

# ADVERTISING TERMS

## ADVERTISING TERMS & CONDITIONS THE FOLLOWING SETS FORTH THE TERMS AND CONDITIONS UNDER WHICH ADVERTISEMENTS MAY BE PUBLISHED IN ZERO TOLERANCE MAGAZINE ("PUBLISHER") BY ADVERTISERS ("ADVERTISER") AND/OR, IF APPLICABLE, AN ADVERTISING AGENCY ("AGENCY")

**A.** Advertisements are accepted upon the representation that Advertiser [and its Agency where appropriate] have the right to publish the contents thereof. Advertiser is solely responsible for any legal liability arising out of or relating to its advertisements. Advertiser represents and warrants that the use, publication, reproduction, and distribution of its advertisements will not violate any law or any rights of third parties, including, but not limited to, such violations as infringement or misappropriation of any copyright, trademark, trade secret, image or other proprietary or property right, false advertising, unfair competition, defamation, invasion of privacy or rights of celebrity, violation of any anti-discrimination law or regulation, or any other right of any person or entity. Advertiser agrees to indemnify and hold Publisher harmless from and against any and all liability, loss, damage, claims, or causes of action, including reasonable lawyers' fees and expenses that may be incurred by Publisher arising out of or related to Advertiser's breach of any of the foregoing representations and warranties.

**B.** The content of advertisements is subject to Publisher's approval. Publisher reserves the right to reject or cancel any advertisement, insertion order, space reservation, or position commitment at any time.

**C.** Positioning of advertisements is at the discretion of the Publisher except when a request for a specific preferred position is accepted by the Publisher in writing and confirmed on the Insertion Order form. Cover positions and special positions (i.e. first right hand page, solo placement within editorial surround) are usually subject to an additional fee, as outlined in the published / current rate card, unless otherwise agreed in writing by the Publisher.

**D.** Cancellations or changes in orders may not be made by the Advertiser or its Agency after the space closing date. Covers and preferred position placement are non-cancellable. When change of copy is not received by the closing date, copy run in the previous issue will be inserted. Where previous copy is unavailable space will be used at the Publisher's discretion. Advertiser will be liable for full payment for unused space unless an alternative arrangement has been reached by the Advertiser and the Publisher, and agreed in writing by the Publisher.

**E.** All insertion orders are accepted subject to provision of Publisher's current rate card. Rates are subject to change without notice. Whilst contract frequencies cover the contract year term, rate protection is not implied. Should a change in rate be made, space reserved may be cancelled by the Advertiser or its Agency at the time the change becomes effective without incurring short-rate charges, provided the advertisements published to the date of cancellation are consistent with the appropriate frequency or volume rate. Cancellation of space reservations for any reason in whole or in part by the Advertiser will result in an adjustment of the rate (short-rate) based on past and subsequent insertions to reflect actual space used at the earned frequency or volume rate.

**F.** Publisher shall not be liable for any costs or damages for failure to publish an advertisement for any reason, nor shall Publisher have any liability for errors in key numbers, advertiser index, or in any preparation or correction carried out by the Publisher.

**G.** In the event advertisements are placed through an Agency, Advertiser and Agency shall be jointly and severally liable for the payment of fees hereunder.

**H.** Publisher is not liable for delays in delivery / or non-delivery in the event of an 'act of god' action by any government or quasi-government entity, fire, flood, insurrection, riot, explosion, embargo, strikes, interruptions of any kind, work slowdown, or any condition beyond the control of the Publisher affecting production or delivery in any manner.

**I.** The word "advertisement" will be placed with copy that, in Publisher's opinion, resembles editorial matter.

**J.** Any advertisement requiring typesetting or preparation by Publisher must be received by the booking deadline. The fee for typesetting / preparation of advertisements will be quoted on receipt of a full set of written instructions from Advertiser. Images / logos etc. / special fonts should be provided by Advertiser unless alternative arrangements have been agreed between both parties. The Publisher will provide one set of proofs for the Advertiser to approve / amend within a given timescale for an issue. This set of proofs and one set of amendments are provided by Publisher at no additional cost. Multiple amendments following this will be charged separately.

**K.** Publisher reserves the right to trim, to reset, or to change cuts to standard size. [Standard size refers to the dimensions relating to Zero Tolerance magazine]

**L.** No conditions other than those set forth in this agreement shall be binding on the Publisher unless specifically agreed in writing by Publisher. Publisher will not be bound by conditions printed or appearing in order blanks or copy instructions that conflict with provision on this agreement.

**M.** In no event shall Publisher be liable to advertiser for any special, incidental, or consequential damages, whether based on breach of contract, tort (including negligence), or otherwise, and whether or not Publisher has been advised of the possibility of such damage.

**N.** These terms and conditions shall be governed and construed in accordance with UK law. Along with the insertion order, record company publishing release and rate card, they represent an entire agreement between the parties with respect to the subject matter hereof and supersede all prior understandings between them. These Terms and Conditions may only be

modified, or any rights under it waived, by a written document executed by both parties.

