

General Terms and Conditions of Bayer AG and its Affiliated Companies for the Procurement of Communications Services



Offer	<p>These General Terms and Conditions shall be an integral part of the purchase contract. Any terms and conditions of the Seller that contradict these General Terms and Conditions shall not apply without the Buyer's express written consent. Offers shall be submitted free of charge and without any obligation on the Buyer.</p>	<p>the assignments of rights set forth above.</p>	<p>The Seller shall provide all deliverables and services free from the rights of any third parties that could hinder or exclude the Buyer's use thereof pursuant to this Agreement.</p>
Order	<p>Only written SAP orders with an order number shall be valid. Agreements made orally or by telephone shall not be valid unless confirmed in writing. All costs incurred for services or supplies provided by third parties shall be calculated in advance in writing and require the Buyer's written confirmation.</p>	<p>In particular, the Seller represents and warrants that it has the sole right to dispose of the copyrights to the deliverables and services provided under this Agreement and that it has not disposed of them in any way that would violate the assignment of rights hereunder. If the deliverables and services provided hereunder contain components with respect to which the foregoing does not apply or is uncertain, the Seller must inform the Buyer in writing of all legally relevant facts of which the Seller is or should be aware.</p>	<p>The Seller represents and warrants that it has given appropriate participation in the results of their work, within the meaning of §§ 32/32a of the German Copyright Act, to all authors and others entitled to intellectual property protection who collaborated in providing the deliverables and services hereunder pursuant to an agreement entered into with them or whose works or services the Seller has incorporated therein. If authors or others entitled to intellectual property protection assert a claim against the Buyer under § 32a of the German Copyright Act, the Seller agrees to indemnify and hold the Buyer fully harmless from such claims. The Seller will also ensure, through agreements with employees or third parties that it engages, that the contractual use of the deliverables and services provided hereunder is not limited by any potential joint copyrights or other rights.</p>
Delivery	<p>All deliveries shall be made to the customer's location without additional charges.</p>	<p>The Seller represents and warrants that it has given appropriate participation in the results of their work, within the meaning of §§ 32/32a of the German Copyright Act, to all authors and others entitled to intellectual property protection who collaborated in providing the deliverables and services hereunder pursuant to an agreement entered into with them or whose works or services the Seller has incorporated therein. If authors or others entitled to intellectual property protection assert a claim against the Buyer under § 32a of the German Copyright Act, the Seller agrees to indemnify and hold the Buyer fully harmless from such claims. The Seller will also ensure, through agreements with employees or third parties that it engages, that the contractual use of the deliverables and services provided hereunder is not limited by any potential joint copyrights or other rights.</p>	<p>The Seller shall indemnify and hold the Buyer fully harmless from all claims of third parties that the contractual use of the deliverables and services provided hereunder infringes their intellectual property rights.</p>
Invoice and payment	<p>Invoices must be issued to the applicable recipient of the services and sent in duplicate by post to the relevant company, with the indication Rechnungseingangsstelle, 51368 Leverkusen, GERMANY. Duplicates must be clearly identifiable as such. All invoices must include detailed descriptions of the service performed. The invoice must indicate the order number set forth in the order. The items on the invoice must correspond to the items on the order. Third parties' services are commissioned by the Seller in its own name and for its own account. Any fees for such services that the Seller incorporates into its bill must be substantiated with receipt copies. Terms of payment shall begin on the dates specified, but not prior to the date on which goods or, in case invoices are issued, invoices are received. Any payment claim is due 30 (thirty) days net after receipt of the invoice, unless explicitly agreed otherwise in an individual case.</p>	<p>The Seller shall not be liable for items made available by the Buyer.</p>	<p>The Seller shall not use the designs produced for the Buyer and approved by Bayer or any preliminary stages thereof for other clients.</p>
Foreign currency	<p>Exchange rates are to be based on the official exchange fixing in Frankfurt on the date on which the invoice is issued.</p>	<p>The Seller shall not be liable for items made available by the Buyer.</p>	<p>The Seller shall not use the designs produced for the Buyer and approved by Bayer or any preliminary stages thereof for other clients.</p>
