

LHBS Advertising/Sponsorship Terms and Conditions

Radio Advertising Terms and Conditions

These terms and conditions ("Conditions") set out the terms on which LHBS (Liverpool Hospital Broadcasting Service) – a registered charity in England & Wales also known as "Radio Broadgreen" has agreed to deliver, and (if applicable) create material for, the Advertiser's advertising/sponsorship Campaign which is detailed in the Order Confirmation (all as defined below).

1. INTERPRETATION

In these terms:

1.1. 'Advertisement' means a Digital Advertisement, Radio Advertisement and/or Audio-Visual Advertisement which collectively form the Campaign.

1.2. 'Advertiser' means the person, corporation or firm which signs or otherwise confirms the Order Confirmation.

1.3. 'Advertising Regulation' means the British Code of Advertising, Sales Promotion and Direct Marketing, the BCAP Code, CAP Code, all Radio Centre guidelines, all relevant codes under the general supervision of the Advertising Standards Authority and all other relevant laws, regulations and codes of practice which are directly applicable to the Campaign and for the time being in force in the United Kingdom.

1.4. 'Agreement' means the agreement between the Advertiser and LHBS/Radio Broadgreen for the delivery of and, if applicable, creation of material for, the Advertiser's Campaign in accordance with these terms and conditions together with the Order Confirmation.

1.5. 'Assets' means all text, audio, graphics, digital files, photographs, film and accompanying product, brand or other information, provided by the Advertiser or any person acting on its behalf, which is used for or incorporated into an Advertisement.

1.6. 'Audio-Visual Advertisement' means any audio-visual material created and/or delivered pursuant to this Agreement for advertising, promotion, sponsorship or similar purposes and which is either: (i) intended for display on any website owned, operated or controlled by LHBS; and/or (ii) intended for communication on certain third party owned platforms, in accordance with the Licence.

1.7. "LHBS", "Radio Broadgreen" and/or "LHBS/Radio Broadgreen" means Liverpool Hospital Broadcasting Service (Charity No. 508557 Eng/Wales) whose registered office is at Warmington Lodge Studios, South Road, Broadgreen Hospital, Thomas Drive, Liverpool L143LB

1.8. 'Radio Broadgreen material' means any material, whether in print, digital, audio-only, audio-visual or any other form, which belonged to LHBS prior to the date of this Agreement and/or which is otherwise developed and delivered by LHBS/Radio Broadgreen for the Campaign;

1.9. 'Campaign' means the promotional campaign detailed in the Order Confirmation consisting of a series of Advertisements.

1.10. 'Campaign Start Date' means the start date of the Campaign as detailed in the Order Confirmation.

1.11. 'Digital Advertisement' means any digital display advertising, promotional, sponsorship, or similar material (including banners and home page takeovers) delivered on any website (including all desk-top and mobile optimised sites), mobile application or social media profile which is owned, operated or controlled by LHBS, as specified in the Order Confirmation.

1.12. 'Impacts' shall have the meaning given in clause 4.5;

1.13. 'Intellectual Property Rights' means any and all patents, service marks, designs, utility models, trade marks, business or trade names, copyright, design rights, know-how and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

1.14. 'Laydown' shall have the meaning given in clause 4.5;

- 1.15. 'Licence' shall have the meaning given in clause 7.2;
- 1.16. 'Order Confirmation' means the written or electronic sales order or confirmation document provided by LHBS/Radio Broadgreen to the Advertiser confirming details of the Campaign;
- 1.17. 'Radio Advertisement' means any audio advertising, promotional, sponsorship, tagline or similar material to be broadcast by LHBS on its radio station(s), as specified in the Order Confirmation.
- 1.18. 'Specialist Advertising Regulations' where the Advertiser's business involves any industry sector which is subject to its own industry specific Advertising Regulations or other code, regulation, statute or law, then those industry specific Advertising Regulations.
- 1.19. 'Term' shall have the meaning set out at clause 2.

