

## GENERAL PURCHASING CONDITIONS OF DPG MEDIA B.V. (September 13, 2019)

### 1 Definitions

1.1 In these General Purchasing Conditions, the following terms and expressions are defined as follows:

**DPG Media:** DPG Media B.V. and all its current or future, directly or indirectly affiliated companies in the Netherlands or abroad.

**Services:** all Services agreed between the Parties that are (or must be) provided by the Supplier to DPG Media.

**Supplies:** the Products and/or the Services.

**Purchasing Conditions:** these General Purchasing Conditions of DPG Media.

**Supplier:** the person or entity that provides Products to or performs Services for DPG Media, or that has entered into an agreement with DPG Media to do those things.

**Agreement:** all agreements, including these General Purchasing Conditions, entered into by DPG Media and the Supplier for the purchase of Products and/or Services from the Supplier by DPG Media as well as any other order placed by DPG Media with the Supplier and any acts or legal acts performed in connection with such agreements.

**Party/Parties:** DPG Media and/or the Supplier.

**Products:** all Products agreed between the Parties that are (or must be) provided by the Supplier to DPG Media.

### 2. Applicability

2.1 These Purchasing Conditions apply to all legal relationships that exist between DPG Media and the Supplier, including but not limited to all requests, quotes, offers, orders, purchase orders, order confirmations, Agreements and other legal acts pertaining to

the provision of Products and Services by the Supplier to DPG Media and the performance of orders and other activities. Once these Purchasing Conditions apply to one such legal relationship, they will also apply to all such legal relationships that subsequently arise between the Parties.

2.2 Any general terms and conditions or sectoral conditions of the Supplier or a third party are not applicable and are expressly rejected by DPG Media.

2.3 Any stipulations that derogate from these Purchasing Conditions and any changes and/or additions to them only apply if and to the extent that DPG Media has explicitly accepted them in writing and they only apply to the specific Agreement for which they are concluded. If there is a conflict between a written provision of the Agreement and a provision in these Purchasing Conditions, the provision in the Agreement will prevail.

2.4 Written is also taken to mean the electronic exchange of information (including by fax, email, internet, Electronic Data Interchange), also for the purposes of statutory requirements stating that, for example, a notice of default be set out in writing.

2.5 DPG Media may unilaterally change and/or supplement the Purchasing Conditions. If it does so, the latest text of the Purchasing Conditions applies. For this reason, DPG Media advises the Supplier to regularly peruse the Purchasing Conditions at [<http://www.dpgmedia.nl/inkoopvoorwaarden>].

### 3 Quotes and the conclusion of an Agreement

3.1 If a request by DPG Media is followed by a quote from the Supplier, these Purchasing Conditions apply to that quote.

3.2 Requests for a quote are not binding on DPG Media and should be construed as an invitation to offer.

3.3 All of the Supplier's quotes are irrevocable and are valid for at least six months. DPG Media is not obliged to compensate the costs incurred for preparing quotes.

3.4 DPG Media may break off negotiations with the Supplier at any time without stating the reasons for doing so and will not be liable for any possible damage ensuing from this, nor will DPG Media be bound to continue the negotiations.

3.5 An Agreement is only concluded if and insofar as DPG Media accepts the Supplier's quote/offer by means of a written order confirmation, signed by an authorised officer of DPG Media.

3.6 DPG Media may terminate an Agreement without providing any compensation up to the point at which the Supplier starts to perform the Agreement.

3.7 Changes to the Agreement may only be agreed in writing. Such changes do not affect the price and time of delivery as agreed earlier, unless the Parties agree otherwise in writing.

#### **4 Prices**

4.1 The agreed prices and rates are fixed and are expressed in euro. Prices are Delivery Duty Paid in accordance with the most recent version of the Incoterms. The prices and rates are exclusive of VAT and are inclusive of proper packaging and all expenses connected with the preparations for and the performance of the Agreement.

4.2 The Supplier may not increase the prices and rates during the term of the Agreement. If the Supplier exercises an agreed right to increase the price or exercises a right that accrues to it under a statutory provision, DPG Media may terminate the Agreement between DPG Media and the Supplier with immediate effect, without providing notice of default and without being liable for compensation.

4.3 Additional work and expenses will only be compensated by DPG Media if DPG Media has provided a written order for this. If the Supplier considers that the additional work or the expenses will affect the agreed delivery term, the Supplier will notify DPG Media of this in writing. The Parties must then consult as soon as possible about whether to change the delivery term and about the effect of such a change on the compensation and/or penalty to be paid by the Supplier if delivery does not occur on time. Any additional work or less work will be settled after the work is completed.

