

# General Terms & Conditions of Admeira AG for TV marketing in the private programmes

dated 3 november 2022

## 1. GENERAL

### 1.1. Scope of GTC

These General Terms and Conditions (hereafter "GTC") govern the contractual relationship between the advertising client or the advertising agent instructed by it (acting in its own name and for its own account, hereafter "advertising client") and Admeira AG, TV Marketing, Giacomettistrasse 1, 3006 Bern, Switzerland. These GTC apply to all advertising orders of the advertising client for TV and the related services, rights and obligations. The applicability of advertising terms and conditions or general terms and conditions of the advertising client is hereby excluded. Deviations from the GTC are valid only if confirmed in writing by Admeira AG. Hereafter, the term "advertising" denotes TV advertising.

### 1.2. General

The services of Admeira AG are based on these GTC, the offer documentation and the special offers provided by Admeira AG in their current version as well as on any individual agreements between the advertising client and Admeira AG.

### 1.3. Involvement of third parties

Admeira AG is entitled at any time to engage third parties for the fulfilment of its contractual obligations and for verifying the admissibility of the content of the advertising.

### 1.4. Proof

Admeira AG is entitled to request proof of mandate in the case of advertising orders from advertising agents or agencies.

### 1.5. Representation by an agency

The deputy or the advertising client, as the case may be, undertakes to fulfil its accountability obligations vis-à-vis its clients pursuant to Arts. 400 and 401 of the Swiss Code of Obligations.

## 2. CONCLUSION OF ADVERTISING ORDERS

### 2.1. Principle

The conclusion of advertising orders is subject to the GTC and individual agreements (if any) between Admeira AG and the advertising client.

Advertising in this context is defined as any statement broadcast on television and/or the Internet as part of the exercise of a commercial, industrial or handicraft activity or a freelance profession, in return for payment or for similar consideration, with the aim of promoting the sale of goods or the rendering of services, including goods or services offered under a generic description, or with the aim of commercially promoting a public or private enterprise. Direct sales offers to the public that are intended to promote the sale, acquisition or leasing of products or the rendering of services in return for payment are not permitted in the advertising windows of French TV channels.

### 2.2. Booking TV airtime

Depending on the agreement reached, advertising clients can book airtime for a TV commercial using an online tool or directly by e-mailing Admeira AG. In the case of direct bookings with Admeira AG, Admeira AG provides the advertiser with a quote which the advertiser can accept or reject within an appropriate period of time. If the advertising is booked using an online tool, the airtime is initially reserved. When the reservation is confirmed by the advertising client, a "firm" booking is made which is binding. The reservation must be confirmed no later than 30 calendar days before the broadcast of the advertising, failing which the reservation will be forfeited. All bookings made using the online tool within a period of less than 30 calendar days prior to the first broadcast of the advertising are automatically considered to be "firm" bookings. Bookings made using the "Publiplan" online booking and processing system are subject to these GTC. Access to, use of and the technical prerequisites for "Publiplan" are documented in a separate agreement between Admeira AG and the advertising client or agency. Advertising on the website of the respective TV channel can be booked directly by e-mailing Admeira AG (Campaign Management TV).

### 2.3. Confirmation and objection

In the case of direct bookings, Admeira AG confirms the booking to the advertising client in writing or by e-mail, pursuant to Section 2.2. The contract between the advertising client and Admeira AG is concluded upon written or e-mail confirmation by Admeira AG. Admeira AG is entitled at any time to require counter-confirmation from the advertising client, either in writing or by e-mail. Changes submitted by the advertising client after the booking has been confirmed have no effect on the

contractual terms agreed according to the booking confirmation (the exception being changes to bookings pursuant to Section 2.5 and the right of withdrawal pursuant to Section 2.6.). In any event, the advertising order pursuant to the conditions agreed between the parties takes effect upon the broadcast of the advert. "Firm" bookings are binding once the reservation has been confirmed by the advertising client in the online booking tool. If a booking is entered in the online booking tool less than 30 calendar days before the first broadcast of the advertising, the booking is automatically binding without the need for confirmation by the advertising client.

## 2.4. Rate increases

Rates may be revised at any time and are effective immediately, even for current, legally binding advertising contracts. Rate increases affecting current advertising contracts will be notified to the advertising client in writing or by e-mail. The rate increase is deemed to have been acknowledged by the advertising client if the advertising client does not object to it, in writing, and thus withdraw from the contract, within five (5) working days of receipt of the notification. The absence of any objection by the advertising client is deemed to constitute acceptance of the rate increase. Services rendered or non-cancellable placements up to the time of the objection must be paid for by the customer on the basis of the rate increase.

