



Clear Channel UK Ltd

# General Terms and Conditions of Contract

Updated 17 September 2019

## 1. Definitions

- a) 'Advertiser' means any person firm or company who acting as a Principal gives an Order.
- b) 'Advertising' means digital advertising content and application to be provided in digital format to the Contractor to be shown on the Screens.
- c) 'Advertising Agency' means any person, firm, company or outdoor specialist recognised as an Advertising Agency by the Contractor and who acting as a Principal gives an Order.
- d) 'Advertising Airtime' means the amount of Screen time devoted to the Principal for Advertising in accordance with Clause 5 and as otherwise agreed from time to time.
- e) 'Agent' means any person firm or company appointed by a Principal to administer an Order.
- f) 'Back-up' means the static or video content supplied by the Principal to be played in the event that the Advertising has not been tested or cannot be tested in sufficient time.
- g) 'Contractor' 'CCUK' means Clear Channel UK Limited (including Storm), which accepts an Order and shall include Clear Channel UK Limited's (including Storm's) successor in title and assigns.
- h) 'Fees' means the fees referred to in the Order and such other fees as agreed between the parties to be paid in accordance with this Agreement.
- i) 'Half Month' means 14 days.
- j) 'In Charge Date' means the date from which the display shall commence as specified in the Order.
- k) 'Intellectual Property Rights' means copyright, moral rights, patents, trade marks, trade names, service marks, design rights, database rights, rights in goodwill, rights in undisclosed or confidential information (such as know-how, trade secrets), and other similar or related intellectual property rights (whether registered or not) and applications for such rights anywhere in the world.
- l) 'Materials' means any artwork assets, designs, Advertiser products, posters, digital files, PDF or JPG (for digital) proofs, posting instructions or physical components required by the Contractor to deliver the Order.
- m) 'Month' means 28 days.
- n) 'Order' means an order which incorporates these General Terms and Conditions of Contract given by an Advertiser or an Advertising agency to and accepted by the Contractor for the display of Advertising.
- o) 'Principal' means any Advertiser or Advertising Agency and shall include their successor in title and assigns who gives an order as the Principal to the Contractor and as such is liable for payment for display of Advertising.
- p) 'Screen(s)' means the screen(s) on which Advertising (digital, static or scroller) is displayed, situated at the Sites.
- q) 'Site(s)' means the Contractor advertising panel or location for the campaign or Screens.
- r) 'Specification' means the specifications provided by the Contractor to the Principal from time to time.
- s) 'Working Day' means any day being a Monday through to and including Friday of any week save for any such day which is a public or bank holiday.

## 2. Appointment

**2.1** The Principal grants CCUK a limited, non-exclusive licence to use, transmit, reproduce, distribute, perform and display in whole or in part the Advertising to allow CCUK display such Advertising on the Screens at the Sites through Advertising Airtime as provided in this Agreement.

## 3. Obligations of CCUK

**3.1** CCUK shall be responsible at its own cost for the operation, maintenance, cleaning and repair of the Screens and shall take responsibility for insurance cover in respect of the Screens. CCUK shall pay all business rates and any other outgoings arising directly from the Screens at the Sites including electricity, telecommunications and all applicable running costs incurred by operating the Screens during the Term.

**3.2** CCUK shall schedule the Advertising as mutually agreed with the Principal and shall execute any tactical content updates to the Advertising on the Screens as and when required and requested to do so with reasonable prior notice from the Principal during normal business hours or as agreed between the parties from time to time. The parties agree that for this clause 3.2, four (4) hours during business hours shall be viewed as reasonable notice. Other than provided for in this clause 3.2 CCUK shall not make any alterations to the Advertising without the prior consent of the Principal.

**3.3** Under this Agreement the parties acknowledge that CCUK is obliged to pay agency and specialist fees and commissions in accordance with the industry standard percentages. Further information on this can be located in CCUK's "Commissions" statement on its website.

## 4. Obligations of Principal

**4.1** The Principal shall be responsible for the payment of Fees in accordance with Clause 6 (and any other payments if applicable) and shall be deemed to have full authority in all matters connected with the booking of Advertising and the approval or amendment of the Advertising including without limitation if acting on behalf of a third party advertiser.

**4.2** The Principal shall bear all the risk associated with providing the Advertising to fill the Advertising Airtime and shall be liable for payment of the Fees in any event if such Advertising is not provided in accordance with this Agreement.

