

General terms and conditions (GTC) "Ads and advertising"

of Mediaprint Zeitungs- und Zeitschriftenverlag GmbH & Co. KG (contracting partner; hereinafter briefly referred to as the "Publisher")

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1. Scope

- These General Terms and Conditions - in the version applicable at the time of conclusion of the contract - apply to all business relationships from advertisement, insert and other advertising orders for the print and online media published by the Publisher and/or marketed in this respect, in particular for the Kronen Zeitung / the Kurier daily newspaper, their periodical supplements/ inserts, their magazines and special journals and their online websites krone.at / kurier.at, unless individual agreements confirmed in writing indicate otherwise. Furthermore, all contractual relationships are based on the current [print ad rates](#) published on the website mentioned above and any supplementary and/or specific information provided by the Publisher regarding particular forms of advertising (e.g. [inserts](#) or [online advertising](#)).
- Any conflicting or supplementary provisions of third-party GTC will only become an integral part of the contract to the extent their applicability was approved in writing. The Publisher explicitly objects to any GTC of the customer (client/advertiser).
- For the scope of these GTC, the term "ad/advertisement", apart from print ads and/or classified ads, also includes in particular third-party inserts, special forms of advertising of all kinds (e.g. tip-on cards, promotions) and all online forms of advertising, whatever their content.
- If hereinafter explicit reference is made to "consumers" or "entrepreneurs", the provision in question concerns only the specified customer group to be defined within the meaning of Section 1 KSchG (consumer protection act).

2. Contract conclusion

- The Publisher invites interested parties to make offers to enter into an advertising contract, in particular also by providing special online services; this invitation is without engagement and non-binding. By ordering a specific advertising service (order placement) the customer declares a binding offer.
- In principle, any offer to enter into a contract must be made in writing, however, text ads may also be placed by telephone or via the online platforms and/or the Publisher's points of acceptance.
- The Publisher may accept the offer (the order) by sending an order confirmation or by immediately performing the service (in particular publishing the ad), thereby legally establishing the contract, or the Publisher may refuse to accept the offer, even without stating any reason and/or, as the case may be, with said refusal extending to only part of the offer.
- The specific content of the order shall be defined by a written confirmation binding upon both parties; verbal statements by staff members shall not be binding for the Publisher.
- Any amendment to contracts concluded shall require the Publisher's written consent.

3. Users' right of rescission and withdrawal

- Consumers are entitled by law to revoke their contractual declarations (orders) made outside the Publisher's premises and/or in the course of distant selling (Section 3 no. 1-3 FAGG (distant and off-premises sales act) and/or, after acceptance, to withdraw from the contract within 14 days after the date of conclusion without stating any reasons. Basically, therefore, there is no right of rescission and withdrawal with respect to advertising orders placed directly at the Publisher's branch offices or permanent points of acceptance.
- The right of rescission and withdrawal shall also be excluded if the Publisher has already performed the contractual service (publication of advertisement) in full before expiry of the withdrawal date, upon the explicit request of the consumer, and after the latter's confirmed acknowledgement of the associated loss of the right of withdrawal.
- In order to exercise the right to withdraw from the contract, the Publisher must be informed within the 14-day deadline (timely dispatch shall suffice) by means of an explicit written statement sent to one of the contact addresses indicated above or additionally specified if applicable, that the order and/or the contract shall be revoked; optionally, the specimen form provided at www.kroneanzeigen.at/widerruf may be used (and/or completed and submitted online).
- As a consequence of effective rescission, any payments already made shall be refunded immediately, but within 14 days from receipt of the notice at the latest - unless otherwise agreed, in the way of the original transaction, and at any rate free of charge. If the consumer requested commencement of service before expiry of the deadline for withdrawal, the Publisher may, however, charge the Consumer an appropriate amount corresponding to the ratio of the service already performed before withdrawal to the full service provided for in the contract.

