

## BROOKS MEDIA GROUP LLC TERMS AND CONDITIONS

Brooks Media Group LLC and Promote Her Channel LLC ("**BMG**", "**we**", "**us**", and/or "**our**") provides a marketing, radio and online streaming television service (the "**BMG Service**") through the website [promotehertv.com](http://promotehertv.com) as well as other websites owned or operated by BMG (the "**Sites**") and through our mobile applications such as Promote Her Channel for iOS and Android (collectively, "**BMG Apps**"). Your use of the BMG Service provided through or in connection with the Sites and BMG Apps and your viewing of the content available at the Sites and BMG Apps, is subject to these Terms and Conditions and the current BMG Privacy Policy published at {[www.promote-her.com](http://www.promote-her.com)}. By agreeing to these Terms and Conditions, you consent to BMG's collection, use and disclosure of your data, including your personally identifiable information ("PII"), with respect to your use of the BMG Service (as described in our Privacy Policy). These Terms and Conditions govern access to and use of the BMG Service and any content, information, products or services therein, by all users and content providers. This is a legal agreement between you and BMG.

WE RESERVE THE RIGHT TO MAKE CHANGES, MODIFICATIONS, AND ADDITIONS TO THIS AGREEMENT, WITH OR WITHOUT NOTICE TO YOU. CONTINUED USE OF THE SITES CONSTITUTES YOUR ACCEPTANCE OF SUCH CHANGES, MODIFICATIONS, AND ADDITIONS. CHANGES, MODIFICATIONS, AND ADDITIONS ARE EFFECTIVE IMMEDIATELY UPON BEING POSTED ON THE SITES. IF YOU DO NOT AGREE TO THE AMENDED TERMS, DO NOT USE, ACCESS, OR ATTEMPT TO INTERACT WITH ANY PART OF THE WEBSITE.

### 1. General

#### **Third-Party Links on the BMG Service**

The websites (including the online streaming audio and/or TV stations) displayed as search results or linked to by the BMG Service are owned and operated by individuals and/or companies over whom BMG exercises no control. BMG assumes no responsibility for the content of any website or other resource included in any search results or otherwise linked to by the BMG Service. As an example, logos as well as links to radio station streams or TV stations are the copyright or trademarks of each respective radio station or TV station. If, for any reason, the owner and operator of a linked website wishes the link from the BMG Service to be deleted, they must contact BMG {[admin@brooksmidiallc.com](mailto:admin@brooksmidiallc.com)} and expressly request such deletion.

#### **Personal Use Only**

The BMG Service is made available for your personal, non-commercial use only. Use of BMG to sell a product or service, or to increase traffic to your website for commercial reasons, such as advertising sales is expressly forbidden. You may not take the results from a BMG search and reformat and display them or mirror the BMG home page or results pages on your website or send automated queries to BMG's system without express permission from BMG.

If you wish to make commercial use of the BMG Service, you must enter into an agreement with BMG to do so. Please contact {[admin@brooksmidiallc.com](mailto:admin@brooksmidiallc.com)} for more information.

### 2. Content

Certain types of content are made available through the BMG Service. "**BMG Content**" as used in these Terms and Conditions means, collectively, the text, audio, data, graphics, images, photos and video files made available through the BMG Service, excluding User Submissions. "**User Submissions**" as used in

these Terms and Conditions means, collectively, the text, audio, data, graphics, images, photos and other content and information which BMG members post, upload and otherwise submit to the BMG Service, including without limitation in member created profile pages. User Submissions also include the sound recordings, musical works, audiovisual content or other content embodied therein of any online streaming TV or radio station whose station is linked through the BMG Service. BMG RESERVES THE RIGHT TO REMOVE AND PERMANENTLY DELETE ANY BMG CONTENT OR USER SUBMISSIONS FROM THE BMG SERVICE WITHOUT NOTICE OR LIABILITY TO YOU.

### **3. Content Ownership, Responsibility and Removal.**

BMG does not claim any ownership rights in any User Submissions and nothing in these Terms and Conditions will be deemed to restrict any rights that you may have to use and utilize your User Submissions. Subject to the foregoing, BMG and its licensors exclusively own all right, title and interest in and to the BMG Service and BMG Content, including all associated intellectual property rights. You acknowledge that the BMG Service and BMG Content are protected by copyright, trademark, and other laws of the United States and foreign countries. Please also note that product names, logos, brands, and other trademarks included in the User Submissions and featured or referred to within the BMG Sites and the BMG Service are the property of their respective trademark holders. These trademark holders are not affiliated with BMG or the BMG Service. You agree not to remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the BMG Service or BMG Content.

