The following General Terms and Conditions of Business (“GTC”) for contracts with a+s Online GmbH, Stuttgartstraße 41, 71544 Ditzingen.

1 GENERAL PROVISIONS
1.1 These terms and conditions of business apply to all, including future, business relationships between a+s Online GmbH (a+s) and its clients and suppliers relating to online marketing. They apply in particular to the creation and supply of additional services to be performed in connection, in particular to
- marketing of third-party e-mail addresses
- display advertising
- address generation (co-sponsoring, co-registrations, etc.)
- general services such as consulting, website design, affiliate marketing.

1.2 a+s works exclusively with entrepreneurs, i.e. persons acting in pursuit of their commercial activities. Divergent, conflicting, or supplementary GTC of the client do not form part of a contract unless their applicability is expressly agreed in writing when the contract is made.

2 ADDRESS GENERATION AND TRANSFER
2.1 The supplier warrants that the delivered address data are legally unobjectionable; in particular, they are compatible with applicable data protection and competition law. The supplier warrants, in the case of e-mail address data in particular, that a legally unobjectionable double opt-in exists for all address data and can be produced where necessary. Exceptions are periods during which a+s is entitled to provide the basic material for the purpose of contractual performance and the delivery of same applies to other advertising materials and to the delivery of data sets.

3 PROVISION OF BASIC MATERIAL BY THE CLIENT
3.1 a+s supplies and sells advertising inventory such as, for example,
- display advertising
- marketing of third-party e-mail addresses
- data sets
- graphics for the advertising banners, websites, newsletters, mailings,

3.2 a+s grants the client for the agreed term the authority, defined in the order in specific terms as necessary, to use the data of third parties for business purposes, generally for its own advertising purposes, in compliance with applicable law (data protection and competition law in particular).

3.3 Unless otherwise agreed, all addresses provided by a+s are intended for the client’s own use in connection with its direct advertising campaigns. Any resale or transfer for use by third parties is generally prohibited; otherwise, it is subject to the prior permission of a+s and must be adequately remunerated according to a separate agreement.

3.4 Improper use can be adequately substantiated by the submission of a trap address inserted for that purpose into the data sets. If data sets have been used improperly, the client owes a contractual penalty of € 5,000.00 for each instance of misuse; a+s expressly reserves the right to assert separate claims for damages.

3.5 Data sets are provided on a suitable data medium. Alternatively, a+s has the right to place them on the Internet in retrievable and storable format for download or to send them by e-mail.

3.6 Acceptance of an order is conditional on a+s itself being supplied in its legal and, to assume any damages, along with the costs of adequate legal defense, at the request of a+s.

3.7 a+s grants the client for the agreed term the authority, defined in the order in specific terms as necessary, to download or to send them by e-mail.

3.8 Unless otherwise agreed, all addresses provided by a+s are intended for the client’s own use in connection with its direct advertising campaigns. Any resale or transfer for use by third parties is generally prohibited; otherwise, it is subject to the prior permission of a+s and must be adequately remunerated according to a separate agreement.

3.9 Improper use can be adequately substantiated by the submission of a trap address inserted for that purpose into the data sets. If data sets have been used improperly, the client owes a contractual penalty of € 5,000.00 for each instance of misuse; a+s expressly reserves the right to assert separate claims for damages.

3.10 Data sets are provided on a suitable data medium. Alternatively, a+s has the right to place them on the Internet in retrievable and storable format for download or to send them by e-mail.

3.11 Acceptance of an order is conditional on a+s itself being supplied in its legal and, to assume any damages, along with the costs of adequate legal defense, at the request of a+s.

3.12 a+s grants the client the non-exclusive right, limited to the term of the contract, to use the basic material. The client guarantees that it is entitled to use the basic material for the purpose of contractual performance.

3.13 The content provided by the client must be in compliance with applicable law and, in particular, must not violate trademark, competition law, or copyright, or constitute a violation of the rights of a third party. Otherwise, the client will indemnify a+s at its first request against all claims asserted against a+s by third parties because of the advertisement.

6 PROVISION OF BASIC MATERIAL BY THE CLIENT
6.1 If the client provides design elements, logos, texts and/or graphics for the advertising banners, websites, newsletters, mailings, etc., to be created, the client and a+s will confer on the technical feasibility of the basic material provided by the client.

6.2 The client grants a+s the non-exclusive right, limited to the term of the contract, to use the basic material. The client guarantees that it is entitled to use the basic material for the purpose of contractual performance.

6.3 The provided design elements must be in compliance with applicable law and, in particular, must not violate trademark, competition law, or copyright, or constitute a violation of the rights of a third party. Otherwise, the client will indemnify a+s at its first request against all claims asserted against a+s by third parties because of the advertisement.

7 COMMISIONABLE TRANSACTIONS
7.1 a+s will receive a commission for the deals closed with advertising clients and/or data set suppliers during the contract term. Commissionable sales revenue is the net invoice amount; for orders through advertising agents, it is the net agency amount for the service.

7.2 In the case of special advertising formats, commissionable sales revenue is the remuneration agreed in each particular case for transmission of the special advertising on the online service.

