



# **GENERAL TERMS AND CONDITIONS FOR ADVERTISING ON ORF.AT**

VALID FROM: 01.06.2020

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The Austrian Broadcasting Corporation (ORF) implements advertising assignments for ad placements on ORF.at in accordance with the provisions of the ORF Act and the General Terms and Conditions for Advertising on ORF.at, as amended.

### **1. GENERAL**

- a)** Advertising on ORF.at within the meaning of the provisions of the ORF Act is available for truthful announcements of an economic nature (commercial advertising) or to support a matter or idea (advertising for causes). Ads must not mislead and/or harm the interests of consumers. Good taste and the legal provisions relating to advertising must be observed in all ads, especially, but not exclusively, the ORF Act, the Act against Unfair Competition and the Media (Criminal) Law.
- b)** The general conditions for political advertising on ORF.at in the currently valid version, published at [enterprise.ORF.at](http://enterprise.ORF.at), must be observed for the allocation of advertising space for political advertising.
- c)** Advertising for causes by public institutions will not be broadcast in the six weeks before national council elections, state elections, elections to the European Parliament, the election of the Federal President and referendums. This restriction does not apply to broadcasts that do not address political issues. Public institutions are legal entities entrusted with administrative tasks on the basis of a legal mandate, the Austrian Students' Union, statutory professional interest groups, the Austrian Trade Union Confederation and the Association of Austrian Industry.

### **2. BOOKING PROCESS**

- a)** a) Orders for advertising on ORF.at are accepted on behalf of ORF by ORF-Enterprise GmbH & Co KG. Bookings or reservations can be made in the form of ad placements and/or dynamic ad placements:
  - I.** In the case of ad placements, the advertising material is permanently positioned on the agreed page(s) on ORF.at (front page, subsites) and thus appears each time this booked page/pages are accessed until the agreed ad impressions are reached.
  - II.** Dynamic ad placements are distributed evenly over the desired page/s of ORF.at and appear until the agreed ad impressions are reached.
- b)** b) Booking procedure for front-page ad placements: Booking enquiries sent to ORF are processed immediately by ORF and sent to the client in the form of

an offer. The offer may contain two types of booking options, depending on availability:

#### **I. Firm bookings**

If a booking request can be fulfilled at the time of the request, it can be firmly booked.

#### **II. Stand-by bookings**

If a booking request cannot be fulfilled at the time of the request due to insufficient capacity, the booking request can be converted into a firm booking by ORF at any time – without further consultation – if the corresponding capacities become available. The client will be informed immediately of such a conversion.

Booking requests are ranked and processed according to the time they are received by ORF (“first-come, first-served”).

Reservation requests sent to ORF will be processed immediately by ORF. If available, ORF will inform you about the reservation made and the order of the reservation (ordered according to the time the reservation request is received - „first-come, first-served“).

Bookings take precedence over reservations.

If a booking request for a reserved date is sent to ORF, the first-placed advertiser or advertising agent will be informed and has the option of converting the reservation into a booking in advance within three working days. If this option is not used, the reservation will expire.

Reservations placed first are converted into firm bookings eight weeks before the placement date. ORF will inform about such an imminent conversion five days before the conversion. If the advertising client does not make use of the free cancellation option, the conversion into a firm booking takes place without further consultation.

- c)** Booking procedure, sub-sites and dynamic placement: Booking requests sent to ORF are processed immediately by ORF and sent to the client in the form of an offer.
- d)** Buchungsbewilligung Platzierungen Subsites und dynamische Werbeschaltungen: An den ORF übermittelte Buchungswünsche werden seitens des ORF umgehend bearbeitet und in Form eines Angebotes an den Auftraggeber übermittelt.
- e)** Bookings (firm or stand-by bookings) on ORF.at become legally binding after confirmation by the client (order). Orders are only accepted for companies identified by name with simultaneous indication of the brand, product or service for which the advertisement is

intended. In the event of a difference between the client of ORF and the advertising client (with whom ORF does not establish a contractual relationship in this case), ORF must be notified of the identity of the advertising client in the order. Even if the client is an advertising agent working for an advertising client (see point 11), only the advertising agent is the authorised and obligated party from the contractual relationship established by them with ORF. ORF reserves the right to legal claims against the advertising client, especially those of a legal enrichment nature, in particular in the event that the client, for whatever reason, does not provide ORF with the consideration owed for the execution of the ad placement.

