

Focus Magazines Limited Terms & Conditions 2020



PLEASE READ THE FOLLOWING NOTES AND CONDITIONS CAREFULLY AS THE CONDITIONS WILL FORM THE BASIS OF THE CONTRACT FOR ADVERTISING IN FOCUS MAGAZINES. YOU SHOULD ONLY ORDER ADVERTISING FROM US IF THE CONDITIONS ARE ACCEPTABLE TO YOU.

1. THE CONTRACT

When you order Services from us, you enter into a Contract with us. The Contract is made up of a) these Conditions, b) the commercial terms contained in your request to purchase, as re-stated in the *Order Confirmation*.

2. DEFINITIONS

"Advertisement" means the advertisements you have agreed to purchase from us, as referred to on the *Order Confirmation*

"Amendment" means a change to the Content of an Advertisement.

"Artwork" means material suitable for our production purposes and containing the Content of an Advertisement.

"Block Booking" means advertisements running in no fewer than 2 consecutive publications of South Powys Focus and no fewer than 4 consecutive publications of Abergavenny Focus.

"Order Confirmation" means a document or electronic communication that we issue to you to confirm acceptance of your request to purchase an Advertisement.

"Client" means the person, company or other organisation who offers to purchase one or more Services or a person, company or other organisation who or which enters into a Contract with Focus Magazines Ltd. for the provision of Services; and "your" shall have a corresponding meaning.

"Content" means any and all of the text, graphics, images, logos, photographs, layout, design, shading and colouration constituting or intended to be included in an Advertisement.

"Contract" means a contract between Focus Magazines Ltd and you, the Client. Each Advertisement and the production of each piece of Artwork shall be treated as a separate Contract.

"Copy Deadline" means the latest date by which you may request an Amendment, which will be communicated in your *Order Confirmation* and on a monthly basis thereafter. We may change the Final Amendment Date on reasonable grounds.

"Focus Magazine" means any printed magazine published by Focus Magazines Ltd.

"Subscription" and **"Ongoing Agreement"** means an agreement between Focus Magazines Ltd. and the Client to run their agreed

advertisement in consecutive issues of any Focus Magazine for no fewer than 6 issues in *Abergavenny Focus* and or 3 issues in *South Powys Focus* and until further notice, as communicated by the Client.

"Proprietary Material" means any of your (or a third party's) copyright material, brand names, trade or service marks, devices or logos.

"Promotional Advertisement" means an Advertisement booking that has been made as part of a promotional package, which may be subject to alternative and or additional terms and conditions.

"Services" means the services to be performed by Focus Magazines Ltd. in accordance with a contract.

Words denoting the singular include the plural and vice versa. The headings in these Conditions are for convenience only and shall not affect the interpretation. Reference to any statute or statutory provision includes reference to the statute or statutory provision as from time to time amended, extended or re-enacted.

3. COMMENCEMENT

3.1 Your Contract shall come into effect once we have sent you an *Order Confirmation*. You do not need to respond to the order confirmation in order to accept our terms and conditions, however if you wish to cancel upon receipt of this, you will need to do so at least 72 hours prior to the copy deadline date so that we may re-sell the space.

4. AMENDMENTS, ORDER CHANGES AND CANCELLATIONS

4.1 Amendment / Order Change by the Client:

4.1.1 The Client may request an Amendment or an Order Change at any time before the Copy Deadline. You may elect to either telephone or email requests for an Amendment.

4.1.2 If an Order Change is not accepted by us (for example, if the Copy Deadline date has passed) then we shall proceed with the publication of the previously ordered Services unless such Services have been cancelled in accordance with these Conditions.

4.1.2 Updates to copy and/or artwork that are requested after the Copy Deadline may incur additional fees.

4.2 Cancellation by You

4.2.1 In addition to any statutory rights you may have, you may apply to cancel an Advertisement at least and no fewer than 72 hours prior to the Copy Deadline Date by giving notice in writing by letter or email. Any advertisement cancellations received within 72 hours of the Copy Deadline will be subject to charges equivalent to

50% of the booking for that issue/s.

