

## **§ 1 Scope, individual agreements**

(1) The following terms and conditions apply to contracts between the customer and Condé Nast Germany GmbH, Oskar-von-Miller-Ring 20, D-80333 Munich (hereinafter the “**publishing house**”) for the production and/or publication of one or more advertisements, including creative solutions (hereinafter jointly the “**advertisements**”), in magazines of the publishing house (hereinafter “**advertisement placement order**”). In addition, these terms also apply to contracts for ad specials (such as, for example, loose inserts, bound inserts or insert stickers). Online advertisement and Custom Solutions shall be governed by distinct terms and conditions.

(2) Any individual agreements made with the customer shall prevail over these general terms and conditions.

## **§ 2 Call period**

Advertisements are to be called up for publication within a year after the publication of the first advertisement.

## **§ 3 Quantity Reduction**

The customer qualifies for the discount corresponding to the actual acceptance of advertisements within a period of one year in accordance with § 2. If the customer was accorded a discount on the advertisement rate based on the amount of the advertisements ordered by him and if an advertising order is not fulfilled due to circumstances represented by the customer or that lie within his area of risk, then the customer must repay the publishing house without prejudice to further legal obligations the difference between the discount granted and the discount in accordance with the actual acceptance of advertisements.

## **§ 4 Conclusion of contracts, placement of advertisements and ad specials, first day of sale, covermounts/wraps**

(1) Unless stated or agreed otherwise, all offers by the publishing house are without commitment and an advertisement placement order becomes effective when the publishing house confirms the customer’s request in writing but at the latest when the publishing house publishes the advertisement. Contracts for ad specials shall only be binding for the publishing house after a sample has been presented and approved.

(2) If the publishing house has not agreed expressly in writing on a definite advertisement placement or the inclusion of ad specials at certain places at the conclusion of the contract, there will be no claim for the inclusion of advertisements or ad specials at certain places in the magazine. The publishing house accepts no liability for adherence to a stipulated placement if the customer delivers the printing documents and/or ad specials after expiration of the period set out in the rate card as applicable at the time of the advertisement placement order and as published for each print title at [www.condenast.de](http://www.condenast.de) or sent to the customer by the publishing house at the customer’s request (hereinafter the “**rate card**”) and adherence to the placement is no longer possible for the publishing house for this reason or only possible at an unreasonable expense.

(3) Unless expressly stated or agreed otherwise, any information provided by the publishing house about the first day of sale is without commitment.

(4) The publishing house reserves the right to at any time add a wrap and further products to the magazine for increasing its attractiveness and sales figures. Where any advertisement, especially on the fourth cover page, is wholly or partially hidden for such reason until the wrap is opened or the further product has been removed, the customer will not be entitled to any claim against the publishing house, especially for reduction of the advertisement rate or damages, on such grounds.

## **§ 5 Rejection of advertising orders, identification of advertisements**

(1) The publishing house reserves the right to refuse to fill advertising orders - even individual releases - due to content, origin or technical form of the advertisements in accordance with standard, objectively justifiable principles of the publishing house, when the advertisements infringe on the law, official provisions or morality according to the best judgment of the publishing house or their publication is unacceptable to the publishing house. The customer is immediately notified of the refusal.

(2) Advertisements that are not clearly recognizable as advertisements due to their editorial form are indicated as such by the publishing house with the word “Anzeige” [advertisement].

## **§ 6 Customers’ responsibility for content and admissibility, indemnification clause, advertisements for pharmaceuticals and drugs**

(1) The customer bears sole responsibility for the content and legal conformity of the text and picture material submitted for placement.

(2) The customer releases the publishing house from any claims by third parties made against the publishing house on the grounds of the fulfilment of the advertisement placement order and is liable to the publishing house for any damages which might arise from the assertion of such claims, unless the customer is not responsible for the cause of the third party claims and/or the claims accruing to the publishing house.

(3) The publishing house is not bound to verify whether the advertisement placement orders received might infringe the rights of third parties. The placement of advertisements for medicinal products and remedies is dependent upon the customer’s written promise that the advertisement is admitted under the law and/or by having the legal conformity of the advertising material verified by an expert at the customer’s expense.

## **§ 7 Grant of rights for publication in electronic editions**

In addition to its publication in the printed edition the publishing house has the right to publish the advertisement in any electronic and/or interactive edition/application of the magazine (for example as facsimile, e-paper, magazine preview, e-book edition, in an online archive, on CD ROM, DVD, application e.g. for smartphone, tablet or similar) (hereinafter the “**electronic edition**”), in particular, and without any limit as to time, to reproduce, disseminate, transmit, broadcast, make available to the public or retain in a database for retrieval, the advertisement for this purpose. The publishing house shall be under no obligation to publish the advertisement in an electronic edition.

**§ 8 Customers' obligation to cooperate, submitting print documents, proofs, faulty print documents and proofs**

(1) The customer is solely responsible for submitting the advertisement copy, error-free printed material or ad specials in accordance with the specifications set out in the rate card. No proof will be required for order processing in cases where the print documents are submitted in digitalized form via the DUON portal ([www.duon-portal.de](http://www.duon-portal.de)). Where the data are submitted in other form, a color-consistent proof in compliance with the standards specified by the publishing house in the DUON portal shall be submitted additionally.

