

# General Terms and Conditions of jadcenter.com for Online Advertising

## 1. Advertising order

(1) „Advertising order“, in the sense of the following General terms and Conditions, refers to the agreement to publish one or more than one advertisement or presentation in any form in information or communication services, especially the internet, for the purposes of circulation.

(2) The advertising order is exclusively subject to the General Terms and Conditions and price list of the Publisher which make up an integral part of the contract. The validity of any terms and conditions on the part of the Advertiser or other space buyer are, if these do not comply with these General Terms and conditions, expressly excluded. Orders for advertising to be published in online media and other media forms are subject to the General Terms and Conditions of the respective media.

## 2. Advertisement forms

(1) An advertising form in the sense of these General Terms and Conditions can, for example, be made up of one or more of the following elements:- a picture, with or without text, a series of musical notes with or without moving pictures (e.g. banners),- a sensitive area which, when clicked, initiates a connection to further data at an online address given by the Advertiser, for instance that of the Advertiser (i.e. a link)

(2) Advertisements which in form or appearance are not immediately recognizable as such, will be altered to make this clear.

## 3. Conclusion of a contract

(1) The contract attains validity through confirmation in either written form or by email, subject to the provisions of individual contrary agreements. Should this confirmation not be received, the order is deemed confirmed by the publication of the online advertisement. Orders placed orally or by telephone are also subject to these General Terms and Conditions.

(2) In the event of doubt, orders placed by advertising agencies are a contract between the publisher and the advertising agency subject to the provisions of other written agreements. Should an advertising client become the Advertiser, then the Publisher must be advised of the name by the advertising agency. The Publisher has the right to demand proof that the client is listed by the advertising agency.

(3) Advertising for goods or services from more than one advertising client or other advertiser within a particular advertisement (e.g. banners, pop-up ads) requires an extra contract either in written form or per email.

## 4. Settlement period

If the right to requisition individual advertisements is granted under the terms of a transaction, the order must be carried out within one year of the conclusion of the contract.

## 5. Extension of an order

The advertiser has the right to place more advertisements within the contractual period or within the period as stated in paragraph 4 than agreed upon if the capacities of the Publisher are available.

## 6. Delivery of data

(1) The Advertiser is obliged to provide the Publisher with correct advertising material, particularly with regard to the format or the technical specifications as designated by the Publisher in due time before the publication date. The Publisher will immediately request a replacement if the material is seen to be unsuitable or damaged.

(2) Should the Publisher store the data, without actually being obliged to do so, then this obligation will end after three months.

(3) The Advertiser shall bear the costs charged by the Publisher for changes to the advertising material that are either requested or justifiable.

## 7. Keyed advertisements

(1) In the case of keyed advertisements, the Publisher shall take as much care in handling and punctually passing on the replies as would a responsible businessman. Registered and express letters will - without there being any obligation to do so on the part of the Publisher - only be forwarded by normal post. The replies to keyed advertisements will be kept for four weeks. Replies which are not collected within this period will be destroyed. The Publisher will return valuable documents without being obligated to do so. The Publisher can be granted the right in a specific contract to open incoming offers as a representative on behalf of, and in declared interests, of the Advertiser.

(2) Letters which exceed the permissible DIN A4 size (weight 50g), as well as goods, books, catalogues and packages, will be excluded from onward transmission and will not be accepted.

Incoming emails will only be forwarded if these not exceed 300 kilobyte per mail. Any acceptance or onward transmission can, however, be agreed on by way of exception if the Advertiser bears the charges/costs incurred as a result.

## 8. Right of refusal

(1) The Publisher reserves the right to refuse or block advertising orders - including individual requisitions under the terms of a transaction if

their contents violate laws or official regulations or

if the contents are liable to be objected to by the German Advertising Council (Deutscher Werberat) in a complaints procedure or

if the publication there of is unreasonable to the Publisher due to the content, the origin or the technical form.

(2) The Publisher has the right to withdraw an advertising medium already published if the Advertiser himself belatedly changes the content of the advertising medium or if the data of a link is belatedly changed whereby the conditions of paragraph 1 become applicable.

## 9. Guarantee of rights

(1) The Advertiser guarantees that he is in the possession of all rights necessary for the placement of an advertisement. The Advertiser holds the Publisher harmless within the framework of the contract from all claims by third parties which might arise through the violation of any laws. In addition the Publisher is released from the costs of legal defense. The Advertiser is obligated to support the Publisher in good faith in his defense against third parties by supplying information and documents.

(2) The Advertiser will pass all necessary copyrights for the use of the advertisements in all forms of online media, including the internet to the Publisher. This includes the right of use, ancillary copyright and other rights, in particular the right to duplicate, circulate, transmit, broadcast, abstract from a database and call, both with regard to time and content, to a degree necessary for the completion of the contract. The above mentioned rights are always to be given unboundedly and authorize the Publisher to place advertisements using all forms of technical process and all known forms of online media.

