

Terms & Conditions

1. Definitions

1.1 In these terms and conditions:

Advance Warning Signage means public information signs that give advance notice to highway users of the closure of a through highway for the Permitted Use and communicates relevant information.

Applicant means the applicant who has applied for the Permit as detailed on the Application Form.

Application Form means the application to film submitted electronically and any subsequent correspondence or request submitted by the Applicant that is relevant to the application form and is approved by the Events and Licensing Officer.

Business Days: means Monday to Friday excluding any public holidays in England and Wales.

Commercially Sensitive Information means any information comprising of a commercially sensitive nature relating to the Applicant, its intellectual property rights or its business or which the Applicant has indicated to the Council that, if disclosed by the Council, would cause the Applicant significant commercial disadvantage or material financial loss.

Confidential Information means all confidential information (however recorded or preserved) disclosed by a Party or its Representatives to the other Party and that Party's Representatives including but not limited to any information that would be regarded as confidential by a reasonable business person relating to: i) the business, affairs, customers, suppliers or plans of the disclosing Party and ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing Party.

Council means the Borough Council of Calderdale of Town Hall, Crossley Street, Halifax, HX1 1UJ.

EIRs means the Environmental Information Regulations 2004.

Fee means the non-refundable administration fee paid to the Council by the Applicant to facilitate and process the permit for 'on street' filming in Calderdale and any other fees deemed necessary by the Council. The fees are dependent on the crew size and a breakdown of the fee structure is available by contacting the Events and Film Office.

Film means the film or programme to be recorded or aired live as detailed on the Application Form.

FOIA means the Freedom of Information Act 2000.

Force Majeure Event means any circumstance not within a Party's reasonable control including, without limitation:

- a) acts of God, flood, drought, earthquake or other natural disaster;
- b) epidemic or pandemic;
- c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo or breaking off of diplomatic relations;
- d) nuclear, chemical or biological contamination or sonic boom;

- e) any law or any action taken by government or public authority;
- f) collapse of buildings, fire, explosion or accident; and
- g) interruption or failure of utility services.

Information has the meaning given under section 84 of the FOIA.

Location means the location or locations detailed on the Application Form to be used for filming or to facilitate filming and which may also include the unit/tech base where a unit/tech base is being used.

Parties means the parties to this agreement namely the Applicant and the Council.

Permit means this agreement issued by the Council to the Applicant for filming or to facilitate filming at the requested Location during the Permitted Period and for the Permitted Use in accordance with these terms and conditions.

Permitted Period means the period for the Permitted Use as detailed on the Application Form subject to any termination of the Permit in accordance with these terms and conditions.

Permitted Use means the use of the Location for filming or to facilitate filming as specifically detailed on the Application Form.

Publicly Maintainable Highway means a highway maintainable at public expense.

Representative means in relation to a Party, its employees, officers, representatives and advisors.

Request for Information means a request for information or an apparent request under the Code of Practice on Access to Government, FOIA or EIRs.

1.2 A reference to a statute or statutory provision is a reference to it as amended, extended, or re-enacted from time to time and includes all subordinate legislation for the time being in force made under it.

1.3 A reference to in writing or written includes email.

1.4 Any obligation in this agreement on the Applicant not to do something includes an obligation not to agree or allow that thing to be done.

Location and Access

2. Subject to the terms of the Permit the Council hereby grants the Applicant the right (in common with the Council and all other persons authorised by the Council) to use the Location for the Permitted Use during the Permitted Period.
3. This Permit does not grant exclusive use of the Location stipulated by the Applicant (unless otherwise separately agreed in writing).
4. The Applicant accepts that where the Location is within or forms part of a public space, any agreed exclusive use of the Location cannot be guaranteed and the Applicant shall be responsible for taking their own measures to exclude members of the public from the Location if such exclusion is required.
5. If filming, photographing or recording is not completed during the Permitted Period, the Applicant shall contact the Council in writing to request that it be entitled to return to the Location to continue filming or to re-shoot footage at a mutually agreed time (**Additional Permitted Period**). An additional Fee may be charged for the Additional Permitted Period. If the Council agrees to the Additional Permitted Period the terms of this Permit shall apply to the Additional Permitted Period.

