



DIGITAL TERMS AND CONDITIONS EFFECTIVE AUGUST 2007

1. DEFINITIONS

- a) "Act of God" shall include but is not limited to natural disasters; fire, flood or explosion; war, (whether declared or not), warlike operations, hostilities, invasion, act of foreign enemies, epidemic or terrorist acts; rebellion, revolution, insurrection, military or usurped power and civil war; nuclear, chemical or biological attacks; ionising radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosives, or other hazardous properties of any explosive nuclear assembly or nuclear components thereof; malicious damage caused by an unrelated party; compliance with any law or governmental order, action, rule, decree, regulation or direction; accidents or breakdown of machinery or plant; strikes, lock-outs, industrial action, riots and civil unrest which prevents work required under this Agreement from being carried out by either Party for a continuous period exceeding 30 days; impact of aircraft or other aerial device or things dropped from them; pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speed.
- b) "Advertisement Copy" means digital format advertising material intended for display by the Contractor, as specified in the [D-EP] Content Specifications.
- c) "Agreement" means a legally binding agreement between the Parties consisting of the Terms and Conditions as varied in accordance with clause 19 below and Confirmation of Order and any other terms agreed in writing between the Parties from time to time.
- d) "Confirmation of Order" means the document headed "Confirmation of Order" which shall be sent to the Principal by the Contractor at the address referred to in clause 13 below.
- e) "Contractor" means CBS Outdoor Limited whose registered office is at 28 Jamestown Road, Camden Wharf, London NW1 7BY and its successors in title.
- f) "Digital Advertisement System" means the infrastructure, network, hardware and software provided by CBS Outdoor for the provision of Digital Advertisement Copy at the Sites.
- g) "Digital Displays" means the display period agreed in the Order or Confirmation of Order.
- h) "Due Date" means the date by which payment is due under clause 5 below as specified on the Confirmation of Order.
- i) "Fee" means the amount specified in the Confirmation of Order.
- j) "In Charge Date" means the date from which the specified Advertisement Copy will be displayed, subject to the posting period, and the campaign shall commence being the date (or the first Monday following such date) specified as the "In Charge Date" in the Confirmation of Order.
- k) "Landlord" means the person, firm, or company with whom the Contractor has a concession to display advertising on their property.
- l) "Month" means a calendar month.
- m) "Order" means an order submitted by the Principal to the Contractor for the display of Advertisement Copy (which is always subject to these Terms and Conditions).
- n) "Parties" means the Contractor and Principal.
- o) "Posting Period" shall mean the periods specified in the Order corresponding to the Production Specification for each Site type within which the Contractor will display Advertisement Copy.
- p) "Principal" means the person specified as such in and who submits an Order.
- q) "Production Specifications" means the last published document headed Production Specifications published by the Contractor.
- r) "Sites" means the locations at which the Contractor may display Advertisement Copy.
- s) "Terms and Conditions" means these terms and conditions.
- t) "Week" means a seven day period from Monday to Sunday.
- u) "Working Day" means any day from Monday to Friday inclusive except any UK Bank Holiday or UK Public Holiday.

2. APPLICATION OF THESE TERMS AND CONDITIONS

- (a) The Principal shall be ultimately responsible for the payment of Fees and shall be deemed to have full authority in all matters connected with the placing of the Order and the approval or amendment of Advertisement Copy. A media agency or specialist media buyer shall be regarded for all purposes as the Principal unless such person, firm or company is accepted in writing by the Contractor as an agent for another party acting as Principal. CBS Outdoor customer services department and the authorized person named in an Order will have authority to agree any amendments to and approval of Advertisement Copy for the Contractor and the Principal respectively.
- (b) The Terms and Conditions together with any additional terms set out in the Confirmation of Order will be legally binding on the Contractor and the Principal in respect of each Order submitted by the Principal. The Principal notifies the Contractor of an objection to the Confirmation of Order within such period, or a shorter timescale is agreed in writing between the Parties.
- (c) No other terms and conditions shall be binding upon the Parties unless set out in writing and signed by both Parties.
- (d) All Orders shall specify the name of and be signed by the Principal (otherwise the Order shall be deemed to have been rejected by the Contractor and this rejection confirmed to the Principal). The Confirmation of Order and these Terms and Conditions will be deemed to be an accurate record of all the terms of the legally binding agreement between the Parties with respect to the corresponding Order unless the Contractor is informed to the contrary in writing within 10 Working Days of dispatch of such Confirmation of Order by the Contractor or before the date of the commencement of display of such advertising whichever shall be earlier.
- (e) Any Orders accepted shall only be used for displaying the Advertisement Copy specified in the Confirmation of Order.

