areas.
  - Air conditioning and heating systems have been installed, the systems are ready for operation and have completed a trial run. Air conditioning ducts have been blown through and filter mats have been replaced.
  - All raised floor and flooring work has been completed, with the exception of carpeting.
  - All work on walls and ceilings has been completed.
  - The transmission of dust, smoke and dirt (e.g. via air conditioning systems, raised floors, alignment profiles) is excluded.
  - The delivery and transport of large equipment parts to the dust-free areas must be guaranteed.
  - Companies not specialising in this industry shall be granted access in coordination with STH only, and STH construction management shall have access authority.
  - Deviations must be coordinated and documented for every case between project management and STH construction management.
  
4. All required construction measures such as break-throughs for cable ducts, cable troughs, fireproof bulkheads and air conditioning systems and ducts, etc. shall be provided by the client.

These measures must be completed by the customer by the time that is defined in the schedule as the start of media-technology installations. This shall also apply for any constructional modifications, e.g. for supply routes for the equipment.

5. If the installation takes more than one day, the client must provide STH with a room that can be locked to store equipment and materials. Rooms in which installations are to be carried out must be lockable from the start of the installation work to acceptance. The installation of door locks may be carried out by STH at the client's expense.

## II.

### **§ 1 Leased studio space, control room facilities, cutting rooms and lighting equipment**

1. The use of facilities in accordance with Part B Number II Section 1 plus accessories is based on the provisions of the written quotation by STH accepted by the contracting party. The transfer point for all video/audio and other signals is the post transfer room in Building N.
2. The contracting party shall require the prior written agreement of STH to place orders for the purchase of required equipment according to Part B Number II Section 1 plus additional devices and other technical services for the technical manufacture of his production as well as the staff required for their provision / operation to third parties.
3. The facilities leased by STH according to Section 2 plus accessories shall be available to the contracting party only for the time agreed in writing during the lease period.

Where the use of the facilities according to Section 2 plus accessories goes beyond the scope quoted, prior written agreement by STH shall be required; there is no claim to such additional use and/or the use of the facilities beyond the agreed lease period in accordance with Part B Number II Section 1 plus accessories.

4. All services going beyond the quotation by STH shall be invoiced separately. STH shall be entitled to invoice additional services if these have been expressly agreed with the contracting party or if the additional services are unforeseeable but necessary to complete the order and if prior coordination is not possible due to time constraints. If no prices have been agreed for additional services, the prices agreed for the primary order shall apply accordingly.

### **§ 2 Leasing studio and broadcasting technology**

1. The use of studio and broadcasting technology plus accessories is based on the regulations in the written quotation by STH accepted by the contracting party. The transfer point for all video/audio and other signals is the external connection panel of the relevant studio and TV production van.

2. The contracting party must obtain the prior written approval of STH when using studio and broadcasting technology and to place orders with third parties for the mobile units plus additional devices and other technical services necessary for the technical manufacture of his production as well as the staff required for their provision/operation.
3. The TV production vans leased by STH shall be available to the contracting party only for the time agreed in writing during the lease period.

If the use of the TV production vans goes beyond the agreed scope, scheduling must be contacted at an early stage to obtain agreement. There shall be no entitlement to such additional use and/or use exceeding the agreed lease period for the TV production vans.

4. All services going beyond the quotation by STH shall be invoiced separately. STH shall be entitled to invoice additional services if these have been expressly agreed with the contracting party or if the additional services are unforeseeable but necessary to complete the order and if prior coordination is not possible due to time constraints. If no prices have been agreed for additional services, the prices agreed for the primary order shall apply accordingly.

### **§ 3 Duty of care, liability of the contracting party, insurance**

1. The contracting party agrees to use all leased objects in the intended way only and to treat them with care. They shall not be rented out to or permitted to be used by others. Leased objects must be stored properly before and after use; they must not be transported or used outside the territory of the Federal Republic of Germany unless this is explicitly agreed first.

In case of any defects, the contracting party must inform STH about the defect immediately and allow STH or a contracted third party to perform the repairs at short notice. The contracting party shall not be permitted to make changes to the leased object. If the leased object is seized or confiscated at his premises, the contracting party must notify STH immediately. The contracting party shall also be obliged to inform the third party about the fact that STH is the owner of the seized or confiscated object.

