

Posterscope T&Cs

Terms and Conditions in relation to purchasing poster display and maintenance of outdoor advertising displays (“Services”) on structures owned or controlled by the above named outdoor advertising Media Owner (“Media Owner”)

All Posterscope, Posterscope in the North, Meridian Outdoor Advertising (collectively referred to as “Posterscope”) and Open Outdoor (“Open”) bookings in the name and on behalf of their clients (“Principals”) are placed under the following terms:

1. Terms and Conditions

1.1 These Terms and Conditions shall be deemed to be incorporated in contracts arising from orders (“Orders”) for the performance of the Services (“Agreement”) and shall supersede any previous arrangement, understanding or agreement between the parties relating to the subject matter of these Terms and Conditions including any terms and conditions issued by the Media Owner.

1.2 These Terms and Conditions do not constitute any obligation for Posterscope or Open to issue an Order.

1.3 Unless otherwise set forth by Posterscope or Open in an Order, the Media Owner acknowledges and agrees that Posterscope and Open shall act as an agent for the Principals in respect of buying time and space from the Media Owner and shall place Orders with the Media Owner in the name and on behalf of the Principals. In certain circumstances as set forth in an Order, Posterscope or Open shall act as principal, and not as agent of their clients, in respect of dealing with the Media Owner and shall place the Order with the Media Owner in their own name and on their own account.

2. Acceptance of Order

2.1 An Order is deemed valid if it is issued by an authorised person of Posterscope or Open and specifies the name of the Principal.

2.2 Each Order shall be deemed to be a separate offer by Posterscope or Open to purchase advertising displays on these Terms and Conditions, which the Media Owner could decline if such Orders do not comply with the Media Owner’s editorial policy, duly notified to Posterscope by the Media Owner. If such rejection is unreasonable, arbitrary, or capricious, neither Posterscope nor Open nor the Principal will have an obligation to pay for the Service for which the rejected material was submitted and will have the right to terminate this Agreement in whole or in part.

3. Payment Terms

3.1 Unless Posterscope or Open and Media Owner are resolving a discrepancy with respect to a Posterscope or Open Order, which has been clearly communicated to Posterscope in writing or by email, then the Media Owner will invoice Posterscope and Open promptly at the end of each month for media expenditure incurred in that month and in any case no later than 6 months after the end of the month in which the expenditure is incurred. The Media Owner’s invoices to Posterscope and Open must include the date, type of expenditure, Posterscope’s or Open’s client’s name, amount of each type of expenditure, VAT and other applicable taxes, if any, and supporting documentation, where requested.

3.2 Payment is due on:

- the 6th working day of the second month following the end of each month during which the display period falls (as an example, a January campaign would be payable on the 6th working day of March);
- except for periods of display of three weeks or less which start in one month and finish in the next month, when payment is due on the 6th working day of the second month following the end of the month in which the majority of the display falls.

3.3 Neither Posterscope nor Open nor the Principal will have liability to reimburse any expenditure that

has not been invoiced to Posterscope or Open within the 6-month deadline specified in Clause 3.1.

3.4 Unless otherwise set forth by Posterscope or Open on an Order, or when Posterscope or Open act as principal as set out in Clause 1.3, the Media Owner agrees to hold Posterscope or Open liable for payment only to the extent proceeds have been received in cleared funds from the Principal to Posterscope or Open for advertising posted in accordance with this Agreement. For sums due to but not yet received by Posterscope or Open from the Principal in respect of any specific Order, the Media Owner agrees to hold the Principal solely liable.

3.5 The Media Owner is responsible for all taxes that may be applicable to the ownership or control of poster panels or the display of posters thereon.

4. Delivery of posters by Posterscope

4.1 Posterscope or Open will deliver posters in quantity sufficient to meet the needs set out in each Order (plus 10% for renewal purposes) at places designated by the Media Owner, with shipping charges prepaid, within the time specified in the Order.

4.2 Posters will have sufficient weight, tensile strength, and opacity to prevent “show through” of previously posted copy and will conform to the standard sizes currently approved by the appropriate industry organisation. Recommended specifications for paper will be supplied by the Media Owner upon request.

5 Posting obligations of the Media Owner

5.1 All locations at which posters are to be displayed are subject to prior approval by the Principal and/or Posterscope and/or Open.

5.2 Except as hereinafter provided, the posters furnished by Posterscope or Open will be posted by the Media Owner in the markets and on the dates scheduled on the relevant Order.

5.3 Panels will be maintained in accordance with appropriate industry standards and will be well distributed in the specified market. Posters will be promptly reposted every thirty (30) days, provided sufficient additional posters are supplied by Posterscope or Open. The Media Owner will notify Posterscope or Open promptly if posters are needed for renewal.

5.4 For illuminated sites the Media Owner will provide illumination necessary for full visibility during the 6:00am to midnight period unless otherwise specified in the Order.