3. DISPLAY OBLIGATIONS

- (a) The Contractor will (subject to clause 2 above) unless otherwise agreed display Advertisement Copy at Sites in accordance with the Posting Period.
- (b) When the Principal is entitled under the Confirmation of Order to a change of Advertisement Copy on display at a given Site and stipulates a date upon which such a change should be commenced the Contractor shall complete such change within any period specified in the Posting Period as if the stipulated date were the In Charge Date for a new campaign provided the Contractor has received the relevant Advertisement Copy in accordance with clause 4 below.
- (c) In the case of general and/or pre-selected distribution campaigns the Contractor reserves the right to display Advertisement Copy at Sites using its discretion and to substitute planned Sites for other Sites of a similar quality where the Contractor considers this is necessary for operational reasons.
- (d) The Contractor does not guarantee the full display of Advertisement Copy but will use reasonable endeavours to ensure that the full format is displayed.
- (e) The Contractor will only provide photographs of displayed Advertisement Copy at Sites if expressly agreed in the Confirmation of Order.

4. SUPPLY OF MATERIAL

- (a) All Advertisement Copy (subject to any other terms in the Confirmation of Order) is to be delivered in the agreed electronic format and by the agreed delivery method and within the time specified in the Confirmation of Order. All Advertisement Copy shall be supplied to the Contractor in accordance with the Production Specifications for digital media.
- (b) Should the Principal fail to deliver Advertisement Copy in accordance with this clause 4 the Contractor is not obliged to display such Advertisement Copy but the Principal shall, nonetheless, be liable to pay the corresponding Fees. The Contractor will use reasonable endeavours to display such Advertising Copy but without any commitment to meet the In Charge Date or other agreed timings with regard to the Posting Periods for such Advertising Copy.
- (c) A part delivery of the Advertisement Copy or a delivery not meeting the Production Specification or the provisions of this Clause 4 or in an incorrect electronic format shall be deemed to be no delivery for the purposes of this clause.

5. CHARGES

- (a) In consideration for the display of Advertisement Copy, the Principal will pay the Fee to the Contractor on the Due Date. Payment terms including Fee and Due Date shall be as specified by the Contractor in the Confirmation of Order.
- (b) If Fees are not paid by the Due Date the Contractor may without prejudice to any other remedy it may have and without prejudice to Principal's obligation to pay the Fees refuse to display any Advertisement Copy or withdraw currently displayed Advertisement Copy.
- (c) Original invoices shall be sent to the Principal for payment by the Principal unless otherwise expressly agreed between the Parties in writing. Where the Contractor has been notified by the Principal in writing that an agent has been appointed by the Principal and Contractor has agreed in writing, copy invoices will be sent to the Principal's agent and shall clearly identify the Principal for whom the agent is acting. Appointment of an agent will not affect the Principal's obligation to pay Fees on the Due Date.
- (d) In the event of failure to comply with any of the provisions of this clause 5 the Contractor reserves the right to require any other Order to be dealt with in accordance with revised payment terms.
- (e) In respect of any Fees not received by the Contractor by the Due Date the Principal will be liable to pay to the Contractor interest at a rate of 4% above the base rate for Lloyds TSB clearing bank from time to time.

- (g) The Contractor shall be entitled but not obliged at any time or times without notice to the Principal to set off any liability of the Principal to the Contractor against any liability of the Contractor to the Principal (in either case howsoever arising and whether any such liability is present or future, liquidated or unliquidated and irrespective of the currency of its denomination) and may for such purpose convert or exchange any currency. Any exercise by the Contractor of its rights under this clause shall be without prejudice to any other rights or remedies available to the Contractor.
- (h) Contractor reserves the right to re-format Advertisement Copy to ensure compatibility with Sites

