

GENERAL TERMS AND CONDITIONS

KünzlerBachmann Directmarketing AG

1. Scope of the GTC

The General Terms and Conditions of Business (GTC) of KünzlerBachmann Directmarketing AG (KBDM) are governed by Swiss law. Any amendments or side agreements shall only be valid if confirmed by KBDM in writing.

These GTC shall remain valid on an open-ended basis, unless and until they are amended by the parties by a written agreement.

The provisions of the Swiss Code of Obligations (OR) and other Swiss legislation and ordinances shall also apply.

Should any term of this Contract be invalid or should the Contract contain any gaps, this shall not affect the legal validity of the remaining terms. The invalid term shall be deemed to have been replaced ab initio by a valid term that comes as close as possible to the economic intention of the parties; the same shall apply in relation to any gaps.

The GTC shall constitute an integral part of the contractual relationship between KBDM and the customer. Should these GTC conflict with the GTC of the customer, the GTC of KBDM shall prevail. The GTC of the customer shall not be binding for KBDM, even if they have been expressly referred to.

2. Services of KBDM

The services of KBDM consist essentially in the provision of data, mailing services (including the transmission of electronic messages), letter shop services, IT services and direct marketing services (hereafter "services"). The specific scope and specification of the services of KBDM shall be determined exclusively with reference to the order confirmation.

3. Data protection

KBDM operates a data management system in accordance with the GoodPriv@cy data protection quality guarantee mark. This management system ensures as a general matter compliance with the Swiss Data Protection Act (DSG), the Swiss Data Protection Ordinance (DSV) and the Code of Conduct of the Swiss Direct Marketing Association (SDV), and in particular the fiduciary management of customer and consumer data.

We hereby inform our customers that, by ordering personal data, they acquire the status of controller within the meaning of the DSG in relation to those data. This may also be the case even if the data are processed entirely by KBDM, e.g. in the event of mailing production. Data processing by customers / controllers must thus comply with the applicable data protection law, including in particular the DSG, the DSV and the Swiss Unfair Competition Act (UWG). The customer / controller must for instance comply with its disclosure duties in the event that data are obtained indirectly. The customer / controller is further obliged for instance to ensure that any processing and usage of the data provided is permitted, that the necessary transparency is established and that the legal rights of data subjects are upheld (e.g. right of access, right to rectification and right to obtain the erasure of data) in accordance with the applicable data protection law. Similarly, any asterisk concerning telephone marketing must be respected and data may not be used for prohibited advertising or in order to advertise illegal products. This list is not exhaustive. If data are subsequently processed by KBDM on behalf of the controller, this can normally be presumed to constitute data processing under contract within the meaning of the DSG. In such an eventuality, it shall be for the customer to ensure that data processing under contract is compliant with the requirements set forth in the DSG. The following section on "data processing under contract" is intended to support such action.

4. Data processing under contract by KBDM

The following provisions shall be applicable in the event of data processing under contract by KBDM (individual details concerning data processing under contract shall be specified in the respective offers, order confirmations or individual contracts).

What are the duties and rights of the controller?

- The controller must assess whether processing is lawful and uphold the rights of data subjects.
- Any changes to the object and nature of processing must be agreed upon jointly between the controller and KBDM and documented in writing ("in writing" also includes email).
- The controller must issue orders, partial orders or instructions in writing or confirm any oral instructions in writing.
- The controller is entitled to satisfy itself in a reasonable manner that KBDM is complying with the technical and organisational measures implemented as well as the requirements and duties set forth herein before the start of processing and thereafter at regular intervals.

- The controller must inform KBDM without undue delay in the event that it identifies any mistakes or irregularities when examining the results of the order.
- The controller is obliged to treat as confidential all information relating to the business secrets and data security measures of KBDM obtained within the ambit of the contractual relationship (this obligation shall continue to apply following the termination of this contract).

What requirements and duties is KBDM subject to as a processor?

