

# TERMS AND CONDITIONS FOR ONLINE ADVERTISING

## 1. DEFINITIONS

Advertisement:	The advertisement comprising the Copy for publication on the Website or the Comparable Website in accordance with the Confirmation.
Advertiser:	The company, partnership, sole trader or individual who books advertising space on the Website.
Advertising Period:	The period during which the Advertisement is to be delivered to visitors to the Website or the Comparable Website, as specified in the Confirmation.
Comparable Website:	A website published by or on behalf of the Publisher which, in the Publisher's reasonable opinion, is of a comparable nature to the Website.
Conditions:	These terms and conditions, as varied from time to time by the Publisher.
Confirmation:	The order form which is signed and sent by the Publisher to the Advertiser.
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 shall be used by the Publisher to create the Advertisement.
Copy Deadline:	9.00 am on the date indicated on the Confirmation.
Domain Name:	The domain name of the Website or the Comparable Website.
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company or parent undertaking from time to time each as defined in section 736 Companies Act 1985 (as amended or superseded).
Impressions:	The number of times that the Advertisement is displayed to a visitor to the Website or the Comparable Website each month (or part) during the Advertising Period.
Price:	The price payable by the Advertiser to the Publisher in consideration for the Publisher delivering the Advertisement to visitors to the Website or the Comparable Website each month (or part) during the Advertising Period, which shall be the price specified in or calculated in accordance with the Confirmation.
Principal:	The Advertiser except where the Advertiser is acting as agent for another company, partnership, sole trader or individual, in which case that other company, partnership, sole trader or individual shall be the Principal.
Publisher:	Future Publishing (Overseas) Limited (company number 6202940) whose registered office is at Beauford Court, 30 Monmouth Street, Bath, BA1 2BW. The Publisher's Australian Business Number is: 96734706323
Specification:	The technical specification to which the Copy must adhere (if any), as specified in the Confirmation.
Website:	The website whose URL is at <a href="http://www.cyclingnews.com">www.cyclingnews.com</a> .

## 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 display the Advertisement on the Website shall be binding on the Advertiser for 10 days from the date the Publisher receives an order form. A binding contract for the display of an Advertisement on the Website or a Comparable Website in accordance with these Conditions ("Contract") shall, unless otherwise agreed, only be made when the Publisher dispatches the Confirmation to the Advertiser within that period. In the event that a Confirmation relates to more than one Advertisement or Website, each Advertisement on each Website shall be treated as a separate 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 to cancel the Contract and/or omit any Advertisement due to be displayed to visitors to the Website or the Comparable Website 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 Website or the Comparable Website, 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, (d) the Advertiser is in breach of these Conditions including, without limitation, paragraph 7; (e) the Copy does not comply with the Specification; or (f) the Website is suspended or ceases to be published by the Publisher.
- 2.5 The Advertiser acknowledges and agrees that, if appropriate, the Publisher may use a third party to target the delivery of the Advertisement to those visitors to the Website or a Comparable Website who meet certain criteria agreed between the Advertiser and the Publisher and as such the Advertisement may not be displayed to all visitors to the Website or Comparable Website.

## 3. PUBLICATION

- 3.1 Delivery of the Advertisement is subject to the Copy complying with paragraph 2.4 and sufficient space being available on the Website or a Comparable Website during the Advertising Period. The Publisher gives no warranty or guarantee that sufficient space will be available. Nothing in these Conditions or any Contract shall prevent or restrict the Publisher from redesigning the Website or any Comparable Website. Subject to paragraphs 4.1 and 6 the Advertiser shall not be liable for the Price where the Advertisement is not delivered to visitors to the Website or a Comparable Website during the Advertising Period due to any act, default or omission of the Publisher.
- 3.2 The Publisher shall use reasonable endeavours to deliver each Advertisement to visitors to the Website 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 Website 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 display any Advertisement to visitors to a Comparable Website rather than the Website; or

3.2.3 alter the Advertising Period, provided that the revised Advertising Period is equivalent in length to that originally agreed with the Publisher,

PROVIDED THAT in each case the Publisher notifies the Advertiser in advance of the same.

- 3.3 The Advertiser acknowledges and agrees that the Publisher may from time to time enter into deep linking arrangements with third parties, the effect of which may be to enable visitors to the Website or a Comparable Website to bypass pages displaying the Advertisement. The Advertiser shall incur no liability as a result of or in relation to such deep linking arrangements and shall be under no obligation to consult with or notify the Advertiser of any such deep linking arrangements.
- 3.4 Nothing in the Contract or these Conditions shall prevent or restrict the Publisher from displaying any adverts for products or services which compete with those of the Advertiser ("**Competing Advertisement**"). Without prejudice to the generality of the foregoing, the Publisher shall use reasonable endeavours to procure that the Advertisement is not displayed immediately next to a Competing Advertisement.
- 3.5 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 any 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 the internet, failure of power supply, shortage or labour or supplies, strike or any action taken by employees, agents, sub-contractors or otherwise.
- 3.6 The Publisher shall have the right in its sole discretion to adapt, amend, vary or edit Copy so as to ensure that it complies with Paragraph 2.4. Such right shall be without prejudice to any of the Publisher's rights under these Conditions.

