

## **General Terms and Conditions of Business of SPIEGEL-Verlag Rudolf Augstein GmbH & Co KG ("SPIEGEL MEDIA") for digital advertising business**

The following General Terms and Conditions of Business (hereinafter "the Terms") shall regulate the relationship between SPIEGEL-Verlag Rudolf Augstein GmbH & Co KG, SPIEGEL MEDIA Division and the Client in the provision of services on the part of SPIEGEL MEDIA for Clients of SPIEGEL MEDIA, in particular the processing of advertising contracts. The present Terms shall apply thereto in exclusivity, unless otherwise explicitly agreed. Any general contractual provisions or conditions of business of the Client are herewith ruled out; this shall also apply if there is no explicit objection to the conditions of the Client, or if SPIEGEL MEDIA provides its services without contradiction.

These Terms are a translation of the respective German Allgemeine Geschäftsbedingungen. In the event of discrepancies, inaccuracies or omissions in the English version, the German version shall prevail exclusively. The same shall apply to the English language advertising ad rate cards which are translations of the respective German Preislisten.

### **1. DEFINITIONS**

An "**Agency**" shall be deemed to mean agencies dealing with the contract award in their own name or in the name of a third party.

An "**Agency Client**" shall be deemed to be a client for whom an agency commissioned by it books services from SPIEGEL MEDIA in its own name and on its own account. A two-tier contractual relationship between SPIEGEL MEDIA - agency/agency - :Agency Client shall exist with regard to the booking; the pricing vis-à-vis the Agency Client shall be incumbent on the agency.

"**Advertisement**" shall include advertisements and other advertising media.

A "**Client**" shall be deemed to be the contracting partner of the publisher (agency or direct Client).

An "**Operator**" shall be deemed to be the operator of an information and communication service for which the advertising contract is awarded.

A "**Direct Client**" shall be deemed to be a client with whom a direct contractual relationship exists. This shall also apply if it has appointed an agency to represent it which concludes the contract in its name, section 164 of the German Civil Code (BGB).

The "**SPIEGEL MEDIA Advertising Network**" shall be deemed to be all and any information and communication services marketed by SPIEGEL MEDIA.

The "**Production contract**" shall be deemed to be the contract between SPIEGEL MEDIA and the Client for the provision of creative, manufacturing and/or programming services.

"**Low-fare bookings**" shall be deemed to be low-priority inventories which are offered with a limited service level at performance conditions. SPIEGEL Media herewith reserves the right to exclude particularly attractive websites or individual categories of website from low-fare bookings. Low-fare bookings shall be delivered

exclusively in the marketing portfolio of SPIEGEL MEDIA. No third-party inventory shall be purchased under any circumstances.

An **“Advertising contract”** or a **“Conclusion”** shall be deemed to be the contract between SPIEGEL MEDIA and the Client on the placement of an advertising medium or several advertising media in information and communication services, particularly on the Internet, for the purpose of dissemination. Information and communication services can be provided both on the Internet, via e-mail, and on mobile platforms. The Internet, e-mails and mobile platforms shall be treated equally unless any other arrangements are made.

An **“Advertising medium”** shall be deemed to be an individually-designed advertising message, for instance in the shape of banners, videos or audio spots.

**“Advertising”** shall include all and any advertising media offered by SPIEGEL MEDIA.

An **“Advertiser”** shall be deemed to be the legal or natural person that – or the products or services of which – is advertised by the advertising medium.

## **GENERAL CONDITIONS**

1. The advertising contract shall be concluded through booking by the Client (offer) and contract confirmation by SPIEGEL MEDIA in text form (acceptance), or through the performance of the service.

2. If a direct Client is represented by an agency, it shall be explicitly pointed out in text form, at the latest when the ad is booked, that the booking is to take place in the name and for the account of the direct Client. If such notice is not made in good time, the contract shall be deemed to have been concluded as with effect for and vis-à-vis the Agency, section 164 subsection (2) of the Civil Code. SPIEGEL MEDIA shall be entitled to demand from the Agency proof of proxy.

3. If an Agency Client changes agency during the completion period of a Conclusion, SPIEGEL MEDIA shall assume that the former agency transfers the contractual relationship to the new agency, with all rights and obligations, from the time of Conclusion onwards. In this case, the consent of SPIEGEL MEDIA shall be deemed to have been given if the performance of the Conclusion is continued with the new agency without objection.

4. The Client shall not be entitled to SPIEGEL MEDIA rejecting third-party contracts with comparable content and/or comparable products.

5. If one or more call ups within a conclusion are not fulfilled due to circumstances beyond the control of SPIEGEL MEDIA and the operator, the Client shall refund to SPIEGEL MEDIA the difference between the discount granted and that corresponding to the actual acceptance. Unless otherwise agreed, the Client shall be retroactively entitled to the discount corresponding to its actual purchase of advertising media within a year if it has concluded a contract at the beginning of the period which entitles it to a discount from the outset based on the pricelist. The entitlement to the

discount shall expire if it is not asserted within three (3) months of the end of the one-year period.

