

GENERAL TERMS & CONDITIONS OF CONTRACT: SOUND SUCCESS - SS2020

1 DEFINITIONS

- a. The expression "Company" shall hereafter mean the company or companies specified on the order and shall include the successors in title and assigns of that company.
- b. The expression "Advertiser" shall mean the person, organisation or company by whom an order for an advertisement booking is placed and shall mean and include the Advertiser's successors in title and assigns.
- c. "Ofcom" refers to The Office of Communications or any statutory body or agency responsible for the regulation of broadcasting.
- d. "ASA" means the Advertising Standards Authority or any statutory body or agency responsible for the regulation of the services of products ordered.
- e. "BCAP Code" refers to the UK Code of Broadcast Advertising issued by the Advertising Standards Authority.
- f. "advertisement copy" shall mean any advertising material, in any format intended for broadcast or publication by the Company.
- g. "Contract" shall mean these terms and conditions, the Submission Procedures (as defined below) and the specific written contract terms agreed between the Company and the Advertiser.
- h. "working day" shall mean any day of the week from Monday to Friday inclusive except any Bank or Public Holiday.
- i. The "campaign commencement month" is the first day of the month shown on the order form at Section 3 or the 1st day of the month in which airtime is actually transmitted, whichever is latest.
- j. The "initial minimum term" is stated in Section 2 of the order.
- k. The "renewal period" is successive periods of 3 calendar months beyond the expiry of the minimum term.

2 ADVERTISING AGENCIES AND COMMISSIONS

- a. An advertiser who is an advertising agency shall be deemed to contract as principal and will accordingly be responsible for payment of accounts and will be deemed to have full authority in all matters connected with the placing of orders and the approval or amendment of advertising copy.
- b. Agency Commission is payable to registered advertising agencies recognised by the Company and will be calculated on the basis of the rates applicable less discounts allowed.

3 ACCEPTANCE TERMS AND CONDITIONS

- a. The placing of an order with the Company by the Advertiser will be deemed acceptance of these General terms and Conditions of Contract by the Advertiser.
- b. No terms or conditions other than those set forth herein or any variation thereof under Condition 10 shall be binding upon the Company or the Advertiser unless reduced to writing and signed by or on behalf of both the Company and Advertiser.

4 ACCEPTANCE OF ADVERTISEMENTS

- a. All advertisements will be broadcast subject to approval of them by the Company and their compliance with relevant broadcast legislation, Ofcom broadcast codes and BCAP code.
- b. Advertisement copy must be delivered not less than two clear working days before scheduled broadcast date unless the Company shall agree to waive this requirement. Delivery of advertisement copy shall not have been made until the Company's technical requirements and submission procedures have been complied with and the relevant broadcast instructions have been given. If the advertiser fails to deliver advertisement copy in accordance with the provision of this paragraph, he shall remain liable to pay the full value of any advertising booked whether it is broadcast or not.
- c. The form in which advertisement copy must be submitted, the procedure for the approval and/ or thereof, changes or alternative copy use and like matters shall be dealt with in accordance with the submission procedures (as shall be published by the Company prevailing at the date of submission of the advertisement copy).
- d. The Company at any time may without incurring any liability whatsoever to the advertiser:
 1. Add to, delete, change or otherwise amend advertisement copy if so required by Ofcom, the ASA or, if in the opinion of the Company the advertisement contains unsuitable copy but the advertiser shall remain liable to pay for such advertisement.
 2. Decline to broadcast any advertisement copy without giving any reason for so declining but the Advertiser shall not be liable to pay for any such advertisement.
 3. Restrict any repeat broadcasts of the same advertisement.
- e. Subject to the provisions of Condition 10 below, all bookings are accepted on the understanding that they will be paid for at the rates in force at the dates broadcast.

5 DATES/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:
 1. not broadcast during the period arranged or,
 2. not broadcast at all,
 3. broadcast so that a material part thereof is omitted or
 4. broadcast containing a material error made by the Company, the Company will endeavour to offer a broadcast or broadcasts during some other period which may be accepted by the Advertiser provided that, if any offer of such a broadcast is not accepted (or is not made), the Advertiser shall have no claim against the Company in respect of non-broadcast or for any expenses or damage whatsoever incurred as a result thereof; and the Company shall make no charge to the Advertiser for such advertisement but the Company shall be entitled to be paid by the Advertiser any agreed fees or such expenses as the Company has incurred in respect of any facilities arranged or provided.
- b. In the event of the Company's activities being restricted, curtailed or prevented by any law or any other act or thing beyond the Company's control, the Company may at any 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 owing by the Advertiser to the Company at the time of such determination.
- c. The Company will deliver airtime services on the primary platform of the station(s) selected. Where a service broadcasts on FM, FM shall be the primary platform. Where a service broadcasts on DAB but not on FM, DAB shall be the primary platform. Where a service does not broadcast on DAB or FM, the primary platform shall be the online stream receivable on the station website.

