



## Terms and Conditions for Advertising

### 1. Definitions

1.1. The definitions and rules of interpretation in this condition apply in the Contract:

**Ad:** advertisements, insets, inserts (loose or fixed), sponsored articles or features published in our Media either in hard copy or by electronic distribution systems.

**Ad Service:** the placement of Ads in: (a) our websites with page impressions, clicks, leads or other actions specified and agreed by the parties irrespective of the delivery systems and platforms to which they are directed; and/or (b) hard copy editions of our publications.

**Advertising Materials:** advertising copy, including as applicable, artwork, text, film positives and/or negatives, photographs and transparencies and active URLs.

**Affiliate:** any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.

**Business Day:** a day other than a Saturday, Sunday or a public holiday in England and Wales.

**Campaign Period:** the period during which the Ad Services subject to the relevant Order are to be provided.

**Cancellation Table:** the table detailing cancellation fees set out in the Payment Schedule to the Contract.

**Charges:** the agreed advertising fee and any additional costs payable as set out in the Order.

**Confidential information:** all confidential or proprietary information (however recorded or preserved) that is disclosed or made available (in any form or medium), directly or indirectly, by you to us or us to you.

**Contract:** a contract between you and us in relation to provision of the Ad Services incorporating the Order and these Terms and Conditions under condition 2.

**Data Controller, Data Processor, Data Subject, Personal Data and Supervisory Authority** shall have the respective meanings under the Data Protection Legislation.

**Data Protection Legislation:** (i) the Data Protection Act 2018 and unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation (EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018.

**Force Majeure Incident:** any incident or event affecting the performance of any provision of the Contract arising from or attributable to acts, events, omissions, or accidents which are beyond the reasonable control of a party including any abnormally inclement weather, flood, lightning, storm, fire, explosion, earthquake,

subsidence, structural damage, epidemic or other natural physical disaster, transport disruptions, failure or shortage of power supplies, war, military operations, riot, crowd disorder, strike, lock-outs or other industrial action, terrorist action, civil commotion and any legislation, regulations, ruling or omission of any relevant government, court, competent national authority or governing body.

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, performer's property rights, rights in computer software, database right, topography rights, rights in Confidential Information and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, these rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Media:** our hard copy publication and/or website or other relevant digital platform as applicable and as stated in the Order.

**Order or Order Form:** the campaign insertion order summarising the Ad Services which you wish us to provide and other agreed principal terms.

**Overdelivery:** the delivery by Incisive of a greater volume or number of Ad impressions, clicks, leads or other actions than that specified in the Order where the incremental impressions, clicks, leads or other actions accrue a liability for you to us and 'Overdeliver' shall be construed accordingly.

**Payment Schedule:** the payment schedule summarised in the Order.

**Start Date:** the date specified on the Order or if none is specified the date of the last signature on the Order.

**Technical Specifications:** the delivery format of the Advertising Materials required to ensure that the visual appearance of the Ads as set out in the Order is accessible and capable of view in the Media.

**Term:** as set out in condition 3.

**Third Party Ad Server:** a third party providing advertising of your products and services that are identical or similar to those that are subject to the relevant Order.

**Total Cost:** all Charges exclusive of VAT, which shall be paid without set-off.

**VAT:** value added tax chargeable under English law for the time being and any similar additional tax.

- 1.2. A reference to "**we**", "**us**", "**our**" or "Incisive Media" is to Incisive Business Media Limited (company number 09178013) with registered office at New London House, 172 Drury Lane, London, WC2B 5QR, England or an Affiliate as identified in the Order. A reference to "**you**", "**your**" is a reference to the customer, your advertising agency or other entity identified in the Order.
- 1.3. Condition headings shall not affect the interpretation of the Contract.
- 1.4. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5. A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

- 1.6. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.7. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

