

SPONSORSHIP TERMS AND CONDITIONS

1. Definitions

- 1.1. Words and expressions shall have their ordinary meaning unless otherwise defined below:
 - 1.1.1. **Agreement** means the Deal Memorandum, the Terms and Conditions and, where applicable, the Technical Delivery Code.
 - 1.1.2. **Applicable Laws** includes all national and international laws, rules, regulations, standards and codes of practice including those imposed by any governmental or regulatory authority, and all applicable industry standards, and standards determined by any regulatory body which apply from time to time to any person or activity in the circumstances in question (including Ofcom's Broadcasting Code).
 - 1.1.3. **Campaign Period** means the period during which the Sponsor Credits will be transmitted as set out in the Deal Memorandum.
 - 1.1.4. **Channel** means the Broadcaster's television channel known as "STV" transmitted on free-to-view analogue, digital and satellite platforms in its licensed Channel 3 regions of central Scotland and northern Scotland.
 - 1.1.5. **Legislation** includes all laws, Acts of Parliament, all provisions of the Treaties constituting the European Community, the European Union and the European Economic Area, all Data Protection Rules and all orders, regulations, directives, conventions and subordinate legislation made pursuant to such an Act or Treaty or otherwise having the force of law.
 - 1.1.6. **Ofcom** means the Office of Communications as defined in the Office of Communications Act 2002 and includes any successor or replacement body.
 - 1.1.7. **Programmes** has the meaning set out in the Deal Memorandum.
 - 1.1.8. **Sponsor Credits** means the materials incorporating the message from the Sponsor intended for broadcast before and after the Programmes as set out in the Deal Memorandum.
 - 1.1.9. **Sponsorship Fee** has the meaning set out in the Deal Memorandum.
 - 1.1.10. **Sponsor's Material** means any material provided to the Broadcaster by the Sponsor for use pursuant to the Agreement.
 - 1.1.11. **Territory** means in the case of STV Central, the Ofcom licensed broadcast region of central Scotland and in the case of STV North, the Ofcom licensed broadcast region of northern Scotland.
 - 1.1.12. **Websites** means the Broadcaster's branded websites.
 - 1.1.13. **Working Day** means a day, excluding Saturday or Sunday and excluding Glasgow public holidays.

2. Interpretation

- 2.1. In this Agreement, unless otherwise expressly stated:
 - 2.1.1. any reference to a "Party" or "Parties" means a party or the parties to this Agreement as set out in the Deal Memorandum;
 - 2.1.2. references to Clauses are references to the clauses of the Terms and Conditions;
 - 2.1.3. references to any enactment is deemed to include references to such enactment as re-enacted, amended or extended and to any subordinate legislation made under it;
 - 2.1.4. references to "writing", or any cognate expression, is a reference to any mode of representing or reproducing words in a visible, non-transitory form, including fax and e-mail;

