

1. These terms set out the terms upon which Guardian Newspapers Limited (hereafter “We”, “Us” or “GNL”) and “You” shall work together for the purposes of including your merchandise or services on GNL’s online auction website known as Guardian Unlimited Travel Auctions and located at URL <http://www.guardianauctions.co.uk/> or any subsequent URL which may replace it (“The Auction Site”);
2. Your merchandise or services and images, advertising copy and other material are accepted for inclusion on the Auction Site subject to these terms and conditions (“Terms”).

Supplier’s Appointment

3. Subject to these Terms GNL hereby appoints You as a non-exclusive supplier to offer merchandise or services for auction sale to Customers on the Auction Site (“the Offer”). Without prejudice to clause 2, submitting Offers for inclusion onto the Auction Site You accept and agree to be bound by these Terms in full.

Supplier’s Obligations

4. The images and advertising copy and other material submitted by You for inclusion onto the Auction Site including without limitation details of any reserve prices or minimum bid required by You (the “Content”) shall form the Offer.
 - 4.1 It is your sole responsibility and You hereby warrant that the Content, is accurate, correct and complies with ASA guidelines and all other applicable laws and regulations, including without limitation the provisions of The Consumer Protection (Distance Selling) Regulations 2000, The Consumer Credit Act 1974 and The Financial Services and Markets Act 2000.
 - 4.2 You further warrant that all Offers where a reserve price or minimum bid applies shall be competitively priced with similar merchandise or services that You offer for sale to the public through any other sales channel, including without limitation any other online auction site, if applicable and provided always that notwithstanding the foregoing any reserve price or minimum bid set by You shall be at your discretion.
 - 4.3 All Content must be provided no later than the deadline specified by Us and in accordance with such technical specifications and/or format guidelines as We may specify from time to time.
 - 4.4 Without prejudice to any other terms set out in this agreement We shall have the right to remove or prevent access to Content from the Auction Site at our absolute discretion.

Terms of Sale and Fulfilment

5. At the close of an auction We will notify You via the Auction Site that the auction has been completed and will contact You with the details of the winning bidder including details of that Customer’s bid, Customer’s name and contact details. For the avoidance of doubt the winning bidder shall be the Customer who at the close of an auction has placed the highest bid above any reserve price or minimum bid requirement set by You.

- 5.1 You will ensure that You contact the winning bidder within 48 hours of notification of close of the auction and will use your best endeavours to fulfil the Offer in accordance with industry standards and the terms of the Offer within the time stated in the Offer.
- 5.2 All Offers will be supplied to winning bidders in accordance with the Terms of Use for the Auction site, a copy of which will be supplied to You (and which will form part of your contract with the winning bidder). You will provide us with written confirmation that the Offer has been fulfilled.
- 5.3 Without limitation You are responsible, at Your own cost, for facilitating and processing all Customer transactions including collecting payment, tracking transactions and all transaction security. All Customer payments shall be made to You and, as between You and GNL, You are responsible for all aspects of the Offer and the relationship with Customers.
- 5.4 You shall resolve promptly and to the reasonable satisfaction of GNL and Customers any disputes arising in connection with an Offer which either We or a Customer brings to your attention. You shall keep Us fully advised of the status of all such Customer complaints of which We have notified You.

Payment Terms

6. The commission rate shall be the rate agreed with Us prior to your submitting the Content to Us for inclusion on the Auction Site ("Commission Rate"). You shall pay to GNL by the 25th day of the month following the month of GNL's invoice, commission at the Commission Rate plus VAT on the final selling price of all Offers auctioned by You on the Auction Site.
- 6.1 All sums payable to Us under these Terms shall be in pounds sterling and You shall be responsible for, where applicable any withholding tax or similar deduction which is required to be made.
- 6.2 GNL shall have the right to charge interest at the rate of 2% per annum above the base rate of the Bank of England from time to time, from the due date until the date of actual payment, whether before or after judgement, on any sum due from You under these Terms.

