



**sourcingfocus.com**  
**Advertising Terms and Conditions**

# Advertising Terms and Conditions

Please read these website Advertising Terms carefully before applying to become a sourcingfocus.com Advertiser, as they set out our and your legal rights and obligations in relation our Advertising Services. You will be asked to agree to these Website Advertising Terms before becoming an Advertiser.

You should print a copy of these Website Advertising Terms for future reference. We will not file a copy specifically in relation to you, and they may not be accessible on our website in future.

These Website Advertising Terms are available in the English language only.

If you have any questions or complaints about our Advertising Services please contact us by writing to sourcingfocus.com, 44 Wardour Street, London W1D 6QZ or by email to [Editor@sourcingfocus.com](mailto:Editor@sourcingfocus.com)

## 1. Definitions and interpretation

### 1.1 In the Agreement:

**“Acceptance Email”** means an email sent by the Publisher in accordance with Clause 2.3 confirming that an applicant has been accepted as an Advertiser;

**“Advertiser”** means the person (natural or legal) specified as the applicant for our Advertiser Services on contract;

**“Advertiser Content”** means the advertisements and other content submitted by the Advertiser to the Publisher for publication on the Website;

**“Advertising Services”** means the advertising services which the Advertiser has selected and which are outlined in the contract;

**“Affiliate”** means a company, firm or individual that Controls, is Controlled by, or is under common Control with the relevant company, firm or individual;

**“Agreement”** means the agreement between the Publisher and the Advertiser incorporating these Website Advertising Terms, the Registration Form and the Acceptance Email, and any amendments to it from time to time;

**“Business Day”** means any week day, other than a bank or public holiday in England;

**“Business Hours”** means between 09:00 and 17:30 on a Business Day;

**“Charges”** means the amounts payable by the Advertiser to the Publisher under or in relation to the Agreement (as set out [on the Website] [in the Registration Form]);

**“Control”** means the legal power to control (directly or indirectly) the management of an entity (and **“Controlled”** will be construed accordingly);

**“Effective Date”** has the meaning given to it in Clause 2.3.

**“Force Majeure Event”** means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of or problems with the internet or a part of the internet, hacker attacks, virus and other malicious software attacks and infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

**“Intellectual Property Rights”** means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application for such rights (and the “intellectual property rights” referred to above include copyright and related rights, moral rights, database rights, confidential information, trade secrets, know-how, business names, trade names, domain names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

**“Prohibited Content”** means:

- (a) pornographic or lewd material;
- (b) material which breaches any applicable laws, regulations or legally binding codes, or breaches the Committee on Advertising Practice Code, or infringes any third party Intellectual Property Rights or other rights; and
- (c) material which is likely to cause annoyance, inconvenience or anxiety to another internet user;

**“Publisher”** means Buffalo Communications, a limited company having its registered offices at 44 Wardour Street, London W1D 6QZ bearing registration number 2944908

**“Registration Form”** means the HTML form on the Website enabling users to apply to become Advertisers;

**“Term”** means the term of the Agreement; and

**“Website”** means the website at [www.sourcingfocus.com](http://www.sourcingfocus.com) and any successor website operated by the Publisher from time to time.

- 1.2 In the Agreement, a reference to a statute or statutory provision includes a reference to:
  - (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
  - (b) any subordinate legislation made under that statute or statutory provision.
- 1.3 The Clause headings do not affect the interpretation of the Agreement.
- 1.4 The ejusdem generis rule is not intended to be used in the interpretation of the Agreement; it follows that a general concept or category utilised in the Agreement will not be limited by any specific examples or instances utilised in relation to such a concept or category.