**4.3** The Principal shall ensure (and shall be solely liable for ensuring) that the Advertising conforms in all material aspects with all relevant codes and laws of advertising laid down whether on a statutory, legal or a self-regulatory basis (including but not limited through the ASA and OFCOM) and shall ensure that the Advertising displayed on the Screens shall not contain any material that is defamatory, offensive, libellous or blasphemous or which infringes the statutory or common law right of third parties, including without limitation, Intellectual Property Rights. The Principal will also inform Clear Channel at the time of booking if the Advertising is for the purposes of promoting an HFSS product, as measured by the Department of Health and Social Care nutrient profiling model. Clear Channel may inform the Principal if Clear Channel has any concerns in relation to the matters covered by this clause 4.3 which the Principal must promptly consider and use its best endeavours to satisfy CCUK's concerns. In any event CCUK (acting reasonably) reserves the right to refuse to display and/ or remove any Advertising during Advertising Airtime on the Screens if CCUK deems this an appropriate action or if CCUK is instructed to do so by any statutory, legal or regulatory body.

**4.4** In addition to clause 4.3, the Principal shall be responsible for obtaining and paying for all necessary licences and consents for the display of Advertising and/or any copyright material contained in the Advertising or the appearance of any person in the Advertising.

**4.5** Subject to clauses 4.1, 4.2 and 5.1, the Principal warrants, represents and undertakes that delivery of the Advertising shall be made in good time for the Advertising Airtime and such Advertising shall comply with clauses 4.3 and 4.4 above. The Principal further warrants, represents and undertakes that all Advertising shall be delivered to CCUK in strict accordance with the Specification.

**4.6** The Principal agrees that the Advertising shall not include any code, tag, image, or device of any kind which enables viewers of the Advertising to interact with the Advertising via mobile technology or other wireless means, nor shall such device be attached, affixed or installed onto or in the Screens, without CCUK's consent (which may be conditioned as CCUK considers appropriate).

## 5. Provision of Advertising Content and use of the Screens

**5.1** In the case of paper Advertising, all Materials (unless otherwise agreed in writing between CCUK and the Principal) must be delivered carriage paid at the address specified by CCUK by the deadlines set out below. All Advertising, including but not limited to applicable artwork and scheduling intentions (as set out in clause 5.4) shall be delivered to CCUK by the Principal:

(a) in the case of digital Advertising:

Number of digital creatives	Deadline
1	Not less than 3 Working Days prior to the intended display of such content.
2-10	Not less than 5 Working Days prior to the intended display of such content.
11+	At the time of booking, and in any event not less than 10 Working Days prior to the intended display of such content.

In circumstances where content requires non-standard file delivery or technical testing, the deadlines will be 15 working days, unless the parties mutually agree otherwise in writing; and

(b) in the case of paper Advertising:

Number of digital creatives	Deadline
1	Not less than 8 Working Days prior to the intended display of such content.
2-10	Not less than 10 Working Days prior to the intended display of such content.
11+	At the time of booking, and in any event not less than 15 Working Days prior to the intended display of such content.

In each case, the deadlines may only change if the parties mutually agree otherwise in writing. Notwithstanding the deadlines set out above, certain locations have unique content requirements and timings. If these are applicable to the Principal, the Principal will be informed at the time of booking. In the event that such Advertising is not delivered on time, in an incorrect format or otherwise not in accordance with the Specification then CCUK shall use reasonable endeavours to meet the display deadline but reserves the right to show the previous day's scheduling or leave vacant such advertising space. In circumstances where CCUK is able to meet the display deadline, the Principal agrees it shall be liable to pay the Fees and any additional posting fees reasonably incurred by CCUK in meeting the deadline. In circumstances where CCUK is unable to meet the display deadline, the Principal agrees it shall be liable to pay the Fees in any event.

**5.2** CCUK upon reasonable request from the Principal shall reformat any original creative work supplied by the Principal to CCUK for fees to be agreed at the relevant time. The Principal acknowledges that it may not at times be possible for CCUK to reformat such creative work in the manner which is required but CCUK shall notify the Principal of the same and both parties will act in good faith to attempt to achieve the best results possible. The Principal acknowledges and accepts that if CCUK has attempted to reformat creative work but is unable to reformat creative work in time for the scheduled display, such display may be displayed late and the fee charged for the reformatting shall not be refunded.

**5.3** When the Principal is entitled to a change of Advertising without separate charge and stipulates a time on a date upon which such change should commence CCUK shall complete such change as soon as reasonably possible from the stipulated time on the applicable date provided that CCUK has received the Advertising in accordance with Clause 5.1 above. Unless otherwise agreed by the Principal CCUK shall not commence such change before the stipulated time on the applicable date.

