

# GENERAL TERMS AND CONDITIONS OF CONTRACT

Effective 9<sup>th</sup> March 2017



## 1. Definitions

- a)** The expression 'the Company' shall hereinafter mean Sittingbourne Community Radio Limited and shall include its successors in title and assigns of the Company.
- b)** The expression 'the Advertiser', wherever it hereinafter appears, shall mean the person, firm, company or entity by whom an order for an advertisement booking is placed and shall mean and include the Advertiser's successors in title and assigns.
- c)** The expression 'advertisement copy' shall mean any advertising material intended for broadcast by the Company.
- d)** The expression 'Ofcom' shall mean the Office Of Communications and shall include any successor or other Authority which may replace them.
- e)** The expression 'working day' shall mean any day of the week from Monday to Friday inclusive except Bank and Public Holidays.

## 2. Advertising Agencies and/or Commission(ers)

- a)** An Advertiser who is an Advertising Agency shall be deemed to contact the Company as a principal and will accordingly be responsible jointly and severally with its client for the payment of accounts and will be deemed to have express authority in all matters connected with the placing of orders and the approval and amendment of advertisement copy.
- b)** Agency commission of 15% is payable to all advertising agencies recognised by the Company and will be calculated on the basis of the rates applicable less any surcharge payable under the provisions of Condition 4.
- c)** No agency commission payable by the Company to such an advertiser shall be paid or allowed to be shared with any client of the Advertiser or any representative or employee of any client or any advertising agency not recognised under Condition 2(b) [or in the case of an overseas agency not recognised by the appropriate media organisation in its own country].

## 3. Acceptance of Terms and Conditions

- a)** The placing of an order with the Company by the Advertiser will be deemed to be acceptance of these Terms and Conditions by the Advertiser.
- b)** No terms or conditions other than those set forth herein or any variation thereof under Condition 11 shall be binding upon the Company or the Advertiser unless reduced to writing and signed by or on behalf of both the Company and the Advertiser by a director or other person with authority to bind that organisation.

## 4. Acceptance of advertisement

- a)** All advertisements will be broadcast subject to (i) their approval by the Company (ii) their compliance with the 'Communications Act 2003' (as amended), 'Broadcasting Act 1996' (as amended) and any other statutes and regulations (iii) their compliance with both The UK Code of Broadcast Advertising and BCAP (Broadcast Committee of Advertising Practice) Code and any other regulations as may subsist from time to time (iv) the Company's technical requirements and submission procedures, which will be provided by the Company on request.
- b)** Advertisement copy must be delivered not less than seven clear days before scheduled broadcast date unless the Company shall in any particular case agree to accept a shorter period. Delivery of advertising copy shall not be deemed to have been made until the Company's technical requirement and submission procedures have been complied with and the relevant broadcast instructions have been given. If an Advertiser fails to deliver advertisement copy in accordance with the provisions of this paragraph such an Advertiser shall remain liable to pay for the advertisement whether or not it is broadcast.
- c)** The form in which the advertisement copy must be submitted, the procedure for approval and/or rejection thereof, surcharges for late acceptance changes or alternative copy used and like matters shall be dealt with in accordance with the submission procedures [as shall be published by the Company from time to time] prevailing at the date of submission of the advertisement copy.
- d)** The Company retains the absolute right without incurring any liability to the advertiser to add to, delete, change, amend or decline to broadcast or carry out any advertisement, sponsorship or promotion or restrict or decline any repeat without giving any reason therefore. Notwithstanding this right it is the duty of the Advertiser to vet all advertisements and ensure that there will be no breach of copyright or any other rights, no defamation of any person, no breach of the law and no breach of the Authority's requirements. The Company has no obligation to carry out any such vetting. Subject to Condition 6 below the Advertiser will not be liable to pay for any advertisement which is not being broadcast.
- e)** Subject to the provisions of Condition 11 below all bookings are accepted on the understanding that they will be paid for at the rates in force at the date of booking. Before booking, rates will vary according to the availability of commercial airtime.
- f)** Advertising copy received prior to seven working days before transmission will be carried free of charge. Copy received within seven working days before transmission will be subject to a late copy fee of £20.00 per advertisement.