6 TERM AND CANCELLATIONS

- a. The term shall commence on the campaign commencement month and shall continue for the initial minimum term at which point it will be renewed automatically for successive periods of 3 calendar months (each 3-month period being a "Renewal Period").
- b. Either party may terminate the order by giving the other party not less than 1 month's written notice to expire at the end of the initial minimum term or the end of any Renewal Period.
- c. The Sound Success product is offered for an agreed minimum term and the Advertiser

receives a competitive rate for committing to a minimum fixed term. The Advertiser may terminate the order prior to the expiry of the Initial Period or any Renewal Period by giving The Company not less than 1 month's notice provided The Company receives the fees it would have earned and would have become entitled to if the order had not been terminated prior to end of the initial minimum period and/or Renewal Period.

- d. Cancellation notices shall be sent by first class registered post or recorded delivery addressed to the Company.

7 MATERIAL AND PROPERTY LIABILITY

- a. Whilst every care will be taken in respect of recording, scripts or material, the Company cannot accept liability for the loss, damage or delay in delivery thereof, whether in the studios or not such recordings, scripts or other material are supplied by the Company.
- b. The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the contract shall be limited to any monies paid by the Advertiser to the Company in respect of this order over the 12 month period prior to the claim arising.
- c. The Company shall not be liable to the Advertiser for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- d. Nothing in the Contract shall limit the liability of the Company:
 1. for death or personal injury caused by the Company's negligence; or
 2. under Section 2(3), Consumer Protection Act 1987; or
 3. for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
 4. for fraud or fraudulent misrepresentation.

8 PAYMENTS AND ACCOUNTS

- a. Unless otherwise agreed in writing, payment is due by direct debit monthly in advance on the 1st day of the month. In default of such payment the Company shall be entitled to refuse to continue to broadcast the advertisement.
- b. Accounts payable by an advertising agency recognised by the Company or by any other approved credit customer of the Company shall be paid not later than the fifteenth day of the month following the month of broadcast. In default of such payment the Company shall be entitled to refuse to continue to broadcast the advertisement.
- c. The existence of a query on any individual item in an account shall not affect the due date of payment of the balance of the account.
- d. Accounts not paid in accordance to the terms detailed within condition 8a or 8b above may have future orders cancelled by the Company without notice including future airtime on orders currently being transmitted.
- e. Accounts not paid in accordance to the terms detailed within condition 8a or 8b above may have future orders cancelled by the Company without notice including future airtime on orders currently being transmitted.
- f. Accounts not paid in accordance to the terms detailed within the condition 8a or 8b above may result in cancellation of the order by the Company. In this event, the Advertiser will remain liable for and be invoiced for the remaining unexpired period of the in initial minimum period or renewal period.

9 LICENCES, WARRANTIES AND INDEMNITIES

The Advertiser warrants and undertakes that:

- a. The Advertiser will be responsible for obtaining and paying for all necessary licenses and consents for the broadcast of any advertising copyright material contained in his advertisement or for the inclusion of any person.
- b. No advertisement copy will breach the copyright or other rights of or be defamatory of any third party.
- c. The Advertiser 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 manner whatsoever in consequence of the use, recording or broadcasting of any advertisement copy or matter supplied or broadcast for the Advertiser.

10 CHANGES OF RATES AND CONDITIONS

- a. On the anniversary of the commencement date the Company will apply a rate increase equivalent to 1.5% or the latest available November CPI 12-month inflation rate, whichever is higher.
- b. The Company reserves the right to change the advertisement, rates, time segments, classifications and any of these terms and conditions by giving not less than twenty-eight clear days' notice and in the event of such a change, the rates payable and the terms and conditions applicable shall be those in force at the time of broadcast, but the Advertiser concerned shall (by serving written notice on the Company within ten clear days of receiving notice of such change) be entitled to cancel any order for an advertisement to which the changed rates or terms and conditions would otherwise be applicable.
- c. Sound Success benefits and/or included services are allocated and available to the Advertiser across each period of activity - any unutilized elements may not be carried over or accumulated for use outside of each such period.

11 SOUND SUCCESS BILLING INFORMATION

Sound Success is billed monthly in arrears. In the first month of the campaign a full month will be invoiced and a full month's commercials delivered regardless of the actual campaign commencement day within that month.

12 VALUE ADDED TAX

All rates exclude VAT, which will be charged at the rate prevailing at the tax point.

13 ENTIRE AGREEMENT

The Contract constitutes the entire agreement between the Company and the Advertiser and supersedes any previous agreement between the parties in relation to the matters to which the contract relates.

14 RIGHT TO TRANSFER THE CONTRACT

The Company may transfer its rights or obligations under the Contract to any company, firm or person. The Company may only do this if it does not affect the Advertiser's rights under the Contract. The Advertiser may not transfer its rights or obligations under the Contract to any other company, firm or individual without the express written consent of the Company.

15 LAW

The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English and Welsh law and the parties submit themselves to the exclusive jurisdiction of the Courts in England and Wales.