



# Terms and Conditions

LONDON 2017

# Terms and Conditions

The following terms and conditions ("Advertising Terms and Conditions") are deemed to be incorporated into each advertising insertion order ("Insertion Order") accepted by 31 Media Ltd for all of its publications whether printed or electronic. 31 Media Ltd means, 31 Media Limited, a company Registered in England No: 06127830 and registered at: 41-42 Daisy Business Park, 19-35 Sylvan Grove, London, SE15 1PD.

## 1. TERMS OF PAYMENT

- 1.1 The Advertiser must pay the invoiced amounts to 31 Media Ltd, or 31 Media's appointed agent, in pounds sterling within fourteen (14) days after the date of the invoice.
- 1.2 The Advertiser must pay at the rates prescribed by law; all VAT (and all similar sales tax (if applicable) on the amounts due under this Insertion Order. All amounts paid by the Advertiser after the due date will bear interest that will be calculated on a daily basis, at the rate of eight percent (8%) (or the highest rate permitted by law, if less) above the base rate of The Bank of England, from the date when payment was due until the date the payment is received, whether before or after judgment. If the Advertiser fails to pay, the Advertiser will be responsible for all expenses (including reasonable legal fees) incurred by 31 Media Ltd in collecting the amounts due.
- 1.3 The Advertiser represents and warrants that it contracts with 31 Media Ltd as principal, and has the authority to do so, notwithstanding that the Advertiser may be acting as an advertising agency or media buyer or in some other representative capacity.

## 2. POSITIONING AND LICENSE

- 2.1 The Advertiser hereby grants to 31 Media Ltd a world-wide, non-exclusive, fully paid license to reproduce, use and display the advertisement and/or Advertiser materials (including all contents, trademarks and brand features contained therein) provided by the Advertiser in relation to the Insertion Order and these Advertising Terms and Conditions and to modify the same to fit the format and look-and-feel of and to integrate with the functionality of the relevant 31 Media Ltd property and/or 31 Media

Ltd's technology. Features or works provided, promoted or hosted by 31 Media Ltd in relation to the Insertion Order (in relation to which 31 Media Ltd shall have "executive producer" rights), shall (with the exception of any Advertiser's materials) belong to 31 Media Ltd unless expressly assigned to the Advertiser in writing.

- 2.2 Except as otherwise expressly provided in the Insertion Order, positioning of advertisements within the 31 Media Ltd properties or on any page is at the sole discretion of 31 Media Ltd, and 31 Media Ltd will not be prohibited from also carrying advertisements for any product or business competitive to the product or business of the Advertiser.
- 2.3 31 Media Ltd does not guarantee the times, dates or positions of the advertisement(s), but 31 Media Ltd will use reasonable efforts to comply with the Advertiser's wishes. If a booked advertisement is not published at all, due to the fault of 31 Media Ltd, 31 Media Ltd will supply an alternative publication date. If the advertiser does not to accept this alternative date, the original booking will be cancelled and 31 Media Ltd will refund to the advertiser the amount already paid for the cancelled booking, as the sole remedy.
- 2.4 The Advertiser grants to 31 Media Ltd the express right to refer to and reproduce throughout the world all or part of any 31 Media Ltd property or service containing all or part of any of the advertising materials supplied by the Advertiser to 31 Media Ltd on or in any promotional or advertising material or campaign promoting or advertising 31 Media Ltd (but not any promotional or advertising campaign paid for by 31 Media Ltd).
- 2.5 If the Advertiser wishes to request a change to positioning of advertisements, it must provide the relevant creative's and give prior written notice of at least 2 weeks prior to the copy date

specified on this insertion order. Failure to provide such prior notice will mean that the positions set out in the Insertion Order prevail. Any requested change to positioning of advertisements will be decided at 31 Media Ltd's sole discretion, subject to availability

### **3. RENEWAL**

Except as expressly set out in the Insertion Order, any renewal of the Insertion Order and acceptance of any additional advertising order will be at 31 Media Ltd's sole discretion. The rates applicable to such renewal period (if any) are subject to change by 31 Media Ltd from time to time in its absolute discretion.

### **4. NO ASSIGNMENT OR RESALE OF AD SPACE**

The parties may not resell, assign or transfer any of its rights hereunder, except to any of their Affiliates provided that such Affiliates are not competitors of the other party. Any other attempt to resell, assign or transfer such rights will entitle the other party to terminate this contract immediately, without liability on the part of the terminating party. "Affiliate" means in respect of a party its "holding company", its "subsidiary company" or a subsidiary company of its holding company, as those terms are defined in section 736 of the Companies Act 1985.

