

1. What are these Terms of Use about?

1.1 These terms of use (the "**Terms of Use**") set out how any registered user(s) acting in a business capacity, and not as individual 'consumers', ('Users') work out how much a TV production affects the environment by using Albert Carbon Footprint Calculator enabling them to view, input and/or edit data for that purpose.

1.2 The Albert Carbon Footprint Calculator is an online service made available by the British Academy of Film and Television Arts (BAFTA) with offices at 195 Piccadilly, London W1J 9LN, Registered Charity Number 216726, comprising systems, resources and on-line facilities designed by the British Broadcasting Corporation, as further modified by Sharepoint City for BAFTA, which measure the total amount of greenhouse gases emitted into the atmosphere as a direct result of making a TV production.

1.3 BAFTA may update the Terms of Use from time to time, and if so, a notice shall be published on the Albert Carbon Calculator home screen, and Emails will be sent to notify registered Users (or, if your organisation is a partner to the Albert consortium, to your SuperUser). Please review them. User agrees to be legally bound by the version of the Terms of Use is in force at the relevant time. By accepting these terms and using the Albert Carbon Footprint Calculator, you indicate on behalf of your organisation that you accept the Terms of Use and agree to comply with them. User(s)' continued use of the Albert Carbon Footprint Calculator will be deemed acceptance of any current versions to the Terms of Use. If you do not agree with the Terms of Use or any revisions, please provide feedback to Genevieve Smith [genevieves@bafta.org] before using or continuing to use the Albert Carbon Footprint Calculator.

2. Restricted Use and Intellectual Property Rights

2.1 Unless otherwise expressly agreed otherwise in writing the User accepts:

- **2.1.1** that he/she may not disassemble, decompile, reverse engineer, download, sub-license, make a derivative work from, make available to the public, alter, frame, re-brand, or change in any way any the frames, presentations, design and code of the Albert Carbon Footprint Calculator in whole or in part except to the extent permitted by law ("**Restricted Acts**");
- **2.1.2** all copyright, business confidential information and other intellectual property rights (registered and unregistered) in the data provided by the User(s) shall remain vested in the User(s); and
- **2.1.3** the Carbon Footprint Calculator on-line application and its modifications, and the names, images and logos identifying BAFTA, all Albert consortium

members, other User(s) or third parties and their products and services in the Albert Carbon Footprint Calculator are subject to copyright, design rights, trade marks and other intellectual property rights (whether registered and unregistered).

2.2 All BAFTA, other User(s) and/or Albert consortium members rights (including copyright, trade marks, patents, design rights and other intellectual property rights) in the Albert Carbon Footprint Calculator and/or content are reserved by the rights owners (whether licensed to or owned by BAFTA) and nothing in the Terms of Use operates to transfer or licence these rights.

2.3 All registered Users shall have access to view their own data only and also of any co-productions it has authorised to be seen by itself and other Users (usually where the User is a broadcaster and other Users are independent contractors). Industry-wide reporting will retain the confidentiality of all registered User's data (whether the User's own or pooled in a co-production) and shall be carried out as set out in section 7 below.

3. Conditions of Usage

3.1 Subject to the Terms of Use and the User's acceptance of and compliance with the Terms of Use, BAFTA grants the User a royalty-free, non-transferable, non-exclusive licence to use Albert Carbon Footprint Calculator tool to enable it to access, view and/or edit their greenhouse gases due to TV production PROVIDED THAT the following conditions are satisfied:

- **3.1.1** The Albert Carbon Footprint Calculator is used as for the purposes of calculating greenhouse gases and not used to create pages or services that have a similar look and feel to the Albert Carbon Footprint Calculator on any other online service;
- **3.1.2** the User registers in the BAFTA website (in accordance with clause 4);
- **3.1.3** access to the Albert carbon Footprint Calculator is made available to individuals within the User(s) organisation free of charge or, if there is a fee set by BAFTA (after launch of the Albert Carbon Footprint Calculator in October 2011) access is made available to users at the lowest cost point for access to the service. The User may not charge its operators incrementally to access any Albert Carbon Footprint Calculator service and/or otherwise directly commercialise any service relating to the Albert Carbon Footprint Calculator;
- **3.1.4** all Albert Carbon Footprint Calculator are available to all users as made available by BAFTA and the User may not create derivative or new editorial works comprising parts or edits of any Albert Carbon Calculator code, frames or copyright;
- **3.1.5** the User acknowledges that the BAFTA Albert Carbon Footprint Calculator is made available to the User 'as is' and may be affected by interruptions,

removals or temporary suspensions from time to time for operational reasons, such as maintenance, network performance and volume of use or for other necessary and reasonable purposes such as for reporting purposes (when collating pan-industry information) or in order to comply with an applicable policy or regulation;

- **3.1.6** unless expressly stated otherwise the Albert Carbon Footprint Calculator is deemed used and accessed by the User only in the United Kingdom (although parts of the production may take place overseas);
- **3.1.7** the User agrees to retain any passwords or authorisation codes secret and (where applicable) the Albert consortium member's SuperUser agrees to distribute them only to those persons within its own organisation who have been trained or instructed to input data correctly to use the Albert Carbon Footprint Calculator; and
- **3.1.8** the Albert Carbon Footprint Calculator is not used in 'Excluded productions'.