- KBDM only processes personal data in accordance with the documented instructions of the controller, and data shall not in particular be used for any other purposes or for its own purposes.
- KBDM shall only transfer personal data to a third country if the legal prerequisites for this have been met (e.g. adequacy decision or standard contractual clauses). If the transfer occurs on the instructions of the controller, it shall be for the controller to ensure compliance with the legal requirements.
- KBDM undertakes to ensure that any persons authorised to process data are subjected to a duty of confidentiality.
- KBDM shall ensure data security and put in place appropriate technical and organisational measures in line with the current state of the art.
- KBDM shall report any data privacy breaches without undue delay to the controller.
- Where necessary, KBDM shall support the controller on a remunerated basis in relation to the following tasks:
 - fulfilment of the rights of data subjects (e.g. right of access)
 - security of processing
 - reporting any data privacy breaches to the relevant authorities (e.g. FDPIC)
 - notifying any data subjects affected by a data privacy breach
 - data protection impact assessment DPIA
 - prior consultation with the relevant authorities (e.g. FDPIC) if required as a result of a data protection impact assessment
- KBDM shall erase the order data if so instructed by the controller at the earliest 3 months after completion of the order. However, KBDM shall be entitled to store order data using standard, reasonable processes within archival and backup systems not in live usage.
- Upon request, KBDM shall provide the controller with information to document compliance with its duties (this shall also apply in respect of any sub-processors). The necessary proof shall be defined by mutual agreement between the two parties on a case-by-case basis.
- KBDM shall enable a third party appointed by the controller to carry out examinations and inspections and shall provide any necessary assistance (this shall also apply in respect of any sub-processors).
- KBDM shall inform the controller in the event of any suspicion that an instruction issued by the controller is not compliant with data protection law.

How is the involvement of sub-processors regulated?

Should KBDM wish to involve any further sub-processors in the processing of personal data, the approval of the controller shall be obtained. In such an eventuality, KBDM shall likewise subject the sub-processor to obligations under contract, as the controller has done with KBDM. KBDM shall bear liability for the sub-processor in the same manner as for its own services.

A sub-processor based in a third country shall only be involved if the legal requirements for this have been met (e.g. adequacy decision or standard contractual clauses).

Microsoft is a permanent sub-processor of KBDM, e.g. via the cloud services MS Teams, Sharepoint and PowerBI. The controller's data may therefore be processed on Microsoft servers. Mailprofiler Development s.r.o. (CZ), a subsidiary of the subcontractor, is also a permanent subcontractor in the field of IT services (development and hosting of software solutions). Any additional sub-processors shall be mentioned or linked in the offer or individual contract or order confirmation, if they are known at the time the contract is concluded. They shall be deemed to have been approved by virtue of the placing of the order.

In the event that any other sub-processors are involved at a later date, KBDM shall provide details of them to the controller in writing (name, address and type of processing). The controller may only withhold its approval with good reason. Approval may also be granted by email.

5. Quality

KBDM operates a quality management system according to the standard ISO 9001:2008. This management system ensures compliance with our own quality standards and our continuing improvement. Our quality policy is focused on the customer.

6. Provision of data

a) Possible forms of data provision

If data are obtained for one-time usage within a particular marketing initiative (in particular personally addressed communications), we refer to this as **data hire / hired data**. If data are obtained for usage over a limited period of time, we refer to this as a data licence / licensed data. Under normal circumstances, a licence will be concluded for an extended period of time. The data must be erased from all customer systems upon termination of the licence agreement. If data are obtained for an unlimited period of time, we refer to this as **data purchase / purchased data**.

The scope and form of data provision shall be defined with binding effect in the offer / order confirmation. The terms used above are intended solely to make these GTC easier to understand. Clause 7(d) shall apply to the transmission of electronic advertising messages.

b) Usage of data provided by us

Data are provided exclusively for the customer's own usage in relation to all types of data provision. Any disclosure to third parties, whether for consideration or free of charge, including in particular the lease, sale or licensing of data, is prohibited.

In addition, hired data may only be used once. They are intended exclusively for the transmission of one individual advertising message, **unless multiple usage has been expressly agreed to in writing with KBDM**. Any processing such as duplication, transmission, transcription, photocopying or transfer to a data carrier is prohibited. Moreover, the customer is prohibited from cross-referencing any data that it already holds with the data provided by KBDM for the purpose of thereby procuring, storing or using any features that were not previously known or that increase the information available to it, except with the express written approval of KBDM.