5.5 If posters are timely delivered, the Media Owner will complete posting in accordance with its normal posting cycles except in relation to time-sensitive Orders which will be posted according to Posterscope / Open’s instructions. Principals will have the benefit of the full period of display as specified in the Order, the display period being from the average date of posting, unless the posters are not delivered in a timely manner. The Media Owner will immediately notify Posterscope or Open if posters are not received on time (as specified in the Order).

5.6 If posters are delivered in a timely manner but cannot be posted in accordance with the above, Posterscope or Open will be informed immediately and any available substitute dates will be submitted for Posterscope’s or Open’s approval. The Media Owner retains exclusive control and supervision over the posting, maintenance, and removal of posters and over the location on which they are displayed. Any change made in location of posters, for any reason, will be reported promptly to Posterscope or Open.

5.7 The Media Owner will not make any alteration in advertising without the written consent of Posterscope.

6. Cancellation Terms

6.1 All Orders and subsequent contracts may be cancelled, free of charges, by either party by 90 days’ written notice given at any time. In the event of notice being given after the start of the 90-day period before the “in charge date” (i.e. the date from which the display shall commence as specified in an Order)

the contract shall then only be cancellable as per the terms of clause 6.2.

6.2 In all cases where the notice is given by Posterscope or Open after the start of the 90 days before the “in charge date”, the Media Owner will use its best endeavours to suggest an alternative solution (e.g. trading out of the sales booked, etc). Failure by both parties, acting reasonably, to agree a suitable alternative, Posterscope and Open agree to pay the rate applicable to the period of display subject to clause 3.4. Provided always that in the event of Posterscope or Open giving notice to cancel a display out of time the Media Owner will accept such a notice on payment of the following percentages of the total gross contract price, namely:

- 15% if less than 90 days but 75 or more days’ notice is given
- 30% if less than 75 days but 60 or more days’ notice is given
- 40% if less than 60 days but 45 or more days’ notice is given
- 70% if less than 45 days but 30 or more days’ notice is given
- 90% if less than 30 days’ notice is given

6.3 The Media Owner shall indemnify Posterscope or Open and / or the Principal for all losses, including but not limited to, damages, costs and the cost of replacement Services if it cancels an Order less than 90 days from the “in charge date”

7. Term

7.1 Subject to Clause 6, each party can terminate the Agreement upon four weeks prior written notice.

7.2 Without prejudice to our other remedies, each party may terminate this Agreement immediately if:

- (a) one party is in breach of an obligation under this Agreement and, if the breach is capable of remedy, failing to remedy the breach within fifteen days of receipt of a notice by the defending party requiring the party in breach to remedy the breach; or
- (b) if a petition is presented for an administration or winding up or bankruptcy order against one party or a receiver, administrative receiver or manager is appointed over any of its assets or an order is made or a resolution passed for the other party’s winding up or if the other party enter into any composition with its creditors or if any of these appear to the claiming party to be likely to happen or if for any other reason whatsoever it appears to such party that the other party may become unable to perform its obligations under this Agreement or to perform them in time.

8. Right of set off

8.1 To the extent permitted by the applicable law, the parties agree that in the event that either party:

- (i) takes any step to go into administration, including filing a notice of intention to appoint administrator;
- (ii) has a receiver or manager (which includes an administrative receiver) appointed over it or any of its assets;
- (iii) takes any step to go into liquidation, including calling a meeting of creditors to consider a voluntary liquidation;
- (iv) has a winding up petition presented against it; or
- (v) makes any arrangement or composition with its creditors;
- (vi) is unable to pay its debts (within the meaning of S123 of the Insolvency Act 1986),

then either party may without any notice to the other, set off any liability of the other party to itself against any liability of itself to the other party, whether any such liability is present or future (whensoever and howsoever arising), liquidated or unliquidated, and irrespective of the currency of its denomination. Any exercise by either party of its rights under this clause shall be without prejudice to any other rights or remedies available to it under this Agreement or otherwise.

9. Liability and indemnification

9.1 Each party warrants and undertakes to the other that (i) it has the legal right and authority to enter into this Agreement, the ability to do so and is not bound by any previous agreement which adversely affects this Agreement and (ii) it will comply with all applicable Legislation and Codes and Guidelines in connection with the performance of its obligations under or in connection with this Agreement, in particular any law or regulations in relation to privacy, or Intellectual property rights. The Media Owner will indemnify and keep Posterscope and Open and the Principal indemnified against all actions, proceedings, costs, damages, expenses, penalties, claims, demands and liabilities arising from any breach of the above warranties or in any manner whatsoever in consequence of this Agreement.

9.2 The Media Owner warrants that neither the Media owner, nor any of its employees, agents, consultants, partners, representatives or subcontractors (hereinafter collectively referred to as “Associated Persons”) has, at any time, engaged in, or presently engages in, any activity, practice or conduct which may constitute an offence under any applicable fraud, anti-bribery or corruption laws or regulations, including but not limited to the UK Bribery Act 2010 and the United States Foreign Corrupt Practices Act 1977 (hereinafter referred to as “Anti-Corruption Laws”).