6. If the implementation of a contract fails due to software-related or other technical reasons for which SPIEGEL MEDIA and the operator are not responsible, in particular because of computer failure, force majeure or strike, due to legal provisions, faults in the area of responsibility of third parties (e.g. other providers), network operators or service-providers, or for similar reasons, then the contract shall be subsequently implemented where possible. If such subsequent implementation takes place within a suitable period of time after the fault has been remedied that is acceptable for the Client, the remuneration claim of SPIEGEL MEDIA shall be upheld.

7. SPIEGEL MEDIA shall be liable for all and any damages, regardless of whether for breach of contractual obligation or for tortious act, in accordance with the following conditions: In the case of gross negligence, liability in commercial transactions shall be limited to compensation for the typical foreseeable damage; this restriction shall not apply if the damage was caused by senior employees of SPIEGEL MEDIA. In the case of simple negligence, SPIEGEL MEDIA shall only be liable if a material contractual obligation has been breached, if a guarantee has been assumed, or if there has been fraudulent deception. Liability shall be limited to the typical foreseeable damage in such cases. In the case of liability only for the typical foreseeable damage, there shall be no liability for indirect damage, consequential damage or loss of profit. SPIEGEL MEDIA shall be liable in accordance with the statutory provisions in the case of claims under the Product Liability Act (Produkthaftungsgesetz), as well as in the event of injury to life, limb or health. All claims against SPIEGEL MEDIA for breach of contractual obligations shall become statute-barred one (1) year from the beginning of the statutory limitation period unless they are based on intentional conduct.

8. The invoice shall be due within the period shown in the pricelist, unless a different payment period, or advance payment, has been agreed in the present General Terms and Conditions of Business, or in individual cases in text form. All and any discounts for early payment shall be granted according to the pricelist. SPIEGEL MEDIA herewith reserves the right to require advance payment if there are reasonable grounds, such as taking up a new business relationship. Costs and expenses in payment transactions shall be charged to the Client. All prices shall be understood to be exclusive of the statutory rate of VAT.

9. Customary bank interest and collection costs shall be charged in case of payment arrears or deferral. In the event of payment arrears, SPIEGEL MEDIA may defer the further execution of the current contract until payment has been made and require payment in advance for the remaining services. In the case of justified doubts as to the Client's ability to pay, SPIEGEL MEDIA shall be entitled to make any further services contingent on the advance payment of amounts due in the future, and on the settlement of outstanding invoice amounts, including during the term of an advertising contract, regardless of any payment period that was originally agreed.

This shall also apply if the Client is in payment arrears vis-à-vis other companies of the SPIEGEL Group. The Client shall only be entitled to offset against claims of SPIEGEL MEDIA in respect of claims that are undisputed or legally final.

10. The advance notice of the debiting of a payment based on direct debit shall be communicated on the invoice as a rule, or otherwise with a period of at least two (2) working days. When the contract is awarded, the commissioning agency shall assign its claim for payment in this regard vis-à-vis the Agency Client in security to SPIEGEL MEDIA, which shall accept such assignment. SPIEGEL MEDIA shall be entitled to disclose this security assignment to the Agency Client if the commissioning agency is in at least thirty (30) days arrears regarding the invoice from SPIEGEL MEDIA.

11. SPIEGEL MEDIA shall be entitled to amend the Terms and the pricelists at any time with effect for the future. Terms and price changes for contracts awarded shall be effective if they are announced by SPIEGEL MEDIA at least one (1) month prior to the implementation of the service; the Client shall have a right of withdrawal in this case. The right of withdrawal must be exercised within 14 days in text form after receipt of the notice of change regarding the price increase.

12. The respective pricelist shall apply in the relationship between SPIEGEL MEDIA and the Client. Agency and advertisement placement fees, or other discounts or deductions, shall only be granted on advertising contracts, subject to the provision set out below. The remuneration for the performance of a full service with creative and programming services, as well as related market research services and technical costs, shall not be eligible for a discount or for agency and advertisement placement fees. Charges for placing AdSpecial advertising media developed and produced for the Client shall be excluded from commitment discounts and special discounts, as well as from boni in kind. In the case of special discounts (such as offsetting transactions, etc.), additional costs incurred (for example external services for streaming or mobile) shall be shown separately, shall not be discounted, and no commissions shall accrue thereto.