(2) The customer has to submit the print documents within the deadlines stipulated in the rate card. Modifications after these deadlines, particularly with regard to size, format or color, are not possible.

(3) The publishing house will prepare and alter print documents or prepare proofs only in the exceptional case and only against separate invoice.

(4) The publishing house will reproduce the advertisement free from print errors, within the tolerances customary in the industry, to the extent that the print material provided by the customer permits this. In the event of complaints concerning the color, a reference proof produced by the publishing house in accordance with the standards defined in the DUON portal shall serve as basis for the optical and metrological evaluation. The publishing house's liability for defects in the case of poor print quality shall no longer apply to the extent said defect is due to shortcomings in the print material provided by the customer and they only appear when reproduced or printed. Further, the liability for color deviations shall be excluded to the extent that such deviations are due to any failure by the customer to submit the necessary proofs, or to submit them in compliance with the standards laid down in the DUON portal. The publishing house is not responsible for poor print quality due to late delivery of the print material.

(5) Creative solutions are governed by § 9 hereof

**§ 9 Customer's obligation to cooperate**

The customer must comply with the deadlines for the briefing, including, where applicable, the submission of picture and press material, for coordination with the publishing house upon receipt of the layout and text proposal, and for the final layout approval. Except where different deadlines were individually agreed at the conclusion of the contract, the deadlines defined for each print title in the offer will apply; where no deadlines have been defined in the offer, the deadlines defined on the website [www.condenast.de](http://www.condenast.de) will apply. If deadlines shorter than those defined in the creative solutions showroom are individually agreed at the conclusion of the contract, the customer shall not have a right to publication in the respective edition of the print title in the event of a delayed briefing and/or late submission of picture and press material past the agreed deadline. The publishing house remains entitled to payment of the agreed price; any expenditures as may have been saved will be treated in accordance with the applicable laws. Alternatively, the publishing house in any such case will have the right but no obligation to postpone the publication to the next edition of the print title against payment of the full price, unless this is not reasonably acceptable for the customer.

**§ 10 Delayed publication**

If the legal prerequisites are met the customer may withdraw from the contract in the event of delayed publication of an advertisement, unless the delay is not attributable to the publishing house. In particular, the publishing house is not responsible for any delayed publication that is due to the customer's late cooperation in accordance with § 9(1). The liability of the publishing house for claims due to delayed publication is in compliance with § 12.

**§ 11 Liability for faulty goods, claim period**

(1) If the published advertisement shows any defects attributable to the publishing house, the customer has the right to claim either a replacement advertisement or a reduction in the advertising rates at the publishing house's discretion. If the publishing house opts for a replacement advertisement and this does not appear, the customer is legally entitled to a reduction in the advertising rates or to withdraw from the contract.

(2) Complaints must be registered within four (4) weeks of publication of the advertisement except in the case of a hidden defect. The customer will be entitled to claims for damages and reimbursement of expenses based on defects only to the extent that the liability of the publishing house is not excluded or limited in accordance with § 12 hereof.

(3) Any claims based on defects in the published advertisement other than those stipulated in this § 11 shall be excluded.

**§ 12 Liability**

(1) The publishing house shall be liable for damages caused by itself or employees if said damages are intentional or due to gross negligence. In the event of a violation of a main or an additional obligation which endangers the attainment of the purpose of the contract or the fulfilment of which directly enables the orderly execution of the contract and where the customer may be confident of its compliance (hereinafter "**essential secondary obligation**"), the publishing house's liability at the conclusion of the contract shall be limited to predictable damage usual in contractual relations. The publishing house shall not be liable in the event of a violation of secondary obligations which are not essential secondary obligations.

(2) Liability due to intentional silence with regard to defects, the assumption of a quality guarantee, as well as liability for claims based on the German Product Liability Act or due to injury to life, limb or health are not affected by the previous article. This does not apply to a change in onus probandi to the detriment of the customer.

### **§ 13 Prices**

The advertising rates are published in the rate card as applicable from time to time and are stated in euros, exclusive of statutory value-added tax which will be added if appropriate. The rate charged depends upon the format chosen by the customer from the rate card.

### **§ 14 Price alterations**

Rate card amendments also apply from the date they become effective for advertising contracts that have already been concluded. However, a price increase is effective no earlier than three months before notification. If the price for an advertisement contract that has already been concluded is increased by more than 5%, the customer can withdraw from the advertising contract; the customer can withdraw from an advertising contract with several advertisements if individual advertisements are affected by the price increase in excess of 5%. The withdrawal is to be stated in writing within a month from the notification of the price increase.

### **§ 15 Group discounts**

If a group discount has been agreed the affiliates of the group will be granted the discount in accordance with the terms of this clause. Affiliated group companies are deemed businesses in which the company with which the group discount was agreed, directly or indirectly holds the majority of voting rights. The company claiming the discount has to evidence the affiliated status within one month after the advertisement placement order, in suitable form (e.g. auditor's or notary's confirmation or submission of a current excerpt from the commercial register). If the proof is submitted later the discount will not be applied retroactively to advertisement placement orders made earlier. Upon the termination of the group affiliation as defined herein, the group discount will automatically cease to apply to the relevant company; any termination of the group affiliation must be notified to the publishing house in writing without delay.