### **5. LIMITATION OF LIABILITY**

5.1 If 31 Media Ltd fails to publish any advertisement provided in the Insertion Order, 31 Media Ltd's liability will be limited (at the option of 31 Media Ltd) to either: (a) publish, as soon as reasonably practicable the advertisement (or a replacement advertisement if provided by the Advertiser) on positions agreed in the Insertion Order or in alternative positions agreed with the Advertiser; or (b) refund to the Advertiser that proportion of the amounts already paid which relate to those advertisements, and if the amounts were not paid by the Advertiser, agree that such amounts will not be due or payable. 31 Media Ltd will only provide a refund to the Advertiser under clause 5.1(b) if: (i) the creative arrived within the time limits specified in the Insertion Order; (ii) the creative performed in accordance with the relevant 31 Media Ltd technical specifications and (iii) cancellations and changes to 31 Media Ltd schedules were notified within the timeframe set out in clause 2.5.

5.2 In no event will 31 Media Ltd be responsible in contract, or, negligence or otherwise, for: (a) loss of profits, business, contracts, revenues, goodwill, production and anticipated savings; or (b) any indirect, consequential, special or economic loss of any kind; arising from any failure to publish in a timely manner or at all any advertisement in accordance with the Insertion Order. 31 Media Ltd shall not be liable for any features or works provided, promoted or hosted by 31 Media Ltd in relation to the Insertion Order.

5.3 Without limiting the foregoing, 31 Media Ltd will have no liability for any failure or delay resulting from any governmental action, fire, flood, insurrection, earthquake, power failure, riot, explosion, embargo, strikes whether legal or illegal, labour or material shortage, transportation interruption of any kind, work slowdown or any other condition beyond the control of 31 Media Ltd affecting production or delivery in any manner.

5.4 31 Media Ltd does not limit or exclude liability for death or personal injury caused by its negligence.

5.5 Each of the provisions of this clause 5 are to be construed separately and independently of the other, and if any provision of this clause 5 (or any other clause herein) is found by any court or other judicial body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision will not affect the other provisions of this clause 5 (or any other clause herein) which will remain in full force and effect.

### **6. ADVERTISERS REPRESENTATIONS; INDEMNIFICATION**

6.1 The Advertiser warrants and represents to 31 Media Ltd that:

6.1.1 It has the right to publish and/or otherwise transmit all of the contents of the advertisements, and can grant to 31 Media Ltd such right, and that such publication will not, including in the jurisdiction in which it is published and/or transmitted: (a) infringe any rights of any third party including, without limitation, intellectual property rights and rights of privacy; and (b) violate any applicable law, regulation, contract or 31 Media Ltd policy. Furthermore, that it is solely responsible for the acquisition of all third party clearances,

permissions and licences which are necessary in connection with the publication/ transmission of the advertisements in the relevant jurisdiction, and for the payment of all applicable royalty fees and for all payments or royalties, if any, payable to any collecting society or under any collective bargaining agreement or otherwise.

- 6.1.2 The advertisements do not contain anything that is defamatory, obscene, false or misleading.
- 6.1.3 It has complied with all relevant advertising laws and codes of practice including (without limitation) those issued by the Committee of Advertising Practice in the UK or the Advertising Standards Authority for Ireland as applicable and all other relevant industry codes of practice.
- 6.1.4 Unless the Advertiser is an "authorised person" within the meaning of the Financial Services and Markets Act 2000 ("the Act"), you agree that the advertisement submitted pursuant to the Insertion Order either: (a) does not constitute an invitation or inducement to engage in investment activity within the meaning of the Act; or (b) has been approved by an "authorised person" within the meaning of the Act or is otherwise permitted under the Act and the Advertiser has expressly notified 31 Media Ltd in writing of this.
- 6.1.5 It does not collect or use personal information through its Advertisements on any 31 Media Ltd property without permission from the user. The Advertiser may not combine, co-mingle, compare or match any information that they legally collect via its Advertisements on any 31 Media Ltd properties with any personal information that they may have.
- 6.2 The Advertiser agrees to indemnify and keep indemnified 31 Media Ltd and hold such entities harmless against any and all expenses, damages costs (including reasonable legal fees and costs) and losses of any kind incurred as a result of any breach of the above warranties or otherwise in connection with any claims actual or threatened, of any kind (including, without limitation, any claim of trademark or copyright infringement, libel, defamation, breach of confidentiality, breach of any statutory or regulatory duty, false or misleading advertising or breach of any industry advertising codes or sales practices) arising from the advertisement and /or any

material (of the Advertiser or otherwise) to which readers can link through the advertisement.

## **7. PROVISION OF ADVERTISING MATERIALS**

The Advertiser will provide all materials for the advertisement in accordance with 31 Media Ltd's requirements including (without limitation) the manner of transmission to 31 Media Ltd, the lead-time prior to publication of the advertisement and such technical specifications as 31 Media Ltd may require from time to time. 31 Media Ltd will not be required to publish any advertisement that has not been received in accordance such requirements and reserves the right to charge the Advertiser, at the rate specified in the Insertion Order, for inventory held by 31 Media Ltd pending receipt of acceptable materials from the Advertiser which are past due. Advertiser will be charged £250 for each late delivery of material for each campaign unless otherwise agreed with 31 Media Ltd.