6. WARRANTIES, LIABILITY AND INDEMNITY

- (a) The Contractor accepts full responsibility for compliance with statutory and other legal requirements so far as concerns the use and maintenance of Sites.
- (b) The Principal warrants and undertakes that:
- (i) all Advertisement Copy will comply with all statutory and legal requirements and regulations from time to time in force including the British Code of Advertising Sales Promotion and Direct Marketing (edition 11) (or such replacement or supplementary code as issued from time to time) and the "Conditions Governing the Acceptance of Advertising" set out in Appendix 1;
- (ii) it will be responsible for obtaining and paying for all necessary licences and consents for the posting and/or displaying and/or reproduction of any Advertisement Copy or copyright material contained in, or the appearance of any person in, its Advertisement Copy;
- (iii) no Advertisement Copy will breach the copyright or other intellectual property rights or be defamatory of any third party;
- (iv) no Advertisement Copy will contain any worm, virus, Trojan horse or other harmful content and will not enable unauthorised access to the Digital Advertisement System.
- (v) the Principal maintains adequate virus protection and security measures to protect its IT system and all Advertisement Copy.
- (c) The Principal will indemnify and keep the Contractor (in respect of itself and its employees, director, subcontractor and agents) indemnified against all actions, proceedings, costs, damages, expenses, penalties, claims, demands and liability (including legal fees) incurred and arising from any breach of the above warranties or in any manner whatsoever.
- (d) The Contractor shall have the right to refuse to display or to continue to display any Advertisement Copy which does not or which in the Contractor's opinion may not comply in all respects with the Principal's warranties and undertakings detailed in this Agreement. In such event the Contractor shall not be liable to the Principal for any damage loss or expense whatsoever and in addition to any remedy and/or damages and/or loss that may be claimed by the Contractor against the Principal, the Fees corresponding to display of such Advertisement Copy will be due in full notwithstanding that the Advertisement Copy has not been displayed.
- (e) Subject to Clause 6(f) below the due performance of any Agreement is subject to suspension variation or cancellation by the Contractor (in whole or in part) owing to Acts of God, strikes, lockouts, legal restrictions, electricity supply failures, or the loss of any Sites which were included in the Agreement or for any other reason beyond the Contractor's control. In the event of suspension variation or cancellation for any of the foregoing reasons the Contractor shall be entitled to be paid by the Principal the full Fees corresponding to the Sites in question up to and until the time at which such suspension, variation or cancellation occurs but the Contractor shall not be liable to pay any damages losses or expenses to the Principal as a result or in respect of such suspension, variation or cancellation.
- (f) The Contractor shall not be liable to give credit for Fees corresponding to and in respect of any damage to any Advertisement Copy or incorrect or non-display of any Advertisement Copy or non-illumination of a display or faulty moving displays if the defect is remedied within 5 Working Days after receipt of notification. This deadline will be extended if the Contractor does not have sufficient replacement Advertisement Copy in stock to remedy the defects for 5 Working Days after such stock is made available by the Contractor.
- (g) The Contractor shall not be liable for any negative impact on display of Advertisement Copy in the event of fire, lightning, explosion, storms and tempest, flood bursting or overflowing of water tanks, apparatus or pipes or closure or restrictions on any transport system
- (h) The Contractor shall not be liable for failure to display or interruptions to the display of Digital Advertisement Copy due to viruses, worms, Trojan horses or other malicious content.
- (i) All claims arising from the Contractor's obligations under an Agreement shall be submitted to the Contractor in writing within 28 days following the end of the period of display of the relevant Advertisement Copy with sufficient information to enable the Contractor to consider the claim. The Contractor shall have no liability in respect of any claim submitted after that date.
- (j) Without prejudice to clauses 6(m) and (n), if the Contractor shall be liable to the Principal under the Agreement, the Contractor's liability shall not exceed the total Fees under the Agreement.
- (k) In the event of any agreed errors by the Contractor in the performance of its obligations under this Agreement the parties may agree an "overshoot" by way of display of Advertisement Copy at additional Sites or for additional periods.
- (l) Without prejudice to Clause 6(n), the terms of the Agreement set out the full extent of the Contractor's obligations and liabilities in respect of the display of Advertisement Copy. The Principal shall have no remedy in respect of any untrue statement made to it on which it relied in entering into the Agreement (unless such untrue statement was made knowing it was untrue) other than any remedy it may have for breach of the express terms of the Agreement. Accordingly, any condition, warranty or other term concerning the display or failure to display Advertisement Copy which might but for this clause 6(e) be implied into or incorporated into the Agreement or any collateral contract (including, without limitation, the implied terms of satisfactory quality and fitness for purpose), whether by statute, common law or otherwise are hereby excluded and the Contractor shall not be liable to the Principal in tort or otherwise and pursuant to the express terms of the Agreement in respect of the subject matter of the Agreement or the display or non-display of Advertisement Copy.
- (m) Without prejudice to Clause 6(n), the Contractor will only be liable under the Agreement or any collateral contract, or in tort in connection with or in relation to the display or non-display of Advertisement Copy or any other matter referred to in the Agreement for direct loss, but not, whether or not the Contractor has been advised of the possibility of such loss:
- (i) any loss of profit, including for a loss of profits on contracts; or
- (ii) for indirect or consequential loss or damage howsoever caused.
- (n) Nothing in the Agreement shall exclude or limit the Contractor's liability for the tort of deceit or for death or personal injury caused by its negligence.