2. TERM

- 2.1 Any action in respect of or written communication (which may be via email) of the Order Confirmation by the Advertiser constitutes an offer by the Advertiser to purchase the Campaign and/or any other services referred to in the Order Confirmation, in accordance with these Conditions.
- 2.2 The Order Confirmation shall only be deemed to be accepted on the earlier of (i) LHBS issuing written acceptance of the Order Confirmation; or (ii) LHBS taking any action to begin fulfilling the Order Confirmation; at which point and on which date the Agreement shall come into existence.
- 2.3. These Conditions apply to the Agreement to the exclusion of any other terms that the Advertiser seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.4. This Agreement shall continue until the final Advertisement in the Campaign has been broadcast on a LHBS station or has been taken down from Radio Broadgreen website (whichever is later) (the "Term"). However, all terms which are expressly stated or are, by their nature, clearly intended to continue, shall continue beyond expiry or earlier termination of the Term.

3. THE CAMPAIGN

- 3.1. LHBS shall broadcast, publish and communicate the Advertisements to the public in accordance with the Order Confirmation. In addition, if detailed in the Order Confirmation, LHBS shall develop and create the Advertisements for the Campaign.
- 3.2. The parties shall cooperate in good faith to ensure the Campaign is developed and delivered, subject to clause 4.5 and the remaining terms of this Agreement, in accordance with the specifications and deadlines set out in the Order Confirmation.
- 3.3. LHBS shall endeavour to be flexible and to work with the Advertiser to agree appropriate timeframes for delivery of Assets and/or communicating approvals. Approval and delivery deadlines shall be agreed between LHBS and the Advertiser and recorded, in writing, email being sufficient for such purposes. In the absence of such agreement, the following "Deadlines" shall apply:
- 3.3.1. if the Assets comprise the complete Advertisement, the Advertiser shall deliver to LHBS all Assets (in the format and style agreed in advance, together with all consignment notes, rotation details and all other necessary approvals and clearances, including any necessary clearances from Radio Centre) at least 3 days before the Campaign Start Date;
- 3.3.2. if LHBS is responsible for the development and creation of Advertisements: a) LHBS (or its agent) and the Advertiser shall determine the concept and relevant details of each Advertisement prior to the Campaign Start Date; b) the Advertiser shall then deliver to LHBS all Assets necessary for development of the Advertisement (in the format and style agreed in advance) at least 14 days before the Campaign Start Date; c) if LHBS requires the Advertiser to amend any Assets, the Advertiser shall provide such amended Assets within 7 days or such other reduced timeframe to ensure that the amended Assets are received 3 days before the Campaign Start Date;
- 3.3.3 if LHBS (or its agent) is responsible for the development and creation of Advertisements: LHBS (or its agent) shall consult with the Advertiser at all material stages of the development process and shall submit a draft Advertisement to the Advertiser for final approval (such approval not to be unreasonably withheld or delayed) prior to the Campaign Start Date. The Advertiser must communicate its approval of (or, if it does not approve, its comments on) the draft Advertisement as soon as possible, and within no more than 7 days of receiving the draft Advertisement from LHBS (or such other reduced timeframe to ensure that the approval is received 3 days before the Campaign Start Date), failure to do so (non-communication) shall be deemed acceptance of the draft Advertisement. If the Advertiser does not approve of the draft Advertisement, it shall provide LHBS with written details (in accordance

with the aforementioned timeframe) of the changes required and, provided such changes are not materially different from the detail set out in the Order Confirmation, LHBS shall use its reasonable commercial endeavours (subject to restrictions imposed by applicable laws, statutes, regulations and codes from time to time in force) to incorporate such changes prior to, and in time for delivery on, the Campaign Start Date. The Advertiser's delay or failure in communicating its required changes to the draft Advertisement shall be deemed acceptance of the draft Advertisement, which LHBS shall then deliver in accordance with this Agreement.

3.4 The Advertiser's failure to comply with the agreed deadlines and/or of LHBS requirements for the submitted Assets to be significantly amended, may result in a delay or failure to develop and/or deliver the agreed Campaign, and LHBS shall not be liable for any costs or losses sustained or incurred by the Advertiser arising directly or indirectly from the LHBS's failure or delay to perform any of its obligations as set out in this clause 3.4.

4. PARTIES' OBLIGATIONS

4.1. LHBS represents and warrants that: a) it is entitled to enter into this Agreement and to perform the obligations set out in it; b) in the fulfilment of its obligations under this Agreement, it shall comply with all applicable laws, including those relating to anti-bribery, anti-corruption and anti-money laundering; and c) it shall perform its obligations under this Agreement in accordance with reasonably accepted industry practice.

