



ITV CREATIVE PARTNERSHIPS TERMS AND CONDITIONS

1 DEFINITIONS AND INTERPRETATION

- 1.1 This “**Agreement**” comprises the Deal Terms, together with these “**Terms and Conditions**”, including the Glossary attached at Schedule 1 and any Specific T&C Schedules referred to in the Deal Terms.
- 1.2 In the event of any conflict between these Terms and Conditions, the Deal Terms and any Specific T&C Schedules, the Deal Terms shall take precedence, followed by the Specific T&C Schedules and then the Terms and Conditions.
- 1.3 In this Agreement:
 - 1.3.1 words and expressions shall have their ordinary meaning unless defined in the Deal Terms, these Terms and Conditions or the Glossary attached at Schedule 1;
 - 1.3.2 references to clauses and sub-divisions of them in these Terms and Conditions are references to the clauses of these Terms and Conditions and sub-divisions of them respectively unless otherwise stated;
 - 1.3.3 references to any statute or statutory provision or regulatory code of practice shall include reference to any statute or statutory provision or regulatory code of practice which amends, extends, consolidates or replaces the same and shall include any directions, orders, regulatory codes of practice, instruments or other subordinate legislation made under any relevant statute or statutory provision;
 - 1.3.4 references to a person shall include any individual, company, corporation, firm, partnership, joint venture, association, organisation, institution, trust or agency whether or not having a separate legal personality;
 - 1.3.5 references importing a particular gender include all genders and references importing the singular include the plural and vice versa;
 - 1.3.6 the word 'or' shall be disjunctive but not exclusive;
 - 1.3.7 any phrase introduced by the terms 'including' or 'in particular', or any cognate expression, shall be construed as illustrative and not limiting of any preceding words;
 - 1.3.8 any reference to “a party” or “parties” shall mean a party or the parties to this Agreement unless otherwise stated; and
 - 1.3.9 headings and sub-headings are inserted for convenience only and shall be ignored in construing this Agreement.

2 SERVICES AND PAYMENT

- 2.1 In consideration for ITV providing the Services and Deliverables, the Client, either directly or via the Client's Agency as set out in the Deal Terms, undertakes and agrees to pay to ITV: (a) the Fee in accordance with the Payment Terms; and (b) the Agreed Expenses (if any), in accordance with the Payment Terms.
- 2.2 The Client enters into this Agreement as principal in all respects. As such, the Client shall be liable for the payment of all sums due and owing in accordance with this Agreement.
- 2.3 If the Client fails to pay any amount due and payable by it under this Agreement the Client shall pay interest on such overdue amount from the due date until the date the actual payment is received, at a rate of three per cent (3%) above the base rate for the time being of Barclays Bank Plc per annum.
- 2.4 The Client may not for any reason withhold any payment to ITV or make any deduction from amounts payable to ITV or set off any amounts payable from ITV against payments payable to ITV.
- 2.5 The payments payable under this Agreement shall be exclusive of any applicable VAT which shall be payable in addition subject to receipt of a valid VAT invoice.

- 2.6 To the extent commission applies, ITV and the Client acknowledge that for the purposes of standard industry practice the Fees represent the 'net' value of the Services under this Agreement and exclude commission for the Client's Agency. The Client acknowledges and agrees that ITV is in no way liable for the payment of any commission to the Client's Agency or otherwise and that if the Client's Agency fails to perform any relevant obligation under this Agreement on the Client's behalf (including without limitation paying the Fees) then the Client shall remain liable for the full performance of such obligation.

