

# BROOKLANDS NEW MEDIA

## Standard Conditions of Acceptance of Advertisements (1-24)

The following Conditions apply to all advertisements, insertion orders, drafts or mock-ups submitted to Brooklands New Media Ltd (the 'Publisher') by the advertiser and or their agents and govern the relationship between Brooklands New Media Ltd and its advertisers

### 1. DEFINITIONS AND INTERPRETATION

In these conditions,

1.1 the 'Publisher' means Brooklands New Media Ltd, PO Box 27, Oswestry, Shropshire, SY11 2ZE, United Kingdom;

1.2 the 'Buyer' means the person placing with the Publisher the order for the insertion of the advertisement, whether such person be the advertiser of the product or service promoted thereby or making the announcement therein ('the Advertiser') or the Advertiser's advertising agency or media buyer;

1.3 the 'Rate Card' means the Publisher's rate card in effect for the time being and may include, among other matters, its scale of advertisement rates, technical specifications, copy and cancellation deadlines and setting styles, and standard conditions;

1.4 an 'Advertisement' means matter to be printed on the page or separately inserted;

1.5 references to the 'Advertising Standards Authority' include any body that may from time to time replace the Advertising Standards Authority, whether as an advertising industry-self-regulatory body or any statutory body performing similar functions for regulating the content of advertisements in all media, and include any similar bodies carrying out similar functions in jurisdictions outside the United Kingdom;

1.6 'Publication' means the book or other publication proposed to be published by the Publisher and in respect of which the Publisher solicits an Advertisement from the Advertiser;

1.7 references to a 'person' shall include bodies of persons, whether corporate or incorporate;

1.8 words importing the singular number shall include the plural and vice versa, words importing any particular gender shall include all other genders, and words importing the whole shall be treated as including a reference to any part of the whole;

1.9 a reference to any statute or statutory provision or code of practice shall be construed as referring to that statute or statutory provision or code of practice as it may from time to time be amended, modified, extended, re-enacted or replaced (whether before or after the date of the contract that incorporates these conditions) and including all subordinate legislation from time to time made under such statute or statutory provision and any guidelines, recommendations and/or procedures incorporated into such code of practice; and

1.10 headings are used for convenience only and do not affect the interpretation of these conditions.

### 2. ACCEPTANCE OF THESE CONDITIONS

The placing of an order for the insertion of an Advertisement shall amount to an acceptance of these conditions, and any conditions stipulated by the Buyer on an order form, contract, copy instructions or elsewhere shall be void insofar as they are inconsistent with these conditions.

### 3. WARRANTIES AND INDEMNITY

3.1 The Buyer warrants to the Publisher that:

3.1.1 in relation to an Advertisement the Buyer contracts with the Publisher as a principal notwithstanding that the Buyer may be acting directly or indirectly for the Advertiser as an advertising agent or media buyer or in some other representative capacity;

3.1.2 the reproduction and/or publication of the Advertisement by the Publisher as originally submitted or as amended pursuant to condition 4 will not breach any contract or infringe or violate any copyright, trade mark, right of privacy or of confidentiality or any other personal or proprietary right of any person or render the Publisher liable in any legal proceedings (whether civil and/or criminal) whatsoever in any jurisdiction;

3.1.3 any information supplied in connection with the Advertisement is accurate, complete and true;

3.1.4 in respect of any Advertisement submitted for publication which contains the name or pictorial representation (photographic or otherwise) of any living person and/or any part of any living person and/or any copy by which any living person is or can be identified, the Buyer or the Advertiser has obtained the authority of such living person to make use of such name, representation and/or copy;

3.1.5 in relation to any financial promotion (as defined under the Financial Services and Markets Act 2000), the Advertiser is, or its contents have been approved by, an authorised person within the meaning of that Act or the Advertisement is otherwise permitted under that Act, under the Financial Promotion Order 2001, or under any other legislation subordinate to the Act;

3.1.6 the Advertisement complies with the requirements of all relevant legislation (including subordinate legislation, the rules of statutory recognised regulatory authorities and the law of the European Union) for the time being in force or applicable in the United Kingdom, the United States of America and elsewhere; and

3.1.7 all advertising copy submitted to the Publisher is legal, decent, honest and truthful and complies with the British Code of Advertising Practice and all other relevant codes under the general supervision of the Advertising Standards Authority.

3.2 The Buyer will indemnify the Publisher and agrees to keep the Publisher fully indemnified against all claims, costs, proceedings, demands, losses, damages, expenses or liability whatsoever (including any damages or compensation paid by the Publisher on the advice of its legal advisers to compromise or settle any claim), arising directly or reasonably foreseeable as a result of any breach or non-performance by the Buyer and/or the Advertiser of any of the representations, warranties or other terms contained in these conditions or implied by law or as a result of any claim by a third party based on any facts which, if substantiated, would constitute such a breach or non-performance.