## 2.5. Changes to bookings

Changes may be made to bookings before first broadcast, provided the following deadlines and conditions are observed:

- Subject to available advertising capacity, reservations may be postponed or changed.
- Confirmed bookings or "firm" bookings may be altered up to seven (7) working days prior to the first broadcast without incurring a contractual penalty pursuant to Section 2.6.; in this case, the originally agreed advertising volume must be left unchanged and the new broadcast date may not differ from the originally agreed date by more than three (3) months. Bookings already confirmed for perpetual commercials, long spots (TV advertising with a length of 60 seconds or more) and programme sponsorship cannot be changed.

In any event, requests to make changes to bookings must be sent to Admeira AG (Campaign Management TV) before the end of the aforementioned deadlines, in writing or electronically (by e-mail), stating the reasons. The date of receipt of the notification by Admeira AG is decisive. Costs which Admeira AG or any third parties have incurred for services already rendered are payable by the advertising client even if the changes to the booking were made in good time. The above similarly applies to online advertising.

## 2.6. Right of withdrawal of the advertising client and contractual penalty

For as long as there is a reservation and the parties have not made any arrangements to the contrary, the advertising client may withdraw from the contract with Admeira AG at any time. If the withdrawal or cancellation of individual services takes place after a "firm" booking has been placed or fewer than 30 calendar days before the first broadcast of the TV advertising, twelve weeks after the withdrawal or cancellation Admeira AG will invoice to the advertising client a contractual penalty plus VAT in accordance with the following scale, subject to any additional damages Admeira AG may claim:

<u>Period before broadcast of the campaign or the cancelled services</u>	<u>Contractual penalty</u>
29-21 calendar days prior to first broadcast	50%
20-14 calendar days prior to first broadcast	75%
fewer than 14 calendar days prior to first broadcast	100%

The amount of the contractual penalty is based on the net value of the campaign in CHF (the agency commission will not be paid and VAT will be charged in addition). The contractual penalty is payable 30 calendar days after the invoice date. Admeira AG will waive the contractual penalty if the advertising client reinvests the net value of the cancelled airtime in another firm advertising order within 12 weeks of the cancellation date.

## 2.7. Right of withdrawal of Admeira AG

If there is good cause, Admeira AG is entitled, without observing a notice period, to withdraw from the advertising contract with the advertising client at any time, with immediate effect and without any obligation to reimburse any loss. Good cause includes in particular the termination of the marketing contract between Admeira AG and the appropriate TV channel or the cessation of the TV channel. An immediate right of withdrawal also applies if the advertising client is in breach of the GTC or does not honour its payment obligations. Withdrawal by Admeira AG does not discharge the advertising client from payment for the advertising broadcast and the services already rendered.

## 2.8. Invoicing

As a rule, adverts are invoiced after broadcast, monthly, at the agreed prices in Swiss francs (plus VAT). The length of TV advertising is determined by the exact running time of the TV ads. The first and last image and/or sound modulation are used as a basis for calculating the running time. The invoice for advertising is payable in full within thirty days of the date of issue, without any deductions. In the event of late payment, Admeira is entitled to charge reminder fees of Fr. 20.00 for each payment reminder. Admeira AG may invoice the advertising client for interest on late payments of 5% plus reasonable costs of collecting its claim. Admeira AG reserves the right to invoice for TV advertising monthly in advance, should Admeira AG deem this appropriate. This advance invoice must be settled one week prior to the first broadcast on the TV channel or first activation on the website. If this payment deadline is not observed, Admeira AG is entitled, without notice, to not broadcast the scheduled advertising and to allocate the airtime elsewhere. The advertising client remains obliged to pay the full contract amount and is also liable for further losses.

## 2.9. Agency commissions

Admeira AG pays all entitled advertising clients the customary agency commissions (15% for TV advertising, 5% for online advertising). For the electronic booking of airtime and electronic changes to bookings using the "Publiplan" online booking and processing system, Admeira AG may make a payment ("online payment") to advertising and media agencies and other brokers of advertising orders. Advertising and media agencies and other brokers interested in this online payment shall conclude an online agreement with Admeira AG for this purpose. The online agreement contains the conditions of any entitlement to an online payment.

