

GENERAL TERMS AND CONDITIONS

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All Bookings (as defined herein) shall be subject to and governed by these General Terms and Conditions.

1. INTERPRETATIONS

- 1.1 In these Conditions, unless otherwise expressly provided, the terms mentioned herein, the initial letter of which is capitalized, shall have the following respective meanings:

“**Advertiser**” means a person, firm or company that has placed Booking with HKCNE or has authorized its Advertising Agent to place Booking with HKCNE for the purchase of airtime, programme sponsorship, use of facilities or other services provided by HKCNE for the PIDS Business. The term shall also mean and include the Advertiser’s successors in title and assignees

“**Advertising Agent**” means a person, firm or company that has placed Booking with HKCNE on behalf of any Advertiser for the purchase of airtime, programme sponsorship, use of facilities or other services provided by HKCNE for the PIDS Business. An Advertising Agent appointed by the Advertiser shall be deemed to have full authority to act on all matters connected with the placing and changing of Bookings and the approval or amendment of Material. HKCNE reserves the right to accept or reject the Advertising Agent appointed by the Advertiser at its complete discretion. The term shall also mean and include the Advertising Agent’s successors in title and assignees

“**Applicable Law**” means collectively:

- (a) the laws of Hong Kong, including statutes and common law;
- (b) the Code of Practice on Advertising and Programme Standards issued and updated by HKCNE from time to time;
- (c) the Operations Manual issued and updated by MTR from time to time; and
- (d) the regulatory provisions (if any) issued by any competent authority in Hong Kong that are applicable to or otherwise relevant to the sale and purchase of airtime or programme sponsorship, or use of facilities or services provided by HKCNE for the PIDS Business

“**Booking**” means any request made by the Advertiser and/or the Advertising Agent to HKCNE for the purchase of airtime or programme sponsorship, or use of facilities or services provided by HKCNE for the PIDS Business

“**Conditions**” means the General Terms and Conditions contained herein and as amended from time to time

“**East Rail Line**” means the railway operated by MTR as “East Rail Line”

“**HKCNE**” means Hong Kong Cable News Express Limited, the sales representative licensed to sell, market, promote and manage the media air-time on the PIDS for the Relevant Railways in accordance with the Licence

“**Hong Kong**” means the Hong Kong Special Administrative Region of the People’s Republic of China

“**Kwun Tong Line**” means the railway operated by MTR as “Kwun Tong Line”

“**Ma On Shan Line**” means the railway operated by MTR as “Ma On Shan Line”

“**MTR**” means The MTR Corporation Limited

“**Licence**” means the licence granted by MTR to HKCNE, for the operation and marketing of the PIDS Business

“**Materials**” means any materials including but not limited to footages, pictures, photographs, slides, scripts, music, lyrics, sound recordings and the Product itself intended for playing or showing on the PIDS for the purpose of promoting or advertising the Product

“**PIDS**” means the audio-video passenger information display system used on and for railway trains established and operated by MTR along the Relevant Railways

“**PIDS Business**” means the services provided by HKCNE for the promotional or advertising opportunities with the use of the PIDS, and such service is currently named as MTR In-train TV

“**Product**” means any lawful goods, service or other subject matter that the Advertiser wishes to promote or advertise

“**Programme**” means any programme, film or the like during or between the showing of which the Advertiser’s Product will be the subject of commercial announcements

“**Rate Card**” means the prevailing rate card published by HKCNE from time to time that sets out the Rates (and, if any, terms in addition to these Conditions) for advertising on the PIDS

“**Rates**” means the rate of charges determined by HKCNE from time to time as applicable to any Booking

“**Relevant Railways**” means collectively the East Rail Line, West Rail Line, Ma On Shan Line and Kwun Tong Line

“**South Island Line**” means the railway operated by MTR as “South Island Line”

“**Sponsor**” means an Advertiser who, alone or jointly with other Advertiser(s), contracts with HKCNE for showing a particular Programme on the PIDS

