

## 1. Subject matter of the agreement/Definitions

1.1 An "advertising order" according to the following General Terms and Conditions is a contract for the provision of advertising space in the print products of Handelsblatt Media Group, Toulouser Allee 27, 40211 Düsseldorf (hereinafter called "the publisher") for the advertisements of an advertising client. A contract may also be structured in such a way that the insertion of more than one advertisement is agreed over a specific period (hereinafter called "insertion period") and the advertisements in question are inserted in the print products based on draw-down by the advertising client and availability (hereinafter called "multiple order").

1.2 "Advertising client" is the person or company for whom the publisher is to insert advertisements. The advertising client can be either the advertiser himself (who wishes to advertise his own products or services) or an agency advertising on behalf of a third party and this party's products and services.

1.3 "Advertisements" are insertions and keyed ads that the advertising client makes available to the publisher for the purpose of insertion in the advertising and promotional spaces.

1.4 "Advertorials" are externally produced advertisements that must differ clearly in form and layout from the editorial sections of the print product (in terms of typographic elements as well as colour and column layout). They contain text/images/graphics and advertising of third parties.

## 2. Making of the contract

2.1 The advertising order and all services, offers and contracts between the publisher and the advertising client are subject exclusively to the provisions of the contract in question and these General Terms and Conditions of Business. Terms of Conditions of the advertising client that contradict or deviate from our General Terms and Conditions of Business are invalid. This also applies in the event that the publisher has been made aware of such deviating contractual provisions. Counter-confirmations by the advertising client making reference to his Terms and Conditions are hereby rejected.

2.2 All advertising orders are only legally binding following written confirmation by the publisher.

2.3 Where an agency places an advertising order with the publisher, the contract is made with the agency. Otherwise, the contract is made directly with the advertiser.

2.4 Amendments and supplements to the advertising order must be in writing in order to be effective. This written form requirement also applies to any amendment to this written form provision.

2.5 The General Terms and Conditions of Business of the publisher for advertising orders may change. For this reason, the General Terms and Conditions of Business

always apply only to the advertising order in question and only in the version that is valid at the point in time when the advertising order is placed.

2.6 If an advertising client is entitled to draw down individual advertisements within an insertion period, the draw-down process must be completed within one year following publication of the first advertisement, provided that the first advertisement is drawn down and published within a period of one year following the date of the contract. If the draw-down right is not exercised within this period, this right expires with finality at the end of the one-year period. This does not affect the obligation to pay the corresponding remuneration.

### 3. Performance by the publisher

3.1 The publisher will insert the advertisements provided by the advertising client in the agreed advertising spaces of the selected print product within the period specified in the contract, based on the agreed performance criteria and in line with the technical standard that prevails at the time in question.

3.2 The agreement covers the publication of the advertisements in the standard quality for the booked title based on the details in the rate card and in the order confirmation as well as in line with the options provided by the copy/artwork and the technology employed by the printer.

3.3 Advertisements that are not recognisable as advertisements on account of their layout and design will be clearly marked with the word "Advertisement" by the publisher.

3.4 Without recognising an obligation to review advertisements, the publisher reserves the right to refuse advertising orders - including individual insertions within the framework of a basic agreement - for important reasons. In particular, an important reason will be deemed to exist if there are specific indications that the advertisement violates the guarantees outlined in no. 4.4, if the publisher cannot be reasonably expected to publish the advertisement due to its content, layout, origin or technical design, or if the advertisement contains advertising of or for third parties (joint advertising).

3.5 If the publisher does not make use of his right to refuse to publish joint advertising (see no. 3.4), this must be confirmed in each individual case by a prior written declaration of acceptance by the publisher. This entitles the publisher to charge a joint advertisement surcharge.

3.6 The advertising client will be notified without delay and specifying reasons in the event that the publisher decides to reject an advertisement or other insertion material. The advertising client is free to provide the publisher with a new or altered advertisement that meets the requirements listed in no. 3.4. The advertising client must accept and is responsible for any delays caused by this.