3.2 In these Terms of Use, "**Excluded Productions**" are television productions which:

- **3.2.1** contain pornography and sexually explicit content;
- **3.2.2** contain offensive text or images;
- **3.2.3** incite hatred whether based on race, religion, gender, sexuality or otherwise, or promote, encourage or facilitate anti-social behaviour;
- **3.2.4** contain gratuitous violence or promote, encourage or facilitate violence;
- **3.2.5** promote, encourage or facilitate terrorism or other activities that risk national security;
- **3.2.6** discriminate against any specific social group or otherwise exploit vulnerable sections of society;
- **3.2.7** promote, facilitate or encourage illegal activity;
- **3.2.8** are misleading, defamatory, or that contain illegal, or otherwise actionable content under UK law;
- **3.2.9** infringe individual privacy (by illegally disclosing protected personal data);
- **3.2.10** put the welfare of children at risk;
- **3.2.11** promote the tobacco industry or the armaments industry (including gun clubs); and
- **3.2.12** might be perceived as damaging BAFTA's reputation;

This list is not exhaustive and may be amended by BAFTA from time to time as a change to the Terms of Use.

4. BAFTA Albert Carbon Footprint Calculator referrals and credits

4.1 If you use data collated from the BAFTA Albert Carbon Footprint Calculator on a broadcast or published webpage, you must give the BAFTA Albert Carbon Footprint Calculator credit in one of the following forms in a reasonably prominent location on your broadcast or published webpage:

- **4.1.1** "Source – BAFTA Albert Carbon Footprint Calculator -; or
- **4.1.2** "Data results obtained by using the BAFTA Albert Carbon Footprint Calculator.

4.2 If you publish data processed using the BAFTA Albert Carbon Footprint Calculator you must provide a functional hyperlink back to the location of the BAFTA Albert Carbon Footprint Calculator (such as <http://www.bafta.org/the-academy/sustainability/an-introduction-to-albert,1979,BA.html>) If it is not technically possible to provide such link, a credit as indicated in clause 4.1 will be sufficient.

5. Announcements, advertising, sponsorship and marketing

5.1 The User will not cause or permit any advertising, sponsorship or marketing to be displayed on any User's product or service, broadcast or online publication in such a way so that it is associated directly with the BAFTA Albert Carbon Calculator or any BAFTA services unless otherwise authorised in writing.

5.2 The User will not claim nor imply that it has an exclusive relationship with BAFTA; that it offers exclusive access to third parties; or that BAFTA endorses any of the User's products or services.

5.3 The User shall only issue any press release or make any other public announcement of its use of the BAFTA Albert Carbon Footprint Calculator only while it remains a registered user.

6. Costs and charges

6.1 Save as expressly set out in the Terms of Use, the registered user will meet its own costs of performing their respective calculations and use of the BAFTA Albert Carbon Footprint Calculator.

6.2 Use of the BAFTA Albert Carbon Footprint Calculator shall be closest to the lowest income point model, and is forecast to be free-of-charge during the first year of service.

6.3 All User's costs associated with the use of the Albert Carbon Footprint Calculator under this Agreement shall be responsibility of the User. Unless otherwise agreed in writing, BAFTA shall have no liability or obligation to pay any sums regardless of the nature of any expenditure or liability incurred by the Company.

6.4 The User shall be responsible for ensuring any Microsoft Sharepoint (or any other) licenses it requires are in place before using the Albert Carbon Footprint Calculator.

7. Industry Reporting

7.1 BAFTA shall name and commission an independent expert, who subject to stringent confidentiality agreements shall be able to collate registered user's data and publish industry-wide reports in a strictly anonymised form. Data used by the independent expert may include numbers of vehicles, lamps, distance travelled and other information but will not include any business confidential data such as the name of the production or any data subject to applicable data protection or data security laws, and will not identify any third parties.

8. User Obligations

8.1 The User(s) declares that:

- **8.1.1** it has the full right, to provide broadcast production data;
- **8.1.2** it will comply with all applicable laws and regulations;
- **8.1.3** it can enter into and will comply with its obligations, under the Terms of Use;
- **8.1.4** it will ensure that the data provided to the BAFTA Carbon Footprint Calculator is accurate;
- **8.1.5** it will ensure that any production data is kept reasonably up-to date;
- **8.1.6** it will not use the BAFTA Carbon Footprint Calculator to provide access to third parties who are not registered users
- **8.1.7** it shall keep passcodes and other confidential information confidential and not share or use it other than for the purposes of calculating a TV production and/or an organisation's carbon footprint.

