

GRANADA ENTERPRISES AIRTIME SALES

LEGAL TERMS AND CONDITIONS (“CONDITIONS”)

1. **AGREEMENT**
 - 1.1 These Conditions together with the Deal Letter are the sole and entire agreement (the “Agreement”) between Granada and the Buyer in relation to the procurement of Airtime as specified in such Deal Letter.
 - 1.2 Bookings made by the Buyer will be governed by the Sellers’ Standard Terms and constitute individual agreements between the Buyer and the relevant Seller which are separate from this Agreement. Granada shall not have any liability for the performance by a Seller of its obligations under such individual agreements.
2. **PRICES**
 - 2.1 In consideration of the Buyer fulfilling its obligations under this Agreement, Granada will ensure that Airtime is sold to the Buyer by the Seller at the Prices and in accordance with the Deal Arrangements.
 - 2.2 The Prices and Deal Arrangements are dependent on the Buyer making all Bookings by the Advanced Booking Deadline. If the Buyer makes Bookings after such time, Granada shall be entitled to adjust the Prices and Deal Arrangements at its sole discretion.
 - 2.3 If the actual prices received by the Buyer for the Airtime delivered under this Agreement are above the Prices, or if there is any shortfall in the delivery of Airtime to the Buyer under this Agreement, Granada will at its discretion and without further liability therefor either procure, at the first reasonably available opportunity, suitable alternative Airtime for the Buyer, or pay to the Buyer a sum in respect of the shortfall taking account of any over-delivery of Airtime.
 - 2.4 If the actual prices received by the Buyer for the Airtime delivered under this Agreement are below the Prices, or if there is any over-delivery of Airtime to the Buyer under this Agreement, Granada will be entitled to recoup the excess on future Bookings by reducing or otherwise altering the subsequent Prices and/or Deal Arrangements or by receiving payment from the Buyer in respect of the excess in accordance with Granada’s request therefor.
 - 2.5 If there is any shortfall or any over-delivery of Airtime to the Buyer under this Agreement and the Client in respect of which such shortfall or such over-delivery applies has transferred its business from the Buyer to another agency (or other entity), the Buyer shall nevertheless remain entitled or responsible (as the case may be) for any such shortfall or over-delivery unless Granada receives agreement in writing from the other new agency (or entity) that they shall assume entitlement or liability for the same.
3. **BUYER COMMITMENT**
 - 3.1 The Buyer undertakes that the Buyer Spend shall amount to not less than the Volume, Shares and/or any other minimum commitments set out in the Deal Letter.
 - 3.2 Unless otherwise stated, Buyer Commitments shall be met in respect of each calendar year of the Term.
4. **CALCULATIONS OF BUYER COMMITMENT**
 - 4.1 Unless otherwise set out in the Deal Letter, the Volume and Shares shall be calculated by reference to the Buyer’s Airtime Expenditure in relation to all of the Buyer’s Clients other than any Excluded Clients. All such Airtime Expenditure shall be calculated at its full arm’s length market value disregarding any discount, barter or other arrangements.
 - 4.2 If the Buyer wins or loses a Client during the Term Granada may calculate the Buyer Commitment either inclusive or exclusive of the relevant Client.
5. **FAILURE TO MEET THE BUYER COMMITMENT**
 - 5.1 If the Buyer fails to meet the Buyer Commitment in full it will pay to Granada at Granada’s discretion:
 - 5.1.1 any amounts by which the total Buyer Spend is less than it would have been had the Buyer complied with the Buyer Commitments; or
 - 5.1.2 any amounts by which the Buyer Spend in respect of any individual element within the Buyer Commitments (such as a specific Area Share) is less than it would have been if it had complied with such individual element.
 - 5.2 Without prejudice to Granada’s other rights, any payment due under this clause shall be payable within 14 days of the end of the period by reference to which the Buyer Commitment is calculated or the end of the Term whichever is the earlier.
6. **ANTICIPATED UNDERSPENDS**
 - 6.1 If the Buyer is unable to demonstrate to Granada’s reasonable satisfaction that it will fulfil the Buyer Commitment, Granada may at its discretion adjust the Prices and any Deal Arrangements to take reasonable account of the likely, actual Buyer Spend.
 - 6.2 The Buyer shall at Granada’s request provide on a monthly basis (commencing on the 14th day following such request), a detailed plan setting out its Clients’ Media Spend and its anticipated Buyer Spend for the remainder of

