

## General Terms and Conditions

### A. Area of Application and Conclusion of Contract

1. These General Terms and Conditions apply to all transactions related to the publication, printing or displaying of advertising means (analogue and/or digital) (hereinafter referred to as "advertisements") and/or to the distribution of advertising means within or outside a carrier medium (hereinafter referred to as "inserts").
2. The Contract is concluded between the Customer and FUNKE Services GmbH, Jakob-Funke-Platz 1, 45127 Essen (hereinafter referred to as "FUNKE")
3. The Contract comes about by the Customer's booking (offer) and confirmation of the booking by FUNKE (acceptance). Acceptance can be given orally, in writing or in a text form. Booking and confirmation can also be made via the OBS Online Booking System. In case of a booking or alteration of a booking by telephone, the Customer must immediately check the respective confirmation as to its correctness. In so far, FUNKE does not assume any liability for transmission errors.

### B. Responsibility for the Content

1. When receiving advertisements or inserts, FUNKE will apply the due care of a prudent press publisher usual in the trade.
2. In the editorial environment, advertisements are clearly marked with the word "advertisement".
3. The Customer assumes full responsibility for content and legal admissibility of the advertisements and inserts provided. The Customer has to indemnify FUNKE against all claims of third parties asserted by the latter against FUNKE based on advertisements or inserts. Beyond the above, the Customer is obliged to assume the costs of a counter-statement demanded by third parties referring to the actual assertions of the published advertisement or insert in accordance with the list of advertisement fees respectively in force. FUNKE will only perform a (legal) examination of the contents of advertisements and inserts in case of gross, easily perceptible contraventions, in particular of competition law and criminal law.
4. FUNKE reserves the right to reject advertisements or inserts - also individual calls within the scope of a framework agreement - due to content, origin or technical form in accordance with uniform, factually justified principles, in particular when their content violates laws or regulations of the authorities or is unacceptable for FUNKE.

### **C. Liability**

1. Any liability of FUNKE for slightly negligent breaches of duties is excluded, unless damage arising from fatal injury, bodily harm or damage to health or from warranties or any mandatory legal claims such as under the Product Liability Act are concerned. Moreover, liability of FUNKE for any breaches of duties without the fulfilment of which proper performance of the Contract would not be possible at all and on the fulfilment of which the Customer may regularly rely (material contractual duties) remains unaffected as well. The same applies to breaches of duties by vicarious agents of FUNKE.
2. As far as liability for slightly negligent breaches of duties is not excluded, the damages in case of the slightly negligent breach of material contractual duties shall be limited to the damage that is typically foreseeable and liability for loss of profit shall be excluded. Claims under this subsection become statute-barred one year from the statutory commencement of the limitation period. As or the rest, there apply the legal limitation provisions.
3. The Customer is liable within the scope of the provisions of law.

### **D. Delivery, Terms of Cancellation, Complaints**

1. The Customer is responsible for the timely delivery of the advertisement text and faultless advertising means/printing materials or inserts. FUNKE shall, as far as possible and reasonable, immediately call for replacement for apparently unsuitable or damaged advertising means/printing materials. FUNKE warrants the usual (printing) quality for the respective title within the scope of the given possibilities for advertising means/printing materials.
2. In case of a non-timely delivery of advertising means/printing materials or inserts, FUNKE will maintain its claim for payment against the Customer.
3. Timeliness depends on the time indicated in the media data.
4. Proof copies shall be delivered upon express request. The Customer is responsible for the correctness of the returned proof copies. FUNKE takes into account all error corrections that are communicated within the deadline set when sending the proof. Otherwise, authorization to print is regarded as given.
5. Cancellation of confirmed advertisements and inserts is possible free of charge until four weeks before the confirmed date of print, publication or distribution. In case of a later cancellation, FUNKE shall be entitled to a consideration in an amount of
  - a) 20 % of the order value in case of cancellation until two weeks before the confirmed date of distribution/publication;
  - b) 50 % of the order value in case of cancellation until one week before the confirmed date of distribution/publication;

- c) 90 % of the order value in case of cancellation until two working days before the confirmed date of distribution/publication; or, in case of advertisements, in case of cancellation after the advertising deadline, unless the Customer renders proof of a lower damage.
6. In case of a completely or partially illegible, incorrect or incomplete publication of the advertising means, the Customer shall be entitled to a reduction of payment or a faultless replacement publication, but only to the extent the purpose of the advertising means was affected. Not immediately recognizable defects in the printing materials will not give rise to an entitlement of the Customer to a reduction of payment or replacement. If FUNKE lets a reasonable period set for this purpose expire or if the replacement again is not perfect, the Customer shall have a right to a reduction of payment or to rescission of the Contract. – Any claims for damages from positive violation of a contractual duty, culpa in contrahendo and from tortuous act – also in case of placing an order on the phone – are excluded. Claims for damages from impossibility of performance and delay are limited to compensation for the foreseeable damage and to the remuneration payable for the respective advertising means. This does not apply in case of intent and gross negligence on the part of FUNKE, its legal representative and its vicarious agent. Liability on FUNKE for damage due to the absence of warranted characteristics remains unaffected. Beyond the above, in the commercial intercourse, the liability of FUNKE, of its legal representative and its vicarious agent for gross negligence in terms of amount is limited to the foreseeable damage. Any complaints – except in case of non-obvious defects – must be asserted within a period of four weeks from receipt of invoice and specimen.