## **2. Conditions and Order**

- 2.1. These conditions shall: (i) apply to and be incorporated in the Contract; and (ii) prevail over any inconsistent terms or conditions contained in, or referred to in, the Order or specification, or implied by law, trade custom, practice or course of dealing.
- 2.2. No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on us unless in writing and signed by our duly authorised representative.
- 2.3. No order, whether issued by us or you, is binding on the other until the earlier of us executing and returning it to you or us commencing services pursuant to the Order, at which point a contract shall be formed between us and you for the supply and purchase of services specified in the Order on these conditions.
- 2.4. Your standard terms and conditions (if any) attached to, enclosed with or referred to in the Order or sent under separate cover shall not govern the Contract.
- 2.5. To the extent there is any conflict between the Order and these conditions, the Order shall take precedence.
- 2.6. We and you may negotiate Orders under which we will provide Ad Services. In each case, the Order shall specify:
  - 2.6.1.the Ad Services;
  - 2.6.2.the price(s);
  - 2.6.3.the maximum expense you wish to incur (if applicable);
  - 2.6.4.the start and end dates of the campaign;
  - 2.6.5.the identity of and contact information for any Third Party Ad Server, if applicable;
  - 2.6.6.any special Ad delivery scheduling and/or Ad placement requirements; and
  - 2.6.7.editorial adjacency requirements, if any; and
  - 2.6.8.Technical Specifications.

## **3. Term**

- 3.1. The Contract will take effect on and from the Start Date and shall continue for the Campaign Period.

## **4. Our Rights and Obligations**

- 4.1. We will use reasonable endeavours to deliver the Ad Services and to display/transmit the Advertising Materials in or on the Media during the Campaign Period in accordance with the terms and the dates specified in the Order.
- 4.2. If you submit digital Advertising Materials later than 12 noon on the day before the relevant digital campaign is due to begin, we reserve the right to make a pro rata reduction in the volume of impressions, clicks, leads or other actions comprising the Ad Services and to make charges further to those specified in the relevant Order.

- 4.3. We reserve the right within our discretion to reject or remove from our Media any Ads where the Advertising Materials or the site to which the Ad is linked do not comply with our standard policies, or that in our sole reasonable judgment, do not comply with any applicable law, regulation or other judicial or administrative order. In addition, we reserve the right within our discretion to reject or remove from our Media any Ads where the Advertising Materials or the site to which the Ad is linked are or may tend to bring disparagement, ridicule, or scorn upon us or any of our Affiliates.
- 4.4. If Advertising Materials provided by you are damaged, not to our specifications, or otherwise unacceptable, we will use reasonable endeavours to notify you within 5 business days of our receipt of such Advertising Materials.
- 4.5. If Advertising Materials are not transmitted or displayed in accordance with the agreed specifications set out in the Order within the Campaign Period for reasons other than your default, we will use reasonable endeavours to comply with those specifications within one month of the end of the Campaign Period. You will be entitled to an appropriate pro-rata rebate of the Total Cost based on the number of impressions actually transmitted after the additional one month period.
- 4.6. We will provide you within 5 business days of acceptance of an Order any revised Technical Specifications, as agreed upon by the parties. If we change such Technical Specifications after that five business day period it will allow you to suspend (without altering the end date unless otherwise agreed by the parties) delivery of the affected Ad for a reasonable time in order to either:
  - 4.6.1. allow you to send us revised Advertising Materials; or
  - 4.6.2. allow us to resize the Ad at our cost, and with your final creative approval, within a reasonable time period to fulfil the guaranteed levels of the Order; or
  - 4.6.3. accept a comparable replacement; or
  - 4.6.4. if the parties are unable to negotiate an alternate or comparable replacement in good faith within 5 business days, immediately cancel the remainder of the Order for the affected Ad without penalty.
- 4.7. If we fail to comply with the editorial adjacency requirements for a digital Ad as set out in the Order, you must notify us of this in writing, following which we will use reasonable endeavours to ensure that the Ad becomes compliant with the relevant requirements within 3 business days of such notification.
- 4.8. If the Advertising Materials are not transmitted/displayed in accordance with the agreed specifications set out in the Order within the Campaign Period as a result of your default, we reserve the right to make additional charges in respect of the period of delay prior to our receipt of Advertising Materials complying fully with the agreed specifications of the Order.
- 4.9. We reserve the right to omit or suspend an Ad at any time for good reason, in which case you will have no claim for damage or breach of contract. Should such omission or suspension be due to your act or default or that of your servants or agents, then you must pay for the space reserved for the Ad in full notwithstanding that the Ad has not appeared. We will notify you of such omission or suspension as soon as possible.
- 4.10. If we consider it necessary to modify the space or alter the date of position of insertion or make any other alteration, you will have the right to cancel if the

alterations requested are unacceptable, unless such changes are due to an emergency or circumstances beyond our control. Every care is taken to avoid mistakes but we cannot accept liability for any loss arising from the late appearance or non publication of any advertisement.