#### **5 Delivery**

5.1 Services are delivered at the agreed location, within the agreed term and will be accompanied by the requisite documents.

5.2 Products are delivered Delivery Duty Paid in accordance with the most recent version of the Incoterms including unloading at the agreed delivery location, within the agreed term and will be accompanied by the requisite documents.

5.3 The Supplier takes out insurance on the Products up to the time of delivery.

5.4 The Supplier is obliged to properly package the Products for delivery so that they arrive at their destination undamaged and in a good state and can be unloaded safely. The Supplier will closely follow any instructions from DPG Media with regard to packaging,

conservation, labelling, branding, security, shipping and shipping documents.

5.5 DPG Media may require the Supplier to postpone the delivery. In that case, for a fee to be agreed in writing, the Supplier will store and secure the properly packaged Products and will take out insurance for them and take all reasonable measures necessary to the quality of the Products from deteriorating. In these circumstances, DPG Media is not in default.

5.6 The Supplier guarantees that full ownership of the Products is delivered and that they are free of encumbrances and of any other third party claims, including limitations arising from patents, copyrights or other intellectual property rights.

5.7 Ownership and risk in respect of the Products is transferred from the Supplier to DPG Media at the time of delivery in accordance with the provisions of this Article 5, without prejudice to DPG Media's right to reject the Products.

5.8 All the agreed terms, including delivery terms, are strict deadlines for the Supplier. If these terms are exceeded, the Supplier will immediately be in default, without any written notice of default being required.

5.9 As soon as the Supplier knows that it will fail to fulfil its obligations under the Agreement, or if this becomes likely, it must immediately inform DPG Media of this in writing stating the reasons. Notwithstanding the other rights of DPG Media, the Parties will discuss whether the situation that has arisen can still be settled to DPG Media's satisfaction and, if so, in what manner.

5.10 The Supplier may not make partial deliveries. If, in spite of this provision, partial deliveries have been agreed in writing, a

partial delivery is also to be construed as a delivery.

## **6 Invoicing and payment**

6.1 DPG Media will pay invoices within 60 days after receipt of the invoice, unless the Parties agree otherwise and on condition that the invoice states the specifications laid down in the Agreement and that the accuracy of the invoice is not disputed by DPG Media.

6.2 The Supplier may not suspend its obligations under the Agreement or terminate the Agreement if DPG Media exceeds the payment term.

6.3 DPG Media may offset amounts it owes to the Supplier with amounts the Supplier (for whatever reason) owes to DPG Media. The Supplier is not permitted to set off any amount.

6.4 If DPG Media disputes an invoice, the Supplier may not reclaim the Supplies to which the invoice pertains.

6.5 Payment by DPG Media in no way implies a waiver by DPG Media of any of its rights under the Agreement, these Purchasing Conditions or the law. Payment cannot in any way be construed as acknowledgment by DPG Media of the soundness of the Supplies and does not release the Supplier from any of its liabilities in this regard.

## **7 Acceptance**

7.1 DPG Media may instruct the persons and/or departments designated for this purpose to assess the Products upon delivery and the Services as they are being provided.

7.2 If DPG Media is of the opinion that the Products do not correspond to what has been agreed and/or the Services have not been performed in the agreed manner, DPG Media may refuse to accept the Products and/or the Services. Any rejection by DPG Media will be done in writing, stating reasons for the

decision. All expenses connected with the rejection are for the Supplier's account.

7.3 Errors and/or defects will be promptly remedied by the Supplier. All expenses connected with that will be for the Supplier's account, without prejudice to all other remedies available to DPG Media under the Agreement, these Purchasing Conditions or the law.

## **8 Guarantee**

8.1 The Supplier guarantees that the Supplies that are delivered and the accompanying documentation:

- a) accord with the agreed specifications, characteristics, conditions and requirements or, if there are no provisions with respect to the specifications, that they accord with the characteristics, conditions and requirements imposed on such Products in the trade or that are customary;
- b) meet the quality, characteristics and reliability that DPG Media may in all the circumstances reasonably expect of the Products;
- c) are free of defects and are produced using sound materials;
- d) comply with legal requirements and governmental decisions.

8.2 The Supplier also guarantees that the Products are suitable for their intended purpose and use and that they can be converted for that purpose, and that the Supplies are at all times of high and durable quality.

8.3 The guarantee also entails that any defect arising during the warranty period will, on DPG Media's written request and at the expense of the Supplier, immediately be fully remedied or the Product or Service will be replaced by the same Product or Service with the corresponding results within three weeks

of the date of DPG Media's written notification of the defects, without prejudice to DPG Media's right to compensation for all the expenses and damage which result from the defectiveness or unsuitability of the Supplies provided by the Supplier.