13. The Client shall have sole responsibility for the content and legal permissibility of the content provided by it (advertising medium, texts, photos, slogans, samples, etc.), and guarantees herewith that all and any rights of use and third-party consent required for the implementation of the contract are available (in particular, but not limited to, the approval of testimonials and other depicted persons), and that the content provided does not violate the applicable laws and third-party rights. SPIEGEL MEDIA shall not be obliged to check the information stipulated or approved by the Client regarding the products and services of the Client for correctness. The verification of legal permissibility for stipulated or delivered content of the Client (especially competition law, as well as the law on labelling, food and medicinal products) shall only be owed by SPIEGEL MEDIA if this is expressly the subject of the contract. If the Client commissions SPIEGEL MEDIA with these services, it shall pay the

fees and costs that SPIEGEL MEDIA and third parties (lawyers, public authorities, etc.) thereby incur at customary market conditions, unless otherwise agreed.

14. The Client shall indemnify SPIEGEL MEDIA regarding all and any third-party rights which may arise because of the violation of statutory provisions or of third-party rights. Furthermore, SPIEGEL MEDIA shall be indemnified in respect of the costs of a necessary legal defense. The Client shall be obliged to support SPIEGEL MEDIA in good faith in legal defense vis-à-vis third parties with information and documentation.

15. The Client shall require the prior, written consent of SPIEGEL MEDIA in order to fully or partly assign its rights and duties from the contract. SPIEGEL MEDIA shall be entitled to avail itself of the services of third parties in order to fulfil its obligations from the contract.

16. Unless expressly agreed otherwise, the parties to the contract shall treat the content of the contract, in particular the prices and conditions, confidentially. This shall not apply if its disclosure is ordered by a court or public authority or is necessary in order to enforce its own rights in court vis-à-vis the respectively other contracting party. SPIEGEL MEDIA shall furthermore be entitled to disclose the content of the contract to third parties involved and affiliated companies in accordance with sections 15 et seqq. of the German Companies Act (Aktiengesetz).

17. Amendments of and addenda to these Terms shall require to be in writing in order to be effective. This shall also apply to the rescission of the requirement of the form of writing.

18. Insofar as the Client receives an individual password from SPIEGEL MEDIA, for example for access to a personal website, it shall be obliged to refrain from disclosing it to third parties, and to keep it carefully in order to rule out abuse by third parties. If the password is lost, or if the Client becomes aware that third parties may have gained access to the password, the Client shall be obliged to inform SPIEGEL MEDIA thereof without undue delay in text form. The Client shall be liable for all and any damage resulting from abuse of the password unless it proves that it is not culpable in this respect. Liability of SPIEGEL MEDIA shall be ruled out in this case.

19. In the event of a provision of the present Terms being or becoming ineffective, the effectiveness of the other provisions is to remain unaffected thereby. The ineffective provision shall be substituted by an effective provision which comes as close as possible to the economic purpose of the ineffective provision.

20. The place of performance shall be the domicile of SPIEGEL MEDIA. In commercial transactions with merchants, with legal entities under public law, or with special funds under public law, the venue for court actions shall be the domicile of SPIEGEL MEDIA. Insofar as claims of SPIEGEL MEDIA are not asserted in reminder proceedings, the

court venue shall be determined with non-merchants according to their place of residence. If the place of residence or habitual residence of the Client, including with non-merchants, is unknown at the time of filing the action, or if the Client has moved its place of residence or habitual residence from the scope of the Act subsequent to conclusion of the contract, the agreed court venue shall be the domicile of SPIEGEL MEDIA.

21. German substantive law shall apply, without recourse to the provisions on conflict of laws.

## **SPECIAL PROVISIONS FOR THE BOOKING AND PROCESSING OF ADVERTISING CONTRACTS**

22. Each advertising contract shall refer to an advertiser specifically designated by the Client by (company) name; a change of advertiser by the Client after the booking of an advertisement shall require the consent of SPIEGEL MEDIA in text form.

23. If the right to call up individual advertising media has been granted in the contract; the contract must be completed within one (1) year from the conclusion of the contract. In the case of conclusions, the Client shall be entitled to call up further advertising media within the agreed or abovementioned period, based on availability.

24. The Client shall be obliged to supply proper advertising media, in particular in accordance with the format or the technical stipulations of SPIEGEL MEDIA and the operator, in good time in advance of the beginning of the placement. Delivery of the advertising media shall be deemed to be on time if it is according to the agreed schedule; in the case of standard formats, the delivery times stated in the specifications under <https://spiegel.media> shall apply in case of doubt. Advertising media shall only be returned to the Client upon special request. The obligation incumbent on SPIEGEL MEDIA to retain the advertising media shall end three (3) months after its last placement. In case of delayed delivery of the advertising media, the Client shall be obliged to pay the full contract value. This shall also apply in the case of an underdelivery.

25. The Client shall meet the costs of SPIEGEL MEDIA or of the operator for changes requested or necessitated by the Client as a result of the commissioned scope of performance.

26. Contracts for advertisements which are only to be published in specific issue numbers, specific editions or specific locations must be received by SPIEGEL Media in good time to notify the Client before the copy deadline if the contract is not to be executed in this manner.

