

# GENERAL TERMS & CONDITIONS

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# TERMS & CONDITIONS

**1. The advertising mandate** shall be the contractual agreement between the publishing house, Verlag Werben & Verkaufen GmbH (hereinafter referred to as "Publisher"), and an advertising party or other party placing an advertisement (hereinafter referred to as "Client") for the publication of one or more advertisements in block letters and/or on the Internet for the purposes of dissemination or public announcement. For the advertising mandate and any follow-up mandate, exclusively these respective general business terms and conditions (hereafter, "GBTC") as well as the publishing house's price list that is currently valid at the point in time of the conclusion of the contractual agreement and whose provisions form an essential contractual component, shall be applicable. The Publisher is entitled to modify the general business terms and conditions at any time. The new general business terms and conditions shall be considered approved unless the Client objects to them in writing within one month after the change is announced. Any deviating GBTC of the Client shall not also become a contractual component even if we have not expressly objected to them. In the case that, for online publications, individual agreements are concluded, they shall also be fixed in writing on the respective order confirmation. Otherwise, these GBTC shall also be valid for them.

**2. Supplement orders:** These GBTC shall also apply accordingly for supplement orders. In principle, supplement orders are accepted by the publishing house only after a template has been submitted. Supplements which, owing to their format or layout, give the impression to the reader that they are part of the newspaper, shall not be accepted.

**3. Conclusion of the contractual agreement:** Orders for advertisements may be submitted in person, by telephone, in writing, via e-mail or the Internet. The publishing house shall not be liable for transmission errors. The contractual agreement shall only then be considered to have been concluded through the publishing house's confirmation of the order which shall be rendered in writing or via e-mail notwithstanding any other individual agreement between the publishing house and the Client. If the order is submitted via telephone, a written order confirmation shall be issued only by express request.

**4. The call-off order** is the request submitted by the Client to the publishing house to, based upon a concluded contractual agreement, publish a concrete advertisement, third-party supplement or other advertisement and the supplying of the texts and templates which are required for production.

**5. Text segment advertisements** are advertisements which typographically border editorial text on at least three of the sides and not on other advertisements.

## **6. Rejection of orders:**

(1) The publishing house shall be entitled to reject advertising orders, including individual call-off orders based upon a framework contractual agreement which has been concluded. This shall be valid particularly if their content violates laws or governmental directives or was objected to, or could be objected to, by the German Advertising Council and/or the German Press Council in complaint proceedings, whose publication is unreasonable for the publishing house owing to the content, the origin or the technical form or the supplements, owing to the format or layout, give the reader the impression of being a component of the printed medium or contain third-party advertisements.

(2) After becoming aware of the affected contents, the publishing house shall promptly explain its rejection of such content. In particular, the publishing house can retract an advertisement which has already been published online if the Client himself belatedly makes changes to the contents of the advertisement published online or belatedly modifies the data to which a link makes reference and, by so doing, among others, the requirements of Clause 6 Paragraph 1 are fulfilled.

**7. Concluding the advertising order and the publication dates:** The publisher's deadlines and publication dates indicated on the price list shall be non-binding for the publishing house. The publishing house shall be at liberty to modify the deadlines and publication dates upon short notice based upon the production processes.

**8. Cancellation of orders:** The Client may cancel advertising orders in writing by contacting (e-mail address). Print ads may be cancelled up to the original closing date. If the ad is already in print, the Client must pay for the ad. Otherwise, the Publisher may demand that any costs incurred up to the time of cancellation be reimbursed as required by law. Online promotional materials must be cancelled in writing with two weeks' notice before the first publication. If the necessary data for the online ad placement is not submitted on time, the Publisher shall charge a fee of €50 per working day for the resulting extra effort and cost.

