

# CONDITIONS FOR ACCEPTANCE OF ADVERTISING

## 1 DEFINITIONS

- 1.1 **Advertising** includes, but is not limited to, a loose or bound-in insert or product card or advertising on a Website, as described in the Confirmation.
- 1.2 **Advertiser** means the person, firm or corporation named in the Confirmation.
- 1.3 **Authorized Signatory** means the publisher of the IOPP Publication or a Director of IOPP.
- 1.4 **Booking Deadline** means, for the IOPP Publication, the last date on which IOPP will accept a Confirmed Booking for that particular edition.
- 1.5 **Confirmation** means the document sent by IOPP to the Advertiser which shall be signed and dated by the Advertiser and sent back to IOPP as acceptance of the offer, in accordance with condition 2.3.
- 1.6 **Confirmed Booking** means a definite order for Advertising which shall be evidenced by the Advertiser sending IOPP the Confirmation.
- 1.7 **Conditions** means these conditions and any changes agreed in Writing by an Authorized Signatory.
- 1.8 **Contract** means a legally binding agreement for the publication of Advertising, including a Series, in the IOPP Publication, consisting of these Conditions, the Confirmation and the information about the Advertising in the Confirmation.
- 1.9 **Copy** means the style and form in which the Advertising will appear in the IOPP Publication, as determined by the Contract.
- 1.10 **Copy Change** means a change to the content of Advertising, including to its size, shape or colour or, if having been ordered in colour, it is to appear in monochrome.
- 1.11 **Copy Deadline** means, for the IOPP Publication, the last date on which IOPP will receive copy.
- 1.12 **Instructions** means any written checklist of material required by IOPP, together with instructions to be followed by the Advertiser regarding technical and other matters to enable it to benefit from the Advertising.
- 1.13 **IOPP** means IOP Publishing Limited and all its trading and brand names.
- 1.14 **IOPP Publication** means a publication, whether in printed form, on a Website or in any other media or format, which will include the Advertising and which is specified in the Confirmation.
- 1.15 **Media Pack** means IOPP's media pack in effect for the time being for the IOPP Publication and may include, among other things, its rate card, mechanical and technical specifications and copy and cancellation deadlines.
- 1.16 **Price** means the amount payable by the Advertiser for placing the Advertising in the IOPP Publication, which amount shall be confirmed in the Confirmation and which may include, among other things, any relevant production costs but which will exclude VAT, in accordance with condition 7.2.
- 1.17 **Publish** means including Advertising in the IOPP Publication.
- 1.18 **Series** means a booking placed by the Advertiser for more than one form of Advertising in an edition of the IOPP Publication or more than one form of Advertising booked simultaneously in two or more editions of the IOPP Publication.
- 1.19 **Term** means the period specified in the Confirmation, if any.
- 1.20 **Unacceptable**, in respect of the Advertising, means that it is inaccurate, contravenes any law or code of practice relating to the content of advertisements generally, infringes the intellectual property rights of another, is abusive, immoral or defamatory or otherwise could offend readers of the IOPP Publication.
- 1.21 **Website** means, where applicable, the Website specified in the Confirmation.
- 1.22 **Writing** includes fax, e-mail and all similar means of communication.