27. Advertising media which are not recognizable as such due to their design shall be marked as advertisements in accordance with the legal requirements.

28. Advertising contracts may be terminated for SPIEGEL MEDIA until such time as the advertising medium is presented by the Client and approved by SPIEGEL MEDIA. SPIEGEL MEDIA herewith furthermore reserves the right to reject advertising contracts – including individual call ups as part of a conclusion – or to block advertising media that have already been published if their content violates laws, official provisions or third-party rights, or their content has been objected to by the German Advertising Standards Council in a complaint procedure, or SPIEGEL MEDIA cannot be reasonably expected to publish them because of their content, design, origin or technical form, or there is reasonable suspicion that an advertising medium links via a link to content that satisfies one of the aforementioned preconditions, or the advertising medium contains advertising of persons other than the advertiser (“Third party”), or for third parties. SPIEGEL MEDIA shall notify the Client of termination, rejection or blocking without undue delay. The Client shall be entitled in such cases to deliver another advertising medium to which the grounds for refusal do not apply. If this advertising medium is delivered too late for compliance with any agreed period, or not at all, SPIEGEL MEDIA herewith nonetheless reserves the right to remuneration. The same shall apply if the advertising medium is placed despite an initially declared termination, refusal or blocking.

29. Advertising media which contain advertising of third parties or for third parties (“joint advertising”) shall require a prior declaration of acceptance by SPIEGEL MEDIA in text form in each individual case. Joint advertising shall entitle SPIEGEL MEDIA to charge a joint advertising supplement.

30. SPIEGEL MEDIA may deviate from the Terms and pricelists in individual agreements with agencies and direct Clients and may also grant discounts to a commissioning agency which are independent of the individual commission or advertiser or may conclude agreements regarding the purchase of advertisement packages. SPIEGEL MEDIA herewith reserves the right, under such agreement, to allow agencies to resell advertisements in their own name and for their own account. There shall be no entitlement to the conclusion of such agreement. SPIEGEL MEDIA furthermore reserves the right to also grant to an agency discounts or rebates independently of the individual advertising contract or advertiser.

31. Unless expressly stated otherwise, the discount scales in the pricelists shall be deemed to refer to the placements for one advertiser per year of placement. Apart from the provisions below, discounts shall not be granted for advertisers who conclude advertising contracts for other advertisers in order to claim a joint discount. If a joint discount (“group discount”) is claimed for affiliated group companies, written proof of group affiliation shall be required. Affiliated group companies within

the meaning of this provision between which there is a capital participation of at least 50 per cent shall be documented in a form to be agreed. Documentation of group affiliation shall be provided in a form to be agreed and must be available by the end of the year of conclusion at the latest. Later documentation may not be retroactively recognized. Group discounts shall require express confirmation in text form by SPIEGEL MEDIA in all cases. Group discounts shall only be granted for the duration of the group affiliation; SPIEGEL MEDIA herewith reserves the right to subsequently claim back discounts that have been wrongly granted. Termination of group affiliation must be reported without undue delay; the group discount shall also end on the termination of the group affiliation.

32. The Client shall assign to SPIEGEL MEDIA and to the operator all and any copyrights, rights of use and ancillary copyrights required for the placement of the advertising media in all kinds of online media, in particular the right to duplicate, disseminate, transfer, make publicly accessible and broadcast, store in and extract from a database, as well as retrieval, specifically for the time and content necessary for the implementation of the commission. The above rights shall be assigned with unlimited geographical scope in all cases and shall constitute an entitlement to effect placements on all and any platforms and using all and any types of transmission, including if the corresponding platforms are operated by third parties (e.g. social media networks). The Client shall permit SPIEGEL MEDIA and the operator to make publicly accessible its advertising on its websites and mobile platforms, as well as to duplicate and disseminate it offline (e.g. as a CD-ROM, DVD, presentation, print or other advertising media) for purposes of own advertising.

33. The Client herewith guarantees that it is in possession of all rights required for the placement of the advertising media and has sole responsibility for the lawfulness of the advertising media. The Client shall indemnify SPIEGEL MEDIA and the operator with regards to all third-party claims that may arise in connection with the placement of the advertising media due to the violation of third-party rights or legal conditions. The Client shall furthermore indemnify SPIEGEL MEDIA and the operator in respect of the costs of a necessary legal defense. The Client shall be obliged to support SPIEGEL MEDIA and the operator in good faith in legal defense vis-à-vis third parties with information and documentation. The Client shall pay all and any fees payable to domestic or foreign collecting societies (GEMA, GVL or similar) in connection with the placement of the advertising media and shall indemnify SPIEGEL MEDIA in respect thereof upon first written request.