### **§ 16 Maturity, payment period**

Payment of the advertising fee becomes due on the date of publication of the advertisement. If the advertisement placement order consists of several advertisements, the fees corresponding to the individual advertisement becomes due when said advertisement is published. Invoices from the publishing house must be settled within the payment period stipulated in the rate card; payment terms commence with the date on the invoice. For the SEPA direct debit scheme, the pre-notification period is reduced to seven days.

### **§ 17 Default of payment, danger of return through lack of performance of the customer**

(1) In the case of default or late payment, statutory default interest and statutory default fees shall be charged. The publishing house's right to claim further compensation is not affected. In the case of late payment the publishing house, without prejudice to any further rights it may be entitled to, can suspend work on a current advertisement placement order until payment has been made.

(2) If, after signing of the contract, it becomes apparent that the publishing house's right to payment is endangered because of the customer's inability to pay, the publishing house is entitled to suspend work on the advertisement until the customer has settled his dues or has provided adequate security. The publishing house may set a reasonable deadline by which the customer must settle outstanding amounts or provide security for services provided at the customer's request on a progressive basis. Upon expiry of the deadline, the publishing house is entitled to withdraw from the contract and/or to exert claims for compensation or reimbursement of expenses if the statutory prerequisites apply.

### **§ 18 Advertisement documents, obligation of safekeeping of print documents**

(1) Upon request, the publishing house will provide proof of the advertisement together with the invoice. Depending on the type and volume of the advertisement placement order, a proof copy of the advertisement or the full page or an issue of the magazine containing the advertisement will be provided. If no proof copy is available, the publishing house will provide a legally binding statement certifying the publication and circulation of the advertisement.

(2) The obligation to keep print documents will end three months after the appearance of an advertisement. Print documents will be returned to the customer only at the customer's request and at the customer's expense.

### **§ 19 Place of fulfilment, jurisdiction, applicable law**

(1) If the customer is subject to trade laws, the place of performance shall be Munich, Germany.

(2) If the customer is subject to trade laws or a legal entity under public law or if he has no general place of jurisdiction in Germany, the place of jurisdiction is Munich. The publishing house has the right, however, to sue the customer in any other jurisdiction.

(3) German law shall apply.

Last updated: October 2018

## General terms and conditions for Custom Solutions

### § 1 Scope, individual agreements

(1) The following terms and conditions apply to contracts between the customer and Condé Nast Germany GmbH, Oskar-von-Miller-Ring 20, D-80333 Munich (hereinafter the “**publishing house**”) for the production and/or implementation of one or more individual advertisement services (e.g. a print advertisement, online advertisement and/or social media or influencer campaigns) (hereinafter jointly “**Custom Solutions**”), in print, online and/or social media of the publishing house (hereinafter “**advertisement placement order**”). In addition, these terms also apply to contracts for ad specials (such as, for example, loose inserts, bound inserts or insert stickers). The publication of standard print or online advertisement the material for which is provided by the customer shall be governed by distinct terms and conditions.

(2) Any individual agreements made with the customer shall prevail over these general terms and conditions.

### § 2 Conclusion of contracts, placement, first day of sale, covermounts/wraps

(1) Unless stated or agreed otherwise, all offers by the publishing house are without commitment and an order becomes effective when the publishing house confirms the customer’s request in writing but at the latest when the publishing house publishes the Custom Solution. Where no individual agreement has been made, the prices set out in the rate card as applicable at the time of the order and as published at [www.condenast.de](http://www.condenast.de) or sent to the customer by the publishing house at the customer’s request (hereinafter the “**rate card**”) shall apply.

(2) If the publishing house has not agreed expressly in writing on a definite placement, there will be no claim for any specific placement.

(3) Unless expressly stated or agreed otherwise, any information provided by the publishing house about the first day of sale or any other first publication date is without commitment.

(4) In the event of a Custom Solution that is to be published in one of its print magazines, the publishing house reserves the right to at any time add a wrap and further products to the magazine for increasing its attractiveness and sales figures. Where any advertisement, especially on the fourth cover page, is wholly or partially hidden for such reason until the wrap is opened or the further product has been removed, the customer will not be entitled to any claim against the publishing house, especially for reduction of the advertisement rate or damages, on such grounds.

### § 3 Rejection of orders, identification of advertisement

(1) The publishing house reserves the right to refuse to fulfill orders - including individual measures within one order - due to content, origin or technical form of the advertisements in accordance with standard, objectively justifiable principles of the publishing house, when the ways that the customer wishes of the Custom Solution to be implemented by the publishing house infringe on the law, official provisions or morality according to the best judgment of the publishing house or their publication is unacceptable to the publishing house. The customer is immediately notified of the refusal.