- the Term together with supporting details demonstrating how that Buyer Spend will be achieved and the Buyer warrants that the details of its Clients and their Media Spend which it has provided to Granada are true, complete and accurate.
- 7. AUDIT**
- 7.1 Granada (or its nominated auditors) may at any time during or for 2 years after the Term on 14 days' notice examine:
- 7.1.1 all records and agreements of the Buyer relating directly or indirectly to the Buyer's booking of Airtime; and
- 7.1.2 any other materials which Granada deems relevant to ensure the Buyer's compliance with this Agreement, and the Buyer will ensure that the relevant persons have access to all premises and/or media on which such materials are stored and/or kept. If such materials are stored and/or held on or in premises and/or media not owned or controlled by the Buyer, the Buyer will use its best endeavours to arrange such access.
- 7.2 The rights of inspection under this clause 7 shall include the right to take copies and excerpts of all materials examined for the purposes of the audit.
- 7.3 Any nominated auditors shall be entitled to report to Granada the full extent and findings of their investigations and the Buyer permits such disclosure.
- 8. RESULTS OF AUDIT**
- 8.1 If any audit (or other information) demonstrates that the Buyer Spend has been understated or the Buyer Commitment has not been attained, the Buyer Spend shall be restated correctly and the Buyer will pay to Granada any additional amount which would have been payable had the Buyer Spend been correctly stated.
- 8.2 If any audit (or other information) demonstrates that the Buyer is otherwise in breach of its obligations under this Agreement, the Buyer will pay to Granada any damages or compensation under clause 5 or otherwise.
- 8.3 All payments under this clause 8 shall be made within 14 days of the relevant conclusions being provided to the Buyer but shall be deemed to have been due when they should properly have been made.
- 8.4 Granada shall bear its own costs of conducting such audits, except that in the event that an audit shows that the Buyer Commitment has been understated, or Granada (or any Seller) has received less by way of payment than it is entitled to under this Agreement or the Buyer is otherwise in breach of this Agreement, then the costs incurred by Granada in carrying out the audit shall be borne by the Buyer (and the Buyer shall pay such costs to Granada on demand).
- 9. INTEREST**
- All outstanding sums payable by the Buyer under clauses 2.4, 5, 8 or otherwise shall be subject to a base charge of interest of 2% above LIBOR and a composite daily charge of 2% above LIBOR for every day that the amount remains unpaid following the due date for payment.
- 10. CONFIDENTIAL INFORMATION**
- Neither party shall either during or for a period of 3 years after the expiry of this Agreement, disclose, permit the duplication or disclosure of any Confidential Information, or use it in any way other than to enjoy its rights or perform its obligations under this Agreement unless authorised in writing by the other.
- 11. TERM AND TERMINATION**
- 11.1 The Term of this Agreement shall be the period set out in the Deal Letter unless terminated sooner in accordance with this clause 11.
- 11.2 The parties' rights under this clause 11 and clause 14.4 shall be their only rights to terminate this Agreement.
- 11.3 Either party shall have the right to terminate this Agreement immediately at any time if the other is in material breach of any provision of this Agreement and, provided that such breach is capable of remedy, fails to remedy the same within 10 business days after receipt of a written notice from the other party giving full particulars of the breach and requiring it to be remedied and Granada may terminate this Agreement immediately at any time if it has doubts about the solvency of the Buyer.
- 12. GRANADA'S GROUP**
- 12.1 Granada is a member of a group (as such term is defined in section 53 of the Companies Act 1989) whose holding company is Granada plc (the "**Granada Group**"). Granada may assign or otherwise transfer its rights and obligations under this Agreement to any third party and to any other member of the Granada Group and may perform any of its obligations or exercise any of its rights under this Agreement by itself or through any other member of the Granada Group acting as its agent without any consent from the Buyer.
- 12.2 Granada may set off any sums claimed or owed to it or other members of the Granada Group by the Buyer against any sum due to the Buyer under this or any other agreement with the Buyer, without prejudice to any other rights Granada may have.
- 13. LIABILITY**
- 13.1 Subject to clause 13.2, apart from where expressly set out in this Agreement, all warranties or conditions of Granada, whether

