



Advertising T&C's

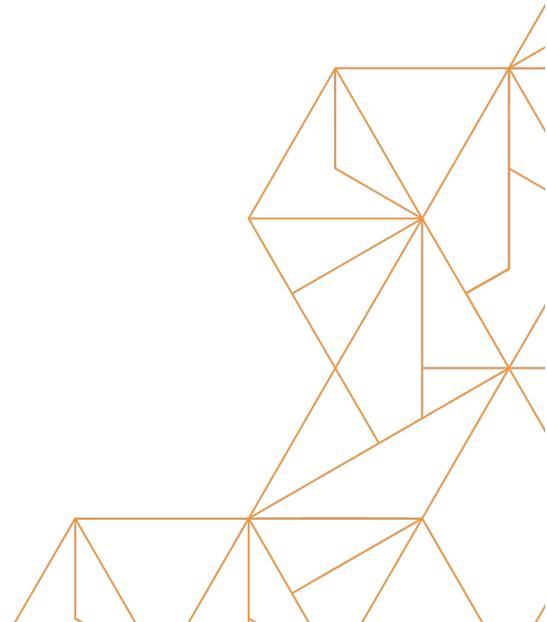
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Sift Media Ltd is registered in England and Wales No. 5923499
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1 Advertising Order

a) Within the following Terms and Conditions, “Advertising Order” shall mean the order (on Sift Media’s standard format) by an advertising agent or other advertiser (hereafter “Client”) to place an advertisement or several advertisements via on-line media (including information and communication services such as an email bulletin), for the purpose of promoting the Client’s business or services.

b) These Terms and Conditions apply to all of the Client’s future Advertising Orders, irrespective as to whether or not express reference is given to them.

2 Advertisement

a) Within the following Terms and Conditions, “Advertising Order” shall mean the order (on Sift Media’s standard format) by an advertising agent or other advertiser (hereafter “Client”) to place an advertisement or several advertisements via on-line media (including information and communication services such as an email bulletin), for the purpose of promoting the Client’s business or services.

b) These Terms and Conditions apply to all of the Client’s future Advertising Orders, irrespective as to whether or not express reference is given to them.

3 Formation of contract

a) Subject to individual provisions to the contrary, a contract is formed on these Terms and Conditions by confirmation of the Advertising Order by Sift Media, in writing or via e-mail. If, without such confirmation, Sift Media publishes the Client’s advertisement, then this shall also be confirmation of the Advertising Order. Verbal or telephonic confirmations by Sift Media are also subject to these Terms and Conditions.

b) In the event of Advertising Orders being placed by advertising agencies on behalf of their clients, the contract will be between Sift Media and the advertising agency.

4 Completion term

If the Advertising Order gives the Client the right to call off individual advertisements over a period, the Advertising Order must be completed within 6 months from the date of formation of the contract (as detailed in clause 3 above).

In the event of activity response being guaranteed, Sift Media reserves the right to use whatever additional activity it deems necessary to fulfil the guaranteed response. This may include additional emails, telemarketing or onsite creative.

5 Insertion

a) Advertisements will be inserted as mutually agreed or at Sift Media's reasonable discretion and at the contractually determined transmission times as detailed in the Advertising Order. If, due to the design of the advertisement or the advertising surrounding, it appears to Sift Media to be necessary to do so, Sift Media is allowed to indicate clearly on every advertisement that it is an advertisement (see Clause 2.b) without this requiring the Client's permission.

However, the Client is already obliged during production to ensure that advertisements are recognisable as such.

b) Sift Media is free to design the surrounding content, unless contractually agreed otherwise in writing.

6 Delivery of data

a) The Client is obliged to ensure correct, complete and timely delivery of advertisements before transmission date and in particular in accordance with Sift Media's format or technical standards.

