

**ÖBB-WERBUNG GMBH
GENERAL TERMS AND CONDITIONS
for advertising announcements on
advertising spaces**

1. General information

- 1.1. These General Terms and Conditions of Business apply between ÖBB-Werbung GmbH (hereinafter referred to as "ÖBB-Werbung") and its customers (hereinafter referred to as the "Principal") for the realisation of advertising announcements on classic or digital advertising spaces provided by ÖBB-Werbung and for which ÖBB-Werbung is entitled to the marketing rights.
- 1.2. These General Terms and Conditions of Business do not apply to the realisation of distribution campaigns/promotional activities or the marketing of advertising space in online media (online advertising).

2. Placing orders, cancellation

- 2.1. An order shall be deemed to have been placed as soon as ÖBB-Werbung receives the written offer (order) from ÖBB-Werbung countersigned by the Principal (e.g. by e-mail / fax). Verbal and additional agreements that are not confirmed in writing by ÖBB-Werbung are not valid.
- 2.2. Additional services are to be agreed separately in writing and shall be invoiced separately.
- 2.3. With the exception of item 2.4, orders for classic advertising space may be placed up to four weeks before the start of the advertising period at the latest.
The contract may be cancelled at the beginning of the contract without a cancellation fee. If the contract is cancelled within four weeks, a cancellation fee of 50% of the advertising fee stated in the order shall be charged.
- 2.4. Station posters booked in a series and train or bus posters in A3 format booked in a series may be cancelled without a cancellation fee at the latest up to six weeks before the start of the contract. If the contract is cancelled between four and six weeks before the start of the contract, a cancellation fee of 50% of the advertising fee stated in the order shall be charged, and if the contract is cancelled between two and four weeks before the start of the contract, a cancellation fee of 80% of the advertising fee stated in the order shall be charged. If the contract is cancelled within two weeks before the start of the contract, the advertising fee stated in the order shall be charged in full.
- 2.5. Orders for digital advertising space may be cancelled without a cancellation fee at the latest up to two weeks before the start of the contract. If the contract is cancelled within two weeks before the start of the contract, a cancellation fee of 80% of the advertising fee stated in the order shall be charged.
- 2.6. Any costs incurred despite cancellation (e.g. production and assembly costs) and fees shall be borne by the Principal, who shall render ÖBB-Werbung exempt in this respect.

3. Term of contract, cancellation

- 3.1. Unless otherwise agreed in writing, the contract is entered into for an indefinite term and may be terminated by either contracting party by registered letter with three months' notice to take effect at the end of the respective settlement period.
- 3.2. ÖBB-Werbung is entitled to terminate the contract for good cause with immediate effect. Good cause includes, in particular, the Principal's default on payment obligations resulting from the contract despite reminders from ÖBB-Werbung, any serious breach of contractual obligations, in particular of points 6 (Prohibited advertising content), 14.1 (Prohibition of passing on/subletting), failure to obtain the necessary official authorisations in the Principal's area of responsibility, rejection of the application to institute insolvency proceedings for lack of assets to cover costs or cancellation of insolvency proceedings against the Principal's assets for this reason. ÖBB-Werbung shall also be entitled to cancel the contract with immediate effect if the location of the advertising space is substantially rebuilt or renovated, or if the location is required by the owner of the classic advertising space itself (own use), or if the ownership structure of the Principal changes in such a way that more than 50% of the shares are held directly or indirectly by other persons or companies than at the time the contract was concluded.
- 3.3. If the cancellation of the contract was caused by the Principal for good cause, the outstanding contractual amount is agreed as a flat-rate compensation payment (penalty) for the economic disadvantages suffered by ÖBB-Werbung as a result of the premature termination in the case of open-ended contracts up to the end of the settlement period and in the case of fixed-term contracts up to the end of the agreed term and falls due for payment immediately upon cancellation of the contract.

4. Consequences of contract termination

- 4.1. Unless otherwise agreed in writing, the advertising materials on traditional advertising spaces shall become the property of ÖBB-Werbung after the contract ends (in whatever manner), shall be dismantled by ÖBB-Werbung at the Principal's expense and may be disposed of by ÖBB-Werbung accordingly.
- 4.2. In the event that the Principal is responsible for dismantling the advertising material on classic advertising spaces in accordance with a written agreement, the Principal is to remove it properly and completely at its own expense within 5 working days. The Principal is to restore the condition of the advertising medium that applied at the time the contract started, taking into account customary wear-and-tear.
- 4.3. Data transferred to ÖBB-Werbung must be retained by ÖBB-Werbung only for the term of the relevant contract. ÖBB-Werbung does not undertake to return data or data carriers to the Principal.