- express or implied by statute or otherwise, are excluded and Granada shall have no liability to the Buyer in respect of any breach of any provisions of this Agreement nor shall Granada be liable for any loss of profit or goodwill or for any loss which is indirect, consequential or economic or which, whether or not it arises as a direct and natural result of a breach of this Agreement, was not at the time this Agreement was made, a reasonably foreseeable result of such a breach nor for any amount in excess of Granada's net commission on sales arising out of this Agreement.
- 13.2 Nothing in this Agreement shall exclude or restrict either party's liability for death or personal injury resulting from the negligence of that party or of its employees while acting in the course of their employment or shall exclude or restrict a party's rights, remedies or liability under the law governing this Agreement in respect of any fraud.
- 13.3 If Granada ceases to be authorised to sell Airtime in respect of any Seller, the parties will discuss in good faith appropriate adjustments to this Agreement to reflect that change but Granada will have no liability for any failure to meet its obligations under this Agreement in respect of any such Seller.
- 14. MISCELLANEOUS**
- 14.1 Granada complies with the Independent Television Commission's Rules Regarding Advertising Sales Arrangements which are available for review at www.itc.org.uk.
- 14.2 No waiver by a party of any breach of the other's obligations shall constitute a waiver of any other breach, and neither party's rights shall be affected by any delay, failure or omission to enforce or express forbearance granted in respect of any of the other's obligations.
- 14.3 If the whole or any part of any of the provisions of this Agreement are invalid, that invalidity shall not affect the validity of any other provisions. Granada's rights under this Agreement are independent, cumulative and without prejudice to its rights under general law.
- 14.4 In the event that this Agreement cannot be performed or its obligations fulfilled for any reason beyond the reasonable control of either party, then such non-performance or failure to fulfil such obligations shall be deemed not to be a breach of this Agreement. Without limitation to the generality of the foregoing, reasons beyond the reasonable control of either party may include, by way of example only, war, industrial actions, floods or acts of God, or technical failure which does not occur as a result of any non-compliance with statutory or regulatory controls. If a party (the "**Affected Party**") is unable to perform any of its obligations under this Agreement as a result of such a force majeure event for a continuous period of more than 30 days, the other party shall be entitled to terminate this Agreement at any time and without any further liability, upon giving written notice to the Affected Party.
- 14.5 The Buyer may not assign or subcontract any of its rights or obligations under this Agreement without the prior written consent of Granada.
- 14.6 Any notice or other communication required to be given under this Agreement shall be in writing, addressed to the recipient at its address contained in this Agreement or such other address as shall have been notified in writing to the other party for the purposes of this Agreement. A notice shall be deemed to have been properly given: if delivered by hand during normal business hours - upon delivery; if sent by recorded delivery post - on the second working day after posting; if transmitted by facsimile and confirmed as received - at the time of delivery.
- 14.7 The provisions of those clauses intended to have continuing effect (including but not limited to clauses 7-10, 12.2, 13, 14.3 and 14.6-14.10) shall continue in full force and effect following termination of this Agreement.
- 14.8 No person other than a party to this Agreement or a member of the Granada Group may enforce this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 14.9 In the event of any conflict between any provision in the Deal Letter and any provision in these Conditions, these Conditions shall prevail.
- 14.10 This Agreement, which shall be interpreted under English law under the exclusive jurisdiction of the English courts, is the entire Agreement between the Buyer and Granada and may not be varied unless in writing agreed between the parties.
- 15. DEFINITIONS**
- In this Agreement, terms defined in the Deal Letter shall have the meaning given to them there and the following terms shall have the meanings set out below.
- "**Advanced Booking Deadline**" means the deadline listed in the Seller's Rate Card or such later deadline as may be specified in the Deal Letter;
- "**Airtime**" means advertising airtime on UK Television (excluding any interactive element);
- "**Airtime Expenditure**" means gross expenditure excluding VAT by the Buyer for Airtime;
- "**Airtime Value**" means the monetary value of the Airtime in pounds sterling at the agreed Booking price;