34. SPIEGEL MEDIA and the operator shall not be responsible to the Client to review advertising media as to whether they violate third-party rights or statutory provisions, in particular of press and media law, the law on competition, telemedia law, data protection law and/or criminal law; statutory obligations to review shall remain unaffected thereby. Unless otherwise agreed, and notwithstanding other rights, SPIEGEL MEDIA shall be entitled to immediately replace the advertising medium designed with content of the Client with all and any replacement advertising media,

to block the advertising medium without replacement, and/or to give immediate notice in respect of the contract with immediate effect, if a court or public authority prohibits it from placing the advertising media, or from linking with sites connected with it, or if it is claimed against by third parties because of the placement of the advertising medium or the sites linked therewith.

35. If the Client requires that advertising commissioned by it not be broadcast due to the violation of third-party rights, or for other reasons, without complying with the preconditions set forth in item 16, it shall remain obliged to pay the full remuneration. It herewith reserves the right to prove that SPIEGEL MEDIA incurred less damage.

36. Within the framework of the foreseeable requirements, SPIEGEL MEDIA shall guarantee optimum reproduction of the advertising media corresponding to the respectively customary technical standard. The Client is however aware that it is not possible in accordance with the state-of-the-art to create a program that is completely free of errors. The guarantee shall not apply to insignificant errors. An insignificant error in the presentation of the advertising media shall be deemed to be present in particular if it is caused by the use of inappropriate display software and/or hardware (e.g. browser); disturbance of the communication networks of other operators, or computer failure due to system failure, or file conversions to adapt the advertising media to technical specifications, or incomplete and/or not updated offers on so-called proxies (caches), or a failure of the AdServer that does not last longer than 24 hours (continuous or added) within 30 days of the start of the contractually-agreed placement.

If the AdServer fails for a significant period of time (more than 10 percent of the booked time) in the context of a time-based booking, the Client's obligation to pay shall cease to apply for the period of the failure. Further claims shall be ruled out.

37. Should the advertising media be of inadequate reproduction quality, the Client shall be entitled to a reduction in payment, or to flawless replacement advertising, but only to the extent to which the purpose of the advertising media was impaired. In the event of the failure or unreasonableness of the replacement advertisement, the Client shall be entitled to reduce payment or rescind the contract. This shall not apply if the inadequate reproduction quality is due to an omission within the area of responsibility of the Client, such as faulty advertising media.

38. If the AdImpression figures promised by SPIEGEL MEDIA have not been achieved at the end of the placement period, the Client shall be entitled, at its option, to either a compensation booking (if available), or to a credit note. If the AdImpression figures promised by SPIEGEL MEDIA are not achieved within a reasonable time, including with a compensation booking, the Client may request that a credit note be issued. SPIEGEL MEDIA shall however not be liable for failures of an AdServer on the part of the Client; no compensation or credit can be made for any resulting smaller quantities during the placement period. All other guarantee claims are herewith ruled

out. The work shall be considered to have been completed within the meaning of section 646 of the Civil Code (BGB) on completion of the original placement period.

39. The count effected by SPIEGEL MEDIA shall be decisive for the calculation of AdImpression figures. The Client shall remain free to prove that these numbers are inaccurate, and that different values should be established in their place. The Client shall notify SPIEGEL MEDIA accordingly in text form within a period of ten (10) days. Insofar as the campaign is delivered via the servers used by SPIEGEL MEDIA, the notification must be made within a period of four (4) weeks. The deadline shall commence in each case with the sending of the notification of AdImpression figures to the Client. In case of deviations in total performance of more than ten (10) percent after conclusion of a campaign which are due to technical or human error on the part of SPIEGEL MEDIA or the operator, the figures of the Client shall apply insofar as they have documented the technical or human error.

40. A possible additional amount shall not effect a change in the booked contract volume. If the Client forecasts a smaller quantity of the booked service of more than ten (10) percent during the campaign's term, it must inform SPIEGEL MEDIA as soon as it has become aware thereof. The parties shall work on a joint solution in such case.

41. A non-current advertising booking can be cancelled free of charge up to three (3) weeks before the start of the placement. 30 percent of the contract value shall be charged should this deadline not be met. The free cancellation of a booking of cooperation options that are not yet running (such as content integration, competitions, special, eBooklet, etc.) shall be possible up to six (6) weeks prior to the start of the placement. If this deadline is not adhered to, the volume originally booked in the six (6) weeks following receipt of the cancellation shall be calculated on a pro rata basis for the period. Technical costs incurred up to the time of the cancellation for the booking (for example in the case of services for streaming or mobile) shall be charged to the Client in full. The entire billing amount shall be payable for cancellations of placements that have already commenced. Cancellations shall require to be in writing in order to be effective.

Unless otherwise agreed, it shall be incumbent on SPIEGEL MEDIA to make the following information available to the Client for retrieval within ten (10) working days after implementation of the contract: The number of hits on the advertising medium, the downtime of the AdServer if it consecutively exceeds one (1) hour.