- f)** Booking enquiries for the ORF.at home page (front page) will only be accepted from the opening date for bookings (date available at [enterprise.ORF.at](http://enterprise.ORF.at)) for the following calendar year (01.01.–31.12.). All other ORF.at pages can be booked continuously.
- g)** Orders can be refused without reasons being given. Even in the case of legally binding accepted orders, ORF reserves the right to reject or discontinue the ad placements for reasons of origin, content or technical form. In these cases, the reasons for the rejection will be communicated to the client.
- h)** Advertising orders are processed within one calendar year.

### **3. RESTRICTIONS**

***In particular, the following is/are excluded:***

- a)** Ads below the limit of perception;
- b)** Ads that violate human dignity or the fundamental rights of others;
- c)** Ads that contain discrimination based on racial or ethnic origin, gender, age, disability, religion or belief, or nationality or sexual orientation;
- d)** Ads with religious content, as well as ads that offend religious beliefs;
- e)** Ads that appeal to superstition;
- f)** Ads promoting behaviour that endangers health or safety;
- g)** Ads for spirits, cigarettes or other tobacco products;
- h)** Ads that play down the use of alcohol and the possible effects of alcohol consumption;
- i)** Ads for prescription medicines, as well as for medicines and medical products that are not subject to prescription requirements, but whose name contains the same fantasy word or the same scientific expression as the name of a prescription medicine;

- j)** Ads for therapeutic treatments and medical devices that are only available with a prescription;
- k)** Ads promoting behaviours that highly endanger protection of the environment;
- l)** Ads for products that give rise to downplaying violence, such as military toys in particular, including consumer electronics games and the like;
- m)** Ads that use a “tag” reserved for official radio communications, disaster reports and emergency calls (e.g. “special broadcast on the occasion of...” etc.);
- n)** Ads in which ORF employees or freelancers take part, unless consent to participation was expressly given by ORF in advance;
- o)** Ads in which people appear either in picture or sound who regularly present news programmes and programmes on current political events or who regularly moderate other programmes as programme-designing and journalistic employees of ORF. Any information on the legal compatibility of an ORF presenter’s advertising activity on the part of ORF or ORF-E is provided in good faith and is free of charge. However, liability for this information is excluded;
- p)** Marriage advertisements, ads for private money lending services;
- q)** Ads promoting illegal practices;
- r)** Ads that are misleading and harmful to consumers’ interests;
- s)** Ads that violate decency, especially under the given external circumstances.
- t)** Ads that affect editorial independence.
- u)** Ads that violate decency, in particular under certain external circumstances;
- v)** Ads that violate editorial independence.
- w)** Ads that are inadmissible due to statutory provisions, ordinances or professional codes of specific professional groups or judicial or administrative orders.

### **4. OTHER RESTRICTIONS**

- a)** Remedy advertising (ads for non-prescription medicines) and ads for non-prescription medical devices: These are only possible in accordance with the relevant statutory provisions (e.g. Medicines Law, Medical Devices Act) and the ordinances of the Federal Minister of Health. Any official approvals for the admission of advertising texts must be enclosed with the orders. Ads for over-the-counter medicines, medical devices, and therapeutic treatments that are available without a prescription must be honest, truthful, and verifiable. They must not harm people. When designing these ads, it is prohibited to advertise with:

**I.** expert opinions, certificates, scientific or technical publications;

**II.** claims that the remedy (product) has been medically or clinically recommended or tested;

**III.** the rendering of disease histories;

**IV.** the graphic representation of pathological changes in the body with the help of a medicine through comparative representations of the body condition before and after use;

**V.** advertising statements that are likely to provoke or exploit feelings of fear.

In accordance with Section 52 (2) of the Medicines Law, advertising for non-prescription drugs must be supplemented by the note “The package leaflet, a doctor or pharmacist can inform you about the effectiveness and possible undesirable effects”. This notice is added to the ad and is subject to the same tariff provisions as the ad itself.

**b)** Furthermore, according to the Food Safety and Consumer Protection Act, it is forbidden to attribute properties of prevention, treatment or cure of a human disease to a food in advertising or to give the impression of these properties.

**c)** According to Art. 72 Biocidal Products Ordinance, the following information must be added to every advertisement for biocidal products: „Use biocidal products with care. Always read the label and product information before use”. This information must stand out clearly from the actual advert and be easily legible or audible. The word “biocidal products” in the prescribed sentences may be replaced in the ad by a clear reference to the type of product being advertised. In advertising for biocidal products, the product must not be presented in a way that is misleading as to the risks of the product to human or animal health or to the environment or its effectiveness. Ads for biocidal products must under no circumstances contain the information “biocidal product with low risk potential”, “non-toxic”, “harmless”, “natural”, “environmentally friendly”, “animal friendly” or similar. The biocidal products notice is added to the ad and is subject to the same tariff provisions as the ad itself.

**d)** Legal provisions (e.g. Gambling Act, Banking Act, Capital Market Act, Investment Fund Act, etc.) and the professional codes of conduct for specific professional groups provide for special requirements and restrictions for advertising certain products or services. It is the responsibility of the client to inform ORF in good time whether or under what conditions or restrictions a product or service may be advertised, and whether or which hazard warnings, safety advice or the like must

be published. Such a notice is added to the ad and is subject to the same tariff provisions as the ad itself.

**e)** Alcohol advertising: Any advertising of alcohol in connection with children, young people or drivers is prohibited. Any non-product-related advertising is excluded from alcohol advertising. The ad message must be limited to the recommendation of a specific product or product group. In addition, advertising for alcoholic beverages is only permitted if the following criteria are met:

**I.** It must not be directed specifically at minors or promote the excessive consumption of such beverages;

**II.** In particular, it must not depict minors consuming alcohol;

**III.** no connection may be made between improving physical performance and drinking alcohol or driving a vehicle and drinking alcohol;

**IV.** the impression must not be given that alcohol consumption promotes social or sexual success;

**V.** the ad must not suggest a therapeutic, stimulating, calming or conflict-free effect of alcohol;

**VI.** abstinence or moderation in relation to the consumption of alcoholic beverages must not be portrayed negatively;

**VII.** the alcohol content of beverages must not be emphasised as a positive characteristic;

**VIII.** the ad must not encourage the consumption of alcoholic beverages, e.g. „Drink ...“.

**f)** Minors in advertising messages: Advertising must not cause physical or mental harm to minors and must therefore meet the following requirements in particular to protect them:

**I.** it must not direct calls to buy or rent goods or services to minors that take advantage of their inexperience and naivety;

**II.** it must not directly encourage minors to persuade their parents or third parties to purchase the advertised goods or services;

**III.** it must not take advantage of the special trust minors have in parents, teachers and other confidants;

**IV.** it must not show minors in dangerous situations without a legitimate reason;

**V.** advertising with content aimed at underage minors is not permitted; furthermore, the international rules of conduct for advertising practice similarly apply to the design of such advertising material.

**g)** Advertising for intimate personal items requires separate approval from ORF.

**h)** Advertising that refers to programmes or programme elements of ORF or other broadcasting companies in form, content or statement requires the approval of ORF.

