

## myTV SUPER ADVERTISING TERMS AND CONDITIONS

### 1. INTERPRETATION

In the Order, and these Terms and Conditions, the following terms shall have the following meanings:

"the Company" means MyTV Super Limited;

"Advertiser" means the person, firm or company and/or its Ad Agency described in the Order, whose liabilities in the event that there are more than one party, shall be joint and several.

"Advertisement" means an electronic display or publishing of the Materials in the form of a banner advertisement or title sponsorship or any other form or in any manner whatsoever available on the Site;

"Campaign Date" means the first date that the Advertisement is to be published as specified in the Order which shall commence not earlier than 7 days before the date the Order is received by the Company;

"Fees" means any fee or charge which is payable by the Advertiser to the Company in relation to the Order accepted by the Company;

"Materials" means any content of advertising or promotional materials to be provided by the Advertiser under the Order (including without limitation any trade marks, logos or trade names);

"Order" means the Advertiser's order for the publishing of Advertisement which order and any terms therein shall be subject to and governed by the provisions of these Terms and Conditions;

"Site" means the electronic site on the Company's websites, including [www.mytvsuper.com](http://www.mytvsuper.com) on which the Advertisement will be published;

"Standard Rates" means the fees and other charges for Advertisements and other services published by the Company in its rate card from time to time; and

"Term" means in relation to the Advertisement, the period of time selected by the Advertiser in the Order which is accepted by the Company for which the Advertisement is to appear from the Campaign Date until the Order is terminated in accordance with its terms.

### 2. ACCEPTANCE, RESERVATION AND RESCHEDULING

2.1 No Order shall be deemed to have been accepted by the Company until it is acknowledged expressly in writing by the Company. An accepted Order shall be governed by these Terms and Conditions and the terms and conditions contained in the Order. In the event of conflict between the terms and conditions in the Order and these Terms and Conditions, those terms and conditions in the Order shall prevail.

2.2 Once an Order is accepted by the Company, it cannot be cancelled by the Advertiser.

2.3 The Advertiser may reschedule or postpone its advertising campaign(s) to a date(s) within the next 60 days from its original Campaign Date, but in no event after 31 December of the current year of booking. If no rescheduling of the advertising campaign occurs by 31 December of the current year of its booking, the advertising campaign is deemed withdrawn by the Advertiser but the Advertiser is still responsible for payment of the full Fees in accordance with these Terms and Conditions.

2.4 The Company reserves the right at all times to:

2.4.1 reject the Materials (or any part thereof) unless it is amended to the reasonable satisfaction

of the Company. The Advertiser shall remain fully liable for its obligations under the Order in full, whether or not the Materials (or any part thereof) are accepted;

2.4.2 reject any accepted Order without the obligation to give any reason;

2.4.3 amend or remove the Advertisement from the Site if circumstances arise which in the Company's sole opinion deems such action advisable, appropriate or necessary;

2.4.4 suspend performance of any of its obligations in the event that the Advertiser fails to pay any Fee to the Company or is in breach of any of its obligations, warranties or representations under these Terms and Conditions or other terms in the Order; and

2.4.5 amend any of these Terms and Conditions and the Standard Rates by posting the details of such changes on the Site and/or providing written notice to the Advertiser, provided that any change will not become effective until 14 days after the date of such notice.

2.5 The Company does not warrant or guarantee that the Advertisement will be located in any particular position on the Site in any particular form or that the Advertisement is accessible at all times.

2.6 The Company's record of the publishing of the Advertisement on the Site shall be binding and conclusive.

2.7 The Advertiser shall not have any claim in any nature whatsoever against the Company for the aforesaid rejection or amendment of the Materials, or suspension or non-performance of the Order. The Advertiser shall be liable for payment of all Fees due by the Advertiser under the Order.

### **3. PAYMENT**

3.1 The Advertiser shall promptly pay to the Company all Fees and other charges as and when they fall due. In default of payment, without prejudice to the Company's right to terminate the Order and suspend services, the Advertiser shall be liable to pay interest on the outstanding Fees and charges at the rate of 2% per month from the date those payments were due until full payment

3.2 Unless otherwise provided in the Order, all Fees and other charges shall be settled by the Advertiser within 30 days from the date of invoice issued by the Company.

3.3 Cheques tendered in payment should be made out payable to "MyTV Super Limited" and crossed "Non-Negotiable". Cash should only be handed to the Company's Accounts Department against a receipt signed by the Company's accountant.

