

**GTC****General terms and conditions for advertisements and other promotional products**

Valid from 01.04.2023

**1. Insertion Order**

1.1. An "Insertion Order" pursuant to the following General Terms and Conditions is deemed to be a contract between BCN Brand Community Network GmbH (hereinafter "BCN") and the customer (hereinafter the "Customer") for the publication of one or more print or other advertisements (hereinafter referred to as "advertisements") of the Customer ("direct customer") or advertisers and other customers in domestic and international print magazines, ePapers or eMagazines as well as other media for purposes of dissemination. These General Terms and Conditions and the respective current price lists of the media in which the advertisements are to be published (hereinafter 'price list' or 'price lists') and that contain, among other things, stipulations on prices, formats, conditions, discounts and, if necessary, media-specific features, apply to the advertising order. These General Terms and Conditions and the respective price lists apply accordingly also to reciprocal business deals between the Client and the respective publishing house, provided that BCN takes over the processing. The customer and BCN can make agreements deviating from these General Terms and Conditions and respective price lists.

1.2. "ePaper" is an edition of a newspaper or magazine published exclusively in electronic form, whose editorial and advertising content (irrespective of any additional functions arising directly from functional technical options, such as links) is largely identical to that of the print edition of the same name and which, with regard to the advertisements contained therein, is marketed together with the print edition.

1.3. "eMagazine" is an edition of a publication published exclusively in electronic form, whose editorial and advertising content is generally independent (even of the content of any print edition of a magazine of the same name) and which, with regard to the advertisements contained therein, is marketed independently (irrespective of any print edition of the same name).

**2. Print and other advertisements**

2.1. An advertisement may consist of one or more of the following elements:

- an image or text;
- sound sequences and moving images;
- a sensitive area which, when clicked, links to other Customer or third-party information via an online and mobile address specified by the Customer.

2.2. Advertisements which are not recognisable as such because of the layout shall be identified by BCN as advertising. Text advertisements are advertisements bordered by editorial text on at least three sides and not by other advertisements.

2.3. As a rule, the formats listed on the applicable rate card may be used for publication of advertisements. Special advertisement formats are possible, subject to consultation and review by BCN.

2.4. Reservations for advertisements and ad-specials are binding for BCN and the publisher, respectively, until the date specified in a written proposal only. After the specified date reservations expire without any further notice.

2.5. A list of the electronic and non-electronic advertising media that can be booked for the purpose of publishing advertising media is available at [www.brand-community-network.com/](http://www.brand-community-network.com/).

2.6 The Customer shall guarantee that the advertising material provided by them shall neither violate official orders, general laws or morality, nor impair or infringe the rights of third parties of any kind whatsoever and shall indemnify BCN in this respect against all claims of third parties, including any legal costs incurred as the result of defence proceedings.

### **3. Order**

3.1. A contract (hereinafter referred to as 'Advertising Order') is a contract for the publication of several advertisements in compliance with the specifications of the respective price list, in particular, but not exclusively, with regard to any discounts to be granted; however, the respective publications shall be made on demand by the Client. Insertion Orders from advertising brokers and agencies will be accepted only for specifically named advertisers. The advertising of products and services for an advertiser other than the one specifically named at the time of booking will always require prior written approval from BCN. The publication of the respective advertisements will follow upon insertion request by the Customer. An "insertion request" comes into effect upon booking of the advertisement by the Customer (Offer) and written confirmation of the booking by BCN (Order confirmation). All insertion requests are only then legally binding when they had been confirmed in written form by BCN. Advertisement bookings and confirmations can also be made via the OBS Online Booking System (Please find further information on OBS on [www.obs-portal.de](http://www.obs-portal.de)). The BCN General Terms and Conditions apply mutatis mutandis for insertion orders in inserts, bound-in supplements, glued-in inserts and other technically special formats. If a given Insertion Order permits individual insertion requests, the Order must be settled within one year from the date of the first advertisement's publication (hereinafter "insertion year") unless otherwise agreed.

3.2. If any insertion requests under a given Insertion Order are not performed due to circumstances beyond BCN's control, the Customer shall, notwithstanding any other legal obligations, pay the difference between the discount granted and the discount corresponding to the number of advertisements actually placed.

3.3. If a group discount is claimed for group affiliates, the advertiser shall submit written proof of its group affiliate status. Group affiliates within the meaning of this provision are entities in which another entity holds an interest of at least 50%. In the case of corporations, group affiliate status shall be proven by confirmation by an auditor or by submitting the most recent annual report and in the case of partnerships, by an auditor by submitting an extract of the commercial register. Proof must be submitted by the end of the insertion year at the latest. Proof submitted at a later date cannot be acknowledged retroactively. Group discounts require in any case explicit written confirmation from BCN. Group discounts shall only be granted for as long as the group affiliate status is held. The expiry of group affiliate status must be reported promptly; the group discount will expire along with group affiliate status.

### **4. Millimetres of advertising space**

In calculating the volume of advertising space purchased, millimetres of advertising copy lines shall be converted into millimetres of advertising space at the appropriate rate.