- i)* ORF reserves the right not to place advertising campaigns to which the Austrian Advertising Council has objected (including the immediate cessation of an advertising campaign that is already running). It can refuse to accept an advertising assignment as well as withdraw from legally binding orders for this reason.
- j)* ORF reserves the right not to place advertisements due to their content in all editorial contexts and at any time, but rather to place them at a later time of the day.
- k)* The image and sound in ad designs must take into account the image of ORF.at. Above all, ORF.at's zeitgeist must be taken into account. Advertising in foreign languages requires coordination with ORF.
- l)* The Board of Trustees may set further restrictions on content.

#### **5. DATA PROTECTION/INADMISSIBLE PROCEDURES FOR ADVERTISING**

- a)* In the course of their advertising, the client must refrain from any measures that could lead to a violation of statutory provisions, in particular those relating to data protection or telecommunications law or the ORF Law, by the client or by companies of the ORF Group. This includes, in particular, the inadmissible use of the processing and storage functions of end users' terminal equipment and any collection of information from terminal equipment, as well as inadmissible processing of personal data.
- b)* If the client uses a third party to process the advertising (e.g. ad serving and ad operating service providers), the client is obliged to contractually transfer the obligations set out in this point to the third party and to appropriately monitor compliance with these. The same applies if the client is an advertising agent for a third party.
- c)* With regard to any measures intended or used by the client or a third party (within the meaning of lit. b), the client is obliged to inform ORF, upon request, in writing and in detail before the start of the ad placement, which technologies (cookies, tracking pixels, web beacons, etc.) they intend to use, what the exact function of these individual technologies is, what the identified data is used for, how long it is stored and what its legal admissibility results from (without prejudice to lit. a). Such declarations do not release the client from responsibility with regard to compliance with the above provisions or the legal consequences described – even in the event that ORF does not react.
- d)* ORF is entitled (but not obliged) to use technologies that monitor compliance with the prohibitions in question on the part of the client or automatically prevent such violations, even without prior notification of the client. If this hinders or prevents the client's ad

placements, this does not entitle the client to raise claims against ORF.

- e)* Any violation of the above provisions – regardless of whether by the client or a third party within the meaning of lit. b) – is considered a serious breach of contract. In the event of justified suspicion of such a violation, ORF is entitled to suspend the order with immediate effect until the client is able to convincingly refute it. If the client cannot refute the suspicion within 2 weeks, the violation is considered proven and ORF is entitled to refuse further ad placement within the scope of the order in question, but retains the right to the fee agreed for the ad placement.
- f)* Regardless of their own fault, the client is liable to ORF for any damage caused by a violation of the above provisions by them or a third party within the meaning of lit. b) (Section 1313a ABGB [Austrian Civil Code]). This applies in particular to all (administrative) penalties imposed on companies of the ORF Group and/or their bodies, the associated legal prosecution costs and the costs of the publication of decisions ordered by the government authority or by a court. With regard to the causality and amount of the damage, ORF only has to provide prima facie evidence in the sense of overwhelming probability; in this case, the burden of proof in invalidating the prima facie evidence (proof to the contrary) lies with the client.

#### **6. TECHNICAL REQUIREMENTS, DATES AND DELIVERY OF ADVERTISING MATERIALS**

- a)* There must be five working days (Monday to Friday) between the booking date and the placement date.
- b)* The advertising material must be delivered either physically to ORF-E or via a streaming link or tag-in-tag, in compliance with the IAB standards. This does not apply to video advertising forms that can only be transmitted physically. „In-tag“ advertising material may not be changed without the consent of ORF.
- c)* The necessary information, data, files and other material are to be made available to ORF complete, free of errors, in accordance with the orders and suitable for the agreed ad placement, no later than three working days before the placement date. For HTML5 advertising material, a delivery deviating from this of five working days before the placement date applies.
- d)* If a booked placement is cancelled due to delayed delivery of advertising material, 100% of the gross order amount will be charged.
- e)* Since the display of advertising material takes place across platforms, the delivery of fall-backs and mobile advertising formats in addition to the desktop advertising formats is mandatory.