**5.4** It is further agreed that:

**5.4.1** The Principal must specify at the time of booking in writing its preferred schedule for the Advertising Airtime and these timings must correspond with the Specification. The Advertising shall be displayed in accordance with the times agreed between the parties. The Principal acknowledges that there may be a time delay between the Principal submitting live feed data to CCUK and CCUK receiving it, and that live data content may not be displayed immediately after submission to CCUK.

**5.4.2** (a) Without prejudice to clause 11.2, if Advertising is timely delivered by the Principal and/ or is delivered in accordance with the Specification but such Advertising cannot display in accordance with the applicable timetable and/ or at the Sites (or any one of the same) for operational reasons and if alternative options are available CCUK shall inform the Principal and offer to the Principal available substitute dates, times and/ or sites that are of a similar quality and value in CCUK's sole opinion. If the Principal refuses such substitute dates, times and/ or sites either Party may terminate this Agreement in writing in part to the extent that such affected bookings are no longer available. CCUK shall not be liable for any credits or refunds if the Principal refuses such substitute dates, times and/ or sites and elects to terminate this Agreement in part.

(b) The Principal acknowledges and agrees that there may be occasions when Storm shall be obliged to make the scheduled Site available during the Term to accommodate a complex campaign. If alternative options are available Storm shall inform the Principal and offer to the Principal available substitute dates, times and/or sites that are of a similar quality and value in Storm's sole opinion. If the Principal refuses such substitute dates, times and/or sites either Party may partially terminate this Agreement in writing solely to the extent that such affected bookings are no longer available. Storm shall not be liable to pay any credits or refunds if the Principal refuses such substitute dates, times and/or sites and elects to terminate this Agreement in part.

**5.4.3** If the Principal so requests within thirty (30) days after the last date of the display of the Advertising, CCUK will return the Advertising to the Principal at the Principal's sole cost and expense in the form that it was submitted to CCUK. If the Principal does not so request, CCUK may at its sole option (a) dispose of the Advertising at any time after such 30 day period following the last display date of the Advertising, or (b) keep such Advertising as it deems fit for CCUK's own archiving purposes.

**5.4.4** In the event of an emergency situation in CCUK's opinion or if requested by a governmental body or authority CCUK reserves the right to display public announcements on the Screens which may or may not interfere with the scheduling of Advertising agreed between the parties. If such public announcements do interfere with the Advertising scheduling, CCUK will use reasonable endeavours to either offer the Principal a suitable alternative schedule or a credit against any future display (subject to availability), at its discretion.

## 6. Payments

**6.1** The Fees are for use of Advertising Airtime and space only and do not include charges for creation, design, production and/or delivery of Advertising. All additional charges in connection with any additional services provided by CCUK shall be agreed to in writing by the parties and such matters shall be governed by the terms of this Agreement. All Fees and additional charges are exclusive of VAT which will be charged where applicable.

**6.2** Unless otherwise mutually agreed, invoices shall be sent to the Principal's address and the Principal shall pay the Fees within 30 days of CCUK's invoice, or, if required, shall pay the Fees in advance. Any queries regarding invoices must be submitted to CCUK's Accounts department in writing within 14 days of the date of the invoice.

**6.3** CCUK shall be entitled to charge interest on any amount not paid when due under this Agreement at the rate of 4% above Barclay's Bank base rate in force from time to time from the due date of payment until the actual date of payment.

**6.4** CCUK shall pay all relevant agency commission fees in accordance with Clause 3.3.

### 6.5 Cancellations

**6.5.1** For the avoidance of doubt CCUK will not accept any cancellations of Advertising display in October, November and December. The Principal will be liable for full payment for orders in these months.

**6.5.2** Subject to 6.5.1 above all Agreements and subsequent contracts may be cancelled by either party by 3 months' written notice given at any time. In the event of notice being given after the start of the 3rd month before the date on which the display is due to commence the Agreement shall then be cancellable at corresponding monthly intervals. In all cases where 3 months' notice is given by the Principal after the start of the 3rd month before the date on which the display is to commence the Principal shall pay the rate applicable to the period of display. Provided always that in the event of a Principal giving notice to cancel a display out of the timeframes specified herein CCUK 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 but more than 14 days' notice is given; and
- 100% if less than 14 days' notice is given.

**6.5.3** In all circumstances and on all occasions where Agreements have been cancelled for whatever reason CCUK reserves the right in its sole discretion to resell the Advertising Airtime to any principal without reference to any party.

