

# Terms & Conditions

Last Updated Thursday, 25 August 2016

## 1 Definitions and Interpretation

1.1 In this Agreement the following terms shall have the following meanings

"Buyer" means the buyer identified on the Order Form (whether such person be the advertiser of the product or service promoted by the Website Advertisement or its agency or media buyer);

"Order Form" means Baltic Publications Ltd Website Advertising Order Form completed by the Buyer and accepted by BPL and the Buyer;

"Price" means the price specified in the Order Form;

"Term" means the term specified in the Order Form;

"BPL" means Baltic Publications Ltd a limited company incorporated in England and Wales under company number 4538895 and having a registered office at Baltic Business Centre, Saltmeadows Road, Gateshead, Tyne and Wear, NE8 3DA, United Kingdom;

"Website" means the website at the domain name [www.pathfinderinternational.co.uk](http://www.pathfinderinternational.co.uk);

"Website Advertisement" means the advertisement(s) detailed in the Order Form and provided to BPL by the Buyer

1.2 Headings are included for convenience only and shall not affect the construction or interpretation of this Agreement.

1.3 Any reference in this Agreement to any statute, law, statutory instrument or other similar instrument having the force of law shall be deemed to include any lawful amendment, re-enactment, extension, replacement, modification, consolidation and/or repeal thereof.

1.4 Any reference to a person shall, unless the context otherwise requires, include natural persons, firms, partnerships, corporate bodies, unincorporated bodies, corporations, associations and all other legal persons of whatever kind howsoever construed.

## 2 Scope of Agreement

2.1 In consideration of the Price, BPL shall arrange for the display of the Website Advertisement on the Website during the Term.

2.2 The Buyer will provide all materials for the Website Advertisement in accordance with BPL's policies in effect from time to time including, without limitation, the manner of transmission. BPL shall not be obliged to publish any Website Advertisement that is not received in accordance with such policies.

2.3 The Buyer grants to BPL a non-exclusive, worldwide, royalty-free licence to use, reproduce, display, transmit and distribute the Website Advertisement on the Website in accordance with these Terms and Conditions.

2.4 The Buyer may request anonymous aggregate information about the users of the Website. BPL, in their sole discretion, may provide such sample data for the purpose of helping the Buyer to reach a target audience.

## 3 Buyer Warranty and Indemnity

3.1 The Buyer warrants and represents that:

3.1.1 it contracts with BPL as a principal, notwithstanding that the Buyer may be acting as an agent or media buyer or in some other representative capacity for any third party;

3.1.2 the publication of the Website Advertisement (whether as originally submitted or amended pursuant to this Agreement) will not breach any contract or infringe any intellectual property rights of any third party;

3.1.3 The Website Advertisement (whether as originally submitted or amended pursuant to this Agreement) does not contain anything that is defamatory, libellous or which could incite racism or violence or render BPL liable to any other proceedings whatsoever;

3.1.4 It has obtained the authority of any living person named, represented or otherwise identified in the Website Advertisement to make use of such name or representation;

3.1.5 The Website Advertisement is accurate, complete, true and not misleading;

3.1.6 The Website Advertisement is legal, decent, honest and truthful and complies with the British Codes of Advertising and Sales Promotion and all other relevant advertising and trade association codes in any jurisdiction;

3.1.7 In relation to any investment Website Advertisement, the Buyer is, of the contents of the Website Advertisement have been approved by, an authorised person within the meaning of the Financial Services and Markets Act 2000 or the Website Advertisement is otherwise permitted under the Act; and

3.1.8 The Website Advertisement complies with the requirements of all relevant laws and legislation for the time being in force or applicable in any jurisdiction.

3.2 The Buyer will fully indemnify and hold BPL harmless from and against any and all losses damages, claims, costs and expenses (including, without limitation, legal expenses) suffered, incurred or awarded against BPL as a result of or in connection with any breach of non-performance of the representations, warranties or other terms contained in this Agreement or implied by law.