- f) By submitting the advertising material, the client declares that it is free of harmful data (e.g. viruses). ORF is not liable for any damage caused to third parties (users) through defective advertising material, defective data carriers or defective servers of the client.
- g) Further information on the technical requirements for advertising material on ORF.at is published in the currently valid version under Technical Specifications on the homepage of ORF-Enterprise.

## 7. CONTENT AND IMPLEMENTATION

- a) The client bears sole responsibility for the content and legal admissibility of the ad and declares that they will indemnify and hold harmless ORF from all claims that could be asserted against ORF in connection with the relevant ad; this includes in particular the acquisition of all copyright, ancillary copyright and personal rights approvals for production and publication, including all ancillary rights required for the latter. The client grants ORF the objectively and temporally unlimited and locally restricted rights in and from Austria to use the material in any programme and online offer of ORF. In particular, ORF is entitled to broadcast the ad in any technical process (e.g. also as a live stream), to make it available, to reproduce, to disseminate and to show it publicly and to use it in other ways.
- b) In the case of ads in which voices are used that evoke associations with specific, generally known persons or characters, the client must provide a confirming written declaration of the identification of the speaker with the generally known person. If there is no identification of the speaker with the impersonated person, written evidence that the impersonated person agrees to the imitation or use of their voice for advertising purposes must be provided. Likewise, in the case of other imitations in image or sound, the written consent of the imitated person or the person who embodies the character shown must be provided.
- c) ORF is not obliged towards the client to check the legal admissibility of the content of the ad. ORF reserves the right to check delivered advertising material for usability and admissibility. If data or data carriers are faulty or unusable or if placement cannot be carried out for other reasons, ORF will notify the client, stating the reasons (see also point 2g). In addition, ORF is entitled to discontinue or have discontinued advertising that has illegal content or links that refer to illegal content immediately and without prior notice. In this case, the client has no claims against ORF.
- d) The client is responsible for ensuring that the advertising commissioned by them, in particular with regard to its content, design and participants, is in

accordance with the rules that these participants have to observe with regard to sports or other associations and institutions, the Austrian Olympic Committee or IOC or similar institutions. In this regard, ORF has no obligation to examine and is not liable.

- e) The client is responsible for the production costs incurred, including compensation for all copyrights, ancillary copyrights and personal rights.
- f) The client is obliged to declare advertising that is subject to special labelling or notification obligations (cf. points 4 a), 4 c), 4 d) and 7 e)) as such to ORF.
- g) If the client is subject to Section 3a Media Cooperation and Promotion Transparency Act (MedKF-TG) or the guidelines issued for this purpose:

### ***I. for TV and radio ads that can be retrieved:***

ORF will publish a notation for the commissioned ad with the words “paid advertisement for” with the addition of the name of the body of the legal entity in question, or a logo that clearly identifies it.

### ***II. for banner ads:***

The client must integrate such a notation in accordance with the specifications published on the ORF-Enterprise website. The client is solely responsible for the notification obligations and content requirements of the MedKF-TG and must indemnify and hold harmless ORF from all claims that could be asserted against ORF in connection with the relevant ad placement.

## 8. ORDER MODIFICATION AND CANCELLATION BY ORF

- a) ORF is obliged to adhere to the placement dates/times agreed with the client in connection with the acceptance of the advertising assignment, except in cases of force majeure, an operational predicament or in the event of particular topicality that make changes to the intended editorial content due to the aforementioned event necessary. In such cases, the ad placements will be rescheduled by mutual agreement, or the amount paid for the omitted placement including taxes and duties will be credited in the statutory amount or, in justified exceptional cases, refunded. Any further claims, in particular claims for damages, are excluded.
- b) In the event of the impossibility of the service or the total or partial failure of the ad placement due to technical defects not within the scope of the ORF (including force majeure), any warranty and liability is excluded. These include, in particular, disruptions in the communication networks outside ORF caused by computer failure at ISPs or online services, incomplete or non-updated offers on proxy servers or a failure of the ad server. ORF’s claim for remuneration remains unaffected. In these cases, the ad placement will be rescheduled within a reasonable time.