### 3. CONTENT OF THE ADVERTISING AND ADVERTISING MATERIAL

#### 3.1. General requirements

The advertising and related advertising material must comply with the applicable statutory, regulatory and administrative requirements, official guidelines and recommendations and the applicable advertising guidelines and legal, editorial and technical requirements of the respective broadcaster. The Swiss requirements must be observed for advertising on Swiss TV channels. In addition, the requirements of the respective country must be observed for advertising on foreign TV channels. Should there be any inconsistency between various national provisions or between the recommendations of two countries (country of origin and Switzerland) when assessing a commercial, the more restrictive provision or recommendation shall be applied.

#### 3.2. Advertising for charitable organisations

Charitable organisations that have the ZEWO seal enjoy a discount of 50% on the gross price for TV airtime, unless otherwise agreed.

#### 3.3. Advertising for therapeutic products

Advertising for therapeutic products must first be approved by Swissmedic if all of the following conditions are met:

- a. The product in question is an analgesic, a sleep medication or sedative, a laxative or an anorectic agent.
  - b. For these medicinal products, the potential for abuse or dependency is mentioned in the product information.
- If no approval is required, this must be confirmed by the client in writing where requested by Admeira.

#### 3.4. Inadmissible identification with the television programme

It is prohibited to design the content, set, etc. of the advertising so that the advertising is associated with the respective TV channel, its programmes or its employees. The advertising must be clearly distinct from the remainder of the programme of the respective TV channel (differentiation requirement). The use of the logos and brands of the respective TV channel is prohibited in any form whatsoever, except with the express, prior approval of Admeira AG, which must be given in writing.

#### 3.5. Delivery of the advertising material

For the TFI, TMC and TFX channels:

The advertising client is required to supply the material necessary for the broadcast of the commercial, at its own expense and in accordance with the technical specification, within 10 working days prior to the date of the first broadcast. Delivery for foreign advertising windows is made to:

Anyscreen Ads  
26, rue César Roux  
1005 Lausanne

or electronically to: [www.anyscreenads.ch](http://www.anyscreenads.ch)

Contact: Staff Diffusion (+41 21 320 08 81). Director: Françoise Monachon

For the SWISS1, TRC and StarTV

Electronic transfer (files) - We recommend using the free electronic delivery service via our Admeira mediaport platform: <https://mediaport.admeira.ch>

We also support the free-based services provided by a wide variety of suppliers. These offerings are suitable for transferring ads for international campaigns.

<http://www.adstream.com>  
<http://goupimd.com>  
<http://adtoox.com>  
<http://honeycomb.tv>

Delivery deadline: TV adverts should be delivered five workdays before they are first due to be broadcast.

#### 3.6. Technical quality

The technical quality of the advertising material must comply with the relevant technical specifications. The advertising client bears sole responsibility for compliance with the technical specifications.

#### 3.7. Checking of advertising on French TV channels

When advertising in an advertising window of a French TV channel, the advertising client is required, in particular, to follow the recommendations of the Autorité de régulation professionnelle de la publicité (hereafter "ARPP").

[www.arpp-pub.org](http://www.arpp-pub.org)

#### 3.8. Responsibility and liability for content

The advertising client bears sole responsibility for compliance with the regulations, provisions and requirements. Admeira AG reserves the right to verify the statutory, editorial and technical permissibility of the content of the advertising but is not obliged to do so. Admeira AG may instruct third parties to do this. The advertising client holds Admeira AG fully harmless should Admeira AG suffer damages as a consequence of the broadcast or activation of advertising of the advertising client concerned (including the costs of representation and advice in and out of court as well as official and court fees and fines). Should Admeira AG, the respective TV channel or their partner companies incur exceptionally high costs in connection with verification of the advertising for its statutory, technical or editorial permissibility, these shall be invoiced to the advertising client. Such expenditure is also invoiced to the advertising client if the authorities incur expenses for review of the legality of advertising which are passed on to Admeira AG, the respective TV channel or their partner companies.

#### 3.9. Right to reject broadcast/make changes to commercials

Admeira AG reserves the right, even in the case of binding contracts with the advertising client, to reject the broadcast or activation

of the advertising material without giving reasons. In particular, advertising may be rejected and not broadcast or not activated if the

advertising material contains elements which, in Admeira's view,

- are in breach of the applicable statutory, regulatory and administrative requirements or official guidelines and recommendations.
- violate the differentiation requirement pursuant to Section 3.4.
- do not comply with the applicable technical specifications or
- offend against good morals