8.4 The guarantee for Products also entails that the Supplier will provide a credit note to DPG Media at its request for the total number of defective Products that are returned, on the basis of the most recent applicable purchase price of those Products.

8.5 The warranty period for Products is 30 months from the date of delivery, unless the Agreement provides otherwise. In urgent cases, DPG Media may itself repair the defective Products (or parts of them) or have them repaired, if necessary at its customer's premises, at the Supplier's expense and without prejudice to DPG Media's other rights.

## **9 Personnel and third parties**

9.1 If the Supplier wishes to engage the services of third parties to perform the Agreement, it will only be authorised to do so after it has received DPG Media's written permission to do so. DPG Media may attach conditions to its permission.

9.2 The Supplier guarantees the quality of those it charges with the performance of the Agreement on its behalf.

9.3 If, in the substantiated opinion of DPG Media, the quality of the work or the behaviour of one of the Supplier's employees and/or a third party engaged by the Supplier is unsatisfactory, the Supplier will replace the employee or the third party on DPG Media's first request.

9.4 If one of the employees or a third party engaged by the Supplier is temporarily or permanently absent, the Supplier must as soon as possible provide a substitute who is at least equal to the person originally deployed

in terms of expertise, level of education and experience.

9.5 If the Services being provided are particularly dependent on the qualities of the employee or third party who is deployed, this employee or third party will first be presented to DPG Media for approval.

9.6 The Supplier's employees or the third parties it engages must meet the conditions laid down in Dutch legislation and regulations with respect to, inter alia, employment law. The Supplier indemnifies DPG Media against any consequences arising from the Supplier's non-compliance with Dutch legislation and regulations.

## **10 Confidentiality**

10.1 The Supplier will treat all information in connection with proposals, offers, orders and/or Agreements that it acquires from DPG Media in whatever manner, including the Agreement itself, as strictly confidential both during the engagement or Agreement and after termination thereof. The Supplier will not use the information it acquires from DPG Media for purposes other than those for which it is provided and the Supplier will not in any way copy or reproduce the information, in whole or in part, or hand it to third parties or otherwise allow them to inspect it. The Supplier will only make the information it acquires available to its employees and/or to the third parties it engages, if and to the extent that this is required for the performance of the Agreement. This confidentiality obligation does not apply if the Supplier is obliged by law or pursuant to a binding decision of a court to disclose the information, or if the information is generally known due to reasons other than a breach of this confidentiality obligation.

## **11 Liability**

11.1 The Supplier is liable for any and all loss arising from or connected to the performance of the Agreement.

11.2 The Supplier indemnifies DPG Media and its directors, employees, any third parties it engages and any of its contacts against third party claims of whatever nature or on whatever ground relating to the performance of the Agreement; this includes actual or alleged infringement of intellectual property rights, safety defects within the meaning of product liability legislation, either as a result of acts or omissions by the Supplier, its employees or third parties engaged by it. The Supplier will fully compensate DPG Media and its directors, employees and other third parties it engages for all damage and/or expenses incurred in connection with such claims, including the costs of legal assistance.

11.3 The Supplier declares that it has taken out valid and adequate insurance to cover the risks related to the performance of the Agreement. The Supplier must immediately provide DPG Media with a copy of the insurance policy upon request.

11.4 Any liability on DPG Media's part to the Supplier is limited to the compensation of direct damage up to the maximum amount owed under the Agreement for each calendar year (exclusive of VAT) or, if there is no continuing performance contract, the full value associated with the Agreement. 'Direct damage' solely means:

- a) the fee (whether or not on a pro rata basis) for the performances that have been delivered and that are demonstrably useful;
- b) reasonable costs incurred by the Supplier, which also include the costs incurred to avoid or mitigate damage, insofar as the Supplier can demonstrate that these costs have mitigated the direct damage within the meaning of these conditions.

11.5 DPG Media cannot be held liable for indirect damage, including consequential damage, loss of profit, lost savings, loss of data and losses due to business interruption.

## **12 Termination**

12.1 DPG Media may terminate the Agreement in writing with immediate effect, without judicial intervention and without being liable for any form of compensation if:

- a) the Supplier does not fulfil an obligation under the Agreement or fails to do so in a timely or proper manner and fails to remedy this within ten business days of a written notice of default;
- b) a winding-up petition is filed for the Supplier or the Supplier is declared insolvent;
- c) the Supplier applies for a moratorium or a moratorium has been granted to it;
- d) the Supplier ceases its activities and/or is wound up;
- e) there is a change of control at the Supplier; or
- f) the Supplier is confronted with a warrant of execution for the seizure of essential parts of its business operations which may interfere with the performance and fulfilment of the Agreement.