- c) In the event of partial failure of the ad placement attributable to ORF, a fee reduction can be agreed (calculated according to the ORF's AdReport; delivered ad impressions are offset) or – if possible for ORF – the extension of the campaign (subsequent placement of the outstanding ad impressions according to the ORF AdReport) with full payment claims of ORF. In any case, the ORF AdReport is decisive, especially in the case of day-in-day advertisements.

#### **9. MODIFICATIONS OR CANCELLATION BY THE CLIENT**

- a) Reservations and stand-by bookings can be cancelled free of charge at any time.
- b) Free cancellation of firm bookings is possible as follows:
- I.** Free cancellation of ad placements on the ORF.at front page is possible up to eight weeks before the placement date. If a booking is cancelled (in whole or in part) on the ORF.at front page within eight weeks before the placement date, the client must pay 50% of the gross order amount affected by the cancellation. If a cancellation (in whole or in part) takes place within six weeks prior to the placement date or during an ad placement, the gross order amount affected by the cancellation must be paid in full by the client.
  - II.** Free cancellation of other ad placements is possible up to four weeks before the placement date. If a cancellation (in whole or in part) of other ad placements occurs within four weeks before the placement date or during the ad placement, the gross order amount affected by the cancellation must be paid in full by the client.
  - III.** Free cancellation of a dynamic campaign is possible up to eight working days before the start of the placement. Thereafter, 50% of the gross order amount will be charged as a cancellation fee.  
If an ongoing dynamic campaign is cancelled, the ad impressions that have already been delivered (calculated according to ORF's AdReport) and 50% of the remaining gross order amount will be charged as a cancellation fee. Postponing the campaign by more than 30 days is considered a cancellation.  
This does not apply to dynamic bookings of in-stream campaigns, for which free cancellation is only possible four weeks before the placement date. If an in-stream campaign is withdrawn (in whole or in part) within four weeks before the placement date or during a placement, the gross order amount affected by the cancellation must be paid in full by the client.
- c) c) Regardless of the cancellation rules described above (see point 9 a and point 9 b), processing fees of EUR 250 will be charged in the event of a cancellation of a firm booking.

#### **10. LIABILITY**

- a) The client is obliged to check the implementation of the ad placements and to submit complaints in writing within two months of the placement. Claims, in particular from warranty, compensation, any other service disruption or any other kind of service from later complaints are excluded. In addition, liability on the part of ORF is excluded except in cases of intent.
- b) Although ORF makes every effort to ensure the accuracy and reliability of its offers itself, the client acknowledges that ORF cannot be held responsible for losses or damage due to interruptions, inaccuracies, omissions, loss of data or delays in delivery.
- c) If the client's ad violates statutory provisions, ordinances or codes of conduct for specific professional groups or a court or official order, the client shall hold ORF harmless with regard to all third-party claims, costs, expenses, penalties, financial disadvantages, etc. asserted against ORF due to or in association with the relevant ad, be it civil, administrative or criminal in nature.

#### **11. ADVERTISING PRICES**

Advertising prices excluding taxes and duties in the legally prescribed amount – which are added according to point 13 – are announced for ORF.at according to the latest status. The new advertising price will also apply to current orders from the time it comes into force. In this case, the client has the option of withdrawing from the contract in accordance with point 9 without incurring cancellation fees. All advertising prices and surcharges are published in the current version of the tariffs on the ORF-Enterprise homepage, available at [enterprise.ORF.at](http://enterprise.ORF.at).

