

General terms of business for advertisements and other advertising material in the “tcworld magazine”

§ 1 Order for advertisements

“Order for advertisements” within the meaning of the general terms of business below (hereafter called “GTB”) means the contract between the publishing house tcworld GmbH, Rotebühlstr. 64, 70178 Stuttgart, GERMANY (here after called “publisher”) and the customer for the publication of one or several advertisements or other advertising material (hereafter collectively called “advertisements”) by advertisers of all kinds (hereafter called “customer”) in the magazine “tcworld” for the purpose of distribution and/or display.

§ 2 Scope of application

(1) The GTB below shall apply exclusively. The publisher does not recognize the customer’s GTB unless he has expressly agreed in writing that they shall apply. The GTB below also apply when the publisher provides the agreed services unconditionally in knowledge that the customer’s GTB are contrary to or differ from his.

(2) The GTB below apply only towards companies within the meaning of Article 310 Paragraph 1, 14 of the German Civil Code.

§ 3 Conclusion

(1) A conclusion is a contract for the publication of several advertisements taking account of the discounts to be granted to the customer according to the price list, where publication is made on the dates confirmed by the publisher to the customer or on the dates specified by the publisher.

(2) Discounts will not be granted to customers whose business aims include the placing of advertisements and orders for a number of advertisers in order to claim a joint discount.

(3) The customer must pay for the order even if he did not deliver the copy (file(s) for the advertisement(s)) in time.

§ 4 Conclusion of contract

(1) Provided there are no written agreements to the contrary, the order comes into being only after the confirmation in writing or by email by the publisher. If there is no confirmation of this kind then the order comes into being when the advertisement appears. The customer may place the order by filling out the advertisement contract (to be provided by the publisher) and sending it to the publisher by facsimile or E-mail before the deadline as determined by the publisher.

(2) If advertising agencies place orders, the contract is, in case of doubt, concluded with the agency unless agreed otherwise in writing. If the advertising agency wishes the advertiser (its client) to be the customer, the advertising agency must provide the name of the client. The publisher is entitled to require proof of authorization from the advertising agency.

§ 5 Specific advertising orders

(1) Orders for advertisements and inserts to be published exclusively in certain editions or in certain positions in the publication “tcworld” must reach the publisher with sufficient time for him to be able to inform the customer before the closing date, if the order cannot be carried out in this way.

(2) Classified advertisements will be printed in the appropriate category without this requiring express agreement.

§ 6 Identification

Advertisements laid out in such a way that they are not recognizable as advertising will be identified as such by the publisher by the word “Advertisement”.

§ 7 Authorization to reject advertising

(1) The publisher reserves the right to reject or stop advertising orders – including individual items within a larger order – and orders for inserts if:

- a. their content is in breach of legislation or official regulations or,
- b. their content has been the subject of a complaint by the German Advertising Council or,
- c. the publisher cannot be expected to publish them on the grounds that their content, origin, design, or technical form is unacceptable to the publisher’s principles.

(2) Orders for inserts are only binding on the publisher after submission of a sample of the insert and its approval. Inserts whose format or design create the impression to the reader that they are part of the magazine “tcworld” or which contain third-party advertising will not be accepted.

(3) The customer will be informed immediately of the rejection of an order.

§ 8 Provision of advertising copy (files)

(1) The customer is obliged to deliver advertising copy online exclusively in the form of printable file in printable resolution (preferably in PDF/X3 format).

(2) Exceptions to this are possible only with the written approval of the publisher.

§ 9 Print quality

The print quality of the advertisements is agreed to be that usual for the “tcworld” magazine according to the specifications in the Media Kit and in the confirmation of order within the scope of possibility offered by the files supplied. This applies only provided that the customer adheres to the publisher’s specifications for the creation and transmission of the advertising copy

§ 10 Return of copy (files)

The file(s) supplied as advertising copy will be returned to the customer only at his particular request. The publisher’s obligation to store the copy ends 6 weeks after the first appearance of the advertisement.

§ 11 Reimbursement of discount

If an order is not fulfilled for reasons for which the publisher is not responsible then the customer, regardless of any further legal obligations, shall reimburse the publisher the difference between the discount granted and the discount appropriate to the actual order.

§ 12 Publisher’s liability for faults

(1) If the publication of the advertisement does not correspond to the condition or performance specified in the contract, then the customer has a right to a fault-free replacement, but only to the extent to which the purpose of the advertisement or other advertising material was impaired. The publisher has the right to refuse replacement publication if:

- a. in view of the content of the obligation and the precept of good faith, the amount of effort required is disproportionate to the customer’s interests or,
- b. it would only be possible at disproportionate cost to the publisher.

