

# ABERDEEN FOOTBALL CLUB LIMITED (“AFC”) – TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

## 1 INTERPRETATION

**The following definitions and rules of interpretation apply in these Conditions.**

### 1.1 Definitions:

“**Advertising Terms**” means the terms and conditions applicable to the advertising Services;

“**AFC**” means Aberdeen Football Club Limited, registered in Scotland at Pittodrie Stadium, Pittodrie Street, Aberdeen, AB24 5QH with company number SC005364;

“**Business Day**” means a day other than a Saturday, Sunday or public holiday in Scotland, when banks in Aberdeen are open for business;

“**Charges**” means the charges payable by the Customer for the supply of the Services in accordance with Clause 5;

“**Commencement Date**” has the meaning given in Clause 2.2;

“**Commercial Rights**” means any and all rights of a commercial nature connected with AFC, including without limitation broadcasting rights, new media rights, interactive games rights, sponsorship rights, merchandising rights, licensing rights, advertising rights and hospitality rights excluding, for the avoidance of doubt, those rights owned or controlled by any relevant governing body;

“**Conditions**” means these terms and conditions as amended from time to time in accordance with Clause 11.5;

“**Consumer**” means a Customer who is an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession.

“**Contract**” means the contract between AFC and the Customer for the supply of Services in accordance with these Conditions and the Special Terms;

“**Control**” has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly;

“**Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures**” are as defined in the Data Protection Legislation;

“**Customer**” means the person or firm who purchases Services from AFC;

“**Customer Default**” has the meaning set out in Clause 4.2;

**“Data Protection Legislation”** means the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party;

**“Deliverables”** means the deliverables set out in the Order produced by AFC for the Customer;

**“Events Terms”** means the terms and conditions applicable to the events Services;

**“Hospitality Terms”** means the terms and conditions applicable to the hospitality Services;

**“Intellectual Property Rights”** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

**“League Cup Knock Out”** means the SPFL League Cup matches that take place following the initial Group Stage of the competition.

**“Order”** means the Customer’s order for Services as set out in the Customer’s sales agreement form or online order confirmation;

**“Schedule”** means the schedule annexed to and forming part of these Conditions;

**“Services”** means the services, including the Deliverables, supplied by AFC to the Customer as set out in the Specification;

**“Special Terms”** means the Advertising Terms, the Hospitality Terms, Sponsorship Terms or the Events Terms as set out in the Schedule;

**“Specification”** means the description or specification of the Services set out in the Customer’s Order;

**“Sponsorship Arrangement”** means a Contract under which the Customer provides sponsorship to some aspect of AFC including, without limitation, match, match ball, programme, boot, “in safe hands” or mascot or team-lines or player sponsorship and such other sponsorship opportunities as AFC may make available from time to time) and receives some benefit from AFC, subject to the Sponsorship Terms;

**“Sponsorship Terms”** means the terms set out in the Schedule which relate specifically to Sponsorship Arrangements;

**“Stadium”** means Pittodrie Stadium or any such other designated Supplier stadium;

**“AFC Materials”** has the meaning set out in Clause 4.1.6; and

**“UK Data Protection Legislation”** means all applicable data protection and privacy legislation in force from time to time in the UK including the the Data Protection Act 2018; the UK GDPR (as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018); the Privacy and Electronic Communications Directive (2002/58/EC) (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

## 1.2 Interpretation:

1.2.1 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.2.2 Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.3 Subject to condition 11.8.3, a reference to **writing** or **written** includes email.

## 2 BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when AFC issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**“Commencement Date”**). The form of such acceptance may be a completed sales agreement, or an automated electronic acceptance.

2.3 Any samples, drawings, descriptive matter or advertising issued by AFC, and any descriptions or illustrations contained in AFC’s catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.5 Any quotation given by AFC shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

### 3 **SUPPLY OF SERVICES**

- 3.1 AFC shall supply the Services to the Customer in accordance with the Specification (in all material respects) as well as in accordance with the Special Terms in the Schedule. In the event of a conflict between these Conditions and the Special Terms, the Special Terms shall take precedence.
- 3.2 AFC shall use all reasonable endeavours to meet any performance dates specified, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.3 AFC reserves the right to amend the Specification if it deems such change necessary including (but not limited to) where such amendment is required to comply with any applicable law or regulatory requirement, so long as the amendment will not materially affect the nature or quality of the Services.
- 3.4 AFC warrants to the Customer that the Services will be provided using reasonable care and skill.