In the event of any breach of these specifications, irrespective of the issue of fault, the customer shall be obliged to pay **10 times the amount of the invoice** as liquidated damages in order to compensate all further losses.

The foregoing shall be without prejudice to any other action or legal measures in relation to any usage of the data provided that constitutes a breach of contract.

Control data may be included within the data provided (including in particular addresses) in order to guard against and to monitor any usage of the data that constitutes a breach of contract. The customer shall obtain the written approval of KBDM in the event that the customer does not process the data itself. In addition, it shall familiarise its contractors with these GTC and obtain their written acknowledgement. It shall be obliged to ensure that the end customer complies with these provisions. The customer also warrants to KBDM that any contractor will use the data in accordance with the contract; moreover, it shall be obliged to pay the liquidated damages mentioned above also in the event that the contractor or end customer fails to comply with the restrictions on usage set forth in this clause.

If the customer is provided with the dataset in electronic form as a data file rather than in printed form, it shall be obliged to print it out, or to arrange for it to be printed out, within 6 months. Data files shall be erased promptly following expiry of this period. If multiple usage has been agreed upon, the usage period shall be stipulated separately. **If a tenancy relationship exists in relation to the data, the right of withdrawal (Article 258 in conjunction with Article 107 OR) and the right to obtain a reduction of the price (Article 259d OR) shall not be applicable. Clause 9 of these GTC shall apply also in such cases in relation to the addresses provided.**

c) Provision of addresses to list brokers and intermediaries

If the customer is a list broker or intermediary, data shall be furnished to it for provision on one occasion to an end customer. The list broker or intermediary shall familiarise its end customer with these GTC and obtain their **written** acknowledgement. It shall be obliged to ensure that the end customer complies with these provisions. The list broker or intermediary shall be liable towards KBDM for all losses arising for it as a result of the usage of the addresses by the end customer that constitutes a breach of contract. In particular, it shall be obliged to pay liquidated damages in accordance with clause 6(b) of these GTC in the event that its end customer uses the addresses in breach of contract.

In addition, clause 6(a) and (b) of these GTC shall be applicable *mutatis mutandis* to the provision of data to list brokers or intermediaries and the remaining provisions of these GTC shall also apply without amendment.

d) Offer of data

The data offered are procured, updated and selected subject to a financially reasonable standard of care and degree of reliability. No warranty can be provided and no liability is accepted as regards the accuracy of postal addresses and the allocation of data to the correct groups, provided that the standard industry threshold for inaccuracy is not exceeded. KBDM does not provide any warranty and declines all liability in respect of any data sourced under lease or provided by the customer.

The unit quantities indicated in offers, catalogues and confirmations of KBDM are not binding. The quantity of data available to KBDM at the time of addressing shall be the sole relevant consideration. Accordingly, no liability is accepted in respect of any excess deliveries or shortfalls compared to the number of items indicated in offers, catalogues or confirmations.

e) Return

Datasets that have already been provided may not be returned as the creation of the dataset and its provision to the customer in itself constitutes contractual performance. This provision shall be without prejudice to the obligation to return any data carriers that have been provided.

f) Customer's own data

The customer shall be responsible for any data of its own that have been provided to us for the purpose of processing or hosting. In particular, it shall be individually responsible for the lawful procurement of such data and for compliance with the provisions of the Swiss Data Protection Act (DSG), the Ordinance to the Swiss Data Protection Act (VDSG).

7. Mailing services

a) Service

Upon request, KBDM may attend to the production, packaging and mailing of advertising material.

b) Material

The material provided by the customer for processing must be of unobjectionable quality. KBDM shall not be obliged to review the accuracy of the materials provided. KBDM does not accept any liability for material held in storage, even if the damage occurred during storage with KBDM. No liability is accepted for any losses or delays resulting from defective materials and any related additional cost may be charged for accordingly. A sufficient excess quantity must also be delivered (at least 10% of the desired print run).