**9. Placement of advertisements:** Advertisements shall be published in certain editions, issues or in certain sections of the publication if this has been expressly agreed in writing, including by telefax or e-mail, when the order is issued. In principle, classified advertisements shall be published only in the respective section. Insofar as no clear placement has been agreed, the publishing house may freely choose the placement. Insofar as an advertisement should not be able to be placed within an ordered issue, the publishing house may publish the advertisement at the same price in an issue with a similar or larger publication area. If the Client requests an ad for a category whose content differs from that of the scheduled placement, the price that would have applied to the correctly placed ad shall be charged.

**10. Calling off an order:** If a publication date has been agreed, the advertisements must be called off by no later than one year after the contractual agreement has been concluded (publication timeframe). The conclusion of multiple advertisements must be implemented within one year after the publication of the first advertisement. If multiple conclusions are undertaken, the Client shall be entitled, subject to the available capacity, to call off the additional advertisements in the publication timeframe that has been agreed and/or specified in Clauses 1 and 2 including exceeding the ordered advertising quantity based upon the price list.

**11. Printed documents:** The deadlines for printed documents can be found on the price sheet, which is valid at the point in time of the conclusion of the contractual agreement, of the publishing house's advertising price list. The Client shall be responsible for the prompt supplying of the advertising text and the flawless printed documents or the supplements, accompanying booklets, glued-on inserts, etc. If the publishing house determines that the printed documents are unsuitable or damaged, it shall demand their prompt replacement. If any defects to the supplied printed documents such as supplements, inserts, etc. are not immediately recognisable, but only then become recognisable during the processing, then the advertising party must pay the additional costs incurred or tolerate the quality losses during production. The publishing house shall guarantee the print quality which is customary for the designated issue within the parameters of the possibilities available for the printed documents. The printed documents shall be sent back to the Client only by special request. Otherwise, they shall become the publishing house's property. The obligation to retain the documents shall end 6 weeks after the advertisement is published. Moreover, the Supplemental Business Terms and Conditions shall be valid for the digital transmission of advertising templates in accordance with Clause 30 of these GBTC.

**12. Printing height of the advertisements:** If no special sizes have been agreed or prescribed, the advertisement shall be published and billed with the height which is customary for such an advertisement. If the height of a submitted print document differs from the height specified in the order, the dimensions of the printed advertisement shall apply and no additional costs shall be incurred thereby. Any millimetres that have been begun shall be rounded upwards to the whole millimetre.

**13. Editorially-designed (text segment) advertisements:** The layout and labelling of the editorially-designed advertisements must be promptly agreed with the publishing house before publication. The publishing house shall be entitled to clearly label advertisements with the word "advertisement" which are not recognisable as such. In this regard, the publishing house shall have the ultimate decision-making right. (Text segment) advertisements must already differentiate themselves through their basic font sizes from the editorial section.

**14. Liability for the content of the advertisement:** The Client shall be responsible for the content and the legal permissibility of the advertisement. In addition, he releases the Publisher from all claims by third parties on the basis of copyright, personal rights, trademark, or other property rights infringements as well as from all third-party claims for property and ancillary rights infringements for the photographs used in the advertisements, including the reasonable costs of legal defense. The publishing house shall not be obliged to examine whether an advertising order restricts third-party rights. If the publishing house is obliged to publish a counterstatement or the like (e.g. through a court ruling), then the Client must pay the costs incurred based upon the valid advertising price list.

**15. Proofs** shall be supplied only by express request. The publishing house shall take corrections of mistakes into consideration which are reported to it within its prescribed timeframe. Otherwise, the approval to print shall be considered to have been issued. The Client shall assume responsibility for the accuracy of the corrected proofs.

**16. Advertising documentation:** Upon request, the publishing house shall supply advertising documentation with the invoice. If documentation can no longer be procured, it shall be replaced with a certificate from the publishing house regarding the publication and dissemination of the advertisement. Documentation copies shall be supplied only for fee-based advertisements.

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## 17. Box number advertisements:

**(1) Replies to the box number advertisements** shall be made available for pick-up up to a maximum of four weeks after publication of the advertisement and/or sent to the Client by normal post with the due care of a prudent businessman even if it concerns express or registered shipments.

