

ONE MEDIA SALES B.V. GENERAL TERMS AND CONDITIONS

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Article 1 – Definitions

1.1 The following definitions apply to these General Terms and Conditions:

- a. 'General Terms and Conditions': these General Terms and Conditions.
- b. 'OMS': One Media Sales B.V., trading as OMS, with its registered office and principal place of business in Amsterdam at Rietlandpark 333 (1019 DW), a company that has the sole right to enter into contracts in its own name related to the broadcasting of radio commercials or other advertisements at various radio stations.
- c. 'Radio Station': the radio station mentioned in the contract that will be broadcasting the radio commercial during its commercial breaks.
- d. 'Co-contracting Party': the person or entity that enters into a contract with OMS, either on its own behalf (the advertiser) or on account of other advertisers, for the broadcasting of radio commercials or advertisements for a specific product or service during the Radio Station's programmes, and who accepts the validity of these General Terms and Conditions either by signing the contract or in some other way.
- e. 'Programme': the Radio Station's programmes and any other of the Radio Station's future radio programmes or programmes that change name.
- f. 'Rates': the rates applied by OMS as these are laid down by the Radio Station and published by OMS.
- g. 'Radio Commercial': advertisements consisting of a sound tape that is intended for broadcasting – outside the editorial responsibility of OMS and the Radio Station – in commercial breaks that are recorded between the Radio Station's Programmes.
- h. 'Commercial Break': a combined set of Radio Commercials that last for a specified length of time.
- i. 'Other Advertisements': advertisements other than commercials, such as sponsoring.
- j. 'Technical Requirements': the most recent technical requirements and general requirements issued by OMS and the Radio Station for the supply of commercials.

Article 2 – General

- 2.1 These General Terms and Conditions, the Rates applied by OMS as they are published by OMS, and the attached Technical Requirements apply to all offers, quotations, confirmations, letters of intent as well as to all contracts that OMS enters into with the Co-contracting Party with respect to the using of broadcasting time for commercials and Other Advertisements.
- 2.2 OMS and the Radio Station are not bound by the general and/or purchase terms and conditions of the contractual partner.
- 2.3 By entering into a contract with OMS, the Co-contracting Party accepts these General Terms and Conditions, the Rates published by OMS and the attached Technical Requirements.
- 2.4 If any of the individual provisions in these General Terms and Conditions or in the contract between OMS and the Co-contracting Party prove to be invalid, this will not affect the validity of the other provisions in the General Terms and Conditions, nor of the contract itself of which these General Terms and Conditions are a part. The Parties will replace the provision(s) in question by one or more new provisions of which the purport corresponds as far as possible with the original provision(s).

Article 3 – Filing and amendments to General Terms and Conditions

- 3.1 These General Terms and Conditions are filed with the court registry of the District Court of Amsterdam and the Chamber of Commerce in Hilversum, and are available for inspection for all interested parties at the offices of OMS.
- 3.2 OMS is entitled to amend these General Terms and Conditions. These amendments come into effect after being filed again and also apply to current contracts.

Article 4 – Other party and advertiser

- 4.1 The Co-contracting Party who mandates OMS to broadcast any Radio Commercials or Advertisements for a specific product or specific service, acting in the process on the instructions of one or more advertisers, must at OMS's request demonstrate in a proper manner (this being at OMS's discretion) that it is authorised to do so by its client. If the commissioning advertiser(s) denies or deny that authority has been given to enter into contracts with OMS, or if the Co-contracting Party was not authorised to enter into

contracts for any other reason, the Co-contracting Party will be deemed to have acted in its own name.

- 4.2 OMS only accepts contracts entered into with a Co-contracting Party who is acting on behalf of others if the Co-contracting Party specifies the advertiser(s) who has/have mandated it by name and if that/those advertiser(s) are party to the contract(s) to be entered into with OMS. The Co-contracting Party is fully liable for contracts entered into without full mandate or authorisation, or without specifically mentioning the advertiser.
- 4.3 The Co-contracting Party, together with the advertiser(s) on whose orders it is acting, are jointly and severally liable to OMS for the whole of the fulfilment of the obligations arising from the contract entered into with OMS. As a rule, OMS will hold the Co-contracting Party accountable for the fulfilment of obligations arising from the contract.
- 4.4 Subject to the application of the cancellation provisions as referred to in Article 9, any written instruction from the Co-contracting Party is binding. The Co-contracting Party is never entitled to invoke the lack of authority of its members of staff who have issued an order on its behalf and/or on its stationery.