4.2.2 Any advertisement cancellations received after the Copy Deadline will be subject to charges equivalent to 100% of the booking

4.2.3 If we change these Conditions, change a Service or change our Contract with you, you may apply within fourteen (14) days of receipt of the notice to cancel your Advertisements without charge.

4.2.4 Except where you have a statutory right to cancel, no Advertisement shall be taken to have been cancelled until we have issued a Confirmation of Order accepting the cancellation.

4.3 Amendment by us

4.3.1 We may change these Conditions from time to time. A change will be effective immediately upon publication of the amended Conditions.

4.3.2 We may change any aspect of the Services from time to time. Such changes may include the area of coverage and distribution of Focus magazines; the title, font, format, type, look and feel and/or size of any Focus magazine; our advertisement policies and the range of available Advertisement types. If we reasonably consider that such a change is likely to have a serious detrimental financial effect on you, then we will notify you of such change but shall not otherwise be obliged to inform you.

4.4 Cancellation by us

4.4.1 We may remove any Advertisement or refrain from proceeding with any other Advertisement you have ordered and/or refuse any further Advertisement ordered without penalty and with immediate effect if:

a. You, The Client fail to pay when it is due any sum payable under any agreement between The Client and Focus Magazines Ltd., and such sum remains outstanding.

b. you commit a material breach of any provision of the Contract

c. you fail to provide Content that is compliant with your obligations set out in these terms or you fail to approve a proof sent to you.

4.4.2 We may cancel any Contract (in whole or in part) without penalty by giving you not less than fourteen (14) days' notice in writing, to expire at any time before the proposed publication date of the Focus magazine concerned.

5. CHARGES AND PAYMENT

5.1 The charge for each Advertisement or for Artwork (or the total charge for a number of Advertisements and Artwork) shall be as communicated to you at the point that you order any Advertisement and communicated in your *Order Confirmation*.

5.2 Unless otherwise agreed in writing,

payment in full shall become due and payable from you on demand. We shall be entitled to charge you interest on overdue payments at the rate of 1.5% or the maximum allowed by law. Interest shall accrue on a daily basis from the date the payment became due until you make payment of the overdue amount.

5.4 Unless you tell us otherwise, we will send your invoice via Royal Mail to a designated postal address or via email in PDF format.

6. OUR OBLIGATIONS

6.1 We will, subject to these Conditions:

6.1.1 publish the applicable Advertisements within the appropriate Focus magazine.

6.1.3 distribute the Focus magazines.

6.2 In respect of a Contract for the design and/or production of Artwork, we grant you a non-exclusive, non-transferable licence to use Artwork in the Advertisements for publication in Focus magazines published by us. You must not use the Artwork for any other purpose, unless you have prior written consent to do so. Should you wish to reproduce the advertisement in any other publication, permission will be required and may incur a release fee.

6.2.2 we will ensure that Artwork will be available in sufficient time for inclusion in the Advertisement and will be suitable for our production processes.

6.3 We do not give any warranty, condition or undertaking whatsoever as to the delivery date of any issue or the duration of the lifetime of any Focus magazine.

6.4 Reproduction Quality

6.4.1 Proofs that may be issued by us will be digital on-screen images and, as such there may be some variation between the colour and shading shown in any proof and the version as printed in the magazine. Similarly, there may occasionally be some colour and tonal variation between adjacent pages in the same magazine. In the case of a double page spread Advertisement, we do not warrant the alignment of the two pages. In any event, we will not have any liability for any degraded definition, colour variation, alignment imperfections, or inaccurate page cropping no matter how they may occur.

7. YOUR OBLIGATIONS

7.1 Materials to be provided

7.1.1 you shall supply to us materials as may be required by us to publish the Advertisement. Such materials must be of a quality suitable for our use and must be delivered in sufficient time to suit our production requirements for each Focus magazine concerned.

7.1.2 We shall not be obliged to publish any Advertisement for which you have failed to provide the materials at the correct time or have provided materials of an unsuitable quality. If we do publish such an Advertisement, we will do so based on the information available to us at the Copy Deadline and we will have no liability to you in respect of the published Advertisement.