#### 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 an Advertisement is not displayed to visitors to the Website or a Comparable Website on time or at all as a result of or in relation to the Advertiser's failure 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 may, in its sole discretion, agree to display an Advertisement for the remainder of the Advertising Period following receipt of the Copy.
- 4.3 If the Advertiser chooses to display an Advert which requires the services of a third party media rich specialist, the Advertiser shall be responsible for all costs and expenses associated with the same, unless expressly agreed to the contrary and stated on the Confirmation.

#### 5 WARRANTIES AND INDEMNITY

- 5.1 The Advertiser warrants 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) and will comply with the Specification;
  - (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 in accordance with these Conditions and the Contract;
  - (d) The use of the Copy to create the Advertisement and the display of the Advertisement to visitors to the Website or a Comparable Website in accordance with any 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.
- 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) and 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/or display of any Advertisement on or through the Website or a Comparable Website in accordance with any Contract.
- 5.3 The Publisher makes no warranties of any kind, whether express or implied, in relation to the Website or any Comparable Website, including but not limited to implied warranties of satisfactory quality, fitness for a particular purpose, non-infringement, compatibility, nor any implied warranty that the Website or any Comparable Website will meet any requirements of the Advertiser or will be uninterrupted, timely, secure or error free, nor that defects will be corrected, nor that the Website or any Comparable Website or the server or other hardware or software that makes them available are free from viruses or bugs or are fully functional, accurate or reliable. In addition, the Publisher makes no warranties or representations in relation to the number of people which may be expected to visit the Website or any Comparable Website.

#### 6 CANCELLATIONS

- 6.1 Any Contract may be cancelled by the Advertiser on written notice to the Publisher and will be effective 30 days following receipt of the same by the Publisher (the "**Effective Date of Cancellation**"). The Advertiser shall remain liable for the Price due prior to the Effective Date of Cancellation, calculated in accordance with clause 6.3.
- 6.2 In the event that the Website is suspended or ceases to be published by the Publisher, the Publisher shall use reasonable efforts to inform the Advertiser as soon as reasonably possible and shall be entitled to cancel the Contract or place the Advertisement on a Comparable Website at the Publisher's sole discretion without any liability whatsoever to the Advertiser. The Advertiser shall remain liable for the Price due prior to the date on which the Advertisement ceases to be published on the Website or a Comparable Website, calculated in accordance with clause 6.3.
- 6.3 If the Price is based on the number of days the Advertisement is displayed and: (a) as a result of clause 6.2, the Advertisement is displayed on the Website or Comparable Website for less than the Advertising Period, the Price shall be pro-rated according to the number of days comprising the Advertising Period and the Advertiser shall be responsible for paying the Publisher that proportion of the Price which relates to the number of days that the Advertisement was published; or (b) as a result of clause 6.1, the Advertisement is displayed on the Website or the Comparable Website for less than the Advertising Period, the Price, excluding any discount from the Publisher's standard advertising rate which was granted to the Advertiser ("**Discount**"), shall be pro-rated according to the number of days comprising the Advertising Period and the Advertiser shall be responsible for paying the Publisher that proportion of the Price, excluding any Discount, which relates to the number of days that the Advertisement was published.

#### 7 PAYMENT

- 7.1 Unless otherwise agreed, the Advertiser shall pay the Publisher the Price within 30 days of the date it receives an invoice for the same from the Publisher. The Publisher may issue an invoice to the Advertiser at any time following the date the Publisher dispatches the Confirmation to the Advertiser..

- 7.2 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 8% per annum above the base rate of Barclays Bank plc from time to time from the due date for payment until the date payment is received in full in cash or cleared funds.

## 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 rights under paragraph 3.6 or 4.2 above; or

8.1.4 The error concerns the colour reproduction of the Advertisement and the Advertiser has failed to supply a colour proof with the Copy in a form which is reasonably satisfactory to the Publisher,

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

- 8.2 The Publisher's maximum liability to the Advertiser pursuant to any 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 total Price payable by the Advertiser to the Publisher under that Contract during the Advertising Period. 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) reimburse a percentage of the Price equal to the percentage loss of response which can reasonably be attributed to that error. For the avoidance of doubt, the Publisher's liability to the Advertiser shall be capped at the Price.

## 9 CONFLICT AND JURISDICTION

- 9.1 Each 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 those 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 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.

- 9.5 No person other than the parties to the Contract shall have any rights under it pursuant to the Contracts (Rights of Third Parties) Act 1999.