

# Terms & Conditions of Acceptance of Distribution Business

## 1. Definitions

1.1.1 In these terms and conditions the following words will have the following meanings:

1.1.1 "Items" means any leaflets, letters, advertising material or other documents which the Company agrees to distribute for the Client pursuant to an Order Confirmation.

1.1.2 "Order Confirmation" means a confirmation of order sent out by the Company to the Client setting out and confirming details of the Items to be distributed, or other written agreement which may exist.

1.1.3 "Company" means VSI Media Ltd, Anchor House, Old Bedford Road, Luton, LU2 7BW and its associated businesses.

1.1.4 "Client" means the person, firm or company stated on the Order Confirmation and with whom the Company has contracted to distribute the Items.

1.1.5 "Scheduled Date of Distribution" means the date or dates specified in the Order Confirmation as the date or dates upon which the Company has agreed to distribute the Items.

1.1.6 "Administration Fee" means an amount equal to ten percent of the total price charged by the Company to the Client as stated in the Order Confirmation.

1.1.7 "VFD" means Verified Free Distribution Limited, a wholly owned subsidiary of the Audit Bureau of Circulations Limited (ABC) being the industry's auditing body.

1.1.8 "Publication" or "Publications" means the newspaper(s) or other Publication(s) with which the Items are distributed, if appropriate.

## 2. Distribution

2.1 Subject to the following terms and conditions the Company agrees to distribute the Items in accordance with the terms of the Order Confirmation.

2.2 Subject to Clause 2.3 the Company will use its reasonable endeavours to distribute the Items on the date specified in the Order Confirmation but shall have no liability whatever to the Client if for any reason the Items are not distributed on that date.

2.3 If the Company has specified on the Order Confirmation that it guarantees to distribute the Items on the date specified on the Order Confirmation then subject to these terms and conditions the Company will distribute the Items on that date.

2.4 The quantity of Items distributed is subject to a variance of not more than 5% from the quantity specified in the Order Confirmation and accordingly the Company will have no liability to the Client if there is a shortfall in the quantity of Items distributed of 5% or less from the quantity which the Company agreed to distribute pursuant to the Order Confirmation. Any such shortfall in the quantity of Items distributed will not affect the price to be paid by the Client and the price stated in the Order Confirmation will remain payable by the Client in full.

2.5 Unless stated otherwise in the Order Confirmation and subject to Clause 2.4, the Company will use its reasonable endeavours to deliver the Items to every address which normally receives the Publication or Publications in the area or areas specified in the Order Confirmation. However, the Company does not undertake to achieve 100% penetration within the area or areas specified, or within any given postcode sector within that area or areas and accordingly shall have no liability to the Client in the event that 100% penetration is not achieved.

2.6 The Company will make available to the Client on request and free of charge, a list of postcode sectors to be covered in a particular area, and the quantity of Items to be distributed in each postcode sector in which the Items are to be distributed.

## 3. Advertising Material

3.1 The Client warrants the Company in the respect of all material included in the Items that:-

3.1.1 such material does not contain anything that is defamatory, obscene or otherwise in contravention of any regulations or legislation;

3.1.2 it is either the owner of the copyright in all such material or has obtained a licence from the copyright owner to reproduce such material; such material complies with the British Code of Advertising practice and all other codes under the general supervision of the Advertising Standards Authority.

3.2 The Company reserves the right to refuse to distribute Items in any circumstances where the Company in its discretion considers it would be reasonable not to do so. In such circumstances the Company would inform the Client of the reasons for such refusal to distribute.

3.3 The Company will have no liability to the Client in the event that it refuses to distribute the Items under Clause 2.3 above and in such circumstances the Client shall arrange at its cost for the Items to be removed from the Company's premises as soon as practicable following notification by the Company.