- 2.1.5. headings are inserted for convenience only and must be ignored in construing the Terms and Conditions;
 - 2.1.6. any phrase introduced by the terms "including" or "in particular", or any cognate expression, will be construed as illustrative and not limiting of any preceding words;
 - 2.1.7. references to a "person" includes any individual, company, corporation, firm partnership, joint venture, association, organisation, institution, trust or agency, whether or not having a separate legal personality; and references to the singular include the plural and vice versa.
- 2.2. The Terms and Conditions must be interpreted in conjunction with the Deal Memorandum. If there is any conflict between the Terms and Conditions and the Deal Memorandum, the terms of the Deal Memorandum shall prevail.
- 3. The Sponsor's agent**
- 3.1. In the event that the Agreement is entered into by a party acting as agent on behalf of the Sponsor, the terms of this clause shall apply.
 - 3.2. The agent is deemed to contract as an agent on behalf of the Sponsor, and not as principal and the Broadcaster shall be entitled to enforce this Agreement against the Sponsor as if the Sponsor had entered it on its own account.
 - 3.3. The agent warrants that it has full power and authority to enter into the Agreement on behalf of the Sponsor and to exercise the Sponsor's rights and perform the Sponsor's obligations hereunder and further warrants that all corporate and other action required to authorise its execution of the Agreement and its performance of its obligations hereunder has been duly taken.
 - 3.4. The agent warrants and represents to the Broadcaster that the agent is lawfully entitled to grant the rights granted to the Broadcaster hereunder and the use of such rights by the Broadcaster as contemplated hereunder will not infringe the rights (of whatever nature) of any third parties.
 - 3.5. The agent agrees to indemnify and keep indemnified the Broadcaster against any losses, damages, claims or expenses (including reasonable legal costs) sustained by the Broadcaster arising from its breach of the warranties in clauses 3.2, 3.3 and 3.4.
- 4. Transmission of the Programmes**
- 4.1. The Broadcaster shall notify the Sponsor in writing of the proposed time and date of the transmission of the Programmes as soon as reasonably possible (the **Transmission Schedule**).
 - 4.2. The Sponsor acknowledges and accepts that the Transmission Schedule is subject to reasonable broadcast schedule variation including without limitation the occurrence of events of national or international importance and/or network obligations. Further, the Broadcaster reserves the right to interrupt transmission of the Programmes without prior notice to the Sponsor and the Broadcaster shall have no liability to the Sponsor arising out of or in connection with any such change or otherwise arising out of or in connection with the scheduling of any of the Programmes. Notwithstanding this, in the event that the Programmes cannot be transmitted as set out in the Transmission Schedule, where reasonably practicable the parties shall meet and, acting reasonably and in good faith, agree such amendments to the Transmission Schedule with a view to ensuring that, so far as possible, both parties' editorial and commercial objectives are met.
 - 4.3. Where specified in the Deal Memorandum, the Broadcaster shall use reasonable endeavours to make the Programmes available to visitors on the Websites for the periods shown in the Transmission Schedule. The Sponsor acknowledges and agrees that no warranty, claim or guarantee is made by the Broadcaster that the Websites will be free from interruption or periods of unavailability to visitors.
- 5. Sponsor Credits**
- 5.1. The Sponsor Credits shall be produced as set out in the Deal Memorandum. The parties acknowledge and agree that the Sponsor Credits are not part of the Programmes, but material intended for transmission in addition to the Programmes for the duration of the Campaign Period.

- 5.2. Where the Sponsor Credits are produced by the Broadcaster, the Sponsor shall provide the Broadcaster with all reasonable cooperation at the Sponsor's cost in order to enable the production and transmission of the Sponsor Credits.
- 5.3. The Sponsor shall provide to the Broadcaster the Sponsor's Material of an appropriate standard for incorporation in the Sponsor Credits as the Broadcaster may reasonably request.
- 5.4. If the Sponsor or a party other than the Broadcaster produces the Sponsor Credits, the Sponsor shall supply Sponsor Credits that comply with all Applicable Laws and such technical requirements as the Broadcaster reasonably requires.
- 5.5. The Sponsor Credits shall only be transmitted if approved by the Broadcaster. If the Broadcaster, acting in good faith, does not approve the Sponsor Credits or if the Sponsor Credits become at any time non-compliant with any Applicable Laws or fail to comply with STV's technical requirements, the Broadcaster shall notify the Sponsor, who must supply at the Sponsor's own cost alternative Sponsor Credits as soon as possible. The Sponsor shall cooperate fully with the Broadcaster and shall make such edits, amendments or deletions as required by the Broadcaster for the purpose of making the Sponsor Credits suitable for broadcast and compliant with all Applicable Laws. The Broadcaster shall have no liability whatsoever to the Sponsor in respect of any amendments or deletions that it requires the Sponsor to make under this section in order to make the Sponsor Credits suitable for transmission.
- 5.6. The Broadcaster shall have no obligation to accept Sponsor Credits delivered late; if the Broadcaster does accept late delivery of the Sponsor Credits it may charge the Sponsor for any reasonable expenses it incurs as a result of such late delivery. If the Sponsor fails to deliver the Sponsor Credits to the Broadcaster by the Delivery Date, the Sponsor accepts and acknowledges that the Broadcaster may be unable to transmit the Sponsor Credits with the Programmes. In such an event, the Broadcaster shall have no liability for failure to transmit the Sponsor Credits and, without prejudice to its other rights and remedies hereunder, the Sponsor shall remain liable to pay the Net Sponsorship Fee.
- 5.7. The Sponsor grants the Broadcaster the right to make recordings of the Sponsor Credits for the Broadcaster's archives and to enable the Broadcaster to submit the Sponsor Credits to any appropriate authority in order to comply with all Applicable Laws.
- 5.8. The Sponsor confirms that the Broadcaster has not provided any guarantees concerning the household reach of the Territory or the anticipated viewer numbers for transmitted Programmes. Any such statistics are provided as an estimate only and the Broadcaster shall have no liability for any failure to achieve the stated household reach or anticipated viewer numbers.