7. ALLOWANCE FOR NON-DISPLAY

Subject to Clauses 6 (d) and 15 if any Advertisement Copy approved by the Contractor is not displayed for a period of seven consecutive days or more of a Posting Period the Contractor shall make to the Principal an allowance of the proportionate part of the Fee payable by the Principal for the period during which the Advertisement Copy was not displayed. Save as expressly set out in this Clause 7 the Contractor shall not be liable for damages or compensation for any loss or expense whatsoever or inconvenience to the Principal.

8. TERMINATION

- 8.1 The Principal may terminate an Agreement by notice in writing to the Contractor:
- (a) without payment of the Fee provided that notice of such termination is given at least 90 days before the In Charge Date;
- (b) without payment of the Fee, but upon payment of a cancellation fee as specified by the Contractor in its absolute discretion provided that notice of such termination is given at least 42 days before the In Charge Date; or
- (c) within 42 days of the In Charge Date but the Principal will be liable for payment of the full Fee.
- 8.2 The Contractor may terminate the Agreement forthwith by notice in writing to the Principal if:
- (a) the Principal shall become bankrupt or commit an act of bankruptcy or make any assignment for the benefit of his creditors or enter into any arrangement with his creditors or being a company shall become insolvent or if any petition for the winding up or administration of the company is presented or if any other step is taken for the purposes of the appointment of an administrator or an administrative receiver of the company or if any steps are taken or negotiations commenced by the company or by any of its creditors with a view to proposing any kind of compositions, compromise or arrangement involving the company and its creditors; or
- (b) the Principal ceases or in the Contractor's reasonable opinion threatens to cease to carry on business;
- (c) if any monies to be paid by the Principal to the Contractor shall be in arrears for 21 days; or
- (d) if there has been a breach by the Principal of any terms of the Agreement; or
- (e) in the circumstances described in Clause 15.
- 8.3 In the event of termination by the Principal pursuant to Clause 8.1 or amendment of the terms of the Agreement - other than a revision by the Contractor of these Terms and Conditions in accordance with Clause 19 below - (whether regarding Sites, Posting Period or otherwise) by an instrument in writing signed by a duly authorised officer or representative of each of the parties hereto, then the Principal will pay to Contractor an administration fee of £250.



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9. CONSEQUENCES OF TERMINATION

- 9.1 Following termination of the Agreement the Principal will pay to the Contractor forthwith all outstanding Fees (plus interest).
- 9.2 Any termination of the Agreement and payment of Fees due shall be without prejudice to any other right of action or remedy which the Contractor may have under the Agreement or at law.
- 9.3 In the event of termination under Clauses 8.2(a) or (b) the Contractor may continue to display any Advertisement Copy and may enter into any agreements with third parties as considered appropriate to secure payment for continuing such display.
- 9.4 In the event of a termination by the Contractor in accordance with Clause 15 the Contractor shall be entitled to be paid by the Principal the full rate for the Sites in question up to and until the time at which the display is discontinued together with any other Fees due and owing by the Principal to the Contractor but the Contractor shall not be liable to pay any damages losses or expenses to the Principal as a result or in respect of such suspension, variation or cancellation.

10. HEADINGS

The headings are for reference only and do not form part of these conditions.

11. VALIDITY

If any provision of these Terms and Conditions or the Agreement is held by any court or other competent authority to be void or unenforceable in whole or part, the other provision of these Terms and Conditions and/or the Agreement and the remainder of the affected provisions shall continue to be valid.

12. SURPLUS MATERIAL

If Any Digital Advertisement Copy in the Contractor's possession will be kept on file for two years unless instructed by the Principal to be deleted, after which time such copy shall become the Contractor's property and be disposed of in such manner as the Contractor shall decide.

