

## **RTÉ Airtime: Sales Terms and Conditions**

### **1. Definitions**

- 1.1 “**RTÉ**” means Radio Telefís Éireann, a body corporate established by the Broadcasting Authority Acts, 1960 – 2001 which expression shall include the successors in title and assigns of the body.
- 1.2 “**Advertiser**” means the person, firm or company by whom a booking, which incorporates these general terms and conditions is made.
- 1.3 “**Agency**” means an advertising agent or agency, being a person, firm or company which selects or books advertising space on behalf of the Advertiser.
- 1.4 “**Advertisement Copy**” means any advertising material, intended for transmission by RTÉ. Delivery of Advertisement Copy shall be deemed to have been made when RTE’s technical requirements have been met and when the relevant transmission instructions have been given.
- 1.5 “**Working Day**” means any day of the week from Monday to Friday inclusive, except any Bank or Public Holiday in Ireland.
- 1.6 “**Advance Booking Deadline**” means the relevant date from a list of dates issued by RTÉ from time to time. With regard to television, RTE reserves the right to, at its sole discretion, refuse any booking placed after the Advance Booking Deadline or to apply a late approval surcharge of such sum as RTE may at its discretion determine to be appropriate.
- 1.7 “**Day Parts**” mean agreed time bands for purposes of booking and monitoring advertising airtime.

### **2. Advertising Agencies and Commissions**

- 2.1 Where RTÉ deals with an Agency, the Agency shall be deemed to contract as sole principal, to the exclusion of any other party or person and all contracted rights and responsibilities shall rest solely between RTÉ and the Agency. The Agency will be solely responsible for the repayments of accounts and will be deemed to have full authority in all matters connected with the placing of bookings and the approval of amendments to copy.
- 2.2 Agency commission of 15% of bookings is payable to all recognised Agencies and such commission shall be calculated on the basis of the rates applicable or amounts agreed less discounts allowed.

### **3. Acceptance of Terms and Conditions**

- 3.1 The placing of a booking with RTÉ by an Agency or Advertiser shall be deemed acceptance by it of these terms and conditions.
- 3.2 A contract between RTÉ and the Advertiser or Agency shall be deemed to exist when RTÉ issues notification of the booking to the Advertiser or Agency. Such notification can be issued by fax, e-mail, electronically or in printed format.
- 3.3 No terms or conditions other than those set forth herein, or any variation thereof pursuant to Clause 9 below, shall be binding upon RTÉ or the Advertiser or Agency as the case may be, unless reduced to writing and signed by or on behalf of both RTÉ and the Advertiser or Agency.

### **4. Acceptance of Advertisements**

- 4.1 All advertisements shall be subject to the approval by RTÉ to ensure compliance with all relevant legislation including RTÉ's own internal Codes on Advertising (and which shall be amended from time to time) as well as compliance with the provisions of the Broadcasting Authority Acts 1960 – 2001, the Code of Standards for Broadcast Advertising, and the Code of Advertising Standards for Ireland maintained by the Advertising Standards Authority for Ireland.
- 4.2 Scripts and/or storyboards for all advertisements filmed, recorded or live, should be submitted in advance for provisional approval by RTÉ or its designated agent. In the case of filmed or recorded advertisements, scripts and/or storyboards must be submitted by the Advertiser or Agency in time for them to be considered by RTÉ and where necessary, adjusted before commencement of filming or recording prior to transmission.
- 4.3 Approval of a script and/or storyboard or filmed, recorded or live advertisements shall not in any way prejudice RTE's right to reject Advertisement Copy as provided below.
- 4.4 Advertisement Copy in respect of television, and the appropriate detailed list of all copyright/licence material including full music details, whether specially composed or not, in particular the exact duration, composer, arranger, publisher and if taken from a record, the record label and number of each musical work, must be delivered to RTÉ in Dublin no later than 10 (ten) Working Days prior to the date of intended transmission. In exceptional circumstances RTÉ shall endeavour to accept Advertisement Copy delivered in a period less than this timeframe. However, in such cases, RTÉ shall not be under any obligation to notify the Advertiser or Agency if the Advertisement Copy is deemed unsuitable and the Advertiser or Agency shall be liable to pay in full for the advertising time booked (whether or not such advertisement is in fact transmitted). Any alteration(s) in Advertisement Copy or in transmission instructions which are made less than 5 (five) Working Days prior to the

intended transmission date, shall only be accepted at the absolute discretion of RTÉ and shall be subject to a surcharge of 10% of the applicable gross rate.

