

Terms and Conditions

for all titles published by Ilkeston Life Community Newspaper.

1). General:

1.1 “Advertisement” shall mean a Newspaper Advertisement or any other advertising message including a Sponsorship Campaign (as appropriate and as indicated on the Order Form where relevant) which is either submitted to the Company or approved by the Advertiser for publication by the Company and/or any of its associated companies.

1.2 “Advertisement Copy” shall mean any information, text, drawings, diagrams, images (moving or static), sounds or any other advertising or promotional materials submitted to the Company by the Advertiser and/or approved by the Advertiser for publication by the Company.

1.3 “Advertiser” shall mean the person, firm or company placing an order for an Advertisement and shall also mean and include the Advertiser’s successors in title and assignees.

1.4 “Advertiser Materials” shall mean any material submitted to the Company by the Advertiser (excluding the Company Materials).

1.5 “Authority” shall mean all relevant organisations which regulate or monitor the Advertisements (including sponsorship campaigns), including but not limited to the Advertising Standards Agency and/or Office of Communications, where appropriate.

1.6 “Codes” shall mean all relevant guidelines, codes of practice or guidance issued by the Authority or Authorities whether on a statutory or a self-regulatory basis from time to time including but not limited to the British Code of Advertising and Sales and Promotion, British Code of Advertising Practice and any relevant codes of the Office of Communications.

1.7 “Company” shall mean the company identified on the Order Form and shall include its successors in title and assignees.

1.8 “Company Materials” shall mean any material created or developed by the Company or its agents whether in relation to an Advertisement or not (excluding the Advertiser Materials) including any materials created in conjunction with the Advertiser or for the purposes of providing the Services.

1.9 “Contract” shall mean together these terms, the Order Form where relevant and the Submission Procedures where appropriate.

1.10 “Intellectual Property Rights” shall mean rights in any and all patents, trademarks, service marks, registered and unregistered designs, database rights, copyright, business or trade names and all other intellectual property rights of a similar or corresponding nature in any part of the world, whether registered or unregistered.

1.11 “Newspaper Advertisement” shall mean an advertisement message or messages using text and/or pictures/imagery to be published in the relevant newspaper or other publication whether in paper or electronic format such as teletext, internet, email or mobile telephony or otherwise distributed in leaflet or other paper form.

1.12 “Order Form” shall mean where used by the Company, the form signed by the Advertiser and the Company setting out the details of the campaign being purchased.

1.13 “Services” shall mean the services provided by the Company or its associated companies to the Advertiser as identified on the Order Form where relevant or further agreed between the parties and set out in this Contract.

1.14 “Submission Procedures” shall mean in relation to Advertisements the procedures of the Company or its associated companies prevailing at the date of submission of the Advertisement Copy.

1.15 “Working Days” means Monday-Friday excluding public holidays in England.

1.16 These terms apply to all agreements for the provision of Services by the Company to an Advertiser and shall constitute the entire agreement between the Company and the Advertiser and shall prevail over any terms or conditions stipulated or referred to by the Advertiser (whether contained in any document emanating from the Advertiser or an advertising agency or made orally by any person) unless specifically agreed in writing on behalf of the Company. Unless the Company otherwise agrees in writing, these terms shall apply to all future arrangements between the Advertiser and Company in relation to Advertisements.

1.17 These terms shall be governed by the laws of England and the parties thereto hereby submit to the exclusive jurisdiction of the English courts.

2. Acceptance of Order:

2.1 The Company shall accept an order on signature by the Company of an Order Form or as otherwise accepted by the Company. The Order Form or Advertiser's order accepted by the Company, these terms and the Submission Procedures where applicable shall together form the Contract between the Company and the Advertiser.

2.2 Whether or not an Order Form is used, all Advertiser's orders shall be subject to these terms.

3. Advertising Agencies:

3.1 An Advertiser which is an advertising agency shall be deemed to enter into the Contract both as principal and as agent on behalf of any individual or organisation who requests an Advertisement. Consequently, an advertising agency and its client who requests an Advertisement shall both be responsible both jointly and severally to the Company for payment of the services under the terms of this Contract. Any requests for Services from an advertising agency must be on the Agency's official form submitted together with the Order Form where relevant. Where such advertising agency enters the Contract on behalf of another individual or organisation, the advertising agency will be deemed to have full authority in all matters connected with the placing of orders and the approval or amendment of Advertisement Copy.