## 10. Publisher's guarantee

(1) The Publisher guarantees, within the framework of predictable demands, a best-possible reproduction of the advertising medium in accordance with the

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technical standard normal at the time. The Advertiser accepts however, that according to the current state of technology, it does not always make economic sense to create a program that is entirely free of errors. The guarantee does not include circumstantial errors. An error in the depiction of the advertising medium is then circumstantial if it has been caused

- by the use of unsuitable depiction software or hardware (e.g. a browser) or
- by a malfunction of the communications network belonging to other providers or
- by a computer breakdown caused by a breakdown of the system
- by so-called proxy servers (message buffers) that are either incomplete or not up-to-date or
- a breakdown of the ad server lasting no longer than 24 hours (cumulated or continuous) within a 30 day period after the begin of the contractually agreed placement period.

A breakdown of the ad server over a considerable period (more than 10 percent of the period booked) within the framework of a booking due to run over a fixed period, will release the Advertiser from the duty of payment for the period of the breakdown. Further claims are excluded.

(2) If the reproduction quality of the advertising medium is insufficient and constitutes a considerable error, the Advertiser has the right to a reduction of payment or a perfect replacement, but only to the degree that the advertising medium was affected. If the replacement advertisement is a failure or is unreasonable, the Advertiser has the right to a reduction of payment or a withdrawal from the contract.

(3) If there are defects in the advertising medium documents that are not obvious, the Advertiser has no

rights to claim if the resulting publication is insufficient. The same applies if the advertisement is placed several times and if the Advertiser does not draw the Publisher's attention to the errors before the next placement.

## 11. Default

If the execution of an order cannot be fulfilled for reasons for which the Publisher cannot be held accountable (for instance software problems or other technical reasons), in particular a breakdown of the computer system, strike, legal provisions, interference in the sphere of responsibility of third parties (e.g. other providers), network operators or service providers or for similar reasons, then the order will be repeated, if this is possible.

The Publisher is still entitled to payment for an order that is thus carried out again after the disruption has ceased, and within a time period reasonable for the Advertiser.

## 12. Liability

(1) Indemnity claims from positive breach of obligation, negligence in contracting and tort are only applicable by premeditation and gross negligence on the part of the Publisher, its representatives or vicarious agents. This does not apply to claims for warranted quality, or to injury of life, body or health or the breach of considerable contractual obligations; in this case the liability is restricted to the replacement of the foreseeable loss.

Indemnity claims from impossibility of performance and default by ordinary negligence are restricted to the replacement of the foreseeable loss. (2) In the case of gross negligence on the part of its vicarious agents the liability towards companies is restricted to the extent of the foreseeable damage. This does not apply to a breach of integral contractual obligations.

## 13. Rate table

(1) The rates of the advertisements are based on the Publisher's advertising rate table published on the internet and in effect at the time the contract is concluded. Should the advertising rate change after the conclusion of the contract, the Publisher is entitled to charge the price according to the price list valid at the time of the publication: this does not apply to business dealings with non-traders, insofar as no more than 4 months have elapsed between the conclusion of the agreement and the publication date of the advertisement.

(2) Discounts are granted according to the rate card valid at the time. Advertising agencies and other Advertisers are obligated to use the various Publishers' rate tables for their quotations, contracts and invoices. Discount credit notes and supplementary discount charges shall principally not take into consideration until the end of the insertion year.

## 14. Price reductions

(1) If an order should not be carried out owing to circumstances for which the Publisher is not responsible, then the advertiser must reimburse the Publisher for the difference between the discount granted and that corresponding to the actual sales, regardless of any further legal obligations.

(2) The advertiser has the retroactive right, if no other agreement has been made, to a discount relevant to the actual number of advertisements placed within a year, if a contract has been concluded based on the rate card which explicitly allows discounts. The claim to a discount expires if it is not asserted within three months after the end of the contractual year in question.

## 15. Default of payment

(1) In the event of default or delay in payment, the Publisher shall charge interest and debt collection charges. The Publisher may postpone the further execution of the current order until payment and request advance payment for the remaining advertisements.

(2) If there is reasonable doubt regarding the Advertiser's ability to pay, the Publisher is entitled, even during the term of the contract, to make the publication of further advertisements dependent upon advance payment of the amount charged and settlement of unpaid bills, regardless of previously agreed terms of payment.

## 16. Cancellation

Cancellations of advertisement orders can only be accepted in written form or by email.

## 17. Placement confirmation

Placement confirmations are only conditionally valid and may be changed for technical reasons. In such cases, the Publisher may not be made liable.

## 18. Data security

The advertisement order will be carried out according to the currently applicable laws of data security.

## 19. Place of fulfillment/Court of jurisdiction

The advertising order is subject to German law. The place of fulfillment is the principle place of business of the Publisher. The place of jurisdiction for legal proceedings involving business transactions with merchants, bodies corporate, or special assets is the principal place of business of the Publisher. Insofar as claims of the Publisher are not put forward by collection procedure, the place of jurisdiction for non-traders shall be determined according to their place of residence. German law applies.