(2) Custom Solutions that are not clearly recognizable as advertisements due to their editorial form are indicated as such by the publishing house with the word “[magazine title (e.g. VOGUE)] Promotion” and “Anzeige” [advertisement].

### § 4 Customers’ responsibility for content and admissibility, indemnification clause, advertisements for pharmaceuticals and drugs

(1) Unless individually agreed otherwise, the customer shall be solely responsible for verifying and ensuring to the Custom Solution’s legal admissibility, in particular its admissibility under unfair competition law and with respect to personality rights; this shall not apply to copyrights or personality rights if and to the extent that it has been agreed that the publishing house will clear or acquire these rights during production.

(2) The customer releases the publishing house from any claims by third parties made against the publishing house on the grounds of the fulfilment of the advertisement placement order and is liable to the publishing house for any damages which might arise from the assertion of such claims, unless the customer is not responsible for the cause of the third party claims and/or the claims accruing to the publishing house.

(3) The publication of Custom Solutions for medicinal products and remedies is dependent upon the customer’s written promise that the advertisement is admitted under the law and/or by having the legal conformity of the advertising material verified by an expert at the customer’s expense.

### § 5 Customers’ use of Custom Solutions

(1) Unless individually agreed otherwise, the customer may only use Creative Solutions produced by the publishing house in the publishing house’s media (not, however, for its own publications, company brochures, POS materials and/or online channels of the customer or third parties), only in the types of use and advertising channels expressly named in the offer or order confirmation (whichever forms the basis of the agreement) (e.g. a promotion ad in a specific magazine of the publishing house, a specific defined Instagram accounts, certain defined POS material) and only for the agreed campaign period or publication period of the Custom Solution. The customer does not acquire any rights of use beyond this.

(2) If it has been agreed that one or more advertising measures within the scope of a Custom Solution are to be adapted by the customer (e.g. material bearing logos of the publishing house, templates) or integrated into media or advertising measures of the customer (e.g. as a sticker or as part of POS equipment), prior approval of the publishing house must be obtained by the customer for each implementation.

## **§ 6 Grant of rights for publication in electronic editions of the publishing house**

Insofar as the customer provides content (e.g. text or image material) for the Custom Solution, the customer shall ensure that the publishing house is entitled to use such content as part of the Custom Solution in any electronic and/or interactive edition/application of the agreed publication (e.g. print magazine, facsimile, e-paper, magazine preview, e-book edition, in an online archive, on CD ROM, DVD, application e.g. for smartphone, tablet or similar) (hereinafter the “**electronic edition**”), in particular, and without any limit as to time, to reproduce, disseminate, transmit, broadcast, make available to the public or retain in a database for retrieval, the advertisement for this purpose.

## **§ 7 Customers’ obligation to cooperate and rules for photo shoots for Custom Solutions**

(1) The customer must comply with the deadlines for the briefing, including, where applicable, the submission of image and text material, for coordination with the publishing house upon receipt of the layout and text proposal, and for the final layout approval. Except where different deadlines were agreed at the conclusion of the contract, the deadlines specified in the offer shall apply; if no deadlines have been specified in the offer, the deadlines specified on the website [www.condenast.de](http://www.condenast.de) shall apply. If deadlines shorter than those have been individually agreed at the conclusion of the contract, the publishing house shall not be obligated to publish the image and text material in the agreed edition of the medium in the event of a late briefing and/or late delivery after expiry of the agreed deadlines. The publishing house remains entitled to payment of the agreed price; any expenditures as may have been saved will be treated in accordance with the applicable laws. Alternatively, the publishing house in any such case will have the right but no obligation to postpone the publication to the next edition of the print title against payment of the full price, unless this is not reasonably acceptable for the customer.

(2) Where a photo shoot for a Custom Solution was agreed upon, a representative of the customer, who is present on set, will choose the photos to be included in the Custom Solution’s layout from a selection of pictures, together with the publishing house. Notwithstanding the foregoing sentence, it may also be agreed, provided that the necessary technical equipment is available on set, that the photos for this selection will be sent to a different place via electronic data transmission to an appointed representative of the customer, who is on standby during the shoot. The selection is bindingly agreed upon during the shoot. Subsequent changes are only possible by separate agreement, and they will be charged separately. The foregoing does not apply if it has been agreed that the selection of photos will take place after the shooting; in this case, the customer shall make the selection within 48 hours from transmission of the photos by the publishing house by electronic data transmission, unless another period has been agreed. If the customer fails to comply with the obligation to cooperate, the publishing house will select the pictures at its own discretion in accordance with the contractual agreements. If outdoor shooting is impossible due to bad weather conditions, an alternative shoot (in a building or at a weatherproof location, for example) will be planned on location by mutual agreement, considering the on-site possibilities. A reshoot on another day is only possible by separate agreement and will be charged separately.

## **§ 8 Delayed publication**

If the legal prerequisites are met the customer may withdraw from the contract in the event of delayed publication of an advertisement, unless the delay is not attributable to the publishing house. In particular, the publishing house is not responsible for any delayed publication that is due to the customer’s late cooperation in accordance with § 7. The liability of the publishing house for claims due to delayed publication is in compliance with § 10.