7.3 In the event of unusual price changes or new promotional formats that open up additional sales potential, or if new electronic publications are transmitted, the commission rate can be re-set from the date of the change by mutual agreement according to the new circumstances. The revised commission rates remain unaffected.

8 ACHIEVEMENT OF THE COMMISSION CLAIM AND BILLING
8.1 a+s grants its address and data set suppliers a commission, to be agreed separately, for the deals closed with clients during the contract term.

8.2 The suppliers’ claims to a commission accrue only upon payment by the client (advertising customers/data set buyers), a+s is entitled to deduct from the supplier’s invoice any cash discounts received by a+s from the client. Any deferred advertisement and/or data set sales will be charged to the client.

8.3 The client will immediately review the statements presented to it.

The statements are deemed acknowledged if no objections are raised within 10 business days from their being sent.

8.4 The supplier’s commission, together with the statutory value-added tax, is due and payable upon receipt of payment by a+s if clients (advertising customers or data set buyers) fail to pay their invoices within 10 days. Any interest required.

8.5 Only proper dispatch of the e-mail is guaranteed; actual receipt thereof is not guaranteed.

5 RESPONSIBILITIES OF THE CLIENT AND THE SUPPLIER
5.1 The client or supplier is obligated to undertake, at a+s’s first request, all acts required for proper performance by a+s. The precise actions by the client or supplier that are required for proper performance are to be determined in each particular case by a+s.

5.2 Should the client or the supplier fail to refuse to perform the acts requested of it, a+s will not be obligated to perform the service for which the client’s or supplier’s act of assistance is requested. a+s will not, however, be liable for any damages.

5.3 a+s guarantees the permanent technical availability of its service, from which deviations of approximately 5% on an annual average are allowed. Except are periods during which delivery cannot be made due to disruptions beyond the control of a+s (force majeure, fault of third parties, etc.).

5.4 Advertising materials and work materials, including any data sets or databases, provided by a+s remain its property. Unless they are intended or used for transmission to clients, the advertising materials and work materials must be returned by the agency or the client un-bidden upon termination of the contract.

5.5 Deadlines may be postponed by no more than three business days before dispatch. Template and subject lines must be supplied no later than 48 hours before dispatch. Template, tracking, or subject line changes may be made no later than 24 hours before dispatch, at the supplier’s charge; otherwise, € 95.00 plus value-added tax will be charged per change. Unless otherwise agreed, the order is for a template with a subject line. The client permits a+s to include the client in its list of references; a+s is entitled to engage subcontractors.

10 ACCEPTANCE
10.1 The client must review and release the content to be dispatched before it is dispatched. Any flaws or corrections must be promptly reported to a+s. To enable the client to conduct such a review, a+s will send the content to the client.

10.2 If the client does not respond within the response period specified by a+s, the test mail will be deemed flawless and accepted. The same applies to other advertising materials and to the delivery of data sets.

11 REMUNERATIONS, PAYMENT TERMS
11.1 The amount of remuneration is based on the prices listed in the offer or the order (creation cost, set-up costs, etc.). All prices are net prices, unless the value-added tax is expressly stated in the offer or the order.

11.2 Unless agreed otherwise with the customer, payments shall be made 7 days after the date of the invoice without deduction.

11.3 If the client is in arrears of payment, a+s may interrupt all work and other services until payment is received.

11.4 Any agreed performance deadlines will be extended accordingly. Further deadlines specified in this contract and according to the provisions of law are reserved.

12 LIABILITY
12.1 If a+s has not collected addresses on its own but rather acquired them from a third-party provider (in particular, by means of purchase or rent from third-party distributors), a+s assigns, in the event that a third party brings a claim against the client, all rights of recourse against the third-party provider to which a+s is entitled by reason of the breach of duty. Liability on the part of a+s is excluded, however.

12.3 For damage other than that arising from injury to life, limb, or health, a+s is liable only to the extent that the damage arises from wilful misconduct, gross negligence, or a culpable breach of a material contractual duty by a+s, its employees, or its vicarious agents. This applies also to damage arising from a breach of duties in contractual relationships arising from the performance of unlawful acts. Any further liability for damages is excluded.

12.4 Except in the case of wilful or grossly negligent conduct, a breach of a material duty, or injury to life, limb, or health by a+s, its employees, or its vicarious agents, liability is limited to such damage as is typically foreseeable when the contract is entered into and is otherwise limited in amount to X times the order volume. This applies also to indirect damage, lost profit in particular.

The provisions of the German Product Liability Act (Produkthaftungsgesetz) remain unaffected.

13 CLOSING PROVISIONS
13.1 The place of performance for all regulated services is, insofar as a+s is not a party to the contract, Stuttgart. a+s’s place of business is Stuttgart.


13.3 The contract is not a contract of sale as an agent, agreement, or transaction.

13.4 If one or more of the provisions made herein are invalid, this will not affect the validity of the remainder of this contract. The contract parties will make a legally valid replacement provision that comes as close as possible to the economic effect of the invalid provision.