### **5. Right of refusal**

5.1. BCN reserves the right to reject advertisements as well as individual insertion requests under a given Insertion Order, if:

- the content thereof violates the law or other official provisions; or
- the content thereof was objected to by the German Advertising Standards Council (Deutscher Werberat) in a complaint proceeding; or
- it would be unreasonable for BCN to publish it due to the content, design, source or technical form thereof; or,
- the advertisements contain advertisements of or for third parties.

5.2. Orders for other advertisements shall be binding for BCN only after BCN has received and approved the artwork proof of the advertisement.

5.3. Advertisements containing advertising of or for third parties ("tie-in advertising") require BCN's prior written declaration of acceptance for each individual case. This entitles BCN to charge a tie-in advertising surcharge. The Customer shall be notified promptly if any advertisement is rejected.

5.4. BCN is entitled to temporarily suspend the insertion of an advertisement in electronic editions if it has sufficient reason to suspect that the website to which the hyperlink in the advertisement refers has unlawful content. The foregoing shall apply in particular in cases involving investigations by government agencies or a warning letter from an alleged injured party, unless this is clearly unfounded. The Customer shall be notified of the suspension and shall promptly remove the allegedly unlawful content or shall demonstrate or, where applicable, prove the lawfulness thereof. BCN may offer the Customer to replace the advertisement with another advertisement and/or a hyperlink to another website. BCN may at its discretion charge the Customer for any additional proven costs incurred as a result. The suspension shall be lifted as soon as the suspicion has been allayed.

5.5. In particular BCN is entitled to retract an advertisement that has already been published from the electronic edition if the Customer subsequently changes the content thereof without the knowledge and consent of BCN or if the Customer changes the URL behind the link or if the content of the website to which the ad links had been substantially changed. In such cases, the Customer has no right to claim a substitute insertion free of charge, although the Publisher will retain its agreed payment claim.

## **6. Delivery of ad materials and printer's copy for print magazines**

6.1. Insertion Orders for advertisements with special placement preferences must be submitted to BCN early enough to allow for time to notify the Customer before closing date that the order cannot be processed as requested. Classified ads shall be printed in the appropriate section without any explicit agreement between the parties being required.

6.2. The Customer shall bear sole responsibility for delivering adequate printer's copy or other ad materials on time and in flawless condition. The delivery shall be made via the DUON portal ([www.duon-portal.de](http://www.duon-portal.de)), unless otherwise agreed. Before the digital delivery of the printer's copy, the Customer has to ensure that the transmitted files are free from computer viruses. More particularly the Customer is obliged to use customary state-of-the-art anti-virus programs for this purpose. Should the aforementioned sources of damage be discovered in one or more of the transmitted files, BCN will refrain from using these files and shall delete them in order to prevent respectively control potential damage on its computer system. The Customer is not entitled to assert claims for damages in this case. BCN reserves the right to file damage claims against the Customer if damages had been caused to BCN by the aforementioned sources of damage, provided these were infiltrated by the Customer. In the case of the delivery of digital ad materials, the Customer is obliged to deliver the ad materials according to the BCN specifications - especially in terms of format and technical requirements. Delivery has to occur in due time prior to the insertion start date. Cancellations, changes in size, format or colors are no longer possible after closing date. The ad materials must exactly match the technical specifications as described on DUON Info. Otherwise claims for price reductions in the case of format or color deviations are excluded. BCN does not assume liability for the accurate rendition of advertisements or corrections placed or communicated over the phone. Neither shall liability be assumed if defects in the ad materials are not discernible from the copy, but are only noticed in the stages of reproduction and print. In this case the customer and the advertiser are unable to assert any claims for an unsatisfactory print. Any resulting additional costs shall be charged to the Customer. BCN accepts no liability if agreed placements cannot be kept or the printing quality is impaired due to late delivery of ad materials.

6.3. Any costs incurring for BCN and/or for Publishers caused by changes of the ad materials which were requested by the Customer or for which the Customer is responsible shall be borne by the Customer. The parties agree that to the extent the ad materials so allow, the print or other advertisements shall be of a quality customary for the particular magazine for which advertising space has been booked in accordance with the specifications in the rate card and the order confirmation.

The foregoing shall apply only if the Customer complies with the binding BCN technical specifications for designing and transferring the ad copies via the DUON portal. Should an order not be fulfilled or be falsely executed because the Customer breaches his obligations - e.g. the ad materials are delivered too late, incomplete, damaged or faulty or labeled incorrectly, BCN is still entitled to claim the agreed payment. Advertisement artworks created and executed for the Customer by BCN or an individual Publisher (Promotions) may be published only in the issues booked with BCN. No further rights shall be granted. Any media concepts and elements underlying BCN's or the individual Publisher's quotations are protected by copyright and laws against unfair competition and the Customer shall treat them as confidential. The Customer is not allowed to pass on to third parties the aforementioned concepts neither as such nor in a modified form; neither is the Customer allowed to use them for own purposes beyond the scope of the contract.

6.4 If the publication of the advertisement fails to reflect the contractually owed quality or service, the Customer shall have a claim to reduction of the contract price or to a faultless replacement advertisement, but only to the extent that the purpose of the advertisement was compromised.