4. Advertising Commissions:

4.1 Agency commission is to be agreed between the agency and the Company and is payable to all advertising agencies recognised by the Company and will be calculated on the basis of the rate applicable from time to time after discount.

4.2 No agency commission payable by the Company to a recognised agency shall be paid or allowed to be shared with any client of such agency which is not also recognised by the Company.

5. Acceptance of Advertisement Copy:

5.1 All Advertisements will be published subject to the approval thereof by the Company.

5.2 The Advertiser shall ensure that Advertisement Copy shall be legal, decent, honest and truthful and shall ensure that such Advertisement Copy, once it has been either submitted to the

Company or approved of by the Advertiser in accordance with Clause 6 shall comply with all relevant Codes and any current applicable UK legislation.

5.3 Advertisement Copy must be delivered or finally approved of by the Advertiser in accordance with Clause 6 before the scheduled publishing date unless the Company shall in any particular case agree a shorter period in writing. Delivery of Advertisement Copy by the Advertiser shall not be deemed to have been made until the Company's technical requirements have been complied with and the relevant publishing instructions have been given by the Advertiser. No Advertisement will be published without the Company having obtained approval of the Advertisement Copy from the Advertiser in accordance with Clause 6. Failure to provide or approve of the Advertisement Copy within this time frame may lead to the inability of the Company to publish such Advertisement.

5.4 If an Advertiser fails to deliver or approve of Advertisement Copy in accordance with the provisions of this Clause 5, the Advertiser shall remain liable to pay for the Advertisement whether or not it is published.

5.5 The Company may at any time and at its discretion without incurring any liability whatsoever to the Advertiser:

5.5.1 add, edit, delete or otherwise amend Advertisement Copy if the Advertisement Copy is submitted less than 24 hours prior to the first publication and if, in the opinion of the Company, it contains unsuitable material or to ensure that it complies with the Company's technical requirements. Regardless of such addition, editing or deletion, the Advertiser shall remain liable to pay for any such Advertisement;

5.5.2 Decline to publish any Advertisement without giving any reason therefore in which circumstances the Advertiser shall not be liable to pay for any such Advertisements;

6. Creation of Advertisement Copy by the Company:

6.1 The Company may, if requested by the Advertiser on the Order Form or as further agreed between the parties, develop and create an Advertisement for the Advertiser.

6.2 The Advertiser shall give the Company clear briefings and ensure that all the facts and instructions given about the Advertiser's advertising requirements are accurate and complete, and shall provide all necessary information reasonably requested by the Company as soon as possible.

6.3 The Company shall provide the development service in accordance with any specifications, instructions, information or Advertiser Materials provided by the Advertiser at the commencement of the Contract.

6.4 Where any such specification, instructions, information or Advertiser Materials change from the commencement of the Contract and result in an increase of cost then the Company shall be entitled to pass on to the Advertisers the cost thereof and payment of such costs by the Advertiser will be subject to Clause 10.

6.5 By the period mutually agreed between the parties, the Advertiser shall provide the created Advertisement Copy to the Advertiser for approval. Subject to Clause 5.3, within 3 days of the submission of such Advertisement Copy by the Company, the Advertiser shall approve of or request changes to the Advertisement Copy and shall not unreasonably withhold or delay such approval.

6.6 Any Advertisement Copy amended to take into account changes requested by the Advertiser shall be delivered to the Advertiser by the Company within the reasonable time period mutually agreed between the parties for approval by the Advertiser. Subject to Clause 5.3, within 3 days of the submission of such amended Advertisement Copy, the Advertiser shall approve of or request changes to the Advertisement Copy and shall not unreasonably withhold or delay such approval. Any further changes requested by the Advertiser shall follow the procedure set out in this Clause 6.6, subject always to Clause 5.3.

6.7 If the Advertiser requests any change to the Advertisement Copy created by the Company, and such changes are outside of the instructions, specifications, information, approvals or Advertiser Materials provided to the Company, such changes shall incur additional charges and such charges shall be payable by the Advertiser in accordance with Clause 10.

6.8 If the Advertiser does not approve of the Advertisement Copy for reasons which are outside of the Company's control or the specifications, instructions, information or Advertiser Materials provided by the Advertiser to the Company, the Advertiser shall be responsible for the charges for the development of such Advertisement Copy in accordance with Clause 10.