12.2 Any stipulations in these Purchasing Conditions and in the Agreement which, by their nature, are intended to continue after termination of the Agreement will remain in force between the Parties after that termination.

## **13 Non-solicitation clause**

13.1 The Supplier guarantees that during the term of the Agreement and for a period of 12 (twelve) months after its termination, the Supplier will not employ, directly or indirectly, employees of DPG Media (or otherwise

instruct them to perform services) who have been directly or indirectly involved in the performance of the Agreement, unless DPG Media has granted its prior written permission for this. This article applies for a maximum of five years.

## **14 Intellectual Property Rights**

14.1 All information, which in any case includes all analyses, materials, data, drawings, research, results, conclusions or other documents that are provided by or on behalf of DPG Media to the Supplier or that are created by the Supplier on the instructions of DPG Media in performing the Agreement, as well as all intellectual and industrial property rights vested in them, accrue solely to DPG Media. To the extent that such rights do not pass automatically to DPG Media, the Supplier will fully transfer these rights to DPG Media. The Supplier will execute and deliver all documents or instruments required for the transfer of these rights to DPG Media. The Supplier also authorises DPG Media to register these intellectual and industrial property rights in the name of DPG Media.

14.2 The Supplier must return all information provided by DPG Media on request and in any case after termination of the Agreement.

14.3 The Supplier guarantees that the use of the Products and Services provided to DPG Media does not constitute an infringement of third party rights.

## **15 Penalty**

15.1 If the Supplier breaches Articles 10, 13 and/or 14, the Supplier will incur an immediately due and payable penalty to DPG Media, which is not subject to set off and/or judicial mitigation, in the amount of EUR 50,000 for each event and EUR 5,000 for each day or part of a day that this breach continues after written notification of default, all this



without prejudice to the Supplier's obligation to pay full compensation to DPG Media for all damage suffered (or to be suffered) by DPG Media on account of such breach.

15.2 The Parties acknowledge that this penalty clause is valid and enforceable and that the amount of the penalty is reasonable and not exorbitant in view of the possible consequences of a breach of Articles 10, 13 and/or 14 for DPG Media.

### **16 Force majeure**

16.1 If there is a force majeure situation for the Supplier which continues for more than 30 days, either Party may terminate the Agreement in writing.

16.2 DPG Media is not required to observe the term of 30 days if it may reasonably be assumed that the force majeure situation will not end within this time or if DPG Media cannot be expected to observe this period.

16.3 The Supplier may only invoke force majeure if the Supplier immediately notifies DPG Media in writing of this invocation, submitting the requisite supporting documents.

16.4 DPG Media does not owe any fee to the Supplier for the period during which the Supplier is unable to fulfil its obligations due to force majeure, nor is DPG Media bound to fulfil its other obligations.

### **17 Other provisions**

17.1 In performing the Agreement, the Supplier, its employees and third parties engaged by it must observe all legislation and regulations, including regulations stipulated by the government with respect to safety, health and the environment, as well as any operational or other regulations, instructions and directions in force at DPG Media.

17.2 The Supplier is not permitted to offer DPG Media or any of its directors, employees

or third parties engaged by it any fee or benefit other than that which reasonably ensues from the performance of the Agreement.

17.3 The Supplier may only transfer its rights and obligations arising from the Agreement to a third party with the prior written consent of DPG Media. This is a non-transferability clause within the meaning of Article 3:83(2) of the Dutch Civil Code (*Burgerlijk Wetboek*) and this clause has effect under property law. DPG Media may transfer its rights and/or obligations under the Agreement to an affiliated company without the Supplier's consent.

17.4 If any provision of these Purchasing Conditions is void or is nullified, the other provisions will remain in full force. The Parties will then consult each other in order to agree on a new provision to replace the void or nullified provision, with due consideration given to the objective and content of the void or nullified provision.

17.5 If there are any changes to the law, case law and/or unforeseen circumstances that affect the Agreement, the Parties will enter into consultations about how they can reasonably continue to implement the Agreement. None of this may result in tax risks and/or greater expenses for DPG Media.

17.6 Dutch law applies to these Purchasing Conditions and to all obligations between DPG Media and the Supplier. The applicability of the Vienna Sales Convention is expressly excluded. All disputes between the Parties arising from or otherwise connected to any agreement and/or these Purchasing Conditions will exclusively be brought before the competent court in Amsterdam.

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