The customer shall bear sole responsibility for ensuring that the content of the advertising material does not violate any statutory provisions or postal regulations. KBDM shall not be obliged to check the content and/or size (number of items) of the material delivered to KBDM by the customer or by a third party for the purposes of packaging and/or mailing.

c) Postage

If advertising material is dispatched by KBDM postage paid, the cost of postage shall be charged directly to the customer's post office account. The customer is responsible for ensuring that sufficient funds are held on its post office account. If it is not possible to charge the amount directly, KBDM shall transfer the amount required in good time before the deadline for mailing. In such cases, mailing shall only occur after the amount of the postage has been received on the post office or bank account of KBDM. KBDM may not be held liable in any way for delays to mailing resulting from any delays in receipt of the amount of postage.

d) Email messaging

KBDM shall attend to the provision of data for the selection of addresses and the transmission of emails either as the controller or on behalf of the list owner. Under the latter scenario, emails shall be sent subject to approval by the list owner, to which KBDM may provide details of the customer's identity and the planned email messages for this purpose.

For email messaging KBDM shall select its own addresses, and where applicable addresses from third party suppliers, in accordance with the customer's instructions and shall attend to the transmission of email messages on behalf of the customer. When doing so, KBDM shall act as a processor for the customer and shall indicate in the emails sent out that the customer is the controller. Data processing under contract shall be governed by the terms set forth below, which shall prevail in the event of any discrepancy with any other terms. The customer shall for its part be obliged to comply with the law applicable to it – including in particular data protection law – and shall have no entitlement to the surrender of order data, although may incorporate into its own address lists any replies that are sent directly to it by recipients.

KBDM shall use data pertaining to electronic messages ("Order Data") solely for the purpose of the performance of the contract with the customer, and shall subject all auxiliary agents to the same obligation. However, the customer expressly waives the right to consult any Order Data stored with KBDM, without prejudice to its rights of inspection, and under all circumstances to its own

usage of Order Data. KBDM shall comply with the provisions of data protection law applicable to the customer and/or KBDM when processing Order Data and shall only process those data in accordance with the documented instructions of the customer, provided that those instructions do not enhance the scope of the contractual services, and unless required otherwise by law. KBDM shall adopt appropriate technical and organisational measures in order to ensure on an ongoing basis a level of security that is at least compliant with statutory requirements. In relation to the processing of personal data, KBDM shall be entitled to avail itself of the services of MAILPRO-FILER Development s.o. Reznicka 1332/7, 460 01 Liberec, CZ as a sub-contractor for database hosting, email transmission and software support and maintenance. KBDM shall conclude an agreement with subcontractors (including MAILPROFILER Development s.r.o.) that ensures at least the same level of security as provided for under this section (6(d)). KBDM shall bear liability for subcontractors in the same manner as for its own actions. KBDM shall provide the customer with reasonable support in complying with its data protection obligations, in relation to data security, in the event of any reports of data privacy breaches and where applicable in relation to data protection impact assessments. Any requests made by data subjects shall be answered by KBDM on behalf of and where applicable in accordance with the instructions of the customer; the customer shall provide additional instructions if so requested by KBDM. Should KBDM become aware of any data privacy breach under the terms of the applicable data protection law, KBDM shall inform the customer without undue delay. Upon request, KBDM shall provide the customer with any information held by KBDM that may be required by the customer as proof of compliance with its data protection obligations, although the customer shall refrain from consulting the details of recipients wherever possible. KBDM shall be entitled to adjust Order Data accordingly in the event of any reports of errors from recipients (e.g. objections to advertising or the withdrawal of consent) and to make adjustments to its own dataset (as the controller). KBDM shall be entitled to adjust Order Data accordingly in the event of any reports of errors from recipients (e.g. objections to advertising or the withdrawal of consent) and to make adjustments to its own dataset (as the controller).

8. Execution

Orders shall be executed in accordance with the instructions set out in the order confirmation. Should these be missing or incomplete, execution shall occur in the manner standard within the industry. In particular, addresses shall not be automatically subdivided according to sectors or groups.

9. Mailing and transfer of risk, place of performance

Unless agreed otherwise, mailing shall occur at the cost and risk of the customer; this shall also apply in particular where the service is provided electronically over the internet. Risk shall pass to the customer at the time the items are ready for mailing. Mailing shall also occur at the risk of the customer where KBDM has undertaken to deliver carriage paid.