- a. Rights in User Submissions Granted by You. By making any User Submissions available through the BMG Service you hereby grant to BMG a non-exclusive, transferable, worldwide, royalty-free license, with the right to sublicense, to use, copy, modify, create derivative works based upon, publicly display, publicly perform and distribute your User Submissions in connection with operating and providing the BMG Service and BMG Content to you and to other account holders. If you are a radio or TV station broadcasting entity whose station is linked through the BMG Service, in addition to the foregoing license, you hereby grant BMG the right to include your User Submissions in the BMG search directory of radio or TV stations and other online content.
- b. License to Your Marks. If you are a radio or TV station broadcasting entity whose station is linked through the BMG Service, you hereby grant to BMG and its licensees a non-exclusive, transferable, worldwide, royalty-free and sublicensable license to use, copy, modify, resize, distribute, publicly display and publicly perform your logos and trademarks and/or service marks (collectively, the "Marks") that you make available to BMG via the BMG Service to advertise, market and promote your radio or TV station and the availability of your station on or through the BMG Service or the Sites in any and all media now known or hereafter devised. Subject to the foregoing license, you otherwise retain all right, title and interest in and to your Marks, and in all intellectual property rights embodied therein.
- c. Responsibility for User Submissions. You are solely responsible for all your User Submissions. You represent and warrant that you own all your User Submissions or you have all rights that are necessary to grant us the license rights in your User Submissions under these Terms and Conditions. You also represent and warrant that neither your User Submissions, nor your use and provision of your User Submissions to be made available through the BMG Service, nor any use of your User Submissions by BMG on or through the BMG Service will infringe, misappropriate or violate a third party's intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

- d. Removal of User Submissions. You can remove your User Submissions by specifically deleting them. However, in certain instances, some of your User Submissions (such as posts or comments you make) may not be completely removed and copies of your User Content may continue to exist on the BMG Service. We are not responsible or liable for the removal or deletion of (or the failure to remove or delete) any of your User Submissions.
- e. Rights in Content Granted by BMG. Subject to your compliance with these Terms and Conditions, BMG grants to you a limited, non-exclusive, non-transferable license, with no right to sublicense, download, view, copy, display and print the BMG Content solely in connection with your permitted use of the BMG Service and solely for your personal and non-commercial purposes.

#### **4. Paid Features**

Certain features of the BMG Service, such as the removal of in-app ads, may require you to pay a fee in order to use them. If you choose to purchase these features, you expressly authorize us or our payment processor to charge the payment method you provide for the applicable fee. Except as expressly set forth below, all fees are non-refundable. All fees and applicable taxes, if any, are payable in United States dollars.

When you purchase any additional features we may offer, there will be a one-time charge for that purchase. Once you purchase these features and use all or any of them, or cancel your account before using all of them, you will not be entitled to a refund. We reserve the right to terminate or suspend your use of paid features of the BMG Service at any time and for any reason, without liability, pursuant to the terms of Section 6 of these Terms and Conditions. If we terminate or suspend your account with or without cause, in accordance with the terms of Section 6 of these Terms and Conditions, you will not be entitled to a refund for any fees you paid to us for these features, unless provided otherwise in the terms of sale.

#### **5. Your Obligations When Using the BMG Service.**

The BMG Service may be used and accessed for lawful and non-commercial purposes only. You agree to abide by all applicable local, state, national and foreign laws, treaties and regulations, including laws governing the privacy, security and trans-border transfers of PII ((including, but not limited to, compliance with the General Data Protection (the “**GDPR**”)) applicable to your business and operations and in connection with your use of the BMG Service. Where required, you shall be responsible for collecting verifiable consent (as defined under the GDPR) related to any PII collected, used, maintained, and shared with BMG, and otherwise have any and all rights required to provide such data to BMG, and ensure that any such data was properly obtained.

#### **6. Termination; Cancellation.**

- a. We may immediately terminate or suspend your access to the BMG Service and remove any material (including User Submissions) from the BMG Service or our servers, in the event that you breach these Terms and Conditions. Notwithstanding the foregoing, we also reserve the right to terminate the BMG Service or your access thereto at any time and for any reason. After such a termination, you understand and acknowledge that we will have no further obligation to provide the BMG Service. Upon termination, all licenses and other rights granted to you by these Terms and Conditions will immediately cease. BMG is not liable to you or any third party for termination of the BMG Service or termination of your use of the BMG Service. UPON ANY

TERMINATION OR SUSPENSION, ANY INFORMATION (INCLUDING USER SUBMISSIONS) THAT YOU HAVE SUBMITTED ON THE BMG SERVICE OR THAT WHICH IS RELATED TO YOUR ACCOUNT MAY NO LONGER BE ACCESSED BY YOU. Furthermore, BMG will have no obligation to maintain any information stored in our database related to your account or to forward any information to you or any third party.