## **§ 9 Liability for faulty goods, claim period**

(1) If the published Custom Solution shows any defects attributable to the publishing house, the customer has the right to claim either a replacement or a reduction in the price at the publishing house’s discretion. If the publishing house opts for replacement and replacement fails, the customer is entitled to a reduction in the price or to withdraw from the contract subject to the applicable provisions of the law.

(2) Complaints must be registered within four (4) weeks of publication of the advertisement except in the case of a hidden defect. The customer will be entitled to claims for damages and reimbursement of expenses based on defects only to the extent that the liability of the publishing house is not excluded or limited in accordance with § 10 hereof.

(3) Any claims based on defects in the published advertisement other than those stipulated in this § 9 shall be excluded.

## **§ 10 Liability**

(1) The publishing house shall be liable for damages caused by itself or employees if said damages are intentional or due to gross negligence. In the event of a violation of a main or an additional obligation which endangers the attainment of the purpose of the contract or the fulfilment of which directly enables the orderly execution of the contract and where the customer may be confident of its compliance (hereinafter “**essential secondary obligation**”), the publishing house’s liability at the conclusion of the contract shall be limited to predictable damage usual in contractual relations. The publishing house shall not be liable in the event of a violation of secondary obligations which are not essential secondary obligations.

(2) Liability due to intentional silence with regard to defects, the assumption of a quality guarantee, as well as liability for claims based on the German Product Liability Act or due to injury to life, limb or health are not affected by the previous article. This does not apply to a change in *onus probandi* to the detriment of the customer.

## **§ 11 Prices**

The prices (including production cost, if applicable) are published in the rate card as applicable from time to time and are stated in euros, exclusive of statutory value-added tax which will be added if appropriate. The rate charged depends upon the format chosen by the customer from the rate card.

## **§ 12 Price alterations**

Rate card amendments also apply from the date they become effective for contracts that have already been concluded. However, a price increase is effective no earlier than three months before notification. If the price for a contract that has already been concluded is increased by more than 5%, the customer can withdraw from the contract; the customer can withdraw from an contract with several advertisements if individual advertisements are affected by the price increase in excess of 5%. The withdrawal is to be stated in writing within a month from the notification of the price increase.

## **§ 13 Group discounts**

If a group discount has been agreed the affiliates of the group will be granted the discount in accordance with the terms of this clause. Affiliated group companies are deemed businesses in which the company with which the group discount was agreed, directly or indirectly holds the majority of voting rights. The company claiming the discount has to evidence the affiliated status within one month after the order, in suitable form (e.g. auditor's or notary's confirmation or submission of a current excerpt from the commercial register). If the proof is submitted later the discount will not be applied retroactively to orders made earlier. Upon the termination of the group affiliation as defined herein, the group discount will automatically cease to apply to the relevant company; any termination of the group affiliation must be notified to the publishing house in writing without delay.

## **§ 14 Maturity, payment period**

Payment of the fee becomes due on the date of publication of the Custom Solution. If the order consists of several measures, the fees corresponding to the individual measure becomes due when said measure is published, if individual prices have been agreed for individual measures; otherwise the entire fee becomes due upon the publication of the first measure. Invoices from the publishing house must be settled within the payment period stipulated in the rate card; payment terms commence with the date on the invoice. For the SEPA direct debit scheme, the pre-notification period is reduced to seven days.

## **§ 15 Default of payment, danger of return through lack of performance of the customer**

(1) In the case of default or late payment, statutory default interest and statutory default fees shall be charged. The publishing house's right to claim further compensation is not affected. In the case of late payment the publishing house, without prejudice to any further rights it may be entitled to, can suspend work on a current order until payment has been made.

(2) If, after signing of the contract, it becomes apparent that the publishing house's right to payment is endangered because of the customer's inability to pay, the publishing house is entitled to suspend work on the advertisement until the customer has settled his dues or has provided adequate security. The publishing house may set a reasonable deadline by which the customer must settle outstanding amounts or provide security for services provided at the customer's request on a progressive basis. Upon expiry of the deadline, the publishing house is entitled to withdraw from the contract and/or to exert claims for compensation or reimbursement of expenses if the statutory prerequisites apply.

## **§ 16 Supplementary application of terms and condition for print or online advertising**

Insofar as individual agreements or the provisions of these terms and conditions do not provide otherwise, the provisions of the general terms and conditions for print advertising or online advertising shall apply in addition.

## **§ 17 Place of fulfilment, jurisdiction, applicable law**

(1) If the customer is subject to trade laws, the place of performance shall be Munich, Germany.

(2) If the customer is subject to trade laws or a legal entity under public law or if he has no general place of jurisdiction in Germany, the place of jurisdiction is Munich. The publishing house has the right, however, to sue the customer in any other jurisdiction.

(3) German law shall apply.