#### **12. DISCOUNTS**

ORF awards discounts for advertising assignments placed on ORF.at within a calendar year according to the applicable tariff.

##### **a) Volume discounts**

If the volume discount to which the advertising client is entitled is registered in writing (by the 20th of each month) with ORF-Enterprise accounting (= turnover registration), it will be taken into account from the next month. The determination of the volume discount actually due to the advertising client as well as the corresponding billing (credit or adjustment charge) takes place on 31 December of the relevant calendar year.

### **b) Group discounts**

In the event that individual advertising clients\* hold mutual participations under corporate law, discounts are granted based on the provisions of point 12 a and under the following conditions: For the granting of a group discount, only the order sums of those advertising clients (parent, subsidiary, sub-subsidiary, etc.) are calculated in which – based on a common parent company – the parent company has a stake of at least 51%, regardless of whether the percentage of the stake is calculated as a whole through direct or indirect participation. One and the same company can only benefit in the framework of a group discount, i.e. only within the framework of a specific business association. The relevant corporate participation relationships must be proven by the individual advertising clients in company-signed letters addressed to ORF-Enterprise, enclosing appropriate documents, by 31 December of the respective calendar year at the latest. If proof is provided by 30 June (date of the postmark) of the respective calendar year, the group discount will be granted retrospectively from the date the group was formed, but no later than 1 January of the respective calendar year, otherwise only from January of the following year. ORF-Enterprise must be informed immediately of any changes in the company's legal ownership. Unlawfully consumed corporate discounts will become due and will be charged.

\* This exclusively includes suppliers of products or services for whom advertising assignments are placed on ORF.at or who issue such (for themselves), but not advertising agents who act as clients for ORF.

### **c) Intermediary discounts (agency commission)**

Intermediary discounts are granted to advertising agents\* authorised under commercial law on the condition that they cover their costs from them. If this is not the case (e.g. if part of the intermediary discount is passed on to the advertising client), ORF reserves the right to reduce the intermediary discount accordingly. The basis of assessment for these intermediary discounts is the advertising price, reduced by any discounts.

\* Proof must be provided by presenting the trade license at the latest with the first booking.

## **13. DUTIES AND TAXES**

All taxes and other duties incurred with the conclusion and implementation of the advertising assignment are to be borne by the client and paid in addition to the agreed advertising price. In particular, sales tax and the legally stipulated amount of advertising tax are borne by the client and must be paid to ORF at the same time as the advertising price. Any foreign taxes (such as a withholding tax that covers advertising services) must also be borne by the client; the client will indemnify and

hold harmless ORF in this regard. In any case, ORF is entitled to collect sales tax from the client before it is sent to the tax authorities. Any sales tax prescribed at a later point in time in the tax notification is to be deducted by ORF (in the form of an invoice) against subsequent offsetting (see point 14) when due by ORF.

In particular, sales tax is added to all considerations to be provided to ORF (advertising prices, expense and cost reimbursements, etc.), and is due at the same time. Likewise, any ancillary claims relating to sales tax are to be reimbursed to ORF regardless of the reason for their creation. If, as the legal debtor of the sales tax, ORF carries out administrative proceedings or proceedings before the courts of public law or European instances (of the Council of Europe or the EU) in the interests of the client, ORF is entitled to charge the client pro-rata (measured on the ratio of the order values minus all discounts of the affected clients) after the expense has been established. The above provisions on this point and other provisions of these General Terms and Conditions relating to sales tax apply mutatis mutandis to duties comparable to sales tax that are levied in the reception area outside of Austria.

With regard to sales tax - including any ancillary claims stipulated by a tax notification – it is agreed, notwithstanding any deduction, that ORF's claim for compensation against the client will only come into force once the tax notification (in the case of repeal by a court of public law, the most recent tax notification) becomes final.