### **4. ADVERTISER'S OBLIGATIONS**

4.1 The Advertiser shall:

4.1.1 promptly pay to the Company all Fees and charges as and when they fall due and in accordance with the payment terms as set out in these Terms and Conditions and in the Order;

4.1.2 fully co-operate with the Company if any modification to the Advertisement becomes reasonably necessary in the Company's sole opinion;

4.1.3 not make any statement (whether express or implied) that the Company endorses, approves or guarantees the performance, description or quality of any goods, information or services which are provided by the Advertiser in its business or Advertisements;

4.1.4 comply with all applicable laws, regulations and applicable advertising codes of practice of Hong Kong SAR;



4.1.5 be responsible to monitor the publishing of the Advertisement and inform the Company promptly should it discover any error.

4.2 The Advertiser acknowledges that:

4.2.1 the Company has the right but not the obligation to amend or exercise any editorial control on the Materials provided by the Advertiser;

4.2.2 the Order may only be cancelled, postponed or extended in accordance with these Terms and Conditions; and

4.2.3 the acceptance of the Materials by the Company shall not affect the Advertiser's obligations, responsibilities and warranties under these Terms and Conditions and shall not diminish any of the Company's right against the Advertiser.

## 5. WARRANTIES AND INDEMNITY

5.1 The Advertiser warrants that:

5.1.1 all representations and statements in the Materials are true and correct and that no advice, formula or instruction in the Materials will if followed or implemented by any person cause injury loss or damage to that or any other person;

5.1.2 none of the Materials will contain any statement which is obscene, indecent, defamatory or offensive;

5.1.3 the Materials shall comply with all laws regulations and applicable advertising codes of practice of Hong Kong SAR and shall not infringe on any third party's copyright, trademarks, patents or any other proprietary or contractual rights; and

5.1.4 it will be responsible for obtaining and paying for all necessary licenses and consents to the transmission and publishing of all advertising or copyright material contained and the appearance of all persons in the Materials supplied by it for the purposes stated in Clause 6.6.1 below;

5.2 The Advertiser (including the Ad Agency, where an Ad Agency is appointed under the Order) shall (each) indemnify and keep the Company indemnified against all costs, claims, damages and expenses (including without limitation, any legal costs on a full indemnity basis) directly or indirectly related to the Advertisement, the Materials, the Advertiser's (including the Ad Agency, where an Ad Agency is appointed under the Order), the performance of its obligations, non-compliance with any Terms and Conditions herein, terms in an Order, any other applicable terms, guidelines or policies; or any breach or inaccuracy in any of the Advertiser's (including the Ad Agency, where an Ad Agency is appointed under the Order) representations and warranties contained herein.

## 6. MATERIALS

6.1 Once Order is accepted by the Company, it is the responsibility of the Advertiser to supply the Materials to the Company and to comply with this Clause 6. If the Advertiser fails to provide the Company with the Materials that is acceptable to the Company within the requisite deadline, the Advertiser shall still be liable for their obligations under the Order bookings and pay the Company in full for the Fees and charges applicable to the Order bookings whether or not any Material is in fact transmitted or published.

6.2 Advertisers who submit Materials to the Company via "MyTV SUPER Ad Booking Manager" shall

also adhere to the terms and conditions as set out in <https://adbooking.mytvsuper.com/tnc> and “myTV SUPER's Advertiser Content Guidelines”.

6.3 Advertisers who submit Materials to the Company via Third Party Ad serve shall be solely responsible for ensuring the quality, contents, and formats of the Materials sent to the Company. The Advertiser shall also observe “myTV SUPER's Advertiser Content Guidelines” when submitting the Materials. If the Advertiser submitting Materials via Third Party Ad serve desires to alter or amend any Materials to be published in the Advertisement, the Advertiser shall provide prior notice to the Company and shall provide a copy of the proposed amended or altered version of the Materials before launch for the Company's approval. The Company reserves the right to remove or suspend any Materials which are not approved by the Company.

6.4 Save and except where Materials are submitted by the Advertiser pursuant to Clause 6.2 or 6.3, no Material shall be changed or modified by the Advertiser without the approval of the Company once accepted by the Company for publishing on the Site.

6.5 Notwithstanding the Company's right to amend, edit or remove any Advertisement or Materials, the Company does not warrant that any Advertisement published on the Site will be of acceptable quality, of adequate resolution, of correct format or suitable for publishing on the Site. The Company has no obligation to review any Advertisement or Materials nor to amend, cancel, reject or continue publishing any Advertisement or Materials

6.6 The Advertiser hereby:

6.6.1 licenses, consents and agrees to procure all necessary licenses and consents from the copyright owners of the contents in the Materials for the Company, and to permit others authorized by the Company to digitize, reproduce, make copies and adaptations of the Materials and to include and transmit the same on the Site for distribution over the Internet during the Term, and to retain in perpetuity such materials and copies thereof for the purposes of internal reference, research and analysis by the Company or its authorized service providers which may provide the same to its subscribers relating to advertising performance and post buy analysis and other non-commercial uses;

6.6.2 warrants and undertakes that it is entitled to grant the licenses and authorizations provided for in Clause 6.6.1 above free of all liens, claims and encumbrances.

