

## RETAIL/GENERAL/ENTERTAINMENT

### PRINT RATE CARD

#### TERMS AND CONDITIONS

##### 1. Commission

**1.(a)** An allowance of 15% for agency commission will be made provided the advertising agency is recognized by Daily News, L.P. (the "Daily News"). No allowance for commission on past due accounts. Rates listed in this rate card are net of 2% cash discount.

**1.(b) Payments.** Payment of accounts having monthly credit terms is due on the 15th of the month following that in which the advertising appeared. Continuation of credit privileges is dependent upon prompt payment. Payments must accompany all orders from accounts which have not established credit with the Daily News. Credit terms applicable to any advertiser are solely within the discretion of the Daily News and may be changed or discontinued by the Daily News at any time. If the Daily News exercises its option to terminate a contract with an advertiser by reason of such advertiser's default, the account of such advertiser shall become immediately due and payable in full, regardless of any credit terms that may have been applicable to such advertiser.

**1.(c) Contract Inches.** Daily and Sunday inches used under this rate card only will apply toward completion of a contract. However, it is not necessary to sign a contract to earn lower rates. If lower rates are earned, rebates and future billing must be requested. They are not automatic. Earned rates and rebates are only applied toward current contract year. Insertion and inch contract level rates apply only if space is used within one year. First insertion must run within 30 days of contract, or contract becomes void. All contracts are subject to the necessity of occasional omission of copy when space is limited.

##### 2. Approval and License

**2.(a)** (i) All advertising is subject to approval and acceptance at the Daily News's option. The Daily News reserves the right to reject, remove or cancel any advertising space reservation or position commitment at any time and for any reason in its sole discretion. The Daily News does not knowingly accept advertising which is in violation of the federal, state or local laws regarding employment, housing or lending. The Daily News and any third party network on which advertising will be displayed (collectively, the "Publishing Party") shall be entitled to reproduce, display, republish and distribute the advertising in any medium, and as part of any service, in which the website(s), properties, applications and/or devices described on the insertion order (the "Distribution Network") are published or made available under license from the Publishing Party. The Publishing Party shall have the right to modify, copy, reformat, transmit and otherwise manipulate any advertising provided in connection with such reproduction, display and/or distribution.

(ii) If any advertiser or agency engages Daily News to provide, and Daily News agrees to provide, advertising design services, Daily News will design the advertisements using text, photographs, trademarks, trade dress elements, and other intellectual property provided by advertiser or agency ("Advertising Materials"). By providing such materials to Daily News, advertiser and, if provided by an agency, agency represent that it/they has/have the right to provide such materials, and have the Publishing Party reproduce, display, republish and distribute such materials, without violating the rights of any third party. Such Advertising Materials must be provided in a form and format prescribed by Daily News and within the deadlines prescribed by Daily News. Daily News shall have no liability for delays in performance, or failure to provide deliverables, resulting from any delays caused by advertiser or agency, and Daily News shall have no liability for the content of any advertisement. Advertiser's and agency's sole remedy for any failure of Daily News to provide the services described herein shall be to receive replacement design services. Advertising design services are provided on "as is" basis with no warranties whatsoever. TO THE FULLEST EXTENT PERMITTED BY LAW, DAILY NEWS DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, ASSOCIATED WITH SUCH DESIGN SERVICES.

**2.(b) Advertiser Rates.** The Daily News reserves the right to designate the classification and the rate applicable to any advertisement in its sole discretion.

(i) General rates apply to the advertising of manufacturers, wholesalers and distributors of goods and other products.

(ii) Retail rates apply to the advertising of retail stores doing essentially an "over-the-counter" business. The advertiser is entitled to these rates when he sells to the public solely through one or more retail stores which he alone owns and controls. The advertising of independent retail franchised dealers, which is essentially local in character and run over the signature of the local franchised dealer group, is also entitled to retail rates. The Daily News will not accept from a retail merchant at the retail rate as part or all of an advertisement, advertising copy which bears as a signature the name of a manufacturer, jobber, or distributor.

(iii) Entertainment rates apply to the advertising of businesses related to the entertainment industry including, without limitation, sports teams, movie and stage theaters and event companies.

(iv) Election notices will be charged the one time general rate. No agency commission is allowed.