## 2 BASIS OF CONTRACT

- 2.1 Advertising is accepted on the understanding that the relationship between the Advertiser and IOPP is governed by these Conditions. Unless specifically approved in Writing by an Authorized Signatory, the conditions stipulated on the Advertiser's order form or anywhere else shall be void.
- 2.2 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall only apply if agreed or confirmed in Writing by an Authorized Signatory. If there is any conflict between these Conditions and the special terms and conditions agreed in Writing then the special conditions shall prevail.
- 2.3 The issue of the Confirmation shall amount to an offer by IOPP to the Advertiser to enter into the Contract. The return of the Confirmation by the Advertiser shall amount to the Advertiser's acceptance of the Contract. For the avoidance of doubt, IOPP shall be under no obligation to publish the Advertising if it does not receive such acceptance on or before the Copy Deadline.
- 2.4 IOPP's employees and agents are not authorized to agree to change these Conditions, to give greater discounts than the Advertiser normally receives or to give any representation or warranty not contained in the Contract unless confirmed in Writing by an Authorized Signatory. The Advertiser acknowledges that it does not rely on, and waives any claim for, breach of any such representations or warranties that have not been confirmed in Writing by an Authorized Signatory, save where those representations are found to have been made fraudulently.
- 2.5 Any typographical, clerical or other error or omission in any Media Pack, Confirmation, invoice or other IOPP document shall be subject to correction without any liability on the part of IOPP.
- 2.6 IOPP reserves the right to change the format of the IOPP Publication and the Advertising as it sees fit. If IOPP decides to discontinue the IOPP Publication, it will refund to the Advertiser that proportion of the Price that is equivalent to the proportion of any Term left to run at the date of discontinuation.
- 2.7 IOPP reserves the right to carry Advertising for organizations that might be considered to compete with the Advertiser.
- 2.8 Any renewal of the Advertising by the Advertiser will be deemed to be new Advertising for which the Advertiser must pay the Price.

## 3 THE ADVERTISER'S OBLIGATIONS

- 3.1 The Advertiser will make sure that the data, materials or inserts which IOPP needs to Publish the Advertising are received at the address specified in the Confirmation before the Copy Deadline (including, without limitation, any GIF and JPEG files) and the data, materials or inserts shall comply with the requirements of the Media Pack, any Instructions and the Confirmation. IOPP and its agents are under no obligation to return data, materials or inserts supplied by or on behalf of the Advertiser.
- 3.2 If the Advertiser does not comply fully with condition 3.1, IOPP is not required to

Publish any Advertising but it reserves the right to repeat the Advertiser's latest copy of a size and shape appropriate to the space booked. If IOPP does not have any it reserves the right to charge the gross amount for the space booked shown in the Confirmation.

- 3.3 The Advertiser is responsible for making sure that the Advertising will be in accordance with all relevant laws, codes, rules and regulations (including, without limitation, any rules or regulations promulgated by the European regional or national advertising standards authorities or any equivalent entity in any jurisdiction in which the Advertising is accessible). Should it become apparent that this is not the case, IOPP reserves the right to suspend the Advertising, in which case the Advertiser will have no claim for damages for breach of Contract.
- 3.4 The Advertiser grants IOPP, and any of its sub-contractors, including, but not limited to any person or company providing IOPP with an ad server, all necessary rights, licences, consents, waivers and permissions to store and deliver the Advertising on its behalf in accordance with these Conditions.

## 4 IOPP'S OBLIGATIONS

- 4.1 IOPP will Publish the Advertising in the IOPP Publication in accordance with the Contract from the agreed date in the Confirmation, if any.
- 4.2 IOPP will use all reasonable endeavours to mount the Advertising as sent to it by the Advertiser in accordance with its procedures but it accepts no responsibility for errors.
- 4.3 IOPP gives no representation or warranty as to the period of time during which any IOPP Publication will be Published or as to its future circulation figures or territory.
- 4.4 Unless otherwise agreed in writing with an Authorized Signatory, the precise positioning of the Advertising in the IOPP Publication will be determined by IOPP.
- 4.5 Where the Advertiser requests a specific date for the Advertising to be Published on the Website, IOPP will use its reasonable endeavours to comply with that date but it cannot warrant that the date will be met.
- 4.6 IOPP reserves the right, prior to the Advertising appearing in the IOPP Publication, to reject any material that is provided by the Advertiser that is not in accordance with any Instructions or is Unacceptable. On such rejection, IOPP may either terminate the Contract or request resubmission of material. On any such termination, the Advertiser will cease to be liable to pay the Price but will be liable to pay a £250/US\$450/€365 administration fee plus sales tax, if applicable.
- 4.7 The Advertiser warrants that the Advertising is not Unacceptable. If, after the Advertising appears in the IOPP Publication, IOPP determines that the Advertising is Unacceptable, or that there is a breach of any of IOPP's documentation, IOPP may edit the Advertising or remove it from the IOPP Publication. There will be no charge for editing the Advertising but, in the event of termination, the Advertiser will remain liable to pay the Price in full.

