



**Biby Publishing LLC**  
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# Publisher's Policies, Provisions and Protective Clauses

from advertising being contracted for, and submitted to, AGL magazine

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## **Definitions**

As used here and in any Rate Card, the term "Publisher" shall refer to Biby Publishing LLC.

## **Advertising format**

The Publisher only accepts advertising materials submitted in the form of press-optimized digital PDF files (see Ad Sizes and Mechanical Specifications). Any prospective Advertiser lacking the resources to provide materials in this format may contact the Publisher's Advertising Coordinator for recommendations and assistance in third-party provisioning of digital-file preparation.

## **Authorization and acceptance**

By issuance of its Rate Card, the Publisher offers, subject to the terms and conditions therein, to accept insertion orders for advertising to be published in AGL (Above Ground Level) magazine.

All insertion orders are subject to acceptance by Biby Publishing LLC at its headquarters in Round Hill, VA. Advertisements are accepted and published entirely on the representation that the Advertising Agency and/or the Advertiser are properly authorized to use and publish the entire contents and subject matter of the advertisement.

Generally, advertisements are accepted on a run-of-publication (ROP) basis, and positioning of advertisements is therefore at the sole discretion of the Publisher, except where a consideration for a specific position has been agreed to by the Publisher in writing.

Requests for positioning within specific articles or other editorial content will not be honored.

## **Rejection and omission**

The Publisher reserves the right to reject or omit any advertising for any reason, including the Publisher's opinion

that the advertising is not in keeping with the publication's standards, policies or principles. The Publisher reserves the right to reject or omit any advertisement that, in the opinion of the Publisher, is in bad taste, may mislead readers or is unsupported by facts of record. No space advertising, special section or insert will be accepted that emulates, by typography, design or otherwise, the editorial pages of AGL magazine. Any full or partial page of advertising that contains text or design elements that have, in the opinion of the Publisher, an editorial appearance, must be clearly or conspicuously identified with the words "advertising" or "advertisement" placed horizontally at or near the center of the top of the page or ad space in type at least equal in size and weight to the magazine's normal editorial body-text typeface. The Publisher reserves the right to add either of the words "advertising" or "advertisement" in this manner to any advertisement that, in the Publisher's sole judgment, too closely resembles editorial matter.

## **Prenotification and prior review**

The Publisher will not under any circumstances submit tables of contents, indices, text, photos or any other editorial matter to advertisers for prior review as a precondition for the insertion of advertising. The publication's editorial calendar is published only as an information service to readers and advertisers, and editorial topics publicized in the editorial calendar are subject to change, alteration or omission at the sole discretion of the Publisher.

## **Liability**

In consideration of the Publisher's publishing advertising (or distributing another product) for the Advertiser, the Advertiser and its Agency (if any) agree to indemnify and defend the Publisher against any and all claims, losses, liabilities, damages and expenses (including attorneys' fees) arising out

of the Publisher's printing, publishing or distributing such advertising (or another product) and/or arising from third parties' access to the Advertiser's Web site or email, or the use of the Advertiser's products or services.

Advertisers and their Agencies assume full responsibility and liability for all contents (including text, representations and illustrations) of advertisements and for any claims or suits for libel, violation of rights of privacy, plagiarism, trademark, patent and copyright infringements (including the text and photographs with in the advertisements) or other claims based on the contents or subject matter arising from the advertisement that might be made against the Publisher.

The Publisher shall have full right to settle any such claim and to control any litigation or arbitration to which it may be a party all at the cost of the Agency and the Advertiser, who shall be deemed joint and several indemnitors. The Agency, if any, warrants that it is authorized to bind, and does bind, the Advertiser to such indemnity jointly and severally with the Agency.

The Publisher will not be bound by any conditions, printed or otherwise, appearing on any order blank, insertion order or contract when they conflict with the terms or condition of its Rate Card, or any amendment thereof unless specifically agreed to by the Publisher in writing.

The Publisher shall not be subject to any liability whatsoever for any delays in delivery and/or non-delivery, or any failure to publish or circulate all or any part of the issue or issues in which the Advertiser's insertion is scheduled to appear, due to Acts of God, strikes (whether legal or illegal), work stoppages, accidents, fires, explosions, floods, insurrections, riots, actions of any government or quasi-government entity, embargoes, labor or material shortages, transportation interruptions of any kind, or any circumstance or condition not within control of the Publisher.

Upon failure to publish in such a situation, the Publisher agrees to fulfill insertion in the next available desired issue. The Publisher is not responsible for the accuracy of any corrections or changes made to any Advertiser's materials.

Editorial functions of the magazine are not within the purview of advertising space contracts. The Publisher assumes no liability for errors or omissions in reader service or key numbers, Web site links, exhibition dates or booth numbers that may be added editorially or in production as a reader service. No rebate will be made for errors or omissions of this type, or errors or omissions that may occur in the Advertiser's Index.