- 4.5 In the event that RTÉ deems the Advertisement Copy to be unsuitable, RTÉ shall notify the Agency or Advertiser who must be prepared to supply alternative copy no later than 5 (five) Working Days prior to the intended transmission. Alternative copy, if accepted at shorter notice, will be subject to a 10% surcharge of the gross booking rate. Should alternative copy not be accepted by RTÉ, then RTÉ shall be entitled to repeat previous copy or to transmit other suitable material. RTÉ shall be entitled to be paid the full rate for each transmission.
- 4.6 The provisions of Clauses 4.4 and 4.5 above shall apply without prejudice to any special arrangements, which are made for bookings at shorter notice.
- 4.7 RTÉ reserves the right, at its absolute discretion and without incurring any liability, to decline to transmit any advertisement without giving any reason for so declining but in such event the Advertiser or Agency shall not be liable to pay for any advertisement, which RTÉ so declines to transmit.
- 4.8 RTÉ reserves the right in its absolute discretion to do any act or thing in respect of the transmission of any advertisement or part thereof (including the fading, editing or cutting thereof) which is found to contain unsuitable Advertisement Copy. RTÉ shall not incur any liability to the Advertiser or Agency who shall have no claim whatsoever for damages or otherwise in respect of any alternation (or non-transmission) of any such advertisement or part thereof. The Advertiser or Agency shall remain liable to RTÉ in respect of any charges payable hereunder for such advertisements.
- 4.9 RTÉ reserves the right to refuse or to surcharge advertisements advertising more than one product, service or activity. If in RTÉ's opinion, the editing of two or more advertisements results in the advertisement of more than one product, service, or activity, which is designed to take advantage of reduced rates, RTÉ reserves the right, at its absolute discretion, to charge such advertisements at a rate equivalent to that which RTÉ would have charged had the advertisement for each product, service or activity been submitted to it separately.
- 4.9 RTÉ reserves the right to restrict any repeat transmission of the same advertisement.
- 4.10 Subject to the provisions of Clause 9, all bookings shall be accepted on the understanding that they will be paid for at the rates in force at the date of transmission or on a level of spend agreed with the Advertiser, or Agency.

## **5. Dates/Times of Transmission**

- 5.1 RTÉ does not guarantee that the times and/or dates of transmission will be adhered to, but, if for any reason an advertisement is not transmitted on the day and in the segment agreed, RTÉ shall endeavour to offer a transmission at

some other time and other date which may be accepted by the Advertiser or Agency, provided that if any offer of such a transmission is not accepted (or is not made) the original bookings shall be cancelled and the Advertiser or Agency shall have no claim against RTÉ in respect of non-transmission or for any expense or damage whatsoever incurred as a result thereof. RTÉ shall make no charge to the Advertiser or Agency for such booking but RTÉ shall be entitled to be paid by the Advertiser or Agency any agreed fees. RTÉ shall be paid any expenses it incurs in respect of any facilities arranged or provided.