The client confirms that they are an entrepreneur within the meaning of the Austrian Sales Tax Law (UStG), have their tax seat at the address stated in the order and operate their company there. In the case of a foreign domicile, they also confirm that the services can be assigned to them with the listed domicile, and that they have no business location in Austria. Upon request, the client undertakes to provide confirmation that they are considered an entrepreneur within the meaning of the Austrian Sales Tax Law.

When entering into initial business relationships with a contractual partner from an EU member state, the latter will provide ORF with evidence of their VAT number by sending a copy of the valid VAT notification. Should their sales tax status and VAT number change, the contractual partner will inform ORF immediately. The client undertakes to have suitable proof of the payment of the self-assessment levy available for all taxes and duties incurred with the conclusion and implementation of the advertising assignment, which they have to pay by way of self-calculation (“self-assessment taxes”) and to present it to ORF upon request. Should the client have to pay the taxes and duties by way of self-calculation, they will indemnify and hold harmless ORF in this respect if ORF is liable for

these self-assessment taxes. The costs of a reasonable legal defence and the ancillary fees also count as indemnification.

#### **14. PAYMENT (due date, late payment)**

The advertising price including duties and taxes at the statutory rate is due after the invoice has been issued, at the latest with a payment term of 21 days from the invoice date (received on the ORF account shown on the invoice). Billing takes place monthly, based on the number of advertisements implemented.

If an order is placed with a new client/agency or if there are existing or expected payment difficulties, ORF can request payment before the order is fulfilled. If the advance payment is not made on time (up to ten days before the first broadcast), the order is deemed to be cancelled. In addition to the legal consequences of point 9, the client is in any case obliged to compensate ORF for any loss of income resulting from this. New clients/agencies are clients who have not made any bookings on ORF.at in the past 36 months.

In the event of late payment, default interest at the statutory rate will be charged. In the event of default in payment or late payment, ORF is entitled to stop all further ad placements and to withdraw from the order. The client is not entitled to make counterclaims to ORF's claims (exclusion of compensation), unless these have previously been recognised in writing by ORF or have been legally established by a court. Any reminder fees are charged to the client. The provisions of points 9 and 13 only apply to the above in the second degree.

#### **15. ORF AWARDS**

Display forms of advertising that are placed in the ORF.at network for the first time during the evaluation period are eligible for the ORF AWARDS. The evaluation period is redefined every year and can be found in the current conditions of participation (published at [enterprise.ORF.at/awards](http://enterprise.ORF.at/awards)).

#### **16. FINAL PROVISIONS**

The place of performance is Vienna. Austrian law applies. The competent court in Vienna that exercises commercial jurisdiction is agreed as the place of jurisdiction. The client (advertising agent or advertising client) must indemnify and hold harmless ORF for all claims by third parties in connection with an order placed in accordance with these General Terms and Conditions. This also includes the costs of legal defence.

Should individual provisions be or become ineffective or impracticable, this shall not affect the validity of the remaining provisions of these General Terms and Conditions. Ineffective or unenforceable provisions will be replaced by new provisions that comply with the regulation contained in the ineffective or unenforceable provisions in a legally permissible manner. The same applies to loopholes. ORF and the client undertake to remedy the gap in a way that comes closest to what they had determined according to the meaning and purpose of the order, if the point had been considered.

Changes and/or additions to an order that has been placed must be made in writing to be legally effective. Oral side agreements were not made.

These terms and conditions apply until revoked by ORF. The client recognises their validity in any case by enabling the implementation of the advertisement on the part of ORF by providing the advance outlays regulated in points 6 and 7.

ORF reserves the right to change these General Terms and Conditions at any time. In the event of such a change, the General Terms and Conditions applicable at the time of the individual placement are also decisive for orders that have been placed but not (completely) processed at the time of the change

***The current version of the General Terms and Conditions can always be found on the ORF-E homepage at [enterprise.ORF.at](http://enterprise.ORF.at).***