### 4. AMENDMENTS TO ADVERTISEMENTS

The Publisher may, without derogation from the warranties contained in condition 3, refuse or require to be amended any artwork, materials and copy for or relating to an Advertisement so as:

4.1 to comply with the legal or moral obligations placed on the Publisher or the Buyer or the Advertiser; or

4.2 to avoid infringing a third party's rights, the British Code of Advertising Practice and all other codes under the general supervision of the Advertising Standards Authority or the production and quality specifications stipulated or referred to in the Rate Card.

### 5. PUBLISHER'S RIGHT NOT TO PUBLISH

The Publisher has the absolute right at its entire discretion to decline to publish, or to omit or suspend any Advertisement otherwise accepted for insertion, in which case a reasonable explanation will be provided if requested, and the Publisher gives no guarantee or warranty as to any preferred position requested by the Buyer, except where a premium or specific position has been confirmed in writing by the Buyer and has been acknowledged and accepted in writing by the Publisher. Notwithstanding this, the Publisher will use reasonable efforts to comply with the wishes of the Buyer, although the position for an Advertisement will be reflected in the rate charged for that position.

### 6. PUBLISHER NOT LIABLE FOR LOSS OF MATERIALS

The Publisher will not be liable for any loss of or damage to any copy, artwork, photographs or other materials delivered to the Publisher for the purposes of any Advertisement, which the Buyer warrants that it has retained in sufficient quality and quantity for whatever purpose and/or in respect of which it has effected adequate insurance against all relevant risks of loss and/or damage.

### 7. WARRANTY BY ADVERTISING AGENCY BUYER

Where the Buyer is the Advertiser's advertising agency, the Buyer warrants that it is authorised by the Advertiser to place the Advertisement with the Publisher and the Buyer will indemnify the Publisher against any claim made by the Advertiser against the Publisher arising from the publication of the Advertisement.

### 8. PUBLISHER CAN CHANGE ITS ADVERTISEMENT RATES

The Publisher shall have the right to change its scale of advertisement rates at any time

### 9. PROCESSING

9.1 Copy matter and technical requirements must conform to the Publisher's published requirements: any additional work required involved will be charged for.

9.2 All material supplied for printing will be processed as supplied to a commercially acceptable industry standard, although the Publisher does not warrant the publication date of the Publication, nor the quality of the colour or mono reproduction of the Advertisement. The Publisher is not liable for any errors to any part of the Publication which might occur during or subsequent to the printing and production process. This includes and is not restricted to Advertisement/editorial positioning, imposition, colour matching, typographical and pictorial errors, binding, registration, plate movements, ink quality, paper stock, as well as markings caused by the printing, finishing, binding or delivery process.

9.3 Classified and/or text and/or case studies and/or advertorial advertisements are set in the Publisher's house style, unless otherwise specifically agreed between the Buyer and the Publisher.

### 10. RESPONSIBILITY FOR ADVERTISEMENT

The Publisher shall not be liable to the Buyer or to the Advertiser:

10.1 for any consequential loss or damage occasioned by the failure of any Advertisement to appear by reason of any cause whatsoever nor for errors in any Advertisement published, nor for the failure of the Publication to appear on any specified date;

10.2 for changes in copy, unless these are confirmed in writing and in time for the changes to be made, and provided that the Publisher reserves the right to charge for any additional expense involved in such changes;

10.3 for errors or changes made after closing dates notified to the Buyer, nor for Advertisements backed by another advertisement with a coupon or overlaid by a reply card;

10.4 for errors in copy where complete material is supplied to the Publisher;

10.5 if copy instructions are received by the Publisher after the copy deadline, in which event the Publisher reserves the right to repeat the copy last used (if any) or to print the Advertiser's full name and address as an advertisement. Late delivery of material after the final copy deadline may result in the Buyer forfeiting the space booked, but at full cost.

### 11. CANCELLATION OF ADVERTISEMENTS

11.1 Cancellation of a booking for an Advertisement will be accepted if made in writing within 48 hours of booking, time being of the essence. After that time, a cancellation fee of 35% of the total cost of the Advertisement in question is payable by the Buyer.

11.2 Where the Buyer wishes to cancel an Advertisement, all reasonable efforts will be made by the Publisher to find a workable solution with the Buyer. This may, for example (but not by way of limitation), involve changing the display advertising material to a text presentation submitted by the Advertiser or an alternative copy requirement. However, this is without prejudice to the Publisher's strict rights under condition 11.1.