## **SPECIAL CONDITIONS ON DATA PROCESSING IN THE SPIEGEL MEDIA NETWORK**

42. Where the Client – itself or via third parties commissioned by it – collects, transmits, stores or otherwise processes data from the placement of advertising

media by using specific techniques, for instance by using cookies or pixel tags, or permits third parties to carry out such transmission, storage or other processing (hereinafter jointly "client data processing"), it shall be deemed to be the controller for client data processing within the meaning of the GDPR or of other legal stipulations, and herewith affirms that it will comply with the statutory stipulations in client data processing. In particular personal data shall only be processed to the extent that this is lawful, transparent information is provided regarding processing and – where necessary – an effective opt-out or opt-in mechanism is provided.

43. Insofar as a third party or a supervisory authority claims against SPIEGEL MEDIA in respect of client data processing, the Client shall, on first request, indemnify SPIEGEL MEDIA and the operators on whose information or communication service the client data processing takes place in this respect in respect of all and any claims, receivables, damages and other costs, including fines and the costs of a reasonable legal defense.

44. At the request of SPIEGEL MEDIA the Client must provide detailed information regarding the type and scope of client data processing within 24 hours. The Client must ensure by means of appropriate agreements with the third party commissioned by it, or with such third parties to whom it permits client data processing, that they are obliged to provide information according to the scope of the present item.

45. SPIEGEL MEDIA shall be entitled to verify compliance with the Client's obligations, including using automated tools. SPIEGEL MEDIA herewith furthermore reserves the right to carry out an audit of compliance with the obligations of privacy law incumbent on the Client and its Clients at any time with a notice period of ten (10) working days. The Client shall be obliged to cooperate in such an audit, in particular to provide information and grant access to all relevant systems and premises. The Client shall only meet the cost of such audit if more than only insignificant shortcomings are ascertained, or if no dependable determinations can be made regarding the reliability of client data processing due to inadequate cooperation on the part of the respective unit. The Client shall oblige third parties commissioned or authorized by it to cooperate in accordance with the above sentences.

46. Insofar as SPIEGEL MEDIA receives indications that client data processing is impermissible, SPIEGEL MEDIA can request the Client to refrain therefrom. The request shall be submitted in text form (whereby an e-mail shall suffice), shall be implemented by the Client within 24 hours, and shall be confirmed in text form to SPIEGEL MEDIA. SPIEGEL MEDIA shall be furthermore entitled to suspend the delivery of the advertising media concerned, if and to the extent that the Client does not provide proof of the permissibility of client data processing. The obligation incumbent on the Client to effect payment shall remain unaffected thereby.

47. SPIEGEL MEDIA herewith reserves the right to  
- limit the number of cookies, pixel tags or other types of tracking on a booked

advertising space, or across the board in the SPIEGEL MEDIA Advertising Network;  
and/or

- to make the delivery of cookies or pixel tags contingent on the Client providing information in accordance with item 44 prior to delivery in a form to be determined by SPIEGEL MEDIA; and/or

- to make the delivery of cookies or pixel tags conditional on the Client documenting that client data processing fulfils the requirements of the relevant privacy regulations, in particular, but not exclusively, by presenting a GDPR certification within the meaning of Art. 42 GDPR.

48. The Client shall be obliged to provide SPIEGEL MEDIA with a text suggestion for its privacy policy in the SPIEGEL MEDIA Advertising Network for client data processing, with which all information obligations under privacy law are fulfilled in compliance with the GDPR, as well as a permanent URL under which the data subject concerned by client data processing can retrieve appropriate information.

49. The Client shall affect payment in respect of a contractual penalty in the amount of ten (10) times the net value of the contract from which the violation originated for any culpable violation of the obligations in accordance with item 42, sentence 2, and item 44. Further claims for damages shall remain unaffected thereby.

#### **SPECIAL CONDITIONS FOR THE DELIVERY OF ADVERTISING MEDIA VIA ADSERVERS OF CLIENT, AGENCIES AND OTHER THIRD PARTIES**

50. Insofar as the Client delivers advertising media on sites within the SPIEGEL MEDIA Advertising Network via a server operated by it or by a third party, the Client herewith guarantees that the system which it uses complies with the following technical requirements: use of a standard AdServer use of a standard load-balancing method 24/7 support availability: failure safety of 99.2% (monthly basis) operation of cache busting for cookies, compliance with the provisions of privacy law.

SPIEGEL MEDIA shall be entitled to halt the campaign for the period of reduced availability. The contractual conditions shall remain unchanged if the campaign is continued. The key figures to be provided by SPIEGEL MEDIA (for example number of ad impressions) shall be reduced accordingly for the period of reduced availability. SPIEGEL MEDIA shall also be entitled to the full contractually-agreed remuneration in such cases.