6. The right given by clause 2 above shall be exercised in consultation with any relevant Council manager of the Location and / or other person(s) notified to the Applicant, in a way which so far as reasonably practicable does not interfere with or impede the normal use of the Location.
7. The Council gives no warranty that the Location is legally, physically or otherwise fit for any specific purpose including the Permitted Use.
8. Further consent may be required from a private landowner or agency to enable the filming to take place. It is the Applicant's responsibility to ensure they have the correct landowner's consent for any filming or associated activity which may take place prior to that activity taking place and to pay any charges that may be requested by the private landowner or agency.
9. The Applicant shall have the right to represent the Location as a real or fictional place, or by **prior agreement only** to represent the Location under its proper title.
10. Where the Applicant is going to be filming content to be shown post-watershed, the Applicant must provide the Council with a synopsis of post-watershed content if requested and within any reasonable timescale specified by the Council.
11. Time shall be of the essence for all the purposes of the Applicant's obligations and use of the Location under the Permit.
12. In exercising its right to use the Location, the Applicant shall be entitled to bring all required personnel, equipment, vehicles, sets and facilities onto the Location. The Applicant shall be responsible for any damage to the Location which may occur as a result of bringing its own equipment, vehicles, sets and any other facilities on to the Location.
13. Subject to clause 15, the Applicant shall have the right to make such changes, additions and alterations in and to the Location (interior and exterior) as the Parties shall mutually agree in good faith, but any such changes, additions and alterations shall be of temporary nature only and the Applicant agrees after final use under this Permit to restore the Location to its original condition unless otherwise agreed by the Council.
14. The Applicant shall not make alterations or additions to the existing fabric design or layout of the Location or any of its facilities or services unless such alterations or additions have been agreed by the Council in writing. The Applicant must comply with any additional conditions specified by the Council as a result of authorising the alterations or additions.
15. The Applicant shall be responsible for any damage to the Location which may occur as a result of:
 - a) the Permitted Use;
 - b) any changes, additions or alterations to the Location; or
 - c) bringing its own equipment, vehicles, sets and any other facilities on to the Location.

The Council may at its discretion repair any damage to the Location and the Applicant will be responsible for compensating the Council for any and all costs in doing so. Where the Council does not agree to repair any damage to the Location, the Applicant will be responsible for ensuring the repairs are carried out.

Applicant's obligations

16. In consideration of the rights granted by the Council under this Permit the Applicant shall pay a Fee, such Fee to be payable on receipt of an invoice. The Applicant agrees to pay all Fees (including Fees for any Additional Permitted Period and/or or agreed additional expenses) plus any applicable taxes that

are due in accordance with the terms and conditions of the relevant invoice that is submitted by the Council.

17. If the Council or the Applicant cancels filming at the Location for any reason whatsoever, the administration Fee is non-refundable.
18. The Applicant shall provide a sufficient number of attendants and/or stewards at all relevant times for the efficient supervision of the Location, to ensure the safe use of the Location and for the preservation of order at and in the vicinity of the Location
19. The Applicant shall not use any drone or unmanned aerial vehicle unless agreed separately in writing.
20. The Applicant shall permit the Council and/or its employees to inspect and monitor the arrangements made by the Applicant for the proper supervision of the Location and shall fully co-operate with any such person(s) at all relevant times.
21. The Applicant shall observe such rules and regulations governing the use of the Location as may have been made or as may from time to time be made by the Council and shall not create any unreasonable nuisance or annoyance.
22. The Applicant shall only use the Location or any part of it for the Permitted Use and during the Permitted Period.
23. The Applicant shall deal with any complaints in relation to its use of the Location promptly, courteously and efficiently and promptly notify the Council in writing within 24 hours of any serious complaints received and the steps the Applicant has taken in response to them.
24. The Applicant shall not do anything to unfairly or inaccurately injure the reputation of the Location or the Council, or to cause an offence against any statute, or any regulations made under any statute, or by the Council, or any other public authority, or to imperil any licence, permit or other authorisation granted for the Location(s), or any insurance effected on it.
25. The Applicant shall not permit any persons to enter or use the Location other than its required personnel or volunteers engaged in the Film, or members of the cast of the Film.

Highways

26. The Applicant shall not cause or permit any obstruction of free passage by users of any Publicly Maintainable Highway (including vehicles, cyclists and pedestrians) without seeking prior authorisation from the Council (in its capacity as the local highway authority) or cause or permit a disturbance or safety hazard thereto.
27. Where any Publicly Maintainable Highway is to be temporarily closed for the Permitted Use, the Applicant shall apply at its cost to the Council for such closure and carry out prior consultation with and act to reasonably resolve the concerns of those who may be affected by such closure including residents, businesses, bus companies, emergency services etc.
28. Where any section of a through highway is to be closed the Applicant shall deploy Advanced Warning Signage which must include the contact details of the Applicant.
29. The Applicant shall ensure that any traffic management is undertaken in line with Chapter Eight of the Traffic Signs Manual (published by the Department of Transport) which relates to "Traffic Safety Measures and Signs for Road Works and Temporary Situations" and all applicable rules, regulations and legislation.