“**Quiet Zones**” means such compartments or any part thereof of the trains of the Relevant Railways as designated by MTR from time to time pursuant to the Licence, where all contents on the PIDS (except railway operational messages and emergency announcements made by MTR) must be played or shown inaudibly

“**West Rail Line**” means the railway operated by MTR as “West Rail Line”

- 1.2 Words importing the singular only shall include the plural and vice versa; words importing natural persons shall include firms and corporations; and words importing the masculine gender shall include the feminine gender and the neuter gender.
- 1.3 Clause headings are for ease of reference only and shall not affect the interpretation of these Conditions.
- 1.4 If any provision of these Conditions shall be adjudged by a court of competent jurisdiction to be void or unenforceable, this shall not affect the validity or enforceability of any other provisions of these Conditions.

2. BOOKING

- 2.1 The Advertiser and the Advertising Agent acknowledge that Booking must:
- (a) be made in writing on the prescribed form of HKCNE;
 - (b) not contravene any of the Applicable Law;
 - (c) not be changed without HKCNE’s prior written consent.
- 2.2 Booking, once made, is binding upon the Advertiser and/or Advertising Agent.
- 2.3 No Booking, or subsequent change thereof, will be binding upon HKCNE until and unless HKCNE accepts it in writing.

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- 2.4 Notwithstanding Clause 2.3, HKCNE reserves the right to suspend or terminate its performance of obligations under the Booking if:-
(a) in the opinion of HKCNE, the continuing performance of its obligations will violate any Applicable Law or the Licence;
(b) there is an actual or threatened litigation; or
(c) MTR requires so.
- 2.5 The Advertiser and/or the Advertising Agent shall not have any claim in any nature whatsoever against HKCNE for the suspension or termination made pursuant to Clause 2.4, and shall be liable for payment of any sum due or accrued due by the Advertiser or the Advertising Agent to HKCNE for the Materials shown or facility or service supplied up to the time of such termination.

3. CANCELLATION AND RESCHEDULING

- 3.1 Cancellation: Booking, once made, cannot be cancelled by the Advertiser and/or Advertising Agent.
- 3.2 Rescheduling: the showing date specified in any Booking may not be modified unless HKCNE otherwise agrees, and unless a minimum of 4 weeks' prior written notice is received by HKCNE from the Advertiser or its Advertising Agent and such notice is accompanied by a new showing schedule acceptable to HKCNE. Should less than 4 weeks' notice be given, any such change, if accepted by HKCNE, will be subject to a handling charge. In any event, no change will be accepted if it will reduce the overall monetary value of the Booking in force. Rates prevailing at the time of actual showing will apply to the revised schedule.

4. CANCELLATION OF SCHEDULED SHOWING

- 4.1 HKCNE reserves the right to cancel any scheduled showing of Materials or any part thereof without prior notice. Cancellation of any one or more Programmes or spots shall not void the entire Booking.
- 4.2 Any cancellation by HKCNE under Condition 4.1 above will, at the option of HKCNE, be compensated by either (a) granting the Advertiser additional showing of a like value, (b) by extending any Booking of the Advertiser at no extra charge to the Advertiser, or (c) by deducting a prorated value of the spots cancelled from the amount otherwise owed to HKCNE. By any one of these actions, HKCNE shall have fully discharged its liabilities under Clause 4.1 and the Advertiser and/or Advertising Agent hereby waives all claims against HKCNE, including without limitation claims for damages, losses and costs whatsoever arising therefrom.

5. VARIATIONS OF THE SCHEDULE OF SHOWING

All scheduled showing of Materials are subject to changes due to (a) programming exigencies or (b) pre-emption by MTR's emergency announcements. HKCNE will do its best to adhere to the schedule for showing but will not give any warranty in respect thereof and in particular will not give any warranty as to the specific time of showing of the Materials, the Advertiser and/or Advertising Agent hereby waives all claims against HKCNE, including without limitation claims for damages, losses and costs whatsoever arising therefrom.

