

UK-ITwww20

Online advertising agreement

Dated: [date]

Website Owner:

Advertiser: Betradesavvy ltd

Draft Only

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This agreement is dated: [date]

It is made between:

Betradesavvy ltd of 1 to 19 Lever Street, Manchester, M1 1AN a company registered in England and Wales, number 10032677. (the website owner)

And

[] (the advertiser)

1. Definitions

The following definitions apply in this agreement:

"Confidential Information" means all information about the parties to this agreement, including any information which may give a commercially competitive advantage to any other person. It includes among other things:

information about staff, their performance and their personal contact information, data or information relating to suppliers, product plans, marketing strategies, finance, performance, operations, customer relationships, customer profiles, sales estimates, business plans;

information owned by a third party and in respect of which a party has an obligation of non-disclosure.

information, comment or implication published on any Internet social medium.

information about the Intellectual Property and the know-how.

"Advert" means whatever text, image , , video, or sound that the Advertiser wishes to install on the

	Website from time to time, in compliance with the Licence.
“Designated Space”	means space designated on pages of the website identified by URLs, in terms set out in Schedule 2.
“Intellectual Property”	means intellectual property of every sort whether or not registered or registrable in any country.
“Licence”	means a licence granted by the Website Owner to the Advertiser for the use of the Designated Space in the terms of this agreement.
“Licence Fee”	means the fees charged from time to time by the Website Owner.
“Specification”	means the technical specification and limitations set out in Schedule 2.
“Website”	means the website [] owned or controlled by the Website Owner in respect of which Advertiser will have the Licence under this agreement.

2. Interpretation

In this agreement unless the context otherwise requires:

- 2.1. a reference to one gender shall include any or all genders and a reference to the singular may be interpreted where appropriate as a reference to the plural and vice versa.
- 2.2. a reference to a person includes reference to that person’s successors, legal representatives, permitted assigns and any person to whom rights and obligations are transferred or pass as a result of a merger, division, reconstruction or other re-organisation involving that person.
- 2.3. a reference to a paragraph or schedule is to a paragraph or schedule to this agreement unless the context otherwise requires. The schedule forms part of this agreement.
- 2.4. the headings to the paragraphs and schedule (if any) to this agreement are inserted for convenience only and do not affect the interpretation.

- 2.5. any agreement by either party not to do or omit to do something includes an obligation not to allow some other person to do or omit to do that same thing.
- 2.6. a reference to an act or regulation includes new law of substantially the same intent as the act or regulation referred to.
- 2.7. all money sums mentioned in this agreement are calculated net of VAT, which will be charged when payment is due.
- 2.8. this agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or translation of this agreement in any other language, the English language version shall prevail.

3. Warranties for authority

Each of the parties warrants and undertakes that:

- 3.1. it is not aware of anything within its reasonable control which might or will adversely affect its ability to fulfil its obligations under this agreement.
- 3.2. it is not insolvent and knows of no circumstance which would entitle any creditor to appoint a receiver or to petition for winding up or to exercise any other right over or against its assets.

4. Relationship of parties

- 4.1. Nothing in this agreement shall create a partnership or agency or other relationship between any of the parties, other than the contractual relationship expressly provided for in this agreement.
- 4.2. Neither party shall have, nor represent that it has, any authority to make any commitment on the other party's behalf, except as provided in this agreement.

5. Entire agreement

- 5.1. This agreement contains the entire agreement between the parties and supersedes all previous agreements and understandings between the parties.
- 5.2. Each party acknowledges that, in entering into this agreement, it does not rely on any representation, warranty, information or document or other term not forming part of this agreement.
- 5.3. As an exception to the last previous sub paragraph, the parties do rely on information provided in writing as follows:

[Enter list of other docs and dates containing information relied on]

6. The Licence

- 6.1. The Website Owner grants a Licence of the Designated Space for the Licence Fee set out in Schedule 1 and in accordance with the Specification and the terms of this agreement.
- 6.2. The Licence is for a period of [3] years from the date of this agreement.
- 6.3. This Licence is limited by the restrictions as set out in this agreement and by the choices the Advertiser has made which relate to time, extent, numbers, type of usage, and other matters.
- 6.4. The Licence includes the right to enter the Website for the sole purposes of publishing, editing, replacing or removing an Advert.
- 6.5. All right, title, and interest in and to the Website, including all data and associated Intellectual Property rights, are and shall remain with Website Owner.
- 6.6. So far as the Website Owner provides the Advertiser an additional space on some other website, that deal shall be deemed to be a separate licence, regulated under the terms of this over-arching contract. Accordingly, the acceptance or cancellation of one licence does not affect the work on any other.
- 6.7. The Advertiser will not assign, charge or sub-license the rights of advertisement granted in terms of this agreement.

