

General Terms and Conditions of Business of

AZ Direct GmbH

For deliveries and performance relating to addresses and data

AZ Direct GmbH

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Domicile: Gütersloh, Gütersloh County Court

Commercial Registry B No. 1631

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Valid as of March 2nd, 2012

AZ Direct GmbH (hereinafter "AZ") provides the following services: supplying addresses, adding data to addresses, supplying and analyzing data exclusively according to the following general terms and conditions of business which the principal recognizes by issuing the order or receiving performance. They also apply to all future business with the principal. If the principal has different, supplementary terms and conditions of business, these are excluded if this is not expressly revoked by AZ. To the extent that these terms and conditions of business refer to the "address", it is assumed that this encompasses both private and company addresses. A private address consists of the following components: First name, surname, title, form of address, zip code, town, street, house number. A company address comprises: company name, zip code, town, street, house number; with a contact: first name, surname, title, form of address, "position".

The term "data" in these general terms and conditions of business is used to refer to: so-called hard information for an address (e.g., telephone number, year of birth for private addresses and for example, telephone number, year of formation, and industry for company addresses); statistical information (e.g., deriving age from an analysis of first names and, explicitly for company addresses, for example revenue category, workforce category) for an address; hard information on the physical environment (e.g., federal region, state, street) and statistical information (e.g., purchasing strength in a section of a street) on the physical environment. If AZ is to provide IT services in connection with the services detailed in these general terms and conditions of business (e.g., supplying addresses after IT comparison), the following general terms and conditions of business apply exclusively for these IT services: "AZ's general terms and conditions of business for deliveries and performance for order data processing, the production and processing of advertising material".

1. Contract conclusion

1.1 Offers by AZ are not binding. A contract is only concluded when AZ issues a written order confirmation or if AZ executes the order and this contract is exclusively oriented to the content of the order confirmation (if issued) and these terms and conditions of business. Any verbal agreements or acceptances must be confirmed in writing by AZ to become valid.

1.2 If third-party addresses and data are to be used in fulfillment of the services, however which have not yet been licensed by AZ when the contract is concluded, the contract between AZ and the client is subject to the condition precedent of agreement by the third party to corresponding use.

2. Scope of performance

2.1 The content and scope of the performance are described in greater detail in these terms and conditions of business, to the extent that these are not set out in the offer. This involves the following services in particular:

- Supplying addresses: Supply of addresses generated by AZ as part of licensing agreements (e.g., AZ household file),
- Adding data to addresses: AZ data (own research and/or licensed data) is added to addresses provided by the customer and provided again to the customer,
- Supplying data: Supply of a data file generated by AZ (own research and/or licensed data) to AZ customers for their use, as described in greater detail in the offer/these general terms and conditions of business,
- Analyzing data: Analysis by AZ of data provided by the customer using statistical and mathematical methods.

AZ is authorized to have the order fully or partially executed by qualified third parties at its own discretion.

2.2 The ownership rights, copyrights or related industrial property rights and/or usufructuary rights to the addresses and/or data generated by AZ and made available to the principal remain with AZ to the extent that these general terms and conditions of business do not stipulate anything to the contrary. As a rule, the following also applies to the data analysis results: AZ will prepare an analysis report (statistical report for all of the data) and possibly also a so-called scorecard (statistical function for individual evaluation of addresses and data). The analysis report will be handed over to the principal and may only be used by the principal for its own purposes (no transfer to third parties); the scorecard will remain with AZ and AZ has sole rights of use for the scorecard.

2.3 As a rule, the addresses supplied may only be used once for written advertising activities, unless anything to the contrary is contractually agreed. The principal is responsible for its use of the addresses being legally permitted. The principal is not authorized to save the addresses supplied in any form longer than a short-term period for controlling effectiveness of a maximum of 12 weeks from mailing or to store these addresses in any other way. After the agreed use, the addresses must be destroyed or deleted immediately and without replacement and written confirmation of this must be provided to AZ upon request. In particular, the principal is not authorized to make these addresses partially or fully available to third parties, in their original form or as copies or to sell these or to use these for further advertising mailings. As a result, association advertising is also only permitted given express contractual agreement.

2.4 As a rule, the data supplied may only be used for the contractually intended purpose. The principal is responsible for its use of the data being legally permitted. After the agreed use, the data must be destroyed or deleted immediately and without replacement and written confirmation of this must be provided to AZ upon request. In particular, the principal is not authorized to make this data partially or fully available to third parties, in their original form or as copies or to sell this data.

2.5 To the extent that the client receives orders or enquiries as a result of using the addresses, the client is authorized to include the addresses of these people in his address lists on a permanent basis.

2.6 AZ is authorized to check at any time to ensure that the above restrictions of use are upheld by using control addresses and/or control data.

2.7 AZ will update its stocks of addresses and/or data at intervals that are standard in this industry. Any further guarantee for the addresses and/or data being up-to date, correct or complete cannot be assumed.