5. Responsibility for the content of advertising

- 5.1. The Principal is solely responsible for the content and legal admissibility of the advertising and for compliance with official regulations. The Principal guarantees that the content of the advertising does not violate applicable law, contractual obligations of the Principal or point 6 of these General Terms and Conditions of Business (unauthorised advertising content).
- 5.2. The Principal states that it is in possession of all the necessary rights (e.g. copyright, labelling rights) and any required consent (e.g. personal rights) for use, in particular with regard to reproduction and distribution.
- 5.3. The Principal shall render ÖBB-Werbung and the owner of the advertising space(s) or location(s) exempt in the event of a breach of points 5.1. or 5.2. and shall also assume the cost of any necessary legal representation of ÖBB-Werbung and the owner of the advertising space(s) or location(s).

- 5.4. ÖBB-Werbung is entitled, but does not undertake, to immediately remove from circulation any advertising content of the Principal that violates applicable law, contractual obligations or point 6 of these General Terms and Conditions of Business (unauthorised advertising content). ÖBB-Werbung undertakes to inform the Principal without delay in such a case. If ÖBB-Werbung exercises such a right, it shall nevertheless be entitled to the agreed remuneration.
 - 5.5. ÖBB-Werbung is not entitled to any remuneration for advertising material that ÖBB-Werbung has wrongfully withdrawn from circulation. However, claims for damages by the Principal are also excluded in this case.
 - 5.6. The Principal undertakes to regularly review the content of its advertising to ensure that it honours the obligation in accordance with point 5.1. The Principal shall inform ÖBB-Werbung without delay in writing if it realises that the advertising content does not comply with point 5.1.
- 6. Unauthorised advertising content**
- 6.1. The advertising space provided by ÖBB-Werbung may not contain any advertising material with advertising content that is contrary to public decency (e.g. pornographic or sexist advertising), violates the Prohibition Act or the Code of Ethics of the Advertising Industry or contains discriminatory advertising in the sense of unequal treatment of people on the basis of certain characteristics, in particular with regard to gender, sexual orientation, ethnic origin, race, religion and ideology as a distinguishing feature.
 - 6.2. Use of advertising space for advertising by direct competitors of the ÖBB company that owns the advertising space(s) or the location is not permitted, unless legal provisions prevent this in individual cases. Similarly, advertisements that are likely to damage the reputation of the owner of the advertising space(s) or the location are not permitted.
 - 6.3. In the case of advertising material containing a political or religious advertising message, a review and written approval of the advertising material by ÖBB-Werbung shall be required for the submission of the offer or entering into the contract. Furthermore, in the case of advertising on advertising spaces that are not owned by an ÖBB company, a subject review by ÖBB-Werbung shall be required in advance.
 - 6.4. In the event of a breach of Section 6.1. or 6.2. and in the event that a subject review in accordance with Section 6.3. is negative, ÖBB-Werbung shall be entitled to reject an order or withdraw from an order that has already been accepted following a subject review.
- 7. Refusal of advertising by the owner or an authority**
- 7.1. If the owner of the advertising space(s) or a competent authority, for whatever reason, refuses to install the advertising material, demands its removal or demonstrably terminates the cooperation with ÖBB-Werbung, the contracting parties shall inform each other of this without delay. The contractual relationship in this respect shall lapse with immediate effect and the advertising material is to be removed without delay or its attachment prohibited.
 - 7.2. The Principal shall not be entitled to any claims for compensation under this title, in particular no claims for damages.
- 8. Placing the advertising material, official authorisations**
- 8.1. ÖBB-Werbung shall endeavour to place the advertising material at the agreed location. In the event that an advertising medium cannot be placed on traditional advertising spaces at the agreed location for operational or technical reasons within the sphere of the owner of the advertising space(s), the Principal shall be offered an alternative in writing (e.g. by e-mail) and ÖBB-Werbung shall be entitled to place the advertising medium at the other location that is suitable and available for advertising purposes at the Principal's expense, unless the Principal objects to the alternative offer in writing within fourteen days. If such an objection period expires unused, the contract shall be deemed to have been entered into for the amended object. Should the Principal object to the alternative proposal, the contractual relationship shall be terminated with immediate effect. In the aforementioned cases, the Principal waives the right to assert claims for damages.
 - 8.2. With regard to the installation of advertising material on classic advertising spaces that require approval in accordance with railway law, ÖBB-Werbung shall submit the application for all relevant ÖBB companies and the Principal is to make the necessary documents available without delay on request insofar as ÖBB-Werbung is commissioned to install the advertising material. If ÖBB-Werbung is not commissioned with this installation, the Principal is to obtain the authorisation required by railway law. If other official authorisations are required for advertising on classic advertising spaces, ÖBB-Werbung shall assist in obtaining them without obligation. However, the Principal undertakes to submit them.
 - 8.3. In the event that an advertising medium cannot be placed on a digital advertising space for unforeseeable technical reasons, it shall, if possible, be automatically displayed on an alternative digital advertising space at the affected location or, if this is not possible, on a digital advertising medium at another location booked by the Principal.
- 9. Production, assembly and dismantling of advertising media on classic advertising spaces**
- 9.1. Unless otherwise agreed in writing, the advertising media on classic advertising spaces are generally produced and installed by ÖBB-Werbung at the Principal's expense and dismantled following the end of the contractual relationship, whereby a separate written order is placed for the dismantling. If possible, ÖBB-Werbung shall take into account the time requested by the Principal for the installation of the advertising material. The respective installation date shall be coordinated by ÖBB-Werbung within one month before the start of the term of contract and the Principal shall be notified without delay. Information about the completed installation shall only be made available at the Principal's request.
 - 9.2. The production and assembly costs are generally announced when the order is placed and fall due for payment immediately after invoicing to the Principal. The costs incurred for dismantling shall be notified to the Principal in a separate written order, invoiced after dismantling has been completed and fall due for payment immediately.
 - 9.3. If the production of the advertising material is performed by ÖBB-Werbung, colour fidelity can only be guaranteed once a colour review has been conducted. Colour matching by means of a colour-accurate proof provided by the Principal must be guaranteed by ÖBB-Werbung.