7. Date and Time of Publication:

7.1 Unless otherwise agreed between the parties in writing, the Company does not guarantee the scheduled time and/or date or scheduled media of any publication of any Advertisement.

However regardless of whether the parties have agreed scheduled times and/or dates or schedules media in writing, if for any reason the Advertisement is:

7.1.1 subject to Clause 7.3 not published during the scheduled period or in the scheduled media;
or

7.1.2 not published at all; or

7.1.3 published so that a material error is made solely by the Company; or

7.1.4 published containing a material error made solely by the Company then the Company will use its reasonable endeavours to publish such Advertisement during some other period which may be acceptable to the Advertiser and agreed by the Company provided that if no such publication is made the Advertiser will have no claim against the Company and/or Authority in respect thereof or for any loss, expense or damage whatsoever incurred as a result thereof (and the Company shall make no charge to the Advertiser for such Advertisement)

7.2 In the event of any error, misprint or omission in the printing of our Newspaper Advertisement or part of our Newspaper Advertisement which is wholly as a result of an error made by the Company, the Company will either reinsert the Newspaper Advertisement or relevant part of the Newspaper Advertisement as the case may be or make a reasonable refund of or adjustment to the cost of the Newspaper Advertisement. No reinsertion, refund or adjustment will be made in relation to a Newspaper Advertisement where the error, misprint or omission does not materially detract from the Newspaper Advertisement. In no circumstances shall the total liability of the Company for any error, misprint or omission exceed:

7.2.1 the amount of a full refund of any price paid to the Company for the Newspaper Advertisement in connection with which liability arose; or

7.2.2 the cost of a further or corrective Newspaper Advertisement for a type and standard reasonably comparable to that Newspaper Advertisement in connection with which liability arose.

7.3 It is the responsibility of the Advertiser and/or Agency to check the publication dates of Advertisements and any query regarding publication dates publication must be notified by the Advertiser in writing to the Company immediately.

7.4 The Company may in its discretion offer and run free Advertisements for the Advertiser in connection with a paid Advertisement. The Advertiser acknowledges that such a free Advertisement will still be subject to the obligations on the Advertiser as set out in these terms, however the Company is under no obligation to publish the free Advertisement and such publication is entirely up to the discretion of the Company.

8. Cancellation:

8.1 Once the Advertiser's order has been accepted by the Company, subject to Clause 8.2 below, an Advertiser may not cancel the Contract for any reason.

8.2 The Advertiser may cancel an Advertisement or this Contract on the 10th preceding publication in writing. (To be received by the Company no later than the 10th preceding publication) and such Advertiser shall be entitled to a pro rata refund. Cancellation received after the Friday preceding publication may be subject to a £50 cancellation fee.

8.3 The Company may, by giving at least Three Working Days notice prior to the next publication of an Advertisement, cancel the Contract with the Advertiser.

8.4 The Company may, by written notice, terminate this Contract forthwith on any of the following events:

8.4.1 if the Advertiser commits a material breach of any of the terms of this Contract (and in relation to a breach capable of remedy, fails to remedy such breach within fourteen days of being required to do so by written notice identifying the breach and the steps which must be taken to remedy it);

8.4.2 a notice is issued to convene a meeting for the purposes of passing a resolution to wind up the Advertiser or such resolution is passed or a resolution is passed by its directors to apply for or seek a winding up order to enter administration, or a petition for a winding up order is presented against it or such order or appointment is made or a receiver, administrative receiver, administrator, receiver and manager, interim receiver, custodian, sequestrator or similar officer is appointed, or a proposal for voluntary arrangement is made, or it takes any steps with a view to readjusting, rescheduling or deferring any part of its indebtedness or it is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986.

8.5 In the event of the Company's activities being restricted, curtailed or prevented by any law, Authority or Code or any other act or thing beyond the Company's control, the Company may at any time, notwithstanding anything hereinbefore contained, forthwith terminate these terms and Contract immediately, without prejudice to the Company's right to be paid by the Advertiser for any monies due and owing by the Advertiser to the Company at the time of such termination.

8.6 Upon termination or expiry of this Contract, the Advertiser shall promptly return to the Company any Company Materials in its possession.

9. Material, Property Liability and Intellectual Property Rights:

9.1 While every care will be taken in respect of Advertisement Copy, Advertiser's Material or other material, the Company cannot accept liability for the loss, damage, destruction or delay in delivery thereof, whether in transit and whether or not such Advertisement Copy or other material are supplied by the Company.