#### 4 Website Advertisement Quality Control

4.1 Except as otherwise expressly provided in the Order Form, the positioning of the Website Advertisement on the Website is at BPL's sole discretion.

4.2 It is the responsibility of the Buyer to check the correctness of the publication of the Website Advertisement. BPL assumes no responsibility for any error, misprint, or omission in any Website Advertisement unless the same is due to the error or omission of BPL.

4.3 Upon receiving notice of an error, misprint or omission BPL will, where such error, misprint or omission is due to the error or omission of BPL, use its reasonable endeavours to resolve the error, misprint or omission as soon as reasonably practicable.

4.4 BPL reserves the right to require to be amended the Website Advertisement to comply with the warranties at clause 3 or to comply with any legal or regulatory obligations placed upon BPL.

4.5 BPL reserves the right at its sole discretion to decline to publish or suspend publication of any Website Advertisement otherwise accepted for insertion.

4.6 BPL reserves the right to refuse to publish any Website Advertisement which it otherwise finds offensive or inappropriate. In determining whether this is the case BPL has the right but not the obligation to look at various aspects of the conduct of the Buyer with a view to ensuring that:

4.6.1 the right of privacy and confidentiality of users of the Website is respected;

4.6.2 no advantage is taken of children or young people in sales promotions;

4.6.3 due regard has been taken to safety precautions so as to avoid harm or risk to users of the Website;

4.6.4 users of the Website are not misled (with particular regard to the British Code of Advertising Practice);

4.6.5 promotional products or services are of satisfactory standards of safety, durability and performance;

4.6.6 promotional products or services do not give offence, nor are they socially undesirable;

4.6.7 consumers are not led to overestimate the quality or desirability of promotional products or services;

4.6.8 the terms of promotion are clear, complete and easy to understand;

4.6.9 the rules as to entry, qualification and conduct of users of the Website are correctly detailed;

4.6.10 any limitation of supply of products must be clear and fulfilment not be qualified by unfair clauses; and

4.6.11 promotions are carried out with adequate resources under proper supervision.

4.7 BPL reserves the right to refuse to publish any Website Advertisement linking to sites which it deems inappropriate or offensive. BPL reserves the right in its sole discretion to determine which sites it is not prepared to be linked to.

## 5 Payment

5.1 Unless specified otherwise in the Order Form, the Price is exclusive of any applicable taxes. BPL shall be entitled to invoice the Buyer for the Price from the date the Order Form is received by BPL and the Price shall be paid in full to BPL before the Website Advertisement will be posted.

5.2 If the Buyer fails to pay the Price by the due date then, without limit to its other rights or remedies under this Agreement, BPL shall at its sole discretion have the right to cease to publish the Website Advertisement until payment in full has been received.

5.3 BPL reserves the right to change its scale of rates in respect of Website Advertisement at any time on thirty (30) days notice to the Buyer.

5.4 No refund of the Price shall be payable in any circumstances.

## 6 Confidentiality & Data Protection

6.1 Each party shall keep confidential the information of the other marked as confidential or which by its nature is confidential obtained under or in connection with this Agreement.

6.2 The parties each agree to abide by the terms of the Data Protection Act 1998 and all other similar legislation in any applicable jurisdiction.

## 7 Liability

7.1 Unless specified otherwise in the Order Form, BPL makes no warranties, representations or guarantees with respect to levels of usage of the Website or responses to the Website Advertisement.

7.2 The Price reflects the following limitations and exclusions of liability that the parties acknowledge and agree are reasonable.

7.3 Save as provided in clauses 7.4 and 7.5, BPL's total aggregate liability in respect of all causes of action arising out of or in connection with this Agreement (whether for breach of contract, strict liability, tort (including, without limitation, negligence), misrepresentation or otherwise) shall not exceed the Price.

7.4 BPL shall not be liable for any claim to the extent that the claim relates to loss of profits, goodwill, anticipated savings, business opportunity, data or use of data, injury to reputation, third party losses or indirect, consequential or special loss or damage regardless of the form of action, whether in contract, strict liability or tort (including negligence) and regardless of whether BPL knew or had reason to know of the possibility of the loss, injury or damage in question.