The Publisher's sole obligation as to any failure or default on its part shall be limited to a refund of its charges which may have been paid, or to publish tendered advertising in the next available issue.

In no event shall The Publisher be liable for any consequential, incidental or special damages nor shall its liability for any act, error or omission, whether or not due to its negligence, exceed the price paid to the Publisher for the publication or distribution of such materials.

The Publisher shall have no liability for errors for which no written notification is received from the Advertiser later than

30 days after the issue's mailing date.

#### **Agency commissions**

Fifteen percent (15%) of the gross billing will be allowed to recognized Advertising Agencies on space, color and position only, provided that the account is paid within 30 days of invoice date. Production charges are non-commissionable. Only materials prepared and submitted in accordance with the magazine's digital production specifications qualify for Agency commission. The Advertiser and the Agency are jointly and severally liable for payment.

#### **Short-rate protection and rebates**

Advertisers and/or their Agencies that fail to fulfill the contract for special frequency rates will be billed at the Publisher's sole discretion for the difference to reflect the rate that was actually earned. Advertisers will be billed for lost frequency discounts if, within a 12-month period from date of the first insertion, they do not use the amount of advertising space for which their billing rate was based. Advertisers will be rebated if, within a 12-month period from the date of first insertion, they have used sufficient insertions to earn a lower frequency discount rate appearing in this Rate Card. The contract must specify advertising frequency. Advertisers who have not supplied a signed contract indicating frequency will be billed at the single-insertion rate.

#### **Rate protection and rate card in effect**

When new rates are announced, such announcements will be made at least 60 days in advance of the publication (mailing) date for the first issue affected by new rates. Existing contracts will be protected at contract rates until expiration. On the effective date of new rates, earned frequency on space run to-date will apply to new rates. Advertising rates, terms and conditions set forth in the Rate Card shall govern all transactions and supersede any other information published in previous rate cards, directories, media guides or rate and data services, whether in print or online. The Publisher will not honor rates or data derived from these other sources unless it is in conformance with the Rate Card.

#### **Cancellation policy**

Neither the Advertiser nor its Advertising Agency may cancel advertising after the posted closing date. Cancellations prior to closing must be in writing. Verbal (including telephonic) cancellations will not be accepted. The Publisher is under no obligation to revise or to replace advertising materials received by its Advertising Coordinator after the advertising materials submission deadline, and such revisions or replacements may not be subject to approval by the Advertiser or its Agency.

#### **Payment**

Net account charges are payable within 30 days of the date of the invoice in U.S. funds drawn from a U.S. bank. Agency commissions are not payable on invoices that are not paid within 30 days of the date of the invoice. No cash discounts

are allowed.

The Publisher looks to the Advertising Agency (if any) placing the insertion order for payment. However, the Publisher reserves the right to hold the Advertiser and/or its Agency jointly and severally liable for such monies as are due and payable to the Publisher, and the Agency warrants by submitting the insertion order that it and the Advertiser have accepted this responsibility.

The Publisher will not release the Advertising Agency from liability even if a sequential liability clause is attached to the contract, insertion order, purchase order or other form of transmittal. Non-commissionable charges, such as production charges, are not subject to an Advertising Agency commission.

The Publisher will not be bound by conditions, printed or otherwise, on contracts, order blanks or instructions when such conditions conflict with its policies.

Verbal agreements are not recognized.

Payments are due upon receipt of statement. Interest is chargeable at the rate of 1.5 percent per month on all account balances that become overdue by more than thirty (30) days. Advertising Agencies and/or Advertisers agree to pay any and all costs incurred by AGL in collecting amounts past due on their account, whether or not an action is filed and include, without limitation, attorneys' fees in an amount equal to twenty-five percent (25%) of the total amount of the Advertising Insertion Order and

court costs. Advertising Agencies and/or Advertisers agree that any legal action arising between Biby Publishing LLC and Advertising Agency and/or Advertiser must be brought in the courts of the state of Virginia, and that Advertising Agency and/or Advertiser agrees to submit all claims to the jurisdiction of these courts regardless of any conflict of jurisdiction which may arise.

All advertising cancellations and rerun orders must be submitted in writing by the closing date.

#### **Closing dates**

All advertising materials (digital files) and insertion orders for space reservations are due on the dates indicated in the posted schedule. (Note: Separate mechanical specifications, delivery information and materials due dates for preprinted inserts exist and are available from the Publisher's Advertising Coordinator.) Space reservations may not be cancelled after the closing date. Orders are acceptable for not more than one year in advance.

If new advertising materials are not received by the closing date, the Publisher reserves the right to repeat the last preceding advertisement if an insertion order has been placed for that issue.

The Publisher will not hold in availability any advertising materials (digital files) that have not been used or for which no specific disposition instructions have received for a period exceeding 12 months.

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