## **2. The Agreement**

- 2.1 In order to apply to become an Advertiser, the applicant must complete and submit the contract.
- 2.2 If the applicant makes any input errors during the order process, these may be identified and corrected by the applicant before the contract is submitted by email or written acknowledgement.
- 2.3 The Agreement will come into force if and when the Publisher sends to the Advertiser the Acceptance Email following the submission of a completed contract by the Advertiser (the **“Effective Date”**).
- 2.4 The Agreement will continue in force indefinitely, unless and until terminated in accordance with Clause 8

OR

until the completion of all Advertising Services, upon which it will terminate automatically, unless terminated earlier in accordance with Clause 8

### **3. Advertising Services**

- 3.1 During the Term, the Publisher will provide the Advertising Services to the Advertiser.
- 3.2 The Advertiser grants to the Publisher a non-exclusive, worldwide, royalty-free licence to publish the Advertiser Content on the Website as contemplated by the Agreement.
- 3.3 The Advertiser warrants and undertakes:
- (a) to ensure that all Advertiser Content is accurate and fair;
  - (b) to ensure that Advertiser Content does not consist of, contain, or link to any Prohibited Content;
  - (c) promptly edit or remove any Advertiser Content which ceases to be accurate and fair, or becomes Prohibited Content, for whatever reason; and
  - [(d) to ensure that the Advertiser Content is of a quality commensurate with the content published on the Website generally.
- 3.4 The Publisher will use reasonable endeavours to maintain the availability of the Website and the availability of the published Advertiser Content during the relevant period (subject to scheduled maintenance and any Force Majeure Event affecting the Publisher or the Publisher's appointed hosting service provider) but the Publisher does not guarantee 24/7 availability.
- 3.5 The Publisher reserves the right to suspend the publication of any Advertiser Content or remove any Advertiser Content from the Website at any time where it reasonably determines that the content breaches this Clause 3.

### **4 Charges and payment**

- 4.1 The Publisher will issue invoices for the Charges to the Advertiser.
- 4.2 The Advertiser will pay the Charges to the Publisher within 30 days of the date of an invoice issued in accordance with Clause 4.1. Invoices are sent when the contract has been signed and received by the Publisher.

OR

- 4.3 The Advertiser must pay the Charges upon receipt of the Acceptance Email if specified before the signing of the contract
- 4.4 The Publisher will issue an invoice for the Charges upon receipt of payment in cleared funds.
- 4.5 All Charges stated in or in relation to the Agreement are stated exclusive of VAT, unless the context requires otherwise.
- 4.6 If the Advertiser does not pay any amount properly due to the Publisher under or in connection with the Agreement, the Publisher may:
- (a) charge the Advertiser interest on the overdue amount at the rate of 8% per year above the base rate of HSBC Bank Plc from time to time (which interest will accrue daily until the date of actual payment, be compounded quarterly, and be payable on demand); or

- (b) claim interest and statutory compensation from the Advertiser pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

## **5 Warranties**

- 5.1 The Advertiser warrants to the Publisher that it has the legal right and authority to enter into and perform its obligations under the Agreement.
- 5.2 The Publisher warrants to the Advertiser:
  - (a) that it has the legal right and authority to enter into and perform its obligations under the Agreement;
  - (b) that it will perform the Advertising Services under the Agreement with reasonable care and skill.
- 5.3 All of the parties' liabilities and obligations in respect of the subject matter of the Agreement are expressly set out in the terms of the Agreement. To the maximum extent permitted by applicable law, no other terms concerning the subject matter of the Agreement will be implied into the Agreement or any related contract.

## **6. Indemnity**

The Advertiser will indemnify the Publisher and will keep the Publisher indemnified against all damages, losses and expenses (including legal expenses) arising as a result of any breach by the Advertiser of Clause 3.3 of the Agreement.

## **7. Limitations and exclusions of liability**

- 7.1 Exclusions and limitations of liability in UK B2B contracts are primarily regulated by the Unfair Contract Terms Act 1977 ("UCTA").
  - (a) limit or exclude the liability of a party for death or personal injury resulting from negligence;
  - (b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party;
  - (c) limit any liability of a party in any way that is not permitted under applicable law; or
  - (d) exclude any liability of a party that may not be excluded under applicable law.
- 7.2 The limitations and exclusions of liability set out in this Clause 7 and elsewhere in the Agreement:
  - (a) are subject to Clause 7.1;
  - (b) govern all liabilities arising under the Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty.
- 7.3 The Publisher will not be liable in respect of any loss of profits, income, revenue, use, production or anticipated savings.
- 7.4 The Publisher will not be liable for any loss of business, contracts or commercial opportunities.
- 7.5 The Publisher will not be liable for any loss of or damage to goodwill or reputation.
- 7.6 The Publisher will not be liable in respect of any loss or corruption of any data, database or software.