The order shall be deemed to have been executed upon delivery to the customer or to the recipients specified by it. KBDM shall be entitled to arrange for delivery to be made by the postal services or by another freight forwarder.

10. Advisory services

If the customer and KBDM agree to any advisory services, unless agreed otherwise these shall qualify as orders. KBDM shall be obliged to provide them in a diligent manner, although shall not be responsible for any specific result.

11. Deadlines

Deadlines shall only be binding if confirmed by KBDM in writing.

If KBDM has also undertaken to provide other services in addition to the furnishing of addresses, any deadlines agreed upon in writing need only be complied with if the material to be processed is delivered in good time by the customer or its supplier. Should any unforeseen difficulties arise when compiling addresses or providing other services, a new appropriately extended deadline shall be agreed upon. In the event of any delay by KBDM in executing an order and/or carrying out any other work, the customer shall set a reasonable grace period. KBDM shall not incur any liability for any losses arising as a result of the delay or for any other losses, insofar as permitted under Articles 100, 101 and 199 OR. KBDM may not be held liable for any delays in delivery by post, rail or other transport companies.

12. Warranty / liability for defects

The customer shall be obliged to inspect the addresses provided to it and any other services immediately upon receipt. The customer shall also be obliged to inspect the addresses if they are not due to be processed by it, but rather by a third party or by KBDM itself.

Any objections must be made immediately in writing with KBDM, and otherwise no later than within **10 days of receipt** of the addresses or the services, and must be accompanied by appropriate documentation.

The customer shall not have any right of rescission or to a reduction in the price, but rather only an entitlement to rectification. In the event of a serious defect (except in situations in which clauses 6(d) or 8 of these GTC apply), KBDM shall supply a replacement. **Unless required otherwise under Articles 100, 101 and 199 OR, no liability shall be incurred for losses and no entitlement to damages shall arise (in particular also for consequential losses, such as loss of profit).**

13. Disclaimer of any further liability

The customer shall not be entitled to make any other claims, irrespective of their basis in law, including in particular any claims not mentioned above to damages, a reduction of the price, non-performance or withdrawal from the contract except in the event of wilful action or gross negligence on the part of KBDM.

KBDM shall not incur any liability for the consequences of force majeure, i.e. events occurring irrespective of the wishes or actions of the parties. In such cases, KBDM may either withdraw from the contract without any liability to pay compensation or appropriately extend the deadline for performance.

14. Templates and documents

All documents and templates provided along with an offer shall remain the property of KBDM and may not be made accessible to third parties

15. Prices and terms

The prices indicated in offers, catalogues and confirmations of KBDM are not binding. The prices applicable to the customer shall be exclusively those indicated in the order confirmation.

In the event that addresses are furnished or other services are provided with an order value exceeding CHF 30,000.00, KBDM may request an advance payment of up to 40% of the total invoice amount.

All prices are valid for delivery at the place of business of KBDM and are subject to value added tax. The customer is obliged to make payment within **30 days of receipt of the invoice**. If the customer fails to comply with the payment deadline, does not make any advance payments or defaults on payments relating to previous services, KBDM shall be entitled to render the execution of any supplies of addresses or mailing orders that have already been ordered and confirmed by KBDM conditional upon the payment of the respective invoices. KBDM shall not incur liability for any losses arising for the customer as a result. If the customer fails to comply with a payment deadline, it shall pay default interest of 5% from the time it fell due, without any requirement for a reminder.

The customer shall not be entitled to offset amounts due against any counter-claims without the written approval of KBDM.

The prices indicated are net prices, i.e. before any discount. In the event that legal debt collection procedures are launched, any entitlement to a discount shall lapse for all invoices that have not yet been paid. These discounts shall be removed in corrected invoices.

16. Concluding terms

The General Terms and Conditions and the respective individual contracts shall be governed by Swiss law, excluding any provisions that refer to other legal systems. Unless required otherwise under a mandatory provision of Swiss law, St. Gallen shall be the place of performance and jurisdiction. However, KBDM shall have the unilateral right to launch court action against the contractual partner at its ordinary place of jurisdiction.