- 6.8. At all times the Advertiser will ensure that the Advert and any other material being advertised on the Website is not illegal, immoral or unethical.
- 6.9. The Advertiser will not display any advertisement which is unlawful or contravenes the British Code of Advertising, Sales Promotion and Direct Marketing or is immoral, defamatory, abusive, pornographic or is likely to offend those who see it [or would [be likely in the [reasonable] opinion of the Advertiser to] bring the Advertiser into disrepute] [and must comply with such advertising guidelines as the Advertiser may [reasonably] stipulate from time to time].
- 6.10. The Advertiser will not display advertisements for [statutorily proscribed goods or services or goods or services which would be likely [in the [reasonable] opinion of the Website Owner] to bring the Website Owner into disrepute.
- 6.11. No express or implied licence of the Advert displaying is granted to the Advertiser other than the express Licence granted in this agreement.

7. Licence Fee and payment

- 7.1. The Advertiser agrees to pay the Licence Fee at the rates set out in Schedule 1.
- 7.2. The Advertiser will be liable to pay all the taxes and duties imposed by the government on the transactions contemplated in this agreement.
- 7.3. Payment shall be made by any of: [direct debit, bank transfer in GBP or any other way agreed between the parties.
- 7.4. The Website Owner reserves the right to charge the Advertiser interest in respect of the late payment of any sums due under this agreement, calculated and cumulated monthly, at the rate of [4] per cent above the base rate from time to time of the Bank of England, from the due date until receipt of payment.
- 7.5. The parties agree that the Licence Fees will increase annually at the rate of [10] % over the previous year or at any other rate as may be decided by the parties in writing at least [15] days before the anniversary of the date of signing this agreement.

- 7.6. In the event of cancellation of this contract by the Advertiser during the course of the month, there shall be due to the Website Owner a sum calculated pro-rata as a proportion of the management fees which would normally be due for a full month.

8. Restrictions on the Advert

The Website Owner may in its sole discretion restrict the publication of the Advert (images, banners, text or advert), if the Advert:

- 8.1. [does not comply with Be Trade Savvy's Advertising Policy](#);
- 8.2. is related to counterfeit goods, dangerous products or services and the products or services that enable dishonest behaviour;
- 8.3. could reasonably be considered to be obscene, offensive, threatening, violent, malicious or defamatory;
- 8.4. endorses a particular political agenda, political position or issue;
- 8.5. does not comply with applicable local, national and international laws.

9. Obligations of the Advertiser

The Advertiser agrees that it will:

- 9.1. use the Designated Space only for the purpose of its own business and products / services in the terms set out in this agreement;
- 9.2. obtain all licenses and approvals required by it under law to use the Website for its business purposes;
- 9.3. not do or omit to do anything that could cause any insurance policy on or in relation to the Website to become wholly or partly void or voidable, or do or omit to do anything by which additional insurance premiums may become payable.

10. Obligations of the Website Owner

The Website Owner agrees that it will:

- 10.1. not interfere in any way with the modification of the Advert and/or use of the Designated Space, in any way, by the Advertiser;
- 10.2. take all appropriate measures and ensure all appropriate safeguards to keep the Website live on the Internet;
- 10.3. will ensure that the privacy of the personal information of its customers and visitors and that of the Advertiser is maintained.