6.5 BCN is entitled to refuse to insert a replacement advertisement where:

- under terms of contract and principles of good faith this would involve efforts on the part of BCN that are grossly disproportionate to the Customer's interest in the performance of the contract; or
- this could only be accomplished at unreasonable cost to BCN or the individual Publisher. BCN fails to meet any reasonable grace period set by the Customer or if the replacement advertisement is again not defect-free, the Customer may claim a reduction in the contract price or rescind the contract. The right of rescission shall be excluded for minor defects in the advertisement. The Customer has the obligation to check the advertisement immediately after publication. Insofar as the Customer is a merchant, claims for defects must be asserted immediately after publication; in the case of latent defects a limitation period of six months shall apply. Insofar as the Customer is a non-trader warranty claims for obvious defects must be asserted within a period of two weeks; warranty claims for latent defects must be asserted within one year from the commencement of the legal statutory period of limitation.

## **7. Delivery of advertisements for electronic editions**

7.1. The Customer shall submit to BCN by e-mail complete defect-free and appropriate advertisements for electronic editions (banners, target URL, ALT text and any advertising schedules) in the final digital form no later than 5 business days prior to the agreed first publication date. For special forms of advertising, the applicable period shall be 10 business days.

7.2. If the data files are stored on the customer's server or a third-party server, the Customer shall notify BCN, in compliance with the aforementioned conditions, of the URL of the advertisement to be inserted.

7.3. Any deviations herefrom shall be promptly co-ordinated with BCN in text form. The aforementioned condition shall also apply mutatis mutandis for the addresses specified by the Customer, to which the advertisement is to refer.

7.4. BCN shall request replacements for any clearly inappropriate or defective advertisements. If the advertisement is not provided in proper form, specifically if it is supplied late or subsequently changed, BCN shall not warrant for the agreed dissemination thereof.

7.5. If, after the aforementioned periods have expired, the Customer wishes to replace or change the advertisement or deviate from any existing advertising schedule, then BCN shall check whether such changes can still be made in view of the originally scheduled publication date. If this is not the case, the terms originally agreed shall apply.

7.6. Unless otherwise agreed, the customer is not entitled to have the advertisements placed in a specific position in the respective electronic media. No competition exclusion can be granted within an electronic medium, i.e. it cannot be ruled out that competitors of the AG may place advertisements within the same electronic medium during the same period.

7.7. Insofar as the customer also wishes to process personal data by means of cookies, tracking pixels and/or comparable technologies within the context of the advertisement in electronic media, the provisions of Section 16 of these General Terms and Conditions shall be considered separately.

## **8. Warranty and liability**

8.1. Within the framework of foreseeable requirements, BCN warrants the best possible reproduction of the advertisement in accordance with the corresponding customary technical standards. The warranty shall not cover minor defects. However, the Customer must be aware that based on the current state of the art technology it is not always possible to ensure a completely flawless reproduction of an advertisement. The reproduction of the advertisement shall not be deemed defective where the defect is caused:

- by use of unsuitable display software or hardware (e.g. browsers) of the user or the Internet service provider; or
- where the reduction in quality of the advertisement does not significantly affect the purpose thereof; or
- by disruptions in the communication networks (e.g. including, but not limited to, network failures or power outages) at BCN or other operators; or
- by computer failure due to system or network failure; or
- by incomplete offers and/or offers not updated and stored on proxy servers or in the local cache; or
- by failure of the BCN ad server, the duration of which may not exceed 24 hours (continuously or added up) over a 30-day period from the commencement of the contractually agreed insertion.

8.2. The warranty shall not include disruptions arising from computer defects or interrupts on the Customer's end or in the communication channels between the Customer's and the BCN servers.

8.3. In the case of a breakdown of the BCN ad server over a considerable period of time (more than 10 per cent of the period booked) for a booking due to run over a fixed period, BCN shall endeavour to make good the under delivery at a later point in time. If the make good fails, the Customer shall be excused from its payment obligations for the under delivery respectively for the average value of the media services that could not be fulfilled during that period. Further claims are excluded.

8.4. BCN shall not bear the risk of data loss during transfer outside the sphere of its control nor does it assume any warranty and/or liability for data security. Risk shall pass onto BCN upon receipt of the advertisement on one of the BCN servers.

8.5. BCN shall eliminate any significant server disruptions or defects as soon as possible and shall endeavour to eliminate minor defects within a reasonable period of time.

8.6. BCN is under no obligation to verify the accuracy, completeness or quality of the advertisements or the content thereof or whether they are up-to-date, serious and/or error free and assumes no express or implied warranty or liability therefore.

8.7. BCN shall be liable for compensatory damages only:

- in cases of wilful or grossly negligent conduct or the lack of a warranted quality;
- in all other cases involving the breach of an important contractual obligation (cardinal obligation), default or impossibility of performance, BCN shall be liable for reasonably

foreseeable damage, but not for any special accidental damage or indirect or consequential damage. Vis-à-vis merchant customers, liability shall in any case be limited to ordinary and gross negligence and in the case of its vicarious agents who are not legal representatives or executive employees, to wilful conduct for reasonably foreseeable damage and damage not within the Customer's control. To the extent a material contractual obligation within the aforementioned meaning was negligently breached, BCN's liability shall be limited to the amount of the fee it received or would have received for inserting the respective advertisement.

8.8. The foregoing shall not affect liability for damage caused by injury to life, limb or health or under the German Product Liability Act (Produkthaftungsgesetz).

8.9. The Customer may not base any of its damage claims on defects unless BCN was at fault for such defects pursuant to § 276, § 278 of the German Civil Code (Bürgerliches Gesetzbuch, BGB).