## **5. Your Rights and Obligations**

- 5.1. You undertake to us:
  - 5.1.1. to submit Advertising Materials at least 5 business days before the commencement of the Campaign Period in accordance with our prevailing advertising criteria or specifications (including content limitations, agreed Technical Specifications, our standard policies, and material due dates) in accordance with these conditions.
  - 5.1.2. to provide full details at the time of booking if you intend to include in an Ad a competition or a special of merchandise, other than that normally associated with the advertised product.
- 5.2. You acknowledge that:
  - 5.2.1. all Ads are accepted subject to our approval of the copy and to the space being available;
  - 5.2.2. you must make any complaints regarding publication of Ads in writing within one calendar month of the publication date.
  - 5.2.3. we require written notice in accordance with the Cancellation Table, or if none, then at least 30 days prior to publication or campaign commencement date to stop, cancel or suspend an Ad, after which you will be liable to pay the full rate for the insertion, except as stated in condition 11.3.
  - 5.2.4. if we do not receive copy instructions by the agreed copy date, we cannot guarantee that proofs will be supplied nor corrections made and we reserve the right to repeat the most appropriate copy.
  - 5.2.5. to ensure that all Advertising Materials will be safe and fit for their intended use and shall comply with all relevant statutes, regulations, directives and codes in force;
  - 5.2.6. to provide to us, at your sole cost and expense, all Advertising Materials within deadlines, including print deadlines where applicable, as reasonably specified by us for them to be reproduced under our control for the fulfilment of the Ad Services;
- 5.3. You have no right to sub-license, assign or otherwise dispose of any of the Ad Services without our prior written consent.

## **6. Bonus impressions, clicks, leads or other actions**

- 6.1. Where you engage a Third Party Ad Server, we will not Overdeliver without your prior written consent.
- 6.2. Permanent or exclusive placements shall run for the period of time specified in the Order regardless of Overdelivery, unless the Order places a limit on the volume of impressions, clicks, leads or other actions attributable to Third Party Ad server activity.
- 6.3. You will not be liable to us for any additional Ad impressions, clicks, leads or other actions in excess of any limits set out in the Order. If a Third Party Ad Server is being

used and you notify us that the guaranteed or capped levels stated in the Order have been reached, we will use reasonable endeavours to suspend delivery within two business days thereafter.

## **7. Charges and Payment Terms**

- 7.1. In consideration of the Ad Services, you will pay us (or our designated agent, as the case may be) the Charges, payable in the instalments and on the dates set out in the Order or if not stated in the Order then monthly in arrears.
- 7.2. You must pay to us all Charges in full within 30 days of the date on the invoice.
- 7.3. Advertisement rates are subject to revision at any time and Orders are accepted on condition that the price binds us only in respect of the next hard copy issue to go to press or in respect of digital adverts for the next 30 days. In the event of a rate increase, you will have the option to cancel the Order without surcharge or continue the Order at the revised advertisement rates.
- 7.4. If you cancel the balance of an agreed programme of Ad Services, except in the circumstances set out in condition 6, you relinquish any right to a pre-agreed series discount to which you were previously entitled and you must pay for Ad Services forming part of such programme (both those published and those not yet published) at the appropriate rate set out in the rate card from time to time.
- 7.5. Discounted rates negotiated in respect of a series of advertisements apply only if the Ad Services are completed within 12 months of the date of the first publication. Failure to comply will require all advertisements forming part of the series to be charged at the appropriate rates set out in the rate card from time to time.
- 7.6. Gross display advertising rates may be subject to the current Advertising Standards Board of Finance surcharge payable by the Advertisers. Where orders are placed by Advertising Agents the Agency will be responsible for collecting this surcharge and paying it to the Advertising Standards Board of Finance ('the Board'). Where the Advertiser places advertising directly, Incisive Media will invoice the relevant surcharge and distribute this to the Board without deduction.
- 7.7. We reserve the right to recover all additional costs incurred that arise as a result of your acts or defaults.
- 7.8. All amounts payable to us under the Contract are to be paid free and clear of currency control restrictions, bank charges, fees, duties or other transactional costs, the payment of which shall be your sole responsibility.
- 7.9. You may not make any deductions from, nor set-off any sums in relation to the Charges. We may set off any sums we owe you against any sums you owe us.
- 7.10. You must pay VAT and/or any other applicable sales tax.
- 7.11. The existence of a valid query on any individual item in an invoice will only affect the due date of payment of that individual item. The Client must notify Incisive of any such query within seven days from the date of the invoice after which Incisive will not agree to amend the terms of the relevant invoice.
- 7.12. We are entitled to charge you interest on any payment which is not received by us when due. This will be calculated on a daily basis at the 4% rate per annum above the prevailing base rate of our bankers from the date upon which payment was due until the date of payment.