3 PRODUCTION OF THE DELIVERABLES AND THE APPROVALS PROCESS

- 3.1 Without prejudice to any of the Client's other obligations, where ITV is providing Deliverables to the Client, the Client will:
- 3.1.1 ensure that the Client Contact (or other nominated contact with final authority to approve) will be available in order to provide any necessary approvals to the Deliverables that are set out in the Deal Terms;
 - 3.1.2 be responsible for working with ITV and representatives of the Client's Agency respectively, to manage compliance, technical/quality control checks and any approvals set out in the Deal Terms;
 - 3.1.3 provide all relevant Client Materials, and such reasonable assistance as ITV may require, to ITV in a timely manner for the purposes of providing the Services and Deliverables, including all graphics, assets, and sign off on all of these;
 - 3.1.4 ensure that any Talent, extras or personnel the Client is providing will be present at such locations as advised by ITV, when ITV requires them for filming for the Deliverables; and
 - 3.1.5 except as expressly stated otherwise in the Deal Terms, be responsible for all contractual arrangements with any Talent including obtaining the relevant consents for inclusion of their contribution in the Deliverables and the exploitation of the Deliverables as permitted in this Agreement.
- 3.2 Without in any way limiting the Client's liability, ITV reserves the right to reject any Client Materials which, in ITV's opinion, are not compliant with Relevant Laws & Codes or do not comply with ITV's technical or creative specifications, or which would cause ITV to breach any statutory or regulatory duty, or to infringe a third party's Intellectual Property Rights or other rights.
- 3.3 Unless otherwise stated in the Deal Terms, any music contained within any Deliverables shall be library music.
- 3.4 Upon receipt of the Deliverables, the Client shall confirm in writing (which may be by email) to ITV that it has received such Deliverables.
- 3.5 The Client hereby acknowledges the timing requirements within the Approvals Process and shall comply with the Approvals Process. The Client agrees and acknowledges that a failure to adhere to the Approvals Process, any agreed timescales, or the obligations on the Client pursuant to this Agreement may result in additional costs being incurred (which will be deemed Agreed Expenses) and/or in delays to delivery or a reduction in the number of Deliverables and/or Services. In each such case, neither ITV nor its subcontractors shall be liable in any way for any such delay or reduction or failure.

4 WARRANTIES

- 4.1 Each party warrants, undertakes and agrees to the other party that it:
- 4.1.1 has the full authority to enter into and perform this Agreement and that it is not bound by any previous agreement which adversely affects this Agreement;
 - 4.1.2 has put in place and shall maintain throughout the term of this Agreement all processes, procedures and compliance systems to ensure that Modern Slavery, Bribery or Tax Evasion does not occur within its business or down its supply chain;

- 4.1.3 shall and shall procure that all persons associated with it shall comply with all applicable laws relating to Bribery, Modern Slavery or Tax Evasion;
- 4.1.4 shall not engage in any activity, practice or conduct which would constitute Bribery, Modern Slavery or Tax Evasion; and
- 4.1.5 shall inform the other party if Bribery, Modern Slavery or Tax Evasion has occurred, or it has reasonable cause to believe any have occurred, in connection with the Services being provided pursuant to this Agreement.

4.2 ITV warrants, undertakes and agrees that:

- 4.2.1 save in respect of: (i) the Client Materials; (ii) any music that is subject to the provisions of paragraph 3.4 of Schedule 4; and (iii) otherwise as expressly provided for in this Agreement, it shall obtain and maintain all necessary consents, licences, permissions, and clearances (including paying any payments, royalties or fees) in order to supply the Deliverables and so that the Client and its authorised third parties may use or exploit the Deliverables for the Permitted Uses; and
- 4.2.2 save in respect of: (i) the Client Materials; and (ii) any music that is subject to the provisions of paragraph 3.4 of Schedule 4, use of the Deliverables as contemplated hereunder will not violate, misappropriate or infringe the rights of any third parties.

4.3 The Client warrants, undertakes and agrees that:

4.3.1 in relation to the Client Materials:

- 4.3.1.1 it is the sole owner of them and is not bound by any previous agreement which adversely affects this Agreement;
- 4.3.1.2 it has the full authority to authorise ITV, its Affiliates and any third party rightsholders to use the Client Materials as contemplated under this Agreement and such use will not violate, misappropriate or infringe the rights of any third parties;
- 4.3.1.3 it shall obtain and maintain all necessary consents, licences, permissions, and clearances (including paying any payments, royalties or fees) to the Client Materials necessary for ITV and its subcontractors to supply the Deliverables or Services and perform and comply with its obligations hereunder and so that the Client and its authorised third parties may use or exploit the Deliverables and the Services as contemplated by this Agreement;
- 4.3.1.4 they comply at all times with Relevant Laws & Codes and shall not put ITV or the relevant television network operated by ITV or its Affiliates, or any operator of the Platforms in breach of Relevant Laws & Codes;
- 4.3.1.5 they do not contain:
 - 4.3.1.5.1 and (where applicable) any Client platforms, do not contain, any material which is in any way defamatory, obscene, pornographic, unlawful, harmful, offensive or inappropriate;
 - 4.3.1.5.2 viruses, bugs, worms, trojan horses, harmful or malicious code or any other form of defect or contaminant which could cause temporary or permanent damage to or will otherwise impair or harm or cause the malfunction of the software or hardware of ITV or any third party;
 - 4.3.1.5.3 references to, or logos or representations of, (whether spoken in text or picture form) any entity other than the Client. For the purposes of this clause, any subsidiaries of the Client, parent company of the Client or other divisions within the Client shall be deemed to be entities which are not the Client;

- 4.3.2 use of the Deliverables shall be subject to and comply with any restrictions on use set out in the Deal Terms, confirmed via the Approvals Process or otherwise notified by ITV to the Client; and

- 4.3.3 it shall at all times comply with all Relevant Laws & Codes when exploiting the Licensed Rights.