4.2. The Advertiser represents, warrants and undertakes that: a) it is entitled to enter into this Agreement and to grant the rights and perform the obligations as specified in this Agreement; b) it will give LHBS written notice of any change of its name, trading style, identity or trading premises immediately (and no more than 5 days from the date of such change); c) unless otherwise set out in the Order Confirmation, it has obtained or will obtain all necessary clearances in relation to each Advertisement, including all necessary clearances from Radio Centre, (and shall pay all costs, royalties

and expenses related to the same) necessary for Radio's exploitation of the Assets for the purposes of the Campaign; d) LHBS's use of the Assets will not violate or infringe any third party Intellectual Property Rights; e) all information supplied by the Advertiser, or on its behalf, to LHBS for use in connection with an Advertisement (including that which is contained within Assets) is accurate, complete and true; f) in respect of any Assets which contain the name, voice or other contribution from a living person, the Advertiser has obtained the consent of such living person to

make use of their name or voice or contribution for the purposes of the Advertisement and/or Campaign (as relevant); g) in relation to any financial promotion (as defined under the Financial Services and Markets Act 2000), the Advertiser is, or the Advertisement as a whole has been approved by, an authorised person within the meaning of that Act or the Advertisement is otherwise permitted by all applicable laws; h) the Assets and LHBS's use of them in accordance with this Agreement

complies with the Advertising Regulations and all applicable laws, statutes, regulations and codes from time to time in force and will not constitute a libel or slander, nor be offensive, indecent, nor, if published or broadcast, would promote discrimination based on sex, race, religion, disability or age; i) the Assets do not contain viruses, bugs, worms, Trojan horses, harmful codes or other form of defect or contamination which could cause temporary or permanent damage to or will otherwise impair or harm or cause the malfunction of the software or hardware of any platforms on which Digital Advertisements will be delivered pursuant to this Agreement; j) it will not knowingly do or say anything which is intended or is reasonably likely to cause harm to LHBS's reputation or to otherwise bring LHBS or any of LHBS's media platforms or brands into disrepute; and k) in connection with this Agreement, it shall comply with all applicable laws including those relating to anti-bribery, anti-corruption and anti-money laundering.

4.3. LHBS may, in its sole (but reasonable) discretion and without liability to the Advertiser, refuse to broadcast or publish an Advertisement or any Assets, or if broadcast or publication has already commenced it may refuse a future broadcast or publication (and for Digital Advertisements or Audio-Visual Advertisements, remove from a Radio Broadgreen website immediately), or require the Advertisement or Assets to be amended prior to any future broadcast or publication, to: a) comply with any legal or moral obligations placed on LHBS or the Advertiser; b) avoid, or attempt to avoid, infringing a third party's Intellectual Property Rights, Advertising Regulations or applicable laws, statutes, regulations and codes from time to time in force; c) to avoid/remedy the potential risk of bringing LHBS into disrepute or harming its

reputation; or d) to avoid the breach of LHBS's internal policies or brand guidelines.

4.4. LHBS reserves the right (during the Term and for the purposes of the Campaign) to broadcast or publish (whether on one of its websites or on one of its radio stations) any Assets previously supplied by the Advertiser.

4.5. LHBS cannot guarantee an Impacts of any campaign. LHBS will endeavour to accommodate requested "Laydowns" (meaning the agreed broadcast schedule or number of spots) but reserves the right to change radio programming features and broadcast times. If LHBS is unable to accommodate the agreed Laydowns, it shall reconcile this against the agreed Impacts. LHBS will not reimburse the Advertiser for the number of spots missed according to the Laydown.

5. CANCELLATION

5.1. LHBS will not be bound by a request to cancel a Campaign or any part thereof unless it receives written notification, by recorded delivery at least 28 days prior to the Campaign Start Date. If a cancellation notice is received prior to this deadline, the Advertiser will be liable to pay all charges for services LHBS has undertaken prior to receipt of the cancellation notice, together with any third party charges or other expenses or costs incurred by LHBS or to which LHBS is committed as well as any charges or other expenses or costs imposed on LHBS by third parties arising from the cancellation, which shall be invoiced to the Advertiser following LHBS's receipt of the cancellation notice and such invoice shall be immediately payable by the Advertiser. Cancellation notices received less than 28 days before the Campaign Start Date, regardless of when the Campaign was booked, shall not (even if followed by LHBS) affect the Advertiser's liability to pay all charges for the Campaign in accordance with clause 6, below, including any third party charges or other expenses or costs incurred by LHBS or to which LHBS is committed as well as any charges or other expenses or costs imposed on LHBS by third parties arising from the cancellation.