The Client shall also ensure that no security risks, such as viruses or other technical problems, shall arise from the use of the advertisements. Should damage to Sift Media be incurred by the use of the advertisements supplied by the Client, the Client will be held liable.

b) The client will be charged for the provision of late copy Copy should be sent by the Client to Sift Media 4 working days before a campaign is due to start; and If the copy and creative is not delivered by 9am the day before the campaign is due to start the full cost of campaign will be invoiced.

After this point the agreed start date for creative campaigns cannot be rescheduled. If creative is late the Client will therefore lose days from its campaign.

c) If not produced by Sift Media, advertising copy must be delivered by e-mail as picture data files or redirects giving the Pixel standards. Should the advertisement data and materials prove to be unusable or not correspond with the contractually agreed standards, the Client will be notified as soon as possible and informed as to the reasons. The Client bears the risk when transmitting advertisement data and/or delivering materials. Advertisement data and materials are only to be sent to info@siftmedia.co.uk or to the official email address of the sales contact at the Sift Media sales department.

d) Sift Media's responsibility for storing the advertisement ceases three months after its last publication.

e) Costs to Sift Media for alterations to the advertisement made at the request of or incurred by the Client, will be carried by the Client.

7 Right of refusal

a) Sift Media reserves the right to refuse or to block any advertisements or parts thereof if Sift Media is of the opinion that their content is in violation of law or official regulations, these Terms and Conditions or if by virtue of their content, origin or technical form are unacceptable for Sift Media.

b) In particular, Sift Media can block an advertisement which has already been published if the Client subsequently alters the content or the data to which a link refers, where such altered content or data thereby comes within Clause 7 a). In the event of one of the above-mentioned cases occurring,

Sift Media will immediately inform the Client that Sift Media will not publish or alternatively will block the advertisement.

c) In the event of Sift Media blocking an advertisement, it will inform the Client of such blocking as soon as possible. In the cases described in Clause 7 a) and b), Sift Media shall have no liability to the Client, the Client has no rights of redress against Sift Media, and in particular no rights to claims for damages.

8 Price list

a) Prices are valid as per Sift Media's current published price list at the time the Advertising Order is placed with Sift Media. The right to alter the price list is reserved by Sift Media. For Advertising Orders confirmed by Sift Media, price increases are only effective if these are announced at least

one month prior to publication of the advertisement. In the event of a price increase, the Client has the right to cancel the Advertising Order. The right to cancel or give notice must be exercised within 14 days of receipt of notice of the price increase.

b) Selling prices are not inclusive of sales or value added tax; where applicable, these will be charged separately at the legally applicable rate. The basic price is the consideration for the insertion of the advertisement and contains neither production nor other costs. To the extent that such other costs are incurred, they will be charged separately and are in all cases the Client's responsibility. Further production or other costs shall not be incurred by Sift Media without the Client's prior consent.

c) Price discounts shall be as detailed in Sift Media's current published price list. Advertising agencies and other advertising middlemen are, in their quotations, offers, contracts and invoices to advertisers, obliged to adhere to Sift Media's current published price lists.

9 Discounts

The discounts given in Sift Media's current published price list are given for the total invoiced amount for advertisements transmitted within a calendar year. Discount rates given within the framework of mechanical/electronic order processing are therefore only to be regarded as provisional.

10 Agency remuneration

An agency commission of 10% will be given for all Advertising Orders which are contractually agreed via an advertising agency – unless otherwise agreed by the agency and Sift Media. The basis for calculating this commission shall be the total net invoice value of an Advertising Order placed by an advertising agency, excluding sales or value added tax and after deduction of discounts. Should the agency commission change as a result of additional invoice value or cancellation, the agency commission will be re-calculated, resulting in either a further debit or credit to the agency

11 Refunds

a) Should an Advertising Order not be fulfilled by a Client for reasons for which Sift Media is not responsible, the Client, notwithstanding other legal responsibilities, must repay the difference indiscout between the amount originally allowed (based on expected invoiced value) and that allowable on the basis of the actual invoiced value.

b) If nothing to the contrary has been agreed and if having concluded a contract which, in accordance with Sift Media's current published price list entitles him from the outset to a discount, the Client is entitled retrospectively to a refund which corresponds with his actual order value placed within a calendar year. The right to such a refund expires if within three months following acceptance of the Advertising Order by Sift Media, this right is not exercised.

