

# Print Advertising Terms and Conditions (Created January 2012)

## 1. Definitions

Advertisement	The advertisement comprising the Copy for publication in the Magazine in accordance with the Confirmation.
Advertiser	The company, partnership, sole trader or individual who books advertising space in the Magazine.
Cancellation Date	The date 28 (twenty-eight) days prior to the Copy Deadline or such other date as is notified in the Confirmation.
Conditions	These terms and conditions, as varied from time to time by the Publisher.
Confirmation	The customer order/copy confirmation accepted by the Advertiser and confirmed to the Publisher
Contract	The contract between the Publisher and the Advertiser, as defined in paragraph 2.2.
Copy	The advertising copy supplied by the Advertiser to the Publisher (whether in the form of artwork, photographs, graphics, film or illustrative material, articles, features or words) which may be used by the Publisher to create the Advertisement.
Copy Deadline	9.00 am on the date(s) indicated on the Confirmation.
Group Company	Any subsidiary or subsidiary undertaking or holding company or parent undertaking of the Publisher and any subsidiary or subsidiary undertaking of that holding company or parent undertaking from time to time each as defined in section 736 Companies Act 1985 (as amended or superseded).
Magazine	The magazine published by the Publisher and referred to in the Confirmation, (or, if for any reason the Publisher is unable to publish the Advertisement in the magazine, as set out in the Confirmation, a magazine published by or on behalf of the Publisher which, in the Publisher's reasonable opinion, is of a comparable nature to the magazine specified in the Confirmation).
Distribution Date	The date the Magazine gets distributed, as indicated on the Confirmation.
Principal	The Advertiser except where the Advertiser is acting as agent for or on behalf of another company, partnership, sole trader or individual, in which case that other company firm or individual shall be the Principal
Publisher	KL Magazine Limited (company number 07601814) whose registered office is at 22-26 King Street, King's Lynn, Norfolk PE30 1HJ. The publishers business address is 18 Tuesday Market Place, King's Lynn, Norfolk, PE30 1JW
Series Booking	A predetermined series of Advertisements over a predetermined duration as outlined in the Confirmation. A discount will be given for Series Bookings as the entire Advertisement campaign will be treated as a single Contract.

## 2. CONTRACT

2.1 The Contract (as defined in paragraph 2.2) is made between (1) the Publisher and (2) the Advertiser and the Principal. If the Advertiser is not the Principal, the Advertiser shall be jointly and severally responsible and liable with the Principal for the obligations and liabilities of the Principal and references hereafter to the Advertiser shall include the Principal.

2.2 A request from the Advertiser to publish the Advertisement in the Magazine shall be binding on the Advertiser immediately from the date the Publisher receives that request by any of the following methods:

- (a) having signed and dated an order form;
- (b) via email reply that confirms the Advertiser wishes to proceed;
- (c) via a phonecall which the Advertiser verbally requests an Advertisement.

If a Confirmation relates to a series booking of an Advertisement, the entire series booking shall be treated as a single Contract.

2.3 No variation of these Conditions or any Contract shall be binding unless agreed in writing and signed by an authorised representative on behalf of the Publisher.

2.4 The Publisher reserves the right, without liability, to cancel a Contract and/or omit any Advertisements due to be published in the Magazine if: (a) the Copy is not reasonably acceptable to the Publisher; or (b) the Copy is or may, in the reasonable opinion of the Publisher, be obscene, blasphemous, libellous, defamatory, indecent, inaccurate, misleading, inappropriate for the Magazine, or in contravention of any applicable laws, rules, regulations, guidance or codes of practice or give rise to any claims or complaints from a third party; or (c) the Copy infringes or may infringe the intellectual property or proprietary rights of any person, or (d) the Advertiser is in breach of these Conditions including, without limitation, paragraph 7, or (e) the Magazine is suspended or ceases to be published by the Publisher for any reason.

## 3. PUBLICATION

3.1 Publication of the Advertisement is subject to the Copy complying with paragraph 2.4 and sufficient space being available in the Magazine. The Publisher gives no warranty or guarantee in relation to space availability.

3.2 The Publisher shall use reasonable endeavours to publish each Advertisement in the Magazine in accordance with the Confirmation. Notwithstanding the generality of the foregoing, the Publisher reserves the right for any reason to:

3.2.1 move any Advertisement within the Magazine to a place which, in the reasonable opinion of the Publisher, is comparable to the original place agreed with the Advertiser; or

3.2.2 omit any Advertisement from a particular issue of the Magazine, provided that the Publisher notifies the Advertiser of the Copy Deadline for insertion of that Advertisement in the next available issue of the Magazine and the Advertiser has not notified the Publisher in writing by the Copy Deadline that it does not wish that Advertisement to be published in the next available issue of the Magazine.

