

# GENERAL STANDARD TERMS AND CONDITIONS

for Advertisements and Third-party Inserts in Newspapers and Magazines

of  
**wdv Gesellschaft für Medien & Kommunikation mbH und Co. OHG**  
and Companies Belonging to the Publishing Group

## 1. Advertisement order

1.1 An advertisement order within the meaning of the following General Standard Terms and Conditions is the agreement between the advertiser or party placing advertising (customer) and wdv Gesellschaft für Medien & Kommunikation mbH & Co. OHG (publisher) relating to publication of one or more advertisements in a printed publication for the purpose of dissemination.

1.2 Unless there are other individual arrangements to the contrary, these General Standard Terms and Conditions alone shall apply to the advertisement order for advertisements and third-party inserts in newspapers and magazines, and the publisher's rate card effective at the time the agreement was concluded shall apply. Differing or additional terms and conditions of the customer shall not be binding, even if the publisher has not explicitly objected to them. The tacit acceptance of services from the publisher and payments by the customer shall not denote consent to conflicting terms and conditions of the customer. Differing arrangements shall not be valid unless confirmed in writing.

1.3 By placing an advertisement order, the customer acknowledges the publisher's General Standard Terms and Conditions and rate card. This shall apply in the case of private advertisement orders if the customer places the order without any objection after it has been pointed out that the General Standard Terms and Conditions apply.

1.4 Additional verbal or over-the-phone agreements shall not be valid until confirmed by advertisement management in written or text form.

1.5 Orders for advertisements and third-party inserts that are expressly to be published solely in certain numbers, certain issues and certain places in the printed publication must be received by the publisher in sufficient time for the customer to be able to be informed before the closing deadline if the order cannot be executed in the requested manner. Classified advertisements shall be printed in the relevant section without the need for any explicit agreement to that effect.

## 2. Advertisements

2.1 Advertisements shall comprise advertisements, third-party inserts (loose inserts, bound-in inserts, glued-in inserts) and other forms of insertion.

2.2 Advertisements not directly recognisable as advertisements, for example because of their editorial presentation, shall be clearly indicated as such by the publisher, for example by the addition of the word "Advertisement". The publisher reserves the right to indicate advertisements as such in general.

2.3 In principle, only formats specified in the applicable rate card are available for placing advertisements. Special formats and special forms of advertising can be placed only after consultation with and subject to the consent of the publisher.

## 3. Conclusion of agreements

3.1 Unless there are other individual arrangements to the contrary, the advertisement order shall be formed upon confirmation of the order placed in writing or by e-mail. The publisher shall not be liable for communication errors in cases where orders are placed, amendments are made or more detailed specifications are given verbally or over the phone.

3.2 If advertising agencies place orders, the advertisement order is concluded with the advertising agency in cases of doubt. If an advertiser is to be the customer, it must be named by the advertising agency. Appropriate proof of this client relationship must be submitted to the publisher upon request.

## 4. Deadline for completion

4.1 In cases of doubt, advertisements are to be called off for publication within one year from the date on which the agreement is concluded.

4.2 If the right to call off individual advertisements is granted as part of an agreement, the order shall be carried out within one year of the appearance of the first advertisement, as long as the first advertisement is called off and published within the time limit specified in Section 4(1).

## 5. Increases to the scope of orders, cancellation and changes

5.1 The customer is entitled, within the agreed time limit or the time limit specified in Section 4, to call off further advertisements over and above the quantity stated in the advertisement order, provided there is available capacity and subject to a payment to be agreed separately.

5.2 Cancellations or change requests must be submitted at least in text form. Technical costs may be charged in the event of a cancellation.

## 6. Authorisation to reject orders

6.1 The publisher reserves the right to reject advertisement orders – including individual call-offs under a concluded agreement – and orders for inserts due to their content, the origin or technical form, on the basis of consistent and objectively justified principles of the publisher, if their content violates the law or official regulations, or the publisher cannot be reasonably expected to publish them. This shall also apply to orders placed with

branch offices, receiving offices or representatives. Insert orders shall be binding on the publisher only after a specimen of the insert has been received and approved. Inserts that give readers the impression, as a result of their format or presentation, that they are part of the newspaper or magazine or contain third-party advertisements can be rejected. The customer shall be informed as soon as an order is rejected.