(v) Legal notices will be charged the one time legal notice rate. An allowance of 15% for agency commission will be made, provided the advertising agency is recognized by the Daily News.

**2.(c) Increased Rates.** With respect to all advertisers who have contracts, the Daily News reserves the right from time to time to increase the advertising rates and/or adjust any discounts stipulated herein. The Daily News will endeavor to give all such advertisers 60 days notice in advance of a rate increase. However, the Daily News reserves the right to supply specific rates not less than seven days prior to such rate increases when, in the Daily News's opinion, circumstances warrant. If no inches or insertions are used after the effective date of such increase, no short rate will be charged on inches used prior to such increase. However, if after the effective date of such increase (whether during the remainder of contract period or after its expiration) any inches or insertions are ordered, any short rate previously waived shall become due and payable. The contract period (expiration date) will not be affected by any rate increase. For the current contract period, the inches used after the increase will be added to the inches used prior to the increase in order to fix the applicable new rate level for the period after the increase. With respect to all other advertisers, the Daily News reserves the right to increase the advertising rates stipulated herein without notice.

**2.(d) Liability.** Each agency and advertiser jointly and severally guarantees to the Daily News the payment of all charges. Any terms in insertion orders that are inconsistent with these terms and conditions, such as disclaimers, including sequential liability disclaimers, are of no force and effect. Each advertiser is jointly and severally responsible for the payment of all invoices for advertising placed by it, on its own account, or on its behalf. Each agency is jointly and severally responsible for the payment of all invoices for advertising placed by it, on its

own account, or on behalf of its clients. All advertising is accepted and published by the Publishing Party entirely on the representation that the agency and advertiser are duly authorized to distribute, reproduce, display and republish the entire contents and subject matter without violation of any third party rights, including any intellectual property rights, and shall be jointly and severally responsible for payment thereof. In consideration of the publication of advertising, the advertiser and agency, jointly and severally, will indemnify and save harmless the Publishing Party, any other entities that own or operate any of the Distribution Network, and their respective parents, subsidiaries and affiliates, and the partners, directors, officers, agents, employees of each of them, and any third-party service providers and third-parties distributing the advertising via the Distribution Network, from and against any and all loss, damage, liability, or expense of any kind (including reasonable attorneys' fees) incurred in connection with any claims of any kind that arise out of or in connection with the advertisement, the advertising, or any website(s) or material(s) that can be linked to through an advertisement. The indemnifying party may not agree to any settlement that imposes any obligation or liability on an indemnified entity without that entity/party's prior express written consent. The Publishing Party shall have no liability for any omission of any advertising or portion of advertising. In the event of any error in a published advertisement for which the Publishing Party may be held legally responsible, the Publishing Party's sole responsibility shall be to insert a corrected advertisement at no additional expense to agency or advertiser for the period of time the advertisement was published with the error, up to a maximum of ten days. In the event an advertising campaign is not run as scheduled, the Publishing Party's sole responsibility shall be, in its discretion, to (a) provide the advertiser a refund for advertising not run; (b) run the advertiser's campaign at a later date; or (c) run the advertiser's advertising in a different position of the Publishing Party's choice. The Publishing Party will not, in any event, be liable for any general, consequential or special damages, including, but not limited to, lost income or profits. In no event will the Publishing Party's liability to the agency or advertiser exceed the amounts paid or payable by the advertiser under the applicable insertion order. The Publishing Party shall not be subject to any liability whatsoever for any failure occasioned because of accidents, fires, strikes, work stoppages, system outages, other circumstances beyond the Publishing Party's control, or extraordinary new events that preclude the Publishing Party from fulfilling any insertion order. In such an event, the effected insertion order will be suspended during the period of inability to perform and the terms extended for a like period. Neither party will have any liability to the other because of such suspension. Unintentional or inadvertent failure of the Publishing Party to fulfill advertising shall not operate as a breach of the insertion order.

### **3. Position**

**3.(a)** The Daily News does not guarantee any position. Premium positions are subject to availability. Insertion order or reservation specifications barring the use of any page or relating to the kind of news or advertising on the page are treated as requests only.

**3.(b)** Advertising ordered for specific pages or editorial positions will be inserted on those pages and will be billed an additional position charge, if space is available. If space ordered is not available advertisement will be run elsewhere and no position charge will be made.

