

# TERMS AND CONDITIONS

## 1. DEFINITIONS

In this Agreement, the following words and expressions shall have the following meanings and apply to the services provided by In Focus Broadcasting Limited, Stanmore House, 15-19 Church Road, Stanmore, Middlesex, HA7 4AR ("**Infocus**"), as set out below and in the Partnership Form.

<b>"Agreement"</b>	means the Partnership Form and these Standard Terms and Conditions.
<b>"Client"</b>	means any Limited Company, corporation, association, partnership, or other body corporate, client, persons or group of persons who have entered into this Agreement wherever and however incorporated or established.
<b>"Client Fee"</b>	means the amount to be paid by the Client to Infocus as set out in the Partnership Form.
<b>"Client Film"</b>	means the finished film as supplied by Infocus to the Client that will also contribute towards the completion of the Programme.
<b>"Filming Day"</b>	means the date on which the Client Film is filmed by InFocus. The Filming Day shall always be scheduled for a Working Day.
<b>"Film Producer"</b>	means the person responsible for the managerial aspects of making the Client Film.
<b>"Force Majeure"</b>	means the occurrence of an event that is beyond the reasonable control of any party. This includes (but is not limited to) strikes, lockouts, acts of God, terrorism, storm and flood.
<b>"Launch Event"</b>	means the Event or Events for which Infocus is providing the Programme which contains a contribution from the Client Film.
<b>"Order"</b>	means a commitment to Infocus placed through the Partnership Form from the Client to Infocus to create the Client Film. The Order becomes legally binding once accepted by Infocus or by the provision of the implementation of this Agreement or creating the Client Film for the Client.
<b>"Partnership Form"</b>	means the form which the Client signs and returns to In Focus Broadcasting Limited when agreeing to participate in the Programme and which forms an integral part of this Agreement.
<b>"Presenter"</b>	means the person who will introduce the Programme and the Client Film.
<b>"Production Deadline"</b>	means the deadline as set by Infocus to carry out its obligations under this Agreement.
<b>"Programme"</b>	means a news programme which includes parts of the Client Film. The Partnership Form sets out how the Programme will be distributed.

- “Showreel”** means the Client Film that is retained by Infocus for its own marketing purposes, including (but not limited to) a link from the web site home page at [www.infocusbroadcasting.com](http://www.infocusbroadcasting.com)
- “VAT”** means value added tax or any equivalent tax chargeable in the UK.
- “Working Day”** means Monday to Friday inclusive except any day which is a bank or a public holiday.

## **2. INTERPRETATION**

- 2.1 Headings are for ease of reference and shall not affect the construction or interpretation of these Clauses;
- 2.2 Words in the singular shall include the plural and vice versa.

## **3. AGREEMENT**

- 3.1 These Terms and Conditions shall apply to all Orders received from the Client and shall constitute the entire Agreement made between Infocus and the Client in relation to the Programme.
- 3.2 By placing an Order with Infocus, the Client accepts in full these Terms and Conditions. Unless the Order expressly states otherwise, in the event of any conflict between these Terms and Conditions and the Order, these Terms and Conditions shall prevail.

## **4. OBLIGATIONS**

- 4.1 It is the Client’s obligation to:
- 4.1.1 Ensure that any person to be incorporated in to the Client Film has consented to being filmed, recorded and edited by Infocus for all media platforms throughout the world;
  - 4.1.2 Obtain any relevant release forms and consents for persons and material (including, but not limited to, music and video) included within the Client Film;
  - 4.1.3 Ensure that the content of the Client Film does not contain anything which is defamatory or anything which is unlawful, obscene or offensive or in breach of the rights of any third party.
  - 4.1.4 Indemnify Infocus from any loss or damage incurred by Infocus and any third party if the necessary releases and consents have not been obtained, or if the Client Film fails to comply with the provisions of clause 4.1.3 above.
- 4.2 At Infocus’ reasonable request, the Client will provide written confirmation to Infocus that such consents have been obtained together with any supporting evidence reasonably required by Infocus.