License, warranty against infringement	<p>The Seller assigns to the Buyer all copyrights, personality rights and trademarks and related rights and authorizations to the Seller's goods and services provided under this Agreement.</p> <p>The rights are assigned without any limitations of location (within and outside the country in which the contract is signed), time (regardless of the term and scope of the cooperation), purpose or any other sort of limitation. The assignment of rights occurs upon presentation, transmission or other provision to the Buyer and includes the right to alter, adapt (including translation into other languages) and to combine them in whole or in part with other works or objects.</p> <p>The assignment of rights includes all forms of exploitation and all types of use that are known at the time the contract is signed. Therefore, the assignment includes, but is not limited to, rights of reproduction and dissemination, cinema rights, videogram rights including all audiovisual storage systems, broadcasting rights, public dissemination rights, rights of exploitation through interactive sound and picture media, merchandising rights, recording rights and rights to adapt and dub the recordings.</p> <p>Where third parties (e.g. photographers, illustrators, models, speakers, singers) are engaged, the Seller shall give the Buyer an opportunity to limit the scope of such engagement before it occurs, both with a view to fee calculation and legal protection.</p> <p>In addition to the exclusive intellectual property rights, the Buyer shall acquire the exclusive rights of ownership of all physical objects and data storage media (such as photographs, slides, contact prints, film recordings, video tapes, printer's copies, diskettes, advertising materials, posters, advertisements, labels, packaging materials, etc.) produced by or on behalf of the Seller under this Agreement.</p> <p>The Buyer is entitled to assign to third parties, in whole or in part, the license transferred to the Buyer hereunder, or to grant corresponding licenses to third parties.</p> <p>The payment of the Seller's fee fully covers all services owed by the Seller under performance contracts and all of upon completion of the assignment. For a period of three years following the completion of the assignment the Seller shall retain all remaining documents produced by the Seller</p>	<p>The Seller shall not be liable for the accuracy of statements contained in the advertisements regarding the Buyer's products and services, provided the Buyer has given permission for the publication of this content.</p> <p>The Buyer shall indemnify the Seller and hold it harmless from claims by third parties when the Seller acts at the Buyer's express request after notifying the Buyer in writing of its reservations about the permissibility of advertisements.</p>	<p>The Seller irrevocably waives any right to be mentioned as the creator in all of the Buyer's advertising materials and shall obtain a waiver of such rights from all third parties it engages when providing its services. The Buyer shall decide whether, and if so, how the Seller's name should be mentioned.</p>
	<p>Competition provisions</p>	<p>The Seller shall comply with all laws and regulations governing competition. Costs incurred by the Buyer as a result of the Seller's improper testing of proposed advertising for permissibility under competition law, or failure to conduct such testing, shall be borne by the Seller.</p>	<p>The Seller is not liable for the accuracy of statements contained in the advertisements regarding the Buyer's products and services, provided the Buyer has given permission for the publication of this content.</p>
	<p>Corporate design</p>	<p>The Seller shall comply with all laws and regulations governing competition. Costs incurred by the Buyer as a result of the Seller's improper testing of proposed advertising for permissibility under competition law, or failure to conduct such testing, shall be borne by the Seller.</p>	<p>The Seller is not liable for the accuracy of statements contained in the advertisements regarding the Buyer's products and services, provided the Buyer has given permission for the publication of this content.</p>
	<p>Use of documents</p>	<p>The Seller shall comply with all laws and regulations governing competition. Costs incurred by the Buyer as a result of the Seller's improper testing of proposed advertising for permissibility under competition law, or failure to conduct such testing, shall be borne by the Seller.</p>	<p>The Seller is not liable for the accuracy of statements contained in the advertisements regarding the Buyer's products and services, provided the Buyer has given permission for the publication of this content.</p>
	<p>Severability</p>	<p>The Seller shall comply with all laws and regulations governing competition. Costs incurred by the Buyer as a result of the Seller's improper testing of proposed advertising for permissibility under competition law, or failure to conduct such testing, shall be borne by the Seller.</p>	<p>The Seller is not liable for the accuracy of statements contained in the advertisements regarding the Buyer's products and services, provided the Buyer has given permission for the publication of this content.</p>