6. The Broadcaster's warranties

- 6.1. In consideration of the Sponsor's obligations hereunder, the Broadcaster warrants that it:
 - 6.1.1.1. will transmit the Sponsor Credits on the Channel in the Territory during the Campaign Period in accordance with the Deal Memorandum, provided that the Sponsor acknowledges and accepts that such times are subject to a reasonable amount of broadcast schedule variation throughout the Campaign Period, particularly on bank holidays and upon the occurrence of unforeseen events of national or international importance;
 - 6.1.1.2. will display the Sponsor's logo for up to five (5) seconds on all promotional trailers for the Programmes broadcast on the Channels during the Term; and
 - 6.1.1.3. will not grant similar sponsorship rights in respect of the Programmes as set out in this Agreement or permit sponsorship of the Programmes to any party other than the Sponsor (either on the Channels or the Programme Pages) for the duration of the Campaign Period.
- 6.2. The Broadcaster warrants that it shall use its reasonable endeavours to perform the obligations set out at Clause 6.1.1.1 and 6.1.1.2. However, the Sponsor acknowledges that the Broadcaster may deem it necessary to suspend normal programming as set out in Clause 6.1.1.1. Such coverage may necessitate the rescheduling of the transmission or broadcast of the Programmes and/or the Credits. The Sponsor agrees that any such rescheduling pursuant to this clause shall not constitute a breach of this Agreement. For the avoidance of doubt if the Broadcaster cannot reschedule the affected Sponsor Credits the provisions of Clause 6.3 below shall apply.

- 6.3. In the event that the Broadcaster fails to broadcast or transmit or procure the broadcast or transmission of the Programmes or the Sponsor Credits in the Territory (other than where such failure is due to a Force Majeure Event), the parties shall meet and, acting reasonably and in good faith, agree such amendments to this Agreement with a view to ensuring that, so far as possible, the parties' editorial and commercial objectives are met.

7. The Sponsor's warranties

- 7.1. The Sponsor warrants, represents and undertakes that:
- 7.1.1. the Sponsor shall be liable for all costs and expenses in connection with the design, production and delivery of the Sponsor Credits;
 - 7.1.2. if the Sponsor Credits have been made by a party other than the Broadcaster, the Sponsor warrants that:
 - 7.1.2.1. it has obtained and paid for all necessary contributor consents, licenses, and permissions for the transmission of the Sponsor Credits;
 - 7.1.2.2. the Sponsor Credits shall not infringe the copyright, trade mark or any other rights or be defamatory of any third party and transmission of the Sponsor Credits will not give rise to a right for any third party to claim payment;
 - 7.1.3. the Sponsor Credits shall comply with all Applicable Laws (including the spirit and not just the Memorandum of the Ofcom Broadcasting Code). The Sponsor warrants that it will not provide Sponsor Credits that are racist or sexist, threatening or menacing to any person or group of people, or contain any obscene elements, or likely to cause annoyance or distress to any person or group.
- 7.2. the Sponsor will indemnify and keep the Broadcaster and its directors, officers and employees indemnified against all actions, proceedings, costs, damages, expenses, fines, losses (including loss of profits), penalties, claims, demands and liabilities directly or indirectly suffered or incurred by the Broadcaster (or its directors, officers or employees) howsoever arising from any claim brought by any third party that any part of the Sponsor Credits infringes the intellectual property rights (including so-called moral rights and performers rights) of such third party.
- 7.3. Any indemnity obligation set out in Clause 7.2 shall not apply unless the Broadcaster:
- 7.3.1. notifies the Sponsor as soon as is reasonably practicable of any matters in respect of which the indemnity may apply;
 - 7.3.2. gives the Sponsor (at the Sponsor's cost and request) full opportunity to control the response to and the defence of such claim including, without limitation, the right to accept or reject settlement offers and the right to participate in and control any litigation; and
 - 7.3.3. provides the Sponsor (at the Sponsor's cost and request) with reasonable assistance with the claim.