5.2. LHBS reserves its right to withdraw, or adjust at its discretion, any discount given to the Advertiser for a Campaign if it is not completed because it is cancelled pursuant to clause 5.1, above.

5.3 LHBS reserves its right to refuse any Advertiser or the promoting of a service that would be adverse or unfavourable to the values of any NHS Trust we serve.

6. CHARGES, DONATIONS AND PAYMENT

6.1. The media, production and all other charges payable to LHBS for the Campaign and any other services provided to the Advertiser pursuant to the Order Confirmation shall be as specified in the Order Confirmation.

6.2 Unless otherwise agreed in writing, the Advertiser shall be invoiced on commencement of this Agreement and such invoice(s) and all charges will be due and payable, in full and cleared funds, before the Campaign Start Date.

6.3. Payment must be made to LHBS by BACS or other electronic transfer to LHBS bank account, as detailed on its invoice.

6.4. As a registered charity we may offer some form of advert/sponsorship campaign in acknowledgement of a donation received

6.5. For the purposes of this Agreement, time of payment shall be of the essence.

6.6 Without prejudice to LHBS's other rights and remedies, LHBS shall be entitled to: a) charge interest on any outstanding payments at the rate of 2% per annum from and including the date that payment fell due until and including the date of actual payment, both before and after judgment; and/or c) instruct a debt collection agency to recover any sum due and all charges incurred by LHBS as a result of such instruction shall be payable by the Advertiser;

6.7 All amounts due under the Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7. INTELLECTUAL PROPERTY RIGHTS

7.1. All Intellectual Property Rights in and to the Radio Broadgreen Material shall at all times remain vested in LHBS and nothing in this Agreement shall be construed as an assignment by LHBS of such Intellectual Property Rights to the Advertiser and all goodwill arising in or generated by the use of such Intellectual Property Rights will accrue to and inure to the benefit of LHBS. Apart from as set out in clause 7.2, below, the Advertiser must obtain LHBS's written consent to use any Radio Broadgreen Material during or after the Term and LHBS reserves the right to charge the Advertiser for any such use.

7.2. Notwithstanding clause 7.1, above, from time to time, LHBS shall grant to the Advertiser, a licence to reproduce the Radio Broadgreen Material, specifically as it appears within the Advertisement, for public communication and / or internal use, by the Advertiser or on its behalf. The terms of this licence will be detailed in a separate "Licence" signed by the parties on or about the date of this Agreement. The Advertiser accepts that LHBS's ability to grant such a licence is subject always to any restrictions imposed by third parties whose contributions are featured in the Radio Broadgreen's Material. The Advertiser's licence (if any) in respect of the Radio Broadgreen's Material is conditional on the Advertiser: 7.2.1. signing and complying with the terms of the Licence, including but not limited to the licence period and the approved platforms detailed therein; 7.2.2. not altering or changing the LHBS; 7.2.3. agreeing that it will not apply for (either itself or in conjunction with any third party) nor authorise any third party to apply for (or otherwise secure) any protection in respect of the Radio Broadgreen Material, all such rights are reserved to LHBS; 7.2.4. agreeing to take such steps as may be reasonably necessary to protect LHBS's rights in and to the Radio Broadgreen's Material, including providing reasonable assistance to LHBS in relation to any claims or actions it brings or is required to defend (LHBS reserves all right and powers required to enforce rights in and to the Radio Broadgreen Material); 7.2.5. agreeing that it will not at any time now or in the future dispute or challenge LHBS's ownership of any of the Intellectual Property Rights related to the Radio Broadgreen Material; 7.2.6. not using the Radio Broadgreen Material in any way which is intended or reasonably likely to be harmful to LHBS's reputation; 7.2.7. ensuring that its use of the Radio Broadgreen Material complies with applicable laws, statutes, regulations and codes from time to time in force and/or LHBS's reasonable instructions (such as take down requests and adjacency guidelines) as may be communicated from time to time; and 7.2.8. ensuring that LHBS is credited (in a manner agreeable to LHBS) whenever the Radio Broadgreen Material is reproduced and/or publicly communicated for example "in association with Radio" or such other agreed credit; 7.2.9. the Advertiser's compliance with the licensing arrangements pertaining to music and other third party content included within the Radio Broadgreen Material any additional usage which shall be agreed between the Advertiser and the relevant rights holders; 7.2.10. indemnifying LHBS and keeping LHBS fully and effectively indemnified and holding LHBS harmless from and against any third party claims which arise out of or are associated with the Advertiser's actual or purported failure to comply with this clause 7.2 and/or the terms of the Licence.