9.3 The Media Owner warrants that:

- (a) it will perform the Services with reasonable skill and in accordance with best industry practice and standards and in any event, to the satisfaction of the Agency;
- (b) the Services will conform with all descriptions and specifications provided by the Agency;
- (c) it will ensure that any sub-contractors performing any portion of or the entirety of the Services shall be suitably qualified with appropriate levels of training, experience and seniority to carry out the Services and, where applicable, shall be duly licensed to carry out the Services as required by law;
- (d) the Services will be provided in accordance with all applicable legislation from time to time in force, and the Media Owner will inform Posterscope as soon as it become aware of any changes in such legislation;
- (e) neither the Media Owner nor any of its Associated Persons has at any time engaged in, or presently engages in, any activity, practice or conduct which may constitute an offence under any applicable fraud, anti-bribery or corruption laws or regulations, including but not limited to the Anti-Corruption Laws; and
- (f) the Media Owner will provide a safe and healthy working environment for its staff and will comply with all applicable laws, rules and regulations regarding (i) human rights as defined by the United Nations, (ii) the protection of the environment, and (iii) the community in which it operates and other stakeholders.

9.4 Indemnification

(a) The Media Owner shall hold Posterscope and Open and the Principal harmless against all liability including all claims, demands, debts, obligations, or charges, together with reasonable legal fees and disbursements (all hereinafter referred to as “liability”), arising out of the installation, maintenance, or removal of posters, including all such liability arising out of the Media Owner’s failure to remove posters within thirty (30) working days after the expiration of this Agreement, provided (i) such removal is requested by Posterscope or Open and (ii) such failure is not due to force majeure. Any delay or failure by the Media Owner to perform hereunder as the result of force majeure, labour dispute, law, governmental action or order, or similar cause beyond the Media Owner’s reasonable control, shall not constitute a breach of contract, but Posterscope or Open shall be notified immediately and shall be entitled, at its election, to either an extension of service, additional service, or credit, all on a pro rata basis, except that in the event of a failure to provide illumination as required herein the loss shall be compensated by a cash credit to Posterscope or Open for the difference in cost between an illuminated site and a non-illuminated site.

(b) Posterscope and Open similarly agree to hold the Media Owner harmless against all liability arising out of the content of the posters furnished by Posterscope and Open.

10. Anti-bribery and corruption

10.1 The Media Owner shall ensure that, in relation to these Terms and Conditions and general business practices, neither it, nor any of its Associated Persons, engage in any activity, practice or conduct which may constitute an offence under any applicable Anti-Corruption Laws. In particular, The Media Owner shall not, and will ensure that any Associated Persons do not offer, promise or pay to, or solicit or receive from any other person (including public and government officials) or company, any financial or other advantage which causes or is intended to cause another person to improperly perform their function or activities in order to secure or retain a business advantage.

10.2 As part of its internal measures to ensure compliance under this Clause 10, the Media Owner shall implement and maintain policies and procedures to assess the risk of, monitor, and prevent the breaching Anti-Corruption Laws by itself or any of its Associated Persons. Such policies and procedures shall be made available for immediate inspection upon Posterscope's written demand and failure to implement policies and procedures which are, in Posterscope's sole discretion, adequate shall be deemed a material breach of this Contract.

10.3 The Media Owner shall, upon discovery, notify Posterscope immediately of any breach or suspected breach by any employee or Associated Person of this Clause 11 and/or any Anti-Corruption Law.

11. Audit

11.1 The Media Owner shall keep detailed, accurate and up to date records and books of account showing all payments made and goods/services provided by the Media Owner in connection with these Terms and Conditions during the previous six years. The Media Owner shall ensure that such records and books of accounts are sufficient to enable Posterscope to verify the Media Owner's compliance with its obligations under these Terms and Conditions. The Media Owner agrees that, upon request by Posterscope at any time during the term of this Agreement and for three years after termination of this Agreement, it will make available for audit by Posterscope and/or its third party representatives, The Media Owner's books, records and other documentation relevant to its business activities conducted pursuant to this Agreement. Should the audit reveal any failure from the Media Owner to comply with the provisions of this Agreement, the Media Owner agrees to pay any and all costs of any such requested audit. In the event any deficiencies are identified, the Media Owner will take the steps necessary within an acceptable timeframe to correct any deficiency to Posterscope's satisfaction.

12. Confidentiality

The contents of this Agreement and any Orders placed in accordance with it should be kept confidential and should not be disclosed either directly or indirectly to any third party, save that disclosure to any administrator, receiver, liquidator, or supervisor of any Media Owner voluntary arrangement shall be permitted.

13. Governing law and jurisdiction

The Agreement constituted by these Terms and Conditions associated with any Order shall be governed by and construed in accordance with the laws of England and Wales. The parties irrevocably agreed that the Courts of England shall have exclusive jurisdiction to resolve any dispute between the parties arising from this Agreement.

14. Counterparts

This document may be executed in any number of counterparts, and by the parties on separate counterparts when an Order is placed, each of which, when executed and delivered will constitute an original.

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