- 7.7 The Publisher will not be liable in respect of any special, indirect or consequential loss or damage.
- 7.8 The Publisher will not be liable for any losses arising out of a Force Majeure Event.
- 7.9 The Publisher's liability in relation to any event or series of related events will not exceed the greater of:
- (a) the total amount paid or (if greater) payable by the Advertiser to the Publisher under the Agreement.
- 7.10 The Publisher's aggregate liability under the Agreement [and any collateral contracts] will not exceed the greater of:
- (a) the total amount paid or (if greater) payable by the Advertiser to the Publisher under the Agreement.

## **8. Termination**

- 8.1 Either party may terminate the Agreement at any time by giving at least 30 days written notice of termination to the other party.
- 8.2 Either party may terminate the Agreement immediately by giving written notice to the other party if the other party:
- (a) commits any material breach of any term of the Agreement, and:
    - (i) the breach is not remediable; or
    - (ii) the breach is remediable, but the other party fails to remedy the breach within 30 days of receipt of a written notice requiring it to do so; or
  - [(b) persistently breaches the terms of the Agreement.
- 8.3 Either party may terminate the Agreement immediately by giving written notice to the other party if:
- (a) the other party:
    - (i) is dissolved;
    - (ii) ceases to conduct all (or substantially all) of its business;
    - (iii) is or becomes unable to pay its debts as they fall due;
    - (iv) is or becomes insolvent or is declared insolvent; or
    - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
  - (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
  - (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement); or

- (d) (where that other party is an individual) that other party dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.

## **9. Effects of termination**

- 9.1 Upon termination all the provisions of the Agreement will cease to have effect, save that the following provisions of the Agreement will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses 1, 4.5, 6, 7, 9 and 10.3 to 10.10.
- 9.2 Termination of the Agreement will not affect either party's accrued rights (including accrued rights to be paid) as at the date of termination.
- [9.3 If the Agreement is terminated by the Publisher under Clause 8.1, the Advertiser will be entitled to a refund of any amounts paid to the Publisher in respect of Advertising Services which were to have been provided after the effective date of termination. Such amount will be calculated by the Publisher using any reasonable methodology. Save as provided in this Clause 9.3, the Advertiser will not be entitled to any refunds or release from any liability to pay Charges (whether or not invoiced) upon the termination of the Agreement.

## **10. General**

- 10.1 Any notice given under the Agreement must be in writing (whether or not described as "written notice" in the Agreement) and must be delivered personally, sent by pre-paid first class post, or email for the attention of the relevant person, and to the relevant address below

Buffalo Communications  
Sourcingfocus.com  
44 Wardour Street  
London W1D 6QZ

- 10.2 A notice will be deemed to have been received at the relevant time set out below (or where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below):
  - (a) where the notice is delivered personally, at the time of delivery;
  - (b) where the notice is sent by first class post, 48 hours after posting; and
  - (c) where the notice is sent by email, at the time of the transmission (providing the sending party retains written evidence of the transmission).
- 10.3 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.
- 10.4 If a Clause of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of the Agreement will continue in effect. If any unlawful and/or unenforceable Clause would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the Clause will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant Clause will be deemed to be deleted).
- 10.5 The Agreement may not be varied except by a written document signed by or on behalf of each of the parties.
- 10.6 The Publisher may freely assign its rights and obligations under the Agreement without the Advertiser's consent [to any Affiliate of the Publisher or any successor to all or substantial part of the business of the Publisher from time to time]. Save as expressly provided in this Clause or elsewhere in the Agreement, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise dispose of or deal in the Agreement

or any rights or obligations under the Agreement.

- 10.7 The Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party.
- 10.8 The Agreement constitutes the entire agreement and understanding of the parties in relation to the subject matter of the Agreement, and supersedes all previous agreements, arrangements and understandings between the parties relating to the subject matter of the Agreement. Subject to Clause [7.1], each party acknowledges that no representations or promises not expressly contained in the Agreement have been made by or on behalf of the other party.
- 10.9 The Agreement will be governed by and construed in accordance with the laws of England and Wales] and the courts of England] will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Agreement.