7.3. The Advertiser hereby grants LHBS a non-exclusive, royalty-free licence during the Term to use and reproduce all Intellectual Property Rights in and to the Assets for creation and delivery of the Campaign pursuant to this Agreement and/or for any other purpose in connection with the fulfilment of LHBS's obligations under this Agreement.

7.4. All Intellectual Property Rights in and relating to the Assets shall at all times remain vested in the Advertiser and nothing in this Agreement shall be construed as an assignment by the Advertiser of any such Intellectual Property rights and all goodwill and rights arising in or generated by the use of such Intellectual Property Rights pursuant to this Agreement will accrue to and inure to the benefit of the Advertiser.

7.5. At the end of the Term, LHBS shall no longer be entitled to use the Advertiser's Intellectual Property Rights, save that the Advertiser hereby grants LHBS a perpetual and royalty-free licence to use the Assets, as the same may appear within the Advertisements, for LHBS's internal business uses and to promote its advertising services to other potential advertisers.

8. LIMITATION OF LIABILITY

8.1. This clause 8 sets out the entire liability of one party to the other and, except as provided in this clause, all other liability is excluded.

8.2. If the Assets comprise the complete Advertisement, it is the responsibility of the Advertiser to ensure such Advertisement(s) complies with (i) the Advertiser's requirements; (ii) all Advertising Regulations; (iii) any Specialist Advertising Regulations; and (iv) applicable laws, statutes, regulations and codes from time to time in force.

8.3 If LHBS is responsible for the development and creation of Advertisements, then (i) LHBS warrants that, to the best of its knowledge and belief and subject to clause 8.5, as at the date of delivery of the Advertisements, the use of the Advertisements in accordance with this Agreement for the purposes set out in the Order Confirmation will comply with all Advertising Regulations in the UK (but excluding any Specialist Advertising Regulations for which the Client shall be responsible for ensuring that the Advertisement(s) are compliant with such Specialist

Advertising Regulations); (ii) it is the responsibility of the Advertiser to check, when it is provided by LHBS for approval, the correctness and factual accuracy of each draft Advertisement and that such draft Advertisement complies with (a) the Advertiser's requirements; (b) applicable laws, statutes, regulations and codes from time to time in force; and (c) any Specialist Advertising Regulations.

8.4 LHBS will not be responsible for any errors in any Advertisement (or the repetition of an error in an Advertisement ordered for more than one broadcast or publication) which has been approved by the Advertiser.

8.5 The Advertiser releases LHBS from any liability under or in connection with this Agreement and hereby indemnifies LHBS against all losses, damages, liabilities, claims, demands, actions, penalties, fines, awards, costs and expenses (including reasonable legal and other professional expenses) incurred by LHBS which arise as a result of or in connection with: (i) where Assets comprise the complete Advertisement, the use of such Assets in the Campaign; (ii) where LHBS is responsible for the development and creation of Advertisements, incorporation of Assets into the Advertisements; (iii) any use of the Assets in the Advertisements infringing third party Intellectual Property Rights; (iv) where Assets comprise the complete Advertisement, the Advertisements breaching Advertising Regulations, Specialist Advertising Regulations or other laws and regulations; (v) where LHBS is responsible for the development and creation of Advertisements, the Advertisements breaching Specialist Advertising Regulations; and/or (vi) the Advertisements breaching third party Intellectual Property Rights, Advertising Regulations, Specialist Advertising Regulations or other laws and regulations where LHBS had previously notified the Advertiser of a specific risk that the Advertisement(s) infringed third party Intellectual Property Rights or breached Advertising Regulations, Specialist Advertising Regulations or other laws and regulations and the Advertiser had approved the use of such Advertisement(s) notwithstanding such notified risk.