8.10. Other than in cases of wilful or grossly negligent conduct, BCN shall not be liable for quality or possibility of access, the display quality, for memory failure, interrupts or any delay, deletion or failed transmission during communication.

8.11. Section 8.10. shall not apply in states and jurisdictions which prohibit the exclusion or limitation of liability for consequential or accidental damage.

8.12. To the extent they are not based on wilful conduct; any and all claims asserted against BCN based on the breach of a contractual duty shall become time-barred one year from the date on which the statutory limitation period commences.

8.13. In the case of interruptions in operations or events of force majeure, unlawful labour disputes, unlawful confiscation, traffic disturbances, general shortages of raw materials or energy and the like, be it within the organisation of a Publisher, of BCN or that of a third-party which BCN engages in the performance of its obligations, BCN has a claim to full payment of the published advertisements. In the case of print advertisement the following shall apply: BCN is entitled to the full payment of the published advertisement, provided that 80 % of the average paid or otherwise guaranteed circulation of the relevant publication within the last four quarters has been distributed. In the case of a lower distribution, the invoice amount shall be reduced proportionately in accordance with the disparity between the paid or guaranteed circulation and the actual distributed circulation. The Customer shall not be able to assert any claims whatsoever against BCN based here on. BCN accepts no liability for fulfilment of orders and payment of damages, in particular payment of damages caused by the non-publication or late publication of advertisements.

8.14 If the Customer does not deliver the advertising material, does not deliver it on time or does not deliver it in the agreed format and if, for this reason, the advertisement cannot be transmitted/published or cannot be transmitted/published as agreed, the Customer shall remain obliged to pay the contractually agreed remuneration. BCN shall take into account any expenses saved. Any additional costs incurred as a result of late delivery or delivery not in the correct form shall be borne by the Customer. Minor deviations from the agreed transmission numbers of DOOH advertising media/advertising orders shall be borne by the Customer.

## **9. Payment period**

Unless another payment period or a pre-payment has been agreed in writing in the individual case, invoices shall be paid within the period indicated on the rate card. Any discounts for pre-payments shall be granted in accordance with the rate card. In the case of orders placed by new Customers, that is Customers for which BCN has not executed any previous orders, BCN is entitled to require payment in advance, granting a cash-discount of 2 per cent. Payment must be received by BCN until ad closing date.

## **10. Default in payment**

In the event of default in payment or deferral, the standard bank interest and collection costs shall be charged. If the Customer is in default in payment, BCN may stop further execution of the current Order until such time as payment has been remitted and may request payment in advance for the remaining advertisements. If BCN has legitimate doubts as to the Customer's ability to pay, it may, even during the term of a contract, make the publication of further advertisements contingent on advance payment of the amount by the ad submission date and on payment of outstanding invoice amounts, regardless of whether payment within a specific period was originally agreed.

### **11. Specimen copy of advertisements in magazines**

Upon request, BCN shall provide a specimen copy of magazine advertisements. Depending on the nature and scope of the Insertion Order, ad clippings, specimen pages, or complete specimen issues shall be provided. If a specimen copy can no longer be obtained, BCN shall issue a legally binding receipt to document the publication and dissemination of the advertisement.

### **12. Classified display advertisements**

12.1. In the case of classified display advertisements, BCN shall exercise the due care of a prudent merchant in holding and forwarding responses. Responses received by registered or express mail shall be forwarded by regular mail only. Responses to box ads shall be held for four weeks. Responses which are not picked up in this period will be destroyed. BCN and the individual Publishers will return valuable documents, although they are under no obligation to do so.

12.2. The Customer may by individual agreement authorize BCN as its agent to open incoming responses on its behalf and in the express interests of the Customer. Letters exceeding the accepted DIN A4 format or any shipments of goods, books, catalogues or packages shall not be forwarded and delivery thereof will not be accepted. The parties may however agree to acceptance and forwarding by way of exception in those cases where the Customer assumes the fees and charges arising therefrom.

### **13. Jurisdiction and governing law**

13.1. Place of performance shall be the BCN registered office.

13.2. The place of jurisdiction for legal actions resulting from business transacted with merchants, legal entities under public law or with respect to public-law funds shall be the BCN registered office. Insofar as claims of BCN are not asserted in the context of default actions, the place of jurisdiction for non-traders shall be determined according to their place of residence.

13.3. If at the time an action is filed, the place of residence or habitual abode of the Customer, whether or not it is classified as a merchant, is unknown, or if after entering into the contract the Customer relocated its place of residence or habitual abode outside the jurisdiction of the law, the place of jurisdiction shall be BCN's registered office.

13.4 This contract shall be governed by the laws of the Federal Republic of Germany to the exclusion of the IPR and the United Nations Convention on Contracts for the International Sale of Goods (CISG). In dealings with consumers, the law governing the consumer's place of residence shall be applicable, provided that any mandatory consumer law provisions are favourable to the consumer.

### **14. Rate changes**

BCN has the right to change its General Terms and Conditions and rates at any time with effect for the future. Changes in rates for Insertion Orders already placed shall be valid vis-à-vis companies, provided BCN gave them notice thereof at least one month prior to the publication of the print or other advertisement. In such case, the Customer may rescind the agreement, provided it does so in text form within 14 business days following receipt of notification of the rate increase.