"Area" means any geographical transmission area of any Sellers;

"Area Budget" means the total Buyer Spend the Buyer has committed to spend on an Area;

"Area Share" means the share of Area Budget guaranteed to be spent by the Buyer on an Area;

"Booking" means an order from a Buyer for the purchase of a Spot or a series of Spots with a Seller constituting an approved advertising campaign for the purchase of Airtime;

"Buyer" means the person (which expression includes the firm or company) purchasing Airtime either for itself or other persons as identified in the Deal Letter;

"Buyer Commitment" means the commitments given by the Buyer under clause 3 above;

"Buyer Spend" means the net amount actually paid by the Buyer for Airtime under this Agreement during the Term;

"Client" means an advertiser client of the Buyer who procures Bookings of Airtime through the Buyer;

"Confidential Information" shall mean any information in any form emanating from Granada or any other member of the Granada Group (as defined in clause 12 above) or from the Buyer (as the case may be) and shall include any compilation of otherwise public information in a form not publicly known and the existence and contents of this Agreement and any information, materials or data in any form produced by, for or on behalf of either party during the term of or pursuant to this Agreement and Confidential Information shall not include: information which at the time of disclosure is publicly known, information which after disclosure becomes publicly known other than as a result of any breach of this Agreement; information which can be shown to be known to the other party, other than under a subsisting obligation of confidentiality or restricted use, prior to the disclosure; information made available to the other party by a third party having a right to do so and who has not imposed on that party any subsisting obligation of confidentiality or restricted use in respect thereof;

"Deal Arrangements" means the commercial terms agreed between the parties for the procurement of Airtime during the Term as set out in the Deal Letter;

"Deal Letter" means the letter from Granada to the Buyer forming part of this Agreement which incorporates the Deal Arrangements;

"Demograph" means an audience type defined by age or social classification or a combination thereof;

"Excluded Clients" means any excluded clients of the Buyer identified in the Deal Letter;

"Granada" means Granada Enterprises, a division of Granada Media Group Limited (registered number 03106525) whose registered office is at The London Television Centre, Upper Ground, London SE1 9LT and its successors or assigns;

"Media Spend" means all expenditure (whether direct or indirect, including without limitation, by any or other party acting under contract to the party) in any form (whether in cash or kind) on the purchase of media space on UK Television and any other media which may be relevant for the purposes of assessing the Buyer's compliance with this Agreement;

"Price" means the cost agreed between the Buyer and Seller for Airtime as set out in the Deal Letter;

"Rate Card" means the fact sheet published from time to time and located at url.www.granadaenterprises.com/itvsales/ratecard.xml and at www.granadaenterprises.com/channels/portfolio/index.xml;

"S4C" means Sianel Pedwar Cymru Rhyngwladol Cyf (and its successors or assigns) as established by the Broadcasting Act 1990;

"Seller" means any of Granada Television Ltd, LWT (Holdings) Ltd, Yorkshire Television Ltd, Tyne Tees Television Ltd, Border Television plc, Anglia Television Ltd, Meridian Broadcasting Limited, Ulster Television plc and S4C as the case may be, any cable, satellite or digital broadcaster for which Granada is the authorised agent for the sale of Airtime or any other broadcaster as appropriate and identified in the Deal Letter or under any Booking;

"Sellers' Standard Terms " means the Sellers' standard conditions of sale which apply to all Bookings of Airtime and which are located at url.www.granadaenterprises.com/itvsales/ratecard.xml and at www.granadaenterprises.com/channels/portfolio/index.xml;

"Share" means the shares by which the Buyer agrees, in the Deal Letter, to allocate Buyer Spend by Share Factor;

"Share Factor" means any factor, such as an Area by reference to which Shares are stated in the Deal Letter;

"Spot" means one specific portion of Airtime identified as available for purchase by a Seller;

"Term" shall have the meaning set out in clause 11.1 above;

"UK Television" means any service broadcast under a licence issued by the Independent Television Commission;

"Volume " means the Buyer Spend having the aggregate Airtime Value as specified in the Deal Letter;

"Working Day" means 0930-1700 Monday to Friday inclusive in each week except any UK Bank or Public Holiday.