### 12. DESTRUCTION OF ADVERTISING MATERIAL

The Publisher reserves the right to destroy all advertising material which has been in its custody for three months, and may exercise this right without notice to the Buyer and/or the Advertiser. The Buyer or the Advertiser must provide explicit written instructions or arrangements if they wish their material to be held in storage or returned.

### 13. USE OF ADVERTISER'S MATERIAL FOR THE PUBLISHER'S PROMOTION

The Publisher may use the advertiser's logo and advertising material received from the Buyer and/or the Advertiser for the Publisher's own marketing and promotional purposes. This includes but is not limited to making the reference to the Advertiser on the Publisher's website or

any other printed promotional materials. If the Advertiser does not wish its Advertisement or anything else mentioned above to be used in this manner, the Buyer or the Advertiser must inform the Publisher in writing at the time when the Advertisement material is submitted.

### 14. NATURE OF THE PUBLICATION

14.1 The Publication will be independently created, written and produced in order to preserve editorial values of objectivity, impartiality and integrity, as is the case with all publications published by the Publisher. This applies whether or not the Publication is affiliated with, acknowledged, sponsored, endorsed and/or supported by any third party.

14.2 The Buyer and the Advertiser individually acknowledge that:

14.2.1 they book Advertisements with the Publisher on the basis that they value the content, quality and readership profile of the Publication and not due to any actual or perceived endorsement or arrangement, whether provided or not; and

14.2.2 the Advertiser is free to decide independently if it would like to advertise in the Publication and is under no obligation or undue pressure to advertise, since this would be both unethical and counterproductive for all concerned.

14.3 Where the number of copies of the Publication printed and/or distributed is stated, this reflects the maximum number of copies that the Publisher may print for any edition of the Publication at any time. Complimentary copies of the Publication are provided to the readership, and where additional copies are requested these will then be printed and supplied according to demand. Future editions may be printed at the Publisher's discretion at no additional cost to the Advertiser.

14.4 Where a publication date for the Publication is indicated (whether in the marketing materials, website, fax pack, order form or otherwise), this is to be strictly construed as a provisional date only and is not a binding deadline. The Publisher will use its reasonable endeavours to publish the Publication by the indicated publication date, however it reserves the right at any time to alter, amend, bring forward or delay this publication date for any reason whatsoever. Typically date changes occur to accommodate any changes or amendments which might otherwise adversely affect the quality or accuracy of the publication. The Publisher cannot be held liable for any consequences whatsoever, whether foreseeable or not, in the event that the indicated publication date is changed by the Publisher.

14.5 The Publisher will use its reasonable endeavours to ensure copies of each edition of the Publication are mailed to the proposed readership profile. If the Advertiser or 3rd parties wishes to distribute copies of the Publication to its own current and potential customers, the Publisher will not be liable for any such distribution that is outside of the Publisher's direct control.

14.6 The publisher is free to amend the content, design, size and title of any publication at any time without notice to buyers providing the readership profile and subject matter remains similar to the original publication where the advertisement was originally booked.

### 15. PAYMENT TERMS

15.1 All advertising rates are quoted in the Rate Card as a 'net rate' and are exclusive of Value Added Tax ('VAT'), where applicable. Please add 15% agency commission for the gross amount, and where applicable, VAT will be added and a VAT invoice will be supplied by the Publisher.

15.2 Accounts are strictly net and must be settled with delivery of copy or on the payment due date specified by the Publisher, whichever is the earlier.

15.3 The Buyer agrees to pay to the Publisher in respect of each Advertisement for which payment is not made by the due time:

15.3.1 the sum of £25 as an administration charge; and

15.3.2 Statutory interest will be charged on the amount paid late at the rate of 8% plus the base rate of the Bank of England accruing from day to day (including the day on which payment was due) both before and after judgment. Any such additional charge is payable within 7 days following delivery of the Publisher's invoice particularising it.

15.4 If any payment shall remain overdue from the Buyer despite two reminders sent by the Publisher, and provided that the Buyer has not demonstrated mitigating circumstances to the satisfaction of the Publisher, the debt will be passed to a debt collection agency to secure payment and notified to one or more credit rating agencies. All costs associated with debt collection agencies efforts, including without limitation all legal costs and agents fees etc. will be invoiced to the Buyer or Advertiser as a surcharge and payment for surcharges will be required within 30 days of such invoice. If surcharges are not paid within the 30 days period, the collection agency will be responsible for collection of the debt and will pass on to the Buyer or the Advertiser any further collection charges.

15.5 Payment may be made in any of the following ways:

15.5.1 cheque or money order payable to 'Brooklands New Media Ltd.'; or

15.5.2 'bank to bank' wire transfer to the Publisher's bank account, details of which appear on the invoice, provided that all wire transfer fees must be settled by the Buyer; or

15.5.3 Major credit cards

15.5.4 PayPal

### 16. ERRORS BY THE PUBLISHER

16.1 It is the responsibility of the Buyer to check the correctness of the Advertisement (and of each insertion of the Advertisement if it is to be placed in more than one Publication).