Reports and Auditing

7. You shall maintain and retain throughout the Term of this agreement and for a period of twenty-four (24) months thereafter complete, clear, accurate and up-to-date records of the Offers including without limitation the number and value of all Offers to Customers by You on the Auction Site, all revenue received by You via the Auction Site and all commission and sums which You are required to pay to Us under this agreement (including, without limitation, any applicable taxes and other deductions made in calculating the net revenue).
- 7.1 For the purpose of confirming the accuracy of the sums due to GNL from time to time, We (or our nominee) shall have the right, at our own cost, and on reasonable notice to audit and take copies of all records specified in Clause 7. If such audit reveals any underpayment to GNL, then You shall, within fourteen (14) days of notification of such underpayment, pay to Us the amount of such underpayment, with any interest due thereon together with, in the case of an underpayment to Us of more than 10% (ten per cent), the reasonable costs of the audit which revealed it.

Intellectual Property Rights

8. You grant us a non-exclusive, royalty-free, worldwide licence, for the duration of this agreement to use, Your name, logo, trade mark or any other brand feature in connection with the Auction Site.
- 8.1 Nothing in these Terms shall give You any rights in respect of any trade marks, logos, designs or trade names used by GNL in relation to the Auction Site or otherwise or of the goodwill associated therewith, and You acknowledge that You shall not acquire any rights in respect of any trade marks, logos, designs or trade names and that all such rights and goodwill are, and shall remain, vested in GNL.
- 8.2 Other than as set out in these Terms nothing in these Terms shall give Us any rights in respect of any logo, trade mark or any other brand feature used by You or in respect of the goodwill associated therewith, and We acknowledge that We shall not acquire any rights in respect of any logo, trade mark or any other brand feature used by You and that all such rights and goodwill are, and shall remain, vested in You.

Data

9. Subject to clause 9.2, GNL shall own all Customer information including Customer's names and contact details collected by either party in accordance with this agreement ("Customer Data"). For the avoidance of doubt, You shall not use such Customer Data for any purpose other than the fulfilment of the auction to the winning bidder.
- 9.1 You shall ensure that any data collected by You is held secure at all times and You shall abide by Your obligations and responsibilities under the Data Protection Acts 1998, and all other relevant legislation in force from time to time.
- 9.2 You shall be responsible for collecting details of the winning bidders and for the avoidance of doubt and without prejudice to clause 9 and subject to 9.1, this data shall be owned by You.

Warranties

10. Each party warrants, represents and undertakes to the other that it has the power and authority to enter into this agreement, to grant the rights granted or purported to be granted and to fully perform its obligations hereunder.
- 10.1 You warrant, represents and undertake to Us that;
 - 10.1.1 You are the sole owner and/or controller of the Content;
 - 10.1.2 You shall not use or authorise the use of GNL's logos and/or the GNL name otherwise than in accordance with the terms of this agreement;
 - 10.1.3 You shall not do or omit to do any act or thing which results in GNL's name, GNL logo image business or reputation being damaged or adversely affected;
 - 10.1.4 You shall fulfil the Offers in accordance with all applicable laws and to a high level of professional skill and care in order to provide first-class quality merchandise or services to Customers;
 - 10.1.5 The Content shall comply with all applicable laws, regulations and self-regulatory codes and guidelines and shall not be defamatory of any third party or offensive in any way and

shall not infringe the rights of any third party (including, without limitation, any intellectual property rights) and that all Content submitted for inclusion on the Auction Site will be free of any viruses and no Content shall cause an adverse affect in the operation of the Auction Site or GNL's websites such that a substantial part of such sites shall be wholly or partially unavailable.

Term and Termination

11. This agreement shall commence on the date your first Offer appears on the Auction site and subject to the rest of this Clause 11 shall continue in force for six (6) months (the "Term"). Following expiry of the Term, this Agreement shall continue in effect until terminated by either party on written notice of termination of not less than one (1) month.

11.1 Either party (the "Non-Defaulting Party") may bring this agreement to an end (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the "Defaulting Party") if:

11.1.1 the Defaulting Party commits a material breach of its obligations under this Agreement and, if the breach is capable of remedy, fails to remedy it during the period of 14 days starting on the date of receipt of notice from the Non-Defaulting Party requiring it to be remedied; and/or

11.1.2 the Defaulting Party becomes insolvent (including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities taking into account its contingent and prospective liabilities), proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets;

11.1.3 if any petition shall be presented, order shall be made or resolution passed for its winding up, bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers);

11.1.4 if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them or if it ceases or threatens to cease to carry on business.

11.2 We shall be entitled to terminate this agreement, immediately in the event that the Auction Site is discontinued or any act or omission by You which in Our sole discretion results in damage to GNL's image or reputation or brings Us or any companies related to Us into disrepute, whether in relation to an Offer or otherwise.