## **15. Grant of rights and representations and warranties**

15.1. The Customer warrants that he holds all rights necessary to publish the advertisement. Provided that BCN respectively the Publisher takes over the creation of the advertisement, the Customer shall bear sole responsibility for the content and lawfulness of the text and image materials delivered for the creation of the advertisement. BCN is entitled to make the publication of advertisements for medicaments and remedies dependent upon a written pledge stating the full legal legitimacy of the aforementioned pharmaceuticals from the Customer/Advertiser or any other person responsible for the content of the campaign and/or to have the copy of the advertisement examined for its full legal legitimacy by an expert at the cost of the Customer. BCN is under no obligation to examine orders and advertisements as to whether they breach the rights of third parties.

15.2. The Customer shall bear sole responsibility for the content and lawfulness of the delivered text and image materials as well as of the advertisement copies (hereafter "Content"). The Customer shall bear sole legal responsibility, specifically the responsibility under youth protection, press, competition, data privacy, criminal and media law and other legal provisions, for any and all Content provided. The Customer shall fully indemnify BCN and/or the respective Publisher against any and all third-party claims that may arise due to the violation or infringement of statutory and legal provisions under the Insertion Order on first demand. The Customer shall furthermore indemnify BCN and/or the Publisher against any costs it may incur for necessary defence of its rights. The Customer shall act in good faith to assist BCN and/or the Publisher in its efforts to defend against third-party claims by providing documents and information. The Customer is under obligation to inform BCN promptly if it is or had been warned in writing by a third party or if it has given or has to give a cease-and-desist declaration to a third party because of an advertisement with infringing content. If the Customer fails to comply with the aforementioned obligation, BCN shall not be liable for any damages caused to the Customer by the renewed publication of the respective advertisement.

15.3. The Customer shall transfer to BCN and/or the Publisher any and all copyright licences, ancillary, trademark and other rights which are necessary in order to use the advertising in all types of print and online media, specifically including the right to reproduce, disseminate, transmit, broadcast, make publicly available, remove from a database and retrieve, and which are transferable to third parties in the context of performing the contract in the scope necessary for implementing the order both in terms of the substance and duration of such rights. The aforementioned rights shall in all cases be transferred with no territorial limits. The aforementioned rights authorise insertion using all known technical means and all known forms of online media. With regard to the use of images in connection with the advertisement, or the otherwise use of the name, logo, trademark, brand, work title or any other trade name, the Customer shall grant BCN and/or the Publisher the non-exclusive, non-transferable right to use the images or the respective company symbols in connection with the respective advertisement.

## **16. Cancellation conditions for digital advertisements**

16.1 The Client is authorised to cancel advertising orders for digital advertisements. Cancellations of digital advertisements must be made in writing or by e-mail. Cancellations of digital advertisements (depending on the advertisement order) can be made free of charge up to the respective time specified below, after which cancellation fees will apply. In all cases in which cancellation fees are incurred, the Client shall be at liberty to prove that in a specific individual case no damage or reduction in value was incurred at all or that it was significantly lower than the flat rate.

16.2 Cancellation conditions for digital advertisements in general: If no case as outlined in Clause 16.2 or 16.3 of these General Terms and Conditions exists, cancellation of digital advertisements is free of charge up to two weeks before the start of the campaign or in the case of campaigns with several sub-campaigns, up to two weeks before the start of the sub-campaign (in the case of campaigns/sub-campaigns that have not yet started), and up to two weeks before the end of the month with effect until the end of the month for campaigns already running.

For cancellations made at shorter notice, the Client will be charged the following cancellation fees:



- Cancellation up to five working days before campaign/sub-campaign start: 50 per cent of the net campaign value (agency net 2 [AN2])
- Cancellation up to four working days before campaign/sub-campaign start: 80 per cent of the net campaign value (agency net 2 [AN2])
- Cancellation three or fewer working days before campaign/sub-campaign start: 100 per cent of the net campaign value (agency net 2 [AN2])

16.3 Cancellation conditions for promotional sponsorships/keyword targeting: The following stipulations apply to the cancellation of advertising orders/campaigns for BCN promotional sponsorships/keyword targeting conversions: Cancellation is free of charge up to eight weeks before the start of the campaign and for campaigns already running eight weeks before the end of the month, with effect until the end of the month.

For cancellations made at shorter notice, the Client will be charged the following cancellation fees:

- Cancellation up to four weeks before campaign start: 50 per cent of the net campaign value (agency net 2 [AN2])
- Cancellation up to two weeks before campaign start: 80 per cent of the net campaign value (agency net 2 [AN2])
- Cancellation five or fewer working days before campaign start: 100 per cent of the net campaign value (agency net 2 [AN2])

16.4 Cancellation conditions for DOOH media: Cancellation of advertising orders for media services in digital out-of-home media ('DOOH') is possible up to five calendar days before the start of the agreed advertising period (start of placement). Cancellations must be made in writing or by e-mail. The Client will be charged the following cancellation fees:

- Cancellation up to four weeks before start of placement 10 per cent of the net campaign value (agency net 2 (AN2)),
- Cancellation up to two weeks before start of placement 20 per cent of the net campaign value (agency net 2 (AN2)),
- Cancellation up to five days before start of placement 50 per cent of the net campaign value (agency net 2 (AN2)),
- Cancellation less than five days before start of placement 100 per cent of the net campaign value (agency net 2 (AN2)).