## **5. PRODUCTION**

- 5.1 Infocus will produce the Client Film and present this to the Client. It is agreed however, that due to timing limitations, the Client Film may be edited further at the sole discretion of Infocus to enable it to be included within the Programme. The Client will comply with the Production Deadline that shall apply to the making of the Client Film, which may only be

varied by written agreement between the Client and Infocus. In the event the Production Deadline is varied by the Client, Infocus reserve the right to charge the Client a fee to cover their reasonable costs in doing so.

- 5.2 On receipt and acceptance of the completed Partnership Form from the Client, Infocus shall contact the Client with the details of the Production and Production Deadline.
- 5.3 Dates and times are liable to change at short notice. For the avoidance of doubt, adherence to the times, dates, locations and/or dates of the Launch Event will be at the absolute discretion of Infocus.
- 5.4 The Client will agree to the Production process and Production Deadline:
  - 5.4.1 the Client, and/or its representatives, may be required to attend a meeting or engage in a telephone conference call with the Film Producer. Infocus will create a story outline of the Client Film with a production schedule and Production Deadlines;
  - 5.4.2 the Film Producer will produce a story outline for the Client's consideration. The Client agrees to discuss any proposed changes with the Film Producer;
  - 5.4.3 subject to studio dates and Launch Event dates, the Client can decide on the date of the Filming Day. It is the Client's responsibility to provide suitable access to the building/locations on the Filming Day;
  - 5.4.4 after the Filming Day, the Client shall be able to provide input during the editing process up to a maximum of three edits. The Film Producer shall provide further details and inform the Client of the Production Deadlines which must be adhered to.
  - 5.4.5 should the Client fail to agree to an edit. Infocus will have the final decision in finalizing the content of the Client Film
- 5.5 If requested by the Client, Infocus will send the Client all the footage from the Filming Day within six weeks after the Launch Event
- 5.6 The Client agrees to provide an electronic copy of their logo (if applicable) in an approved format.
- 5.7 It is agreed that 85% of the Client Fee paid to Infocus is for the creation of the Client Film.
- 5.8 Infocus reserves the right to substitute another Presenter should the nominated Presenter be unavailable for any reason.

## **6. FAILURE TO COMPLY**

- 6.1 Adhering to the timetables and deadlines are the essence of this Agreement. Without prejudice to Clause 11, the Client will reimburse Infocus for any additional costs and expenses that are incurred by reason of its failure to comply with the Production Deadline, timeline or any other requirement to alter the shooting script of the final edit of the Client Film.

## **7. INTELLECTUAL PROPERTY RIGHTS AND LICENCE**

- 7.1 The copyright and all other intellectual property rights in each Client Film, will be owned by the Client, except to the extent that it contains material owned by or licensed from a third party or existing material owned by or licensed to Infocus. Except as expressly provided herein, neither party shall acquire any rights in the intellectual property of the other party as a result of this Agreement. Infocus hereby assign to you with full title guarantee the copyright and all other intellectual property rights in the Client Film together with all the footage from the Filming Day, other than any Third Party Material or existing material owned by or licensed to Infocus.

- 7.2 Without prejudice to any rights Infocus may have under law, the Client hereby grants to Infocus a worldwide, non-exclusive, royalty free licence to reproduce, create and display the Client Film (including all contents, trade marks and brand features contained therein) at the Launch Event or any other event and across any platform nominated by Infocus
- 7.3 Infocus may use the Client Film for their Showreel and other promotional purposes.
- 7.4 This Clause 7 shall survive the termination of this Agreement.

## **8. PAYMENT**

- 8.1 The Client Fee will be paid in accordance with the period for payment as set out in the Partnership Form or, if there is no period for payment set out in the Partnership Form, within 7 days of the date of invoice. Any other sums that become payable to Infocus shall be payable within 7 days from the date of invoice.
- 8.2 The Client Fee and any other sums due to Infocus hereunder are net of VAT which shall be added thereto at the then prevailing rate.
- 8.3 If the Client fails to pay the Client Fee or any other monies due to Infocus, interest may be added on any overdue amount from the due date up to the date of actual payment at the rate of 8% per annum over the current base rate of Barclays Bank Plc from time to time.