- 5.2 RTÉ shall not incur any liability for any failure to transmit all or any part of any advertisement as a result of any failure of transmission, except that if a total failure to transmit shall be due to any fault of RTÉ the Advertiser or Agency shall not be charged for the advertisement. In the event of a partial failure to transmit over the entire network RTÉ may at its discretion allow a rebate, the amount of which shall be determined by RTÉ.
- 5.3 Advertisements appearing within five minutes of the segment booked will normally be regarded as appearing within the segment. Timings used by the RTÉ in the acceptance of bookings in fixed breaks are approximate and denote the planned position or sequence only.
- 5.4 In the event of RTÉ's transmission activities being restricted, curtailed or prevented by any law or any other act or thing beyond RTÉ's control, RTÉ may at any time, notwithstanding anything herein before contained, forthwith terminate any arrangement made hereunder without prejudice to RTÉ's right to be paid by the Advertiser or Agency any moneys due and owing by the Advertiser or Agency to RTÉ at the time of such determination.
- 5.5 Particulars of transmission times and transmission losses as set out in RTÉ's station logs shall be accepted by the Advertiser or the Agency.

## **6. Material and Property Liability**

- 6.1 Every care will be taken in respect of advertising videos, cassettes, recordings, goods, or equipment, however RTÉ will not be liable for the loss, damage or delay in delivery thereof, whether in the studio or in transit and whether or not such films, recording, goods or equipment are supplied by RTÉ.

## **7. Payment Terms**

- 7.1 Payments shall be received by RTÉ no later than five Working Days prior to the scheduled transmission date of the advertisement and in default of payment by the Advertiser or Agency, RTÉ shall be entitled (without prejudice to its other remedies at law) to refuse to transmit the advertisement.
- 7.2 Accounts payable by an Agency, which is recognised by RTÉ and which is granted a credit listing shall be paid not later than the last Working Day of the month following the month during which transmission of the advertisements occurs.

- 7.3 In the event of an Agency failing to comply with the provisions of Clause 7.2, RTÉ reserves the right to require payment on the due date by means of the banks direct debit system.
- 7.4 In the event of an Agency referred to at Clause 7.2 above paying its account within 10 (ten) Working Days when such payment became due, RTÉ reserves the right to refuse further bookings from the Agency.
- 7.5 In the event of an Agency referred to at Clause 7.2 above, failing to pay its account within 17 (seventeen) Working Days of the date upon such payment becoming due RTÉ reserves the right without prejudice to all its other rights:
- a. To withdraw Agency Recognition and to remove the Agency from RTÉ's Register of Approved Agencies, and
  - b. To cease transmission of all bookings placed by the Agency
  - c. To impose to an immediate surcharge of 2% of such amount and a further surcharge of 1% will be imposed in respect of any part of the original amount, which is still outstanding on the tenth day of the subsequent month.
- 7.6 All queries relating to an invoice issued by RTÉ shall be notified in writing within 5 (five) Working Days of the invoice date. The existence of a disputed item in an account will only affect the due date of payment of that disputed item. In the event of a disputed item being resolved in favour of RTÉ, the disputed item will be subject to the full rate of surcharge as specified at c. above.

## **8. Warranties**

The Advertiser or Agency warrants and undertakes that:

- 8.1 It will be responsible for obtaining and paying for all necessary clearances and consents for the transmission of any third party material contained in an advertisement, and/or all permissions with regard to the appearance of any person in an advertisement.
- 8.2 The Advertisement Copy will not breach any rights of any third party whatsoever, (including without limitation copyright) or be defamatory of any third party in any way.
- 8.3 It will where required satisfy RTÉ that any necessary permission has been obtained and all necessary rights cleared with the owners of any rights, including with regard to music, the performing rights and the mechanical rights in any material proposed for use in any advertisement. RTÉ shall have the right to refuse to broadcast any advertisement until the rights position has been addressed to its satisfaction.

## **9. Indemnity**

The Advertiser or Agency agrees that:

- 9.1 It will indemnify and keep RTÉ indemnified against all actions, proceedings, costs, damages, expenses, penalties/claim, demands and liabilities arising from any breach of the above warranties or in any manner whatsoever in consequence of the use, recording or broadcasting of any Advertisement Copy or matter supplied by it for transmission by RTÉ. The Advertiser or Agency agrees that this indemnity shall not preclude RTÉ from conducting its own defence in any legal proceedings brought against it and the Advertiser or Agency warrants and undertakes that it will indemnify RTÉ against the reasonable legal costs incurred by RTE in conducting such Defence.