8. Intellectual Property

- 8.1. The parties agree that all intellectual property rights, including copyright, in and to the Programmes will vest entirely and solely and exclusively in the Broadcaster.
- 8.2. The Sponsor shall not acquire any rights (including intellectual property rights) in or associated with the Programmes as a result of the Agreement.
- 8.3. Where the Sponsor Credits are produced by the Broadcaster, all intellectual property rights in the Sponsor Credits (other than in respect of any Sponsor's Material incorporated therein) shall vest with the Broadcaster and the Sponsor grants to the Broadcaster a non-exclusive, royalty free, worldwide licence in perpetuity to use the Sponsor's Material within the Sponsor Credits for transmission with the Programmes where required by this Agreement or any Applicable Laws.
- 8.4. If the a party other than the Broadcaster produces the Sponsor Credits, the Sponsor grants the Broadcaster a non-exclusive, limited, revocable licence for the Campaign Period to use the Sponsor Credits, any trade marks featured in the Credits, and the Sponsor's Material solely for the purpose of fulfilling its obligations under the Agreement.

8.5. The parties acknowledge and accept that the other's websites (including without limitation, all content, text, images, software, media and other materials on the websites) are proprietary or operated under licence, protected under copyright and other intellectual property laws, and may not be reproduced, transmitted, displayed, published or distributed without the other's express prior written consent.

8.6. The grant of any licence in terms of this Clause 8 shall terminate fully in the event that this Agreement expires or is terminated for any reason whatsoever.

9. Termination

9.1. This Agreement shall remain in force for the Term unless terminated earlier.

9.2. Either party may terminate this Agreement with immediate effect without prejudice to any other rights or remedies available to it by serving written notice to the other party:

9.2.1. if the other party commits a material breach of an obligation under this Agreement and, if that breach is capable of remedy, fails to remedy that breach within fourteen (14) days of receiving notice from the other party specifying the breach and requiring its remedy; or

9.2.2. if the other party is unable to pay its debts when they are due or any material step is taken with a view to the other party ceasing to carry on business, or going or being put into receivership, administration, bankruptcy, liquidation or any equivalent process in any jurisdiction.

9.3. The Broadcaster, at its discretion, may consider written requests from the Sponsor made in exceptional circumstances to terminate the Agreement provided that Sponsor pays to the Broadcaster the value of the Net Sponsorship Fee less any costs recoverable by the Broadcaster from on-selling the Programmes' sponsorship rights. Any cancellation notice given to the Broadcaster after the Valid Termination Date will be invalid and the Sponsor will remain liable to pay the Broadcaster the Net Sponsorship Fee.

9.4. Termination of this Agreement shall not affect any rights or obligations of either Party which have accrued prior to the date of termination and all provisions which are expressed to, or do by implication, survive the termination of this Agreement shall remain in full force and effect.

9.5. On termination or expiry of this Agreement, (i) each party shall immediately return to the other or permit the other to collect all items in the possession of the other which are the other's property and each party shall immediately cease to use the intellectual property rights of the other; and (ii) in the event that such termination or expiry of the Agreement has been caused by the Sponsor's breach, any portion of the Net Sponsorship Fee not yet paid shall become due and payable.

10. Accounts

10.1. In consideration of the fulfilment of the obligations of the Broadcaster pursuant to this Agreement, the Broadcaster shall be entitled to render invoices to the Sponsor for the Net Sponsorship Fee in accordance with the Deal Memorandum.

10.2. Any sums referred to in the Deal Memorandum shall be exclusive of VAT and that tax shall be payable by the entity required by law to pay those sums.

10.3. The Sponsor shall settle the Net Sponsorship Fee not later than thirty (30) days from the date of invoice (the **Payment Date**).

10.4. The Payment Date is the date by which the Net Sponsorship Fee must be showing as cleared funds in the Broadcaster's bank account.

10.5. The Sponsor must notify the Broadcaster in writing within ten (10) days of receipt of an invoice of any dispute in relation to it. A dispute in relation to an individual sum within the invoice will not affect the Sponsor's payment obligations in relation to the undisputed sums. Where the Sponsor does not notify the Broadcaster in writing within ten (10) days of receipt of the invoice, the Sponsor will be deemed to have accepted the invoice in full.