16.5 Cancellation conditions for content conversions: The following stipulations shall apply to the cancellation of advertising orders/campaigns with BCN creative services, that is, advertising orders/campaigns that have been created in whole or in part by BCN:

After the conclusion of the contract for such campaigns, a kick-off meeting will take place between the Client and BCN. This is the meeting at which the concrete implementation of the campaign (specifically its contents) and the creation services to be rendered by BCN as well as the general conditions are discussed. Cancellation is possible free of charge before this kick-off meeting, provided that no production costs have yet been incurred. After this kick-off meeting or if production costs have already been incurred, cancellation is only possible by paying 100 per cent of the net campaign value.

16.6 In the event of contradictions between the cancellation conditions regulated herein and any cancellation conditions in price lists, the cancellation conditions regulated herein shall take precedence.

## **17. Tracking**

17.1 Insofar as the Client wishes to process personal data within the context of the advertising order by means of cookies, tracking pixels (these count the number of times a page is accessed), click trackers (these count the number of times a link is clicked) and/or comparable technologies

(hereinafter uniformly referred to as 'cookie tracking'), the Parties shall agree with one another the use of cookie tracking in accordance with the following provisions.

17.2 When dealing with processed personal data, the Client is obliged to comply with the applicable data protection provisions, in particular those pursuant to Clause 17 of these General Terms and Conditions. The Client is responsible for ensuring that all content they have supplied within the context of an advertisement order is free of harmful codes, such as viruses, Trojans, etc. If the Client uses third-party systems within the context of the advertisement order or for its publication, or carries out cookie tracking via third parties, the Client shall ensure that these systems also comply with the requirements of Clause 18.

17.3 Prior to the commencement of an advertising order, the Client shall inform BCN in writing of all technical service providers ('Vendors') that the Client wishes to use within the context of the advertising order. If these are exclusively Vendors which have completed a registration procedure within the Transparency and Consent Framework of the IAB ('TCF v2.0') ('Status TCV v2.0 Operational') and are also approved by BCN at the time of notification under the URL <https://www.brand-community-network.com/about-our-advertising>

('whitelist'), the use of the respective Vendor is possible without the consent of BCN. In this case, the parties shall cooperate in a spirit of trust to ensure the legally compliant integration of the respective Vendor within the advertising medium. A current overview of the Vendors registered according to TCF v2.0 can be viewed at [iabeurope.eu/vendor-list-tcf-v2-0/](http://iabeurope.eu/vendor-list-tcf-v2-0/). If the Client intends to use Vendors which are not included in the whitelist at the time of notification, the use of such a Vendor shall require the prior express written consent of BCN. If the Vendor in question is to be used in accordance with the agreement between the Parties, the Parties shall cooperate to obtain from the Vendor any information required under data protection law (in particular, information on the retention period of personal data and categories of personal data processed).

17.4 After commencement of the advertising order, the Client shall be obliged to check any Vendors used at its own discretion and to compare them against the whitelist from BCN. If, in the course of such a comparison, the Client discovers that a Vendor to be used is not or is no longer included in the whitelist, the Client shall be obliged to inform BCN of this in writing without delay. Regarding the coordination process, Clause 18.2 shall apply accordingly. If the Client intends to use a new Vendor after the commencement of an advertising order, the procedure pursuant to Clause 18.2 shall also apply accordingly. If the Client integrates a Vendor who is subject to approval without observing the procedure defined in Clause 18.2, the Client shall be obliged to remove this Vendor immediately upon request from BCN. The Client shall also indemnify BCN against all expenses and damages, in particular regulatory fines, incurred directly or indirectly by BCN as a result of the use of such a Vendor.

## **18. Privacy policy**

18.1 Within the scope of its area of responsibility, the Client shall observe the requirements of data protection law, in particular the provisions of the General Data Protection Regulation ('GDPR'), the German Federal Data Protection Act ('BDSG') and other German national implementation laws and implement them to the extent required.

18.2 General, non-personal, specifically statistical data on the use of the online and mobile services of BCN is processed in order to determine the extent to which the offer is of interest to the Client and can be improved. For this purpose, surveys are conducted and data and information from server log files is combined in its entirety and used for statistics and analyses.

18.3 In an effort to make the offer even more effective, the Client agrees that BCN, as a participant in leading market research projects, may disclose the gross advertising sales of the Client at the product level to the company of its own choosing for publication, provided that the latter guarantees the exclusive processing of the data for purposes of advertising statistics.

18.4 Insofar as personal data is processed in relation to the placing and processing of advertisement orders, this processing shall give rise to responsibility as joint controllers within the meaning of Article 4 (7) and Article 26 GDPR. Upon conclusion of the contract within the meaning of Clause 3.1 of these General Terms and Conditions, the agreement on joint controller responsibility included in **Annex 1** pursuant to sentence 2 of Article 26(1) GDPR is a binding and conclusive part of the contract in terms of data protection law.