51. SPIEGEL MEDIA herewith reserves the right to conduct stress tests in order to verify the technical resilience of the advertising media delivered by the Client in case of frequent use. The Client shall grant SPIEGEL MEDIA access to the respective AdServer for this purpose insofar as is necessary. The Client shall notify SPIEGEL MEDIA in writing without undue delay should adverse changes take place or threaten to occur during the term of this contract with one or more AdServers that might make it difficult or impossible for the Client to place advertising media on websites in the SPIEGEL MEDIA Advertising Network. The AdServer(s) must be permanently

monitored and maintained by the Client in order to rule out or immediately eliminate failures of any kind as far as possible.

52. All respectively applicable technical specifications adopted in the AdTechnology working group of the Circle of Online Marketers (OVK) shall apply. SPIEGEL MEDIA shall be entitled to verify compliance with these specifications when using an external AdServer. Upon request, all advertising media from a campaign shall be submitted to SPIEGEL MEDIA for review if the campaign is delivered via a redirect.

53. SPIEGEL MEDIA shall be entitled to halt the campaign in case of non-compliance. After the campaign has been halted, the Terms of SPIEGEL MEDIA shall apply to the delivery of the advertising media. The key figures to be provided by SPIEGEL MEDIA shall be correspondingly reduced in other respects. SPIEGEL MEDIA shall also be entitled to the full contractually-agreed remuneration in such cases.

54. SPIEGEL MEDIA shall take part in the voluntary self-regulation for online behavioural advertising of the German Association for the Digital Economy (BVDW). This shall include the identification of all third-party service-providers who are permitted by SPIEGEL MEDIA to operate online behavioural advertising on sites of SPIEGEL MEDIA. Under the terms of this agreement, the service-provider shall undertake to comply with the applicable conditions of the code that is relevant to it and to implement them in the prescribed form. SPIEGEL MEDIA herewith reserves the right to state the full identity and contact details of the service-provider on its homepage and to link to its homepage/microsite regarding privacy.

55. All advertising media that are intended for inclusion in the SPIEGEL MEDIA Advertising Network shall be sent to an address provided therefor by SPIEGEL MEDIA (spiegel@ems.guj.de) in accordance with the lead times. They must be available to SPIEGEL MEDIA before the start of the placement. SPIEGEL MEDIA herewith reserves the right to object to inappropriate advertising media. The above provisions shall apply accordingly in case of altered advertising media. The placement of the advertising media may not obstruct or restrict the functionality of the SPIEGEL MEDIA Advertising Network in any way.

56. SPIEGEL MEDIA shall be entitled to remove advertising media from the SPIEGEL MEDIA Advertising Network at any time and with a reasonable period of notice. The connection to the external server can be interrupted for this purpose at any time. No period of notice shall be required if SPIEGEL MEDIA is required by an administrative decision or court ruling to remove a creative or to omit its inclusion, SPIEGEL MEDIA has sufficient indications that the creative being displayed is legally impermissible, or the inclusion of one or more creatives causes or has caused serious malfunctions in the SPIEGEL MEDIA Advertising Network or with the operator.

57. In the case of late delivery, incomplete delivery and/or delivery of advertising media not conforming to the technical specification, SPIEGEL MEDIA shall be entitled

to otherwise occupy the intended placements until the delivery has been carried out flawlessly. The implementation of the advertising contract shall be subsequently carried out at the discretion of SPIEGEL MEDIA. The Client shall nevertheless be obliged to pay the full price for placement. In the event that the Client nonetheless places an advertising medium that does not comply with these conditions, it must – notwithstanding any other rights of SPIEGEL MEDIA – ensure without undue delay, but no later than four (4) hours after notification by SPIEGEL MEDIA, that the advertising medium is no longer displayed in the browser when accessing websites of the SPIEGEL MEDIA Advertising Network..

### **SPECIAL CONDITIONS FOR THE PRODUCTION OF DIGITAL CONTENT (DISPLAY FORMS OF ADVERTISING, MICROSITES, LANDING PAGES, ETC.)**

58. If the Client terminates a production contract without good cause, it shall pay SPIEGEL MEDIA reasonable remuneration for the services provided and expenses incurred until that time, but at least 30% of the contract value.

59. The Client must verify the conformity of the work results with the contract, as well as that of the preliminary and intermediate products sent for correction, without undue delay. The risk of any errors shall transfer to the Client with the approval statement, insofar as these are not errors which did not arise or could not be detected until subsequently. The same shall apply to all other approval statements of the Client.

60. The work results shall be accepted in writing or in text form within three (3) working days, unless SPIEGEL MEDIA has set another deadline. If no timely declaration of acceptance is made, the work result shall be deemed to have been accepted in accordance with section 640 subsection (1), sentence 3, of the Civil Code.