6. INTERRUPTION OF THE PIDS

- 6.1 HKCNE gives no warranty that the Materials will be shown on the PIDS as contemplated in the Booking.
- 6.2 If the showing of any unit of Materials is suspended or interrupted due to (a) the breakdown of the PIDS or other facilities or services (including electrical and mechanical failures); (b) emergency at the Relevant Railways; or (c) any other Acts of God or causes beyond HKCNE's control, HKCNE will, in respect of the unit of Materials affected, show the same unit as soon as possible thereafter, at a time next best available to be decided by HKCNE. The Advertiser and/or Advertising Agent will accept and pay for such showing as if the same had been shown as contemplated in the Booking.

7. STANDARDS AND PRACTICE FOR MATERIALS

- 7.1 It is the responsibility of the Advertiser and the Advertising Agent to provide HKCNE with Materials which are suitable for showing on the PIDS pursuant to the Applicable Law and the Conditions herein. Failing this, the Advertiser and the Advertising Agent shall still be jointly and severally liable for their obligations under the Booking and shall pay HKCNE in full the Booking amount, whether or not the Materials have been shown.
- 7.2 The Advertiser and/or the Advertising Agent may choose to submit the Materials to HKCNE for vetting. HKCNE reserves the right to charge a vetting fee at a rate which it deems appropriate. All Materials should be submitted to HKCNE within the time limit as stipulated in HKCNE's current commercial vetting procedures. A copy of such procedures can be obtained from HKCNE.
- 7.3 The Advertiser and the Advertising Agent acknowledge that MTR has the final decision on whether the Materials can be shown on the PIDS. HKCNE is, therefore, not in a position to give any conclusive advice on the suitability of the Materials for showing on the PIDS. HKCNE accepts no liability and the Advertiser or its Advertising Agent shall have no claim against HKCNE whatsoever for damages or other relief in respect of any advice sought from or given by HKCNE.

8. SUBMISSION AND SHOWING OF MATERIALS

- 8.1 Once Booking is accepted by HKCNE, it is the responsibility of the Advertiser and/or the Advertising Agent to supply Materials that are acceptable for showing on the PIDS. HKCNE reserves the right at its absolute discretion and without incurring any liability to decline to accept or show any Materials and HKCNE shall not be obliged to give any reason for so declining. If the Advertiser and its Advertising Agent fail to provide HKCNE with Materials that are acceptable to HKCNE within the deadline set out herebelow, the Advertiser and its Advertising Agent shall remain fully liable for their obligations under the Booking and shall pay HKCNE in full for the charges applicable to the Booking, whether or not any Materials are in fact shown.
- 8.2 The Advertiser and/or Advertising Agent shall provide HKCNE with a material instruction schedule in writing covering all scheduled showing dates for every Booking and it must contain the following information: date of the scheduled spot(s), name of Product, duration and type of Materials, reference or code name of Materials. The deadline for the submission of Material instruction schedule is five (5) days before the scheduled date of showing. If such written material instruction schedule is not provided or if the material instruction schedule is provided partially or wholly by verbal means, or if the written/verbal material instruction is in anyway incomplete or unclear, the Advertiser and/or Advertising Agent accept that HKCNE shall exercise its discretion where necessary in the assignment of material instruction under the Booking without incurring any liability whatsoever to the Advertiser and/or the Advertising Agent. The Advertiser and/or Advertising Agent shall remain fully liable for the payment of the full amount made under the Booking.
- 8.3 Each item of the Materials shall be sent to HKCNE in a separate container, labelled with the following information: identification number, name of Advertiser/Advertising Agent/Sponsor, name of Product, duration and type of Materials.