3.7 Copy/Artwork will only be returned to the advertising client if this is specifically requested and at the cost of the advertising client. The obligation to retain the copy/artwork expires three months after first-time publication of the advertisement.

3.8 Proofs will be supplied only when this is expressly requested and at the cost of the advertising client. The advertising client is responsible for the correctness of returned proofs. The publisher will take account of all corrections of which he is notified before the closing date or before the deadline specified upon dispatch of the proof.

3.9 If no special size provisions are stipulated, billing will be based on the standard actual print height for the type of ad in question.

3.10 On request, the publisher will supply a copy of the advertisement. Depending on the type and size of the advertising order, advertisement clippings, full pages, or complete issues of the publication will be supplied. If it is no longer possible to obtain a copy, the publisher will submit a legally binding confirmation regarding publication and dissemination of the advertisement.

3.11 In the case of keyed advertisements, the publisher employs the due diligence of a prudent businessman in the custody and punctual forwarding of offers. Registered and express letters received in response to keyed advertisements will be forwarded by normal mail only. Replies to keyed advertisements will be kept for four weeks. Correspondence not collected within this period may be destroyed by the publisher. The publisher will return valuable documents without there being any obligation on the publisher to do so. A specific agreement can be drawn up to authorise the publisher, acting as the advertising client's representative, to open the replies received in place of and in the declared interest of the advertising client. Letters which exceed the admissible A4 format or the maximum weight of 1,000 g, samples of merchandise, books, catalogues and small packages cannot be forwarded and will not be accepted. An agreement covering acceptance and forwarding of the same can, however, be drawn up in exceptional cases provided that the advertising client bears all the charges/costs incurred.

3.12 If an advertising order is not executed for reasons for which neither the publisher nor the advertising client is responsible, the advertising client must, without prejudice to further legal obligations, refund to the publisher the difference between the granted discount and the discount based on the actual booked volume.

#### 4. Obligations of the advertising client

4.1 The advertising client is responsible for ensuring that the advertisements and other necessary information are supplied free of errors, in timely manner, in full and in line with the contractual agreements and that the copy/artwork is in flawless condition. Moreover, the advertising client is responsible for ensuring that these materials are suited to the agreed purposes, in particular for the specified representation in the corresponding environment and in the booked advertising format.

4.2 The submission of more than 2 colour templates, non-punctual delivery of copy/artwork and the request for print reproduction that differs from the template can affect positioning and print quality of the advertisement and render subsequent complaints inadmissible.

4.3 The advertising client must bear any costs incurred by the publisher for changes to the copy/artwork desired by the advertising client or for which the advertising client is responsible.

4.4 The advertising client guarantees that he possesses all the rights required for insertion of the advertisements and that the advertisements are clearly recognisable as advertisements. The advertising client further guarantees that the advertisements do not infringe any rights of third parties (in particular copyright, personal rights or other industrial property rights) and/or do not violate other legal provisions (in particular press, competition, data protection and consumer protection regulations) and are not of a subversive, racist, violence-glorifying or pornographic nature or liable to have an undesirable influence on the moral development of young people.

4.5 On first request, the advertising client will indemnify the publisher against all claims of third parties that may be asserted in connection with the violation of statutory provisions, in particular the statutory press regulations or competition laws. This applies in particular with regard to the guarantees listed in no. 4.4. If counterstatements are published, the costs to be reimbursed will be based on the price on an advertisement equivalent to the size of the counterstatement. Moreover, the publisher will be indemnified in relation to the cost of any necessary legal defence, including all court costs and lawyers' fees in the statutory amount. In the event that claims are asserted against the publisher by third parties, the advertising client undertakes to supply the publisher with all the information the advertising client has at his disposal without delay, truthfully, fully and in good faith, and to furnish all documents required for the purpose of reviewing such claims.