## 7. Placement

The publisher reserves the right to use overwraps that conceal advertisement motifs on the cover pages in magazines at short notice.

## 8. Delivery of advertising copies

8.1 The customer is responsible for delivering error-free advertising copies or loose inserts/bound-in inserts/glued-in inserts on time. If digital advertising copies are supplied, the customer shall be obliged to supply proper copies for advertisements, which in particular comply with the format and technical requirements specified by the publisher, in time before the deadline for submitting advertising copies. Moreover, the additional terms and conditions for digital transmission of advertising copies apply (see below).

8.2 The customer shall bear the costs incurred by the publisher for changes to the advertising copies that have been requested by the customer or for which the customer is responsible.

8.3 Failure to supply advertising copies on time may affect the placement and print quality of an advertisement. In this regard, the publisher's liability is limited to the extent specified in Section 13. The customer shall reimburse the publisher for additional costs the latter has demonstrably incurred.

8.4 The publisher shall immediately request replacement for advertising copies that are visibly unsuitable or damaged. The publisher shall warrant the print quality customary for the relevant publication as far as the advertising copies permit. This shall apply only if the customer complies with the publisher's requirements relating to the creation and transmission of advertising copies.

8.5 Advertising copies sent by the customer shall be returned to the customer by normal mail at its expense only if specifically requested. The obligation to store them shall end three months after the agreement expires.

## 9. Complaints

In the case of mutual commercial transactions, the customer shall check the advertisements as soon as they are first published and report any defects without delay. Hidden defects must be reported as soon as they are discovered. If the customer fails to report defects on time, the advertisement shall be regarded as having been approved. In such a case, the customer shall bear the costs of any subsequent changes it requests.

## 10. Rate card

10.1 The prices for an advertisement shall be as specified in the applicable rate cards. If there are not any special size regulations, the price shall be calculated as customary on the basis of the type of advertisement.

10.2 Discounts in accordance with the rate card for advertisements shall be granted only on advertisements of an advertiser that are published within one year. The period of time for discounted orders shall commence when the first advertisement eligible for a discount is published.

10.3 In the event of price adjustments, the new rates shall also apply to current orders with immediate effect. This shall not apply for non-merchants in the case of orders which are to be completed within 4 months of the agreement being concluded.

10.4 Advertising brokers and advertising agencies shall be obliged to adhere to the publisher's rate card in their offers to, agreements with and billing of advertisers. Any agency commission granted by the publisher may not be passed on to customers, either in full or in part. Commission shall be paid only to the advertising brokers acknowledged by the publisher.

10.5 Where joint discounting is claimed for group companies, prior written confirmation that an equity interest of more than 50% is held in them is necessary.

10.6 Costs for creating ordered advertising copies and for considerable changes to originally agreed versions that have been requested by the customer or for which the customer is responsible shall be borne by the customer.

## 11. Warranty of title by the customer

11.1 The customer warrants that it holds all the rights required to place the advertisement.

11.2 The customer shall bear sole responsibility for the content and legal permissibility of the text and graphic materials provided for insertion and of the supplied advertising. The customer shall indemnify the publisher against any claims by third parties that may arise because of an infringement of statutory regulations as part of the advertisement order, even if it should be cancelled. Moreover, the publisher shall be indemnified against the costs of any legal defence necessary in such cases. The customer shall be obliged to support the publisher in good faith by providing information and documents to defend against claims by third parties.

11.3 The customer shall assign to the publisher all rights of use, neighbouring rights and other rights under copyright law, without any restrictions as regards location, that are required to use the advertising in all types of print and online media, including the Internet, in particular the right to reproduce, disseminate, transfer and send it, make it publicly accessible, remove it from a database and call it off, to the extent necessary in terms of time and content for fulfilment of the order.

11.4 The publisher is not obliged to check whether orders and advertisements infringe the rights of third parties. If cancelled advertisements are published, the customer shall not have any claims against the publisher in that respect either. Moreover, the publisher applies the customary degree of care in accepting and checking the contents of advertisements, but shall not be liable if it is misled or deceived by customers. By placing an advertisement order, the customer undertakes to bear the costs of publishing a counter-statement on the actual claims in the published advertisement.

