

AGREEMENT BETWEEN CARDIFF & VALE HEALTH CHARITY, AND
A COMMERCIAL PARTICIPATOR (fill in name here)

DATED - (fill in date here on the day of signature)

BETWEEN

- 1) **Cardiff & Vale Health Charity**, Registered Charity No. 1056544 whose head office is at); Woodland House, Maes Y Coed Road, Cardiff, CF14 4HH (The Charity), and
- 2) (fill in Commercial Participator name here) whose registered office is at (fill in address here) (CP)

BACKGROUND

- a) CP is a commercial participator in relation to the Charity as defined in Section 58 of the Act.
- b) This agreement is entered into to comply with the Act and the Regulations.

NOW IT IS AGREED as follows:

1. Definitions

In this agreement the following words and phrases shall have the following meanings, unless the context otherwise requires:

‘the Act’ the Charities Act 1992, as amended

‘Data’ all lists of names and/or other details of supporters of the charity in whatever form supplied to or held by CP

‘Logo’ the logo of the Charity, details of which appear in Schedule 1

‘Product’ (fill in here) the products/services details of which appear in Schedule 2

NOTE: ie. cans of beans, package holidays, Christmas cards

[Fundraising Activities, fundraising activity of CP details of which appear in Schedule 4] NOTE - to remove if no Fundraising Activity]

‘Regulations’ the Charitable Institutions (Fund-Raising) Regulations 1994, as amended

‘Royalty’ (fill in here) % of the recommended retail price/p per Product sold

NOTE: It is better, if possible, to agree a fixed price per item to be paid over or a fixed percentage of the price of the product or service. The Charity Commission has indicated that they do not think it is appropriate to state “All net profits from the promotion go to XYZ Charity”

‘Term’ the period of (fill in dates here)

‘Territory’ United Kingdom of Great Britain and Northern Ireland

2. The purpose of the agreement is to raise funds for the Charity by (here state the method by which this will be achieved e.g. the sale of baked beans bearing XYZ Charity’s Logo)

3. Appointment of Sub-licensee

In consideration of the undertakings given by CP in this agreement, The Charity hereby appoints CP as its non-exclusive sub-licensee to use the name and Logo on the Product and to exploit the Data in the Territory for the Term on the terms of this agreement.

4. Obligations of CP

CP undertakes with the Charity that it shall:

4.1 not bring the name or the Logo into disrepute in any way whatsoever and that none of its activities or those of any subsidiary or holding company are or will be inimical to the activities of the Charity

4.2 promote the sales of the Product throughout the Territory to the best of its abilities

4.3 create and manage the design artwork, print and manufacture of the Products and all advertising material relating thereto, but on condition that it shall obtain the prior written approval of The Charity (which approval shall not be unreasonably withheld or delayed) to all materials which bear the name and/or Logo

4.4 be responsible for the production, promotion, marketing and distribution of the Product and to that end may enter into such reasonable agreement as it shall think fit so as to fulfil its obligations under this agreement

4.5 ensure that the Product shall be of good quality and comply in all respects with all relevant statutory standards and shall contain the statement:

[pence per Product] is paid to The Charity

covenants all its taxable profits to The Charity registered charity number 1056544

4.6 keep separate, legible and detailed books of account and records relating to the production, promotion and sales of the Product and shall allow The Charity, its employees, agents and professional advisers to inspect, audit and take copies of any such books of account, VAT records, bank statements or other records of CP

4.7 promptly pay to The Charity any sums revealed as having been underpaid as a result of an inspection pursuant to 4.6 plus interest at 4% over Barclay Bank Plc's base rate of the time being calculated from the date payment should have been made (quarterly) to the date of actual payment

4.8 pay the reasonable professional costs of inspection under 4.6 in full if it has made an underpayment of at least 10% of the sums due

4.9 provide details to The Charity of the sales of the Product (fill in here monthly, quarterly or by 'x' date) and of the Royalty due

NOTE: In a short-term promotion it may only be possible to have the details of the sales paid over and the payment made at the end of the promotion. But on a promotion that is to last for more than one year, the Charity should demand, at the very least, quarterly payments and details of sales.

4.10 keeps confidential all Data disclosed to it by The Charity and to use it only for the purpose of this agreement and on termination of this agreement (for whatever reason) to hand over promptly all copies of the Data to TC

4.11 abide at all times with Part II of the Charities Act 1992, the General Data Protection Regulation (EU) 2016/679 (GDPR) and Data Protection Act 2018 (DPA 18) and, in particular, will state on all notices, advertisements and other documents soliciting funds for the Charity the fact that the Charity is a registered charity and the Charity's registered charity number

4.12 in accordance with regulation 3(4)(a) of the Regulations, the statement of principal objectives is contained in Schedule 3.

5. The Royalty

5.1 CP shall pay to The Charity the Royalty plus VAT from (*insert date contract starts* (Effective date)). Payments to be made on a quarterly basis from the Effective Date. Definition of Quarterly Basis: period of 3 months starting on the Effective Date and continuing every 3 months thereafter until the end of the Term.