**6.6** Subject always to clause 8, if applicable, if;

CCUK provides the Principal with an incorrect Specification and CCUK has not corrected such error by submitting to the Principal the correct Specification within a reasonable time to allow the Principal to ensure Advertising is delivered to CCUK in accordance with the correct Specification timely prior to display, CCUK may make available a credit to the Principal equivalent to the value of the Advertising so affected. For the avoidance of doubt, a failure in a Screen's functionality due to a third party failure to supply electricity shall not constitute a breach on the part of CCUK and no credit shall be due in this respect. In the event that the Principal is an agency acting on behalf of an advertiser, the Principal warrants and undertakes to pass such credit (if applicable) onto its client.

**6.7** The Principal must submit all claims for credit under the terms herein to CCUK in writing within 21 days following the end of the period of display noted on the relevant invoice with sufficient information to enable CCUK to consider the claim. CCUK shall not be required to consider any claim submitted after the due date. CCUK will only consider a credit claim if it has been notified of a fault or matter giving rise to a credit in accordance with the terms herein.

**6.8** CCUK does not guarantee continuous error-free display over 95% in respect of digital displays.

## 7. Warranties, Liability and Indemnity

**7.1** In addition to any other rights provided under this Agreement CCUK shall have the right to see Advertising prior to commencement of display and shall have the right to refuse to display or continuing to display any Advertising for any reason including but not limited to Advertising which does not comply in all respects with the Principal's warranties and undertakings detailed in this Agreement and/or which differs in any material respect from the Advertising specified at the time of booking or Specification or subsequently changed without the approval of CCUK.

**7.2** The Principal shall indemnify, keep fully indemnified and hold harmless CCUK against all actions, proceedings, costs, damages, expenses, penalties, claims, demands and liabilities arising from or in connection with the Principal's negligence or any breach by the Principal of this Agreement or in any manner whatsoever arising (including but not limited to any such actions, proceedings, costs, damages, expenses, penalties, claims, demands and liabilities arising from any third party claim).

## 8. Non-display of Advertising on Screens

**8.1** CCUK shall inspect any faulty or damaged Screen as soon as reasonably practicable following becoming aware of such fault or damage. CCUK agrees to act in good faith to ensure that any faulty or damaged Screen is returned to full working order as soon as is reasonably practicable. CCUK shall not be liable for any credits to the Principal for the duration that a Screen remains damaged or faulty if remedied within a reasonable period (which, for these purposes, means within 48 hours of becoming aware of the fault) or as a result of a Force Majeure Event.

### 8A. Dynamic Campaigns

In addition to the foregoing, in the event that the Advertising forms part of a dynamic campaign:

(i) The Principal shall ensure that materials such as SWF files, shall be delivered to CCUK in time to allow for 8 days of testing before the In Charge date, unless the parties agree otherwise.

(ii) The Principal shall provide suitable Back-Up materials, embedded in the relevant dynamic file, to CCUK, for display in the event of failure of the dynamic content.

(iii) The Principal undertakes to inform CCUK of the scope of the campaign and to keep CCUK informed of any changes to the scope and detail of the campaign and provide CCUK with such details relating to the campaign as it may request to enable CCUK to deliver the agreed Order. If the Principal should wish to change the scope or detail of the campaign, it shall discuss such changes with CCUK, giving CCUK at least 8 Working Days' notice in accordance with 5.1 above.

(iv) In the event that the Principal wishes to be responsible for moderating any material displayed on the Screens, the Principal undertakes to sign CCUK's form of moderation agreement;

The Principal acknowledges and agrees that CCUK has no control over elements to a dynamic campaign which are provided by third parties, such as data sources and data communications providers and that CCUK shall not be liable for any failures to the Advertising or display arising out of failures from such third party sources.

## 9. Termination

**9.1** CCCUK may terminate this Agreement by giving written notice to the Principal if the Principal commits any material breach of any of the provisions of this Agreement and either:

**9.1.1** the breach is not capable of remedy; or

**9.1.2** if the breach is capable of remedy (including but not limited to where the Principal has failed to pay the Fees within the required time periods), and the Principal fails to remedy it within 3 days after receiving a written notice from CCUK containing full particulars of the material breach requiring it to be remedied.

**9.2** CCUK may terminate this Agreement immediately if CCUK is required to do so pursuant to any agreements it has with any superior or head landlord or any other applicable third party.

**9.3** If during this Agreement any Screen at any Site shall be validly declared by any government, planning, health and safety, traffic or judicial authority to be illegal then in the event that within a period of 7 days of receipt by the Principal from CCUK of written notice of such declaration the parties fail to agree a variation of the terms of this Agreement which, in the sole opinion of CCUK both cures the illegality and preserves the commercial viability of the Agreement, then CCUK may without liability terminate the Agreement by notice in writing to the Principal.