- 7.13. We reserve the right not to provide any element of the Ad Services and to suspend the Ad Services until you have paid us sufficient funds to meet such expenses and we will not be liable for any matters arising out of any delay by you in payment. If you are the agency not the client, we reserve the right to inform the client of such default.
- 7.14. We will provide you with a pro-rata refund in respect of under delivery in excess of a five (5) percent of the total booking set out in the Order (as reported by Third Party Ad Servers).
- 7.15. Our obligations will be reduced pro-rata to any delay in payment including, without limitation, the number of guaranteed impressions, clicks, leads or other actions obliged to be transmitted, delivered or displayed, without affecting your financial responsibility for all impressions, clicks, leads or other actions ordered and inventory reserved.
- 7.16. Where the advertising agency is the client, the agency is contracting as principal in all respects and as such will be personally liable for the payment of the Total Cost and for all other obligations under the Contract.

## **8. Warranties**

- 8.1. Each party warrants to the other that:
  - 8.1.1. it has full authority to enter into the Contract and is not bound by any agreement with any third party that adversely affects the Contract;
  - 8.1.2. it has and will maintain throughout the Term, all necessary powers, authority and consents to enter into and fully perform its obligations under the Contract; and
  - 8.1.3. neither the execution nor performance of the Contract gives rise to a breach of any other agreement to which you/we respectively are a party.
- 8.2. We warrant to you that:
  - 8.2.1. We are authorised to enter into the Contract subject to these terms and conditions.
- 8.3. You warrant that:
  - 8.3.1. in respect of the Advertising Materials or any other material you provide to us (including your brand and logos), they will not infringe the Intellectual Property Rights of any third party or be defamatory of any third party or obscene, indecent, offensive or liable to incite racial hatred and their publication by us will not give rise to a right for any third party to claim payment and/or damages;
  - 8.3.2. you have obtained and paid for all necessary consents, licences, and permissions to advertise on the Media;
  - 8.3.3. you have taken or will take all necessary steps to ensure that your advertising on the Media will not be illegal or actionable for any reason in any territory and shall comply with all applicable legislation, rules and regulations including for the avoidance of doubt any applicable advertising and/or relevant financial services standards and codes;
  - 8.3.4. if any Advertising Materials contains the name or pictorial representation (photographic or otherwise) of any living person and/or any part of any living person and/or copy by which any living person is or can be readily identified,

- that you have obtained the authority of such living person to make use of such name, representation and/or copy;
- 8.3.5.the Advertising Materials contain no viruses or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information;
- 8.3.6.you are solely responsible for fulfilling and dealing with any orders or enquiries relating to the goods, services or promotion to which the Advertising Materials relate and will indemnify and hold us harmless accordingly;
- 8.3.7.that the Ad is not illegal, defamatory, an infringement of any other party's rights or an infringement of the British Code of Advertising Practice. Country of origin (other than the United Kingdom) of goods advertised must be shown in advertisements to the extent necessary to comply with applicable legal and/or regulatory requirements.
- 8.4. You acknowledge and confirm:
- 8.4.1.that we are unable to provide any warranties or representations that the visual appearance of Advertising Materials created by us for and on your behalf will be entirely consistent with designs previously approved by you as a result of factors that are not within our reasonable control (including, without limitation the image setter, the type of printer, the monitor used, the particular colours selected).
- 8.4.2.we have not provided you with any guarantees concerning reach of our publications, site or target audience. Any statistics related to the site provided to you are provided as an estimate based on prevailing available research only and may not be relied on by you as a representation or otherwise;
- 8.4.3.we hold Advertising Materials at your risk;
- 8.4.4.Advertising Materials will be returned on request by Incisive Media via Royal Mail post and at the risk of the relevant owner and should be insured against loss or damage from whatever cause. Incisive Media reserves the right to destroy all artwork which has been in his custody for twelve months from the date of its last appearance.
- 8.5. Save as set out in this condition 8, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

## **9. Intellectual Property Rights**

- 9.1. You and we acknowledge as follows:
- 9.1.1.save as set out in condition 9.1.2, all rights in the Advertising Materials, including any goodwill associated with them, shall be your sole and exclusive property, and we will not acquire any rights in the same, nor in any developments or variations of them;
- 9.1.2.We will at all times retain all right, title and interest in any intellectual property rights in advertising copy that we produce on your behalf.
- 9.2. The parties will not use the other's trade name, trade marks, logos or Ads in a public announcement (including, but not limited to, through any press release) regarding the

existence or content of these Terms and Conditions or an Order without the other's prior written approval.