2. During production, STH shall be entitled to prohibit actions/ measures of the contracting party that do not appear to be in compliance with statutory and official regulations or regulations of the employers' liability insurance association, or to request safety measures to be taken if and in so far as employees/leased objects provided by STH appear to be at risk.
3. Any damages, deteriorations or other changes to a facility used by the contracting party detected during the usage period in accordance with Part B Number II Section 1 plus accessories or a leased object or



its loss as well as any subsequent damaged /expenses caused by such incidents shall be at the contracting party's expense, unless the contracting party proves that the relevant incident is not his responsibility or is only based on usage in line with the contract in such a way that he is not liable for its consequences under these conditions.

The contracting party shall be responsible for the faults of his employees, subcontractors or other agents.

4. The contracting partner shall also be liable to STH for any damage of other objects in the care and property of STH or its employees as well as any subsequent damage/expenses caused by a proximate cause, in so far as the damage was caused by him or third parties for whose actions he shall assume responsibility as per the preceding Number 3.
5. The contracting partner agrees to ensure proper and sufficient insurance coverage for the liability risk generally associated with the relevant production. Proof of insurance coverage shall be provided to STH upon request.

#### **§ 4 Official exemptions, industrial property rights**

1. In so far as official exemptions are required to carry out any kind of filming, the contracting party shall be exclusively responsible for obtain such permits. If no such permit is granted or if it is revoked, the validity of the contract concluded between STH and the contracting party as well as his obligation to pay the agreed remuneration shall not be affected.
2. The contracting party shall guarantee that no claims shall be made against STH, neither by him nor by third parties due to their assistance required as part of production in the manufacture, transmission and editing of video or audio recordings and/or other assistance caused by the possible violation of industry property rights or patent rights (in particular copyrights). The contracting party agrees to relieve STH promptly at first request and, if necessary, to pay the costs of STH for adequate legal defence.

#### **§ 5 Liability of STH**

1. At his request, the contracting party shall have the opportunity to inspect the leased objects before the start of the lease to determine their suitability for the intended use.

In so far as the suitability of a leased object for the contractually agreed use is lost during the lease period, without the contracting party being responsible, the contracting party shall no longer be obliged to pay lease price from the time that STH is notified of this condition by the contracting party and/or STH becomes aware of this condition in a different way, until the time the contract is terminated or usability is restored. If usability use is limited, the above provision shall apply provided that the lease price is reduced in accordance with the

limitations of its usability. Insignificant limitations of usability shall not be taken into consideration here.

In the event of defects of the leased objects STH is responsible for or in the event of poor service, STH shall be given appropriate opportunity – if possible to eliminate the defect or – at its own choice – to correct the service or perform the service again.

2. Cases of force majeure that hinder STH, its suppliers or other agents to implement the contract shall relieve STH of its obligation to fulfill the contract until force majeure is eliminated.

In so far as these events are significant with regard to their obligation and have not been caused by STH, including with regard to the selection of its agents, they shall be equated to cases of force majeure: strikes, fluctuations/interruptions of power supply or in the signal transmission network, vehicle failures due to technical problems or accidents.

STH shall not be liable for defects

- a) If the contracting party changes the leased object without authorisation or interferes with it in any other way, unless the contracting party proves that his intervention was not the root cause of the defect,
  - b) If the defect can be attributed to improper setup, installation or operation by the contracting party.
3. Liability for damages regardless of fault for any defects of the leased object present at the time the contract is concluded in accordance with Section 536a Paragraph 1 of the German Civil Code shall be expressly excluded.

If the contracting party makes claims for compensation based on wilful intent or gross negligence, including wilful intent and gross negligence on the part of the agents, STH shall be liable in accordance with the statutory provisions. Liability for damages, however, shall be limited to foreseeable, typically occurring damage in so far STH is not accused of intentional breach of contract.

STH shall be liable in accordance with statutory provisions in so far as STH breaches a fundamental contractual duty. In this case, however, liability for damages shall be limited to foreseeable, typically occurring damage. Fundamental shall refer to a contractual duty whose breach jeopardises achieving the purpose of the contract or whose fulfilment is what makes the proper implementation of the contract possible and on whose fulfilment the contracting party should reasonably be able to rely on.

The liability of STH for harm to life, limb or health shall not be affected. This shall also apply for mandatory liability under the German Product Liability Act.

All further liability of SBA for compensation as provided for in Number 3 – without consideration given to the legal nature of the claim made – shall be excluded. This shall apply in particular for compensation claims from negligence at the time of concluding the contract, for other violations of duties or for tort claims for compensations for material damage in accordance with Section 823 of the German Civil Code.

Limitation of liability in accordance with Number 3 shall also apply in so far as the contracting party demands compensation for useless expenses instead of claiming compensation for damages in place of the service.

As far as liability for damages to STH is excluded or limited, this shall also apply with regard to the personal liability for damages on the part of staff, employees, workers, representatives and agents of STH.