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- 8.4 Deadline for submission of the Materials to HKCNE is five (5) days (excluding Saturdays, Sundays and public holidays) prior to the scheduled showing provided that the audio script and storyboard of the Materials have previously been given a positive clearance by HKCNE. HKCNE may at its sole and absolute discretion accept the delivery of Materials where no prior positive clearance has been obtained, seven (7) days (excluding Saturdays, Sunday and public holidays) prior to the scheduled showing. For the avoidance of doubt, any positive clearance is given by HKCNE without prejudice to Clause 7.3 and cannot be taken as HKCNE's guarantee on the suitability of the Materials for showing on the PIDS.
- 8.5 It is the duty of the Advertiser and the Advertising Agent to provide Materials that will run for the length as specified in the Booking. If the Advertiser and the Advertising Agent fail to provide such Materials, HKCNE shall be entitled, but shall be under no duty, to use the remaining time and the Advertiser and the Advertising Agent will remain liable to pay for the full amount made under the Booking. Where the Advertiser supplies Materials which will exceed the length as specified in the Booking, HKCNE shall show such part of it that will complete the showing length without exceeding the same and without incurring any liability whatsoever to the Advertiser.
- 8.6 In the event of short, broken, incomplete or interrupted showing of the Materials, the Advertiser and the Advertising Agent will accept the same as fully meeting the obligations of HKCNE under the Booking, provided such faulty showing was not caused by any deliberate act of HKCNE.
- 8.7 If any Materials, having been accepted by HKCNE, are subsequently determined to be unacceptable for showing on the PIDS, HKCNE shall immediately cease to show the Materials and the Advertiser shall have no claim whatsoever for damages or otherwise in respect of such original acceptance, any advice sought or given by HKCNE, or non-showing of the Materials. The Advertiser shall still remain liable to HKCNE for the payment of advertisement shown and the remaining spots booked with HKCNE. It is the duty of the Advertiser or its Advertising Agent to supply HKCNE with other Materials (either new or amended version) for showing in the remaining spots of the Booking.
- 8.8 No Material will be shown on the PIDS if, in the opinion of HKCNE which is conclusive, the Material will likely:-
(a) violate any Applicable Law;
(b) infringe any intellectual property rights;
(c) be immoral or otherwise regarded as objectionable or undesirable from the general public's perspective;
(d) breach any contractual, legal or fiduciary obligations; or
(e) intrude upon the confidentiality or privacy of any person or entity.
- 8.9 HKCNE shall have the discretion to remove, mask or otherwise prevent access to any part of the Materials that implicates Clause 8.8(a) - (e) prior to showing the Materials on the PIDS. HKCNE shall not thereby incur any liability for showing such edited Materials, but the Advertiser and/or Advertising Agent shall remain liable to HKCNE for the payment under the relevant Booking.
- 8.10 HKCNE shall not be required to show any Materials of any Product not specified in the Booking.
- 8.11 The Advertiser and the Advertising Agent shall fully indemnify HKCNE against all actions, damages, claims, costs, expenses and demands suffered by HKCNE in connection with or arising from its use or showing of the Materials or any part thereof.
- 8.12 The Advertiser and the Advertising Agent acknowledge and agree that HKCNE may provide third party research companies with copies of the Materials for media and creative monitoring and such other purposes relating or incidental thereto.

9. QUIET ZONES

The Advertiser and the Advertising Agent expressly acknowledge and accept that the Materials will be shown also in the Quiet Zones wherein the Materials will become inaudible. The Advertiser and the Advertising Agent shall not thereby be entitled to any deduction of Rates or otherwise raise any claim or demand against HKCNE or MTR for any loss or suffering.

10. PROGRAMME SPONSORSHIP

Quotations and the terms and conditions for Programme sponsorship on the PIDS are available upon request.