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(2) If the publisher fails to meet an appropriate deadline set for the replacement publication, or if the replacement publication is again faulty, then the customer has a right to reduction of payment or may cancel the order. The order may not be cancelled because of minor faults in the advertisement. Complaints concerning hidden faults must be made within one year of the beginning of the statutory period of limitation.

(3) The publisher is not liable for faults caused by poor quality of the advertising copy (file(s)) supplied by the customer.

§ 13 Liability

The publisher shall be liable for all damage, whether it results from a breach of contractual duties or from unauthorized actions, according to the following provisions:

- a. In the case of gross negligence, liability is restricted in commercial dealings to the indemnification of typical, foreseeable damage. This restriction does not apply if the damage was caused by the publisher's legal representatives or senior employees.
- b. In the case of simple negligence, the publisher is liable only in the case of breach of a major contractual obligation. In these cases liability is restricted to typical foreseeable damage.
- c. In the case of claims based on the Product Liability Law or injury to life, health or physical safety, the publisher is liable as defined by legislation.
- d. Provided the breach was not deliberate, all claims against the publisher based on breach of contractual obligation shall lapse one year after the beginning of the statutory period of limitation.

§ 14 The obligations of the customer

(1) The customer guarantees that he owns all the necessary rights for the publication of the advertisements, that the advertisements are legal and do not breach any third party rights. Within the scope of the order, the customer shall indemnify the publisher against all third party claims which could be made on the basis of a breach of legislation or third party rights. The publisher shall also be indemnified against the costs of the necessary legal defense in these cases. The customer is obliged to support the publisher in good faith through the provision of information and documents in case of the defense of rights against third parties.

(2) The customer shall transfer to the publisher all proprietary rights of use, exploitation protection and other rights for the use of advertising in the "tcworld" magazine, in particular the right of reproduction, dissemination, transmission, shipment and public availability without temporal or spatial limitation to the extent required for the implementation of the order, with no limitation of content and using all known technological processes. The customer is aware that the magazine "tcworld" appears as a print and an online edition.

§ 15 Proofs

Proofs will be provided only at the express written request of the customer against reimbursement of costs. The customer shall bear the responsibility for the correctness of the returned proofs. The publisher shall make all corrections of which he is informed by the closing date or within the time limit set for the sending of the proofs.

§ 16 Prices

(1) The price list (as to be found in the Media Kit) valid at the time the order is placed shall apply. The right to make changes is reserved.

Price changes for orders will be confirmed by the publisher at least one month before publication of the advertisement. In this case the customer has the right to cancel. The right to cancel must be exercised within 14 days of receipt of notice of the price increase.

(2) Reductions (discounts) are based on the currently valid price list.

(3) Advertising agencies and advertising contractors are obliged to base their offers, contracts and accounts with advertisers on the publisher's price lists.

(4) The prices quoted in the price lists do not include value added tax at the currently valid rate. In the case of advertisements from other countries, value added tax need not be charged provided that tax exemption exists and has been recognized. The publisher reserves the right to charge value added tax at the statutory rate subsequently where the tax authorities regard the advertising as being liable for tax.

§ 17 Period of payment

Payment is due with receipt of invoice unless a different period of payment or advance payment has been agreed in writing in individual cases.

§ 18 Default

In the case of default or an extension of the payment period, interest at the statutory rate and the cost of collection will be charged. Further rights are reserved. In the case of default, the publisher may suspend further execution of the current order until payment is made and may demand advance payment for the remaining advertisements. Where there are justified doubts about the customer's ability to pay, the publisher is entitled, even during the course of the order of advertisements, to make the appearance of further advertisements dependent on the advance payment of the amount, regardless of the payment date originally agreed, and on the payment of unsettled accounts.

§ 19 Customer's copy

On request, the publisher will provide a copy of the advertisement. Depending on the nature and size of the advertisement order, cuttings, pages or entire issues will be provided. If a copy cannot be provided, a legally binding certificate from the publisher that the advertisement was published and distributed will be provided instead.

§ 20 Agency commissions

No agency commissions are paid by the publisher.

§ 21 Concluding terms

(1) The place of performance is the location of the publisher's headquarters.

(2) In dealings with businessmen, legal persons in public law, or in the case of public law organizations, the place of jurisdiction for court action is the location of the publisher's headquarters.

(3) German law shall apply.