

Project Canvas: Shareholders' Agreement - Overview of Structure and Terms

Shareholdings

- One class of voting share
- On start up each member takes an equal proportion of voting shares (and therefore an equal proportion of voting rights and funding commitment)
- Post start up changes in membership or reduction in voting shares held will impact all other members on a pro rata basis
- New entrants issued with number of shares held by other members (ignoring shares acquired or disposed of pursuant to pre-emptive offers)

Objects and Admission Criteria - see appendix

Funding

- 4 year commitment to fund as per initial business plan. Budgets produced annually
- Annual budgets in years 1 to 4 (if no excess funding requirement) require shareholder majority approval as to costs allocation only
- Post year 4 annual budgets require super majority approval (i.e. approval of all but one), failing which previous budget rolls forward
- Funding in excess of business plan or (if no business plan) previous annual budget requires approval by a super majority. Dissenting member not forced to spend more but diluted; can step up in following year.
- Funding provided by way of annual loan with draw down dates set out in annual budget - quarterly or as otherwise decided by Board
- Member can opt after year 4 to scale down funding commitment (and therefore voting rights) subject to approval by a super majority

Decision Making

- Board has responsibility for supervision and management of company subject to reserved and super majority matters
- Each director has number of votes exercisable by appointing shareholder
- Reserved matters require unanimous shareholder approval and are limited to changes to fundamental constitutional matters. Failure to agree in years 1 to 4 results in matter not being transacted. Post year 4 deadlock resolution process to be specified will apply
- Super majority matters require approval of all but one shareholder and are limited to changes to business plans, budgets, share structure and borrowing. Dissenting member not forced to spend more but diluted; can step up in following year.

Exit

- Voluntary exit only after year 4
- Compulsory exit in years 1 to 4 and after for material breach including failure to comply with ongoing assessment, funding obligations and insolvency
- On exit other members have opportunity to take up shares (with accompanying voting rights and funding commitments, failing which shares convert to deferred shares (no voting rights). A good leaver retains same rights as voting shares on a liquidation event (sale etc) and its loans remain payable.

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Appendix

Admission Criteria to be applied by the Canvas Board:

Admission Criteria (to be applied by Canvas Board)

1. Subject to paragraph 2 below, the Board will assess whether, notwithstanding the applicant's other business interests, the applicant would be of benefit/make a positive contribution to the venture as a whole. In making this assessment, the Board will determine whether the applicant:

- a. demonstrates an ability to fulfil the commercial objects of the JV ;
- b. will commit (i) to spending a reasonable proportion of its own marketing budget to promoting Canvas and (ii) to affording Canvas effective prominence within such marketing, where "reasonable proportion " and "effective prominence" will be determined by reference to a comparable existing shareholders' own Canvas marketing commitments in place at the time of admission .
- c. has sufficient financial resources to meet any obligations as a shareholder (as anticipated by the business plan and shareholders' agreement);
- d. is willing to make a commitment to fund the JV according to the agreed basis of its contribution from time to time;

Where the Board determines that these criteria have been met then the applicant will be eligible to become a shareholder in the Company upon the terms and conditions of the Company's shareholders' agreement in force at the time of application.

2. The Board will not consider any new applicants where it reasonably determines that the addition of any new members to the Company would undermine the operational efficiency or viability of the Company or its operations.

It is proposed that the board continually assess whether a shareholder meets these criteria whilst being a shareholder and if the board resolves (by super majority, excluding the relevant shareholder from the quorum) that they fail to do so, that shareholder will be expelled.

Canvas Vehicle- Draft Commercial Objects Clause

(Note this Schedule is subject to further revision particularly in light of the outcome of the BBC Trust approval process.)

[] The Company has been established to help develop, support and promote (i) a common technical standard for internet connected television devices (the “Common Technical Standard”) and (ii) a common user interface (the “Common UI”), and to co-ordinate through participation in the Company of those entities interested in supporting and promoting the Common Technical Standard and Common UI who meet the Company’s Admission Criteria (as set out in []) for participation in the Company. The Company will expressly acknowledge the role of the DTG (or any similar successor organisation) in developing and maintaining the Common Technical Standard for relevant devices.

[] All activities carried out by the Company will comply with the requirements of the European Union and United Kingdom law and regulation.

Accordingly, the objects for which the Company is established are:

[].1.1 Development and Promotion of Common Technical Standard: to develop and promote the Common Technical Standard for internet connected devices to provide an upgrade path in conjunction with relevant bodies, including, without limitation, the DTG. The Company will promote the Common Technical Standard to the broadest UK customer market possible.

[].1.2 Wide Choice of Content Offering: to offer UK audiences a wide choice of catch-up, VOD and linear television along with interactive and web content, as part of a new hybrid platform which enables both free and pay services.

[].1.3 Promotion of Broadband and PSB Content: to promote, develop and enhance take-up of broadband services and the availability of Public Service and other Broadcast content in the UK.

[].1.4 Horizontal Approach to Device Market: The Company will maintain a standardised and horizontal approach to the application of the Common Technical Standard in the device market, for example through participation in the activities of the DTG.

[].1.5 Audience Experience and Minimum Quality Standard: to ensure the appropriate quality of audience experience, including ease of navigation, and content discovery and a high TV quality video experience for long form content through policies set out in the Common Technical Standard and the Minimum Quality Standard (as adopted by the Company from time to time). The Minimum Quality Standard will be defined in output terms as being that which delivers a similar consumer experience to that of watching a standard definition channel on Freeview.

[].1.6 Common UI: to ensure a Common U I (including an Electronic Programme Guide) for inclusion within all receiving devices in accordance with such EPG and UI Policy as the Company may be required to adopt pursuant to existing or future applicable regulation .

[].1.7 Marketing and Promotion of Canvas Standards: to promote awareness generally of and to market and promote the Common Technical Standard and the Common UI and the availability (and accessibility from ISPs) of services through, inter alia, marketing and promotional campaigns in accordance with such Marketing Policy as may be adopted by the Company from time to time ;

[].1.8 Brand: to develop and promote the Canvas brand, which may include licensing of the Canvas trademark to set top box manufacturers;

[].1.9 Management of EPG: the management of EPG listings compliance with such EPG and UI Policy as the Company may be required to adopt pursuant to existing or future applicable regulation;

[].1.10 Data: the collection and use of data complying at all times with all applicable data protection legislation ; and

[].1.11 Cost Recovery: to develop ways in which the Company can recover certain operational costs which shall include, without limitation, charging for EPG listings, licensing of the Canvas trademark and any possible commercial exploitation of data.