

GENERAL TERMS AND CONDITIONS OF BUSINESS (Below-the-Line)

General Terms and Conditions Distribution Business (Version 05.2018)

§1 Scope

The General Terms and Conditions of Business (GTCs) apply to all deliveries and services to be provided by WerbeWeischer Schweiz GmbH (hereinafter referred to as "WWCH") to agencies and advertising customers (hereinafter referred to as "PRINCIPAL") in the BTL segment. The BTL segment includes in particular Headrest Covers, Cine Promo Team, Cine Flyer, Cine Promo Live, Cine Promo Car, Cine Graphics Floor, Cine Graphics Window, Cine Graphics Door, Cine Carpet, Cine Washroom Mirror, Cine Printer, Cine Ticket and Cine Bag.

By placing the order, the PRINCIPAL agrees to these terms and conditions.

Within the framework of an ongoing business relationship, these GTCs, if they have already been agreed between the PRINCIPAL and WWCH, shall become part of further contracts even without renewed notice if the contractual partner does not object - even if no express notice of their inclusion is given in individual cases.

The General Terms and Conditions of the PRINCIPAL shall not apply, even if WWCH has not expressly objected to them. Exceptions are those GTCs of the PRINCIPAL to which WWCH has expressly agreed in writing.

§2 Offer and conclusion of contract

All offers are without obligation until confirmed by WWCH.

Contracts between WWCH and the PRINCIPAL shall only be concluded by written order confirmation or execution of the order.

§3 Duration of order

The duration of the order results from the contracts concluded between the parties.

Termination during the term of a fixed-term contract is only possible for good cause.

§4 Prices and terms of payment

All prices are media prices, i.e. personnel, production, shipping and handling costs will be charged separately, unless these are expressly included in the media prices. Prices and costs exclude VAT in the statutory amount applicable at the time of invoicing.

Unless otherwise agreed in writing, invoices of WWCH shall be due for payment immediately upon receipt without deduction. Timeliness of the payment depends on the receipt by the PRINCIPAL. Two weeks after receipt by the PRINCIPAL invoices can no longer be objected to.

For new customers of WWCH, advance payment of the invoice amount shall apply when placing an order.

In the event of a default in payment, WWCH shall be entitled to default interest of 5 percentage points in accordance with Art. 104 of the Swiss Code of Obligations (OR).

Any assertion of higher claims for damages shall remain reserved. If the PRINCIPAL falls into default or there are justified doubts concerning its capacity to pay, WWCH shall be entitled to make further services dependent on advance payment of the sum and on settling open invoice sums.

The PRINCIPAL may only be invoiced for claims which are undisputed, recognised by WWCH or deemed to be legally binding. The PRINCIPAL shall not be entitled to the right of retention or right to refuse performance due to contested counter-claims.

§5 Scope of services

Confirmation of the insertion dates shall be subject to the condition that this can be unilaterally postponed by WWCH if necessary due to limited scheduling options in the respective cinema. The prerequisite is that the PRINCIPAL receives an application for postponement in writing at least three weeks before the original date. The change in date shall only be valid if the PRINCIPAL confirms the new date in writing.

Orders are generally accepted as binding firm orders for the PRINCIPAL, excluding any right to postpone or cancel.

In specially justified cases, WWCH may agree to a cancellation if WWCH has received a written request to this effect within a reasonable period of time before the order is executed.

The exclusion of competitors shall not be guaranteed.

Information about population and seating numbers as well as weekly screenings shall be provided without liability.

There is no obligation to store advertising material.

Complaints due to improper execution must be made by the PRINCIPAL in writing to WWCH immediately after becoming aware of them, at the latest within 10 days of the agreed start of the campaign by specifying the cinema, the day and the showing time.

§6 Warranty

If a service provided by WWCH is defective, the customer may demand subsequent performance. If the defect is not remedied by WWCH's subsequent performance, the PRINCIPAL may reduce the remuneration of the CONTRACTOR. Subject to the following provision on liability, the PRINCIPAL shall not be entitled to any further warranty rights.

The warranty right is valid for one year and begins with the provision of the service. An obvious defect must be notified within two weeks of the beginning of the warranty period. An obvious defect is a defect that becomes apparent to a PRINCIPAL who is not an expert without closer examination of the service rendered.

Notification of the defect shall only be effective if it is made in writing.

§7 Procurement of third-party services

WWCH is authorised to make use of external services provided by third parties in the name of and on behalf of the customer. In this case, the General Terms and Conditions of the third party service provider apply. If WWCH is used by third-party service providers, the PRINCIPAL shall indemnify WWCH against all obligations upon first request. WWCH hereby assigns any liability and warranty claims against the service providers to the PRINCIPAL.

§8 Liability

In any case, WWCH's liability shall be limited to damages incurred by the PRINCIPAL as a result of a grossly negligent or intentional breach of an obligation on the part of WWCH. Any liability for auxiliary persons is excluded.

§9 Obligations of the PRINCIPAL

The PRINCIPAL shall ensure and be liable to WWCH that the materials used and the actions to be carried out comply with the applicable law, in particular the relevant provisions on the protection of minors and competition law. WWCH assumes no liability for the legal admissibility of the orders.

The PRINCIPAL guarantees that the materials used by it are free from the rights of third parties and guarantees that the necessary usage and trademark rights have been granted. The PRINCIPAL shall indemnify WWCH and the cinema owners against all consequences of any infringement of rights for which it is responsible.

Events of force majeure shall release WWCH, to the exclusion of any claims to compensation or any other rights of the PRINCIPAL, from its obligation to perform and entitle it to withdraw from the contract fully or in part for the duration of the obstacle. Force majeure is equivalent to circumstances that make the execution of the order uneconomical in the long term, regardless of whether they occur at WWCH or at the advertising management company, cinema or service provider commissioned by WWCH.

§10 Cinema owners

WerbeWeischer Schweiz (WWCH) shall be freed from the obligation to perform if the cinema owner refuses the screening. In this case, WWCH shall be entitled to book another similar cinema as a replacement. WerbeWeischer Schweiz shall not be liable for the content of the advertising material; instead, the Customer itself shall be liable.

§11 Miscellaneous

These provisions shall remain binding in their remaining parts even if one or more provisions are invalid. Ineffective provisions shall be replaced by provisions which come closest to the meaning and purpose of the ineffective provision in a legally effective manner.

Relations between the contracting parties shall be governed exclusively by Swiss law.

The exclusive place of jurisdiction for all disputes arising between WWCH and the client from the contracts concluded between the parties shall be the registered office of WWCH.

The Data Privacy Statement of WerbeWeischer Schweiz GmbH is an integral part of these General Terms and Conditions of Business.