#### **E. Advertisement Specimen**

1. Upon request, FUNKE provides a digital specimen for advertisements. FUNKE reserves the right to charge a separate expense-related fee for sending a specimen. If a specimen cannot be arranged anymore, it shall be replaced by a legally binding certificate of FUNKE on the publication and distribution of the advertisement or further advertising means. For word advertisements and classified advertisements, there cannot be delivered any specimen.

#### **F. Terms of Payment, Discounts, Commissions**

1. Invoices are immediately due not later than within 10 days from issue and are to be settled within this period. When the Customer has granted a SEPA mandate, Customer agrees that the period for sending the pre-notification for collection from the Customer's account is shorter than 5 working days.

2. When the Customer is not a consumer, all invoices are exclusively transmitted in an electronic form. There is generally not sent an additional paper invoice (or credit note). In order to avoid abuse of electronic data and provide proper electronic invoices (or credit notes) in line with the current legal requirements, there are transmitted qualified signed data. The qualified signature allows the Customer to effect input tax deduction with electronic invoices (or credit notes) in line with the current requirements under the Turnover Tax Act. Reference is made to the special requirements on archiving.
3. FUNKE will only send invoices in a paper form at the express request of the Customer. When the Customer is not a consumer, FUNKE reserves the right to charge the costs actually incurred for sending the paper invoices to the Customer's account.
4. If the Customer gets into default in payment, FUNKE shall be entitled to impose legal default interest as well as dunning costs in the usual amount, if applicable.
5. In case there are reasonable doubts about the Customer's ability to pay, FUNKE shall be entitled, also during the term of a framework agreement, to confirm further advertisements or inserts only against payment in advance as well as to make them dependent on the settlement of outstanding invoice amounts.
6. If circulation- or turnover-related transactions are not achieved for reasons that FUNKE is not responsible for, the Customer shall be obliged to refund any discounts granted.
7. Agreed group discounts are only granted to affiliated companies within the meaning of Secs. 13 et seq. Company Law (AktG), provided the participatory share of the (principal) Customer under company law is higher than 50 %.
8. FUNKE pays commission only after prior agreement or only to the advertising agents recognized by FUNKE, respectively. This is subject to the condition that the order is directly placed by the advertising agent and texts, printing materials, inserts (samples) (forms) are delivered by the latter as well. Agency fees and commissions granted by FUNKE must not, not even in part, be passed on to advertisers.
9. Advertisements settled at prices for private customers can also be paid via PayPal. For using PayPal, an existing or newly set-up PayPal account is necessary. When choosing the payment method PayPal, the payment is transacted without disclosing the bank details to FUNKE. There is rather effected an automatic debit process (electronic direct debit procedure) or debiting process (credit card payment) exclusively between the user and PayPal itself. According to the terms of use of PayPal, there may accrue separate fees when using the PayPal service which are to be borne by the payer. After selecting the payment method PayPal, the user is redirected to the site [www.paypal.com](http://www.paypal.com) for effecting the payment. This website is operated by PayPal (Europe) S. à r. l. et Cie, S.C.A., 22-24 Boulevard Royal, L-2449 Luxembourg, Luxembourg or an affiliated company. The PayPal account is immediately debited. There apply the General Terms and Conditions of PayPal. In case of disturbances in the payment transaction or when amounts paid are subject to return debit, FUNKE reserves the right to block the access to the online advertisement system until full settlement of all outstanding payments.

**G. Assignment, Place of Performance, Place of Jurisdiction**

1. FUNKE is entitled to assign the rights and obligations under the Contracts with the Customers to or have them performed by, whether as a whole or in part, affiliated group companies of FUNKE Mediengruppe GmbH & Co. KGaA within the meaning of Secs. 15 et seq. Company Law (AktG).
2. The place of performance is Essen.
3. In the course of business with registered merchants, legal persons under public law or special funds under public law, Essen shall be the place of jurisdiction for all litigious proceedings. If the place of jurisdiction or the usual place of abode of the Customer, also in case of non-merchants, is unknown at the point of time the action is brought or if the Customer has moved his/her place of residence or usual place of abode out of the area of application of the laws after conclusion of the Contract, Essen shall be the agreed place of jurisdiction.

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