

Advertisers & Sponsors terms and conditions

18 January 2018

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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 advertiser in the exchange of emails or the registered account holder (natural or legal);

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

“Advertising Services” means the business directory listing or the advertising services set out in our exchange of emails;

“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 Advertising Terms and, when relevant, 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 paid online at the time of booking or which are payable by the Advertiser to the Publisher under or in relation to the Agreement as set out in the exchange of emails

“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;

“Set Live Date” means the date on which the Advertiser Content first appears on the relevant Classlist school website(s)

“Exchange of Emails” means all emails sent between the Advertiser and the Publisher setting out the scope of services, price of services, term of the contract and any other details relevant to the provision of advertising services;

“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, denial of services attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

“Online Self-Service Platform” means the Classlist website to design, manage and pay for Advertising Services;

“Prohibited Content” means:

- (a) works and materials that:
 - (i) breach any law, regulation or legally-binding code;
 - (ii) infringe any person’s Intellectual Property Rights or other legal rights; and/or
 - (iii) give rise to a cause of action against any person,

in each case in any jurisdiction and under any applicable law;

- (b) works and materials that contravene the Committee on Advertising Practice Code (the CAP Code);

- (c) obscene, indecent, pornographic, lewd or graphic works and materials; and

(d) works and materials that may cause annoyance, inconvenience or anxiety to any internet user;

“**Publisher**” means Intrepid Ant, a company incorporated in England and Wales (registration number 08621032) having its registered office at 77 Kingston Road, Oxford OX2 6RJ;

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

“**Website**” means the website at www.classlist.com, its school specific and other websites 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.

2. The Agreement

2.1 The Advertiser will either confirm by email or verbally that they wish to take an advertising slot on the relevant www.classlist.com website (s) or complete a booking on the Online Self-Service Platform.

2.2 The Agreement will come into force if and when the Publisher sends to the Advertiser the Acceptance Email which will specify the start date of the advertising period or when the business directory listing is approved for publication by the Publisher (the “**Effective Date**”). This will usually be 14 days from the Acceptance Email but may be varied at the Publisher’s discretion,

2.3 The Agreement will continue in force for a period of one calendar year or a term otherwise agreed between both parties

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 to request the removal or editing of any Advertiser Content which ceases to be accurate and fair, or becomes Prohibited Content, for whatever reason;
- (d) to ensure that the advertising and sale of any products and services that are advertised through the Advertising Content is legal under all applicable laws; and
- (e) to ensure that the products and services advertised through the Advertising Content are appropriate for the Website's user base;

3.4 Subject to scheduled maintenance, express restrictions on the Advertising Services, and any Force Majeure Event affecting the Publisher or the Publisher's appointed hosting services provider, the Publisher will use reasonable endeavours to maintain the availability on the internet of:

- (a) the Website; and
- (b) the published Advertiser Content,

during the relevant period; but the Publisher does not guarantee 24/7 availability. The Publisher has the right to modify any aspect of the website at any time.

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.

3.6 The Publisher reserves the right to make other parties aware that the Advertiser is a Customer of Classlist, including use of the Advertiser logo and trademarks in marketing and promotional materials, without further reference to the Advertiser.

3.7 Where relevant the Publisher will provide the Advertiser with technical specifications for Advertiser Content. All material supplied must comply with these specifications. The Publisher has the right to amend any material submitted by the Advertiser as necessary in order to ensure it meets these specifications but the Publisher is under no obligation to modify supplied materials to meet published technical specifications. It is at the Publisher's discretion whether to delay the Effective Date as a result of non-supply of Advertiser Content by the Advertiser

4. Charges and payment

4.1 Charges for Advertisements booked using the Online Self-Service Platform will be paid for in advance of publication, otherwise the Publisher will issue invoices for the Charges to the Advertiser in advance on the 1st day of the Term.

4.2 Where the Publisher issues an invoice to the Advertiser then the Advertiser:

i) Will pay the Charges to the Publisher within 15 days of the date of receipt of an invoice issued in accordance with Clause 4.1. The Publisher will on request issue a receipt for the Charges upon receipt of payment in cleared funds.

ii) All Charges stated in or in relation to the Agreement are exclusive of VAT, unless the context requires otherwise.

iii) Charges must be paid by bank transfer or by direct debit (or using such payment details as are notified by the Publisher to the Advertiser from time to time).

iv) 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 and be compounded quarterly); or
- (b) claim interest and statutory compensation from the Advertiser pursuant to the Late Payment of Commercial Debts (Interest) Act 1998; or
- (c) remove the Advertisers content from the website and substitute content from another party

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; and
- (b) that it will perform the Advertising Services under the Agreement with reasonable care and skill.

5.3 All of the parties' warranties and representations 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 and subject to Clause 7.1, no other warranties and representations concerning the subject matter of the Agreement will be implied into the Agreement or any related contract.

6. Indemnity

The Advertiser hereby indemnifies the Publisher and undertakes to keep the Publisher indemnified against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts paid in settlement of legal claims) arising directly or indirectly out of any breach by the Advertiser of Clause 3.3 of the Agreement.

7. Limitations and exclusions of liability

7.1 Nothing in the Agreement will:

- (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; and
- (b) govern all liabilities arising under the Agreement or in relation to the subject matter of 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) £2,000; and

(b) the total amount paid and payable by the Advertiser to the Publisher under the Agreement during the 12-month period immediately preceding the event or events giving rise to the claim.

7.10 The Publisher's aggregate liability under the Agreement will not exceed the greater of:

(a) £5,000; and

(b) the total amount paid and payable by the Advertiser to the Publisher under the Agreement.

8. Termination

8.1 Either party may terminate the Agreement immediately by giving written notice of termination 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.

8.2 Either party may terminate the Agreement immediately by giving written notice of termination 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.

8.3 The Publisher may terminate the Agreement immediately by giving written notice of termination to the Advertiser if the Advertiser fails to pay any amount due to the Publisher under the Agreement in cleared funds by the due date for payment.

8.4 The Publisher reserves the right to refuse to accept or to withdraw, without having to specify any reason, any message, advertisement or part thereof containing any material which the Publisher considers to be contrary to the Publisher's legal or commercial interests without any obligation to the Advertiser.

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 or by the Advertiser under Clause 8.2 or Clause 8.3, 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 registered signed-for post, or sent by fax or email, for the attention of the relevant person, and to the relevant address, fax number or email address (or as notified by one party to the other in accordance with this Clause).

10.2 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.

10.3 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).

10.4 The Agreement may not be varied except by a written document signed by or on behalf of each of the parties or by an exchange of emails.

10.5 The Advertiser hereby agrees that the Publisher may freely assign any or all of its rights and obligations under this Agreement 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 the Agreement, the Advertiser may not without the prior written consent of the Publisher assign, transfer, charge, license or otherwise dispose of or deal in this Agreement or any of its rights or obligations under this Agreement.

10.6 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.

10.7 Subject to Clause 7.1, this Agreement constitutes the entire agreement and understanding of the parties in relation to the subject matter of this Agreement, and supersedes all previous agreements, arrangements and understandings between the parties relating to the subject matter of this Agreement.

10.8 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.

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