**(2) After this timeframe lapses**, the replies shall be destroyed. Replies with a weight of more than 500 grams or a larger format than DIN A4 as well as shipments of goods, books, catalogues and advertisement mailings as well as small packages/packages shall be excluded from forwarding and shall only be retained for pick-up purposes. In particular, the publishing house shall not be obliged to forward obvious advertising offers such as business advertising claims and brokerage offers if no express written instruction to forward has been issued by the Client. The Client may authorise the publishing house to open the replies in lieu of and with the declared consent of the Client.

## 18. Advertising invoices, deferment and payment default

**1) Advertising invoices** must be paid within the timeframe stated on the invoice. The Client must assume any warning letter and debt collection costs which are incurred as the result of the payment default. If payment default occurs, all deferred payments (invoices and/or subsequent invoices) shall become immediately payable.

**(2) In the event of a deferment or payment default**, interest shall be charged in accordance with § 288 of the German Civil Code. In the event that payment default occurs, until payment is indeed rendered, the publishing house may suspend the continued implementation of an on-going order and demand advance payment. If there are justified doubts about the Client's solvency, the publishing house shall be entitled, including for the duration of a framework agreement, to make the publication of additional advertisements deviating from an originally-agreed payment due date contingent on the advance payment of the advertising fee and the settlement of outstanding invoiced amounts. The publishing house shall be entitled to correct flawed advertising invoices within six months after invoicing. If orders are accepted by telephone, orders from advertising customers shall be implemented via a SEPA direct debiting procedure without concluding a contractual agreement. The booking shall be done immediately after the invoicing date without any deductions. The so-called pre-notification timeframe after the SEPA basic direct debiting shall be reduced to one day. Erroneous advertising invoices may be corrected within six months after invoicing. The Client shall be entitled to offset with counterclaims only if they have been legally upheld, are undisputed or at least ready for a decision to be made.

**19. Advertising orders from abroad:** For countries with foreign representation of the publishing house, the payment and processing shall be undertaken in accordance with these Business Terms and Conditions. For countries without foreign representation, advance payment shall be required, preferably via credit card (Euro/Mastercard, American Express or Visacard). A foreign Client must present his VAT ID No. or his entrepreneurial status documentation or his exempt status from German VAT together with the advertising order. If the advertising order is VAT-exempt, the invoicing shall be done without calculating the VAT. The publishing house shall be entitled to subsequently bill the VAT if the competent government tax office affirms that the advertisement is subject to taxation.

**20. Typesetting costs:** The Client shall assume the costs for the creation of the ordered templates and drawings as well as for the designs requested by the Client or for designs which constitute substantial changes from the originally-agreed designs for which the Client is responsible.

**21. Classified prices:** Advertisements shall be classified by the publishing house based upon their content-related sense. If an advertisement is ordered by the Client for a deviating category, then the price shall nonetheless be valid which it would have cost if it had been correctly placed. If the price of the category requested by the Client is higher than the price of the correct placement, then the higher price shall be valid.

**22. Advertising millimetres:** When calculating acceptance quantities, text millimetre lines shall be converted into advertising millimetres based upon the price.

**23. Deviating prices:** For advertisements in publishing supplements and editorially-designed advertisements, advertisements in special publications and collections as well as advertisements which are sold after the publisher's deadline, the publishing house may charge prices that deviate from the price list.

**24. Collective rebates:** For the granting of a collective rebate for subsidiaries, the written documentation of a more than 50-percent equity stake is required. The publishing house shall grant collective rebates only for privately-organised companies. Thus, collective rebates are not possible for independent sovereign organisations or entities under public law.