**O.** As used in this Agreement, the term "Publisher" shall also refer to Obdurate Limited.

**P.** These terms and conditions and all other express terms and conditions and contracts shall be governed and construed in accordance with the laws of the United Kingdom wherever advertisements are booked (whether UK or overseas based) and will comply with the British Code of Advertising, Sales Promotion and Direct Marketing as issued by the Advertising Standards Authority. Current guidelines are available on the Advertising Standards Authorities website.  
[www.asa.org.uk/index.asp/www.asa.org.uk/the\\_codes/downloads/Bcasp\\_11revised.pdf](http://www.asa.org.uk/index.asp/www.asa.org.uk/the_codes/downloads/Bcasp_11revised.pdf)

**Q.** In the case of a covermounted promotional CD (or musical or data tracks featured thereon), as per the Record Company Publishing Release, the Advertiser / party booking the track(s) [and its Agency where appropriate] waives any and all related rights to any and all publishing / copyright / mechanical copyright / or other related royalties pertaining or arising from the production and distribution of said CD and contained musical performances or otherwise, and confirms that they have the express authority to waive such rights in the event of said rights being controlled by a third party. The Advertiser confirms they have express authority to grant permission for usage of said material. To further clarify, the Publisher will NOT pay any publishing / copyright / mechanical copyright / or other related royalties. Should any claim against the Publisher pertaining to any royalties or usage of material relating to a covermount CD arise, the Advertiser wholly indemnifies the Publisher in the respect of any such claim and accepts full responsibility for the payment of said claim.

**R.** In the case of a covermounted promotional CD (or musical or data tracks featured thereon), the Publisher retains absolute right to alter / edit / modify any submitted material for inclusion thereon at their own discretion.

This Agreement is made effective as of the date the Advertiser or Agency confirms their acceptance of the Insertion Order form, either by email, signed in writing, or by provision of advertising copy, or by returning a signed Record Company Publishing Release, between the party signing as the "Advertiser" or "Agency" (in the case of the Record Company Publishing Release as the "Publisher") and Obdurate Limited, "Publisher". To clarify, failure to confirm the Insertion Order form as set out above may invalidate your booking.

### It is agreed as follows:

**Terms and Conditions:** Advertiser agrees to be bound by this Agreement and these Terms and Conditions, normally provided with an Insertion Order form, or attached/contained within the rate card and Record Company Publishing Release or in the Zero Tolerance media kit. Should the Terms and Conditions not be provided, it is wholly at the Advertiser or Agencies risk to confirm any Insertion Order form without a copy of such Terms and Conditions, as confirming an Insertion Order unequivocally confirms your acceptance of our Terms and Conditions. Advertiser acknowledges and agrees that it must comply with deadlines for submission of copy established by Obdurate Limited and understands that the failure to meet such deadlines may result in Obdurate Limited's determining not to include Advertiser's advertisement in the issue in question. All advertisements by Advertiser shall be confirmed and detailed by means of Obdurate Limited's standard Insertion Order form. Advertisements are accepted subject to the provisions of the then current rate card, which may change from time to time without notice.

**Compensation:** For and in consideration of running Advertiser's advertisement, Advertiser shall pay to Obdurate Limited the fee as set forth on the Insertion Order form. An invoice will be included with the Insertion Order form clearly indicating payment terms. Overdue accounts will incur a finance charge per month (not to exceed the rate permitted by applicable law). Advertiser agrees to pay legal fees and costs in any action to collect past due amounts. In the event advertisements are placed through an Agency, Advertiser and Agency shall be jointly and severally liable for the payment of fees hereunder.

**Commission:** Advertising Agencies 10% standard discount is already built into the cost of the advertisement as provided on the Insertion Order form.

**Truth in Advertising:** Advertiser is solely responsible for any liability arising out of or relating to its advertisements. Advertiser represents and warrants that the use, publication, reproduction, and distribution of its advertisements will not violate any law or any rights of third parties, including but not limited to, such violations as infringement or misappropriations of any copyright, trade mark, trade secret image or other proprietary or property right, false advertising, unfair competition, defamation, invasion of privacy or rights of celebrity, violation of any anti-discrimination law or regulation, or any other right of any person or entity.

**Limitation on Damages:** In no event shall Obdurate be liable to Advertiser for any special, incidental, or consequential damages, whether based on breach of contract, tort (including negligence), or otherwise, and whether or not Obdurate has been advised of the possibility of such damage.

**Confidentiality:** Advertiser acknowledges that the terms and conditions of this Agreement, including but not limited to the compensation payable, are confidential. Advertiser agrees not to disclose the terms and conditions of this Agreement to third parties (other than its accountants or investors), unless required to do so under applicable law. The provisions of this Paragraph shall survive the termination of this Agreement.

**Notices:** Any notice provided pursuant to this Agreement shall be in writing (via email or physical in nature) and shall be deemed given (a) if by hand delivery, upon receipt thereof; (b) if mailed by Special delivery / courier service, with proof of posting and a recipient signature; if by email, upon confirmation of receipt thereof, so long as a hard copy is delivered by one of the other means specified herein or by normal post with confirmation of receipt. All notices shall be addressed to the parties at the respective addresses indicated on the last Insertion Order executed by the parties.

**Miscellaneous:** This agreement shall be governed and construed in accordance with UK law. This agreement may only be modified, or any rights under it waived, by a written document executed by both parties.

**Agreement:** On acceptance of the Insertion Order form for any given issue, Advertiser accepts and agrees to abide by the Terms and Conditions set out in this Agreement. For the avoidance of doubt, should you fail to either, sign and return the Insertion Order form or email confirmation quoting the reference number, we will take provision of advertising copy as your acceptance of our Terms and Conditions.