16.2 Without prejudice to condition 7, the Publisher assumes no responsibility for the repetition of an error in an Advertisement ordered for insertion in more than one Publication unless notified immediately the error occurs.

16.3 Any other matter of complaint, claim or query (whether in relation to the Advertisement or the invoice) must be raised with the Publisher in writing within 7 days following (as the case may be) publication of the Advertisement in the Publication or of the date on which it is claimed the Publication containing the Advertisement should have been published or of the receipt by the Buyer of the invoice giving rise to it.

16.4 Such complaint, claim or query shall not affect the liability of the Buyer for payment by the due time of the Publisher's charges for that and all other Advertisements.

16.5 In the event of any error, misprint, or omission in the printing of an Advertisement, for which the Publisher is responsible, the Publisher will either re-insert the Advertisement or relevant part of the Advertisement as the case may be (if the Publication is to be reprinted) or make a reasonable refund of or adjustment to the cost or provide a credit note for the refund or adjustment amount.

16.6 No re-insertion, refund or adjustment to the cost will be made where the error, misprint, or omission does not materially detract from the Advertisement.

16.7 In no circumstances shall the total liability of the Publisher for any error, misprint or omission on its part exceed:

16.7.1 the cost of Advertisement in connection with which liability arose; or

16.7.2 the cost of a further or corrective Advertisement of a type and standard reasonably comparable to that in connection with which the liability arose.

### 17. COPYRIGHT

If the Publisher provides the Advertiser with any material to use for the advertising clients Advertisement, it is the sole responsibility of Buyer or the Advertiser to ensure that all reproduction rights are sought and cleared with the respective owners of such rights. The Publisher's efforts to assist and supply the Advertiser or the Buyer with images does not mean that any such images supplied are copyright-free or that reproduction rights have been cleared by the Publisher.

### 18. COPIES OF THE PUBLICATION

The Publisher will provide the Buyer with one copy of the printed publication. Additional copies may be available subject to prior agreement.

### 19. FORCE MAJEURE

The Publisher shall not be liable to the Buyer or to the Advertiser if the Publisher is prevented from performing any of its obligations by reason of any supervening event beyond its control (including, but not limited to, war, national emergency, flood, earthquake, strike or lockout (other than a strike or lockout induced by the Publisher) or illness), but in that case the Publisher shall do everything in its power to resume full performance of its obligations as soon as possible

### 20. WAIVER

No waiver or indulgence by the Publisher shall be effective save in relation to the matter in respect of which it was specifically given.

### 21. APPLICABILITY OF THESE CONDITIONS

These conditions shall apply to each contract for the insertion of an Advertisement together with such additional conditions (if any) as may be set out in the Publisher's Rate Card and in the event of any variations or inconsistency between these conditions and the conditions set out in the Rate Card, the latter shall prevail.

### 22. SEVERANCE

22.1 Each of these conditions, and each sub-paragraph of each of these conditions, is entirely separate from all of the other conditions and sub-paragraphs of each condition.

22.2 If any provision contained in any of these conditions is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable or if indications of this are received from any relevant competent authority, the Buyer and the Publisher shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality, or, at the discretion of the Publisher, that provision may be severed from these conditions, and in either event the remaining provisions of these conditions shall remain in full force and effect.

### 23. CONFIDENTIALITY

23.1 The Buyer and the Advertiser undertake to the Publisher:

23.1.1 To treat all information provided by the Publisher in connection with the Publication, the Advertisement and/or in relation to the Publisher's business as strictly confidential; and

23.1.2 Not under any circumstances to share any such information with any third party (including, without limitation, the press/news/media); and

23.1.3 To refer all press/news/media enquiries concerning the Publication, the Advertisement and/or the Publisher's business to the Publisher.

23.2 The obligation set out in the preceding sub-clause shall not apply to any information which:

23.2.1 Prior to its receipt from the Publisher was lawfully in the possession of the Buyer and/or the Advertiser and at its or their free disposal; or

23.2.2 Is subsequently disclosed to the Buyer and/or the Advertiser without any obligations of confidence by a third party who has not derived it directly or indirectly from the Publisher; or

23.2.3 Is or becomes generally available to the public through no act or default of the Buyer and/or the Advertiser or its or their respective agents, employees, officers and representatives; or

23.2.4 Is required by law to be disclosed.

### 24. GOVERNING LAW AND JURISDICTION

These conditions and the contract which incorporates these conditions shall be construed under and governed by the law of England and the parties submit to the exclusive jurisdiction of the English courts.