3.3 The Publisher shall be under no liability whatsoever to the Advertiser or any other person if it is unable to comply with the terms of the Contract for any reason beyond its reasonable control including without prejudice to the generality of the foregoing any Act of God, war, terrorism, fire, flood, failure of power supply, shortage or supplies, strike or any action taken by employees, agents, sub-contractors, suppliers or otherwise.

## 4. COPY SUPPLY

4.1 It is the responsibility of the Advertiser to supply the Publisher with Copy before the Copy Deadline and the Advertiser acknowledges that time is of the essence. If the Advertisement is omitted from the Magazine due to failure by the Advertiser to deliver suitable Copy before the Copy Deadline, the Price remains payable in full in accordance with paragraph 7.

4.2 If the Advertiser fails to deliver suitable Copy by the Copy Deadline, the Publisher, in its sole discretion, reserves the right not to publish the relevant Advertisement in the Magazine or to use copy from any other source. In this circumstance payment for the Advertisement will still be payable in full.

4.3 Where the Publisher provides a Copy creation service the accuracy of the Copy (and the brief given to create the Copy) is the responsibility of the Advertiser.

4.4 If the Publisher has agreed to design the Advertisement copy for use in the Publication on behalf of the Advertiser then any requests for approval must be responded to, on or before the Copy Deadline otherwise the Advertisement copy sent by the Publisher to the Advertiser will be used within the Magazine in the format it was sent to the Advertiser. In this instance any errors will be omitted as per 8.1.6.

4.5 Any Advertisement copy or ideas put forward by the Publisher to the Advertiser are for use in the Magazine only. No use is permitted elsewhere unless agreed in writing by the Publisher prior to its usage.

## 5. WARRANTIES AND INDEMNITY

5.1 The Advertiser warrants and represents to the Publisher that:

- (a) It has the power, authority and capacity to enter into the Contract with the Publisher;
- (b) The Copy will not be obscene, blasphemous, libellous, defamatory, offensive, indecent, inaccurate or misleading as to price or in any other way and will not contravene any applicable laws, rules, regulations or advertising codes (including, without limitation, all codes of practice issued by the Advertising Standards Authority or the Committee of Advertising Practice);
- (c) The Advertiser is the legal and beneficial owner of all intellectual property and proprietary rights in the Copy or it has the right to use and to permit the Publisher to use and exploit the same;
- (d) The use, including (without limitation) the reproduction, publication and distribution of the Copy in accordance with the Contract does not and will not infringe the intellectual property or proprietary rights of a third party; and
- (e) It will comply with the terms of any contract for the sale of goods or services between the Advertiser and customers who have responded to the Advertisement.

(Continued overleaf)

# Print Advertising Terms and Conditions - Continued

## Terms And Conditions For Print Advertising (Created January 2012)

### 5. WARRANTIES AND INDEMNITY (continued)

5.2 The Advertiser shall indemnify the Publisher in full and on demand from and against any loss (including, without limitation, economic loss, loss of profit, loss of goodwill, loss of contracts, loss of business, loss of reputation or like loss), damage, costs (including legal costs incurred in enforcing this indemnity) or expenses suffered or incurred by the Publisher or any of its Group Companies or their respective employees, agents or subcontractors directly or indirectly as a result of or in relation to: (a) any act, default or omission (including negligence) of the Advertiser or any of its employees, agents or subcontractors, (b) any breach of these Conditions or the Contract by the Advertiser or any of its employees, agents or subcontractors, or (c) the reproduction, publication and distribution of any Advertisement in the Magazine.

### 6. CANCELLATIONS

6.1 Any request to cancel the Contract will only be effective if received by the Publisher in writing before the Cancellation Date. Any requests to cancel the Contract received by the Publisher after that date will have no effect unless otherwise agreed in writing by an authorised representative on behalf of the Publisher.

**6.2 Any Advertiser who cancels part of a series booking will be charged a fee of 50% of the outstanding Advertisements within their Contract in respect of which the cancellation is received by the Publisher after the relevant Cancellation Date. This payment would be due immediately on the cancellation date.**

6.3 In the event that the Magazine is suspended or ceases to be published, the Publisher shall use reasonable efforts to inform the Advertiser as soon as reasonably possible and shall be entitled to cancel the Contract at the Publisher's sole discretion, without any liability whatsoever to the Advertiser, save for amounts paid by the Publisher in respect of Advertisements which were due to be published in the Magazine after the effective date of suspension or closure.

### 7. PAYMENT AND CREDIT

7.1 The price for publishing the Advertisement(s) in the Magazine shall be the price specified in the Confirmation (the "Price" or "Total"), plus Value Added Tax and any costs and expenses incurred by the Publisher in adapting, varying, amending or editing the Copy.

7.2 Unless credit facilities are agreed by the Publisher in writing, the Price is due in full when the Contract is made in accordance with paragraph 2.2 and in any event before the Copy Deadline. The Publisher reserves the right not to publish any Advertisement in the Magazine where the Advertiser fails to pay the Price in accordance with this paragraph 7.2.