## 5 RECEIPT OF COPY

- 5.1 Where IOPP or its agents are involved in extra production work because of any act or default of the Advertiser or its agents, the Advertiser will have to pay for this work at IOPP's current rates when the work is done. These charges will be added to the invoice for the Advertising.

## 6 AMENDMENT AND CANCELLATION

- 6.1 The Advertiser's Change and Cancellation Rights  
*One-off Advertising*
  - 6.1.1 The Advertiser may request a Copy Change by giving notice in Writing to an Authorized Signatory not less than 12 weeks before the Copy Deadline or, alternatively, by a date agreed in writing with a representative of IOPP. Copy Changes requested after the relevant date will not be incorporated. In addition, the Advertiser may cancel the Advertising altogether by sending a notice to an Authorized Signatory in Writing not less than 12 weeks before its Booking Deadline (where the IOPP Publication is in printed form) or prior to the Advertisement appearing on the Website. Cancellations will not be accepted after the relevant time. The Advertiser's right to cancel is in addition to any statutory rights that it has. Cancellation will be effective on the issue of a confirmation by IOPP. For the purposes of calculating how long before the Booking Deadline or Copy Deadline notice has been given, and/or whether notice was given before the Advertisement appeared on the Website, the date used shall be the date on which the notice is actually received by the Authorized Signatory.
  - 6.1.2 Where the Advertiser requests a Copy Change, or wishes to cancel the Advertisement in accordance with condition 6.1.1, it shall pay IOPP an administration charge which shall be £250/US\$450/€365 (exclusive of VAT) to compensate IOPP for the time and expense involved in processing and changing the order.
  - 6.1.3 Any cancellation notices issued otherwise than as condition 6.1.1 requires shall be ineffective and the Advertiser shall be liable to pay the total Price for the space booked.
- Series*
  - 6.1.4 The Advertiser may change the size or shape of the Advertising which is part of a Series by giving notice in Writing to IOPP not less than 12 weeks before the Copy Deadline for the next issue of that IOPP Publication or, alternatively, by a date agreed in writing with a representative of IOPP. In addition, the Advertiser may cancel the Series by sending a notice to an Authorized Signatory in Writing not less than 12 weeks before the next Booking Deadline (where the IOPP Publication is in printed form) or prior to the Advertisement first appearing on the Website. The Advertiser's right to cancel is in addition to any statutory rights it has. Cancellation will be effective on the issue of a confirmation by IOPP. For the purposes of calculating how long before a Booking Deadline or Copy Deadline notice has been given, and/or whether notice was given before the Advertisement first appeared on the Website, the date used shall be the date on which the notice is actually received by the Authorized Signatory.
  - 6.1.5 Where the Advertiser cancels the Series, it shall pay IOPP an administration charge which shall be based on a percentage of the Price to compensate IOPP for the time and expense involved in processing the order and cancellation, plus any Series discounts or other discounts granted to the Advertiser by IOPP for

Advertising that have been paid for prior to cancellation.

- 6.1.6 Any cancellation notices issued otherwise than as condition 6.1.4 requires shall be ineffective and the Advertiser shall be liable to pay the total Price for the space booked.
- 6.2 IOPP may change the location, size, shape and content of the Advertising at any time for good reason, and without the need to obtain the consent of the Advertiser, in which case no claim on the part of the Advertiser for damages for breach of contract shall arise.
- 6.3 All copy is subject to the approval of IOPP and IOPP reserves the right to omit, cancel withdraw or suspend the space for any Advertising, not to run any other Advertising in a Series or cease to produce or alter the publication dates of any IOPP Publication for good reason, and without the need to obtain the consent of the Advertiser, in which case no claim on the part of the Advertiser for damages for breach of contract shall arise.
- 6.4 If IOPP does any of the things that it is entitled to do in conditions 6.2 and 6.3 in response to the insolvency or any breach by the Advertiser, IOPP's other rights are unaffected.

## 7 PRICE OF ADVERTISING

- 7.1 The Price shall be stated in the Confirmation. All Prices quoted are valid for 30 days only or until earlier acceptance by the Advertiser. Quotes that are not accepted within 30 days may be altered by IOPP without its having to give notice to the Advertiser.
- 7.2 All amounts stated in these Conditions are exclusive of VAT, which shall be due at the prevailing rate on the date of the VAT invoice.