3.4 The Company reserves the right not to distribute Items on behalf of one Client in the particular week agreed for distribution if the Items contain advertising material which the Company considers conflicts with or is in competition with advertising material contained in other Items which have been or are scheduled to be distributed on behalf of an unconnected Client during that same week. In these circumstances the Company will inform the Client that distribution of the Items will not take place on the Scheduled Date of Distribution but shall have no liability to the Client for failure to distribute.

3.5 The Client shall ensure that all Items to be distributed by the Company incorporate an imprint stating the full name and address of the contracted printing Company, in accordance with The Printers Imprint Act 1961.

## 4. Amendments or Cancellation

4.1 The Client may amend the details of the Order Confirmation without charge, provided that notice of such amendment is received by the Company not less than seven working days prior to the Scheduled Date of Distribution. The Company will not be obliged to accept the amendment and if such amendment is not accepted then the Order Confirmation will be treated as having been cancelled by the Client on the day on which the Company first received notice of the amendment.

4.2 The Client may cancel the order without charge provided that notice of the cancellation is received by the Company not less than seven working days prior to the Scheduled Date of Distribution.

4.3 If the Client wishes to amend the details of the Order Confirmation and notifies the Company of the amendment less than seven working days prior to the Scheduled Date of Distribution then the Company shall not be obliged to accept the amendment, but if it does so the Company will be entitled to charge the Client the Administration Fee in addition to the price stated on the Order Confirmation. If the Company elects not to accept the amendment then the Order Confirmation will be deemed to have been cancelled by the Client on the day on which the Company first received notification of the amendment and the Company will be entitled to charge the Client the Administration Fee.

4.4 If the Client wishes to cancel the Order Confirmation and notifies the Company of such cancellation less than seven working days prior to the Scheduled Date of Distribution then the Company will be entitled to charge the Client the Administration Fee.

4.5 If any Order Confirmation is cancelled or treated as having been cancelled by the Client under Clause 4 the Client will at its cost arrange for the Items to be removed from the premises of the Company within five working days following the date of cancellation or deemed cancellation.

## 5. Delivery to the Company

5.1 The Client will at its cost deliver Items to the Company at the location specified in the Order Confirmation not less than seven working days prior to the Scheduled Date of Distribution.

5.2 The Company shall be under no obligation to check the quantity of Items delivered by the Client nor to check the accuracy of any information shown on any delivery notes of the Client or the Client's delivery agent. The Company will however to the extent reasonably possible notify the Client if it becomes aware that the quantity of Items delivered is less than or exceeds the quantity specified on the Order Confirmation.

5.3 If the Items are received by the Company at the correct location less than seven working days prior to the Scheduled Date of Distribution the Company will not guarantee to distribute such Items on the Scheduled Date of Distribution and will have no liability to the Client in the event of any failure to do so. The Company will use its reasonable endeavours to distribute the Items as soon as reasonably practicable following the Scheduled Date of Distribution unless the Client notifies the Company that it wishes to cancel the Order Confirmation in which case such cancellation will be dealt with as provided in Clauses 4.4 and 4.5. If the Client does not cancel the Order Confirmation then the Company will be entitled to charge the Client the Administration Fee in respect of the late delivery.

5.4 The Client shall ensure that the Items are delivered to the Company packed in regular quantities and clearly marked with Items individually wrapped in bundles of 100. Each box should clearly indicate the quantity of Items contained therein. If the Client fails to deliver the Items in the manner required by this Clause the Company shall be entitled to charge the Client an administrative charge of £1.00 per 1,000 Items.

5.5 Subject to Clause 5.6, any Items supplied to the Company will remain the property of the Client until full payment is received, as stipulated in Clause 11. The Client will bear the full responsibility for any loss or damage caused to the Items.

5.6 The Company will bear the responsibility of any loss or damage caused to Items where the Items have been printed or otherwise manufactured by the Company as specified in the Order Confirmation.

5.7 Clients materials will only be stored by the Company for a period of 30 days, unless alternative arrangements are mutually agreed. Thereafter, the Company shall reserve the right to levy a reasonable charge for storage of the Items.

