

2019 Events Sponsorship Terms and Conditions

SPONSORSHIP AGREEMENT - TERMS AND CONDITIONS

1. INTRODUCTION

1.1 The Event (as defined on the Front Sheet) is organised and managed by The Faversham Beer Festival (FBF).

1.2 These Terms and Conditions and the Front Sheet to which they are attached (together the "Agreement") set out the terms on which you (i.e. the Sponsor) agree to sponsor the Event. Please read the Agreement carefully and make sure you understand it before signing. You understand that by signing the Front Sheet, you agree to be bound by the terms of the Agreement.

1.3 Defined terms in this Agreement shall have the meaning given to them on the Front Sheet or else within these Terms and Conditions.

1.4 References to "we", "us" and "our" shall be references to FBF. In light of the meaning given above to "you", references to "your" shall be construed accordingly.

2. GRANT OF RIGHTS

2.1 We grant to you:

2.1.1 the Sponsor Benefits (as defined on the Front Sheet); and

2.1.2 a non-transferable, non-exclusive, royalty-free licence to use the Event logos and trade marks (the "Event Marks") provided to you in accordance with clause 4.3 solely to promote your sponsorship of the Event,

during the Term (as defined at clause 8.1) and in accordance with the terms of this Agreement.

2.2 You grant to us a worldwide, non-exclusive, royalty-free, sub-licensable licence to use your logos and trade marks (the "Sponsor Marks") provided to us in accordance with clause 3.3:

2.2.1 during the Term to promote and exploit the Event; and

2.2.2 for a period of 12 months following the Event in any report produced about the Event and in any promotional materials for similar events.

2.3 In the event that you change the Sponsor Marks at any time during the Term, you agree that we shall not be obliged to make any consequential changes to materials that include the Sponsor Marks produced by us or on our behalf for or in connection with the Event (including, but not limited to, reprinting promotional literature or publicity materials) unless you agree in writing in advance to meet the costs and expenses incurred by us arising from such change.

2.4 If for any reason, we are unable to deliver any of the Sponsor Benefits, we will inform you as soon as reasonably practicable. We may substitute alternative benefits in respect of the same Event to an equivalent value of the relevant Sponsor Benefits without any liability to you.

2.5 You acknowledge and agree that you shall be solely responsible for all costs that you incur relating to your attendance at the Event (including, without limitation, any travel costs, the costs of any temporary staff and any costs relating to the stand that you erect at the Event and all costs incurred by you in exercising the Sponsor Benefits).

2.6 You shall promptly comply with all reasonable instructions and directions issued by or on behalf of us in connection with the Event and its promotion (including, without limitation, any instructions or directions given in relation to the use of the venue at which the Event is being held). We shall not be responsible for any failure or delay in providing any of the Sponsor Benefits where such failure occurs directly or indirectly as a result of your failure or delay in complying with any of our reasonable instructions or directions.

3. YOUR OBLIGATIONS

3.1 You undertake to support the Event through appropriate marketing and promotional channels and to collaborate with us on any appropriate joint marketing or promotional projects relating to the Event.

3.2 You undertake to ensure your personnel exercise the Sponsor Benefits in accordance with the terms of this Agreement.

3.3 You shall, within seven days of signature of this Agreement by both parties, supply us with examples of the Sponsor Marks in a suitable format.

3.4 You shall, prior to distributing any promotional materials referencing the Event and/or using the Event Marks (the "Client Literature"), provide copies of the Client Literature to us for our approval (not to be unreasonably withheld). You undertake that you shall not distribute any Client Literature until you have received written confirmation from us that we approve the Client Literature. You are solely responsible for meeting all costs relating to the Client Literature (including reprinting costs if our approval is not obtained prior to printing).

3.5 You undertake that any Client Literature will:

3.5.1 comply, without limitation, with all relevant laws and regulations in force that relate to the promotion of the Event;

3.5.2 comply with any instructions or directions issued by or on behalf of us;

3.5.3 not contravene any applicable law, infringe the rights of any third party or contain any inaccuracies of fact; and

3.5.4 include any legal or good practice notices as required by us from time to time.