8.6. If, after it has given its approval pursuant to this Agreement, the Advertiser notices an error in an Advertisement, it should notify LHBS immediately and in writing (email being sufficient for such purposes). Following such notification, LHBS shall use reasonable endeavours to promptly remove the Advertisement from its website or cancel any future radio broadcasts for that Advertisement. If LHBS fails to do so within a reasonable time or if during the approval process, LHBS fails to correct an error identified by the Advertiser, then LHBS (at LHBS's discretion) shall either: a) if possible, not charge the Advertiser the media charge for delivery of that Advertisement; or b) if the media charge has already been paid, re-broadcast / re-publish a corrected Advertisement, without charge, extending the Campaign term, if necessary; or c) If the media charge has already been paid and it is not possible for re-broadcast or to re-publish the Advertisement, credit the Advertiser the media charge associated with delivery/publication of the Advertisement(s) containing the error, such credit may then be used in any subsequent advertising or promotional campaign the Advertiser books with LHBS.

8.7. Any complaint, claim or query (whether in relation to an Advertisement or an invoice) must be raised with LHBS in writing (email being sufficient for such purposes) within 14 days of either: a) the broadcast of the Radio Advertisement; b) the date on which it is claimed the Radio Advertisement should have been broadcast; c) the date on which the Digital Advertisement or Audio-Visual Advertisement should have been or has been live on a Radio Broadcast website; or d) the date of receipt by the Advertiser of the invoice giving rise to the complaint, claim or query. The raising of a complaint, claim or query shall not affect the Advertiser's liability to pay all charges for the Campaign.

8.8. LHBS shall not be in breach of the Agreement or liable for delay or failure to perform any of its obligations hereunder, to the extent that such failure arises from or is attributable to acts, events, omissions or accidents beyond its reasonable control including but not limited to any of the following: fires, Acts of God, flood, earthquake, windstorm or other natural disaster, strikes, interruption or failure of a utility service, failure of the internet, terrorism, key employees not being available to perform the services through death, illness or departure, or Governmental restriction. LHBS shall also not be liable to the Advertiser for the failure, corruption, interruption, downtime, virus or malfunction of any radio station, website or other digital platform, including but without limitation any third-party media platform.

8.9. LHBS will not be liable to the Advertiser if the success of the Campaign is less than anticipated.

8.10. The Advertiser will indemnify LHBS and shall keep LHBS fully and effectively indemnified and hold LHBS harmless from and against all claims, costs, proceedings, demands, losses,

damages, expenses or liability whatsoever arising out of or in connection with the Advertiser's breach or non-performance of this Agreement.

8.11. Nothing in this Agreement limits or excludes the liability of a party which cannot legally be limited, including but not limited to liability for death or personal injury resulting from its negligence or for any damage or liability incurred by a party as a result of fraud or fraudulent misrepresentation by the other party.

8.12. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

8.13. LHBS shall not be liable to the Advertiser for:

- (i) loss of profits.
- (ii) loss of sales or business.
- (iii) loss of or damage to goodwill.
- (iv) loss of anticipated savings.
- (v) loss of agreements or contracts,
- (vi) loss of use, loss or corruption of data or information; or
- (vii) any indirect or consequential loss, costs, damages, charges or expenses.

8.14 LHBS's total liability to the Advertiser in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise in respect of all breaches of duty relating to a particular Advertisement shall be limited to the total media and production charges (calculated on a pro-rata basis) payable by the Advertiser for the Advertisement in question.

8.15. LHBS's total liability to the Advertiser in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise shall not exceed the total charges paid or payable under this Agreement by the Advertiser in respect of Campaigns or other services actually supplied by LHBS.

9. TERMINATION

9.1. LHBS may terminate this Agreement at any time and without reason by serving 30 days' written notice to the Advertiser.

9.2 Without affecting any other right or remedy available to it, LHBS may terminate the Agreement with immediate effect by giving written notice to the Advertiser if the Advertiser fails to pay any amount due under the Agreement on the due date for payment.