10.6. If the Sponsor fails to make any payment by the Payment Date then without affecting any other rights which it may have, the Broadcaster will be entitled to charge compound interest on any outstanding sums at the rate of three per cent (3%) above the prevailing interest base rate of the Royal Bank of Scotland from the Payment Date until payment is received in full, and:-

- 10.6.1 suspend the broadcast or transmission of the Sponsor Credits; and/ or
- 10.6.2 treat the failure to make payment as a material breach of the Agreement for the purposes of clause 10.1.

11. Variations

- 11.1. No variation or amendment to this Agreement shall bind the parties unless made in writing and signed by authorised signatories of the parties.

12. Limitation of liability

- 12.1. Nothing in the Agreement shall be deemed to exclude or limit any party's liability for:
 - 12.1.1. death or personal injury caused by the negligence of that party, its directors, agents, officers or representatives; or
 - 12.1.2. fraudulent misrepresentation or fraud.
- 12.2. Except as provided in Clause 12.1, the maximum aggregate liability of either party in contract, delict or otherwise arising in connection with the Agreement shall be limited to a sum equal to the Net Sponsorship Fee.
- 12.3. Except as provided in Clause 12.1, no party shall be liable for any:(a) loss of profits, business, revenue, goodwill or anticipated savings (whether such loss is director indirect) or (b) indirect, incidental, special or other consequential loss arising as a result of any breach of the Agreement.

13. Assignment

- 13.1. No party may assign, transfer, subcontract and/or otherwise deal with any part of its interest in this Agreement unless the prior written consent of the other party has been obtained.

14. Force majeure

- 14.1. No party will be liable to any other party for its inability or failure to perform, or delay in performing, any of its obligations under this Agreement caused by any event or circumstances outside its reasonable control, provided that the party affected immediately notifies the other party of the event or circumstances and takes all reasonable steps in order to bring it or them to an end and mitigate any adverse effects.

15. Notices

- 15.1. Any notice or communication (**Notice**) required to be given under this Agreement shall be in Writing and if sent by post, it shall be sent by pre-paid recorded delivery or registered post to the address for the receiving party as listed on the Companies House website.
- 15.2. In the case of a Notice given or served by fax, hand or email, where this occurs after 5:00pm on a Working Day or on a day which is not a Working Day, the date of service will be deemed to be 9:00am the following Working Day.

16. Entire Agreement

- 16.1. This Agreement constitutes the entire agreement and understanding of the parties relating to its subject matter and supersedes any discussions, correspondence, all prior proposals, representations, agreements and understandings between the parties or any of them or their advisors relating to such subject matter made prior to the signing of this Agreement. Each of the parties acknowledges and agrees that it has not entered into this Agreement in reliance on any statement or representation of any person (whether innocently or negligently made or made by a party to this Agreement or not) other than as expressly set out in this Agreement as a warranty.

17. No set-off

- 17.1. No amount due and payable by one party to the other under this Agreement shall be set-off against any other amount due and payable or alleged to be due and payable by that other party to the first party whether pursuant to this Agreement or otherwise.

18. Confidentiality

18.1. This Agreement shall be kept confidential by the parties and shall not be disclosed by either party to any third party without the written consent of the other party except where such disclosure is necessary to establish a bona fide claim by the disclosing party against the other in relation to this Agreement or where disclosure is required by any law, stock exchange rule, regulation, court order or government agency, in which event the relevant party shall notify the other as promptly as reasonable practicable (and if possible prior to making any disclosure) and shall use its reasonable endeavours to seek confidential treatment of such information. This Agreement may also be disclosed on a need-to-know basis to each party's employees, accountants, auditors, investors, lenders and legal counsel and to that any such person to whom it is disclosed abides by the provisions of this Clause as if it were party to this Agreement.

19. Severability

19.1. The invalidity, illegality or unenforceability of any part of this Agreement shall not affect the validity, legality and enforceability of the remaining Terms and Conditions.

20. No partnership/agency

20.1. Nothing in this Agreement shall operate to create a partnership, agency or joint venture between the parties.

21. Waiver and remedies

21.1. Any waiver of any right or remedy provided by this Agreement must be in writing and failure by any party to exercise any right or remedy arising under this Agreement shall not preclude or impair exercise of any other right, power, privilege or remedy.

22. Governing law

22.1. The Agreement is governed by Scots law and the parties irrevocably submit to the non-exclusive jurisdiction of the Scottish courts.