11. Confidentiality

- 11.1. Both parties are aware and agree that from time to time they will each have access to and be entrusted with Confidential Information of the other. Accordingly, they undertake in respect of Confidential Information of the other of them, that both during and after completion of this agreement, they will:
 - 11.1.1 except as provided in this agreement, not divulge to any person whatever, or otherwise make use of (and will use its best endeavours to prevent the publication or disclosure of) any trade secret or Confidential Information;
 - 11.1.2 not use the Confidential Information in any way for itself or any other person, except in a way that is authorised by this agreement or by the proper authority of the other of them;
 - 11.1.3 not store, copy, or use the Confidential Information in any place or in any electronic form which may be accessible to any other person;
 - 11.1.4 make all relevant employees agents and sub-contractors aware of the confidentiality of information and the provisions of this paragraph and to take all such steps as from time to time may be necessary to ensure compliance by those people with these provisions.
- 11.2. Without prejudice to the generality of the rest of this paragraph, the Advertiser shall not alter or disclose any computer or website programme password which the Website Owner uses.
- 11.3. The parties agree that any damage arising directly or indirectly, foreseeable or not from a breach of the above provisions must be compensated on the basis of the effect on the damaged party.

11.4. No matter how this contract ends, this paragraph shall be effective for **[five]** years from the date of termination of this agreement.

12. Limitation of liability

- 12.1. The law differs from one country to another. This paragraph applies so far as the applicable law allows.
- 12.2. All implied conditions, warranties and terms are excluded from this agreement. If in any jurisdiction an implied condition, warrant or term cannot be excluded, then this sub paragraph will be deemed to be reduced in effect, only to the extent necessary to release that specific condition, warranty or term.
- 12.3. The following provisions set out entire liability of each party (including any liability for the acts and omissions of its employees) to the other of them in respect of:
- 12.3.1 any breach of its contractual obligations arising under this agreement; and
 - 12.3.2 any representation, statement or tortious act or omission including negligence, arising in connection with this agreement.
- 12.4. Neither party shall be liable to the other for any loss or expense which is:
- 12.4.1 indirect or consequential loss; or
 - 12.4.2 economic loss or other loss of turnover, profits, business or goodwill; or
 - 12.4.3 loss or damage suffered by the Client as a result of an action brought by a third party.

The above provisions apply even if such loss was reasonably foreseeable or either party had been advised of the possibility of the other incurring it.

- 12.5. Neither party shall be liable to the other for loss arising from or in connection with any representation, agreement, statement or undertaking made prior to the date of this agreement.

- 12.6. The Website Owner gives no warranty that any particular result or outcome is achievable or attainable by a given date or at all.
- 12.7. Nothing in this paragraph shall confer any right or remedy upon either party to which it would not otherwise be legally entitled.
- 12.8. This paragraph (and any other paragraph which excludes or restricts the liability of parties) applies to its directors, employees and subcontractors, (who may enforce this clause under the [Contracts \(Rights of Third Parties\) Act 1999 / Contracts \(Rights of Third Parties\) \(Scotland\) Act 2017](#), as well as to parties itself.

13. Termination

- 13.1. Either party may terminate this agreement by giving [\[one\]](#) month's written notice to the other.
- 13.2. This contract may be terminated:
- 13.2.1 immediately by the Website Owner if the Advertiser fails to pay any sum within [\[15\]](#) days of the due date, and
 - 13.2.2 immediately by either party if the other commits any material breach of any term of this agreement and which in the case of a breach capable of being remedied is not remedied within 30 days of a written request to remedy it, and
 - 13.2.3 immediately if either party is declared bankrupt or insolvent; or has taken or suffered any action for its reorganisation, liquidation, winding up or dissolution; or had a receiver or liquidator appointed for all or any part of its assets or business.
- 13.3. The termination of this agreement by this paragraph shall be without prejudice to any other right or remedy to which a party may be entitled.

14. Effect of termination

Upon termination of this agreement, the Advertiser agrees that it shall:

- 14.1. pay all outstanding money immediately;

- 14.2. cease to use, either directly or indirectly, any Confidential Information of the Website Owner.
- 14.3. cease to use any Intellectual Property rights and licenses granted under this agreement.

15. Interruption to the services

- 15.1. The Website Owner will do all it can to maintain access to the Website, but it may be necessary for the Website Owner to suspend all or part of services for repairs, maintenance or other reason. The Website Owner may do so without telling the Advertiser first.
- 15.2. The Advertiser acknowledges that the services may also be interrupted for reasons beyond the control of the Website Owner.
- 15.3. The Advertiser agrees that the Website Owner is not liable to it for any loss whether foreseeable or not, arising as a result of interruption to the services.