9.3. Without prejudice to any rights that have accrued under this Agreement or any of its rights or remedies, if a party (the "Defaulting Party"): a) commits a material breach of this Agreement which is not capable of remedy or, if capable, is not remedied within 15 days of the other party's written notice giving details of the breach and requiring its remedy; b) suspends, threatens to suspend, admits inability or is deemed unable to pay its debts as they fall due within the meaning of s123 of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of s268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; c) commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a solvent amalgamation or solvent reconstruction of that party; d) files a petition, gives a notice, passes a resolution, or makes an order, for or in connection with its winding up other than for the sole purpose of a solvent amalgamation or solvent reconstruction; e) receives or issues an order for, or a notice of an intention for, the appointment of an administrator; f) has a person who becomes entitled to appoint a receiver over its assets or a receiver is appointed over its assets; g) (if the party is an individual), is the subject of a bankruptcy petition or order; or h) has a creditor who attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or i) any event occurs, in any jurisdiction, that has an effect equivalent or similar to any of the events mentioned in this clause 9.3; or j) suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or k) (if the party is an individual) dies or, by reason of illness or incapacity is incapable of managing his or her own affairs; or l) has a change of control or ownership; or (m) financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy; or (n) the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986; and 9.3.1 if the Defaulting Party is the Advertiser, LHBS shall be entitled (at its discretion) to suspend the Campaign until the breach is remedied (including for a breach as referred to in clause 9.2) or to terminate this Agreement, without

liability, immediately by giving written notice to the Advertiser; or 9.3.2 the Defaulting Party is LHBS, the Advertiser may terminate this Agreement immediately by giving written notice to LHBS.

9.4 On termination or expiry of the Agreement the Advertiser shall immediately pay to LHBS all of LHBS's outstanding unpaid invoices and interest and, in respect of any Campaign, Advertisement(s) or services supplied but for which no invoice has been submitted, LHBS shall submit an invoice, which shall be payable by the Advertiser immediately on receipt.

9.5 Termination or expiry of the Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

10. SUPPLY OF PRIZES.

10.1. If the Campaign includes a competition or prize promotion (each a "prize promotion") promoted by LHBS for which the Advertiser is responsible for supplying and /or arranging the prize, the Advertiser, accepts that the terms of this clause 10 shall apply.

10.1.1. LHBS will be notified to prize promotion entrants as the "promoter" (as such term is defined by the Advertising Standards Authority) but the Advertiser may be referred to as the provider of the prize whenever the prize promotion is promoted as part of the Campaign. 10.1.2. The Advertiser warrants that it is entitled to grant LHBS permission to provide the prize as a prize for the prize promotion. 10.1.3. LHBS will provide to the Advertiser, for approval at least 7 days before the prize promotion start date, a copy of the terms and conditions for the prize promotion (the "Rules"). The Advertiser must respond within 3 days and raise any objections to the description of the prize in the proposed Rules. Failure to do so shall be interpreted as the Advertiser's approval of the Rules and the description of the prize contained therein. 10.1.4. Once the Rules are approved, the Advertiser shall make no changes to the prize as it is described in the Rules. 10.1.5. Notwithstanding clause 10.1.4, above, if due to circumstances beyond the Advertiser's control, the Advertiser will be unable to provide the prize exactly as it is described in the Rules and/or its delivery will be delayed, it shall notify LHBS as soon as it becomes aware of this. The Advertiser shall then be responsible for providing, at its cost, an alternative prize (of equivalent value and product description) that LHBS, acting reasonably, deems appropriate in the circumstances. 10.1.6. If the Advertiser is responsible for delivering the prize to the winner, it shall provide the winner with all information the winner reasonably requires receiving and use the prize and must deliver the prize or, if delivery is not possible, contact the winner to make arrangements for delivery, within a week of the prize promotion end date. The prize should always be delivered to the winner within 28 days of the date the winner is announced unless there are extenuating circumstances, in which case, the Advertiser must keep the winner informed as to when they will receive their prize and the reason for the delay. If applicable, the Advertiser will provide, before the prize promotion start date, contact details for the person with responsibility for arranging delivery of the prize(s). These details will be provided to the winner(s) when LHBS notifies them that they have won. The responsible person will then be expected to liaise with the winner(s) and must confirm to LHBS, in writing, when the winner(s) has been contacted about their prize and/or to arrange its delivery and, again, once delivery has taken place. 10.1.7. The Advertiser is responsible for ensuring that the prize complies with all applicable laws, statutes, regulations and codes from time to time in force, health and safety legislation, trading and other industry standard regulations. 10.1.8. As between the parties, the Advertiser is solely responsible for the prize and any risks associated with it. LHBS shall not be liable in any way for the prize or for any costs, damages, or liabilities arising out of or connected with it and/or the winner(s)'s receipt and use of it. If an entrant or winner complains to LHBS, about or in connection with the prize the Advertiser must take all reasonable steps to resolve and/or rectify such complaint. This obligation includes providing a substitute prize (of equivalent value and product description) if the original prize is defective or not available.