9.2 In relation to Newspaper Advertisements, Company shall make reasonable endeavours to forward replies to box numbers to the address provided for the Advertiser as soon as possible after receipt by the Company, but the Company accepts no liability in respect of any loss or damage alleged to have arisen through delay in forwarding or omitting to forward such replies (however caused). The Advertiser shall authorise the Company to return to its originator any communication, which, in the opinion of the Company, should not be delivered to the Advertiser.

9.3 As between the Company and the Advertiser, the Company shall retain Intellectual Property Rights in all material developed in connection with the performance of the Services (including the Company Materials but excluding Advertiser Materials).

9.4 The Advertiser shall not publish or otherwise disclose any information relating to the Advertisement (including but not limited to the Advertisement) to any third party unless the Advertiser has obtained the Company's prior written consent to such publication or disclosure.

9.5 The Advertiser shall retain Intellectual Property Rights in the Advertiser Materials provided at the commencement date of the Contract. The Advertiser provides the Company with a non-exclusive, non-transferrable, royalty-free, worldwide licence to use the Advertiser Materials.

9.6 Each party shall at its own expense execute such documents and do all other things as may be reasonably required by the other to enable the other party to obtain the full benefit of the Contract and to assure the other party the rights agreed and granted under this Contract.

10. Payment:

10.1 All Advertisement bookings are accepted on the understanding that they will be paid for at the rates in force at the date of publication of the Advertisement.

10.2 Invoices may be rendered by the Company on signature by the Advertiser of these terms or prior to the development of the Advertising Copy. Any credit provided to the Advertiser will be at the Company's sole discretion.

10.3 Subject to Clause 10.2 all invoices shall be due and payable in full 0 days following the invoice date (or 7 days in the event of Advertisement Copy development services) and in default of such payment (and without prejudice to any other rights or remedies of the Company) the Company shall be entitled to refuse to publish any Advertisement for which an order has been accepted by the Company and in such circumstances all fees due to the Company under this Contract shall remain due and payable by the Advertiser as though the Advertisement had been published.

10.4 The existence of a query on any individual item in any account shall not affect the due date of payment of the account. The Advertiser shall make all payments due under this Contract without any deduction whether by way of counterclaim, set-off, discount, or otherwise unless the Company has authorised the same in writing. Queries and/or disputes regarding any advertisement must be notified to the company within 14 days of publication in writing to the accounts dept.

10.5 All charges and costs quoted by the Company are exclusive of any applicable value added tax or additional disbursements incurred by the Company in relation to the Advertisement which the Advertiser shall also be liable to pay.

10.6 If the Advertiser fails to make payment on the due date the Company shall without prejudice to any other remedy be entitled to charge statutory interest on the amount unpaid at the rate of 8% above the prevailing Bank of England base rate until payment is made in full. Such interest shall be paid by the Advertiser on demand by the Company.

11. Limitation of Liability:

11.1 Neither party excludes or limits liability to the other party for death, personal injury or fraud.

11.2 Subject to Clauses 7.2 and 11.1 above this clause sets out the Company's sole and exclusive remedies in respect of the performance, non-performance, poor performance or otherwise in relation to this Contract whether entering into or performance of this Contract.

11.3 Save as provided in Clause 11.1, the Company shall not be responsible for losses, charges, costs or expenses (whether such losses or damages were foreseen, foreseeable, known or otherwise) howsoever caused (including without limitation by negligence) including but not limited to:

11.3.1 loss of sales or turnover;

11.3.2 loss of anticipated savings;

11.3.3 loss of customers;

11.3.4 loss or damage to or corruption of data;

11.3.5 loss of actual or anticipated profits;

11.3.6 loss of opportunity;

11.3.7 loss of goodwill;

11.3.8 loss of reputation; or

11.3.9 consequential or indirect loss or damage, costs, expenses or other claims for consequential compensation (howsoever caused); which arise out of or in connection with this Contract or the Services provided by the Company (including but not limited to any advice or recommendations provided by the Company).