4. Obligation to collaborate on the part of the customer / advertising contents

- The customer must provide the contents to be published (e.g. photos, texts, artwork etc.; hereinafter briefly referred to as "advertising contents") and/or the inserts or other advertising aids to be distributed in one of the formats specified by the Publisher in due time, in flawless condition and in full. In particular, the closing date for advertisements and/or printing material must be observed.
- Print contents must be provided in compliance with the [general repro guidelines of "IG Austria Druckstandard Zeitungen" \(newspaper printing standard\) and/or ÖNORM A 1503 as well as the Publisher's guidelines for digital data transmission](#) (available on the Publisher's above-stated website under the heading "Technology"). Entrepreneurs are obliged to make themselves familiar with these standards before placing an order.
- The customer shall bear the risk of transmission of advertising contents and advertising aids/inserts, in particular the risk of (partial) loss and modification. In case of transmission by telephone, the customer shall also bear the risk of acoustic misunderstandings or typing errors.
- The customer warrants that the advertising contents/inserts to be published and/or to be distributed neither infringe any third-party rights, in particular copyrights, ancillary copyrights, personal, trademark and design rights nor any applicable legal provisions, in particular the UWG (unfair competition act), UGB (business code), MedienG (media act) or StGB (criminal code).
- Entrepreneurs shall also warrant that they have investigated the legal situation and that all rights have been cleared. To the extent that advertisers are subject to general advertising restrictions (e.g. pharmaceuticals, tobacco products, alcohol, gaming), or if specific legal requirements regarding the content of advertisements are in place (e.g. pursuant to GIBG (equal treatment act), EAVG (act on the presentation of an energy performance certificate), Immobilienmaklerverordnung (real estate brokers ordinance)), entrepreneurs shall be obliged to exercise appropriate extra care with respect to the design and checking of the ad subjects transmitted. As regards advertising prize competitions organised by customers, the Publisher refers to the former's potential obligation to pay gaming duties pursuant to Section 58 (3) GSpG (gaming act).
- Accordingly, the customer undertakes to fully indemnify and hold harmless the Publisher, the media owner(s) as well as their executives and agents against any third-party claims resulting from or in connection with the ad placement. In the event of claims arising under the UWG, this shall apply irrespective of whether they are asserted by competitors of the advertiser and/or client or of the Publisher. The Publisher is not obliged to check publications ordered by a court; they must be compensated for according to the applicable advertising rate. The customer's obligation to pay compensation also covers in particular all reasonable costs of representation and of legal proceedings resulting from the extrajudicial or judicial defence of third-party claims. It is the Publisher's sole responsibility to select the legal representatives. In the event of the justified acceptance of claims being rightly made, the Publisher may also conclude settlements to avoid further costs, even without the customer's consent. For the rest, the customer shall provide the best possible support to the Publisher in defending against third-party claims.

5. Execution of the order

- The Publisher is entitled, but not obliged, to check advertising contents and advertising aids transmitted and/or required, and may also reject them without stating any reasons. If this refusal is due to the risk of the publication violating the law, the claim to request advertising rates shall remain unaffected. The customer shall, however, be entitled to provide modified contents, the publication of which may also be effected at a later date, if necessary.
- The Publisher shall not be obliged to check the advertising contents or inserts provided by the customer for factual completeness, correctness and absence of (typing) errors. However, the Publisher explicitly reserves the right to correct obviously flawed advertising contents and use abbreviations, if required, provided the meaning is not distorted.
- If necessary, the Publisher is entitled to mark paid advertisements within the meaning of Section 26 MedienG, even without consulting the customer first.
- The Publisher reserves the right to suspend publication of the advertisements concerned, to require modifications or to withdraw from the ad placement contract in the event of the assertion of third-party claims that are not obviously unfounded, in case of objections by authorities, proceedings before the *Werberat* (advertising standards council) or any other legal and/or ethical complications.
- The Publisher is also entitled to disclose the client's name/company and address to third parties providing evidence of a corresponding legal interest, in particular to those submitting claims from violations of the law in connection with published advertisements or inserts, unless they are obviously unfounded.
- The Publisher shall not be obliged to keep, return or delete any advertising contents/inserts transmitted after execution of the order.
- Proofs will only be produced at the explicit request and at the expense of the customer. If no feedback is received within a specified and/or reasonable period of time, approval for printing shall be deemed given.
- For reasons related to printing technology, colour divergences with respect to the original shall be reserved.
- Special positioning may be associated with corresponding extra charges (for details see list of rates). In case of text ads, it is not possible to take into account special positioning requests within the selected and/or appropriate category.

