

General Terms and Conditions of promio.net GmbH for promio.media

§ 1 Validity

(1) These General Terms and Conditions ("GTC") contain the exclusive conditions applicable between you and us, promio.net GmbH, Giergasse 2, 53113 Bonn, for all contracts, deliveries, services and offers concluded between you and us in the "promio.media" section. These terms and conditions only apply if you are an entrepreneur (§ 14 BGB), a legal entity or special fund under public law.

(2) General terms and conditions of you or third parties shall not apply, even if we do not specifically object to their validity in individual cases. Even if we refer to a letter which contains or refers to general terms and conditions of business of you or a third party, this does not imply any agreement with the validity of your general terms and conditions.

§ 2 Offer and contract conclusion

(1) The presentation of our services on our homepage www.promio.net or our other advertising media does not constitute a binding offer on our part. By placing an order with us, you submit a binding offer.

(2) No contract between you and us shall become effective until we issue an explicit and separate declaration of acceptance, which shall be submitted within five working days by fax, email, in writing or by executing the service ordered.

(3) With the exception of the CEOs of promio.net GmbH, our employees are not entitled to make agreements that deviate from these GTC.

(4) Our statements on the object of the service as well as our representations of the same are only approximately authoritative, unless the usability for the contractually intended purpose presupposes exact conformity. They are not assured quality characteristics, but descriptions or identifications of the supply or service. Customary trade deviations and deviations which are based on legal regulations or that represent technical improvements are permissible, as long as they do not impair the usability for the contractually intended purpose.

(5) We reserve the ownership and/or rights of use of all offers and cost estimations submitted by us as well as of all illustrations, calculations, brochures, catalogues, models and other documents and tools made available to you. Without our explicit consent, you may not make these documents and objects available to third parties, publicize them, use them yourself or through third parties, allow them to be used or duplicated, neither as such nor in terms of content. You must return these objects to us in full at our request and destroy any copies that may have been made if they are no longer required by you in the ordinary course of business or if negotiations do not lead to the conclusion of a contract.

§ 3 Prices and payment

(1) The prices apply to the services listed in the contract. The prices are in EURO plus statutory value added tax.

(2) Invoice amounts are to be paid within the agreed payment period. The date of receipt is decisive for the date of payment.

(3) In the event of late payment, you shall pay default interest of 9 (nine) percentage points above the respective base interest rate p.a. We can also charge a flat rate of 40 euros. We

reserve the right to claim higher interest and/or further damages. The fixed fee under sentence 2 shall be added to any compensation owed insofar as the damage is justified in costs of legal action. Our claim to the mercantile due date interest (§ 353 HGB) against merchants shall remain unaffected.

(4) We shall be entitled to perform or render pending services only against advance payment or provision of security if, after conclusion of the contract, we become aware of circumstances which are likely to substantially reduce your creditworthiness and which jeopardize the payment of our open claims by you under the respective contractual relationship.

§ 4 Performance period

(1) The fulfilment of our service obligation requires the timely and proper fulfilment of your obligations. If you are in default with your payment obligation, we are entitled to make the provision of further services dependent on the payment of the due consideration. We reserve the right to the objection of non-performance of the contract.

(2) If an agreed service is not available because we are not provided by our supplier through no fault of our own, we may withdraw from the contract. In this case, we will inform you immediately and without delay and reimburse any service you have already provided. (3) We will notify you of delays in performance immediately after we become aware of them. We are not responsible for delays in performance due to force majeure (e.g. strike, lockout, official orders, general disruptions to telecommunications, etc.) and circumstances within your sphere of influence (e.g. failure to perform contributory actions in a timely manner, delays by third parties attributable to you, etc.) and we are entitled to postpone the performance of the affected services for the duration of the hindrance plus a reasonable starting time. Our further claims or rights, in particular from default of acceptance, remain reserved.