Last updated: October 2018

## **General terms and conditions for Online Advertising**

### **§ 1 Scope of application, Customer Terms and Conditions, Individual Agreements, Future Advertising Contracts**

(1) The online advertising services of Condé Nast Germany GmbH, Oskar-von-Miller-Ring 20, D-80333 Munich ("Publishing House") as well as the marketing of advertisement on websites, mobile services or mobile websites (for smartphones and tablets) and other digital products shall be governed exclusively by these General Terms and Conditions ("GTC"). Unless agreed otherwise and in writing, no Customer general terms and conditions shall apply. Any individual agreements made with the Customer shall take precedence over these GTC.

(2) These GTC also apply to all future Advertising Contracts with the Customer in ongoing business relationships, whether or not these GTC are expressly referenced in each case.

### **§ 2 Advertising Contracts, Advertisements, Written Form**

(1) An "Advertising Contract" for the purposes of these GTC shall mean a contract between the Publishing House and the Customer for the placement of one or several Advertisements in connection with standard advertising formats, special advertising formats and/or other advertising co-operations in information and communication services, especially on the internet and in mobile services. Internet and mobile services shall be treated equally, except where defined otherwise.

(2) "Advertisements" for the purposes of these GTC shall mean any created advertising messages which may in particular be composed of one or several of the following elements:

- a) of texts, images, audio sequences and/or moving images,
- b) of further elements in connection with special advertising formats (e.g. Advertorial, MicroChannel) and other advertising co-operations (e.g. topic specials),
- c) of a sensitive area which, when clicked, establishes a connection via an online address designated by the Customer, to further data within the Customer's control (e.g. links).

(3) Where the written form is required under these GTC this requirement may be fulfilled by letter, fax or email.

### **§ 3 Offers, Effective Contract, Customers**

(1) Unless otherwise specified or agreed all offers by the Publishing House remain subject to availability of the offered advertising sites and are without any commitment.

(2) Unless agreed otherwise an Advertising Contract becomes effective by a written confirmation of the Customer's request by the Publishing House but at the latest by the placement of the Advertisement by the Publishing House.

(3) If requests for Advertising Contracts are placed by advertising agencies, the Advertising Contract will be concluded with the advertising agency, not with its customers, unless agreed otherwise in writing. If a customer of the advertising agency shall become a Customer under these GTC, the advertising agency will expressly refer to the agency relationship and identify the Customer by name. The Publishing House has the right to demand proof of authorization from the advertising agency.

(4) Any advertising for goods or services of more than one advertiser or other advertising space buyer within an Advertising Contract requires an additional, express written agreement.

### **§ 4 Refusal of Advertising Contracts, Withdrawal and Suspension of Advertising Contracts, Marking of Advertisements**

(1) The Publishing House reserves the right to refuse Advertising Contracts, including Contracts that have been confirmed with legally binding effect and individual call-offs under one Advertising Contract, on grounds of content, origin or technical format of the Advertisement in accordance with uniformly applied, reasonably justified principles of the Publishing House, if the Advertisement, in the equitable discretion of the Publishing House, contravenes any laws, official regulations, third party rights or honest practices or if its placement is not reasonably acceptable for the Publishing House.

(2) The Publishing House may withdraw and/or suspend any Advertisements published if any circumstances occur or become known to the Publishing House afterwards which fulfill the criteria set out in § 4 (1) above.

(3) The Publishing House will notify the Customer without delay of any refusal, withdrawal and/or suspension of an Advertisement.

(4) Advertisements that are not recognizable as such by their design alone may be clearly marked as Advertisements by the Publishing House, e.g. by a reference “Anzeige [advertisement]”.

**§ 5 Performance of Advertising Contracts, Placing of Advertisements, Changing of Bookings, CallOff Bookings, AdImpressions, Discount Scale, Changes to Websites**

(1) Any booked Advertisement will be placed on the agreed website within the agreed placement period. Unless expressly agreed otherwise in writing, there exists no claim to a placement at a specific position. The Publishing House will use best efforts to ensure that the Advertisement is placed at the Customer’s preferred position.

(2) The Customer has the right to change bookings of agreed advertising placements (changing the booked website, preferred position and placement period), provided that the change request is notified in writing at least two weeks prior to the agreed campaign start date, the agreed booking volume (remuneration in accordance with the price list as applicable from time to time) is maintained, the placement of the changed volume is not delayed with respect to the originally booked volume, and the Publishing House has sufficient capacities available for the requested new Advertisement booking.

(3) If the Customer has the right to call off individual Advertisements under an Advertising Contract, the Contract has to be implemented within one year of its conclusion, unless agreed otherwise. If the right of call-off is not exercised within that time period for reasons within the Customer’s control, the right will become forfeited without substitution after the end of the one-year period. Nothing in this shall affect the obligation to pay the agreed fee.

(4) Where the Publishing House has guaranteed a particular number of AdImpressions to be delivered under any Advertising Contract, the Publishing House agrees to supply such AdImpressions at the agreed advertising sites/formats. Should the Publishing House be unable, for reasons outside the Publishing House’s control, to fully deliver the agreed volume within the planned placement period, the time period shall be extended until full delivery has been made, unless otherwise agreed in writing. The number of AdImpressions is determined solely by the evaluation of the Publishing House’s ad server; for the reporting see also § 9 hereof.