7.3 Where credit facilities have been so agreed, the Price in respect of each Advertisement is due in full within 7 days from the Distribution Date if the Magazine is published more frequently than monthly and within 30 days from the Distribution Date if the Magazine is published monthly. Should credit facilities be cancelled or suspended for any reason, the Price and any other sums due from the Advertiser to the Publisher become immediately due and payable by the Advertiser.

7.4 If the Advertiser fails to pay any sums due to the Purchaser by the due date, the Publisher reserves the right to cancel any Contract and/or suspend the publication of any Advertisement and to charge interest on all overdue sums at the rate of 10% per annum above the base rate of The Bank Of England from time to time from the due date for payment until the date payment is received in full in cash or cleared funds. We may charge late payment compensation fees and interest under the late payment of commercial debts (interest) act 1998.

### 8. ERRORS

8.1 Although every effort is made to avoid errors, should they occur the Advertiser acknowledges and accepts that Publisher will not be liable to the Advertiser for breach of Contract or in any other manner whatsoever, where:

8.1.1 The error is due to inaccurate, incomplete or imprecise instructions from the Advertiser; or

8.1.2 The Copy has only been submitted verbally to the Publisher; or

8.1.3 The Copy is not supplied until after the Copy Deadline and/or the Publisher has exercised its right under 4.2 above; or

8.1.4 The error is a typesetting error which has occurred during the free typesetting service offered to the Advertiser; or

8.1.5 The error concerns the colour reproduction of an Advertisement and the Advertiser has failed to supply a colour proof with the relevant Copy in a form which is satisfactory to the Publisher; or

8.1.6 The error concerns the design or accuracy of an Advertisement and the Advertiser has failed to respond to a request for approval from the Publisher on or before the Copy Deadline;

8.1.7 The Publisher has not received a written complaint from the Advertiser within 7 days of the Distribution Date of the Magazine in which the relevant advertisement is published, if published monthly, or within 3 days of the Distribution Date of the Magazine in which the relevant advertisement is published, if published more frequently than monthly.

AND in such circumstances, the Advertiser remains liable in full for the Price.

8.2 The Publisher's aggregate liability to the Advertiser pursuant to the Contract (including these Conditions), whether in contract, tort (including negligence), breach of statutory duty or otherwise shall, to the maximum extent permitted by law, be limited to the Price payable by the Advertiser to the Publisher. The Publisher shall not be liable to the Advertiser for any special, indirect or consequential loss including, without limitation, economic loss or any loss of profit, loss of revenue, loss of contracts, loss of business, loss of goodwill, loss of reputation or like loss.

8.3 If the Publisher is liable to the Advertiser pursuant to these Conditions for an error of the Publisher, the Publisher shall (unless otherwise agreed in writing) either publish or re-publish the Advertisement in the Magazine as agreed between the parties or, if applicable, reimburse a percentage of the Price equal to the percentage loss of response which can, in the Publisher's reasonable opinion, be attributed to an error of the Publisher. For the avoidance of doubt, the Publisher's liability to the Advertiser for such error shall be limited in accordance with paragraph 8.2.

### 9. CONFLICT AND JURISDICTION

9.1 The Contract shall be governed by these Conditions, which represent the entire agreement between the parties in relation to the subject matter and supersede all prior agreements and understandings between the parties. In the event of any conflict between these Conditions and any terms or conditions incorporated in any form of offer or other correspondence or documentation submitted by the Advertiser, these Conditions shall prevail.

9.2 The invalidity, illegality or unenforceability of any provision of these Conditions shall not affect the continuing validity, legality and enforceability of the remainder of these Conditions.

9.3 Nothing in these Conditions shall be construed as creating a partnership or joint venture of any kind between the parties or as constituting either party the agent or employee of the other for any purpose whatsoever and neither party shall have the authority or power to bind the other party or to contract in the name of or create a liability against the other party in any way or for any purpose.

9.4 The Advertiser shall not be entitled to assign the Contract without the prior written consent of the Publisher. The Publisher shall be entitled to sub-contract the whole or any part of its obligations under the Contract and to assign the Contract.

9.5 A failure or delay by the Publisher to exercising any right or remedy under the Contract shall not constitute a waiver of such rights or remedy.

9.6 Confirmation by email of the Advertiser's acceptance of these terms shall be deemed valid acceptance of the terms of this Agreement. Any variation to the terms of this Agreement shall be agreed in writing between the parties, save that the parties specifically agree that a variation to terms set out in the Offer may be agreed by both parties by email.

9.7 The Contract shall be governed by the laws of England and each party submits to the exclusive jurisdiction of the English Courts save that the Publisher reserves the right to take action against the Advertiser in any other jurisdiction.

9.8 A person who is not a party to the Contract shall have no rights pursuant to the Contracts (Rights of Third Parties) Act 1999 to enforce any of these Conditions.