## **10. IPR Indemnities**

- 10.1. You will indemnify us and keep us indemnified from and against all claims, damages, losses, costs (including all reasonable legal costs), expenses, demands or liabilities arising out of any claim that our use of the Advertising Materials in accordance with the Contract infringes any rights of any third party, including but not limited to, Intellectual Property Rights or moral rights.
- 10.2. We will:
  - 10.2.1. promptly and fully notify you of any third-party claim in respect of which it wishes to rely on the indemnity ("**IPR Claim**");
  - 10.2.2. allow you, at your own cost, to conduct all negotiations and proceedings and to settle the IPR Claim, always provided that the you shall obtain our prior approval of any settlement terms, which is not to be unreasonably withheld;
  - 10.2.3. provide you with any reasonable assistance regarding the IPR Claim as is required by you, subject to reimbursement by you of our costs so incurred; and
  - 10.2.4. not, without prior consultation with you, make any admission relating to the IPR Claim or attempt to settle it, provided that the you consider and defend any IPR Claim diligently and in a way that does not bring our reputation into disrepute.

## **11. Postponement or cancellation**

- 11.1. If you wish to postpone the Campaign Period, you must notify us in writing. We will consider such request in good faith but shall have no obligation to consent to such postponement.
- 11.2. Any acceptance of such postponement shall require immediate pre-payment of the Total Cost less any payments previously made.
- 11.3. You may cancel the Order in accordance with the Cancellation Table, or if none stated in the Order, then at any time with 30 days prior written notice, without penalty. For clarity and by way of example, if you cancel the Order 15 days prior to the serving of the first impression, click, lead or other action, you will only be liable to pay for the Ad Services provided, or presumed to be provided on a pro-rata basis, during the first 15 days after the start date for the services set out in the Order.
- 11.4. If you wish to revise an Order, you must provide a written request 30 days prior to the intended date of the requested revision. If we accept such request (which we may accept or reject in our absolute discretion), billable rates will automatically revert to the appropriate published rate (the 'ratecard') for the revised impressions or such other rate as we advise you.

## **12. Termination by you or us**

- 12.1. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- 12.1.1. the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
  - 12.1.2. the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
  - 12.1.3. an order is made or a resolution is passed for the winding up of the other party, or an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or such an administrator is appointed, or a receiver is appointed of any of the other party's assets or undertaking, or circumstances arise which entitle a court or a creditor to appoint a receiver or manager or which entitle a court to make a winding-up order, or the other party takes or suffers any similar or analogous action in consequence of debt, or an arrangement or composition is made by the other party with its creditors or an application to a court for protection from its creditors is made by the other party;
  - 12.1.4. the other party ceases, or threatens to cease, to carry on all or substantially the whole of its business; or
  - 12.1.5. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 12.1.3 to 12.1.4 inclusive.
- 12.2. Without limiting our other rights or remedies, we may suspend the Ad Services and/or terminate the Contract if you become subject to any of the events listed in conditions 12.1.3 to 12.1.4, or we reasonably believe that you are about to become subject to any of them.
- 12.3. If we cancel or make a significant change to the Ad Services which is due to a Force Majeure Incident we will not be liable to offer you any compensation or be liable for any losses or damages.

### **13. Consequences of Termination**

- 13.1. Following termination of the Contract for whatever reason:
- 13.1.1. you must immediately pay any sums due to us;
  - 13.1.2. we will each return to the other all materials and Confidential Information belonging to the other that the other had supplied in connection with the Contract and remove Advertising Materials and Ad tags;
  - 13.1.3. any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect including, without limitation, conditions 7 (Charges and Payment Terms), 9 (Intellectual Property Rights), 10 (IPR Indemnities), 13 (Consequences of Termination), 15 (Confidentiality), 16 (Data protection), 18 (Limitation of Liability) and 19 (Miscellaneous).
  - 13.1.4. the Ad Services will immediately terminate and you will not use or exploit (directly or indirectly) your previous connection with us or the Ad Services.
- 13.2. Where we terminate pursuant to condition 12.1 or 12.2, we will not refund you the Charges.