**9.4** Either party may terminate this Agreement forthwith by notice in writing to the other party if the other party enters into liquidation or dissolution otherwise than for the purpose of an amalgamation or reconstruction, save in circumstances approved by the first party; or the other party ceases to carry on business, has a receiver or administrator appointed over all or any part of its assets or undertakings, enters into any competition or arrangement with its creditors or takes or suffers any similar action in consequence of a debt or other liability.

**9.5** Termination of this Agreement by either party and for any reason shall be without prejudice to any rights that may have accrued as at the date of such termination.

## 10. Confidentiality

**10.1** During the period of this Agreement the parties shall use all reasonable endeavours to ensure that the details of this Agreement and any proprietary information or confidential information relating to the business, products, accounts, finance or contractual arrangements or other dealings, transactions, Intellectual Property Rights, technical information or trade secrets of the other party is not disclosed to any other person, firm or corporation.

## 11. General

**11.1** Force Majeure: Any delay or failure by either Party to perform hereunder as a result of employment dispute, law, government action or order, acts of God, acts of terrorism or results thereof, or other causes beyond the Principal's or CCUK's reasonable control as shall be applicable will not constitute a breach of this Agreement, provided that the affected Party shall notify the other promptly and use all reasonable endeavours to resolve such cause preventing performance. In the event such affected Party is unable to perform its obligations within three months of the date such cause arises, either Party shall be entitled to terminate this Agreement immediately on written notice to the other without liability or giving rise to any claim in this regard.

**11.2** The parties hereby acknowledge and agree that:

**11.2.1** CCUK's obligations hereunder are expressly subject to and subordinate to the terms and conditions of any applicable ground lease, licence, permits and other similar underlying agreements and rights held by CCUK and to applicable English laws and regulations (including without limitation advertising and planning regulations); and

**11.2.2** The Screens shall at all times be the sole property of CCUK, and the Principal hereby disclaims any rights whatsoever to make any claim against the same. Notwithstanding anything to the contrary herein, CCUK may at any time undertake such renovation, refurbishment or similar activity on the Screens as CCUK considers appropriate without any liability to the Principal. Other than CCUK's obligations to display the Advertising as set forth herein, the Principal shall have no right whatsoever to approve or control the form or content of any other unrelated advertising content or materials on the Screens or any other CCUK property.

**11.3** The Principal shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Foreign Corrupt Practices Act of 1977 and Bribery Act 2010 ("Relevant Requirements"). At any time when requested by CCUK, a director of the Principal (or the Principal if the Principal is not a company) shall certify in writing that the Principal is and has at all times been in compliance with all Relevant Requirements. The Principal may cancel this Agreement or terminate an agreement with the Principal immediately by giving written notice to the Principal if the Principal is, or CCUK reasonably suspects that the Principal is, in breach of this clause.

**11.4** If the Principal is an agency, it shall not assign this Agreement except to another agency which succeeds to its business of representing the advertiser and provided the successor agency assumes all the Principal's obligations hereunder. If the Principal is an advertiser not acting through an agency, it shall not assign this Agreement nor shall the Principal be substituted by an agency or advertiser to another advertiser, it being acknowledged and agreed that this Agreement is personal to the Principal.

**11.5** No failure, delay or neglect by either party to enforce at any time any provision of this Agreement shall be construed as, nor shall it be deemed a waiver of, that party's right in respect of such provision nor shall it in any way affect the validity of this Agreement nor prejudice that party's rights to take any subsequent action.

**11.6** Except where provided for in this Agreement no variation to this Agreement shall be binding on either party unless in writing and agreed between both parties.

**11.7** No person who is not a party to this Agreement shall be entitled to enforce any of its terms pursuant to the Contracts (Rights of Third Parties) Act 1999 nor shall the consent of any third party be required in respect of any amendment to be made to this Agreement agreed between the parties.

**11.8** Any notice to be given under this Agreement shall be in writing unless the parties mutually agree otherwise and shall be deemed to be effectively served if sent by first class registered post to the Principal and to CCUK at their respective registered offices.

**11.9** This Agreement contains the entire agreement and understanding of the parties and supersedes all prior agreements, understandings or arrangements (both oral and written) relating to the subject matter of this Agreement.

**11.10** This Agreement shall be governed and construed in accordance with the laws of England and the parties hereby agree to submit to the exclusive jurisdiction of the courts of England.