**3.(c)** Advertisements ordered for specific sections may be positioned elsewhere without prior notice to advertiser when space is unavailable in the section ordered. The advertisement will be given sectional geographic distribution.

### **4. Strip Advertising**

Advertisers ordering strip ads will be charged a 15% premium. When ordering out of classification for a designated page, strip ads will be charged the General rate. Advertisers holding contracts will be charged the rate earned on their contract level plus the above charge. Strip advertising is accepted only in strips measuring 1.8125 inches by 6 columns. This type of advertising may be accepted in any sections, when space is available, at the Daily News's option.

### **5. Contract & Copy**

**5.(a) Measurement.** Page and modular advertisements measured in page and modular units only; all other advertising measured from office ad rule to office ad rule.

**5.(b) Errors and Cancellation.** It is the responsibility of the advertiser to check the correctness of each insertion of an advertisement. The Daily News is not liable for errors, corrections or changes unless it receives corrected proof before the applicable deadline. The Daily News assumes no responsibility for repetition of errors in advertisements ordered for more than one insertion unless notified in advance of next closing date before advertisement is to appear. The Daily News's liability for an error, or for any damages resulting from an error, will not exceed cost of space occupied by the error even if the error is due to the gross negligence or fault of the Daily News or any other cause. Credit allowed for first insertion only. Any claim for allowance for errors must be made within 30 days of date of initial insertion. All reservations, insertions, corrections or cancellations must be confirmed with a sales representative by telephone and e-mail (containing sufficient detail) in advance of the applicable deadline.

**5.(c) Agency and Advertiser Orders.** If advertisers or advertising agencies forward orders containing rates that are different than those provided by the Daily News, then the advertising ordered will be inserted and charged at the rates provided by the Daily News. In the event of any conflict between these Terms and Conditions and any preprinted forms or other terms and conditions provided by advertisers or agencies, these Terms and Conditions shall control. Any failure to make an order complying with the rates provided by the Daily News or these Terms and Conditions will be regarded only as a clerical error and advertising will be inserted without further notification.

**5.(d) Key Numbers.** Key numbers are used at the advertiser's risk.

**5.(e) Late Copy.** Copy not received in time for all editions will not be carried over on the following day, and no credit will be given for any portion of the run missed.

### **6. Mechanical Requirements**

**6.(a) Replating.** Replating requests may be accepted or rejected in the Daily News's sole discretion. Replating pricing is available upon request.

**6.(b) Coupons.** The Daily News will not be responsible for coupons printed back to back.

### **7. Sunday Comics**

**7.(a) Orders.** Orders must be received by the Daily News four weeks prior to issue date. Cancellations cannot be accepted after three weeks.

**7.(b) Materials.** Deadline for delivery of copy and reproduction proofs is 21 days prior to date of issue for Daily News.

### **8. Preprints**

**8.(a)** Regulations are subject to requirements stated below, the Daily News will accept preprints for NDM circulation in any combination of applicable zones.

- (i) Preprints are accepted at the Daily News's option after submission of samples for copy and mechanical acceptability.
  - (ii) All pages which resemble editorial matter must be marked "advertisement."
  - (iii) The Daily News will not be liable for printing or other preprint costs due to incomplete distribution.
  - (iv) All circulation requirements should be confirmed in advance by the advertiser as rebates for shortages or overages will not be allowed.
- 8.(b) Order date.** Orders must be received by the Daily News 30 days prior to publication date. Cancellations cannot be accepted after 30 days prior to publication date.

#### **9. Digital Advertising**

Submission of advertising for display on any of the Daily News's digital properties is subject to the Daily News Digital Advertising Terms and Conditions found at [www.nyd.com/digitaltc](http://www.nyd.com/digitaltc).

#### **10. Governing Law and Jurisdiction; No Waiver**

Contracts are made under, and shall be construed in accordance with, the laws of the State of New York without regard for conflicts of laws principles. Any disputes arising out of or related to advertising shall be brought only in a state or federal court in New York County, and each of the parties hereto accepts the exclusive jurisdiction of such courts for such disputes. No failure or delay by the Daily News in exercising any of its rights, powers or privileges hereunder shall operate as a waiver thereof, and no single or partial exercise thereof shall preclude any other or further exercise thereof.

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