## 5. Date, Times of Broadcast

- a)** The Company does not guarantee that the scheduled times and/or dates of broadcast will be adhered to but if for any reason whatsoever an advertisement is
- i) not broadcast during the arranged period, or

- ii) not broadcast at all, or
- iii) broadcast so that a material part is omitted, or
- iv) broadcast containing a material error made by the Company,

the Company will endeavour to make an ex gratia offer to broadcast during some other period which may be accepted by the Advertiser provided that any such reasonable offer of such a broadcast is not deemed to be or accepted [or is not made] the Advertiser shall have no claim against the Company in respect of non broadcast or for any expense or damage whatsoever incurred as a result thereof and the Company shall make no charge to the Advertiser for such an advertisement but the Company shall be entitled to be paid by the Advertiser any arranged fees or such expenses as the Company has incurred in respect of any facilities arranged or provided.

**b)** Advertisement broadcast within ten minutes of the segment booked may in circumstances which are in the Company's opinion are exceptional be treated as having been broadcast within the segment.

**c)** In the event of the Company's activities being restricted, curtailed or prevented by any law or other act or thing beyond the Company's control the Company may at that time notwithstanding anything herein before contained forthwith determine any contract without prejudice to the Company's rights to be paid by the Advertiser any monies due and owing by the Advertiser to the Company at the time of such determination.

**d)** Copy tapes will be kept for six weeks and it is the responsibility of the Advertiser/Agency to check the transmission times in that period for any query. Any queries the Advertiser/Agency has regarding transmission times need to be notified in writing to the Company within that six week period.

**e)** Bookings may be postponed within seven working days notice, a maximum of two times before the cancellation clause is acceptable. All postponements must be confirmed in writing.

## 6. Cancellations

Subject to the provisions of Condition 11 any booking may be cancelled by either side provided that notice in writing is received by the Company or the Advertiser, as the case may be, not less than twenty-eight days before the scheduled broadcast date. If the cancellation is made by the Advertiser the campaign will be charged at the rate appropriate to the number of advertisements actually broadcast before such a cancellation becomes effective.

## 7. Liability

- a)** Whilst every care will be taken in respect of recordings, scripts or other material, the Company cannot accept liability for the loss, damage or delay in delivery thereof whether in the studios or in transit and whether or not such recordings, scripts or other material are supplied by the Company. The Advertiser should keep its own material and back-ups.
- b)** The Company shall not be liable under any circumstances howsoever arising from any loss of business or profit or other consequential loss.
- c)** The Company's total liability howsoever arising [save for death or personal injury arising from its negligence] in relation to any advertisement or

the failure duly to broadcast the same shall not in any circumstances exceed the fee payable by the Advertiser for such advertisement.

## 8. Accounts

- a)** Accounts payable by an Advertising Agency recognised by the Company shall be paid not later than fifteen days after the invoice date.
- b)** Other accounts shall normally be paid not later than seven clear days before the scheduled broadcast date and in default of such a payment the Company shall be entitled to refuse to broadcast the advertisement. Where a credit account has been agreed accounts will be paid no later than fifteen days after the invoice date.
- c)** The existence of a query on any individual item in an account shall not effect the due date of payment of the balance of the account.

## 9. Warranties and Indemnities

The Advertiser warrants and undertakes that

**a)** he/she will be responsible for obtaining and paying for necessary licences and consents for the broadcast of any advertising copyright material contained or in the inclusion of any person in his/her advertisement.

**b)** no advertisement copy will breach the copyright or other rights or be defamatory of any third party nor shall it be in breach of English law.

**c)** he/she will indemnify and keep the Company indemnified against all actions, proceedings, costs, damages, expenses, penalties, claims, demands and liabilities arising from any breach of the above warranties or in any other manner whatsoever in consequence of the use, recording or broadcasting of any advertising copy or matter supplied by or broadcast for the Advertiser.

## 10. Publicity and Information

The Advertiser shall not publish any information in connection with any advertisement which has been broadcast or is scheduled for broadcast unless and until the Company has given its prior written consent.

## 11. Changes of Rates and Conditions

- a)** The Company reserves the right to change the advertisement rates as published and contained within the rate card, time segments, classifications and any of these terms and conditions and in the event of such a change the rates payable and terms and conditions applicable shall be those in force at the time of booking.
- b)** The Company may from time to time make special charges and/or conditions for certain types of advertisements or for booking for certain specified periods.
- c)** In the event of any monies due from the Advertiser to the Company remaining unpaid after fifteen days from the date of the invoice the Advertiser agrees at the Company's discretion to pay the Company interest at the rate of 4.0% above the Bank of England base rate as varied from time to time.