11.4 Subject to clause 11.1 above the Company's aggregate and total liability in contract, tort (including negligence), breach of statutory duty (misrepresentation or otherwise) arising under or in connection with this Contract or any act or omission by the Company in the performance of its

obligations under this Contract shall not exceed the costs of the original Advertisement campaign to which the claim relates. Where the claim relates to one defective Advertisement, the Company's total and aggregate liability shall be limited to a pro rata refund for that defective Advertisement.

11.5 If you are a consumer (meaning an individual who is not acting in their business, trade or profession) you will not be subject to Clauses 5.4, 10.1, 11.2, 11.3 or 11.6.

11.6 Any advice or recommendation given by the Company or its employees shall be followed or acted upon entirely at the Advertiser's risk.

12. Warranties and Indemnities:

12.1 The Advertiser warrants and undertakes to the Company:

12.1.1 that the Advertiser will be responsible for and shall obtain and pay for all necessary licences and consents required for the publication of any material used or provided or approved of in any Advertisement or the reference to any person therein prior to the submission or approval of the Advertisement by the Advertiser to the Company;

12.1.2 that it will inform the Company immediately of any complaint or concern raised with the Advertiser; and

12.1.3 that no Advertisements will breach the Intellectual Property Rights or be defamatory of any third party.

12.2 The Advertiser shall indemnify and keep the Company indemnified against all actions, proceedings, costs, damages, expenses (including reasonable legal costs and expenses), awards, penalties, claims, demands and liabilities arising from any breach of the above warranties or in any manner whatsoever in consequence of the use, development or publishing of any material supplied by the Advertiser or approved of by the Advertiser and published by the Company and shall provide all reasonable assistance to the Company in connection with any civil, administrative or criminal proceedings.

13. Change of Rates and Conditions:

13.1 The Company shall be entitled to change Advertisement rates, time segments and the classification of Advertisements or any of these terms by not less than 14 days written notice to the Advertiser and in the event of such a change the rates payable and the terms applicable to any Contract for the Advertisement shall be those in force at the time of publishing. Notwithstanding the above, Advertisers who are consumers (as defined in Clause 11.5) shall be subject to the rates set out in the Order Form or as otherwise agreed between the parties.

13.2 The Advertiser may by written notice to the Company within 14 days of receiving notice of such change cancel any order for an Advertisement to which the changed rates or terms would otherwise apply.

13.3 The Company may from time to time make special charges and/or conditions for certain types of Advertisements or for bookings at certain periods. These shall be notified to the Advertiser in writing.

14. Confidentiality:

14.1 Both parties shall keep confidential and shall not at any time reveal or cause to be revealed to any person, firm or company any of the trade secrets, business methods or confidential information which is known to be or ought reasonably to have been known to be confidential concerning the business or affairs of the other party, provided that this clause shall not apply to any information which can be shown to be:

14.1.1 in the public domain at the time it was disclosed; or

14.1.2 information which had previously come into the possession of the other party without a breach of any obligation of confidence; or

14.1.3 information which had become public knowledge other than by breach of this Contract.

14.2 Each party shall comply with the requirements of all legislation, regulations and Codes in force in relation to the processing of personal data including, without limitation, the Data Protection Act 1998 (as replaced, modified or re-enacted from time to time) (the "Act") and each party shall comply with the relevant obligations of the Act. The parties shall each take appropriate steps to ensure that its employees and agents comply with the Act.

15. Personal Data:

Your personal data will be stored electronically on a database by Ilkeston Life Community Newspaper and will not be shared with any third party. It will be used solely for the purposes of keeping you informed about developments to our websites and/or any promotional offers or competitions that we think may be of interest to you.

16. Force Majeure:

Neither party shall be liable to the other for any failure in the performance in any obligation hereunder if that failure is caused by war, strike, industrial action or slowdown, utility failures, failure of suppliers, lockout, accident, fire, blockade, import or export embargo, natural catastrophe or other circumstance over which the parties sought to be made liable had no control.

17. Severance

If any part of this Contract is found by a court of competent jurisdiction or other competent authority to be invalid, unlawful or unenforceable then such part will be severed from the remainder of this Contract, which will continue to be valid and enforceable to the fullest extent permitted by law.

18. Waiver

No forbearance, delay or other indulgence by either party in enforcing the provisions of this Contract shall prejudice or restrict the rights of that party, nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy conferred upon or reserved to either party by this Contract is exclusive of all other rights, powers or remedies available to that party and each right, power or remedy shall be cumulative.

19. Voucher Copies:

The company reserves the right to charge for voucher copies.