Consequences of Termination

12. Neither party shall have any further obligations or rights under this agreement after the end of this agreement, save that those Clauses the survival of which is necessary for the interpretation or enforcement of this agreement shall continue to have effect after the end of the agreement.

12.1 In the event that this agreement terminates, for whatever reason, each party shall return all confidential information to the other and We shall remove your Offer and ceases to use your name, logo, trade mark or any other brand feature on the Auction Site as soon as is reasonably practicable. You shall promptly pay to Us all outstanding sums due under this agreement.

- 12.2 Without prejudice to the above You shall fulfil all Offers to Customers where the auctions were concluded on the Auction Site prior to termination or expiry of this agreement

Liability and Indemnity

13. GNL shall not be liable in contract, tort (including negligence) or for breach of statutory duty or in any other way for any economic losses (including without limitation, loss of revenues or profits, contracts, business or anticipated savings), any loss of goodwill or reputation or any indirect or consequential losses (in each case whether or not such losses were within the contemplation of the parties at the date the Offer was placed on the Auction Site) suffered or incurred by You arising out of or in connection with any matter hereunder.
- 13.1 Nothing in this agreement shall limit either party's liability for death or personal injury caused by its negligence.
- 13.2 You shall indemnify and keep GNL fully and effectually indemnified from and against any and all losses, demands, claims, damages, costs, expenses (including reasonable legal costs and expenses and value added tax thereon) and liabilities suffered or incurred, directly or indirectly, by GNL as a result of or arising out of any breach, non-performance or non-observance of any of the obligations, warranties, representations, undertakings by You. GNL may, in its absolute discretion, elect to itself defend or settle any action or other proceedings brought against GNL to the extent arising out of or in connection with any act or omission by You. The conduct of any proceedings shall be at your expense.
14. This agreement constitutes the entire agreement between Us and You and supersedes all prior discussions, arrangements and understandings between Us and You in relation to the Auction Site. GNL may vary these Terms from time to time. Please ensure that you review these Terms regularly as you will be deemed to have accepted a variation if you continue to submit Content to Us for inclusion onto the Auction Site after it has been posted. Details of variations will be posted in clause 24 below.
15. You agree that neither Us or You have made any representations and warranties except such as are specifically set forth herein.
16. Neither Us or You shall, assign, transfer or sub-contract any of its rights or obligations hereunder without the prior written consent of the other party save that GNL may assign, transfer or sub-contract its rights and/or obligations to any other Guardian Media Group company.
17. If either GNL or You is prevented from performance of its obligations by any cause or event preventing either party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the party so prevented including, without limitation, strikes, lock-outs or other industrial disputes (not involving the workforce of the affected party), nuclear accident or acts of God, war or terrorist activity, compliance with any law or governmental order, rule, regulation or direction, coming into force after the date of this agreement, fire, flood or storm (a "Force Majeure Event"); for a continuous period in excess of two (2) weeks, We may terminate this agreement forthwith on service of written notice, in which case neither party shall have any liability to the other except in respect of Your payment obligations and those rights and liabilities which accrued prior to such termination.

18. A person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this agreement but this does not affect any right or remedy of a third party which exists or is available apart from that act.
19. This agreement shall be governed and construed in all respects in accordance with the laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the English courts.
20. Each party undertakes that it will for the duration of this agreement and thereafter keep confidential and not disclose nor use any Confidential Information for any purpose other than the performance of this agreement, and providing that this paragraph shall not operate to prevent the disclosure of Confidential Information required by law or regulatory authority or which is already in the public domain (except by breach of this agreement).
21. The failure of either party to exercise any right or remedy shall not constitute a waiver of that right or remedy. No waiver shall be effective unless it is communicated to the other party in writing. A waiver of any right or remedy arising from a breach of agreement shall not constitute a waiver of any right or remedy arising from any other breach of this agreement.
22. Nothing in this agreement shall be construed as creating a partnership or a relationship of principal and agent between the parties. Neither party shall have any right or authority to bind the other party and neither party shall incur any liability on the part of the other without the express prior written agreement of the other party.
23. Any notice or other communication given by either party to the other shall be given by letter or by facsimile. Such letter shall be delivered by hand or sent prepaid first-class post addressed to those stated below. The notice shall be deemed to have been delivered immediately, if by hand, in the case of post, two days after the day on which the letter was posted or 24 hours after the fax was sent.

Details of variations

- 24.