Article 5 – Offers and rates

- 5.1 All OMS offers and quotations in whatever form are without any obligation, unless expressly stated otherwise.
- 5.2 The broadcasting rates owed are calculated based on the rates applied by OMS and published on its rate cards, and on published discounts or discounts to be agreed later.
- 5.3 All rates and prices mentioned in OMS offers are excluding value added tax (VAT), unless expressly stated otherwise.
- 5.4 The contracts between OMS and the Co-contracting Party are established after written confirmation by the Co-contracting Party. Offers and quotations from OMS have a term of validity of 10 days from the date they are sent, subject to availability of the broadcasting time. The offer and/or quotation are no longer valid if the Co-contracting Party has not confirmed the order within this 10-day period.
- 5.5 Commitments made by OMS members of staff are only binding on OMS if they have been confirmed in writing by OMS authorized persons.

Article 6 – Rates and surcharges

- 6.1 The rates for advertising time mentioned on the OMS rate card are gross rates.
- 6.2 OMS is entitled to charge, on behalf of the Radio Station, a surcharge to be published or agreed at a later date for:
- a. a preferred slot that is requested for a Radio Commercial or for a different placement of advertising time that is to be agreed;
 - b. multiple spots: several Radio Commercials for the same product in one Commercial Break;
 - c. Radio Commercials that are recorded live;
 - d. advertisements other than Radio Commercials;
 - e. mentions of several products and/or advertisers in one Radio Commercial;
 - f. any other advertisements to be decided by the Radio Station.

Article 7 – Volume contracts

- 7.1 For volume contracts, i.e. contracts for which the Co-contracting Party undertakes to spend a certain advertising budget over a specific period of time, a contract as referred to in 5.4 is established through the written confirmation of the broadcasting time offered by OMS for a specific part of the period.
- 7.2 Special discounts apply to volume contracts; these discounts are stated on the rate cards.
- 7.3 If the agreed total budget is not spent during the agreed period of time, the discount does not apply and the Co-contracting Party will owe the normal rate for the commercials already broadcast, plus an administrative fee of 5% over the advertising budget not spent. The total amount owed must be settled within 30 days of invoicing by the Radio Station.
- 7.4 If a volume contract is concluded under GRP conditions, it is possible that the NLO may subsequently show that the actual costs per GRP are higher, and this will then be compensated for in the current year of the volume contract by means of additional broadcast time. If it turns out after the term of the volume contract has ended that there has been an overscore in the GRP price, then under certain conditions, which are laid down in the spot contract that OMS has entered into with the Co-contracting Party,

the credit balance that arises from this can be utilised until four months after the end date of the volume contract (in connection with listener figures that will be known two months after the end date of the volume contract). OMS determines the distribution of the spots on the Radio Station's broadcaster, the time periods and the days.

Article 8 – Booking advertising times

- 8.1 The broadcasting schedules for the booking of advertising time sent by OMS on request are binding two working days after being sent to the Co-contracting Party or once they have been signed by the Co-contracting Party. OMS and/or the Radio Station are entitled to deviate from the application for booking of broadcasting time mentioned in the broadcasting schedule within a reasonable margin within the same hour.
- 8.2 The Co-contracting Party is only entitled to change the broadcasting times in writing and five working days at the latest before the broadcast, and only and exclusively if another alternative broadcasting time is available. The cancellation provisions of Article 9 are applicable to this.
- 8.3 Last-minute bookings are possible up until the day of the transmission if the requested advertising time and the broadcasting material are available, advertising monitoring can take place, and after a signed quote (by e-mail) has been received.

Article 9 - Cancellation

- 9.1 The Co-contracting Party is entitled to cancel the advertising time that it has booked at any time, and entirely or in part.
- 9.2 If the Co-contracting Party exercises its right to cancel the advertisement as referred to in Article 9.1, the Radio Station will be owed the following payment:
 - a. an administrative fee of 5% of the amount involved for the part of the contract or assignment not (yet) implemented, provided the cancellation takes place more than five working days before the first broadcasting date to be cancelled; and
 - b. 100% of the part of the contract or assignment not (yet) carried out if the cancellation takes place five working days or less before the first broadcasting date to be cancelled.