### 4 **CUSTOMER'S OBLIGATIONS**

- 4.1 The Customer shall:
- 4.1.1 ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
  - 4.1.2 co-operate with AFC in all matters relating to the Services;
  - 4.1.3 provide AFC with such information and materials as AFC may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
  - 4.1.4 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
  - 4.1.5 comply with all applicable laws, including health and safety laws;
  - 4.1.6 maintain AFC Materials in good condition, and not dispose of or use AFC Materials other than in accordance with AFC's written instructions or authorisation; and
  - 4.1.7 comply with any additional obligations as set out in the Specification.
- 4.2 If AFC's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"):
- 4.2.1 without limiting or affecting any other right or remedy available to it, AFC shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance

of any of its obligations in each case to the extent the Customer Default prevents or delays AFC's performance of any of its obligations;

4.2.2 AFC shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from AFC's failure or delay to perform any of its obligations as set out in this Clause 4.2; and

4.2.3 the Customer shall reimburse AFC on written demand for any costs or losses sustained or incurred by AFC arising directly or indirectly from the Customer Default.

## 5 CHARGES AND PAYMENT

5.1 The Charges for the Services shall be the prices set out in the Order, or, if no price is quoted, the price set out in AFC's published brochure and price list in force as at the Commencement Date.

5.2 AFC may, at its sole discretion require full payment of the Charges at the time of the Customer's Order. Where such up-front payment is required, AFC will notify the Customer prior to accepting the relevant Order. Where up-front payment is not required, AFC will issue the Customer with an invoice for the Charges and require full payment of the balance of that invoice in accordance with Clause 5.3.

5.3 Each invoice submitted by AFC pursuant to Clause 5.2 above will be due for payment:

5.3.1 no later than 28 days' prior to the commencement of the football season, football match or event to which the Services relate; or

5.3.2 immediately, if the Commencement Date is less than 28 days prior to the commencement of the football season, football match or, event, to which the Services relate; or

5.3.3 as per payment terms quoted on the invoice.

in full and in cleared funds to a bank account nominated in writing by AFC, and time for payment shall be of the essence of the Contract.

5.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by AFC to the Customer, the Customer shall, on receipt of a valid VAT invoice from AFC, pay to AFC such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

5.5 If the Customer fails to make a payment due to AFC under the Contract by the due date, then, without limiting AFC's remedies under Clause 9, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 5.5 will accrue each day at 2.5% a year above the Royal Bank of Scotland's base rate from time to time, but at 2.5% a year for any period when that base rate is below 0%.

5.6 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## 6 **INTELLECTUAL PROPERTY RIGHTS**

6.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by AFC.

6.2 AFC grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.

6.3 To the extent that the Services are associated with the Customer providing sponsorship to any aspect of AFC pursuant to a Sponsorship Arrangement, each Party hereby grants to the other a non-exclusive licence to use the Intellectual Property Rights in that Party's Branding to the extent required for the provision and promotion of specific Services in accordance with the Sponsorship Arrangement Order and any Specification. Use of AFC's Intellectual Property Rights for this purpose are subject to the Sponsorship Terms set out in the Schedule.

6.4 The Customer shall not sub-license, assign or otherwise transfer the rights granted in Clauses 6.2 and 6.3.

6.5 The Customer grants AFC a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to AFC for the term of the Contract for the purpose of providing the Services to the Customer.

6.6 This Clause 6 does not apply where the Customer is a Consumer.

## 7 **DATA PROTECTION**

7.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. Unless the context otherwise required, terms defined in the Data Protection Legislation shall have the same meaning where used in this Clause 7.

7.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and AFC is the processor.