7.2 Content

7.2.1 Even though a Contract is in place between you and us, we may refuse to publish any Advertisement or any part thereof where:

a. we consider that the Content is contrary to or infringes the terms of any law or the right or privilege of any person or that it may mislead members of the public or that members of the public might find it offensive, prejudicial or inflammatory or that it is likely to subject us to prosecution, criticism or embarrassment.

7.2.2 We reserve the right to delete any Proprietary Material from an Advertisement where we have reasonable grounds to believe that the owner or controller of such Proprietary Material has withheld or withdrawn permission for your use of the same. In these circumstances, deletion shall not be deemed to be a breach of our obligations under the Contract.

7.2.3 Artwork, photographs and copy are accepted on the understanding that there are no copyright restrictions. Any infringements will remain the responsibility of The Client.

7.3 **Your Details.** If you make any change to your business name, address, telephone number, authorised representative or legal status, you must promptly notify us in writing.

8. LIMITATION OF LIABILITY

8.1 We do not exclude or limit our liability for death or personal injury resulting from our own negligence, or for fraudulent misrepresentation. We shall not be liable, to the maximum extent permitted by applicable law, for any of the following losses or damage (whether arising in contract, tort (including negligence), strict liability or otherwise and whether such losses or damage were foreseen, foreseeable, known or otherwise):

- 8.1.1 loss of revenue;
- 8.1.2 loss of actual or anticipated profits (including for loss of profits on contracts);
- 8.1.3 loss of anticipated savings;
- 8.1.4 loss of business;
- 8.1.5 loss of opportunity;
- 8.1.6 loss of goodwill;
- 8.1.7 loss of reputation;
- 8.1.8 loss of, damage to, or corruption of data or software;
- 8.1.9 wasted expenditure; or
- 8.1.10 any indirect or consequential loss or damage (including, for the avoidance of doubt, where such loss or damage is of the type specified in Conditions 8.2.1 to 8.2.9).

9. PROOFING

9.1 We will endeavour to provide you with a proof of all Advertisements prior to publication. However, we do not guarantee that such proofs will be provided. Where time does not permit the issue of proofs, the Advertisement will be published in accordance with the relevant Content details provided by you and such publication will be taken to satisfy our obligations.

9.2 It is your responsibility to review the Advertisement Proof and notify us of any errors and/or omissions. In the event that proof approval has not been received by us from you by the Publish Date, we reserve the right to publish the Advertisement. In this event, any errors or omissions therein, remain the responsibility of the Client.

10. LAYOUT OF ADVERTISEMENT AND FOCUS MAGAZINES

10.1 Unless otherwise agreed, we do not guarantee the page or position on which any Advertisement will appear within any Focus Magazine.

11. INDEMNITY

11.1 You shall, on demand, fully indemnify us against any losses and/or liabilities in relation to any proceedings, claims, demands, damages, fines, costs, expenses and charges, which are incurred or suffered by us or our employees or agents arising out of your conduct, including, but not limited to, any breach of the Contract.

12. INTELLECTUAL PROPERTY RIGHTS

12.1 Except where stated elsewhere in these Conditions, all intellectual property rights (including copyright) created by us in connection with a Contract (including any and all rights in Artwork) shall unconditionally vest in us and remain our property.

12.2 All work, without exception, carried out by Focus Magazines Ltd. on a complimentary basis, including but not restricted to, graphics, copywriting, web code and script, HTML, PHP, CSS, shall remain the intellectual property of Focus Magazines Ltd. and must not be reproduced or distributed in any other format without written permission.

13. NOTICES

13.1 Any notice or other communication required to be given or served for the purposes of a Contract except where otherwise provided shall be in writing and shall be taken to have been duly given and served if sent by post, email or delivered by hand.

13.2 Your postal and email addresses for service shall be those notified to us by you as addresses at which service may be accepted or your usual or last known place of abode or business or, if you are a limited company, your last known registered office.

13.3 Our address for service by written notice shall be 123 Croesonen Parc, Abergavenny, NP7 6PF. Our e-mail address for service by written notice shall be: hello@thefocus.wales, or in

each case such other addresses as may be notified to you from time to time.