13. NOTICES

- (a) All notices under this Agreement must be made in writing, in the English language, and be delivered by courier, recorded delivery, facsimile or email to the address of the other party set out on the (or such other most recent address, e-mail address, [or facsimile number] as may have been subsequently notified to the other party in writing).
- (b) A notice shall be deemed to have been served: (i) if delivered by courier, at the time of delivery; (ii) if sent by recorded delivery, 48 hours after posting if the recipient of the notice is within the UK or 5 days if the recipient of the notice is outside the UK; and (iii) if sent by facsimile or email, upon transmission to the correct address provided such notice is confirmed within 48 hours by either courier delivery or posting a copy by recorded delivery to the appropriate address.
- (c) If the date on which a notice is received is not a Working Day, that notice will instead be deemed to be received on the next Working Day. For this purpose, a "Working Day" means a day which is not a Saturday, Sunday or public holiday in England. Notices to the Contractor must be addressed to the [Customer Service Department].

14. NOVATION

Except as provided herein, neither the Contractor nor the Principal may assign transfer, charge or part with all or any of its rights and/or obligations under the Agreement, save that:

- (a) The Principal agrees and acknowledges that the Contractor shall be entitled at any time to assign or transfer all or any of its rights or obligations under the Agreement to the extent that such rights or obligations relate to the display of any Advertisement Copy on the Landlord's property;
- (b) The Principal shall, at the Contractor's request and expense, cooperate with the Contractor to procure the novation of the Agreement to the Landlord or any other party nominated by the Landlord on such terms as the Contractor may require in relation thereto and shall execute such documentation and take such other action as the Contractor may request in relation to such novation.

15. REMOVAL FOR PURPOSES OF LANDLORD'S UNDERTAKING

If the Landlord at any time in its absolute discretion requires the display of Advertisement Copy at his property to be interrupted or discontinued then the Contractor may interrupt or discontinue such display of Advertisement Copy without prior notice to the Principal and upon any such action of the Landlord the Contractor may terminate the Agreement whether wholly or in part notwithstanding anything therein contained. In the event of such termination, the Contractor's liability is limited as outlined in Clause 9.4 above.

16. ORDER OF PRECEDENCE

In the event of any conflict between the Terms and Conditions and a Confirmation of Order, the provisions in the Confirmation of Order shall prevail.

17. JURISDICTION AND GOVERNING LAW

These terms and conditions shall be governed by and construed in accordance with English Law and the parties agree to submit to the exclusive jurisdiction of the English Courts.

18. AGENCY, PARTNERSHIP

The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement.

19. VARIATION

The Contractor reserves the right to revise these Terms and Conditions from time to time and shall inform the Principal of such revision. The Contractor will post any revised Terms and Conditions on the CBS Outdoor Website. The Principal should regularly check the CBS Outdoor Website for notice of any such revisions. The Principal's continued placement of an Order, after such change has been made will be deemed an acceptance by the Principal of the terms existing at that time.

20. ENTIRE AGREEMENT

The Agreement contains the whole agreement between the parties relating to the subject matter hereof and supersedes any and all prior agreements, arrangements and understandings between the parties relating to that subject matter. Accordingly, all prior agreements, whether or not agreed or offered and all conditions and warranties whether express or implied, statutory or otherwise and all representations, statements, negotiations, understandings and undertakings either written or oral are superseded by the Agreement (save only in respect of liabilities which have accrued in respect of any such prior agreements which are so superseded) and the parties hereby acknowledge that no reliance is placed on any such representation made but not embodied in these documents.]

21. WAIVER

No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under the Agreement. No right, power or remedy in the Agreement conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party.

22. CONFIDENTIALITY

Each party will maintain the confidentiality of the other party's Confidential Information and shall not, without the prior written consent of the other, use, disclose, copy or modify the other party's Confidential Information other than as necessary for the performance of its rights and obligations under the Agreement. "Confidential Information" shall mean in relation to the other party, information (whether in oral, written or electronic form) belonging or relating to that party, its business affairs or activities which is not in the public domain and which (i) is marked as confidential or proprietary; (ii) the receiving party is advised is of a confidential nature; or (iii) due to its character or nature, a reasonable person in a similar position under similar circumstances would treat as confidential. The Contractor's Confidential Information will include the Fees payable under the Agreement.

23. COUNTERPARTS

An Agreement will be executed by signature of the Order by the Contractor and signature of the Confirmation of Order by the Principal.