## **10. Change of Rates and Conditions**

- 10.1 Whilst as much notice as possible will be given of all changes RTÉ reserves the right to change the advertisement rate and any of these terms and conditions at SIX WEEKS notice and in the event of such a change, the rates payable and the terms and conditions applicable shall be those at the time of transmission. The Advertiser or Agency concerned shall (by serving written notice on RTÉ within 10 (ten) Working Days of receipt of notice of such change) be entitled to cancel any booking for an advertisement to which the changed rates or terms and conditions would otherwise be applicable.

## **11. Special Rates**

- 11.1 Special charges and conditions may be announced from time to time for particular programmes.

## **12. Cancellations**

- 12.1 Any booking may be cancelled or deferred by either party upon written notice to the other provided that any such written notice of cancellation or deferral by an Advertiser or Agency is received by RTÉ prior to the Advance Booking Deadline for the month of the intended transmission on Television. Cancellations of bookings on Radio will be accepted up to 10 (ten) Working Days prior to transmission. RTÉ reserves the right to charge for any cancellations closer to transmission.
- 12.2 An Advertiser or Agency wishing to defer a booking after the Advance Booking Deadline for the month for which booking was made shall submit a written request to RTÉ to do so. Any acceptance of such request shall be at RTE's sole discretion and the deferral shall result in an additional sum being payable for the booking and/or a decrease in any discount negotiated for the original booking by or a rebate being payable.
- 12.3 Any deferral made under Clauses 11.1 or 11.2 above must be recommitted at the time of the deferral to a time not more than three calendar months after the

start date of the campaign being deferred and in any event before the end of the same calendar year or RTÉ's financial year, whichever is the earlier.

### **13. Auditing Records**

- 13.1 In the event that the Advertiser or Agency has agreed with RTÉ to make payments for Advertising Airtime based upon the share of the Advertiser or Agent's television advertising expenditure that it has agreed to commit in purchasing advertising airtime sold by RTÉ, then within 30 (thirty) Working Days of the end of each month the Advertiser or Agency shall provide a report to RTE detailing the information necessary to calculate the payments due to RTÉ based upon the Advertiser or Agency's actual television expenditure.
- 13.2 RTE shall have the right to audit the Advertiser's or Agency's records at its own cost at any time on reasonable prior written notice to ensure that payments are being made in accordance with any agreement to which Clause 12.1 above applies. If any such audit reveals that the Advertiser or Agent has underpaid RTÉ by more than 3% of sums properly due, then the Advertiser or Agency shall pay to RTÉ forthwith the cost of the audit, together with the amount of the shortfall and interest thereon accruing daily at the annual rate which is 3% above the base lending rate of Central Bank from the date when sums were due until the date of actual payment. In the event of any shortfall being revealed which is less than 3% of sums properly due to RTÉ, the Advertiser or Agency shall forthwith make payment to RTÉ of the shortfall together with interest at aforesaid rate.

### **14. Regional Rates**

- 14.1 Regional rates are charged for advertisements addressed solely to a specific area covered by one of RTÉ's television transmitters. Dublin City and County are excluded for this scheme. RTÉ reserves the right to restrict the transmission of any advertisement booked under this scheme to the appropriate transmitter.

### **15. Termination**

- 15.1 If an Advertiser or Agency becomes insolvent or enters into liquidation or a Receiver is appointed for any of his property, or if any of the conditions which on the part of the Advertiser or Agency are to be observed, fulfilled and kept are not so observed, fulfilled and kept, RTÉ may (notwithstanding the waiver of any previous breach) terminate its contract with the Advertiser or Agency at any time thereafter by notice in writing to that effect, without prejudice to the right of RTÉ to recover any sum payable to it.

### **16. Governing Law**

- 16.1 These terms and conditions shall be construed in accordance with the Laws of Ireland and any dispute arising hereunder shall be submitted to the exclusive jurisdiction of the Courts of Ireland