- 9.3 OMS and/or the Radio Station are entitled to use the advertising time that becomes available entirely as they see fit.
- 9.4 No discount is granted on cancellation fees. The Radio Station is at liberty to invoice the advertiser or the advertising or media agency engaged by it for cancellation fees. The advertiser, or the advertising or media agency that was engaged if they are the ones that have been invoiced, must pay the cancellation fees charged under the provisions of Article 9.2 to the Radio Station within 30 days of the invoice date.

Article 10 – Radio commercials

- 10.1 The Co-contracting Party is entitled to have Radio Commercials broadcast within the advertising times booked by it that are transmitted during the Radio Station's programmes; each Radio Commercial must last at least five seconds.
- 10.2 Radio Commercials that are multiples of five seconds in length are accepted. If the stipulated length in seconds is exceeded, the next highest length is used to calculate the length.
- 10.3 Every advertising commercial submitted, regardless of whether it contains music, must be accompanied by a fully completed 'form accompanying a radio commercial' intended for Buma and Stemra (Dutch Performance Rights Organisation). If this form is not provided, the Co-contracting Party will be deemed to have fully indemnified OMS and the Radio Station with respect to any claims from Stemra and/or individual authors and publishers.
- 10.4 OMS must be provided with the Radio Commercials and accompanying forms for Buma/Stemra two working days at the latest before the broadcasting date, and the Radio Commercials must meet the Technical Requirements.
- 10.5 If it has been agreed that the Radio Commercials will be repeated, OMS and/or the Radio Station may require that the accompanying music is supplied each time again in connection with the obligation laid down in Section 17b of the Dutch Copyright Act [*Auteurswet*].
- 10.6 If the broadcasting material is not supplied according to the standards mentioned, OMS and/or the Radio Station reserve the right to suspend the planned transmission or to go ahead with the transmission as they see fit, without prejudice to the obligation that the Co-contracting Party has to pay the agreed price and any additional costs promptly.

- 10.7 The advertiser is not permitted to broadcast advertising material in the advertising time that it is entitled to other than advertising material related to the products and services that it requested as stated on the broadcasting schedule, unless it has prior written permission from OMS.

Article 11 – Assessing Radio Commercials

- 11.1 Commercials must meet the Technical Requirements. Furthermore, Radio Commercials must meet the provisions under or pursuant to the Dutch Media Act [*Mediawet*], the rules of the Dutch Advertising Code Authority, the specific advertising standards for products and services, standards of decency and morality, and the provisions of the Radio Station's broadcasting code for programmes.
- 11.2 Radio commercials are submitted for approval to the advertising monitoring department that is charged with the integration of advertising time in the programmes, and that assesses the material against the requirements mentioned in Article 11.1. Radio Commercials cannot be broadcast without the approval of the advertising monitoring department. The advertising monitoring department is entitled to request changes to the Radio Commercial.
- 11.3 At the request of the Co-contracting Party, OMS is prepared to give advice – based on texts, demo recordings or other components – regarding changes to the Technical Requirements and the admissibility requirements for Radio Commercials. It is advisable to obtain this advice in good time if there are reasonable doubts about the application or interpretation of the aforementioned requirements.
- 11.4 The checks carried out by the advertising monitoring department mentioned in Article 11.2 also concern the broadcasting time (i.e. length) of the Radio Commercial. If the broadcasting time is exceeded, the Radio Station is entitled to invoice for the additional length, in accordance with the provisions of Article 10.2, on the basis of the rate mentioned on the applicable rate card.
- 11.5 OMS and/or the Radio Station reserve the right to refuse to broadcast, to temporarily interrupt the implementation of an advertising contract or cancel completely any Radio Commercial or advertisement that does not comply with the requirements mentioned in Article 11.1 or for its own reasons.
- 11.6 Notwithstanding any acceptance of an order by OMS and any of its assistance and advice, the client is fully liable for the content and design of Radio Commercials and compliance with all relevant legal standards, including prohibited types of sponsorship.

The risk associated with the implementation of the contract is entirely for the client's account. The client fully indemnifies OMS and the Radio Station for all penalties, damages and expenses imposed by the Dutch Media Authority or other authorities. If the broadcasting of Radio Commercials has to be stopped on the orders of the Dutch Media Authority, the government or the court, the Co-contracting Party remains liable for full payment of the contract.