61. A commissioned advertising medium shall be coordinated with the Client via a maximum of three (3) free correction cycles. SPIEGEL MEDIA may invoice the Client for any effort over and above this (additional corrections, particularly complex additional functionalities, etc.), unless SPIEGEL MEDIA is responsible for the effort. Control proofs, alterations of delivered/transferred data and similar preparatory work, as well as changes made by the Client, shall be charged to the Client. This shall also apply insofar as SPIEGEL MEDIA avails itself of the services of a third party for the provision of all or part of the service, and the third party invoices the corresponding costs to SPIEGEL MEDIA.

62. Delivery dates shall require a written agreement. By awarding the contract, the Client shall be deemed to have accepted all and any deadlines stated by SPIEGEL MEDIA for the implementation of its acts of cooperation and shall undertake to meet the same. Any delivery period that has been agreed shall be interrupted for the duration of the examination of drafts, demos, test versions, etc., by the Client. The interruption shall be counted from the date of notification of the Client up to the date

of the arrival of its statement. If the Client requests alterations to the contract subsequent to the contract award which affect the duration of the production, the delivery time shall be extended accordingly. In the case of delayed delivery, the Client shall only be entitled to exercise the statutory rights to which it is entitled after setting a reasonable period of grace of at least 1 (one) week.

63. SPIEGEL MEDIA herewith reserves the right to exclude selected browser/versions, devices and operating systems in case of implementations that are programmed with the latest technology standards (HTML, CSS, Javascript, etc.).

64. Subcontracting (including data media, transmitted data) by the Client or by a third party commissioned by it shall not be subject to any obligation to review that is incumbent on SPIEGEL MEDIA. This shall not apply to data that obviously cannot be processed or read. In the case of data transmissions, the Client shall use protection programs for computer viruses that comply with the latest technical standards prior to transmission. The Client shall have sole responsibility for the data backup. SPIEGEL MEDIA shall be entitled to make a copy.

65. SPIEGEL MEDIA shall retain rights of utilization for drafts, concepts or ideas that are rejected or not implemented by the Client. This shall also apply to services provided by SPIEGEL MEDIA that are not the subject-matter of special statutory rights, in particular copyright.

66. Unless otherwise specified in the terms of reference, the Client shall acquire the non-exclusive right of utilization of advertisements designed by SPIEGEL MEDIA for publication in the media of SPIEGEL MEDIA that were agreed on award of contract for the duration of the Conclusion, on the full-price advertisements designed by SPIEGEL MEDIA. This shall also apply to First-Mover AdSpecials, insofar as no other agreement is concluded with the Client. If further use is desired, SPIEGEL MEDIA shall, without undue delay, submit an offer for the remuneration to be paid.

## **SPECIAL CONDITIONS FOR BOOKING AND PROCESSING LOW-FARE INVENTORIES**

67. Accounts shall be settled retroactively on basis of the numbers of the SPIEGEL MEDIA AdServer. The calculation of counting differences shall be based on the measured numbers of the SPIEGEL MEDIA. In the event of deviations in counting compared to the delivering AdServer, a deviation of up to 10% shall be considered customary on the market, and not as a counting difference. If no clear cause can be found for a deviation from the total performance by more than 10%, the total (minus the 10% customary on the market) shall be paid in equal halves by SPIEGEL MEDIA and the Client.

68. Any competitors to the print titles and online sites marketed by SPIEGEL MEDIA shall be ruled out from low-fare bookings. This shall particularly apply to competitive campaigns that are run in order to generate subscriptions.

69. No discounts shall accrue to low-fare bookings.

70. There shall be no delivery guarantee for low-fare bookings. The volume booked shall be delivered on the base placements in the SPIEGEL MEDIA portfolio, depending on availability. If the volume booked is not reached in the desired period, the invoicing shall be affected as per the effective delivery status.

71. There shall be no entitlement to uniform delivery of the booking volume over the campaign period. There shall be no placement selection/guarantee. Allocation to the SPIEGEL MEDIA inventory shall be based on proviso availability. Higher-priced bookings shall take priority on delivery; SPIEGEL MEDIA shall have a right of postponement in this respect.

72. The Client shall receive a final campaign report after the end of the campaign. SPIEGEL MEDIA shall not provide intermediate reports. SPIEGEL MEDIA shall not provide screenshots as campaign documentation for the delivery of advertising media.

73. The Client shall not be permitted to resell the inventory provided by SPIEGEL MEDIA to third-party ad networks or other intermediaries. The inventory may only be used for filling with direct advertising partners of the Client. Advertising media must be delivered no later than three (3) working days before the placement deadline. A maximum of two (2) physical advertising media may be delivered per format. A change of advertising medium motif may be carried out once per week at most. The use of redirects, in which the Client may carry out changes of advertising medium motif in the background at its own discretion, shall remain unaffected by this rule.

Valid from 22 May 2018