## 12. Default in performance

12.1 If an order is not fulfilled due to circumstances for which the publisher is not responsible, the customer shall, without prejudice to any further legal obligations, reimburse the publisher for the difference between the discount granted and the discount corresponding to the volume of advertisements actually purchased. Said reimbursement shall not apply if non-performance is due to force majeure within the publisher's sphere of risk.

12.2 In the event of disruptions to business or in cases of force majeure, such as a labour dispute, illegal seizure,

traffic disruptions, a general shortage of raw materials or energy and the like – at the publisher's business establishment and also at third-party business establishments the publisher uses to fulfil its obligations –, the publisher shall be entitled to full payment of the published advertisements, provided that 80% of the circulation sold as an average for the last four quarters, or of the circulation promised in another way, has been distributed by the publisher for the publication in question. In the case of a lower distribution by the publisher, the invoice amount shall be reduced in direct proportion to the ratio of the guaranteed sold or promised circulation to the actually distributed circulation.

### 13. Liability on the part of the publisher

13.1 The publisher warrants, within the scope of foreseeable requirements, the suitable reproduction of the advertisement in compliance with the customary technical standard.

13.2 If there are any defects in the advertisements supplied by the customer, the customer shall not have any claims if they are not published adequately. If the advertisement is printed illegibly, in full or in part, incorrectly or incompletely, the customer shall be entitled to a reduction in payment or an error-free substitute advertisement, but only to the extent to which the purpose of the advertisement was impaired. If the publisher does not comply with a reasonable deadline set for this purpose or if the substitute advertisement is again not free of errors, the customer shall have a right to a reduction in payment or to cancel the agreement.

13.3 If an agreement has been concluded for multiple advertisements, a reduction in the circulation may entitle the customer to a price reduction if the average circulation specified in the rate card or in another way or – if a circulation is not specified – the average circulation sold (in the case of trade journals, if applicable, the average circulation distributed) in the past calendar year is below the total average for the year of insertion commencing with the first advertisement. A reduction in the circulation shall constitute a defect that entitles the customer to reduce the price only if it is

20% in the case of a circulation of up to 50,000 copies, 15% in the case of a circulation of up to 100,000 copies, 10% in the case of a circulation of up to 500,000 copies, 5% in the case of a circulation 500,000 and more copies. Furthermore, claims for a price reduction as part of an agreement shall be excluded if the publisher has informed the customer in sufficient time before the fall in the circulation that the customer was able to withdraw from the agreement before the advertisement was published.

13.4 Claims for damages arising from breach of agreement, culpa in contrahendo or tortious act shall be excluded, including if an order is placed over the phone. Claims for damage due to impossibility of performance and delay shall be limited to restitution of the foreseeable damage and to the payment to be made for the advertisement or insert in question. This shall not apply to wilful intent or gross negligence on the part of the publisher, its legal representative or its vicarious agents. Liability on the part of the publisher for damage due to the lack of warranted qualities shall remain unaffected.

13.5 Moreover, the publisher shall also not be liable for gross negligence on the part of vicarious agents in commercial business transactions; in other cases, liability towards merchants for gross negligence shall be limited in scope to the foreseeable damage up to the amount of the

payment for the advertisement in question. Complaints – except in the case of defects that are not obvious – must be asserted within four weeks of receipt of the invoice and voucher copy.

13.6 In the case of advertisements placed verbally or over the phone or changes requested verbally or over the phone, no liability shall be assumed for the advertisements being reproduced correctly or the changes made correctly.

### 14. Invoicing and delay in payment

14.1 The invoice shall be sent normally on the date of publication, but where possible by 14 days after publication of the advertisement. The invoice shall be paid within the deadline stated on it, unless a different payment deadline or advance payment has been agreed in the individual case.

14.2 If payment is made by non-cash means, the customer's payment obligation shall not be fulfilled until the amount is credited unconditionally to one of the publisher's accounts. The publisher shall be authorised, even if the customer directs otherwise, to first offset payments against the customer's older debts, then against the costs, then against interest and finally against the principal claim.

14.3 If the payment deadlines are not met, the customer shall be in delay in payment as of the date the payment is due, without the need for an additional reminder.