3.6 You shall not do, or omit to do, (and you shall procure that none of your employees, agents or contractors shall do, or omit to do) anything which may: (i) bring the Event or the other party into disrepute; (ii) disparage the Event or us; (iii) damage our goodwill associated with the Event; or (iv) be otherwise prejudicial to the image and/or reputation of the Event or us.

3.7 You shall not engage in joint promotions with any third party in relation to the Event without our prior written consent.

3.8 For the avoidance of doubt it shall be your responsibility to take out and maintain appropriate insurance in relation to any risks under or in relation to this Agreement or your participation in the Event.

3.9 You shall comply with all relevant laws and regulations which may apply in relation to your involvement in the Event and you will indemnify and keep indemnified and defend (at your own expense) us against all costs, claims, damages or expenses suffered or incurred by us or for which we may become liable due to any failure by you or your employees or agents to comply with any of your obligations under this Agreement or any applicable laws and regulations.

4. OUR OBLIGATIONS

4.1 We shall provide the Sponsor Benefits and organise the Event using reasonable skill and care and will consult with the Sponsor Representative (as set out on the Front Sheet) on aspects of the Event where we deem it appropriate to do so.

4.2 The Sponsor Benefits are personal to you and we are not obliged to provide the Sponsor Benefits (or any part of them) to any other entity or person.

4.3 We shall, within seven days of signature of this Agreement by both parties, supply you with examples of the Event Marks in a suitable format.

5. SPONSORSHIP FEE

5.1 In consideration of us providing the Sponsor Benefits, you shall pay to us the Sponsorship Fee in accordance with the Payment Schedule, and to the account specified on the Front Sheet.

5.2 If the Sponsorship Fee is not received by us when due, we reserve the right not to supply, or cease to supply, any or all of the Sponsor Benefits. For the avoidance of doubt, you shall not be permitted entry to the Event unless full payment has been received by us.

5.3 Unless otherwise agreed between the parties, where the Sponsorship Fee is payable in one instalment such payment shall be due and payable immediately on signature of the Front Sheet.

5.4 Without prejudice to any other rights and remedies available to us if payment is not made in accordance with Claus 5.1, interest on the overdue balances (including any period after the date of any judgement or decree against the Customer), and late payment fees, fall due and payable and are calculated upon the basis set out in the Late Payment of Commercial Debts (Interest) Act 1998 (as amended).

5.5 The Sponsorship Fee is exclusive of any applicable sales tax (including but not limited to, VAT) which shall be paid by you at the rate from time to time in force.

6. INTELLECTUAL PROPERTY RIGHTS

6.1 The parties acknowledge as follows:

6.1.1 all intellectual property rights (including, but not limited to, copyright, trade marks and design rights) in the Sponsor Marks shall be solely and exclusively owned by you, together with any goodwill therein, and we shall not acquire any rights in the Sponsor Marks; and

6.1.2 all intellectual property rights (including, but not limited to, copyright, trade marks and design rights) in the Event Marks shall be solely and exclusively owned by us, together with any goodwill therein, and you shall not acquire any rights in the Event Marks.

6.2 All intellectual property rights (including, but not limited to, copyright, trade marks and design rights) in or arising out of or in connection with the Event (including but not limited to any rights accruing in the Event Marks) shall be owned by us but always without prejudice to clause 6.1.1.

6.3 You shall indemnify us and keep us indemnified from and against all claims, damages, losses, costs (including all reasonable legal costs), expenses, demands or liabilities arising out of a claim that our use of your intellectual property rights in accordance with the Agreement (including without limitation the Sponsor Marks) infringes any intellectual property rights (including, but not limited to, copyright, trade marks and design rights) of any third party.

6.4 Neither party shall knowingly do, or cause, or permit anything to be done, which may prejudice or harm or has the potential to prejudice or harm the distinctiveness or reputation of the other party's marks, or do anything which will or may affect any registration of the other party's marks.