7.3 Without prejudice to the generality of Clause 7.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to AFC for the duration and purposes of the Contract.

7.4 Without prejudice to the generality of Clause 7.1, AFC shall, in relation to any personal data processed in connection with the performance by AFC of its obligations under the Contract:

- 7.4.1 process that personal data only on the documented written instructions of the Customer and for the reasons set out in AFC's privacy policy (<https://www.afc.co.uk/legal/>) unless he Supplier is required by applicable laws to otherwise process that personal data. Where AFC is relying on applicable laws as the basis for processing personal data, AFC shall promptly notify the Customer of this before performing the processing required by the applicable laws unless those applicable laws prohibit AFC from so notifying the Customer;
- 7.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 7.4.3 ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
- 7.4.4 not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (a) the Customer or AFC has provided appropriate safeguards in relation to the transfer;
  - (b) the data subject has enforceable rights and effective legal remedies;
  - (c) AFC complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
  - (d) AFC complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
- 7.4.5 assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 7.4.6 notify the Customer without undue delay on becoming aware of a personal data breach;

- 7.4.7 at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the agreement unless required by applicable law to store the personal data; and
- 7.4.8 maintain complete and accurate records and information to demonstrate its compliance with this Clause 7 and immediately inform the Customer if, in the opinion of AFC, an instruction infringes the Data Protection Legislation.
- 7.5 This Clause 7 does not apply where the Customer is a consumer. For information about how AFC handles Consumer personal data, consumers should refer to AFC's privacy policy found here: <https://www.afc.co.uk/legal/>.
- 8 LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**
- 8.1 The restrictions on liability in this condition 8 apply to every liability arising under or in connection with the Contract including liability in contract, delict (including negligence), misrepresentation, restitution or otherwise.
- 8.2 Neither party may benefit from the limitations and exclusions set out in this condition in respect of any liability arising from its deliberate default.
- 8.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 8.3.1 death or personal injury caused by negligence;
- 8.3.2 fraud or fraudulent misrepresentation;
- 8.3.3 (where the Customer is a Consumer) any liability which cannot be legally excluded under consumer rights legislation; and
- 8.3.4 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 8.4 Subject to Clause 8.3, AFC's total liability to the Customer shall not exceed £10,000.
- 8.5 This Clause 8.5 sets out specific heads of excluded loss:
- 8.5.1 Subject to Clause 8.3, the types of loss listed in Clause 8.5.3 are wholly excluded by the parties, but the types of loss and specific losses listed in Clause 8.6 are not excluded.
- 8.5.2 If any loss falls into one or more of the categories in Clause 8.5.3 and also falls into a category, or is specified, in Clause 8.6, then it is not excluded.
- 8.5.3 The following types of loss are wholly excluded:
- (a) loss of profits

- (b) loss of sales or business.
- (c) loss of agreements or contracts.
- (d) loss of anticipated savings.
- (e) loss of use or corruption of software, data or information.
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

8.6 AFC has given commitments as to compliance of the Services with relevant specifications in Clause 3. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

8.7 Unless the Customer notifies AFC that it intends to make a claim in respect of an event within the notice period, AFC shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or out reasonably to have become, aware of the event having occurred and shall expire one (1) month from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail. This Clause does not apply where the Customer is a Consumer.

8.8 This Clause 8 shall survive termination of the Contract.

## 9 **TERMINATION**

9.1 Without affecting any other right or remedy available to it, AFC may terminate the Contract by giving the Customer 30 days' written notice. This Clause 9.1 will not apply where the Contract relates to a Consumer purchasing Services for an individual match or hospitality event.