## 8 TERMS OF PAYMENT

- 8.1 IOPP shall be entitled to invoice the Advertiser for the Price at any time after Publication and/or on issue of a Confirmation following a cancellation by the Advertiser. Such invoice may include any discounts repayable under condition 6.1.5 and administration or other charges.
- 8.2 The Advertiser shall pay the Price within 30 days of the date of the IOPP invoice. The time of payment of the Price shall be of the essence of the Contract. The Advertiser is only entitled to claim any discounts shown in the Confirmation where full payment is received by IOPP on or before the due date for payment of the relevant invoice.
- 8.3 If payment is to be made by instalments, and the Advertiser fails to pay any instalment on its due date, then IOPP shall be entitled to demand payment of all the unpaid balance (including all arrears).
- 8.4 The Advertiser may not withhold payment of any invoice or any other amount due to IOPP by reason of set-off or counterclaim that the Advertiser may have or allege to have for any reason whatever.
- 8.5 If the Advertiser fails to comply with any of these Conditions it shall nevertheless continue to be liable for all charges due and to become due.
- 8.6 If the Advertiser fails to make payment on the due date then, without prejudice to any other right or remedy available to IOPP, IOPP shall be entitled to charge the Advertiser interest (both before and after Judgment) from day to day on the amount unpaid at the rate of 4% per annum above Lloyds Bank Plc base rate from time to time until payment in full is made.
- 8.7 If the Advertiser does not pay the Price by the due date then, in addition to its right to charge interest in accordance with condition 8.6, IOPP may (at its discretion) terminate the Contract, remove the Advertising from the IOPP Publication or both of these.

## 9 INDEMNITY

- 9.1 The Advertiser shall indemnify IOPP against any loss, cost, liability, claim, or damages or other expenses in connection with any Advertising awarded against or incurred by IOPP or its employees or agents or paid or agreed to be paid by IOPP in settlement of any claim.

## 10 INTELLECTUAL PROPERTY RIGHTS

- 10.1 The Advertiser warrants that it is the owner or has been duly authorized by the owner of any copyright material, brand name, trade mark, service mark or logo to be incorporated into the Advertising and also warrants that its logo and other branding will not infringe the copyright, moral rights, patent or other proprietary rights of any person, nor will any content contained in the Advertising contravene the rights of any person or require payment by IOPP to any third party (including, but not limited to, mechanical royalty or performing rights payments for use of music, union payments, rental rights payments, author royalties or trade mark royalties). The Advertiser shall obtain all necessary rights, licences, consents, waivers and permissions to allow IOPP and its sub-contractors to store and deliver the Advertising on its behalf.
- 10.2 IOPP will own all copyright in the Copy, other than in the Advertiser logo and other Advertiser branding, the copyright in which will be retained by the Advertiser.
- 10.3 All intellectual property rights created or used by IOPP in connection with the Contract shall be and shall remain the property of IOPP.

## 11 PROOFING

- 11.1 The Advertising will be Published in accordance with the information provided by the Advertiser. IOPP is not obliged to issue proofs to the Advertiser but if such proofs are provided then the Advertiser shall notify IOPP in Writing of any changes required and shall ensure that this is sent to IOPP by noon GMT on the Booking Deadline.

## 12 WARRANTIES AND LIABILITY

- 12.1 IOPP's total liability in contract, tort (including negligence or breach of statutory duty) or otherwise in connection with any Advertising or otherwise under this Contract shall be limited to the Price paid by the Advertiser to IOPP under the Contract. IOPP shall not be liable to the Advertiser or any third party for any increased costs or expenses, loss of data, profit, goodwill, business, contracts, revenues or any anticipated savings of the Advertiser or for any special, indirect

or consequential loss or damage of any nature whatsoever and howsoever caused, irrespective of whether it was foreseeable by, or the possibility is or has been brought to the attention of, IOPP.