6.5 You agree that you shall not use the Event Marks in any way that, in our reasonable opinion, connotes that we are forming a partnership or any trading arrangement (other than the sponsorship of the Event), or that we endorse any part of your business, trading name or style.

6.6 If during the Term, either party becomes aware of any threatened or actual unauthorised use or any misuse of the other's intellectual property rights (including, but not limited to, copyright, trade marks and design rights), then it shall promptly notify the same to the other in writing. The non-owner of the intellectual property rights will, at the owning party's reasonable request and cost, provide all reasonable co-operation (including, without limitation, the provision or completion of any documentation) in any action, claim or proceedings brought or threatened in respect of such intellectual property rights, but shall not be obliged to take any further action.

7. CANCELLATION, POSTPONEMENT & FORCE MAJEURE

7.1 FBF shall not be deemed to be in breach of this Agreement or otherwise liable to you for any failure or delay in performing our obligations under this Agreement for commercial reasons (including but not limited to, an event of force majeure where such event though not directly affecting the Event, may have an adverse effect on the commercial success of the Event), in its sole discretion, be entitled to cancel or postpone the Event. FBF shall give written notice to the Sponsor of its decision as soon as reasonably practicable, and upon receipt of such notice:

(a) in the case of cancellation of the Event the Sponsor shall be entitled to:

(i) terminate this Agreement and to the extent that any Sponsor Benefits have not been received (or only a proportion of a Sponsor Benefit has been received) at the date of such termination, obtain a refund of such proportion of Sponsorship Fees as FBF may reasonably calculate; or

(ii) elect to apply the Sponsorship Fee (whether or not paid to FBF) to another FBF event, provided that the date of such event is less than 12 months from the date of such cancellation; or

(b) in the case of postponement of the Event:

(i) where the new Event date is less than 2 months away from the original Event date, the Sponsor is deemed to accept the new Event date and may not terminate this Agreement or elect to apply the Sponsorship Fee to another FBF event; or

(ii) where the new Event date is more than 2 months, but less than 12 months away from the original Event Date:

(I) elect to apply the Sponsorship Fee (whether or not paid to FBF) to another FBF, provided that the date of such event is not greater than 12 months from the date of cancellation; or

(II) terminate this Agreement and to the extent that any Sponsor Benefits have not been received (or only a proportion of a Sponsor Benefit has been received) at the date of such termination, obtain a refund of such proportion of Sponsorship Fees as FBF may reasonably calculate; or

(iii) where the new Event date is more than 12 months from the original Event date, the Sponsor may terminate this Agreement and to the extent that any Sponsor Benefits have not been received (or only a proportion of a Sponsor Benefit has been received) at the date of such termination notice, obtain a refund of such proportion of the Sponsorship Fees as FBF may reasonably calculate.

For the avoidance of doubt, where the Sponsor elects to apply the Sponsorship Fee to another FBF event, FBF is under no obligation to provide the same Sponsor Benefits for the same Sponsorship Fee.

7.2 FBF shall not be deemed to be in breach of this Agreement or otherwise liable to the Sponsor for any failure or delay in performing its obligations under this Agreement as a result of an event or series of connected events outside the reasonable control of FBF (including, without limitation, acts of God, floods, lightning, storm, fire, explosion, war, military operations, acts or threats of terrorism, strike action, lock-outs or other industrial action or a pandemic, epidemic or other widespread illness).

7.3 No refunds will be given in respect of any cancellations.

The Sponsor acknowledges that these charges represent a genuine pre-estimate of The FBF losses.

8. TERM AND TERMINATION

8.1 This Agreement shall take effect on the date that you sign the Front Sheet and shall continue until completion of the Event (the "Term"), unless terminated early in accordance with its terms.

8.2 Either party has the right at any time to terminate this Agreement immediately by giving written notice to the other in the event that the other:

8.2.1 has committed a material breach of any of its obligations under this Agreement (including failure to pay any amounts due under this Agreement) and has not remedied any such breach (if capable of remedy) within 14 days of being required to do so by written notice; or

8.2.2 ceases or threatens to cease to carry on business, is unable to meet its debts as they fall due, has an order made or a resolution passed for its winding-up, has an administrator, receiver or manager appointed, makes any arrangement or composition with its creditors, or makes an application for the protection of its creditors in any way.