3. Address, data and analysis quality and deviations in quantity for addresses and data

3.1. The addresses maintained by AZ and provided to the principal as part of Item

2 above are subject to constant change processes (e.g., relocations among the addressees). As a result, the addresses supplied to the principal cannot always be fully correct and free from errors, and a maximum error rate of 4% of the addresses supplied, and of up to 8% for household addresses in line with the industry standard, cannot be excluded. This does not constitute defective addresses within the meaning of Item 7.

3.2 The data offered by AZ is created based on statistical evaluations of data and information provided by third parties. Data is processed to the best of AZ's knowledge. As errors are basically immanent in statistical evaluations, error-free delivery can only be committed to and upheld according to standard practice. This also applies to information supplied from third parties.

3.3 As AZ's stocks of addresses are subject to constant change for the reasons stated in Item 3.1, AZ aims to keep its stocks of addresses updated in a timely manner. As a result, this can give rise to positive or negative deviations in the quantities of addresses between the number stated in the order confirmation and the actual quantity of addresses provided when actually executing the order.

AZ is authorized to make deliveries that are 10% greater or less than the number of addresses stated in the order without consulting the principal. This does not constitute defective addresses within the meaning of Item 7.

Positive or negative differences in quantities are taken into account in the remuneration unless this cannot be agreed given the nature of the individual contract (comparison using several stocks of addresses, etc.).

3.4 As the data stocks held by AZ are also subject to constant changes according to the reasons stated in Item 3.1, the offer to supply a data file can include a positive or negative difference between the data quantity agreed to be supplied in the order confirmation and the quantity of data actually supplied during execution of the order as part of the delivery of the data file (for adding information to addresses see Item 3.5). Positive or negative differences of up to 10% do not constitute a defect in the delivered data file within the meaning of Item 7. Positive or negative differences will be considered during remuneration, to the extent that these constitute a difference of more than 5% of the data quantity stipulated in the offer.

3.5 In contrast to the delivery of a data file, in the case of adding information to addresses, no commitment is made for a specific number of data records. The quantity of addresses supplied by the principal is always used for processing and the addition of data as far as possible.

3.6 For data analysis, AZ uses industry-standard, statistical and mathematical methods and findings and also findings gathered during the course of AZ's own experience. There is no undertaking over and above this, in particular with regard to the completeness and correctness of the results of the analysis.

4. Delivery deadlines and dates

4.1 Deadlines and dates for delivery and performance are only binding if these have been confirmed in writing by AZ and if the client provides AZ with all of the information, materials and documents required to perform the services in good time and any advance payments have been made as agreed. Agreed deadlines commence on the date of the order confirmation. The deadlines extend correspondingly if any additional or supplementary orders are issued at a later date. If AZ is not responsible for not upholding a deadline, AZ thus does not undertake to give preferential treatment to processing this order if AZ has not agreed to this in writing.

4.2 Any unforeseeable, unavoidable events that are not within AZ's sphere of influence, and for which AZ is not responsible such as Acts of God, war, natural catastrophes, instructions from public authorities or labor disputes release AZ from its undertaking to make punctual performance or delivery for their duration. Agreed deadlines extend for the duration of the disruption; the principal will be informed in an appropriate manner that the disruption has occurred. If the end of the disruption cannot be foreseen, or if it lasts for longer than three months, each party is authorized to withdraw from the contract.

4.3 If AZ's deliveries are delayed, the principal is only authorized to withdraw from the contract if AZ is responsible for the delay and if a reasonable deadline set by the principal for performance has lapsed without performance being made.

5. Delivery/shipping

5.1 To the extent that it has been agreed to supply the addresses/data in a physical form (data storage device, list, etc.), they will be sent in the manner selected by the AZ using a reasonable means of shipment in standard packaging at the principal's risk. In this case, risk is transferred to the principal when the addresses/data are handed over to the transport company or to the principal. If the addresses/data are to be sent electronically (Internet, etc.), the risk of accidental loss is transferred to the principal when the addresses/data are sent.

6. Prices, payment conditions

6.1 If the contracting parties have not agreed a specific price, the price will be determined according to AZ's price list which applies on the date the contract is concluded.

6.2 All of the AZ's prices are net of the respective statutory VAT as well as packaging and postage costs (freight, postage) which will be charged separately.

6.3 Each invoice is due for payment immediately and in full. Payments by the principal are only regarded as having been made when AZ can use the respective amount. Bills and checks are only accepted as compensation after specific agreement and free of charge and outlays for AZ.

6.4 If payment is not made in time, AZ is authorized to charge default interest at the respective applicable statutory rate. This does not affect rights to assert further default-induced losses.

6.5 If, after conclusion of the contract, AZ becomes aware that the principal will not be able to make payment, AZ is authorized only to perform outstanding services against advance payment or with collateral. If the advance payments or collateral have not been provided even after a reasonable deadline has been set, AZ can withdraw from individual or all of the affected agreements in full or in part in each respective case. This does not affect AZ's right to assert further rights.

6.6 The principal is only entitled to offset amounts if his counterclaim is undisputed or has been legally ascertained.

6.7 The principal is only authorized to assert a right of reservation if his counter-claim is based on the same contract is undisputed or has been legally ascertained.

7. Principal's rights in the event of defects, review obligation

7.1 The lessor does not make any guarantee to the principal for the quality of its performance or services, to the extent that these are not otherwise governed by these terms and conditions of business.