- 9.4. If the Principal undertakes to deliver the advertising material and this is late, ÖBB-Werbung cannot guarantee that the order shall be executed in good time or in full. Irrespective of this, the fee for the agreed contract term shall be charged in full. Delayed installation by ÖBB-Werbung due to late delivery shall not lead to an extension of the contract term under any circumstances.
- 9.5. In the event that the assembly and/or dismantling of the advertising material is performed by the Principal in accordance with a written agreement, the Principal is to ensure that it has the necessary authorisations for access to the respective advertising space, as well as any other permits required in accordance with railway law and from the authorities.
- 10. Inserting advertising material on digital advertising spaces**
- 10.1. The insertion of advertising material on digital advertising spaces shall be performed exclusively by ÖBB-Werbung at the Principal's expense. ÖBB-Werbung shall take into account the times requested by the Principal wherever possible. Information about the insertion of advertising material shall only be provided at the Principal's request.
- 10.2. ÖBB-Werbung does not guarantee that the data made available by the Principal shall be sufficient to execute the specific order. ÖBB-Werbung is entitled, but does not undertake, to review or have reviewed the data provided by the Principal with regard to its suitability for executing the respective order. ÖBB-Werbung shall inform the Principal within three working days of any review as to whether the data made available are sufficient for executing the respective order.
- 10.3. ÖBB-Werbung is authorised, but does not undertake, to process the data made available by the Principal if ÖBB-Werbung believes that this is necessary to optimise the use of the advertising material. ÖBB-Werbung shall forward the data it has processed to the Principal for reviewing and approval. If the Principal does not provide approval within a reasonable period of time, ÖBB-Werbung shall be entitled to insert advertising material and in no way shall be liable for any inferior quality of the end product. ÖBB-Werbung is entitled to charge an appropriate fee for the processing of data required to optimise use of advertising media.
- 10.4. The Principal undertakes to transmit the advertising material in good time and in accordance with the respective requirements (format etc.) of ÖBB-Werbung. If this is delayed, timely and complete execution of the order by ÖBB-Werbung cannot be guaranteed. Irrespective of this, the fee for the agreed contract term shall be charged in full. Delayed transmission by ÖBB-Werbung due to late insertion of advertising material shall in no case lead to an extension of the term of contract or a change in the number of reproductions.
- 11. Terms and conditions of payment, value protection clause**
- 11.1. Payments shall be transferred with discharging effect exclusively to the account of ÖBB-Werbung stated on the invoice. Unless otherwise agreed in writing, invoices shall be written out without delay following the start of the invoicing period. Unless otherwise agreed in writing, the invoice amount falls due for payment immediately after invoicing. A discount is not granted.
- 11.2. In the event of late payment, the Principal shall reimburse all expenses and costs caused by the late payment, which may also be charged as flat-rate reminder fees. ÖBB-Werbung shall also be entitled to charge the Principal interest on arrears at the statutory rate.
- 11.3. The respective remuneration (including ancillary claims) is secured in value. The 2020 consumer price index published monthly by Statistics Austria, its successor index or an index replacing it is used as a measure for calculating the adjustment, whereby the index figure for the month of September of the current calendar year is used as a basis. The respective fee (including ancillary claims) is adjusted once a year in December on the basis of the change in the index figure published for September of the previous year compared to September of the current year for the calendar year in question and charged in the value-adjusted form from 1 January of the following year. There shall be no value adjustment within the first year of the contract. The effect of this value assurance clause shall take effect automatically when the index number changes, without the need for a special declaration to this effect by ÖBB-Werbung. Even if ÖBB-Werbung accepts or acknowledges the fee without taking the value protection into account, ÖBB-Werbung does not waive the increase amounts resulting from the value protection clause for past fee periods.
- 12. Fees, costs**
- 12.1. Any statutory fees for the respective contract shall be borne by the Principal. ÖBB-Werbung shall conduct the charging process in accordance with the statutory provisions and ensure that fees are paid to the extent specified by law. ÖBB-Werbung is authorised to charge these fees either separately or with the next invoice. The invoiced fee shall, in any case, fall due for payment immediately after invoicing without any deduction.
- 12.2. If the tax office's invoice does not correspond to the amount transferred by the Principal, the shortfall shall be offset or the excess amount shall be refunded, including if the fee was previously calculated differently by ÖBB-Werbung.
- 13. Warranty, compensation for damages**
- 13.1. ÖBB-Werbung does not guarantee that the advertising shall be continually visible during the respective term of contract. ÖBB-Werbung excludes any liability for any damage due to temporary restrictions or disruptions to advertising, for whatever reason, unless it or a company of the ÖBB Group or its employees act with wilful intent or gross negligence, whereby the burden of proof lies with the Principal. The Principal waives any claims for compensation if the advertising material needs to be withdrawn from circulation for operational or technical reasons on the part of the owner of the advertising space or location.
- 13.2. Furthermore, in the case of advertising on digital advertising spaces, the Principal is not entitled to an exact programme date or an editorial environment.
- 13.3. ÖBB-Werbung also excludes any liability for damage, including consequential damage, to the advertising materials and other items owned by the Principal or for any infringement of the Principal's rights to the advertising materials, unless it or a company of the ÖBB Group or its employees act with wilful intent or gross negligence, whereby the burden of proof lies with the Principal in any case (this also applies, in particular, if the Principal has made data/documents available to ÖBB-Werbung for processing).