(5) Where a discount scale has been agreed and the volume delivered falls short of the volume agreed in the Advertising Contract, the discount will be calculated on the basis of the actual, not the booked, volume, unless the Publishing House is responsible for the underdelivery.

(6) In the interest of maintaining an at all times up-to-date appearance, the Publishing House in its sole discretion has the right to adjust the design of its websites, including integrated shops and/or their layout, or to move them to an international platform, except where such change would not allow for an equivalent presentation of the Advertisement.

**§ 6 Data Supply by the Customer, Modification of Advertisements by the Customer**

(1) The Customer is obliged to supply due and proper Advertisements which, in particular, are consistent with the format or technical specifications of the Publishing House, and/or the data required to design the Advertisement under a particular Advertising Contract, in a timely manner but at the latest

a) five working days prior to the campaign start date for standard advertising formats,

b) fourteen working days prior to the campaign start date for Advertising Contracts relating exclusively or partly to special advertising formats; advertising formats placed in mobile services count as special advertising formats,

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c) four weeks prior to the campaign start date for special advertising formats produced specially for the Customer by the Publishing House, such as customized newsletters, competitions, specials (“Custom Solutions”), and

d) four weeks prior to the campaign start date for all other advertising co-operations.

(2) Any costs incurred by the Publishing House for modifications of the Advertisements requested by the Customer or for which the Customer is responsible will be borne by the Customer.



## **§ 7 Cancellation of Advertising Contracts**

(1) The Customer has the right to cancel Advertising Contracts, subject to payment of the fee set out below, unless the Customer or the Publishing House proves that the Publishing House is entitled to a lower or higher fee in accordance with Sec. 649 s. 2 Bürgerliches Gesetzbuch (BGB):

- a) Advertising Contracts for standard advertising formats or relating exclusively or partly to special advertising formats may be cancelled at no charge up to three weeks prior to the campaign start date. For any later cancellations the Customer will be charged 30 percent of the contract value. The full invoiced amount will be due for Advertising Contracts cancelled after the campaign start date.
- b) Custom Solutions and all other advertising co-operations may be cancelled at no charge up to six weeks prior to the campaign start date. For any later cancellations the Customer will be charged a prorated fee according to the actual cancellation date (by way of example, the fee will be 1/6 of the contract value for cancellations five weeks prior to the campaign start date, and 5/6 of the contract value for cancellations one week prior to the campaign start date); as a minimum, however, the Customer will be charged the technical expenditures incurred for the Advertising Contract by the time of the cancellation (for example in the case of streaming or mobile services). The full invoiced amount will be due for cancellations after the campaign start date.

(2) Nothing in this shall prejudice the right of termination for cause.

(3) Any notice of termination, including of cancellation, must be given in writing to become effective.

## **§ 8 Customer Warranty, Indemnification, Advertising for Drugs and Healthcare Products, Customer Rights Transfer**

(1) The Customer warrants that he holds all rights necessary for placing the Advertisements and that the Advertisements and any data supplied by the Customer in this context are not encumbered by any third party rights and do not infringe any third party rights (such as copyrights, personal rights, marking rights) or other official or statutory provisions. The Customer will indemnify the Publishing House against any claims of third parties based on a breach of the above warranty and/or will compensate any related losses, including in particular the costs of any necessary legal defense, except where the Customer is not responsible for the breach. The Publishing House is under no obligation to examine Advertising Contracts for whether they impair any third party rights. The Customer is obliged to support the Publishing House in good faith with information and documents in the legal defense against third parties. The Publishing House has the right to make the placement of advertising for drugs and healthcare products contingent upon the Customer's written confirmation of legal admissibility of the advertising, and/or to have the advertising template reviewed for legal admissibility by a relevant expert with the consent and at the expense of the Customer.

(2) The Customer transfers to the Publishing House all copyrights, rights of use, ancillary copyrights and other rights required to use the Advertisements by means of all known technologies as well as in online media and mobile services of any kind, for the time and to the extent necessary to perform the Contract and with no limits as to territory, in particular the right of reproduction, distribution, publication, communication and making available to the public, transmission, broadcasting, withdrawal from a database and retrieval.

## **§ 9 Reporting by the Publishing House**

Unless agreed otherwise the Publishing House will provide the Customer, in view of standard advertising formats and within ten working days after the placement of the Advertisement, with reports on the number of AdImpressions, the accesses to the Advertisement (clicks) and the downtime of the ad server to the extent it exceeds one uninterrupted hour. In view of special advertising formats and other advertising co-operations, any reporting shall be subject to a separate agreement, for example on the provision of a restricted report as agreed by the parties.

## **§ 10 Prices**

Unless agreed otherwise the Publishing House price list as applicable at the time of the Customer's request will apply. The prices stated therein are EURO prices exclusive of statutory value-added tax.

**§ 11 Invoicing, Terms of Payment, Agency Commission, Default in Payment, Customer Set-off and Right of Retention**

(1) Invoicing will be effected monthly in advance at the beginning of the month of placement for the Advertisements to be placed during the month of placement. The amount of an invoice will be calculated on basis of the agreed advertising placements within the accounting period in conjunction with the prices defined by agreement or by the applicable price list. If the Publishing House or a third party engaged by the Publishing House produces an Advertisement under a contractual agreement, the agreed remuneration will be billed separately.