5.2 prior to the payment of an instalment of Royalty, CP shall advise The Charity of the amount due and The Charity shall promptly render a VAT invoice to CP in respect of the instalment

5.3 The Charity undertakes with CP that it will donate all its taxable profits for the financial period(s) to which this agreement relates to the Charity

6. Termination

6.1 The Charity shall be entitled to terminate this agreement on the giving of 30 days written notice to CP.

6.2 The Charity shall be entitled to terminate this agreement forthwith if:

(i) CP fails to pay any sum due to The Charity after the due date and The Charity has given CP 30 days written notice requiring it to pay and CP has failed to pay in the 30-day period

(ii) CP does anything which in the reasonable opinion of The Charity brings or is reasonably likely to bring the name or Logo or reputation of The Charity into disrepute

(iii) A resolution is passed for the voluntary or compulsory liquidation of CP or a receiver is appointed over all or part of its business or if CP as an individual has a bankruptcy petition presented against him or her

6.3 if The Charity terminates this agreement under 6.2 CP will no longer be authorised to use the name and Logo and the Data, and will cease immediately the distribution and sale of all existing Products bearing the name and Logo and cease to use the Data

6.4 subject to The Charity's right to terminate under 6.2 this agreement shall last for the Term. On expiry of the Term CP shall have the right to sell all existing Products bearing the name and Logo and use the Data until such Product has been sold and for no other purpose as if expiry had not taken place and it shall account to The Charity for all Royalty payments in respect of such sales in accordance with this agreement and the rights of The Charity under this agreement shall continue during that period

6.5 notwithstanding termination of this agreement clauses 4, 5 and 7 shall survive termination.

7. Indemnity

8.1 CP agrees to indemnify The Charity in respect of any costs, claims, loss or liability whatsoever suffered by The Charity (including reasonable legal costs and disbursements paid by either) as a result of any breach by CP of any of the terms of this agreement

8. Confidentiality

The Charity agrees to treat as secret and confidential and not at any time for any reason to disclose or permit to be disclosed to any person or persons or to otherwise make use of or permit to be made use of any information relating to CP's business affairs or finances where knowledge or details of the information was received during the period of this agreement unless required to do so by law.

The obligations of confidence referred to in this clause shall not apply to any confidential information which:

8.1 is in the possession of and is at the free disposal of The Charity or is published or is otherwise in the public domain prior to the receipt of such information by the Charity or The Charity; or

8.2 is or becomes publicly available on a non-confidential basis through no fault of The Charity; or

8.3 is received in good faith by The Charity from a third party who on reasonable enquiry by The Charity claims to have no obligations of confidence to the CP in respect of it and impose no obligations of confidence upon The Charity

8.4 the obligations imposed by this clause on The Charity shall apply mutatis mutandis to CP

9. General

9.1 this agreement is personal as between the parties and CP can only assign the benefit of this agreement with The Charity’s prior written consent, but CP may appoint sub-licensees provided that it has obtained The Charity’s prior written consent to the granting of a sub-licence (not to be unreasonably withheld or delayed) and CP shall remain liable for all its obligations hereunder as if it had not appointed a sub-licensee

9.2 no amendment or addition to this agreement shall be made unless made in writing and executed by the parties

9.3 the parties are not partners nor joint ventures nor is CP entitled to act as nor represent itself as agent for The Charity, nor to pledge The Charity’s credit

9.4 neither party shall be liable for any breach of any term of this agreement that is the result of any clause beyond the reasonable control of the party in breach

9.5 this agreement shall be governed by the laws of England and Wales

9.6 any notice to be served on any of the parties shall be sent by pre-paid recorded delivery or registered post to the address above (or such other address may be advised from time to time) and shall be deemed to have been received within 72 hours of posting or 24 hours if sent by email to Fundraising.cav@wales.nhs.uk

AS WITNESS the hands of the parties

SIGNED by
for and on behalf of the
Charity name here

Authorised signatory, print name: _____

SIGNED by
for and on behalf of the
(Fill in name here – COMMERCIAL PARTICIPATOR)

Authorised signatory, print name: _____

Schedule 1
Details of the Logo



Schedule 2

Details of the Products (add details of products here or a website link to products. Also include the total amount which is received in payment for the Product)

Schedule 3 - Statement of Principal Objectives

1. The people looking after this partnership are:

[Charity representative, name and job title].....(The Charity)

[CP representative name and job title].....(CP)

2. Principal Objectives

The purpose and aims of this arrangement are to [insert or list overall objectives or aims, name of project etc]

3. The Charities' roles and responsibilities:

The Charity will: [List agreed actions to help achieve objectives, e.g]

- post promotions of the partnership on various social media platforms (including blog) on at least 3 occasions throughout the month.

- Provide hard copy leaflets for distribution to customers.

- Display the company's Logo on our supporter accreditation page Etc

4. CP's roles & responsibilities

CP will:

List of agreed actions/donations/contributions, e.g.

- Post their support of **Charity name** on social media and website

- Donate 10% of sales of website sales during November to **Charity name**

- Pay any donations from staff fundraising/sales of Product/website etc. via bank transfer every 3 months.