Article 12 – Third-party rights

- 12.1 The Co-contracting Party guarantees that the Radio Commercial or advertisement does not contain anything that constitutes a violation of any copyright, neighbouring rights or other intellectual or industrial property rights vested in another party, and that it is authorised in the broadest sense to broadcast the advertising material.
- 12.2 Notwithstanding the provisions of Article 11.6, the Co-contracting Party therefore indemnifies OMS and the Radio Station against all claims that third parties can invoke against OMS and/or the Radio Station, in particular claims arising from copyrights or neighbouring rights to the contents included and processed in the advertising material that are vested in the third parties, and also against claims arising from whatever other reason.
- 12.3 The Co-contracting Party is obliged to indemnify OMS and the Radio Station against all third-party claims for damages arising from the advertising material supplied by the Co-contracting Party.
- 12.4 If the Co-contracting Party asks OMS to keep the Radio Commercials in connection with possible rebroadcasting, this will be done entirely for the account and risk of the Co-contracting Party.
- 12.5 If third parties claim damages or demand that the broadcasts be stopped, in or out of court, due to copyrights or neighbouring rights vested in them, or due to privacy issues or wrongful acts, the Co-contracting Party will grant full indemnity to both OMS and the Radio Station against all damages and expenses. Furthermore, both OMS and the Radio Station have the discretionary power to resolve third-party claims out of court through a settlement for any reasonable fee, which the Co-contracting Party is obliged to pay. The Co-contracting Party is also obliged to pay all reasonable costs arising from or related to legal proceedings instituted by a third party against OMS, and for which OMS is entitled to ask the Co-contracting Party for advance funding or financial security, which the Co-contracting Party is obliged to provide immediately on request.

Article 13 – Liability

- 13.1 OMS and/or the Radio Station will not be liable for loss or damage to Radio Commercials, unless the Co-contracting Party can prove that it was due to deliberate intent or gross negligence on the part of OMS and/or the Radio Station, or on the part of those who act on the orders of OMS and/or the Radio Station. The liability of OMS and/or the Radio Station for loss or damage to Radio Commercials is in any event limited to the sum of the costs of making copies of the Radio Commercials.
- 13.2 It will always be assumed that the client has kept the originals or copies of the Radio Commercials. In the event of loss or damage to a Radio Commercial through the negligence of OMS and/or the Radio Station, the Co-contracting Party is obliged to provide a new copy immediately on request and at the expense of OMS and/or the Radio Station. If this request is not met immediately, the Co-contracting Party will be fully liable for all damages and expenses, and it will remain obliged to settle the agreed amount in full.
- 13.3 OMS and/or the Radio Station do not accept any responsibility whatsoever for the broadcasting quality of a Radio Commercial. OMS and/or the Radio Station do not accept any responsibility whatsoever for the production process and quality of a Radio Commercial that was made by a production company on the orders of the Co-contracting Party and through the intermediary services of OMS and/or the Radio Station.
- 13.4 If, as a consequence of human or technical failures, a Radio Commercial cannot be broadcast at the time originally agreed, taking into account a reasonable margin, OMS and/or the Radio Station will endeavour to broadcast the Radio Commercial at another time for which similar rate applies, without being obliged to pay compensation for any damages arising from the changed timing, and while respecting the rights of third parties.
- 13.5 Complaints regarding failure to broadcast, incomplete broadcasts or broadcasting the wrong Radio Commercial will in principle only be dealt with if OMS receives the complaints in writing and they are documented within 10 working days of the day of the scheduled transmission. If the Co-contracting Party can demonstrate that the Commercial was not broadcast, was not broadcast in full or that the wrong Commercial was broadcast, OMS will endeavour to the best of its ability to offer the Co-contracting Party an alternative that is as similar as possible, without being held to pay any compensation whatsoever. This does not apply if OMS can demonstrate that the failure to broadcast, incomplete broadcast or broadcasting the wrong Radio Commercial was not due to fault on the part of OMS, its staff, its client or the Radio Station, which

includes circumstances in which the Radio Commercial did not conform with the Technical Requirements when supplied, or those circumstances were in some other way for the account and/or risk of the Co-contracting Party under the General Terms and Conditions.

Article 14 – Force majeure

- 14.1 OMS and/or the Radio Station are at all times entitled to suspend the transmission of a Radio Commercial or advertisement in the programmes in the event of circumstances beyond the control of OMS and/or the Radio Station, without OMS and/or the Radio Station being held to any compensation whatsoever.
- 14.2 Force majeure on the part of OMS and/or the Radio Station is deemed to exist if OMS and/or the Radio Station are prevented from fulfilling their obligations, or preparations thereof, as a result of circumstances beyond the control of OMS and/or the Radio Station. As a general rule, these circumstances include all incidents or circumstances such that OMS and/or the Radio Station cannot reasonably be required to fulfil their obligations.