(2) All invoices fall due for payment without any deductions within 30 days after the invoicing date. Payments will be effected to the Publishing House account specified on the invoice. Bank charges will be at the Customer's expense. Checks will be accepted only on account of performance.

(3) Advertising agencies or advertising brokers will receive an agency commission in the amount of 15% of the contract value paid by the Customer (after deductions and exclusive of value-added tax), provided that they advise their customers or are able to prove having rendered such services and provided that billing is effected directly to the advertising agency or advertising broker.

(4) In the event of default in payment the Publishing House will have the right to suspend any further placements.

(5) The Customer may assert a right of retention with respect to claims of the Publishing House only if it is based on claims from the same contractual relationship which are uncontested, ready for a decision or established by final enforceable judgment. Any set-off by the Customer will not be permitted unless the Customer's counter-claim has been established by final enforceable judgment, is ready for a decision or uncontested.

**§ 12 Impediments to Performance**

If the performance of a Contract fails for reasons outside the control of the Publishing House or reasons not imputable to the Publishing House (such as software-related or other technical reasons), in particular computer failure, force majeure, lawful strike, legal requirements, disruptions within the responsibility of third parties (e.g. other providers), network providers or service providers or for similar reasons, the Contract will be performed subsequently where possible. If the Contract is performed subsequently within a reasonable period of time that is acceptable for the Customer after the removal of the impediment, the remuneration claim of CondéNet will be maintained.

**§ 13 Warranty, Inspection, Notification of Defects**

(1) Within the limits of the foreseeable requirements the Publishing House warrants a customary state of the art, best possible presentation of the Advertisement, where permitted by the Advertisements and/or data supplied by the Customer. The Customer is aware of the impossibility in the state of the art to create software that is completely free from defects. The warranty does not cover immaterial defects. In particular, an immaterial defect in the presentation of the Advertisement is given if it is caused by

- the use of unsuitable presentation software and/or hardware (e.g. browser), or
- a disruption of the communication networks of other providers, or
- a computer failure due to system failure, or
- incomplete and/or outdated offers on proxies (caches), or
- a failure of the ad server which persists for no longer than 24 hours (consecutively or added) within 30 days after the start of the contractually agreed placement.

In the event of a failure of the ad server for a substantial period of time (more than 10 % of the booked time) in connection with a fixed, time-based booking, the Customer's payment obligation will be suspended for the duration of the failure. Notwithstanding § 14 (1) and § 14 (4) below, any further claims shall be excluded.

(2) The Customer is obliged to inspect any placed advertising promptly upon first placement and to notify the Publishing House in writing of any defects within the first week of the placement. After the expiry of this period any defects will be deemed approved. If the Customer requests a change of the advertising after the expiry of the aforesaid period, he will be obliged to bear the costs incurred by the change.

(3) If the Contract is performed inadequately, the Customer, at the option of the Publishing House, will be

entitled to rectification of the deficiencies or a faultless replacement placing of advertising, however, only to the extent to which the purpose of the Advertisement was impaired. If rectification or replacement advertising fails, the Customer may withdraw from the Advertising Contract or reduce the remuneration.

(4) In the event of any concealed defects in the Advertisement as supplied, the Customer will not be entitled to any claims based on deficiencies in the placement. The same applies to defects in recurring advertising placements unless the Customer notifies the defect prior to the next placement.

**§ 14 Publishing House Liability**

(1) Liability shall be unrestricted for damage caused by intent or gross negligence.

(2) In the event of a slightly negligent breach of a major obligation or of an accessory obligation whose breach puts the achievement of the contractual purpose at risk or whose fulfillment is essential to the due and proper fulfillment of the Advertising Contract and on whose fulfillment the Customer could reasonably rely on (“essential accessory obligation”), the liability of the Publishing House will be limited to damage characteristic for the contract and foreseeable at the time of conclusion of the contract. The Publishing House accepts no liability for slightly negligent breaches of contractual accessory obligations which are not essential accessory obligations.

(3) Where the liability of the Publishing House is limited to foreseeable damage, the amount of liability is restricted to a maximum of five times the remuneration under the Advertising Contract.

(4) Nothing in this shall affect the liability in the event of malicious concealment of defects, of a guarantee as to quality and of injuries to life, limb or health. This shall not entail a shifting of the burden of proof to the Customer’s disadvantage.

**§ 15 Governing Law, Place of Performance, Place of Jurisdiction, Severability**

(1) These GTC are governed by German law.

(2) The place of performance shall be the domicile of the Publishing House if the Customer is a business.

(3) In business transactions with businesses, legal persons under public law, public law funds or Customers having no general place of jurisdiction in Germany, the domicile of the Publishing House shall be the place of jurisdiction. However, the Publishing House is entitled to sue the Customer at any other legal place of jurisdiction.

(4) If any provision of these GTC is invalid or unenforceable, nothing in this shall prejudice the validity of the remaining provisions hereof.

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