16. Indemnity

The Advertiser agrees to indemnify the Website Owner against all costs, claims and expense arising directly or indirectly from:

- 16.1. its failure to comply with the law of any country;
- 16.2. its breach of this agreement;
- 16.3. any act, neglect or default by any agent, employee, licensee of the Advertiser;
- 16.4. a contractual claim arising from its use of the License;
- 16.5. a breach of the Intellectual Property rights of the Website Owner or any other person.

17. Miscellaneous matters

- 17.1. No amendment or variation to this agreement is valid unless in writing, signed by each of the parties or his authorised representative.

- 17.2. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms.
- 17.3. Any obligation in this agreement intended to continue to have effect after termination or completion shall so continue.
- 17.4. No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor indicate any intention to reduce that or any other right in the future.
- 17.5. Any communication to be served on either of the parties by the other shall be delivered by hand or sent by first class post or recorded delivery.

It shall be deemed to have been delivered:

if delivered by hand: on the day of delivery;

if sent by post to the correct address: within 72 hours of posting;

- 17.6. In the event of a dispute between the parties to this agreement, then they undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.
- 17.7. This agreement does not give any right to any third party under the [Contracts \(Rights of Third Parties\) Act 1999 / Contracts \(Rights of Third Parties\) \(Scotland\) Act 2017](#) or otherwise, except that any provision in this agreement which excludes or restricts the liability of our directors, officers, employees, subcontractors, agents and affiliated companies, may be enforced under that Act.
- 17.8. The validity, construction and performance of this agreement shall be governed by the laws of [\[England and Wales / Scotland / Northern Ireland\]](#) and the parties agree that any dispute arising from it shall be litigated only in that country.

Signed by [personal name] on behalf of the Website Owner as its representative who personally accepts liability for the proper authorisation by ----- to enter into this agreement.

Signed by [personal name] on behalf of the Advertiser as its representative who personally accepts liability for the proper authorisation by Betradesavvy Ltd to enter into this agreement.

Draft Only

Schedule 1: licence Fee structure

- *Payment are to be received in to our account 30 days from the date of the this agreement being signed.*
- *Banner ads. The fee of £40 plus vat is to be paid to Betradesavvy Ltd as defined above and to account, A/C20294616 Sort 20-24-09.*
- *Square ads. The fee of £20 plus vat is to be paid to Betradesavvy Ltd as defined above and to account, A/C20294616 Sort 20-24-09.*
- *This fee is due irrespective of all advertising media being supplied to Betradesavvy (the website owner) by (the advertiser).*
- *Once the ad is live and visible then any amendments or changes would incur a administration fee of £ 25 plus vat.*
- *The above fee constitutes a single advert and must pertain to current or pending offers available at your trading premises. Adverts relating to other geographical locations will require addition and separate adverts.*
- *The above fee constitutes a single discipline range of products that you “the advertiser” wants to offer. For example paving products. An additional advert would be required if you also wanted to offered other ranges from the same geographical trading location.*

Schedule 2: Technical and other specification and limitations

18. Advertising Specifications

We have a number of opportunities for advertising on the site, depending on what has been confirmed in your

19. Savvy Suppliers

Please supply us with the details **as you want it to appear on the site**. The details will make up your actual listing, so if you are supplying a phone number and email address, it has to be the ones that people can enquire/contact you through.

Name Of Company	
Address	
Contact Phone Number	
Contact Email Address	
Website Address	
Page Within The Site You Want The Ad To Link To	

Please email your details to advertising@betradesavvy.com or visit our website and upload the information directly.

Contact Name we can use if we need to discuss the adverts	
Contact Phone number we can use if we need to discuss the adverts	
Contact email address we can use if we need to discuss the adverts	

Please email your details to advertising@betradesavvy.com or visit our website and upload the information directly.

We then have two advertising specifications, square ads and landscape banners.

Square adverts are 400 pixels wide x 400 pixels high. Please supply us with web ready .jpgs. By web ready we require the ads to be flat images, saved for web. We don't have a maximum file size, but you should aim for lower than 100kb.

Landscape banners are 1200 pixels wide by 200 pixels high. Please supply us with web ready .jpgs. By web ready we require the ads to be flat images, saved for web. We don't have a maximum file size, but you should aim for lower than 100kb.

Some examples are shown below:



Please email your details to advertising@betradesavvy.com or visit our website and upload the information directly.