**25. Warranty:** For obvious defects, complaints must be asserted by the Client by no later than within two weeks after the receipt of the invoice. For hidden defects, the Client must lodge a complaint by no later than 6 months after publication of the advertisement. Moreover, entrepreneurs must report the discovery of any hidden defect within two weeks. If a flawed publication of an advertisement occurs despite the prompt delivery of flawless printing documents and a prompt complaint having been made, the Client may demand the publication of a flawless replacement advertisement (subsequent performance). The claim for subsequent performance shall be excluded if this is associated with disproportionate costs for the publishing house. If the publishing house allows an appropriate notice period that has been set for it to lapse fruitlessly, it refuses to render subsequent performance, the subsequent performance is not reasonable for the Client or it is unsuccessful, then the Client shall have the right to withdraw from the contractual agreement or assert a claim for a reduction of the purchase price in the scope in which the purpose of the advertisement has been restricted. Warranty claims from entrepreneurs as the Client shall become statute-barred 12 months after publication of the corresponding advertisement or supplement.

**26. Liability, force majeure:** In the case of force majeure and labour disputes for which the Publisher is not responsible, the Publisher shall not be obligated to fill the order; there shall therefore be no entitlement to damage compensation. The publishing house shall be liable for damages caused by intentional wrongdoing or gross negligence, for damages arising from the culpable loss of life, physical injury or damage to health as well as for damages based upon at least the violation of an obligation based upon simple negligence whose fulfillment only then enables the proper implementation of the advertising order, whose violation puts the attainment of the contractual purpose at risk and upon whose adherence the Client regularly relies. Apart from the liability for intentional wrongdoing and the culpable loss of life, physical injury or damage to health, the obligation to pay damage compensation shall be limited to the foreseeable, typically-occurring damages. Otherwise, the damage compensation claims against the publishing house shall be excluded regardless of the legal reason. Insofar as the publishing house's liability is excluded or limited in accordance with the aforementioned provisions, this shall also be valid for the personal liability of its employees, representatives and vicarious agents. The liability in accordance with the German Product Liability Act shall remain unaffected. Apart from claims for tortious or intentional acts and/or grossly-negligent acts, damage compensation claims from entrepreneurs against the publishing house shall become statute-barred within 12 months after the point in time in which the Client became aware of, or would have to have become aware of, the sets of circumstances substantiating the claim. If the Client fails to follow the recommendations from the publishing house for creating and transmitting digital printed documents, he shall be entitled to no resulting claims owing to the flawed publication of the advertisement. This shall also be valid if the Client has not followed the other causal provisions of these GBTC. The Client shall be liable for ensuring that the transmitted files are free of viruses. The publishing house may delete files with viruses without the Client being able to derive claims from this. The publishing house reserves the right to assert damage compensation claims if the viruses cause damage.

## 27. Additional terms and conditions for placing an ad on the internet:

**a) Data supplying:** The Client shall be obliged to supply proper advertising resources—particularly corresponding to the formatting or technical standards of the publishing house—promptly before the advertisement is placed. If advertising documents are recognisable as being unsuitable or damaged, the publishing house shall demand their prompt replacement.

**b) Assignment of rights:** The Client shall assign to the publishing house all usage, ancillary copyright and other rights under copyright law which are required for the use of the advertising in online media of all kinds including the Internet—particularly the right to reproduce, disseminate, transmit, send, retrieve from a database and call off and indeed in the scope which is required for the implementation of the order, both with regards to time and content. In all cases, the aforementioned rights shall be assigned without any geographical restrictions and shall provide entitlement to place advertisements via all known technical procedures as well as all known forms of online media.

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**c) Warranty from the publishing house:** Within the parameters of the foreseeable requirements, the publishing house shall guarantee the best-possible reproduction of the advertising which corresponds to the respective highest possible customary technical standard. The warranty shall not be valid for minor defects. A minor defect in the presentation of the advertising shall be considered to exist particularly if it is caused through

- The use of non-suitable display software and/or hardware or
- The disruption of the communication networks of other operators or
- A computer disruption as the result of a system failure or
- A disruption of the ad server which does not last longer than 24 hours (continuously or cumulatively) within 30 days after the beginning of the contractually-agreed placement.