8.3 Termination of this Agreement by either party for any reason shall be without prejudice to any rights or obligations that may have accrued as at the date of such termination.

8.4 Upon termination of this Agreement by us in accordance with this clause 8, all outstanding sums owing to us at the date of termination shall become due and payable without deduction or set-off. Where termination occurs before you have received all the Sponsor Benefits, we shall charge you such proportion of the Sponsorship Fee (calculated in good faith) as is reasonable to reflect the value of the Sponsor Benefits received by you prior to the date of termination.

8.5 Upon expiry or termination of this Agreement, the parties agree that:

8.5.1 our obligations to provide any further Sponsor Benefits shall cease;

8.5.2 any licences granted pursuant to this Agreement shall immediately cease; and

8.5.3 you shall destroy any Sponsor Literature and remove the Event Marks from any other materials in your possession.

9. LIMITATION OF LIABILITY

9.1 Subject to clause 9.3, our aggregate liability to you, whether such liability arises in contract, tort (including negligence) or otherwise, for any damages, loss, costs, claims or expenses of any kind howsoever arising, out of or in connection with this Agreement or otherwise in connection with the Event, shall be limited to the Sponsorship Fee paid by you.

9.2 Subject to clause 9.3, we shall not be liable to you for: (i) any loss of profit, loss of or damage to data, loss of anticipated savings or interest, loss of or damage to reputation or goodwill; or (ii) any indirect, special or consequential damages, loss, costs, claims or expenses of any kind.

9.3 Nothing in this Agreement shall limit or exclude a party's liability for:

9.3.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

9.3.2 fraud or fraudulent misrepresentation; or

9.3.3 any other liability which cannot be limited or excluded by applicable law.

10. CONFIDENTIALITY

10.1 Each party shall treat in confidence all information obtained from the other pursuant to this Agreement that is confidential in nature (which shall include details of the Sponsorship Fee) and shall use such confidential information solely for the purpose of exercising its rights or performing its obligations under this Agreement.

10.2 Each party shall only disclose such confidential information: (i) to those of its employees who may reasonably need to know the same to the extent required for the proper performance of this Agreement; and (ii) to the extent that such confidential information is required to be disclosed by law.

11. ANTI-BRIBERY

11.1 You warrant that you shall:

11.1.1 comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;

11.1.2 comply with such of our anti-bribery and anti-corruption policies as are notified to you from time to time; and

11.1.3 promptly report to us any request or demand for any undue financial or other advantage of any kind received by or on behalf of you in connection with the performance of this Agreement.

11.2 Breach of this clause 11 shall be deemed a material breach of this Agreement.

12. GENERAL

12.1 This Agreement contains the entire agreement and understanding between the parties and supersedes all prior agreements, understandings or arrangements (both oral and written) relating to the subject matter of this Agreement.

12.2 You may not assign, sub licence or otherwise transfer any of your rights or obligations under this Agreement without our prior written Agreement.

12.3 Notices shall be sent by first class registered post, with a copy to be sent by email, to the other party at the address appearing on the Front Sheet (or such other address as that party shall notify in writing to the other from time to time). In the absence of proof of non-delivery, notices are deemed received two working days after being sent.

12.4 You acknowledge that you have not relied on, and shall have no remedy in respect of, any statement, representation, warranty, understanding, promise or assurance (whether negligently or innocently made) of any person other than as expressly set out in this Agreement (save that this shall not apply so as to limit or exclude either party's liability for fraud).

12.5 This Agreement shall not create, nor shall it be construed as creating, any partnership or agency relationship between the parties.

This Agreement and the rights and obligations of both parties shall be governed by, and construed in accordance with, the laws of England and Wales, the parties irrevocably agree to submit to the exclusive jurisdiction of the courts of England and Wales.