13.4 You agree to give us permission to add your email address to our client mailing list. This is for the purposes of communicating important deadlines and other information salient to our clients.

14. RIGHTS OF THIRD PARTIES

14.1 A person who is not a party to a Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of that Contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

15. GENERAL

15.1 You shall not assign or otherwise dispose of all or any of your rights or obligations under any Contract without obtaining our prior written consent.

15.2 Failure of either party to assert its rights in relation to any breach of any Contract shall not constitute a waiver of such rights, nor will any such waiver be implied.

15.3 Each provision of these Conditions shall be read separately and shall be severable from these Conditions. If any provision of these Conditions (or portion thereof) is invalid, illegal or unenforceable, the validity, legality or enforceability of the remainder of these Conditions will not be affected.

15.4 At our sole discretion we may accept requests to process any order for an Advertisement by electronic means and other technologies (whether now known or invented in future) provided always that you fully comply with our guidance and instructions applicable to those processes. We are neither liable to you, nor responsible for your failure to fully comply with guidance and instructions issued by us.

16. APPLICABLE LAW AND JURISDICTION

The Contract shall be governed by the laws of England and the Courts of England and Wales shall have exclusive jurisdiction to hear disputes arising out of the Contract.

17. RATES & DISCOUNTS

17.1 All advertisements are charged at standard rates, as published in our rate card, unless the booking request qualifies for discounts and promotions according to the criteria set out below or offered from time to time.

17.1.2 Focus Magazines Ltd. may, at its sole discretion, change or withdraw any promotional rate or discount.

17.1.3 All rates and discounts are subject to the conditions outlined in this document and any other specific conditions as outlined below.

17.2 Block Booking Discount

17.2.1 "Block Booking" means advertisements running in no fewer than 2 consecutive publications of South Powys Focus and 4 consecutive publications of Abergavenny Focus

17.2.2 Block bookings can be made for

any sized advertisement, in any one single publication by Focus Magazines Ltd.

17.2.3 There is no applicable restriction to variance in size of adverts for the duration of the Block Booking. For example, the client may request a full page one month, followed by three half pages in subsequent months.

17.2.4 **Cancellation of Block Booking; specific conditions:** In the event that a block booking is cancelled, the advertiser will forfeit any discounts that formed part of that agreement, and will be charged retrospectively at our standard published rates.

17.3 Subscription/ Ongoing Agreement

17.3.1 Ongoing Agreement and or Subscription means an agreement between Focus Magazines Ltd. and the Client to run their agreed advertisement in consecutive issues of South Powys Focus for no fewer than 3 issues and or Abergavenny Focus for no fewer than 6 issues, and then until further notice, as communicated by the Client. We may, on occasion, apply an ongoing agreement or subscription rate to advertisements occurring regularly but non-consecutively. This is entirely at our discretion.

17.3.2 Focus Magazines Ltd. may insist on payment by Standing Order or via Direct Debit. Direct Debits are collected on or after 15th day of each month.

17.3.3 Ongoing Agreement clients' advertisement space is automatically booked on their behalf on the 1st day of each month for the proceeding month's publication.

17.3.4 The minimum length of booking for an Ongoing Agreement is 3 consecutive issue in South Powys Focus and 6 consecutive issues in Abergavenny Focus. In the event that an ongoing agreement is cancelled before such time, the advertiser will forfeit any discounts that formed part of that agreement, and will be charged retrospectively at our standard published rates.

17.4 Sister Magazine Discounts

17.4.1 Sister Magazine is any other magazine published by Focus Magazines Ltd.

17.4.2 The client may benefit from a discounted rate for bookings made in any other Sister Magazine(s).

18. OTHER

18.1 Where you are the Advertiser's advertising agency, you warrant you are authorised by the Advertiser to place the advertisement with us and you indemnify us against any claim made by the Advertiser against us arising from the publication thereof.

18.2 There is far from any obligation on us to supply voucher copies or tear sheets and their absence shall be unable to affect your liability for the agreed charge.

18.3 You may not, without prior agreement, re-sell advertising space to a third party in any Focus Magazines Ltd publication. Should we consent to this, advertising space may not be re-sold at a greater rate than those advertised on our current rate card.