4.6 With limited effect in terms of time, location and content, the advertising client assigns to the publisher all the utilisation, neighbouring and other sui generis property rights required for the execution of the advertising order. Furthermore, the publisher and iq media marketing gmbh are also entitled to exercise the aforementioned rights for the purpose of proprietary advertising (e.g. press release and presentations) before and after execution of the advertising order.

4.7 Advertorials must always include separate publisher details. The publisher reserves the right to make publication dependent on the submission of a binding sample and to set special prices for special publications. The advertorial must be submitted to the publisher for review and approval at least 10 working days prior to the closing date. If advertorials are prepared by the publisher or agents working on his behalf, all rights to the prepared content remain with the publisher.

4.8 The advertising client undertakes to review the advertising following first-time insertion, provided that the effort required to do so cannot be considered unreasonable.

4.9 The advertising client must notify the publisher without delay (at the latest within 5 working days by letter, fax or e-mail) of any changes relating to his company, contact persons, address or other contact information (phone, fax, e-mail etc.).

4.10 The advertising client may not transfer his rights vis-à-vis the publisher arising from the advertising order (i.e. the booked insertion units) to third parties either for financial consideration or without receiving payment for doing so.

4.11 In their offers to, contracts with and billing procedures vis-à-vis the advertising clients, advertising brokers and advertising agencies undertake to adhere to the rate card of the publisher.

## 5. Remuneration, payment, payment default

5.1 Remuneration for the advertising order in question is based on the rate card of the publisher valid at the time the contract is made for the advertising order in question. The publisher reserves the right to change his rate card at any time. Any change in the advertising rate card is also valid for orders in progress once such a change comes into effect. In the case of "non-merchants" as defined by German law, this does not apply to orders that are to be processed within four months of the making of the contract.

5.2 Discounts for multiple orders within an insertion period are also based on the rate card of the publisher valid at the time in question.

5.3 Discounts are not granted to companies whose purpose of business includes the placing of advertising orders for different advertisers in order to take advantage of a joint discount.

5.4 Orders for advertisements and third-party inserts that are only to be published or included in specific issues, specific editions or specific positions of the print publication must be received by the publisher sufficiently early to permit notification of the advertising client prior to the closing date in the event that it is not possible to execute the order in the desired manner. Classified advertisements will be printed under the respective heading without the need for any explicit agreement.

5.5 If a joint discount is claimed for companies belonging to a group, the publisher requires written proof of the consolidated status of the advertiser. Under the terms of this provision, associated companies are companies between which a capital holding of at least 50 percent exists. In the case of corporations, group status must be confirmed by an auditor or proved by way of submission of the most recent annual report; in the case of a partnership by way of submission of an excerpt from the commercial register. This proof must be furnished during the first half of the period of the insertion agreement. Group discounts require the explicit, written confirmation of the publisher and are only granted for the duration of membership of the group of companies. The publisher must be informed of termination of such membership without delay.

5.6 The invoice must be paid within the period specified in the rate card, provided that no other payment deadline or advance payment arrangement has been agreed on in

writing in specific cases. Discounts for early payment are granted as listed in the rate card.

5.7 In the event of default or an extension of the payment period, the advertising client will be charged standard bank interest rates as well as collection costs. In the event of delayed payment, the publisher may postpone further execution of the current order until payment has been effected and demand advance payment for the remaining advertisements. Reasonable doubts as to the solvency of the advertising client, the fact that an advertising client is domiciled outside Germany or a first order from an advertising client entitle the publisher - both prior to the commencement of a new business relationship and during the period of an insertion agreement - to make publication of further advertisements contingent on advance payment of the sum in question by the closing date and on the settlement of invoiced amounts still outstanding, notwithstanding any time allowed for payment that may originally have been agreed.

## 6. Cancellation of advertising orders

6.1 Cancellation of advertising orders or draw-down orders is only possible up to the closing date. The cancellation request must be received by the publisher in writing or by e-mail.