- 13.4. Minor damage to the installed advertising material or infringements of the rights to an installed advertising material shall not affect the agreed remuneration. In the event of more than minor damage to the advertising material mounted on the classic advertising space, ÖBB-Werbung shall have the right to choose either (i) to arrange for the new production and re-installation of the advertising material at its own expense and demand the advertising fee in the unchanged amount or (ii) arrange for the dismantling of the advertising material without its new production, whereby the advertising fee shall be reduced accordingly. In the first case, the Principal assigns to ÖBB-Werbung any claims for damages against third parties in conjunction with damage to the advertising material.
- 13.5. No compensation shall be paid for changes to advertising media on classic advertising spaces due to weather or age. Advertising material that has become unsightly due to long-term display shall be replaced at the Principal's request and expense. ÖBB-Werbung does not undertake to store the removed advertising material and is not liable for any damage that may arise as a result. Furthermore, no liability is accepted for changes in the colour of advertising material due to the use of certain printing inks.
- 13.6. Liability for a specific advertising success as well as for damages due to force majeure (e.g. natural disasters, exceptional weather conditions such as storms, cold or rainy periods etc.) including any form of loss and vandalism is excluded.
- 13.7. ÖBB-Werbung is not liable to the Principal for ensuring that the advertising material commissioned or handed over by the Principal is free from third party rights (in particular rights of use or authorisations to use works). Under no circumstances does ÖBB-Werbung undertake to have advertising content reviewed by a third party at its own expense. ÖBB-Werbung is further not liable for any loss of data at ÖBB-Werbung or any subcontractors.
- 13.8. Unless otherwise agreed in writing, the Principal is to assert any notifications of defects or claims for compensation in writing within 7 days of installation or insertion of the advertising material. Otherwise, they shall be excluded. In the event of justified and timely notification of defects, ÖBB-Werbung shall be entitled to remedy the defect or offer an alternative. In any case, ÖBB-Werbung is under no obligation to provide an alternative.
- 13.9. Insofar as liability for damages or consequential damages is not already excluded by the preceding provisions, it shall in any case be limited to the amount of the total advertising fee, however, up to a maximum amount of € 5,000. The Principal waives any further-reaching claims. Under no circumstances shall ÖBB-Werbung be liable for minor negligence or loss of expected profits.
- 13.10. The Principal shall be liable, regardless of culpability, for all damage caused by the data provided by it (e.g. computer virus) and shall render ÖBB-Werbung exempt in full in this respect.
- 14. Forwarding, subletting**
- 14.1. Any full or partial subletting or other full or partial transfer of the booked advertising space to third parties shall only be permitted with ÖBB-Werbung's prior, written, consent.
- 14.2. The Principal undertakes to inform ÖBB-Werbung without delay in writing of any changes to the company's legal or economic influence. In such cases, ÖBB-Werbung may demand a new contract.
- 14.3. ÖBB-Werbung reserves the right to charge a separate fee for its consent to the full or partial subletting/subcontracting of the booked advertising space or in the event of a new contract being entered into as a result of changes in accordance with Section 14.2.
- 15. Confidentiality, data protection**
- 15.1. The Principal undertakes to maintain strict confidentiality regarding all business secrets of which it becomes aware in the course of the respective contract, including following expiry of the respective contract. The Principal shall also place this obligation on its employees and furnish ÖBB-Werbung with proof of this on request.
- 15.2. Both the Principal and ÖBB-Werbung are responsible within the meaning of data protection law for the data storage they perform at their own responsibility. The Principal acknowledges that all data in conjunction with the respective contract, in particular its content, file number, name/company, title, address and contact person, shall be stored automatically by ÖBB-Werbung and undertakes to inform natural persons it states (in particular contact persons) about the forwarding of data to ÖBB-Werbung. ÖBB-Werbung may also use the e-mail addresses made available by the Principal in the course of initiating and conducting business relationships to conduct electronic customer surveys, in particular on the topics of customer satisfaction and product portfolio development.
- 15.3. When entering its e-mail address and at any time thereafter, the Principal has the option of refusing to receive messages for the aforementioned purposes by sending an e-mail to: werbung@oebb.at.
- 16. Measures against corruption and restrictions on competition**
- 16.1. The Principal undertakes to adopt all necessary measures to avoid corruption and, in particular, to take all necessary organisational and personnel precautions to ensure that it and all persons working for it in business dealings with ÖBB-Werbung (i) strictly comply with all criminal law provisions to combat corruption, in particular the provisions of Sections 168b, 153, 153a, 304 to 309 and 146 to 148a of the Austrian Criminal Code and Sections 10 to 12 of the Act Against Unfair Competition (UWG); (ii) not to offer, promise or grant any prohibited benefits or other advantages to persons working for ÖBB-Werbung, not to demand, allow themselves to be promised or accept any prohibited benefits or other advantages from such persons and not to endeavour in any other way to influence such persons; (iii) not to instruct third parties to carry out the acts described in (i) and (ii) or otherwise contribute to their execution.
- 16.2. The Principal further undertakes not to violate antitrust law or other regulations that are aimed at protecting unrestricted competition.
- 16.3. Ultimately, the Principal undertakes to place the obligations described in 16.1. and 16.2. on any third parties it commissions and withdraw from the contract with third parties with immediate effect or terminate such a contract with immediate effect if it is proven or if there is reasonable suspicion that the third party has committed an act described above.