8.2 Except as expressly provided in the Terms of Use, neither party makes to the other any representations nor gives to the other any warranties (whether express or implied) to the extent permitted by applicable laws.

8.3 The User agrees to supply the production data in good faith and technical standards mutually agreed, using personnel who have the knowledge necessary to provide accurate information and to supply the data so that it is compatible with the classification categories establishes in the Albert Carbon Footprint Calculator.

8.3 No casual or inadvertent failure by the User to supply the production information and no failure of persons other than the User to comply with the provisions of the Terms of Use shall constitute a breach of this agreement.

9. No performance warranty

9.1 The BAFTA Carbon Footprint Calculator including the on-line application and service information, names, images, pictures, logos and icons are provided "as is" and on an "as available" basis. To the extent permitted by law, BAFTA excludes all representations and warranties (whether express or implied by law), including the implied warranties of satisfactory quality, fitness for a particular purpose, compatibility, security and accuracy. BAFTA does not guarantee the timeliness, completeness or performance of the BAFTA Carbon Footprint Calculator or any industry data compiled therewith.

9.2 BAFTA does not warrant that the provision of services will be uninterrupted or error free, that defects will be corrected or that the BAFTA Carbon Footprint Calculator is free of viruses or bugs. The User acknowledges that it is its responsibility to implement sufficient procedures and virus checks (including anti-virus and other security checks) to satisfy its particular requirements for the accuracy of data input and output.

10. Limitation of Liability

10.1 Parties accept that the system and data are made available on an "as-is" and on an "as available" basis. Accordingly, to the extent permitted by law, each party excludes all liability for any loss or damage howsoever arising out of or in connection with the Terms of Use, including but not limited to any liability arising in relation to the BAFTA Carbon Footprint Calculator, the original application or any modifications leading to the BAFTA Carbon Footprint Calculator, or any virus or other contamination or any unavailability of BAFTA Carbon Footprint Calculator. In addition, neither party will be liable to each other for indirect, punitive or exemplary damages arising out of or in connection with the User's use of the BAFTA Carbon Footprint Calculator and specifically in relation to:

- **10.1.1** negligence;
- **10.1.2** loss of data;
- **10.1.3** loss of revenue or anticipated profits;
- **10.1.4** loss of business;
- **10.1.5** loss of opportunity;
- **10.1.6** loss of goodwill or injury to reputation;
- **10.1.7** losses suffered by third parties; or

10.2 Nothing in the Terms of Use limits or excludes either party's liability for:

- **10.2.1** death or personal injury caused by its negligence;
- **10.2.2** fraud or fraudulent misrepresentation; or
- **10.2.3** any other liability which cannot be excluded or limited under applicable law.

11. Force Majeure

11.1 Neither party will be in any way liable to the other for any delay or failure in performance which is due to a so-called act of God, strike or other official or unofficial labour dispute, union action, riot or civil commotion or any other cause outside its reasonable control, including (without limitation) directives from the DCMS or OFCOM or other government or regulatory body.

12. Suspension and Termination

12.1 BAFTA may suspend User's access to the BAFTA Carbon Footprint Calculator for any breach of these Terms of Use by providing 7 days notice (such notice will be waived in cases of breach of confidentiality obligations). If such breach is not cured within 30 days or is not capable of being cured then BAFTA may terminate User's access to the BAFTA Carbon Footprint Calculator.

12.2 The User may terminate the Terms of Use at its sole discretion without cause at any time with immediate effect by ceasing to use the BAFTA Carbon Footprint Calculator, however any data provided by the User shall be retained in anonymised form for data gathering in relation to statistics for the broadcast industry. User access keys and productions will only be made available to the independent industry expert.

12.3 On the termination of the Terms of Use, all data provided by the User that is not anonymised shall be returned in a downloadable file and BAFTA will cease immediately any use of that information.

13. General provisions

13.1 The Terms of Use will be governed by the laws of England and Wales and both parties submit to the exclusive jurisdiction of the courts of England and Wales in the event of any claim or dispute in connection with the Terms of Use. Nothing in the Terms of Use will be construed as creating a partnership, joint venture or agency relationship between BAFTA and the User. Any failure or delay by BAFTA in exercising its rights under any provisions of the Terms of Use will not be construed as a waiver of those rights. The Terms of Use do not create or confer any rights on third parties under the Contracts (Rights of Third Parties) Act 1999 (as may be amended or replaced). The Terms of Use are personal to the User and will not be assigned or otherwise transferred in whole or in part by the User. If any part of the Terms of Use is proven to be invalid, unenforceable or illegal, the other provisions will remain in force. The Terms of Use, including any additional terms as may be issued from time to time, supersede all prior agreements and understandings between the parties concerning its subject matter and constitutes the entire agreement between the parties.

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