Furthermore, Admeira AG reserves the right to reject and not broadcast advertising which (i) in any form whatsoever, directly or indirectly, is advertising products, services, programmes, broadcasts or activities of a competitor of the respective TV channel or (ii) contains elements of a broadcast, a programme, a column or an article of a competitor of the respective TV channel or evokes an association with such elements, or (iii) contains an appearance by a presenter or an employee of a competitor of the respective TV channel. Moreover, Admeira AG reserves the right to reject the following advertising and not cause it to be broadcast or activated:

- advertising which devalues the programme of the respective TV channel or Admeira AG, their group companies or partner companies or which could be harmful to their business or image
- advertising which does not comply with the editorial policies of the respective TV channel

The advertising client/agency authorises Admeira to submit the advertising material to the competent authority (e.g. Federal Office of Communications OFCOM, Swissmedic, Comlot, Federal Office of Public Health) for evaluation should Admeira have any doubts concerning the lawfulness of the advertising material. In a general sense, Admeira AG reserves the right to reject any advertising which contains elements that might harm or compromise the rights and/or interests of third parties. In particular, Admeira AG also reserves the right to reject advertising that has been approved or endorsed by the competent authorities.

Admeira AG shall inform the advertising client without delay of the rejection and non-broadcasting or non-activation of the advertising or – where possible – the necessary adjustment or changes to the advertising material. In this event the advertising client is required to immediately supply new advertising material, at its own expense, which has been adapted to satisfy the conditions. If the replacement material is received too late for the agreed broadcast date, the advertising client is nonetheless liable to pay the full contract amount as if the broadcast or activation had taken place as agreed. The advertising client may not assert any claims against Admeira AG and/or the respective TV channel as a result of the rejection of the advertising material and the non-broadcasting or non-activation of the advertising; in particular, it may not assert any claims for damages. If Admeira AG has had changes made to the commercial by a third party instructed by it and has borne the costs of this, the advertising client may not otherwise use the changed commercial without Admeira AG's prior consent.

### **3.10. Retention and return of advertising material**

The obligation to retain documents and materials intended for broadcast ends for Admeira AG one year after the last broadcast of the respective TV advertising. After this time, the documents and materials will be returned at the request of the advertising client, subject to indemnification against claims by third parties. Admeira AG may dispose of documents and materials that it has not been asked to return.

## **4. BROADCASTING**

### **4.1. Principle**

In principle, the advertising order stipulates a broadcast code and a broadcast or delivery date, subject to the following restrictions.

### **4.2. No guaranteed broadcast time**

The exact time at which TV advertising will be broadcast cannot be guaranteed. Particularly when major events occur, the respective TV channel reserves the right to cancel the advert or move it to an equivalent advertising space. The advertising client cannot derive any claims or demands from this against Admeira AG and/or the TV channel concerned, e.g. a revision of the fee for the commercial or the cancellation of the advertising order.

### **4.3. Placement**

In principle, the advertising client is not entitled to placement within a specific commercial break and/or a specific position for the commercial within a commercial break, unless this has been expressly agreed between the parties in writing. Admeira AG will make every effort to enable the commercial to be broadcast during the advertising client's preferred commercial break, but gives no guarantee of this.

### **4.4. Multiple bookings, competition exclusion and expansion of range**

Admeira AG reserves the right to refuse multiple bookings as well as commercials that are related to each other within a single or several commercial breaks. There is no guarantee that no commercials for direct or indirect competitors of the advertising client will be broadcast during a commercial break or a time slot.

### **4.5. Broadcast date and place/failures**

If a TV advert is not broadcast due to programming reasons, force majeure (including as a consequence of technical faults) or for other reasons, where possible it will be broadcast at an earlier or later time; however, this does not apply if an advert is rejected pursuant to Section 3.9. If the broadcast is substantially delayed, Admeira AG will inform the advertising client as quickly as possible. A substantial delay denotes broadcast on a different date, in a different time slot (e.g. daytime instead of

prime time) or in a different price group. If the advertising client does not immediately object, in writing, to the postponement of the commercial as notified to him (max. 3 working days), the absence of any objection will be deemed to constitute the advertising client's approval of the postponement of the commercial. In the event that it is impossible either to bring forward or postpone the cancelled TV commercial, the advertising client has the right to reimbursement of the agreed value of the lost airtime, if it has already remitted the corresponding amount to Admeira AG. The right of reimbursement may be offset against claims by Admeira AG. The advertising client may not assert any claims against Admeira AG and/or TV-channel as a result of the postponement of the TV advertising or the non-broadcasting of the TV advertising; in particular, it may not assert any claims for damages.