30. At the end of the Permitted Period the Applicant shall immediately remove all of the Applicant's equipment, goods, rubbish and litter from the Location and leave the Location in a clean and tidy state.
31. At all times, whilst in occupation of the Location, the Applicant will comply with all relevant Health and Safety Legislation, Government guidance and restrictions that may apply to the Location or the work being carried out thereon. Furthermore, if required, the Applicant will show the Council any relevant risk assessments before filming begins. In addition, were necessary, the Applicant agrees to appoint a Senior Person Responsible (SPR) to provide reasonable assistance to comply with any legal obligations that may arise in connection with this Permit.
32. No illegal substances are permitted at the Location.

Rights

33. The Council acknowledges that the Applicant shall own all copyright and other rights in the products of photography, filming and recording under this Permit (**Recordings**) and all publicity and advertising materials, books, merchandise and other copyright works relating to the Film or any of its characters and incorporating any recordings (**Works**) and shall have the sole right to exhibit, broadcast, exploit, market, publicise, advertise and distribute the Film and the Works in any and all media (whether now known or hereafter invented) throughout the world for the full period of copyright including any extensions, renewals, revivals or reversions thereof and thereafter, in so far as possible, in perpetuity.
34. The Applicant shall be entitled, but not obliged to include all or any of the Recordings in the Film (and any versions or parts of the Film) and gives no undertakings to complete the production of the Film.
35. The Applicant shall have the right to incorporate and include the Recordings in the final version of the Film and advertisements and publicity either as a sequence, on its own or preceded, interlaced or followed by such other scenes as the Applicant may require (including, without limitation, still photographs or scenes of studios or sets representing for the purposes of the Film, the interior and exterior of the Location) and in still photographs.
36. If the Applicant wishes to change the name of the Film and/or change the name of the Location as it is represented in the Film it must inform the Council in writing prior to any filming or further filming taking place.
37. The Council accepts and acknowledges that all rights, permissions and releases granted by the Council to the Applicant in clauses 33 – 36 shall be deemed to:
 - a) extend to all persons, firms or corporations distributing, broadcasting, exploiting, or exhibiting the Film;
 - b) include all the Applicant's employees, successors, assigns, licensees, agents, independent contractors and suppliers or other persons present on the Location with the Council's consent; and
 - c) be granted and assigned irrevocably and not subject to reversion, rescission or termination .

Insurance and Liability

38. The Applicant agrees to indemnify the Council against all direct losses, claims, demands, actions, proceedings, damages, reasonable costs or reasonable expenses or other liability to the extent arising as a direct result of the negligent act or omission of the Applicant or its employees, servants or agents or any breach of any of the obligations in this Permit by the Applicant and subject to the Council taking reasonable steps to mitigate any losses. Subject to clause 43 the Applicant's total aggregate liability howsoever arising out of this indemnity shall not exceed £5,000,000 (five million pounds).
39. The Applicant shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing:

- a) public liability insurance with a limit of indemnity of not less than £5,000,000 (five million pounds) in relation to any one claim or series of claims; and
- b) employer's liability insurance with a limit of indemnity of not less than £10,000,000 (ten million pounds) in relation to any one claim or series of claims

(the **Required Insurances**). The cover shall be in respect of all risks which may be incurred by the Applicant under this Permit, including death or personal injury, loss of or damage to property or other loss.

- 40. The Applicant shall give the Council, on request, copies of all insurance policies referred to above or a broker's verification to demonstrate that the Required Insurances are in place.
- 41. The terms of any insurance policy or the amount of cover shall not relieve the Applicant of any liabilities under this Permit.
- 42. Subject to clause 43 the Council shall not be liable for any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability including any indirect or consequential loss (including loss of profit and pure economic loss) incurred by the Applicant in the performance or exercise of the rights granted by the Permit or any termination of the Permit.
- 43. Notwithstanding any other provision of this Permit neither Party limits or excludes its liability for:
 - a) fraud or fraudulent misrepresentation;
 - b) death or personal injury caused by its negligence (or the negligence of its personnel, agents or sub-contractors); or
 - c) any other liability which may not be limited under any applicable law.