## **19. Secrecy**

19.1 Unless otherwise agreed in writing, the Parties shall treat details of the contractual relationship, in particular the prices and conditions, as well as any business secrets of which they become aware directly or indirectly through the other Party in the course of the performance of the contract, as strictly confidential. This shall not apply if disclosure is ordered by a court or by the authorities or is necessary for the judicial enforcement of one's own rights against the other Party. This obligation shall continue throughout the term of the contract and indefinitely beyond any termination. Press releases as well as other public announcements to third parties concerning the business relationship between BCN and the Client or concerning the details of agreements made shall require the prior approval of BCN. This also applies to the publication of logos supplied by BCN.

19.2 In particular, the parties shall carefully store the content of this contract and the information of the other party relating to the purpose of the contract and information provided, protect it from access by third parties and use it exclusively as defined within the scope of the purpose of this contract. These obligations shall continue to apply after termination of the contractual relationship.

19.3 Confidential information as defined for this contract is all information which one party (receiving party) receives from the other party (disclosing party) during the term of this contract and within the scope of the purpose of the contract or which becomes known to the receiving party as a result of this cooperation. Confidential information may be disclosed orally, in writing, electronically or by other means and includes, but is not limited to, business, operational, organisational and technical information as well as knowledge, documents, prototypes, software, samples, substances and other materials.

19.4 Companies affiliated with a party are not defined as third parties for the purposes of this contract provided that the affiliated companies require this information to fulfil the purpose of this contract and provided that the affiliated companies are also obliged to protect any information disclosed as confidential with stipulations equivalent to those specified in this contract. Affiliated companies are defined as companies that a party directly or indirectly controls, is controlled by or is under common control with. Control in this context requires a shareholding of at least 50% of shares. The party disclosing information to affiliated companies shall be liable for breaches of the obligations defined in this contract by its affiliated companies.

With regard to the confidential information of the other party, the parties are obligated to:

- (a) keep the information secret
- (b) use information only as pertains to the purposes of this contract; and
- (c) take all necessary measures to prevent information from being made available to third parties.

19.5 Confidential information may be disclosed internally only to the extent that this is necessary for the purpose of this contract (need-to-know) and to the extent to which it can be ensured that the confidential information is disclosed only to employees who, within the scope of legal possibilities, are subject to equivalent obligations to protect the confidential information contained in this contract.

19.6 The parties shall only be entitled to reproduce the confidential information received if and to the extent to which this is absolutely necessary for the purpose of the contract.

19.7 The parties are not entitled to exploit the confidential information they have received and are prohibited in particular from filing applications for property rights to this information. No rights of ownership, use or enjoyment shall be granted for the confidential information received. The transfer of the confidential information shall not constitute a right of prior use for the receiving party.

19.8 Confidential information is not defined as information which

- a) was already known to the receiving party prior to disclosure by the other party; or
- b) was known or generally available to the public before disclosure or becomes known or generally available to the public after disclosure without breach of this contract; or
- c) was disclosed to the receiving party by a third party, provided that the disclosure by the third party does not, to the knowledge of the receiving party, breach a confidentiality obligation; or
- d) was independently developed by an employee of the receiving party who had no knowledge of the confidential information.

The party invoking these exceptions shall be obligated to provide proof that the respective exceptions apply.

## **20. Final provisions**

20.1 The conditions contained in the respective price list shall apply in addition to these General Terms and Conditions. General contractual or business conditions of the Client are hereby expressly excluded. This shall also apply if the terms and conditions of the Client have not been expressly objected to and/or BCN provides the services without objection, i.e., advertisements shall be run and published without objection. German federal law shall apply. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) and private international law is excluded. Should individual provisions of the advertising order including these regulations be wholly or partially invalid or should the advertising order contain a loophole, the validity of the remaining provisions or parts of such provisions shall remain unaffected. The parties undertake to replace an invalid provision with a valid agreement whose economic success comes as close as possible to that of the invalid provision.

20.2 The parties are permitted to use the name, logo or other identifying designations of the respective other party and/or to use these designations as a reference. In addition, the principal shall grant BCN the right to use the advertising contributions supplied for its own advertising purposes, in particular in the context of reporting on BCN's media offerings, free of charge.

20.3 Subsidiary contracts, amendments and supplements as well as cancellations of a contract or an individual order including its annexes must always be made in writing (original handwritten signature) and are not considered valid if submitted via e-mail or fax. An e-mail with a certified electronic signature is sufficient for the written form. This shall also apply to amendments to this written form requirement.

### **Annex 1: AGREEMENT BETWEEN THE JOINT CONTROLLERS PURSUANT TO ARTICLE 26 GDPR**

#### **Annex 1 to Clause 17.4 of the General Terms and Conditions**

#### **Agreement between the joint controllers pursuant to Article 26 GDPR**

This Annex defines the areas of responsibility for joint data processing between BCN and the Client pursuant to Article 26 GDPR.

## **1. Purpose and legal basis for processing:**

The purposes and respective legal basis for the processing of personal data within the context of advertisements from BCN are defined jointly by BCN and the respective Client in accordance with the illustrations within the consent and conflict management of the digital medium from BCN (Consent Management Platform, hereinafter 'CMP').

## **2. Processing medium**

2.1 The processing of personal data of data subjects ('Users') of the digital medium is carried out through the online advertising technologies of BCN, which are embedded in the digital medium.