14.4 If there is a delay in payment or a deferment in payment is granted, interest at the statutory rate and collection costs shall be charged. In the event of a delay in payment, the publisher can defer further fulfilment of the current order until payment is made and demand advance payment for the other advertisements. If there are justified reasons to doubt the customer's solvency, the publisher shall be authorised, even during the term of an advertisement agreement, to make publication of further advertisements contingent on advance payment of the amount and on settlement of outstanding invoice amounts, without regard to any originally agreed period for payment.

14.5 If requested, the publisher shall supply a voucher copy along with the invoice. Full voucher copies are usually supplied. If a voucher copy can no longer be obtained, it shall be replaced by a legally binding declaration by the publisher that the advertisement has been published and distributed.

### 15. Data protection

15.1 If an advertisement allows personal data to be collected, the customer alone shall be the controller within the meaning of data protection law and as such shall bear sole responsibility for ensuring compliance with data protection requirements under the European General Data Protection Regulation (GDPR) and other relevant data protection laws and shall indemnify the publisher from any liability in this respect. The publisher shall not process data on behalf of the customer.

15.2 The agreement data/order data shall be stored for the purpose of fulfilling the insertion order and subject to the statutory retention periods. Personal data shall be processed in order to carry out pre-contractual measures or for the performance of an agreement (Article 6 paragraph 1 point (b) GDPR) and also to safeguard legitimate interests (Article 6 paragraph 1 point (f) GDPR), such as for directly addressing customers, unless use of the data has been objected to.

## **16. Place of jurisdiction and applicable law**

16.1 The place of performance shall be the place of the publisher's registered offices.

16.2 German law shall apply, to the exclusion of the United Nations Convention on Agreements for the International Sale of Goods (CISG).

16.3 Any disputes relating to business transactions with merchants, legal entities under public law or special funds under public law shall be settled before a competent court of law at the place where the publisher has its registered offices. If claims of the publisher are not asserted by an order for payment procedure, any disputes with non-merchants shall be settled before a competent court of law at the place where the non-merchant has its domicile.

16.4 If the customer's domicile or habitual residence is not known at the time legal action is taken or if the customer moves its domicile or habitual residence to a place outside the territory covered by the law after the agreement has been concluded, any disputes shall be settled before a competent court of law at the place where the publisher has its registered offices.

16.5 The General Standard Terms and Conditions of the publisher shall also apply mutatis mutandis to orders relating to loose inserts, glued-in inserts, bound-in inserts or other special technical insertions.

## **17. Additional terms and conditions for digital transmission of advertising copies**

17.1 Undesirable print results (such as missing fonts or incorrect screen definition) that are attributable to the fact that the customer has deviated from the publisher's recommendations on creating advertising copies shall not entitle the customer to reduce the price.

17.2 Advertising copies sent in digital form shall be transmitted in the form of locked files, i.e. files whose contents cannot be changed by the publisher. The publisher can reject open files, such as files which have been stored under Corel Draw, QuarkXPress, FreeHand, etc. The publisher

cannot be held liable for the content of open files being correct.

17.3 If multiple files which belong together are transmitted, the customer shall ensure that these files are sent or stored within a shared directory (folder).

17.4 Before sending advertising copies in digital form, the customer shall ensure that the files to be transmitted do not have any computer viruses. If the publisher discovers computer viruses in a file sent to it, the file shall be deleted immediately, without the customer being entitled to any claims as a result of that. The publisher also reserves the right to claim damages if it incurs damage due to the infiltration of computer viruses from the customer.

## **18. Final provisions**

18.1 In the event of any dispute, the provisions of these General Standard Terms and Conditions shall have precedence over the provisions of the price tables, discount scales and the cash discount.

18.2 Any amendments or modifications to these General Standard Terms and Conditions shall only be valid when given in writing. Additional verbal agreements shall not be valid until confirmed by the publisher in writing.

18.3 Sending of an e-mail shall also meet the requirement for written form specified in these General Standard Terms and Conditions. Section 18(2) shall not be affected thereby.

18.4 If a provision in these General Standard Terms and Conditions shall not affect the validity of the other provisions in this agreement. Any invalid provision shall be replaced by one that corresponds as closely as possible to the intended meaning of the invalid provision. The same shall apply if these General Standard Terms and Conditions contain a gap that needs to be filled.

18.5 Separate terms and conditions apply to advertising business in online media.