- 12.2 IOPP does not exclude or restrict its liability for death or bodily injury caused by the negligence of IOPP or of its employees while acting in the course of their duties.
- 12.3 All warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permissible by law, except as expressly provided in these Conditions.
- 12.4 The Advertiser shall inspect the copy of the Advertising sent by IOPP after the IOPP Publication is Published. Any claim by the Advertiser that is based on any error or omission in the Advertising shall be notified to IOPP in Writing not more than seven days after the Advertiser received the copy Advertising. If the Advertiser does not notify IOPP in this way, IOPP shall have no liability for such errors or omissions and the Advertiser shall be bound to pay the Price as if the Advertising had been Published in accordance with the Contract.
- 12.5 Where any valid claim in respect of any Advertising that is based on errors or omissions in the Advertising is notified to IOPP in accordance with these Conditions, IOPP shall be entitled to Publish similar correct Advertising free of charge in a subsequent issue of the relevant IOPP Publication or, at IOPP's sole discretion, refund part (not exceeding the whole) of the Price for the Advertising concerned, as is fair and reasonable having regard to the nature of the error or omission. Decisions to make refunds or to Publish Advertising free of charge require the authority in Writing of an Authorized Signatory.
- 12.6 No failure or omission of IOPP in the performance of its obligations under these Conditions shall create any liability if such failure or omission arises from any causes beyond the reasonable control of IOPP including, but not limited to, acts of God, regulations or omissions of governments or their agents and officers, natural disasters, acts of war, insurrection or terrorism, strikes or lockouts, unauthorized network or computer intrusion, or Internet or computer-related viruses or other agents introduced by a third party and beyond the reasonable control of IOPP.
- 12.7 IOPP shall not be liable for any loss occasioned by the failure of the Advertising to appear in the IOPP Publication for any reason whatsoever.
- 12.8 Although IOPP shall use its reasonable endeavours to ensure that the Advertising is Published to a high standard, it accepts no liability for any errors of any kind, howsoever they arise.
- 12.9 Where the Advertising is being Published on the Website, IOPP will use its reasonable endeavours to ensure that the Website is available on a 24 hour basis. However, if access is suspended or interrupted, or fault or defect occurs which prevents access, then IOPP's liability shall be limited to using all commercially reasonable efforts to restore access as soon as reasonably practicable. IOPP shall have no other liability in this respect.
- 12.10 IOPP does not guarantee any level of response to the Advertising and shall have no liability in this respect.

## 13 GENERAL

- 13.1 Any notice or other communication required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its Registered Office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. If sent by first class prepaid post it will be deemed to have been received two working days after despatch, if by fax at the start of business on the working day after despatch and if by e-mail at the start of business on the next working day after transmission, provided that no out of office or similar message is received.
- 13.2 No waiver by IOPP of any breach of the Contract by the Advertiser shall be considered as a waiver of any subsequent breach of the same or any other Condition.
- 13.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 13.4 Any reference in these Conditions to a statute or a provision of a statute shall be deemed to be a reference to that statute or provision as subsequently amended, extended or re-enacted.
- 13.5 The parties agree that the Contract is entered into by IOPP and the Advertiser and that it is not their intention that any third party should have any enforceable rights under it. Accordingly, to the fullest extent possible, the Contracts (Rights of Third Parties) Act 1999 is excluded from the Contract.
- 13.6 The Advertiser shall not be permitted to assign, transfer, resell or subcontract any or all of its rights under the Contract without the prior consent in Writing of IOPP.
- 13.7 Even if the Advertiser is acting as an advertising agency or other representative, it enters into the Contract in its own right as principal and not as an agent.
- 13.8 On insolvency of the Advertiser, the Contract will terminate automatically and the Advertiser will remain liable to pay the Price. No refunds will be paid by IOPP.
- 13.9 The Price is confidential and should not be disclosed to third parties other than to professional advisers or as required by law.
- 13.10 IOPP may use Advertiser data for promoting its products and those of other companies in the same group of companies but will not disclose such data to other third party companies.
- 13.11 Conditions 3, 9, 10, 12 and 13 shall survive termination of the Contract.
- 13.12 The Contract shall be governed by the laws of England and Wales and the English Courts shall have exclusive jurisdiction to determine any disputes.

## IOP Institute of Physics

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