4. STH shall not be liable for indirect damages incurred by the contracting party or third parties due to the failure of facilities used in accordance with Part B Number II Section 1 plus accessories, TV production vans plus accessories or objects or personnel leased from STH. It shall be the contracting party's responsibility to obtain manufacturer's output insurance coverage or business interruption insurance coverage. It shall be the contracting party's responsibility to obtain comprehensive insurance coverage for the video and/or audio recordings made available to STH for editing.

In so far as such recordings are damaged or lost while being edited by STH and there is no exclusion of liability in accordance with the above Number 3, the liability of STH – with the exception of cases of willful intent or gross negligence causing damage on the part of legal representatives or executives of STH – shall be restricted to the supplementary delivery of unexposed and unrecorded raw material in the relevant amount.

STH shall not be liable for the loss of data and/or programs in so far as the damage was caused by the contracting party's failure to perform data backups and thus ensure that lost data can be restored at reasonable expense.

Staff procured by STH shall not be deemed to be agents of STH. Unless liability is excluded anyway as per Number 3, STH shall be liable for this staff only with regard to the proper selection; insofar, STH shall not be liable for the quality of the individual performance of the staff procured.

In so far as liability for damages to STH is excluded or limited, this shall also apply with regard to personal liability for damages on the part of staff, employees, workers, representatives and agents of STH.

5. The period of limitation for damage claims by the contracting party due to a defect of the leased object shall be 12 months. The statutory period of limitation shall not be affected in the following cases:
  - a) For damage claims demanding compensation for bodily harm or damage to health caused by defect that is the responsibility of STH;
  - b) For damage claims based on willful intent or gross negligence;

c) For damage claims based on simple negligence if the object of the breach of duty constitutes a fundamental contractual obligation for the purposes of Number 3 Paragraph 3.

The assignment of damage claims by the contracting party shall be excluded.

## **§ 6 Early termination of the contract by STH**

STH shall be entitled to terminated the contractual relationship for cause without observing a notice period, if bankruptcy proceedings or similar proceedings regarding the other party's assets are opened or if such proceedings are rejected due to a lack of assets or if the contracting party has become insolvent after the conclusion of the contract or if he does not fulfill a fundamental part of his obligations to STH in spite of being at default and being given a deadline. The right of extraordinary termination for any other important reason shall not be affected.

## **§ 7 Return of leased objects, securities**

1. The contracting party shall return all leased facilities and objections in proper condition at the business headquarters of STH, unless the parties have agreed on a different place for the return. If the return is not in proper condition, SBA shall be entitled to take the required actions to restore the proper condition and charge the expenses to the contracting party.

Until the proper condition of a leased object is restored, it shall be deemed as not having been returned. The same shall apply if the leased object is returned incomplete. If the contracting party does not return the leased object by the agreed date, he shall pay the agreed rent for every day that has begun, unless he proves that no or only minor damage has been caused for STH. All further damage claims by STH shall remain unaffected.

When the leased object is returned, it shall be inspected by STH in the presence of the contracting partner. The result of the inspection shall be documented and signed by the parties in a return report.

2. At the request of STH, the contracting party shall have to provide a security to secure the remuneration claims as well as possible claims for expenses and damages by STH regarding the facilities and objects made available for use. The amount of the security shall be agreed on a case-by-case basis. The contracting party shall be authorised to provide the security by providing an unconditional, indefinite, irrevocable and directly enforceable guarantee from a bank or credit insurance company approved in the EU.

## **§ 8 Transfer of rights**

Without prior written agreement by STH, the contracting party shall not be authorised to transfer rights and/or obligations from contracts concluded with STH to third parties.

## **§ 9 Obligation to list the studio in the credits**

For productions produced under a contract with STH, STH shall be named as the service provider in a manner customary in the industry in the opening credits or closing credits.

### **III. Use of labour**

1. In so far as STH shall provide the contracting party with staff, either a contract for the procurement of services or a contract on hiring out employees shall be concluded. STH has permission for the commercial hiring out of employees. As part of their work for the contracting party, the staff shall become its agents.
2. The contracting party agrees to use the staff only for its own production and in accordance with the contract, to comply with employee protection rights – including the provisions of the German Working Hours Act and to comply with breaks under the German Labour Law.
3. Remuneration of staff shall be carried out by STH. As long as the employees procured are under contract with STH, the contracting party shall not grant these employees remuneration or any other benefits, neither directly nor indirectly.

### **Severability**

In case any provision of this contract shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

*Version December 2015*