17. Miscellaneous

- 17.1. ÖBB-Werbung is authorised to pass on orders to subcontractors, whereby ÖBB-Werbung shall only be liable for any fault in the selection.
- 17.2. ÖBB-Werbung and ÖBB-Holding AG as the 100% parent company of ÖBB-Werbung are authorised to photograph advertising material on advertising spaces and use the photographic material for its own advertising purposes and references – in whatever medium – including beyond the term of contract.
- 17.3. The Principal is not entitled to withhold payments after the due date or to offset them against claims against ÖBB-Werbung, unless the Principal's claim is directly legally related to its payment obligation and has become res judicata or is expressly recognised in writing by ÖBB-Werbung.
- 17.4. All deliveries to the address last notified by the Principal shall be deemed to have been received by the Principal until a new address is stated in writing.
- 17.5. Verbal subsidiary agreements that extend beyond the contractual agreements have not been entered into. Amendments or supplementary information shall only be valid if they comply with the written form requirement. This also applies to waiving this written form requirement itself.
- 17.6. The invalidity or impracticability of any provision of these General Terms and Conditions of Business shall not affect the validity of the remaining provisions. Invalid or impracticable provisions are to be replaced by those that come closest to the intended economic purpose.
- 17.7. Austrian law applies by way of exclusion of the conflict of laws rules of private international law. The competent court for the first district of Vienna is deemed the exclusive place of jurisdiction.
- 17.8. The respective, current, version of these General Terms and Conditions of Business is available on the ÖBB-Werbung website.