11. CHANGES IN RATES AND CONDITIONS

- 11.1 HKCNE reserves the right to change its standard Rates or Conditions at any time by giving a reasonable advance written notice to the Advertiser and/or the Advertising Agent that have Bookings in force at that time. The Rates payable and the Conditions applicable shall be those in force at the time of showing, but the Advertiser and/or the Advertising Agent concerned shall, by serving written notice to HKCNE within thirty (30) days of receiving notice of such change, including Sundays and public holidays, be entitled to cancel any Booking outstanding to which the changed Rates or Conditions would otherwise be applicable.
- 11.2 HKCNE reserves the right to announce special charges and conditions which shall preempt all normal Rates and Conditions from time to time for particular Programmes and/or advertising packages. Whilst HKCNE may try its reasonable endeavour to give notice to the Advertiser and/or Advertising Agent that have Bookings in force at the time, HKCNE shall be under no duty to give notice. The Advertiser and/or Advertising Agent concerned may, subject to availability, select other times for showing the Materials at the same Rate under the same Booking.

12. HKCNE FACILITIES

- 12.1 Where available and subject to such costs as stated in individual quotation, HKCNE will quote for the use by the Advertiser and/or Advertising Agent of studios and facilities (including air-conditioning and lighting) for rehearsal, filming, video taping (with electronic editing), and commercial recordings by duty announcers for the production of the Materials.
- 12.2 HKCNE will also quote for recording and processing of film either in black and white or colour; for artwork for the preparation of slides, graphics, caption cards, opaques or scenery properties; for photographic stills in black and white or colour; for the production of slides in either black and white or colour; for subtitling in any language; for dubbing; or for any other service or materials of assistance to the Advertiser and/or the Advertising Agent.

13. FACILITY CHARGE

A facility charge shall be paid by the Advertiser and/or the Advertising Agent for showing any Sponsor's Programme owned by the Advertiser and/or the Advertising Agent.

14. PAYMENT OF ACCOUNTS

- 14.1 The Advertiser and the Advertising Agent jointly and severally undertake to pay all Rates and charges due to HKCNE for the Booking at least ten (10) days, including Sundays and public holidays, before the first scheduled date of showing unless credit facility is granted by HKCNE to the Advertiser or the Advertising Agent. If credit facility is granted, payment for all Rates and charges shall be made on or before the due date as stipulated on the relevant invoice.

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- 14.2 In default of payment on the due date, HKCNE shall be entitled, without prejudice to any other remedy available to it, to refuse to show any Materials of that Advertiser and/or Advertising Agent.
- 14.3 Advertising Agent's discount of 15% will be allowed for HKCNE's charges of spots or other airtime on the PIDS, HKCNE-owned or procured Programmes, and production. Advertiser hereby agrees that in consideration of the advice and services provided by Advertising Agent in relation to the Booking, Advertising Agent shall be entitled to receive from HKCNE such commissions rebates or fees as Advertising Agent may freely negotiate and agree with HKCNE.
- 14.4 Interest Charges: HKCNE reserves the right to impose an interest charge of 2% per annum above the Prime Lending Rate quoted by The Hong Kong and Shanghai Banking Corporation Limited on overdue accounts.
- 14.5 For those non-accredited Advertisers and/or Advertising Agents, HKCNE has the right to require them to secure their payment obligation by submitting to HKCNE a personal, corporate and/or bank guarantee, or paying to HKCNE cash in advance for such amount before such deadlines as designated by HKCNE, or otherwise making any other arrangements satisfactory to HKCNE. If the non-accredited Advertiser and/or Advertising Agent fails to observe the aforesaid, HKCNE shall have no obligation to show their spots as booked.
- 14.6 For amounts to be debited in more than one instalment, if any one of the instalments is not fully paid on the relevant due date, the whole outstanding balance of the Booking amount will become due and payable on the date of such default of payment, and HKCNE may without prejudice to its right, suspend the accreditation and withhold from showing the remaining spots under the Booking until full payment (including all accrued interest on the overdue instalments) is received by HKCNE. The Advertiser and the Advertising Agent shall remain jointly and severally liable for the full payment under the Booking. In case the Advertiser has changed its Advertising Agent for whatever reasons, the Advertiser, the replaced Advertising Agent and the replacing Advertising Agent shall be jointly and severally liable to HKCNE for all its and/or their liabilities accrued up to the time of such replacement.
- 14.7 HKCNE reserves the right to withdraw the accreditation and any right to agency discount granted to any Advertising Agent who is in breach of any of these Conditions.