- Scheduled publication dates may be postponed for technical reasons without resulting in any claims for price reduction, withdrawal or damages, unless this is associated with impairment of the purpose of the advertisement. In general, the Publisher shall warrant publication in specific issues or specific positioning only to the extent that specifications to this effect have been explicitly affirmed in written order confirmations.
- The Publisher shall not accept any written replies to box-number advertisements sent by registered mail. Unless otherwise agreed (with respect to forwarding to the customer), letters received for box-number advertisements shall be kept for 4 weeks and after that, if they have not been collected by then, they will be destroyed. Any liability on the part of the Publisher for any disadvantages suffered as a result of an advertisement ordered as a box-number advertisement appearing without a box number, or in the event of lost letters, shall be excluded.

6. Invoicing / terms of payment

- Calculation of the specific advertising rates shall be effected according to the ad rates applicable at the time of conclusion of the contract and/or according to any other relevant price information. Basically, vis-à-vis entrepreneurs, any price changes shall take effect immediately for the future, even in case of a continuous business relationship. All prices indicated are net of any ancillary expenses, advertising charge and statutory sales tax; inclusive rates must be indicated to consumers. Separate terms may be determined for special supplements, special pages and political advertising.
- If the ad size ordered is insufficient for the desired layout or for compliance with the specified font size, the customer must pay for the full size required. For advertisements the size of which exceeds 90% of the type area, the full sheet length (type area) will be charged.
- The granting of volume discounts requires that the written "end-of-discount registration" was transmitted by the customer upon the first placement at the latest. All discount agreements are subject to the condition subsequent of payment default or opening of insolvency proceedings. In case of doubt, discounts cannot be combined. The discount year relevant for calculation coincides with the calendar year. Orders placed before conclusion of the discount agreement cannot be considered (in retrospect) during discount settlement. Depending on the agreement, discounts are either taken into account immediately upon invoicing or upon expiry of the year; the Publisher shall reserve to amend the type of settlement at any time. Actual sales shall be the sole criterion for (volume) discounts and other special terms. If the minimum volume of creditable placements required under the respective scaling or rate category system and/or any other requirements agreed is not achieved, any unjustified discount amounts taken into account beforehand shall be billed retroactively, plus interest at a rate of 14% p.a. at the end of the discount year.
- Invoices shall be due for payment immediately upon receipt, payments shall be effected without deduction. Bank transfers shall be deemed to have been made in time if the invoice amount is credited (entrepreneurs) and/or remitted (consumers) to the Publisher's account 8 days after the invoice date at the latest.
- Entrepreneurs shall assert any complaints about invoices in writing within 4 weeks after the date of issue (date received).
- In case of payment default and/or refusal to pay on the part of the customer or application for opening of insolvency proceedings over the latter's assets, the Publisher may accelerate all receivables outstanding vis-à-vis the party concerned, regardless of the legal title. If the Publisher has granted payment by instalments, in case of default (*Terminverlust*) this shall apply to all instalments outstanding in any case, even in case of default with respect to only one instalment. For the duration of the customer's default, the Publisher may additionally discontinue or suspend the ad placements (right of retention); in that case, the customer's obligation to pay continuous fees shall remain in force. Any discounts, commission fees or other benefits agreed upon shall be forfeited in case of default or insolvency. The aforementioned consequences of default shall take effect vis-à-vis consumers upon ineffective dunning letter containing the respective information and granting a period of grace of at least 14 days.
- Default interest at a rate of 14% p.a. (entrepreneurs) or 5% p.a. (consumers) shall be deemed to have been agreed. In each case of default, the Publisher shall additionally be entitled to charge expenses in the amount of € 5.- for each own dunning letter and/or to submit the matter to a collection agency or lawyer for further collection. Reasonable costs of external collection shall also be reimbursed by the customer.
- As a matter of principle, payments shall first be credited towards costs and expenses, then towards interest, and finally towards the principal. However, the Publisher shall be entitled to first credit any payments received against its most senior receivable.
- All ancillary costs incurred in connection with effecting payments, in particular bank charges, shall be fully borne by the principal. This shall also apply to charges incurred by failure of the principal's bank to debit the principal's account for which neither the Publisher nor the recipient bank can be held responsible. In case any such costs are charged to the Publisher, the latter shall pass these on to the principal.
- The Publisher shall reserve to accept any orders - without stating any reasons - and to continue carrying out any existing orders - in particular in case of the customer's payment default - subject to full or partial payment in advance.