12 Settlement conditions

a) In the absence of any agreement to the contrary, the Client shall pay all invoices 30 days from the date of invoice.

b) Should the Client fail to settle any invoice in full in accordance with clause 12 (a) above, it shall be liable to pay interest on the outstanding sum at a rate of 4% above the base rate from time to time of HSBC Bank. Such interest shall accrue from day to day and shall be compounded annually. In addition, whilst such sums owed remain outstanding, Sift Media can postpone further execution of the advertisements covered by the current Advertising Order without the Client having claim to compensation, and can demand advance payment for the completion of an Advertising Order.

c) Objectively founded doubts as to the Client's solvency shall entitle Sift Media to make the continued appearance of advertisements conditional upon advance payment and settlement of outstanding invoices, even during the current contractual period and without regard to payment terms originally agreed.

d) The Client shall not be entitled to a right of set-off against Sift Media.

e) In consideration of Sift Media continuing to supply the Client with goods and services from time to time as specified by the Client in the "Advertising Order", the Client agrees the following:

The orders placed are divisible. Each delivery of goods and/or services made thereunder;

i) shall be deemed to arise from a separate contract, and

ii) shall be invoiced separately and any invoices for a delivery of goods or services provided shall be payable in full in accordance with the terms of payment provided for therein without reference to and notwithstanding any defect or default in the delivery of any other instalment or of any other instalment under any contract.

13 Sift Media's duties concerning information

In the absence of any agreement to the contrary, Sift Media is obliged to have within ten working days following completion of an Advertising Order, information available for the Client, giving the number of "hits" (accesses) obtained through the advertisement.

14 Data privacy protection

The Advertising Order is to be carried out with due regard to the ruling data privacy protection rights regulations. In particular, the Client shall comply at all times with the Data Protection Act 1998 and warrants that it shall obtain all necessary consents to enable Sift Media to process any personal data that it delivers to Sift Media for the purposes of an Advertising Order (for example in relation to email bulletins). The Client shall indemnify Sift Media against all actions, claims and proceedings from time to time made against Sift Media and all loss or damage and all payments, costs (including legal costs) or expenses made or incurred by Sift Media as a result of the Client being in breach of this clause.

15 Faulty delivery

In the event of an Advertising Order not being completed for reasons for which Sift Media is not responsible, in particular force majeure, the Advertising Order will, if possible, be completed later. If the Advertising Order is completed later and within a reasonable, acceptable period after removal of the cause of the delay, Sift Media's right to remuneration remains. Should it not be possible to complete the Advertising Order later and within a reasonable and acceptable period, the Client is entitled to repayment of remuneration so far paid. Client claims beyond this are excluded.

16 Sift Media's warranty

a) Within the framework of customary technical standards and subject to the exceptions detailed below, Sift Media warrants the best possible reproduction of the advertisement. The Client however is aware that the current state of art makes it impossible to produce an entirely faultless programme. The warranty does not cover insignificant faults in the reproduction of the advertisement. Furthermore, the warranty does not apply to faults caused by technical disruptions, in particular a power and/or computer breakdown resulting from a systems failure; or

the use of unsuitable presentation soft- and/or hardware (e.g. browser); or a disruption in the communications network of other operators; or incomplete and/or out-of-date offers on so-called “proxies” (buffer stores); or a breakdown of the ad-server, which continues for no longer than 24 hours (continuous or in the aggregate). Subject always to the exceptions detailed in clause 16 (a) above, in the event of the ad-server breaking down for a substantial period (more than 10 per cent of the time booked) and within the framework of a specific time scale booking, the Client shall not be liable for payment during such breakdown period.