#### **4.6. Compensation for performance shortfall and expiry of credit balances in connection with the performance guarantees given and other credit balances**

During the current advertising campaign, Admeira AG may regulate the booking of the contractually agreed performance guarantees and compensation without informing the advertising client that it is doing so. Admeira AG reserves the right to determine the time of broadcast or delivery of the credit balances under the performance guarantees and compensation, unless the parties have agreed otherwise in writing. At the end of the calendar year, all credit balances under the performance guarantees and compensation as well as other credit balances such as free space agreements will lapse. The advertising client cannot make any claim to a consideration unless Admeira AG has not broadcast the actual credit balances booked by the advertising client. The advertising client cannot make a claim for compensation or reimbursement. Admeira is expressly released from the obligation to provide services in relation to (outstanding) freespace, conditional or performance compensation credits in the event that an inventory is no longer marketed by Admeira. Such action does not result in any claims against Admeira on the part of the contractual partner.

### **5. INTELLECTUAL PROPERTY AND OTHER RIGHTS**

#### **5.1. Production rights and SUIISA number**

The advertising client is obliged to clarify and obtain, on its own behalf and at its own expense, all rights necessary for the production of the advertisement (in particular copyright and related rights). In particular, the advertising client must obtain a SUIISA number (SUIISA is the Swiss Society for the Rights of Authors and Musicians) for each TV commercial, even if it contains no copyright-protected music. This must be done even in the event of only a slight difference from an existing TV commercial for the product or service to be promoted.

#### **5.2. Broadcasting rights**

The advertising client is responsible for assuring Admeira that it is in possession of all copyrights and related rights and any other rights (with the exception of SUIISA broadcast rights) required to broadcast or activate the advertising. The advertising client holds Admeira AG fully harmless in this regard (including the costs of representation and advice in and out of court as well as official and court fees and fines). The advertising client allows Admeira AG and the TV channel the right to include in the advertisement the designation "Werbung" or "Werbesendung" ("advertising" or "commercial broadcast") where necessary, in order to differentiate advertising from television broadcasts as required by law under the differentiation requirement (see Section 3.4. GTC), and it allows Admeira AG to keep copies of commercial broadcasts and possibly make them accessible via a database of TV commercials.

### **6. LIMITATION OF ADMEIRA AG'S LIABILITY**

Insofar as legally permissible, the liability of Admeira AG is excluded. Admeira AG is only liable for possible damages, irrespective of their legal grounds, in the case of wilful intent or gross negligence. Admeira AG is neither liable for auxiliary persons nor does Admeira AG accept any liability for consequential losses (e.g. lost profits) suffered by the advertising client, its business partners or other third parties. The advertising client acknowledges that, for technical reasons or due to force majeure, the broadcast of advertisements may be postponed or interrupted, or even omitted entirely, at any time at the discretion of the TV channel. Admeira AG accepts no liability in such cases. The amount of Admeira AG's liability is in any event limited to the amount paid by the advertising client under the advertising contract concerned over the last 12 months prior to the event causing the liability. Admeira AG accepts no liability whatsoever for the suitability or appropriateness of advertising materials produced or adapted for the advertising client.

### **7. CONCLUDING PROVISIONS**

Admeira AG is authorised to amend or supplement these GTC at any time and will inform the advertising client of this in writing or by e-mail. If no objection is made by the advertising client within ten (10) calendar days of notification of the new GTC, these shall be deemed to have been accepted by the advertising client. Any changes or additions to, or the cancellation of, an advertising contract or these GTC, and in particular deviations from the written form requirement, must be made in writing unless these GTC or an advertising contract expressly provide for notification by e-mail. In addition to the handwritten signature, the advanced signature in electronic form ("AES"; "FES" in German) via Skribble or another e-signature provider is equivalent to the written form. The same applies to the waiver of this written form requirement. Should any provision of the advertising contract or these GTC be or become invalid, the remaining contractual provisions shall remain valid. Should one or more provisions of these GTC be or become invalid, the validity of all other provisions or agreements shall – in case of doubt – remain unaffected. Instead of the ineffective provision(s), a stipulation shall be formulated which as far as possible legitimately replicates the economic sense and purpose of the invalid provision(s). Offsetting is not permitted. These GTC are exclusively subject to Swiss law, to the exclusion of the Federal Act on Private International Law (FAPIL) and the UN Convention on the International Sale of Goods. The application of international or European provisions on advertising, particularly TV advertising, remains reserved.

The place of jurisdiction shall be Bern (Switzerland).

These General Terms and Conditions shall take effect on 3 november 2022 and replace all previous versions.