Breach

- 44. If at any time the Applicant fails to comply with the terms and conditions of this Permit and having been notified of such failure, continues to act in material breach of the terms and conditions above, the Council reserves the right to immediately revoke the Permit and the Applicant shall comply with clause 30.

Publicity

- 45. The Council shall not undertake any publicity relating to the Film or any individual engaged in the making of the Film, this application or the internal affairs of the Applicant without the prior written consent of the Applicant.
- 46. The Applicant shall not undertake any publicity or place any advertisement referring to the Council without the prior written agreement of the Council.

Freedom of information Act

- 47. The Applicant acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 (as amended) ("FOIA") and shall use all reasonable endeavours to assist and co-operate with the Council at the Applicant's own cost to enable the Council to comply with these information disclosure requirements. The Applicant acknowledges that the Council may be required

under the FOIA to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Applicant. The Council shall take reasonable steps to notify the Applicant of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Permit) the Council shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/ or any other information is exempt from disclosure in accordance with the FOIA.

Confidentiality

48. Subject to clause 49 each Party shall keep the other Party's Confidential Information confidential and shall not:
- a) use such Confidential Information except for the purpose of performing its rights and obligations under or in connection with this Permit; or
 - b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by clauses 49-50.
49. The obligation to maintain confidentiality of Confidential Information does not apply to any Confidential Information:
- a) which the other Party confirms in writing is not required to be treated as Confidential Information;
 - b) which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality;
 - c) which a Party is required to disclose by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable law, including FOIA and the EIRs;
 - d) which is or enters the public domain other than through any disclosure prohibited by this Permit;
 - e) which a Party can demonstrate was lawfully in its possession prior to receipt from the other Party;
 - f) which is disclosed by the Council on a confidential basis to any central government or regulatory body.
50. A Party may disclose the other party's Confidential Information to those of its Representatives who need to know such Confidential Information for the purposes of performing or advising on the Party's obligations under this Permit provided that:
- a) it informs such Representatives of the confidential nature of the Confidential Information before disclosure;
 - b) it procures that its Representatives shall in relation to any Confidential Information disclosed to them, comply with the obligations set out in this clause as if they were a party to this agreement; and
 - c) at all times it is liable for the failure of any Representatives to comply with the obligations set out in this clause 50.

Anti-bribery

51. The Applicant shall:
- a) comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;

- b) comply with any policies relating to ethics, anti-bribery and anti-corruption as the Council may provide to the Applicant from time to time; and
- c) promptly report to the Council any request or demand for any undue financial or other advantage of any kind received by the Applicant in connection with the performance of this agreement.

Force Majeure

52. Provided it has complied with clause 54, if a Party is prevented, hindered or delayed in or from performing any of its obligations under this Permit by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this Permit or otherwise liable for such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
53. The corresponding obligations of the other Party will be suspended and its time for performance of such obligations extended, to the same extent as those of the Affected Party.
54. The Affected Party shall:
- a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 5 (five) Business Days from its start, notify the other Party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration and the effect of the Force Majeure Event on its ability to perform its obligations under the Permit; and
 - b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
55. If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 6 months the Party not affected by the Force Majeure Event may terminate this Permit by giving 1 months' written notice to the Affected Party.

Notices

56. Any notice given to the other Party under or in connection with this Permit shall be in writing and shall be sent by email to the address specified on the Application Form.
57. Any notice shall be deemed to have been received at 9.00am on the next Business Day after transmission.
58. Clauses 56 – 57 do not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

General

59. The rights granted to the Applicant under the terms of this Permit are not assignable unless otherwise agreed (except the rights outlined in clauses 33-36 regarding the exploitation of the Film, which are assignable at the Applicant's discretion).
60. Nothing contained in or implied by the Permit shall prejudice or affect the Council's rights, powers, duties, functions or obligations as a local authority.
61. No failure or delay by a Party to exercise any right or remedy provided under this Permit or by law shall constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that right or remedy.
62. No variation of this Permit shall be effective unless it is made in writing and agreed by the parties.

63. If any provision or part-provision of this Permit becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity or enforceability of the rest of this Permit.
64. If any provision or part-provision of this Permit is deemed deleted under clause 63, the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
65. A person who is not a party to this Permit may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
66. The Permit and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales
67. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Permit or its subject matter or formation.

Data Protection Act 2018

68. For the purposes of the Data Protection Act 2018 and the UK GDPR (as defined by section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018) the Applicant is a data controller and processes personal data. The Parties to this agreement will comply with the Data Protection Legislation.