- b. Any suspension, termination or cancellation will not affect your obligations to BMG under these Terms and Conditions (including but not limited to ownership, indemnification and limitation of liability), which by their sense and context are intended to survive such suspension, termination or cancellation.

## **7. Modification of the BMG Service or Terms and Conditions.**

BMG reserves the right, in its sole discretion, at any time to modify, discontinue or terminate the BMG Service, or modify these Terms and Conditions without notice. If any modified terms and conditions in the revised Terms and Conditions are not acceptable to you, your sole remedy is to cease using the BMG Service. By continuing to access or use the BMG Service after BMG makes any such modification, you agree to be bound by the revised Terms and Conditions.

## **8. Disclaimer of Warranties.**

BMG disclaims any and all responsibility or liability for the accuracy, content, completeness, legality, reliability, or operability or availability of information or material displayed on the BMG Service. BMG disclaims any responsibility for the deletion, failure to store, misdelivery, or untimely delivery of any information or material. BMG disclaims any responsibility for any harm resulting from downloading or accessing any information or material on the Internet through the BMG Service.

The BMG service is provided "AS IS," with no warranties whatsoever. BMG expressly disclaims to the fullest extent permitted by law all express, implied, and statutory warranties, including, without limitation, the warranties of merchantability, fitness for a particular purpose, and non-infringement of proprietary rights. BMG disclaims any warranties regarding the security, reliability, timeliness, and performance of the BMG service. BMG disclaims any warranties for any information or advice obtained through the BMG service. BMG disclaims any warranties for services or goods received through or advertised on the BMG service or received through any links provided by BMG, as well as for any information or advice received through any links provided in the BMG service.

You understand and agree that you download or otherwise obtain material or data through the use of the BMG service at your own discretion and risk and that you will be solely responsible for any damages to your computer system or loss of data that results in the download of such material or data.

Some states or other jurisdictions do not allow the exclusion of implied warranties, so the above exclusions may not apply to you. You may also have other rights that vary from state to state and jurisdiction to jurisdiction.

## **9. Limitation of Liability.**

Under no circumstances shall BMG be liable to any user on account of that user's use or misuse of or reliance on the BMG service arising from any claim relating to this agreement or the subject matter hereof such limitation of liability shall apply to prevent recovery of direct, indirect, incidental,

consequential, special, exemplary, and punitive damages whether such claim is based on warranty, contract, tort (including negligence), or otherwise, (even if BMG has been advised of the possibility of such damages). Such limitation of liability shall apply whether the damages arise from use or misuse of and reliance on the BMG service, from inability to use the BMG service, or from the interruption, suspension, or termination of the BMG service (including such damages incurred by third parties). This limitation shall also apply with respect to damages incurred by reason of other services or goods received through or advertised on the BMG service or received through any links provided in the BMG service, as well as by reason of any information or advice received through or advertised on the BMG service or received through any links provided in the BMG service. This limitation shall also apply, without limitation, to the costs of procurement of substitute goods or services, lost profits, or lost data. Such limitation shall further apply with respect to the performance or non-performance of the BMG service or any information or merchandise that appears on, or is linked or related in any way to, BMG. Such limitation shall apply notwithstanding any failure of essential purpose of any limited remedy and to the fullest extent permitted by law.

In no event will BMG's total liability arising out of or in connection with these terms and conditions or from the use of or inability to use the BMG service or content exceed the amounts you have paid to BMG for use of the BMG service or content or fifty dollars (\$50), if you have not had any payment obligations to BMG, as applicable.

Some states or other jurisdictions do not allow the exclusion or limitation of liability for incidental or consequential damages, so the above limitations and exclusions may not apply to you. Without limiting the foregoing, under no circumstances shall BMG be held liable for any delay or failure in performance resulting directly or indirectly from acts of nature, forces, or causes beyond its reasonable control, including, without limitation, internet failures, computer equipment failures, telecommunication equipment failures, other equipment failures, electrical power failures, strikes, labor disputes, riots, insurrections, civil disturbances, shortages of labor or materials, fires, floods, storms, explosions, acts of God, war, governmental actions, orders of domestic or foreign courts or tribunals, non-performance of third parties, or loss of or fluctuations in heat, light, or air conditioning.