b) Sift Media shall not be liable to the Client for defects in the advertising or the areas to which the advertising links which are not the fault of Sift Media (for example, a website to which advertising links is not available). In addition, Sift Media shall not be liable for any perceived ineffectiveness of the advertising campaign where there are such defects. Immediately following the initial transmission, the Client is obliged to check the advertising ordered and to make known any possible defect which may have emerged and to make this known in writing to Sift Media without delay, at the latest however within two weeks of initial transmission. To the extent that no defects are made known to Sift Media within this time period, Sift Media shall have no liability to the Client for such defects or their effect on the advertising campaign as a whole. In the event of any defect which is the fault of Sift Media having been indicated punctually by the Client in the manner described above, Sift Media’s liability shall be limited to rectification of the defect and/or compensatory publication. Should the rectification be unsuccessful, the Client is entitled to choose a price reduction for future advertising or a refund of monies already paid.

17 Client undertaking

a) The Client undertakes that in relation to all advertisements or content to which they link it owns all legal rights in or has a legally binding licence to use all such content, that the use or inclusion of such content shall not infringe or violate the legal rights of third parties (in particular any intellectual property rights) or other laws or regulations and that the advertisements or content to which they link shall not contain anything which is morally offensive (see Clause 2.b), defamatory or libellous. The Client shall indemnify Sift Media against all actions, claims and proceedings from time to time made against Sift Media and all loss or damage and all payments, costs (including legal costs) or expenses made or incurred by Sift Media as a result of the Client being in breach of this clause.

b) The Client is bound in good faith to support Sift Media with information and materials in Sift Media’s legal defence against third parties.

c) In the event of commencement of legal proceedings by authorities or criminal proceedings against Sift Media, Clauses 17 a) and b) apply.

d) The Client grants to Sift Media, as is necessary both in time and content for completion of the Advertising Order, a licence for all necessary rights of use, performance rights and other rights of copyright for use of the advertisement or content to which advertisements link in all types of online media, in particular the right to duplicate, publish, convey, transmit, extract and call-off

from a database. In all cases, the aforementioned rights are granted without geographical limitation and authorise transmission using all known technical methods, as well as all known types of online media.

18 Liability

a) Sift Media shall not be liable for the following loss or damage, whether indirect, howsoever caused and whether or not foreseeable by the parties: economic loss including administrative and overhead costs, loss of profits, business, contracts, revenues, goodwill, production and anticipated savings of every description.

b) Subject to liabilities it cannot legally exclude or limit, Sift Media's total liability under an Advertisement Order, whether arising out of breach of contract, negligence or breach of statute, shall not exceed the total fees due to Sift Media under the relevant Advertisement Order.

19 Cancellation

In individual, substantiated cases Sift Media can, at its own discretion and up to 6 weeks prior to the first transmission of the advertisement, grant the Client the possibility of cancelling the Advertising Order, in fully substantiated cases, up to 3 weeks prior to the first transmission. A request for such a concession must in any case be submitted to Sift Media either in writing or by e-mail. There is no possibility of cancellation for advertising which is directly incorporated in the production of informational matter (sponsoring of specials, market research projects or events) by Sift Media.

20 General

20.1 Severability

If any provision (or part of a provision) of these Terms and Conditions or an Advertising Order is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

20.2 Entire Agreement

These Terms and Conditions, the Advertising Order and any documents referred to in them,

constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

20.3 Assignment

The Client shall not, without the prior written consent of Sift Media, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under these Terms and Conditions or an Advertising Order.

Sift Media may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms and Conditions or an Advertising Order.

20.4 Third Party Rights

These Terms and Conditions and the Advertising Orders are made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, but are not intended to benefit, or be enforceable by, anyone else.

20.5 Governing Law and Jurisdiction

These Terms and Conditions and the Advertising Orders and any disputes or claims arising out of or in connection with their subject matter are governed by and construed in accordance with the law of England.

The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms and Conditions and the Advertising Orders.