7. Warranty, liability

- The Publisher warrants the correct (as agreed) and complete reproduction of the advertisement according to state of the art within the scope of non-gratuitous orders pursuant to the provisions of Sections 922 et seq ABGB (civil code). There shall be no warranty obligation for gratuitous services rendered by the Publisher or for any specific success of ad placements. In case of failure to perform the contract, the Publisher shall be entitled at its choice to primarily remove the defects by improvement, prolongation, subsequent supply or replacement; claims for price reduction shall only exist to the extent that any other rectification is unreasonable from the customer's point of view.
- Warranty and/or liability for minor defects/slightly insufficient performance shall be excluded in the amount concerned. In particular, no claims for replacement or price reduction on the part of the customer shall be established by overprinting of text ads with colours (shadow print), provided the same does not greatly impair legibility, or by misprints which the Publisher is to blame for, provided they do not alter the meaning of the advertisement.
- Any liability (on the merits) for damages on the part of the Publisher and its executives, employees or agents shall be limited to gross fault. Any liability for lost profit, consequential and other indirect damage or for loss caused by an ad placement not being published on a specified date or by misprints, layout or positioning errors shall generally be excluded.
- Moreover, the following shall apply with respect to entrepreneurs:
 - Any complaints shall be asserted and justified in writing within 5 days after publication of the ad/insert (date received) under pain of forfeiture of warranty claims and other claims for compensation, otherwise the Publisher's performance shall be deemed to have been approved (letter of complaint, *Mängelrüge*).
 - The Publisher shall assume no liability for data/information provided by the customer nor for advertising material of any kind; any printing errors and other defects resulting therefrom shall be the sole responsibility of the customer. Such material shall be used by the Publisher in compliance with the usual care and diligence, the Publisher shall not be liable for damage or loss.
 - The Publisher warrants impeccable reproduction in terms of printing technology, based on the printing material provided by the customer and complying in particular with the requirements stated in item 4.2. Test prints and proofs not produced on newsprint or using a simulated degree of whiteness nor with the ink density indicated, simulated dot gain and trapping of the newsprint shall not constitute any binding colour templates.
 - As production takes place on high-speed automatic machines, 100% distribution cannot be guaranteed for special forms of advertising (stickers, pull-out inserts, tip-on cards etc.) for technical reasons. A tolerance level of 5% shall be deemed agreed.

8. Final provisions

- The place of performance and jurisdiction for all disputes arising between customer and Publisher in connection with the legal relationship, including anticipatory effects and after-effects of ad placement contracts, shall be Vienna. With respect to consumers, this place of jurisdiction for complaints to the Publisher only applies if the former have their place of residence and/or habitual abode or their place of employment in Vienna at the time of conclusion of the contract. In any case, however, an Austrian place of jurisdiction shall be agreed.
- Austrian law shall apply to the exclusion of conflict of law rules and the UN-CISG.
- Should individual provisions of these GTC or of the ad placement contract be or become ineffective in part or in full, this shall not affect the validity of the respective other provisions. Instead of the ineffective provision, the admissible regulation best possibly approximating the former shall be deemed agreed.
- All amendments or supplements to the contract shall be made in writing; the same shall apply to any deviation from this provision. Dispatch by e-mail or fax or clicking buttons provided for the purpose on websites of the Publisher or of its affiliated companies shall suffice to meet the written form requirement.
- To the extent that any terms designating natural persons are only stated in the male form, women and men shall always be included in equal terms.