6.2 The publisher will allow itself to be credited with the value of the business it was able to acquire through other bookings or the value of other business it wilfully failed to acquire

## 7. Liability of the publisher

7.1 Irrespective of legal grounds, the publisher is only liable in the case of intent and gross negligence of a legal representative, a management executive or other agent, in the case of each culpable violation of a material contractual obligation (where the term "material contractual obligation" is an abstract term designating an obligation, the fulfilment of which is essential to the proper execution of the contract in the first place and compliance with which the other party to the contract can generally rely on), in the event of default and impossibility, and in the event of intent and gross negligence of a vicarious agent; liability for damage to property and financial loss is limited to the amount equivalent to the typically foreseeable damage.

7.2 In the event of disruptions to operations or in cases of force majeure, illegal labour disputes, illegal seizure, transport disruption or general scarcity of raw materials or energy and similar – both affecting the operations of the publisher and the operations of external companies whose services the publisher uses to fulfil its obligations – the publisher is entitled to full payment for the published advertisements, providing that the published title was dispatched by the publisher in a quantity equivalent to 80% of the average sold circulation of the preceding four quarters or of the assured circulation as specified by other means. If the number of copies dispatched was below this level, the invoice amount will be reduced by the ratio of the assured circulation to the dispatched circulation.

7.3 If the publication of the advertisement does not fulfil the contractually agreed properties or performance, the advertising client is entitled to claim a reduction in price or a perfect substitute advertisement or substitute positioning of the advertisement, but only to the extent to which the purpose of the original advertisement has been impaired. The publisher is entitled to refuse to publish a substitute advertisement or to arrange for substitute positioning if this requires an effort that, in view of the substance of the owed service and the principle of good faith, is greatly disproportionate to the interest of the advertising client in performance of the service, or if this would only be possible for the publisher at a disproportionate cost. If the publisher fails to meet this obligation to publish a substitute advertisement or arrange for substitute positioning within a reasonable specified period, or if the substitute advertisement/positioning is once again imperfect, the advertising client is entitled to demand a reduction in price or to cancel the order. In the case of negligible defects in the advertisement or in the substitute positioning, the advertising client is not entitled to cancel the order.

7.4 In the case of non-obvious defects, complaints must be asserted within a period of one year of the start of the statutory limitation period. All claims asserted against the publisher arising from violation of contractual obligations will become invalid one year after the commencement of the statutory limitation period provided that they are not based on intent.

7.5 All liability limitations listed in nos. 7.1 to 7.4 do not apply in cases of mandatory legal liability, in particular with regard to the product liability laws, if a guarantee has been given or in the event of culpable injury to life, limb or health.

## 8. Data protection

The advertising client must comply with the laws and regulations governing data protection.

## 9. Concluding provisions

9.1 If individual provisions of these General Terms and Conditions of Business are or become invalid in whole or in part, the advertising order will still remain in effect. The same applies in the event that there are omissions in these General Terms and Conditions of Business. The provision that is partially or fully invalid or that has been omitted will be replaced by a provision that the parties would have agreed upon had they prudently considered the partial or full invalidity or the absence of the provision in question if they had been aware of same.

9.2 In business dealings with “merchants” as defined by German law (“Kaufleute”) and public-law entities or funds under public law, the place of jurisdiction in the event of legal action will be the place where the publisher has his registered office. If the place of residence or usual place of abode of the advertising client – including “non-merchants” – is unknown at the time when an action is filed, and if the advertising client has moved his place of residence or his usual place of abode outside the jurisdiction of the law since the making of the contract, the place where the publisher has his registered office will be the agreed place of jurisdiction if the contract was made in writing.

9.3 The place of performance is the place where the publisher has his registered office.

9.4 Contracts are subject to German law. The applicability of the United Nations Convention on Contracts for International Sale of Goods dated April 11, 1980 – CISG) is excluded.



**Handelsblatt**