Explanatory notes:

Online advertising agreement

Paragraph specific notes:

Note: numbering refers to paragraph numbers.

1. Definitions

You should first decide on the contents of the document, then return to check what definitions are needed and whether they really fit the text you have left in place.

By all means use the find / replace function in your word processor to change them. If you do change a defined term, make sure it applies to every use of it in the document.

Remember too, that when a word or phrase is defined, the defined meaning capitalised, takes precedence over the common meaning of that word or phrase.

2. Interpretation

Leave these items in place unless there is a good reason to edit or remove. These items are not “lawyer’s blurb”. Every item has been carefully considered in the context of this agreement and has been included for a purpose. Many of them strengthen the framework within which the agreement operates.

3. Warranties for authority

This paragraph prevents the party from saying later that it was not aware of some circumstance detrimental to other party or which may cause a breach of the agreement. It is more important when your counter party is a company than when it is an individual.

The term also binds the signatory. It would be a very careless director who signed this document while he knew its company had hit hard times.

4. Relationship of parties

This is a simple statement for the avoidance of doubt. We suggest leave it as is.

5. Entire agreement

This paragraph prevents a party from later saying he was relying on some other document or web site or what was said. If other documents are to be relied on, let them be listed here, so that both parties know the basis of the deal.

6. The Licence

This paragraph is concerned with the basics of this agreement. That is to say what each side is expected to do and on what terms you have allowed the space on your website.

Be careful not to delete the reference to the actual grant of the licence.

7. Licence Fee and payment

This paragraph is something of a menu. Decide what are your terms and select or edit to fit what you want. The terms are flexible and should be completed with the specific terms agreed. This might be a monthly rate, or the percentage fees per advert, or a combination of both. We assume that the advertiser will be asked to make choices, on which, together, your fee will be calculated. Those choices may relate to territory, timescale, size of advert, and so on.

We have placed the fees in a schedule. It is easier for you to edit the schedule than to edit details of the agreement itself. The schedule is of course part of the agreement.

8. Restrictions on the Advert

These points are matters for your choice. You can delete what you do not need and add anything referable to your particular business.

9. Obligations of the Advertiser

This and the following paragraph state the responsibilities of each party. We have provided reasonable set of provisions.

By all means edit as you require.

10. Obligations of the Website Owner

Same note applies as to the last previous paragraph.

11. Confidentiality

A useful provision for both sides

Be aware however, that the agreement cannot provide proper protection against a party who is determined fraudulently to misuse confidential information. The provision in the agreement does however reduce the likelihood of information being accidentally released to employees or third parties.

12. Limitation of liability

We have given protection to both parties. Elsewhere we have specified concisely that any provision which offends should be reduced, as opposed to be deleted.

The law is complicated and much depends on the facts of each case. Our best advice to you is to include these disclaimers so far as they apply to your business.

You will see that we have also included in the provision for directors and others to have the same protection. One way to get around disclaimer provisions in the past was to claim not against the company with whom the claimant has a contract but against the directors or others in negligence.

13. Termination

This paragraph deals with the typical terms of termination of such agreements. We suggest that you read this paragraph carefully and include only such terms of termination, which are in line with your commercial understanding with the other party.

14. Effect of termination

Net Lawman advises that post termination matters tend to create more problems for the parties than any other area of the agreement. One absolute certainty is that the agreement will end at some time. When that time comes neither party will any longer have an incentive to safeguard his relationship with the other. Careful consideration and precise drafting is therefore essential in dealing with these provisions.

By all means edit as you require.

15. Interruption to the services

One of the principal concerns of any advertiser is that the service shall be continuous. However, it is in the nature of the Internet that there are many reasons why interruption will occur and down time will result. Some of these may be the fault of your website administrator.

In any event this provision makes it clear that reasonable interruption may occur without making you liable for any consequential loss.

16. Indemnity

A useful provision to protect you. We suggest no change.

17. Miscellaneous matters

A number of special points. We have identified each of these as important to protect you. Some are relevant to particular paragraphs in the document, some apply more generally. Some are included to strengthen your position generally. Do not delete unless you are quite positive you know the legal effect of doing so.

Rights of Third Parties Act - We have provided reference of two Acts. By all means select the one according to your jurisdiction clause.

End of notes