9.2 Except where the Customer is a Consumer, without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

9.2.1 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;

9.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

- 9.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - 9.2.4 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 9.3 Without affecting any other right or remedy available to it, AFC may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 9.3.1 the Customer fails to pay any amount due under the Contract on the due date for payment;
  - 9.3.2 any part of the Stadium is closed or otherwise unavailable, or the Services otherwise cannot be provided because of events outside of AFC's control in accordance with condition 11.1;
  - 9.3.3 the Contract might damage AFC's reputation or the reputation of the Stadium;
  - 9.3.4 the Scottish Football Association (AFC's governing body) dictates that a football match will be played, which will render the facilities unavailable, or if the scheduled match has to be played on a different date;
  - 9.3.5 the Customer breaches any of the Special Terms, including, without limitation, in relation to unacceptable behavioural standards in the Stadium or towards an employee or contractor of AFC at any time; or
  - 9.3.6 (where the Customer is not a Consumer) there is a change of control of the Customer.
- 9.4 Without affecting any other right or remedy available to it, AFC may suspend the supply of Services under the Contract or any other contract between the Customer and AFC if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in Clause 9.2.1 to Clause 9.2.4, or AFC reasonably believes that the Customer is about to become subject to any of them.

10 **CONSEQUENCES OF TERMINATION**

10.1 On termination of the Contract by the Customer:

10.1.1 the Customer shall immediately pay to AFC cancellation fees as follows:

- (a) Cancellation of single match hospitality and match day sponsorship or advertising.

56+ days prior to date of match	No charges will be incurred
42-55 days prior to date of match	25% of the total booking value.
29-41 days prior to date of match	50% of the total booking value.

28 days or less prior to date of match	100% of the total booking value.
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(b) Cancellation of seasonal hospitality packages

56+ days prior to start of season	No charges will be incurred
42-55 days prior to start of season	25% of the total booking value.
29-41 days prior to start of season	50% of the total booking value.
28 days or less prior to start of season	100% of the total booking value.

(c) Cancellation of events managed and organised by AFC (including, but not limited to, Player of the Year, Hall of Fame and AFC Golf Day).

56+ days prior to event date	60% of the total booking value
55 days or less prior to event date	100% of the total booking value

(d) Cancellation of advertising Services

Cancellation at any time	100% of the total booking value.
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(e) Cancellation of Sponsorship Arrangements (which includes, without limitation, match, match ball, programme, boot, "in safe hands" or mascot or team-lines or player sponsorship and such other sponsorship opportunities as AFC may make available from time to time).

Cancellation at any time	100% of the total booking value.
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10.2 In every case referred to in Clause 10.1, if AFC is able resell the Services, the resulting charges for those Services will be deducted from the cancellation charge. AFC will use all reasonable endeavours to resell the Services but does not undertake or guarantee that it will do so.

10.3 If the date and/or time of a football match or event changes for any reason after the fixture list is published, the Services (including any bookings) will automatically be transferred to the revised date and/or time of the fixture. If the revised date is unsuitable for the Customer, a full refund of the Charges will be arranged on request.

10.4 On termination of the Contract for any reason:

10.4.1 the Customer shall immediately pay to AFC all of AFC's outstanding unpaid invoices and interest and any cancellation fees due and calculated in accordance with the above and, in respect of Services supplied but for which no invoice has been submitted, AFC shall submit an invoice, which shall be payable by the Customer immediately on receipt; and

10.4.2 the Customer shall return all of the AFC Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then AFC may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall

be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract

- 10.5 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 10.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

## 11 GENERAL

- 11.1 **Matters beyond AFC's control.** AFC shall not be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. Such events, circumstances or causes, include (without limitation) flood, other natural disaster, epidemic, pandemic or other significant disease outbreak, strikes, collapse or damage to buildings, fire, explosion or accident, non-performance by suppliers or subcontractors, and any law or any action taken by a government, public authority or the footballing authorities.

Notwithstanding the remainder of this Clause 11.1, the Customer acknowledges that national and local regulations and/or Government guidance related to the Covid-19 pandemic may impact on AFC's ability to deliver certain Services and benefits. These restrictions may include limits on the number of permitted attendees allowed at the stadium for matches or for other Club events given the need to comply with the prevailing Covid-19 restrictions including social distancing. The parties shall regularly review the relevant Covid-19 regulations and guidance and then discuss and agree in good faith any changes that may require to be made in the delivery (timing and/or content) of the Services and benefits. The parties agree that AFC shall not be in breach of its obligations because of any delay or change in the Services or benefits provided to the extent effected by Covid-19 regulations and guidance.