6.7 The Advertiser shall refer and adhere to the respective Materials submission deadlines below for different advertising specifications: (<https://ad.mytvsuper.com/category/support/>).

The Advertiser acknowledges and agrees that failure to adhere to the Materials submission deadline may render the scheduled advertising campaign postponed or cancelled and Clause 6.1 above applies.

## **7. DISCOUNT ON FEES AND COMMITMENT SCHEME**

7.1 The Advertiser may be entitled to a special discount on the Fees at such rate as may be determined by the Company with regard to the quantity of Advertisements committed by the Advertiser under the Order.

7.2 If special discount has been given to the Advertiser but the Advertiser fails to fulfill the quantity of advertisements committed under the Order upon termination or expiration of the Term for whatever reason, the Company shall be entitled to charge the Standard Rates on all Advertisements committed



under the Order. The Advertiser shall pay the difference between the Standard Rates and the discounted rate for all Advertisements published on the Site and the Standard Rates for all remaining Advertisements committed under the Order within seven (7) days after the termination or expiration of the Term.

7.3 Once Commitment form is accepted by the Company, it cannot be cancelled. All committed spending has to be utilized latest by 31 December of the year of the Commitment term ("Commitment Year") and shall in no event be carried forward for bookings in the next calendar year.

7.4 The Advertiser shall pay up the full Commitment amount whether or not it has used up any or all of its committed spending by 31 December of the Commitment Year. The Advertiser shall settle all unspent Commitment balance in full after the expiry of the Commitment Year upon receipt of invoice issued by the Company.

## **8. LIMITATIONS OF LIABILITY**

8.1 To the extent permitted by law, the Company does not make any express or implied representation or warranty in relation to the operation or standard of quality of the Site. The Company makes no warranty that the Site will be uninterrupted or error free.

8.2 The Company further excludes any liability for:

8.2.1 any delay, omission or postponement in performance of its obligations under the Order caused whether directly, indirectly, wholly or partially, by matters beyond its reasonable control.

8.2.2 any direct or indirect or any consequential loss or damage or for any loss of profit or business suffered by the Company.

8.3 Without prejudice to Clause 8.2 above, if the Company is found to be liable of any damage or loss, the Company's liability in respect of each event or series of connected events in connection with the Order shall not exceed the Fees paid by the Advertiser to the Company under the same Order.

## **9. THIRD PARTY PERSONAL DATA**

If an advertising campaign involves third party's Personal Data, the Advertiser represents, warrants and undertakes that

9.1 it has obtained the consent of each party whom it collects Personal Data from to have its personal data being transferred by the Advertiser to the Company, and to be processed by the Company, for use by the Company in connection with the advertising campaign and such other purposes as contemplated under these Terms and Conditions;

9.2 it shall comply with all applicable data protection and privacy laws, directives, guidance, rules or regulations, applicable industry best practices and self-regulatory guidelines or codes; and

9.3 it shall maintain a comprehensive online privacy policy for users' information at its end and will comply with such policy and providing users with opt-out options;

9.4 no sensitive Personal Data will be provided to the Company.

## **10. MyTV SUPER 2nd PARTY DATA ONBOARDING**

Advertiser who embarks on "MyTV SUPER 2nd Party Data Onboarding" shall read([https://ad.mytvsuper.com/wp-content/uploads/2019/11/2nd-party-TC\\_myTV-super.pdf](https://ad.mytvsuper.com/wp-content/uploads/2019/11/2nd-party-TC_myTV-super.pdf)) and agree

to the general terms and conditions at <https://2ndparty.mytvsuper.com/> before using the service. The Advertiser's use of "MyTV SUPER 2nd Party Data Onboarding" service shall deem its agreement to be bound by the terms and conditions contained on the platform,

#### **11. THIRD PARTY TRACKING**

The Company only acknowledges online and mobile campaign results provided by the ad-serving system powered by DoubleClick. The Company does not honor any discrepancy claimed by any other 3rd-party tracking service provider.

#### **12. AD TARGETING**

12.1 The Company does not warrant on the accuracy and/or completeness of any data provided by the Company or its third party service providers. The Advertiser acknowledges that the Company's services involve models and techniques based on statistical analysis, probability and predictive behavior. Therefore, the Company shall not be held liable for any inaccuracy, incompleteness or other error in its data or any failure of the targeting solutions to achieve any particular result for any Advertiser. No refund or compensation will be available as a result thereof. The Advertiser further acknowledges that no algorithm targeting will be disclosed by the Company to the Advertiser.

12.2 The Advertiser shall not use any targeting options to discriminate against, harass, provoke, or disparage users or to engage in predatory advertising practices.

