

These General Terms and Conditions (GTC) govern all legal relationships between the customer and Allgemeine Plakatgesellschaft AG (APG|SGA), as well as its subsidiaries and segment companies, with regard to advertising on mobile devices. The customer shall be responsible for reviewing the valid GTC edition before signing a contract with APG|SGA. The German original takes precedence over this English translation. Provisions that differ from those set forth herein shall be binding only if agreed in writing by both parties.

1. Contracting parties

1.1 The customer can be a legal entity or a natural person. The rights and obligations towards APG|SGA under this contract apply to the customer even if the customer is represented by an agency.

1.2 In contracts with a general contractor agency (GC) according to item 13, the GC and not the principal is deemed to be APG|SGA's customer.

1.3 The transfer of rights and obligations from this contract by the customer to third parties is not permitted.

1.4 APG|SGA may forthwith transfer rights and obligations from this contract to a legal successor and, likewise, to another subsidiary or segment company within the APG|SGA Group.

2. Subject of this agreement

2.1 The subject of this agreement is advertising by the customer on mobile devices and, in addition, the delivery of ad impressions on the applications, mobile web pages, welcome back pages and landing pages of the contractual partners of APG|SGA.

3. Content/conclusion of contract

3.1 The delivery of ad impressions is defined in the contract according to place, period, number and, where applicable, as a fixed placement.

3.2 The contract enters into force when APG|SGA provides the customer with express confirmation of conclusion of the contract. E-mail notices confirming conclusion of a contract are legally binding provided APG|SGA does not stipulate that confirmation must be given in writing.

3.3 The customer or the latter's employees must provide proof of their authority to conclude a contract with APG|SGA.

4. Delivery prices/charges

4.1 The delivery price is determined by the rates of the relevant APG|SGA segment company/subsidiary in accordance with the latter's sales documentation and current price list. Amendments may be made until

the contract is concluded pursuant to item 3.2.

4.2 If a price is given in a foreign currency, that price shall be deemed an estimate. The estimate is to be understood as the foreign-currency equivalent of APG|SGA's Swiss-franc price. The binding applicable exchange rate and the effective foreign-currency amount payable by the customer shall be determined by APG|SGA on the date of invoicing.

4.3 Rates are based on the number of ad impressions delivered and placement on the respective mobile application.

5. Invoicing/terms of payment

5.1 As a rule, invoices are issued together with the final report after delivery of the ad impressions. Any other arrangements must be expressly agreed between the customer and APG|SGA.

APG|SGA is entitled to demand payment in advance. If this is not received on time, APG|SGA shall no longer be obliged to render its services. Nonetheless, the customer shall owe the agreed payment, subject to the withdrawal terms according to item 11.

5.2 Invoices are payable within 30 days of the invoice date (due date).

6. Payment default/non-fulfilment of the contract by the customer

6.1 If the customer falls into arrears, interest charges of 5% p.a. shall accrue, without a reminder having been issued.

6.2 If a customer defaults on agreed intermediate payments, the entire amount invoiced for the full duration of the contract shall then become due for payment immediately, without a reminder having been issued.

6.3 APG|SGA reserves the right to discontinue its services without prior notice in the event that the customer falls into arrears. The delivery price and charges shall remain due for the entire contract period.

6.4 In the event of non-fulfilment or partial fulfilment of the contract by the customer, APG|SGA shall be entitled to issue a reminder with an extended grace period which, if unheeded, shall give APG|SGA the right to withdraw from the contract immediately and with no cost implications. In cases pursuant to items 7.2 and 8.2, no reminder and no grace period extension shall be required.

7. Content/design of ad impressions

7.1 The customer shall be the sole party responsible for the content and design of the ad impressions. In particular, the customer shall assure full compliance with industry rules and these GTC.

7.2 APG|SGA does not review the content of ad impressions.

In cases of doubt, APG|SGA is entitled to refuse delivery of ad impressions and to withdraw from the contract with no cost implications for either of the parties.

7.3 APG|SGA is entitled to withdraw forthwith from the contract if delivery of an ad impression

- is fully or partially prohibited by the contractual partner
- cannot be carried out as agreed for technical reasons.

Any such withdrawal shall not entitle the customer to compensation from APG|SGA. The customer shall be liable to APG|SGA for any further damages.

7.4 Should APG|SGA be held liable for the content or design of a third-party ad impression, the customer must hold APG|SGA harmless.

8. Delivery of advertising media for ad impressions

8.1 The advertising media for the ad impressions shall be produced by the customer at its own expense on suitable data carriers satisfying the necessary technical specifications and delivered to APG|SGA on the agreed date.

8.2 Any failure to deliver, or improper delivery of the advertising media for the ad impressions shall not result in a change to the delivery. Any damages thus incurred shall be borne exclusively by the customer. The delivery price and charges will still be owed in full even if delivery takes place only partially or not at all.

8.3 Unless otherwise agreed between the customer and APG|SGA, APG|SGA shall be entitled, effective from commencement of delivery, to use the advertising material delivered by the customer for presentations and documentation and/or to publish said material on the APG|SGA website.