## **9. FORCE MAJEURE**

- 9.1 Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed

## **10. CONFIDENTIALITY**

- 10.1 Each party to this Agreement undertakes that it shall not disclose any confidential information concerning the business, affairs, customers, clients or suppliers to any person or third party except as permitted by Clause 10.2 below;
- 10.2 Each party may disclose the other party's confidential information:
- 10.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause 10; and
- 10.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 10.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

## **11. TERMINATION**

- 11.1 Without prejudice to any other right or remedy available to it, Infocus shall be entitled to terminate this Agreement with immediate effect at any time by giving notice in writing to the Client if:

- 11.1.1 the Client fails to observe or perform any or all of its obligations hereunder and, where such failure is capable of remedy, does not remedy such failure within 7 days after being served notice to do so; or
  - 11.1.2 the Client fails to comply with its obligations to pay the Client Fee as set out in Clause 8 of these Terms and Conditions; or
  - 11.1.3 the Client enters into liquidation, whether voluntary or compulsory (other than for reasons of bona fide amalgamation or reconstruction), passes a resolution for its winding-up, has a receiver or liquidator or similar officer appointed over the whole or any part of its assets.
- 11.2 In the event that the Agreement is terminated for any reason then without prejudice to its rights and remedies:
- 11.2.1 the Client shall remain liable to Infocus for any amount due, including the Client Fee, under this Agreement and such an obligation to pay shall survive the termination of this Agreement. Upon termination the Client Fee shall become immediately due.
- 11.3 Upon termination for any reason all rights granted to the Client under this Agreement shall cease.

## **12. LIMITATION OF LIABILITY**

- 12.1 Nothing in this Agreement shall limit or exclude the liability of Infocus for death or personal injury resulting from its negligence.
- 12.2 Neither party to this Agreement shall be liable to the other in connection with this Agreement for any indirect or consequential loss of any kind.
- 12.3 Subject to Clause 12.2 in the event that Infocus shall be liable to the Client for any reason whatsoever, the liability shall be limited to the amount equal to the Client Fee paid by the Client to Infocus.

## **13. GENERAL**

### **Agreement**

- 13.1 This Agreement and the documents referred to in it constitutes the entire Agreement and understanding of the parties relating to the subject matter and supersedes all prior Agreements, whether written or oral. Infocus shall not be liable for any misrepresentation. Nothing in this Clause 13.1 shall, however, operate to limit or exclude any liability for fraud.
- 13.2 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

### **Alternative Dispute Resolution**

- 13.3 If any dispute arises in connection with this agreement, the parties agree to enter into mediation in good faith to settle such a dispute and will do so in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure. Unless otherwise agreed between the parties within 7 days of notice of the dispute, the mediator will be nominated by CEDR.

### **Assignment**

- 13.4 This Agreement shall be personal to the parties. The Client may not assign all or any of its rights and/or obligations, without the prior written consent of Infocus, which shall not be unreasonably withheld or delayed.

**Notice**

- 13.5 All notices should be sent by Royal Mail Special Delivery at the address as set out on the Order Form or at such other address that may be nominated as an address for service of notices from time to time. The deemed service of such notice shall be the next working day after it is sent.

**Severability**

- 13.6 The provisions contained within these Terms and Conditions are severable and distinct from one another. If at any time any of the provisions is or becomes invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions shall not in any way be affected or impaired.

**Third Party Exclusions**

- 13.7 Except as expressly provided elsewhere in this Agreement, a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

**Waiver**

- 13.8 No amendment to, or waiver of, any provision of this Agreement shall be effective unless in writing and signed by both parties.

**Governing Law**

- 13.9 These Terms and Conditions shall be governed in accordance with the laws of England and Wales and any dispute arising under these Terms and Conditions shall be subject to the exclusive jurisdiction of the English Courts.