#### **10. Governing Law and Forum Choice.**

The Terms and Conditions shall be governed, construed, and interpreted in accordance with the laws of the State of Texas (without respect to principles of conflicts of law), and the Parties hereby submit to the jurisdiction of and venue in the State of Texas in any legal proceeding necessary to interpret or enforce these Terms and Conditions or any part of the Terms and Conditions. You agree that any action in connection with these Terms and Conditions and your use of the Sites shall be filed only in state and federal courts located in Texas.

#### **11. Dispute Resolution for Consumers.**

The following terms of Section 13 "Dispute Resolution for Consumers" only apply if you are an individual who is using the BMG Service and BMG Content for your own personal use and are not representing a legal entity.

- a. Mandatory Arbitration of Disputes. We each agree that any dispute, claim or controversy arising out of or relating to these Terms and Conditions or the breach, termination, enforcement, interpretation or validity thereof or the use of the BMG Service or BMG Content (collectively,

“Disputes”) will be resolved solely by binding, individual arbitration and not in a class, representative or consolidated action or proceeding. However, if for any reason a Dispute proceeds in court rather than in arbitration, you and we each waive any right to a jury trial.

- b. **Exceptions and Opt-out.** As limited exceptions to Section 13(a) above: (i) you may seek to resolve a Dispute in small claims court if it qualifies; and (ii) we each retain the right to seek injunctive or other equitable relief from a court to prevent (or enjoin) the infringement or misappropriation of our intellectual property rights. In addition, **you will retain the right to opt out of arbitration entirely and litigate any Dispute** if you provide us with written notice of your desire to do so by email at [admin@brooksmedralc.com](mailto:admin@brooksmedralc.com) or by regular mail at 5868 Westheimer Road, #227, Houston, TX 77057 within thirty (30) days following the date you first agree to these Terms and Conditions.
- c. **Starting Arbitration.** If you want to begin arbitrating a Dispute, you must send a letter to us at the following address: 5868 Westheimer Road, #227, Houston, TX 77057, requesting arbitration and describing the Dispute. If we want to begin arbitrating a Dispute, we’ll send such a letter to you at the email address or street address that you provided.
- d. **Conducting Arbitration and Arbitration Rules.** The arbitration will be conducted by the American Arbitration Association (“**AAA**”) under its Consumer Arbitration Rules (the “**AAA Rules**”). The AAA Rules are available at [www.adr.org](http://www.adr.org) or by calling 1-800-778-7879. The arbitration may be conducted in writing, remotely (e.g., by videoconference) or in-person in the county where you live (or at some other location that we both agree to).
- e. **Arbitration Costs.** Payment of all filing, administration and arbitrator fees will be governed by the AAA Rules. We’ll pay for all filing, administration and arbitrator fees and expenses if your Dispute is for less than \$5,000, unless the arbitrator finds your Dispute frivolous. If we prevail in arbitration, we’ll pay all of our attorneys’ fees and costs and won’t seek to recover them from you. If you prevail in arbitration you will be entitled to an award of attorneys’ fees and expenses to the extent provided under applicable law.
- f. **Effect of Changes on Arbitration.** Notwithstanding the provisions of Section 9 “Modification of the BMG Service or Terms and Conditions” above, if BMG changes any of the terms of this Section 13 “Dispute Resolution for Consumers” after the date you first accepted these Terms and Conditions (or accepted any subsequent changes to these Terms and Conditions), you may reject any such change by sending us written notice including by email to [admin@brooksmedralc.com](mailto:admin@brooksmedralc.com) within 30 days of the date such change became effective, as indicated in the “Last Updated” date above or in the date of BMG’s email to you notifying you of such change. By rejecting any change, you are agreeing that you will arbitrate any Dispute between you and BMG in accordance with the terms of this Section 11 “Dispute Resolution for Consumers” as of the date you first accepted these Terms and Conditions (or accepted any subsequent changes to these Terms and Conditions).

## **12. Copyright Policy.**

BMG respects copyright law and expects its users to do the same. It is BMG’s policy to terminate in appropriate circumstances account holders who repeatedly infringe or are believed to be repeatedly infringing the rights of copyright holders.

## **13. Miscellaneous Provisions.**

These Terms and Conditions constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. Any waiver of any provision of the Terms and Conditions will be effective only if in writing and signed by BMG.

**14. Contact Information.**

If you have any questions about these Terms and Conditions or the BMG Service, please contact BMG at [admin@brooksmediallc.com](mailto:admin@brooksmediallc.com)