(4) Your damage compensation claims or claims for reimbursement of futile expenses in the event of delay in performance or impossibility of performance shall exist in accordance with § 7.

§ 5 Place of performance

Unless otherwise specified, the place of performance for all obligations arising from the contractual relationship is Bonn.

§ 6 Warranty

In the context of our "promio.media" contractual relationship, we owe the procurement of advertising space in emails to the contractually agreed extent. We cannot guarantee the economic success of an advertising campaign.

§ 7 Other liability

We shall be liable - irrespective of the legal grounds - for compensation in damages or reimbursement of futile expenses in accordance with the following provisions in paragraphs 1 to 5.

(1) Unless otherwise stated in these GTC including the provisions of this § 7, we shall be liable for any violation of contractual and non-contractual obligations in accordance with the relevant statutory provisions.

(2) We shall be liable for damages in cases of intent and gross negligence. In case of simple

negligence we shall only be liable

- a) for damages resulting from injury to life, body or health,
 - b) for damages resulting from the violation of an essential contractual obligation (obligation whose fulfillment makes the proper execution of the contract possible in the first place and on whose compliance you regularly rely and may rely); in this case, however, our liability is limited to compensation for the foreseeable, typically occurring damage.
- (3) The limitations of liability resulting from paragraph 2 shall not apply if we have fraudulently concealed a defect or have taken over a guarantee for the quality of a product as well as in the case of liability under the Product Liability Act.
- (4) The provisions of this § 7 shall apply accordingly to the reimbursement of futile expenses.
- (5) If our liability for damages is excluded or limited, this shall also apply to the personal liability for damages of our legal representatives and vicarious agents.
- (6) We are not liable for the loss of data insofar as the damage is due to the fact that you have failed to carry out data backups and thereby ensure that lost data can be restored with reasonable effort.

§ 8 Statute of limitation

- (1) The period of limitation for claims arising from material defects and/or defects of title is one year from delivery of our service. If acceptance has been agreed, the limitation period shall commence upon acceptance.
- (2) Special statutory provisions for surrender claims in rem of third parties, in case of fraudulent intent of the seller and for claims in supplier recourse for final delivery to a consumer remain unaffected.
- (3) Otherwise, exclusively the statutory limitation periods shall apply for your damage claims pursuant to § 7.

§ 9 Rights of use

We are entitled to use your company logo and company name as a reference in our advertising to a reasonable extent.

§ 10 Violation of third party rights, indemnification

- (1) If third parties assert claims against you, in particular for omission and damages compensation and/or due to violation of property rights, you are obliged to inform us immediately.
- (2) If third parties assert claims against us due to the content of an email sent by you, you are obliged to indemnify us in full from all claims and costs upon first request.

§ 11 Confidentiality

- (1) The documents, knowledge and experience handed over to you may only be used for the purposes of this contract and may not be made available to third parties unless they are intended to be made available to third parties or are already known to the third party. Third parties are not auxiliary persons such as freelancers, subcontractors, etc. who are called in to carry out the contractual relationship.
- (2) The obligation of confidentiality shall also apply beyond the termination of the contractual relationship. A corresponding obligation of confidentiality shall be imposed on the auxiliary persons involved.
- (3) If a contracting party so requests, the documents handed over by it, such as strategy

papers, briefing documents etc., shall be returned to it after termination of the contractual relationship, unless the other contracting party can claim a legitimate interest in these documents.

§ 12 Final provisions

(1) If you are a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or the holder of a special fund under public law, if you do not have a general place of jurisdiction in Germany or move your place of business abroad after conclusion of the contract, the place of jurisdiction for all possible disputes arising from the business relationship between us and you shall be Bonn. Mandatory statutory provisions regarding exclusive places of jurisdiction shall remain unaffected.

(2) The relations between us and the client are subject exclusively to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.

(3) Should individual provisions of these GTC be or become invalid, the validity of the remaining provisions shall not be affected thereby.

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