If there is a disruption of the ad server over a substantial timeframe (more than 10 percent of the booked time) within the parameters of a time-bound fixed booking, the Client's payment obligation for the disruption timeframes shall be rendered invalid. Any additional claims shall be excluded. If there is an unsatisfactory reproduction quality of the advertisement which constitutes a major defect, the Client shall have a claim to a payment reduction or a flawless replacement advertisement, but nonetheless only in the scope in which the purpose of the advertisement was restricted. If the replacement advertising is unsuccessful or unreasonable, the Client shall have a right to a payment reduction or to withdraw from the contractual agreement. If any defects in the advertising documents are not obvious, then the Client shall have no claims for insufficient publications based upon them. The same shall be valid for defects in the repeated advertisement placements if the Client does not make reference to the defect before publishing the next advertisement.

**28. Advertising agencies** shall be obliged to adhere to the publishing house's price list in its offers, contractual agreements and invoices to the advertising parties. Any commission granted by the Publisher shall be calculated on the basis of the customer net price, that is, after deducting rebates, bonuses and discounts due to a defect. The commission shall be applicable only to the brokerage of third-party orders and shall not be granted for private prices. It shall be paid only to the advertising agencies recognised by the publishing house subject to the requirement that the order is issued directly from the advertising agency, it is obliged to provide the complete and print-ready template and it possesses a commercial license as an advertising agency. The publishing house shall be at liberty to reject orders from advertising agencies if doubt exists about the professional activities of the advertising agency or the creditworthiness of the advertising agency. Advertising orders from advertising agencies shall be issued in their name and on their account. Insofar as advertising agencies issue orders, in cases of doubt, the contractual agreement shall thus be realised with the advertising agency. If an advertiser should become a Client, this must be separately agreed subject to the mentioning of the advertiser by name. The publishing house shall be entitled to demand documentation of the mandate from the advertising agency.

## **29. Data privacy:**

(1) In the following, the Publisher provides information regarding the processing of personal data within the context of business relations. Personal data includes all data that are personally available to the Client, for example, name, address, email address, telephone number and payment details. The Publisher is the responsible party according to Article 4 No. 7 of the General Data Protection Regulation (GDPR).

Data processing takes place in accordance with the applicable regulations of the Federal Data Protection Act (BDSG 2018) and the General Data Protection Regulation (GDPR). The Publisher collects, processes and uses personal data of the Client. Further information regarding data processing and data retention can be found in the data protection statement of the Verlag Werben & Verkaufen GmbH, which can be read on <https://verlag.wuv.de/service/datenschutzerklaerung>.

(2) The data will be processed and used by the Publisher to the extent that this is necessary for contract initiation, contract execution, contract maintenance or to provide other contractual services, that is, to process orders and carry out services in accordance with the contract. This shall be done, in part, with the involvement of external service providers. The service providers have been carefully selected by the Publisher, commissioned in writing and obligated to comply with instructions. They are also regularly monitored. The service providers shall not communicate this data to third parties but shall delete it after fulfillment of the contract and at the end of statutory storage periods, unless the Client has approved an additional storage arrangement.

(3) The data collected by the Publisher will be processed and used to conduct internal market research to the extent that the Client has not expressed objections. This applies to the details needed to execute the order as well as to details that the Client has provided voluntarily. The Client may object to the use of the data for the purpose of internal market research at any time with future effect.

(4) The collected data will be processed and used by the Publisher to inform the Client by mail or electronically, e.g. via e-mail, of similar or comparable products and services to the extent that the Client has not expressed objections. The Client may object to the use of the data for promotional purposes at any time with future effect. This shall not be subject to any charges other than the forwarding costs at the basic rates.

If you do not wish to receive any direct advertising on this basis any more, you can cancel this use of your e-mail address or details for electronic communication at any time without incurring any more than transmission costs at the basic rates. Simply write to us at: Verlag Werben & Verkaufen GmbH, Hultschiner Straße 8, 81677 München/E-Mail: [support@wuv.de](mailto:support@wuv.de).