9. Format/quality of advertising media

9.1 The format and quality of the advertising media must conform to APG|SGA guidelines.

9.2 Any necessary post-processing of the delivered advertising media by APG|SGA (e.g. format conversions) shall be billed to the customer on a time-spent basis.

10. Excess/short delivery of ad impressions on the part of APG|SGA

10.1 If APG|SGA cannot duly deliver the agreed number of ad impressions, it shall make up the shortfall by providing ad impressions until such time as the agreed number has been reached in full.

10.2 If APG|SGA delivers more ad impressions than agreed, it shall bill the client solely for the agreed number.

10.3 If APG|SGA delivers fewer ad impressions than agreed, it shall bill the client solely for the number actually delivered.

10.4 The customer shall not be entitled to compensation or damages of any kind from APG|SGA for short deliveries, regardless of the cause thereof.

10.5 Only the measurements of the network partners are decisive concerning the delivered advertising media which are invoiced on the basis of ad impressions, clicks or other models.

11. Withdrawal of the customer from the contract

11.1 The customer may withdraw from the contract subject to the time constraints and cost implications specified in items 11.2 to 11.3 below. Notice of withdrawal must be made in writing to APG|SGA. The date of receipt of such notice by APG|SGA shall serve as the basis for determining the applicable time period.

11.2 Withdrawal will result in the customer being liable for 50% of costs in the case of notices of withdrawal if they are received by APG|SGA at least 48 hours before the first delivery of ad impressions.

11.3 Withdrawal will result in the customer being liable for 100% of costs in the case of all notices of withdrawal received by APG|SGA less than 48 hours before the first delivery of ad impressions.

12. Liability/warranty

12.1 APG|SGA declines all liability towards the customer for direct and indirect damages, in particular arising

- from malfunctions and downtimes affecting applications, mobile websites, welcome back pages and landing pages of the contractual partners of APG|SGA.
- from the contents of ad impressions
- from errors in and/or malfunctions of the operating software of the applications, mobile websites, welcome back pages and landing pages of the contractual partners of APG|SGA
- from malware
- from actions of third parties and from force majeure.

12.2 APG|SGA is not liable for any damage to image resulting from ad

impressions in the respective editorial environment.

12.3 The customer shall bear the risk of data loss or modification until such time as the data has been entered in the data storage system of APG|SGA.

12.4 The customer is required to notify APG|SGA immediately of error messages and interruptions occurring during data transfer. The customer shall repeat data transmission until such time as it has been duly completed. Where necessary, data shall be transferred via another transmission channel.

13. General contractor agencies (GC)

The following stipulations apply to GCs in addition to the present GTC:

13.1 The GC provides a surety for the delivery price and charges in the form of a guarantee from a major Swiss bank or joint security with the principal or a third party approved by APG|SGA. APG|SGA may waive the surety in writing.

13.2 In the offers, contracts and accounts it submits to the principal, the GC shall apply APG|SGA's delivery price and charges (as per item 4) without surcharges.

13.3 The GC is responsible to APG|SGA for compliance with these GTC. The GC shall impose compliance on the principal, if necessary.

13.4 Non-fulfilment by the GC of the obligations stated in items 13.2 and 13.3 shall entitle APG|SGA to lodge a claim in respect of both direct and indirect damages and also to approach the principal for redress.

13.5 APG|SGA is entitled to contact the principal directly, without prior notice to the GC.

14. Consultant commission

14.1 Any consultant commission is stipulated in the respective separate regulations.

15. Political ad impressions

15.1 Political ad impressions are subject to numerous directives of the responsible authorities. The customer shall inform APG|SGA of ad impressions that contain political messages.

Image advertising (for groups, parties or issues) does not fall within the category of political advertising. The additional provisions under item 15.2 below do not apply.

15.2 Political ad impressions shall state the name of the political party or organization. Furthermore, action committees have to imprint the name and address of the responsible person/s. APG|SGA always requires written

disclosure of the political party or organization and the identity of the author of the ad impression.

16. Confidentiality/data protection

16.1 Subject to items 8.3 and 16.2, APG|SGA shall treat the data it receives from the customer as confidential.

16.2 APG|SGA and third parties (libraries, museums, etc.) may publish ad impressions outside the scope of campaigns to the extent that any commercial use is precluded. Neither the customer nor the originator is entitled to compensation for such action.

17. Final provisions

17.1 The contracting parties shall communicate in particular by e-mail, by fax and by phone. Stipulation of the written form is in accordance with the present GTC.

17.2 All legal relations between the customer and APG|SGA shall be governed by Swiss law. The place of jurisdiction shall be the location of the relevant APG|SGA head office. APG|SGA is entitled to institute proceedings against the customer before the competent court at the domicile/place of business of the customer or before any other competent court.

17.3 The present GTC supersede all previous GTC issued by APG|SGA. APG|SGA reserves the right to make changes to these GTC at any time.

Last updated on 3 April 2019.