10.2 The Advertiser shall be liable for, and hereby indemnifies LHBS against any and all losses, damages, liabilities, claims, demands, actions, penalties, fines, awards, costs and expenses (including reasonable legal and other professional expenses) incurred as a result of any such prize referred to in clause 10.1, including any claim by a third party arising out of the use or enjoyment of such prize.

11. DATA PROTECTION

11.1. Unless otherwise agreed, no personal data will be transferred to the Advertiser by LHBS pursuant to this Agreement. The transfer of any personal data by LHBS to the Advertiser (in connection with this Campaign or otherwise) is subject to the Advertiser signing and complying with LHBS's standard data sharing agreement. Under no circumstances will personal data be transferred to the Advertiser unless the Advertiser signs such data sharing agreement.

11.2. Each Party warrants that it shall comply with all relevant legislation and regulation always governing the processing and transfer of personally identifiable data. LHBS shall be the data controller of such personal data.

12. CONFIDENTIAL INFORMATION

The terms of this Agreement (but not its existence), and any other information notified by one party to the other as being confidential, shall be kept strictly confidential at all times, unless required by law, order of a court of competent jurisdiction, in which event the disclosing party shall notify the other party as promptly as possible (and, if at all possible, prior to the making of any such disclosure) and shall use its reasonable commercial endeavours to ensure that such information continues to be treated as confidential. Notwithstanding the foregoing, the parties shall be entitled to disclose any such confidential information on a "need-to-know" basis under the same obligations of confidentiality as in this Agreement, to its professional advisors, employees, officers, contractors, agents and affiliated companies.

13. SPONSORSHIP AGREEMENTS

13.1. If part of the Campaign is for sponsorship of a radio programme or feature, LHBS reserves the right to cancel or suspend this element of the Campaign at any time, for any reason. The Advertiser accepts that Radio Broadgreen may also alter its radio programming schedule over holiday periods. If the radio sponsorship element of the Campaign is to be cancelled, suspended or its radio programming schedule altered, LHBS will endeavour to give the Advertiser prior notice.

13.2. The Advertiser must give LHBS 3 months' written notice, to be sent by recorded delivery, to cancel any sponsorship, during which time it will continue to pay LHBS in accordance with clause 6.

14. GENERAL

14.1. In confirming its order (whether directly or indirectly) for the delivery of the Campaign pursuant to this Agreement, the Advertiser is indicating its acceptance of the terms set out herein.

14.2 Except as set out in these Conditions, no variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

14.3 If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

14.4. A waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

14.5. The Advertiser may not assign transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement in whole or in part.

14.6. The Agreement constitutes the whole agreement between LHBS and the Advertiser concerning its subject matter and supersedes all previous agreements relating to the same. Each party acknowledges that in entering into the Agreement it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement.

14.7 If there is any conflict between these terms and conditions and the Order Confirmation, the Order Confirmation shall prevail.

14.8 Unless otherwise specified in these Conditions, any notice or other communication given to a party under or in connection with the Agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its

registered office (if a company) or its principal place of business (in any other case). Any notice or communication shall be deemed to have been received (i) if delivered by hand, at the time the notice is left at the proper address; or (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second business day after posting.

14.9. A person who is not a party to this Agreement shall have no rights to enforce any of its terms whether under the Contracts (Rights of Third Parties) Act 1999, or otherwise.

14.10. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be construed under and governed by the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).