(5) The Client shall have the right to demand that the Publisher provide information on his stored personal data at any time. This shall apply to the origin of the data as well as the recipients or categories of recipients to whom this data is communicated and the purpose for which it is being stored. If the Client has granted permission to use data, he may revoke this consent at any time with future effect. The Publisher furthermore notes that the Client is generally entitled to the correction of incorrect data or the deletion of personal data, provided that this right is not prevented by any statutory retention obligation.

(6) All legal rights to which the Client is entitled in connection with the processing of his data, such as the right to information, correction, deletion and revocation, may be exercised in writing by sending an e-mail to [support@wuv.de](mailto:support@wuv.de) or in writing to the following address: Verlag Werben & Verkaufen GmbH, Hultschiner Straße 8, 81677 Munich, Germany. Additional information on data collection and processing can be found in the Publisher's Data Privacy Statement.

## **30. Supplemental Business Terms and Conditions for the Digital Transmission of Printed Advertising Templates:**

If printing templates are submitted digitally, thus transmitted in paperless fashion through digital carriers (e.g. diskettes, cartridges, CD-ROM) or via long-distance transmission (e.g. ISDN) to the publishing house, the following provisions shall also be valid:

- a) File format: Print templates are supposed to be transmitted digitally only with closed files, thus with such files which the publishing house cannot alter content-wise. The publishing house shall not be liable for the flawed publication of advertisements which are transmitted with open files (e.g. files saved under Corel Draw, QuarkXPress, Freehand).
- b) The related files must be sent and/or saved by the Client in a collective directory (folder).
- c) Colour advertisements: For digitally-transmitted print templates for colour advertisements, the Client must also at the same time provide a colour proof with Fogra Media Wedge (current version 3.0) and a proof and/or measurement protocol. Otherwise, no damage compensation claims of the Client shall be valid owing to any colour deviations.
- d) Computer viruses: The Client shall be liable for ensuring that the supplied files are free of computer viruses. The publishing house may delete files with computer viruses without the Client deriving any claims from so doing. Moreover, the publishing house reserves the right to assert damage compensation claims if the computer viruses cause additional damages for the publishing house.
- e) Claims owing to flawed publication: If the Client fails to adhere to these Business Terms and Conditions or the publishing house's recommendations for drafting and transmitting digital printed documents, then he shall be entitled to no claims owing to a flawed publication of the advertising.
- f) Data carriers: The diskettes or the CD-ROM with the print templates that are provided to the publishing house shall become the publishing house's property. They shall be sent back to the Client at his own risk only by express request and for a shipping fee of € 5.00. The publishing house shall send back other high-end data carriers such as cartridges, Iomega Zip 100, etc. to the Client without this having to be requested and upon a free-of-charge basis, but nonetheless at the Client's risk.

**31. Dispute resolution process:** The European Commission has set up a platform for resolving disputes online. It can be found at <https://ec.europa.eu/consumers/odr/>. Consumers can use the platform for settling their disputes. We are neither willing nor obliged to participate in a dispute resolution process before a consumer mediation body, unless we are legally required to do so.

**32. Final provisions:** Exclusively German law shall be applicable to these GBTC as well as the relationship between the Client and the publishing house. This choice of laws shall be valid for a consumer only insofar no mandatory statutory provisions of the country are restricted in which he has his place of residence or customary abode. The United Nations Convention on Contracts for the International Sale of Goods shall be excluded. Any ancillary agreements and contractual amendments must be in text form. With regards to business dealings with entrepreneurs, juridical persons under public law or special foundations under public law, the legal venue for lawsuits shall be Munich. Insofar as the publishing house's claims are not asserted during the warning letter procedure, the legal venue for non-entrepreneurs shall be determined based upon their residence. The place of performance shall be Munich. If one of more of the provisions of the advertising order/these GBTC should be or become invalid or unenforceable, then the validity of the remaining provisions shall not be affected. The parties shall then replace the respectively invalid or unenforceable provision with such a provision which in good faith most closely corresponds to the commercial intent of the invalid or unenforceable provision. The same shall be valid for any gaps or omissions.