### 11.2 Assignment and other dealings.

11.2.1 AFC may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

11.2.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of AFC.

### 11.3 Confidentiality.

11.3.1 Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential

information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 11.3.2.

11.3.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 11.3; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.3.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

11.3.4 This Clause does not apply where the Customer is a Consumer.

#### 11.4 **Entire agreement.**

11.4.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

11.4.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

11.4.3 Nothing in this clause shall limit or exclude any liability for fraud.

11.4.4 This Clause 11.4 does not apply where the Customer is a Consumer.

11.5 **Variation.** Except as set out in these Conditions, no amendment to the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

11.6 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

11.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause 11.7 shall not affect the validity and enforceability of the rest of the Contract.

11.8 **Notices.**

11.8.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified by the Customer and AFC.

11.8.2 Any notice or communication shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
- (c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this Clause (c), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

11.8.3 This Clause 11.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

11.8.4 Clauses 11.8.1 and 11.8.2 do not apply where the Customer is a Consumer purchasing Services. Consumers may use the following contact details to provide notices to AFC:- Aberdeen Football Club Limited, Pittodrie Stadium, Pittodrie Street, Aberdeen/AB24 5QH/ 01224 650400, feedback@afc.co.uk

11.9 **Third party rights.**

11.9.1 This Agreement does not confer on any person who is not a party to this Contract any right to enforce or otherwise invoke this Contract or any part of it under the Contract (Third Party Rights) (Scotland) Act 2017.

11.9.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

11.10 **Governing law.** The Contract, 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 Scotland.

11.11 **Jurisdiction.** Each party irrevocably agrees that the courts of Scotland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

This is the Schedule referred to in the foregoing Conditions between AFC and the Customer

## **SCHEDULE**

### **ADVERTISING TERMS**

1. The Customer will pay all production costs.
2. AFC reserves the right to withdraw an advert should there be a conflict of interest or if in AFC's opinion, an advert is liable to detrimentally affect in any way any event or the reputation of AFC or the Stadium.
3. The Contract relates to Aberdeen Football Club SPFL Premiership games held at the Stadium as well as SPFL League Cup Knock-Out matches (excluding Group Stage matches) and Scottish FA Challenge Cup matches. No other matches or events held at the Stadium are captured under the Contract.

### **HOSPITALITY TERMS**

1. The Customer will be liable for all acts or omissions of your company, party and guests.
2. AFC operates a Zero Tolerance Abuse Policy for any member of staff, including contractors engaged by AFC – full details of this policy are available at the Stadium.
3. All hospitality packages are seated within the home support areas of the Stadium. Demonstrating support for the away team will result in your full party being removed from the Stadium with no refund or compensation given. Away team colours are not permitted at all in any hospitality areas.
4. For certain games, AFC may require the lead booker to have a booking history with AFC before reservations can be accepted.
5. Under 18's may attend hospitality events at the Stadium but only when accompanied by an adult. The attendance of under 5's is at the discretion of the Stadium Manager.
6. Seasonal Hospitality Packages include all SPFL Premiership matches, League Cup Knock-Out matches (excluding Group Stage matches) and Scottish FA Challenge Cup matches that are held at the Stadium. They do not include matches in other competitions or testimonial/friendly matches held at the Stadium.
7. Where a Customer with a seasonal hospitality package wishes to allocate their package to a local charity or other organisation for a specific football match, the request should be made in writing to AFC 7 days prior to the football match. Such request shall include all details of the nominated host and other guests. Approval of the request is at the sole discretion of AFC.
8. All League Cup Knock-Out and Scottish FA Challenge Cup matches will be a two-course menu, unless otherwise stated.