#### **13. CONFIDENTIALITY**

13.1 The parties shall only disclose Confidential Information (as defined below) to those of its employees, professional advisors, service providers, officers, directors, or those of its subsidiaries or affiliates that it believes have a need to know such information as required for the performance of this Agreement or to enforce the terms of this Agreement. The foregoing obligations will not restrict either party from disclosing Confidential Information of the other party pursuant to a court order from a court of competent jurisdiction, provided that the party required to make such a disclosure gives reasonable prior written notice to the other party so that it may contest such order and in the event that disclosure is required, only discloses the portion of Confidential Information that its legal counsel advises is legally required. "Confidential Information" consists of (1) any technical information or plans concerning the Site, the services provided by the Company or any of our software or other technology; (2) advertising data of the Company; (3) any financial information of the other party; (4) other information disclosed by one party to the other party that is marked as confidential, or should reasonably be assumed to be confidential under the circumstances. Confidential Information does not include information that: (1) is or becomes generally known to the public through no fault of or breach of the receiving party; (2) is rightfully known by the receiving party at the time of disclosure without an obligation of confidentiality; (3) is independently developed by the receiving party without use of the disclosing party's Confidential Information; or (4) is obtained by the receiving party rightfully from a third party who/that has no duty of confidentiality to the disclosing party



## **14. TERM, TERMINATION AND CONSEQUENCES OF TERMINATION**

14.1 The Order shall become effective on the date that the Company acknowledges its acceptance and shall continue for the Term.

14.2 The Company may terminate the Order forthwith by giving written notice to the Advertiser if:

14.2.1 the Advertiser fails to make payment of the Fees and/or any charges when they fall due;

14.2.2 the Advertiser commits any breach of any of the provisions of these Terms and Conditions, the Order or any relevant terms and conditions and fails to remedy the same within 7 days after receipt from the Company of a written notice giving particulars of the breach and requiring it to be remedied; or

14.2.3 the Advertiser ceases, threatens to cease or seems likely in the sole opinion of the Company to cease carrying on business; or

14.2.4 the Order cannot continue due to any reasons beyond the reasonable control of the Company.

14.3 Upon the termination of the Order or expiration of the Term, the Company shall be entitled to remove the Advertisement from the Site.

14.4 Termination for whatever reason shall be without prejudice to the liability of the Advertiser for any sum due or accrued due by the Advertiser to the Company for any bookings or Commitment made or facility or service supplied up to the time of termination.

## **15. GENERAL**

15.1 All obligations, representations, warranties and indemnities contained in these Terms and Conditions with an intention to continue after the Term date shall survive the termination of the Order or expiration of the Term.

15.2 Each notice, demand or other communication given or made under the Order shall be in writing and delivered or sent to the relevant party at its address, facsimile number or e-mail address set out in the Order (or such other address, facsimile number or e-mail address as the addressee has by 7 days' prior written notice specified to the other party). Any notice, demand or other communication so addressed to the relevant party shall be deemed to have been delivered (a) if given or made by letter, when actually delivered to the relevant address or 3 days after posting; (b) if given or made by facsimile, upon receipt of a printed transmission report confirming receipt and (c) if given or made by e-mail, upon receipt of a message confirming receipt.

15.3 Any notification or amendments of the Order will not be effective unless in writing and signed by the Company.

15.4 Our failure to enforce strict performance of any provision of nor to exercise any right under these Terms and Conditions or Order shall not be construed as a waiver of our right.

15.5 Should any section or part of a section within these Terms and Conditions be rendered void or unenforceable by any court of competent jurisdiction, the remaining provisions of these Terms and Conditions shall nevertheless be binding upon the parties with the same effect as though the void or unenforceable.

15.6 The Advertiser acknowledges to have read and understood the terms of the Privacy Statement at

<https://www.mytvsuper.com/en/pics>. The Advertiser agrees that the Company may use and disclose information about the Advertiser or its authorized representative in accordance with the terms of the Privacy Statement and to assist in providing the goods or services the Advertiser has requested and to improve the service. The Advertiser also agrees to check the Privacy Statement on a regular basis.

15.7 These Terms and Conditions together with the Order and all relevant terms and conditions as referred to in these Terms and Conditions set forth the entire agreement between the parties concerning the subject matter hereof and supersedes all prior agreements, understandings and negotiations between the parties.

15.8 The Order and these Terms and Conditions are governed by and shall be construed in accordance with the laws of Hong Kong SAR and the parties hereby irrevocably submit to the exclusive jurisdiction of the Hong Kong SAR courts.

15.9 The provisions of the Contracts (Rights of Third Parties) Ordinance (Cap. 623) of the laws of Hong Kong are expressly excluded from the Order and these Terms and Conditions.

(Last Amended on 1 August 2020)

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