7.2 Information in catalogs, price lists and other information provided by AZ to the principal are not to be understood as this type of guarantee for a specific quality of the advertising material.

7.3 The principal's rights in the event of defects to the delivered addresses/data/ results of the data analysis require that the principal reviews the addresses/data/ results of the data analysis without delay upon their receipt and informs AZ in writing immediately, however at the latest 14 calendar days after transmission; hidden defects must be communicated to AZ in writing immediately they are discovered.

7.4 For every complaint, AZ has the right to review the addresses/data/results of the data analysis that are the subject of the complaint. The principal will grant AZ the time and opportunity to do so.

7.5 AZ will, at its own discretion, rectify the defect free of charge for the principal or make a replacement delivery of partially or completely newly produced addresses/ data and/or new results of the data analysis (jointly "subsequent fulfillment"). The principal will grant AZ the time and opportunity to do so. If subsequent fulfillment fails, if this is not reasonable for the principal or if AZ has refused subsequent fulfillment due to disproportionately high costs, the principal may, according to statutory provisions, withdraw from the contract, reduce the purchase price or demand damages (or reimbursement of his expenses as the case may be).

7.6 The principal's rights with regard to defects lapse if defects occur for reasons for which the principal is responsible or if the transferred addresses/data and/or results of the data analysis subsequently become incorrect as a result of changes to the addresses/data inherent in their very nature.

7.7 AZ will bear the material, shipping and labor costs and other expenses incurred for subsequent fulfillment.

7.8 The period of limitation for the principal's rights as a result of defects is 12 months from the date of delivery to the principal. Claims to damages by the principal for reasons other than defects in performance or delivery and with regard to its rights for fraudulently concealed or deliberately caused defects are subject to the statutory limitation periods.

8. Compensation for damages and restriction to liability

8.1 Subject to Item 8.2, the AZ's statutory liability for compensation for damages is restricted as follows:

- With regard to damages from the negligent infringement of key obligations from the contractual relationship which could be typically foreseen when the contract was concluded, AZ is liable for a limited amount;
- AZ is not liable for negligent infringement of minor obligations from the contractual relationship;

8.2 The above restrictions to liability do not apply in cases of mandatory statutory liability (in particular under the Produkthaftungsgesetz (German Product Liability Act)), if any guarantee has been assumed, or in the event of personal losses that were culpably caused.

8.3 The principal undertakes to take suitable measures to prevent damage and to reduce its extent. In particular, the principal must ensure that it does not save the addresses/data provided by AZ in any other way.

9. Unauthorized use of addresses /data/results of data analysis and contractual penalties

9.1 For every case on non-contractual use of addresses/data, in particular for violations of Items 2.2 and 2.5 of these terms and conditions of business, the principal undertakes to pay a contractual fine totaling ten times the amount of the fee for the order from which the addresses or data used were taken. This also applies to noncontractual use of the results of the data analyses.

9.2 Proof of the non-contractual use of a control address/control data is sufficient evidence to prove non-contractual use of addresses/data.

9.3 AZ reserves the right to assert further damages claims. The contractual penalty will be set off against any damages claims.

10. Third-party rights

To the extent that processing by the principal of addresses/data made available infringes third-party copyrights for duplication and exploitation, and if third parties make claims against AZ as a result of the alleged infringement of third-party rights (in particular for copyright exploitation rights), the principal will indemnify the AZ from these claims in full at the first request and will reimburse the AZ for any costs required for legal defense.

11. Data protection provisions/admonishments

11.1 AZ points out to the principal that as a rule addresses/data may only be used in line with statutory provisions, in particular the Bundesdatenschutzgesetz (German Federal Data Protection Act). AZ also expressly points out the notification obligation with regard to the right of contradiction set out in section 28 (4) of the BDSG and the binding purpose within the meaning of section 28 (5) of the BDSG.

The principal itself must ensure that these provisions are upheld. Item 2.4 remains unaffected. 11.2 AZ points out that unsolicited telephone marketing among consumers is not permitted. The provision of telephone numbers by AZ does not replace the consent of the respective consumer; the risk of admonishment is thus born by the principal and indemnifies AZ from all claims by third parties in the relationship between the principal and AZ.

12. General provisions

12.1 Changes and modifications to the agreement and/or these terms and conditions of business and ancillary agreements must be made in writing. This also applies to any changes to the requirement for written form.

12.2 If one provision of the contract and/or these terms and conditions of business is wholly or partially invalid, this does not affect the validity of the remaining provisions in this event, the parties undertake to replace the invalid provision with a valid provision that most closely approximates the economic intent of the invalid provision.

12.3 If the principal is a merchant, a legal entity under public law or a public-law special fund, the exclusive place of venue for all disputes from the contractual relationship is Gütersloh. This also applies if the principal does not have a general place of venue in the Federal Republic of Germany or if it relocates its usual place of business outside Germany after concluding the agreement. However, AZ is authorized to file suit against the principal at any other statutory place of venue.

12.4 The laws of the Federal Republic of Germany apply, excluding the Convention on the International Sale of Goods (CISG).