## **8. RIGHT TO REJECT ADVERTISEMENT**

All contents of advertisements are subject to 31 Media Ltd's approval. 31 Media Ltd does not undertake to review the contents of any advertisements and any such review of and/or approval by 31 Media Ltd will not be deemed to constitute an acceptance by 31 Media Ltd that such advertisement is provided in accordance with these Advertising Terms and Conditions nor will it constitute a waiver of 31 Media Ltd's rights hereunder. 31 Media Ltd reserves the right at any time in its absolute discretion to: 9.1 Reject or cancel any advertisement, Insertion Order, space reservation, or position commitment; and/ or 9.2 remove any advertisement from any of the 31 Media Ltd properties.

## **9. CANCELLATIONS AND CONSTRUCTION**

- 9.1 Cancellation fee that will be made payable to 31 Media within 14 days of receipt of the same. Failure to pay the cancellation fee within the specified time scales will result in the full terms of this contract being enforced.
- 9.2 Where amendments to an Insertion Order is approved in writing between the parties, the parties agree to be bound by the amended Insertion Orders entered into whether sent electronically or manually (including via email and/or agreed digital signature software)

and the parties waive any right to contest the validity of such Insertion Orders and related communications, which shall be admissible in court. The parties shall use appropriate security measures to guard against unauthorised access, alternation or destruction of such Insertion Orders and communications.

9.3 No conditions other than those set forth in the Insertion Order or these Advertising Terms and Conditions will be binding on 31 Media Ltd unless expressly agreed to in writing by an authorised representative of 31 Media Ltd.

9.4 In the event of any inconsistency between the Insertion Order and these Advertising Terms and Conditions, these Advertising Terms and Conditions will prevail.

## 10. CONFIDENTIALITY AND PUBLIC ANNOUNCEMENTS

10.1 The provisions of the Insertion Order and all communications passing between the Advertiser or any of its agents and 31 Media Ltd are confidential and must not be disclosed to any third party except:

(a) by the Advertiser to its qualified accountants or legal advisers; (b) by 31 Media Ltd to its qualified accountants or legal advisers; or (c) as otherwise agreed by the parties in writing or as otherwise required by law.

10.2 If the parties have executed a non-disclosure agreement prior to the date of this Agreement ("Non-Disclosure Agreement"), then: (a) the Non-Disclosure Agreement is hereby incorporated into this Advertising Terms and Conditions by reference whether or not it is attached to the Insertion Order; and (b) each party must comply with its obligations in the Non-Disclosure Agreement.

10.3 The Advertiser and its agents are hereby put on notice that 31 Media Ltd are particularly sensitive to public statements about the 31 Media Ltd, their contractual relationships and product plans, and improper or ill-timed statements are likely to have a detrimental effect on the business of 31 Media Ltd and may contravene applicable law. Consequently, the Advertiser and its agents must not, and must ensure that any person acting on its behalf does not, make any public announcement in respect of the Insertion Order or the relationship between the parties without prior written

consent of 31 Media Ltd including without limitation any pre-announcement in respect of the display of advertising on any 31 Media Ltd property. For the avoidance of doubt, the foregoing prohibition includes public announcements by any third party acting on behalf of the Advertiser and any communication that the Advertiser knows will or is likely to be made public. Any breach of this clause 10.3 by the Advertiser will be deemed to be a breach of confidentiality under clauses 10.1 and/or 10.2.

## 11. MISCELLANEOUS

These Advertising Terms and Conditions, together with the Insertion Order (i) will be governed by and construed in accordance with, the laws of England, and the parties submit to the non-exclusive jurisdiction of the English courts; and (ii) constitute the complete and entire expression of the agreement between the parties, and supersede all other prior understandings, commitments, agreements and (unless made fraudulently) representations, whether written or oral between the parties. Clauses 5, 6, 10 and 11 will survive any expiry or termination of these Advertising Terms and Conditions. 31 Media Ltd's failure to exercise or enforce any right or provision of this Agreement will not constitute a waiver of such right or provision. Any loss suffered by a 31 Media Ltd as a result of a failure by the Advertiser or its Affiliates, representatives or sub-contractors to comply with its obligations under these Advertising Terms and Conditions shall be deemed to be suffered by 31 Media Ltd and for the purposes of any claim, Advertiser waives all objections to 31 Media Ltd bringing any claim where loss or damage has been suffered by a 31 Media Ltd. If an agency is signing the Insertion Order on behalf of the Advertiser, the agency is listed on the first page of the Insertion Order and it represents that it has the authority to bind the Advertiser to the Insertion Order and these Advertising Terms and Conditions and agrees to indemnify 31 Media Ltd for any breach of this representation and to pay on behalf of the Advertiser in accordance with clause 1.1 above. A person who is not a party to these Advertising Terms and Conditions has no right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of these Advertising Terms and Conditions. ♦



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