7.5 Nothing in this Agreement will restrict either party's liability:

7.5.1 for death or personal injury resulting from negligence;

7.5.2 for fraud or fraudulent misrepresentation;

7.5.3 under the indemnity at clause 3.2;

or for any other liability the exclusion or limitation of which is not permitted by English law.

## 8 Force Majeure

Save in respect of payment obligations, neither party shall be liable to the other for any failure or delay in the performance of its obligations under this Agreement to the extent that such failure or delay arises due to reasons beyond that party's reasonable control (including, but not limited to, network difficulties, down-time and interruption and electronic malfunction) provided always that the party so affected promptly notifies the other in writing of the cause and likely duration of the failure or delay.

## 9 Cancellation, Renewals and Termination

9.1 Unless specified otherwise in the Order Form, the Buyer may not cancel any Order Form once accepted by BPL.

9.2 Unless specified otherwise in the Order Form, the renewal of the Order Form and acceptance of any additional Order Forms shall be at BPL's sole discretion.

9.3 BPL shall be entitled to terminate this Agreement forthwith upon notice in writing to the Buyer if the Buyer commits a material breach of this Agreement and, where the breach is capable of remedy, has failed to remedy such breach within thirty (30) days of written notice requiring its remedy.

9.4 Save as provided below, each party's rights, liabilities and obligations under this Agreement shall cease upon this Agreement's termination or expiration.

## 10 Intellectual Property

10.1 Except as provided in this Agreement, BPL retains all right, title and interest in and to the content of the Website, including without limitation copyrights, trademarks, and other intellectual property rights.

10.2 The Buyer retains all rights, title and interest in and to the Website Advertisement, including without limitation, copyrights, trademarks, database rights and other intellectual property rights.

## 11 General

11.1 BPL may assign, transfer, mortgage, charge, sub-contract, sub-licence or otherwise dispose of the whole or any part of this Agreement without the prior written consent of the Buyer.

11.2 Any notice or written communication given under or in relation to this Agreement shall be given in writing and shall be delivered by hand (in which case it shall be deemed to be given at the time of delivery) or sent by special delivery post (in which case it shall be deemed to be given on the second day after posting) to the other party at its address set out in this Agreement or to such other address as it has previously notified to the sending party in writing.

11.3 The remedies available to the parties under this Agreement shall not limit or exclude any other rights that either party may have against the other.

11.4 The failure or delay of either party to enforce or to exercise, at any time or for any period of time, any term of or any right, power or privilege arising pursuant to this Agreement does not constitute and shall not be construed as a waiver of such term or right and shall in no way affect either party's right later to enforce or exercise it, nor shall any single or partial exercise of any remedy, right, power or privilege preclude any further exercise of the same or the exercise of any other remedy, right, power or privilege.

11.5 The invalidity or unenforceability of any provision of or any part of a provision of or any right arising pursuant to this Agreement shall not affect in any way the remaining provisions or rights, which shall be construed as if such invalid or unenforceable part did not exist.

11.6 This Agreement shall apply to the subject matter of this agreement to the exclusion of all other terms and

conditions, including any terms and conditions the Buyer may purport to apply under any purchase order, confirmation of order or any similar document or by virtue of any previous dealings with BPL.

11.7 This Agreement contains all the terms agreed by the parties relating to its subject matter and supersedes any prior agreements, understandings or arrangements between them, whether oral or in writing. No representation, undertaking or promise shall be taken to have been given or implied from anything said or written in negotiations between the parties prior to this Agreement except as set out in this Agreement. Each party acknowledges and accepts that, in entering into this Agreement, it has not relied upon any representation, undertaking or promise except as set out herein.

11.8 No variation of or amendment to this Agreement or any Order Form shall be effective unless made in writing and signed by authorised representatives of the parties.

11.9 Nothing in this Agreement shall confer any right or benefit upon any person who is not a party to it whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

11.10 This Agreement is governed by English law and the parties hereby accept the exclusive jurisdiction of the English courts.