9. The Customer's lead Booker is responsible for ensuring all members of their group adhere to the Stadium's rules, policies and regulations.
10. All guests must ensure that they have a valid ticket with them when attending hospitality events at the Stadium. Guests arriving without tickets or car park passes will not be able to access the Stadium or the car parks. Lost or forgotten tickets can be replaced by AFC's ticket office at an additional charge of £12.50 per ticket.
11. AFC reserves the right to eject any person from any of their premises or the Stadium, who, in their opinion is causing a nuisance or danger to any person or whose own safety is in any way compromised.
12. For hospitality packages with beverages included, a set beverage package is available, offering non alcoholic and limited alcoholic beverages. Details of the package can be obtained from AFC.
13. The Smoking, Health and Social Care (Scotland) Act 2005 and the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 are in force and, as such, staff, customers and visitors are not allowed to smoke within AFC's premises or the Stadium. The Scottish Football Association does not, under any circumstances allow "pass outs" from football stadia to smoke. The "no pass outs" rule will be strictly adhered to.
14. Hospitality packages are subject to the terms and conditions contained within the Licensing (Scotland) Act 2005. AFC reserves the right to refuse alcohol and/or to remove anyone in breach of the Licensing (Scotland) Act 2005 and/or who AFC considers is acting in an irresponsible manner.

#### **EVENT SPECIAL TERMS**

1. Successful auction bids made during AFC events are payable within 14 days of the event and are non transferable and non refundable in the event of the auction prize not being used within the timeframe stated.
2. To the extent that any AFC event takes place in a venue other than the Stadium, the Customer will also be required to comply with additional conditions or policies which are specific to that venue. To the extent that such conditions or policies apply, they will be deemed to form part of these Special Terms.
3. Additional Special Terms may apply for specific types of AFC events. Any such additional terms will be provided to the Customer prior to the conclusion of the relevant Contract.

#### **SPONSORSHIP TERMS**

1. These Sponsorship Terms apply where the Customer has entered into a Sponsorship Arrangement with AFC.
2. The Customer shall pay AFC the relevant Charges set out in the Contract in such instalments as may be set out in the Order. In return, AFC will provide the Customer with the benefits set out in the Order (the "**Sponsorship Rights**"). To the extent that the Sponsorship Rights include access to

any other AFC Services, such as hospitality or match tickets, then these Sponsorship Terms will apply in addition to any other applicable Special Terms.

3. The Customer undertakes to AFC:

- a. to exercise the Sponsorship Rights strictly in accordance with the terms of the Contract. For the avoidance of doubt, the Sponsor shall not be entitled to use or exploit any of the Commercial Rights (other than the Sponsorship Rights) in any way;
- b. it shall exercise the Sponsorship Rights strictly in accordance with the terms of the Contract. For the avoidance of doubt, the Customer shall not be entitled to use or exploit any of the Commercial Rights (other than the Sponsorship Rights) in any way, nor shall the Customer be entitled to exercise any rights in relation to AFC's manager or players except as agreed in writing;
- c. it shall not, without the prior written approval of AFC, engage in any joint promotional activity or otherwise exploit any of the Sponsorship Rights with or in connection with any third party, nor exercise the Sponsorship Rights in such a manner that confusion may arise in the minds of the public as to the identity of the person to whom AFC has granted the Sponsorship Rights;
- d. it shall not do or permit anything to be done which might adversely affect the rights of AFC in or to any of the Commercial Rights or the value of the Commercial Rights and shall provide all reasonable assistance to AFC in relation to AFC's exploitation of the Commercial Rights;
- e. it shall observe and abide by and all relevant laws and regulations which apply to the provision of sponsorship to AFC (including but not limited to the Bribery Act 2010, as amended, extended or re-enacted from time to time and specifically, it shall not exercise the Sponsorship Rights in any manner that might constitute an offence under that Act) and any rules or guidance from any relevant governing body;
- f. it shall ensure that any and all sponsorship materials are produced by the Customer are produced to AFC's corporate quality standards and are fit for their purpose;
- g. it shall only use AFC's Intellectual Property Rights and/or AFC's name as agreed in writing with AFC and will not produce merchandise, premiums or other giveaway items which feature AFC's branding or are otherwise connected with AFC, the teams or any player.
- h. it shall, at all times, comply with any provisions of the brand guidelines provided by AFC; and
- i. use of the Customer branding in accordance with the terms of this Contract shall not infringe the rights, including, the Intellectual Property Rights, of any third party.