## 6. Delivery Back Check Research

6.1 Subject to Clause 6.2 Items may be included in the random back checking procedures offered by VFD in respect of the week of distribution. The Company may make returns on back check forms and where applicable will provide a summary of the details upon request.

6.2 Where the areas of distribution of the Items does not coincide with the delivery back checking rotation for the week of distribution, the Company is under no obligation to arrange additional research in respect of delivery of the Items. In this instance the Client may request that further research is carried out at additional cost to the Client based on 0.5% of the total order booked being researched at a cost of 50p per call.

## 7. Queries

7.1 Provided that the Client notifies the Company in writing within two working days following the date upon which the Items in question were distributed by the Company, the Company will use its reasonable endeavours to carry out appropriate research into any query raised by the Client relating to the distribution by the Company of the Items. The Company undertakes to report the results of its own research to the Client within fourteen days following the date upon which the Client notified the Company of the query. In the event that the research reveals that there has been a shortfall in the quantity of Items distributed by the Company then, subject to Clause 2.4, those Items not distributed will be distributed by the Company as soon as reasonably practicable unless the Client notifies the Company that it does not wish the Items to be distributed in which case the Company will credit the Client at the rate specified in the Order Confirmation for the Items not distributed, with regard solely to those delivery rounds in respect of which queries were notified.

## 8. Liability

8.1 The following provisions set out the Company's entire liability (including any liability for the acts and omissions of its employees and agents) to the Client in respect of:-

8.1.1 any breach to its contractual obligations arising under these terms and conditions; and

8.1.2 any representation statement or tortious act or omission including negligence arising under or in connection with these terms and conditions.

8.2 Any act or omission on the part of the Company or its employees or agents falling within Clause 8.1 above shall be known as an "Event of Default".

8.3 The Company's liability for death or injury resulting from its own or that of its employees negligence shall not be limited.

8.4 Subject to Clause 8.3 the Company's entire liability in respect of any Event of Default shall be limited to damages of an equal amount to the total amount already paid by the Client to the Company in respect of the distribution of the Items pursuant to this contract.

8.5 Subject to Clause 8.3 the Company shall not in any circumstances whatsoever be liable to the Client in respect of any Event of Default for the design and production of Items, loss of business or profits, or any other type of special indirect or consequential loss (including loss or damage suffered by the Client as a result of an action brought by a third party).

## 9. Indemnity

9.1 The Client accepts full responsibility for the content of the Items and accordingly the Client will fully indemnify the Company against all claims, proceedings, losses, damages, fines, costs and expenses made against or incurred by the Company and arising in any way, including as a result of the content or Publication of the Items distributed by the Company.

## 10. Force Majeure

10.1 The Company will not be liable to the Client by reason of any delay in performing or any failure to perform its obligations in relation to the Items if the delay or failure was due to any cause beyond the Company's reasonable control. In this situation the Company will undertake to distribute the Items as soon as reasonably practicable thereafter.

## 11. Payment

11.1 Pre-payment with order is required unless account facilities have previously been agreed by the Company.

11.2 In the case of account facilities being agreed, payment is due within 28 days of the date of the invoice issued by the Company in respect of the Contract.

11.3 Agency Commission is not to be deducted without prior agreement by the Company.

11.4 If the Client fails to pay all monies due to the Company on the date due the Company will be entitled to charge interest on the amount due at the rate of 4% per annum above the base rate from time to time of National Westminster Bank Plc, calculated from the due date until the date of actual payment.

## 12. Terms and Conditions

12.1 The order placed by the Client and confirmed by the Company in the Order Confirmation will be subject to these Terms and Conditions. Unless otherwise agreed in writing by the Company these Terms and Conditions shall override any terms and conditions stipulated or referred to by the Client in his order or pre-contract negotiations.

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Please note: These terms and conditions do not apply to print business, which has its own terms and conditions.