Article 15 – Payment instructions

- 15.1 Invoicing will be done by and in the name of the Radio Station.
- 15.2 Payments must be made within 30 days of the invoice date, by transferring the amount owed to one of the Radio Station's accounts stated on the account/invoice.
- 15.3 On the expiry of the 30 days after the invoice date, the Co-contracting Party will be in default and it will owe the Radio Station interest equal to the statutory interest rate plus 2%.
- 15.4 If the Co-contracting Party is in default or fails to fulfil any of its obligations in some other way, all reasonable costs incurred to obtain a settlement out of court will be for the Co-contracting Party's account. The Co-contracting Party will at any rate owe:
- | | | | | |
|---|---------------------|---|--------|-----|
| - | on the first | € | 2,500 | 15% |
| - | on the excess up to | € | 5,000 | 14% |
| - | on the excess up to | € | 12,500 | 10% |
| - | on the excess up to | € | 50,000 | 6% |

- on the excess up to € 100,000 5%
- on the excess 4%

- 15.5 If the Radio Station can prove that it incurred higher costs that were reasonably necessary, these costs will also qualify for reimbursement.
- 15.6 OMS is entitled, on behalf of the Radio Station, to request advance payment or security, to be determined by it, at any time that it sees fit and entirely at its own discretion.

Article 16 - Termination

- 16.1 Either Party is entitled to terminate the contract out of court, either entirely or in part, by means of a registered letter if the Other Party, even after receiving a written demand, remains in default within a reasonable period in the fulfilment of its obligations under the contract.
- 16.2 Either Party is entitled to terminate the contract out of court by means of a registered letter, without any demand or notice of default being required, if the Other Party is granted provisional suspension of payments or suspension of payments, if the Other Party files for its bankruptcy or is declared bankrupt, if the company of the Other Party is wound up, if the Other Party ceases its current business operations, if a substantial part of the Other Party's assets are seized, or if the Other Party in other respects is deemed no longer able to fulfil its obligations arising from this agreement.
- 16.3 Termination of the contract between OMS and the Co-contracting Party has no implications for pre-existing payment obligations that the Co-contracting Party has regarding the Radio Station.

Article 17 – Assignment of rights

- 17.1 The contract concluded between OMS and the Co-contracting Party is strictly personal. Rights and obligations arising from this contract cannot be assigned or ceded either entirely or in part to third parties other than the Radio Station, subject to the prior written permission of OMS.
- 17.2 If an advertiser, who previously acted as the Co-contracting Party, requires the intervention of another party whom it mandates to enter into (an) agreement(s) with OMS, or if an advertiser wishes to replace the Co-contracting Party that it has given the mandate to enter into (an) agreement(s) with OMS with another Co-contracting Party,

OMS may give its permission, without being obliged to do so in any respect, to terminate the existing contract after the new Co-contracting Party has offered itself as the Co-contracting Party on the orders of the advertiser.

- 17.3 The advertiser and the new Co-contracting Party's rights and obligations arising from the new contract will be entirely the same as the rights and obligations for the advertiser and the new Co-contracting Party that arise from the old contract.
- 17.4 OMS will only give its permission for the renewal of the contract on the joint request of the advertiser, and the old and the new Co-contracting Party. If OMS grants the request for the renewal of the contract, it will send the new contract to the new proposed Co-contracting Party. The renewal of the contract only comes into effect six weeks after OMS has received the copy of the new contract, signed by the new Co-contracting Party, unless a later date is agreed in writing. The old contract remains in effect until the time that the new contract comes into effect.

Article 18 – Duty to negotiate in the event of disputes

If a dispute arises between the Parties about the establishment, interpretation, implementation or non-implementation of the contract, or the incorrect implementation of the contract or if it is not implemented within the time specified, or if either Party is of the opinion that there is a dispute, the Parties are obliged to try to come to an agreement through negotiations.

Article 19 – Competent court and applicable law

- 19.1 If the Parties cannot reach an agreement with respect to a dispute that has arisen between them, then the District Court of Amsterdam has exclusive competence to hear the dispute if and to the extent that a court of first instance in this district is competent to hear the claim.
- 19.2 All contracts between OMS and/or the Radio Station and the Co-contracting Party are governed by Dutch law. The operation of the Vienna Sales Convention is expressly excluded from any contracts between OMS and/or the Radio Station and the Co-contracting Party.