2.2 The online advertising technologies of BCN enable the Client to store cookies or similar technologies on the device of the User, which enable access to or storage of information on the device for the specified COMMON PURPOSES.

2.3 A technology comparable in function to cookies, such as the operating system-specific advertising ID, vendor ID or a randomly generated user ID, is used instead of cookies when using apps.

## **3. Function and relationship with regard to data subjects**

3.1 BCN enables Users to use the digital medium. At the beginning of the usage process, the User is given the opportunity to determine the scope of the processing of personal data and the access to or storage of information on their device by applying the appropriate settings in the digital medium.

3.2 The User can revoke the consent given in each case within the settings of the digital medium of BCN or can object to the processing of personal data at any time.

3.3 Based on the settings of the Users within the digital medium, technical notifications are sent to the Client about the existence of the legal basis for the processing of personal data of the data subject.

## **4. Scope of joint responsibility**

The Client shall be jointly responsible with BCN for the processing of personal data to the extent that BCN enables the Client to process personal data of users of the digital medium for its own purposes as well as by integrating the online advertising technologies into the digital medium of BCN (hereinafter 'JOINT PROCESSING').

## **5. Obligations of BCN**

5.1 BCN undertakes to inform Users of the digital medium of the nature, scope and purpose of the JOINT PROCESSING of personal data and their rights as data subjects pursuant to Article 13 GDPR. Furthermore, BCN undertakes to provide the Users of the digital medium with the additional further information described in and pursuant to Article 26 GDPR.

5.2 BCN undertakes, to the extent necessary, to provide the Users of the digital medium with a 'CMP' for retrieval at any time, by means of which the User of the digital medium can apply the required settings in accordance with Clause 3.1 of this Agreement or change them at any time in accordance with Clause 3.2.

5.3 The CMP must be certified with active status by the Transparency & Consent Framework of IAB Europe.

5.4 BCN undertakes to chart the COMMON PURPOSES pursued including legal bases of the JOINT PROCESSING within the CMP.

5.5 BCN shall respond to requests from a data subject that are received by BCN and relate to the JOINT PROCESSING of personal data within the statutory terms.

## **6. Obligations of the Client**

6.1 The Client undertakes to promptly provide BCN with the information required to fulfil the information obligations pursuant to Clause 5.1 and the requests for information pursuant to Section 5.5, as related to their JOINT PROCESSING in each case.

6.2 The Client undertakes to observe the respective TCF consent string. This is provided by the respective CMP within the digital medium of BCN so that it can be read and processed by the Client in real time. The Client shall ensure that personal data of the Users is only processed if the legal basis jointly determined in accordance with Clause 1 of this Agreement exists in each case and a corresponding signal has been sent to the Client. The same applies to the retrieval or storage of information on the device of the User.

6.3 The Client undertakes to immediately cease JOINT PROCESSING if the legal basis ceases to exist.

6.4 The Client undertakes to implement requests for deletion by Users immediately after becoming aware of them and to inform BCN of these requests.

6.6 The Client shall keep a list of the Vendors to be used and shall make it available to BCN upon request.

## **7. Reporting and notification obligations**

7.1 In the event of a personal data breach, BCN shall fulfil the necessary reporting and notification obligations for JOINT PROCESSING pursuant to Article 34 GDPR regarding the respective Users.

7.2 Insofar as the breach has not occurred within the sole area of responsibility belonging to BCN, the Client shall promptly provide BCN with the information required to fulfil the statutory reporting and notification obligations.

7.3 The information to be provided shall also include the information listed in Article 33(3) GDPR. If and to the extent that the information cannot be provided at the same time, the relevant Party concerned may provide such information in a staggered manner without undue further delay.

## **8. Further obligations**

8.1 BCN as well as the Client shall log the JOINT PROCESSING in the respective record of processing activities pursuant to Article 30(1) GDPR. The Parties shall provide each other with the information required for the record of processing activities pursuant to Article 30(1) GDPR.

8.2 In the case of a personal data breach within the meaning of Article 4(12) GDPR in relation to the JOINT PROCESSING, the Party concerned, in consultation with the other Party, shall comply with the required notification obligations pursuant to 33 GDPR by notifying the competent supervisory authority.

8.3 Each Party shall implement and maintain the required technical and organisational measures. The measures taken to protect personal data shall be documented by the respective Party in an appropriate format. The Parties undertake to produce the documentation at the request of the other Party.

8.4 If a Party becomes aware of a breach of any provision of this Agreement or of the protection of personal data in relation to the JOINT PROCESSING, it shall immediately notify the relevant Party concerned. The same applies in the event of a breach of the provisions of the TCF Policies.

## **9. Data transfer to third countries**

9.1 As a basic principle, the Parties shall process personal data within a member state of the European Union ('EU') or in another state party to the Agreement on the European Economic Area ('EEA').

9.2 The processing of personal data in other countries ('third country') is carried out in compliance with the requirements of Article 44 et seq. GDPR. If personal data is transferred by the Client to a third country, the Client must specifically provide appropriate safeguards within the meaning of Article 46 GDPR and provide Users with enforceable data subject rights and effective legal remedies.

## **10. Inception and duration**

10.1 The Agreement shall enter into force upon inception of the Joint Processing between BCN and the Client.

10.2 This Agreement shall automatically expire upon termination of the JOINT PROCESSING.