15. RECORD OF SHOWINGS

- 15.1 HKCNE will keep a log of the dates and times of Materials shown on the PIDS for a limited period of time. In the case of dispute, the details recorded in this log shall be conclusive and binding on the parties unless there is any manifest error.
- 15.2 Unless otherwise agreed by HKCNE with or without conditions, HKCNE shall not provide the Advertiser and/or the Advertising Agent the original or a copy of the said log.

16. WARRANTIES AND INDEMNITIES

The Advertiser and the Advertising Agent jointly and severally warrant and undertake that:

- 16.1 Each of them will be responsible for obtaining and paying for all necessary licences and consents for the reproduction, transmission, showing and ancillary exploitations of any intellectual property works in the Materials (including the synchronization right of songs and recording right of musical recordings) or the appearance of any person in the Materials.
- 16.2 No Materials will breach the Applicable Law or be defamatory of any third party.
- 16.3 Each of them will indemnify and keep HKCNE indemnified against all actions, proceedings, costs (including legal costs on a full indemnity basis), damages, expenses, penalty claims, demands and liabilities arising from any breach of the above warranties or other Conditions or in any manner whatsoever in consequence of the use, recording or showing of any Materials or other matter supplied by or shown for the Advertiser or the Advertising Agent, including all costs incurred in obtaining advice on and dealing with threatened claims or proceedings whether or not actually brought or instituted.
- 16.4 Each of them will further indemnify and keep HKCNE indemnified against all penalties imposed by any regulatory bodies for any breach of the Applicable Law as a result of the showing of Materials supplied by or shown for the Advertiser or its Advertising Agent.

17. TERMINATION BY HKCNE

Notwithstanding anything hereinbefore contained, HKCNE may at any time forthwith terminate the Booking by notice in writing to the Advertiser or its Advertising Agent if:

- 17.1 the Advertiser and/or the Advertising Agent breaches any of the Conditions in a material manner;
- 17.2 HKCNE's business activities being terminated, restricted, curtailed or affected by law or decree; or by any means beyond the control of HKCNE; or
- 17.3 due to liquidation, replacement or otherwise, the Advertiser or the Advertising Agent no longer has the right to require HKCNE to advertise its Product under the Booking.

The termination aforesaid shall be without prejudice to the liabilities of the Advertiser and/or the Advertising Agent for any sum due to HKCNE up to the time of termination. HKCNE shall have a right to recover the said sum and any other relief immediately upon or after the said termination.

18. SCOPE OF AGREEMENT

- 18.1 By entering into the Booking, the Advertiser and/or the Advertising Agent, jointly and severally, accepts and agrees to be bound by the terms stated in the Booking, these Conditions, the Rate Card, the annexure to the Booking and the additional conditions set out in such annexure or in any published offer or scheme of HKCNE as far as they are applicable to the Booking.
- 18.2 No terms or conditions other than those aforesaid shall be binding upon HKCNE, unless reduced to writing and signed by all the parties to the Booking.

19. NOTICE

Any notice to the Advertiser and/or the Advertising Agent shall be given by ordinary prepaid post or by personal delivery or by facsimile or other acceptable means of communication and shall be deemed to be duly served twenty-four (24) hours after the date of posting or on the date of delivery or transmission, and any notice to HKCNE shall be duly served on HKCNE only upon actual receipt by HKCNE.

20. GOVERNING LAW

The Booking shall be governed by and be construed in accordance with the laws of Hong Kong and each of the parties to the Booking shall submit to the exclusive jurisdiction of the Hong Kong Courts.