13.3. Expiry or termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination.

#### **14. Force majeure**

14.1. Any party that is subject to a Force Majeure Incident shall not be in breach of the Contract and shall be excused from performance under the Contract while and to the extent they are unable to perform due to any Force Majeure Incident.

14.2. If the circumstance of a Force Majeure Incident continues for a period of three months or longer, the party not affected by the Force Majeure Incident shall have the right to terminate the Contract upon written notice to the other. Excuse from performance does not extend the Term of the Contract. This termination shall be without prejudice to the rights of the parties in respect of any breach of the Contract occurring before termination.

#### **15. Confidentiality**

15.1. You and we each undertake not to at any time during the Contract, and for a period of five years after expiry or termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other or of any member of the group of companies to which the other party belongs, except as permitted by condition 15.2.

15.2. You/we may disclose the other's confidential information:

15.2.1. to your/our employees, officers, representatives or advisers who need to know such information for the purposes of exercising your/our rights or carrying out your/our obligations under or in connection with the Contract. You/we shall ensure that you/our employees, officers, representatives or advisers to whom you/we disclose the other's Confidential Information comply with this condition 15; and

15.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

15.3. Neither you nor we shall use the other's Confidential Information for any purpose other than to exercise the rights and perform the obligations under or in connection with the Contract.

#### **16. Data protection**

16.1. Both you and we will comply with all applicable requirements of the Data Protection Legislation.

16.2. If we agree to supply you with a copy of the Personal Data we collect from the Ad Services, we will ensure that we have a lawful basis to transfer it to you including any necessary notices or data subject consents to enable lawful transfer of the Personal Data to you.

16.3. Once we have supplied the list to you, you acknowledge that you will become a Data Controller of such Personal Data.

16.4. If we or you handle Personal Data under this Contract not described above, it is the intention of both parties to enter into an appropriate agreement covering the same.

## **17. Anti-Bribery**

- 17.1. Each party agrees that it shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and the US Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-1.
- 17.2. Breach of this condition 17 shall be deemed a material breach under condition 12.1.2.

## **18. Limitation Of Liability**

- 18.1. This condition 18 sets out our and your entire financial liability (including without limitation any liability for the acts or omissions of our (or your, as applicable) employees, agents and sub-contractors) to us (or to you, as applicable) in respect of:
  - 18.1.1. any breach of the Contract howsoever arising;
  - 18.1.2. any use made by you of any rights we assign to you under the Contract; and
  - 18.1.3. any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including without limitation negligence) arising under or in connection with the Contract.
- 18.2. Nothing in these conditions excludes our or your liability for:
  - 18.2.1. death or personal injury caused by our negligence; or
  - 18.2.2. fraud or fraudulent misrepresentation.
- 18.3. Subject to condition 18.1 and condition 18.2:
  - 18.3.1. neither we nor you shall in any circumstances be liable, whether in tort (including without limitation for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:
    - 18.3.1.1. loss of profits; or
    - 18.3.1.2. loss of business; or
    - 18.3.1.3. depletion of goodwill or similar losses; or
    - 18.3.1.4. loss of anticipated savings; or
    - 18.3.1.5. loss of goods; or
    - 18.3.1.6. loss of contract; or
    - 18.3.1.7. loss of use; or
    - 18.3.1.8. loss or corruption of data or information; or
    - 18.3.1.9. any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
  - 18.3.2. each of our and your total liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the amount paid under the Contract.
- 18.4. Each party to the Contract shall maintain public (general) liability insurance which shall be valid in respect of the Ad Services.

## **19. Miscellaneous**

- 19.1. Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be deemed to have been received: (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the

proper address; (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or, if later, at the time recorded by the delivery service; (c) if sent by email, at 9.00 am on the next Business Day after transmission. This condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

- 19.2. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract.
- 19.3. The Contract may not be assigned, transferred, sub-licensed, or charged by either party without the prior written consent of the other save in respect of its Affiliates.
- 19.4. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy.
- 19.5. No amendment or variation to the Contract shall be effective unless in writing and signed by each party.
- 19.6. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.
- 19.7. Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including without limitation the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 19.8. A person who is not a party to the Contract has no right to enforce any term of the Contract.
- 19.9. The Contract shall be governed by and construed in accordance with the laws of England and Wales, the courts of which shall have exclusive jurisdiction in respect of any disputes arising from its terms and formation (including non-contractual disputes).