General Terms and Conditions of Bayer AG and its Affiliated Companies for the Procurement of Communications Services



in connection with the assignment (such as drafts, finished art, film copies, tapes and proofs) and provide them to the Buyer upon request without any additional compensation. The Buyer is under no obligation to reproduce the name or logo of the Seller or graphic designer in graphic designs or finished art of any kind; upon proper payment, all originals shall become the Buyer's property with all related rights of reproduction.

shall not affect the enforceability of the remaining provisions hereof. The Seller and the Buyer undertake to replace the unenforceable provision with an enforceable provision that has approximately the same economic effect.

Confidentiality

The Seller agrees to use any written or oral information received from the Buyer only for the purposes set forth in this Agreement. The Seller also agrees to treat all such information as confidential and not to make it available to third parties without the Buyer's prior written consent.

Place of performance and venue

The place of performance and the venue for legal actions resulting from this Agreement shall be Cologne, Germany.

Last updated October 2015

The foregoing obligations do not apply to information that:

- is already in the Seller's possession at the time of its transmission;
- is made available to the Seller via third parties who did not receive the information directly or indirectly from the Buyer;
- is published knowledge at the time of its transmission by the Buyer;
- subsequently becomes published knowledge without the Seller's involvement.

The foregoing confidentiality obligations remain in effect after the completion of the assignment unless one of the exceptions mentioned above subsequently comes into effect.

Professional fees

Professional fees shall be determined on an individual basis. Except as otherwise agreed, professional fees shall include sketches and designs, including finished art, or any such items saved on data storage media, including fine scan data. If the design fails to meet the Buyer's requirements, the Seller shall have the right to improve it within a reasonable period to be determined by the Buyer. If the design approved by the Buyer is not realized, an appropriate payment – usually 33% – shall be made instead of the total fee.

Withholding tax

With respect to any payment owed under this Agreement, the Buyer is entitled to withhold the statutory withholding taxes, including any statutory solidarity surcharge thereon, that it is responsible for remitting to the tax authorities. Any withheld tax shall be treated as having been paid by the Buyer to the Seller for all purposes of this agreement. The Buyer shall timely forward the tax receipts certifying the payments of withholding tax on behalf of the Seller. No deduction shall be made or a reduced amount shall be deducted if the Buyer is timely furnished with necessary documents (Freistellungsbescheid) by the Seller issued from the German Tax Authority (Bundeszentralamt für Steuern), certifying that sums earned in the Federal Republic of Germany are either completely exempt from tax or subject to a reduced tax rate pursuant to the provisions of an existing Double Tax Treaty. In case the Buyer cannot deduct the withholding tax, including any solidarity surcharge thereon, because a netting arrangement precludes actual payment of the amount owed, the Seller will pay the withholding tax to the Buyer separately. If the Buyer failed to deduct withholding tax but is still required by tax law to pay withholding tax for the Seller's account to the tax authorities, the Seller shall assist the Buyer with regard to all procedures required in order to obtain a refund from the tax authorities. In the event the tax authorities do not refund the withholding tax, including any solidarity surcharge thereon, subsequently paid, the Seller will immediately refund the amount of the tax plus any solidarity surcharge thereon to the Buyer.

Self-advertising by the Seller

The Seller shall not refer to its business relationship with the Buyer in its own advertising media, whether printed or reproduced by other means, except with the Buyer's express written consent.