5 INTELLECTUAL PROPERTY RIGHTS

- 5.1 All Intellectual Property Rights in or to the Deliverables (save for any Client Materials incorporated in the Deliverables) shall belong to and vest in ITV for the full period of such rights for all purposes including exploitation of the Deliverables in all media whether now known or hereafter invented or devised, together with all rights of action (including the right to sue for past infringements), powers, and benefits belonging to or accrued to such rights.
- 5.2 ITV hereby grants the Client a licence to use the Deliverables solely to the extent necessary to exercise its rights under this Agreement subject to any restrictions on third party materials within the Deliverables which ITV may specify from time to time. The Client shall not use the Deliverables otherwise than in accordance with this clause **Error! Reference source not found.** Nothing contained in this Agreement will be deemed to grant to the Client any right, title or interest in or under any Background IPR, except as expressly provided in this Agreement.
- 5.3 The Client hereby grants ITV a worldwide, royalty-free, sub-licensable licence to use the Client Materials for the Term for the purpose of applying the same to, or otherwise incorporating the same into and producing the Deliverables and providing the Services. On expiry or termination of this Agreement ITV shall not be required to take down any Client Materials which ITV has agreed to put on social media channels operated by members of the ITV Group (if applicable) (and this licence shall survive in respect of the same).
- 5.4 The Client hereby waives or shall procure the waivers of all moral rights in relation to the Client Materials to enable ITV and its subcontractors to perform its obligations under this Agreement and to enable the exploitation of the Deliverables as contemplated in this Agreement.

6 INDEMNITY

The Client will indemnify on demand and hold harmless the ITV Group and each of its associates, officers, directors, employees, agents, shareholders and partners from and against any and all losses, actions, proceedings, costs (including reasonable legal fees), damages, expenses, penalties, claims, demands and liabilities suffered or incurred by the ITV Group arising: (i) from any breach of the representations, warranties and undertakings set out in this Agreement (whether foreseeable or unforeseeable); or (ii) as a result of the use, recording, transmission, or broadcasting of the Programme(s) incorporating any Client Materials.

7 INSURANCE AND LIABILITY

- 7.1 Without limiting its liability under this Agreement, the Client shall obtain adequate insurance cover at its own expense in respect of any liability to the public at large that may be incurred by ITV or the Client in connection with this Agreement.
- 7.2 Nothing in this Agreement shall limit either party's liability for death or personal injury resulting from its negligence or for fraud or for any other liability which may not be excluded or limited as a matter of law.
- 7.3 Subject to clause 7.2, and without in any way limiting the liability of the Client to ITV in respect of payment of the Fees and/or pursuant to clause 6 above, neither party shall be liable to the other, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any indirect or consequential losses or damages (unless expressly stated otherwise) arising in connection with any of the following:
 - 7.3.1 loss of profit;
 - 7.3.2 loss of opportunity;
 - 7.3.3 loss of goodwill; or
 - 7.3.4 loss of business.
- 7.4 Subject to clauses 7.2 and 7.3 the aggregate liability of ITV howsoever arising from or in connection with this Agreement or the supply or use of the Deliverables or Services (whether for breach of contract, negligence, misrepresentation (except fraudulent misrepresentation) or otherwise) shall not in any

circumstances exceed an amount equal to the Fees paid by the Client and received by ITV (in cleared funds) under this Agreement.

8 TERM AND TERMINATION

- 8.1 This Agreement shall remain in force for the period of the Term, unless terminated earlier in accordance with its terms.
- 8.2 Either party shall be entitled to terminate this Agreement forthwith by giving written notice to the other party at any time if:
 - 8.2.1 the other party breaches any of the material terms and conditions of this Agreement, provided that where the material breach is capable of remedy, the defaulting party fails to remedy such material breach within 7 days of being notified of such breach; or
 - 8.2.2 the other party shall pass a resolution for winding-up or a court shall make an order to that effect, or any petition to wind up the company is presented, or (being a partnership) shall be dissolved, or if the other party shall cease, or threaten to cease, to carry on its business or substantially the whole of its business, or become or are declared Insolvent or commit any act of bankruptcy or convene a meeting of or make or propose to make any arrangement or composition with its creditors or if a liquidator, receiver, administrator, trustee, manager or similar officer is appointed in respect of any of that party's assets or any analogous step is taken in connection with the other party's insolvency, bankruptcy or dissolution.
- 8.3 Without prejudice to ITV's rights pursuant to clause 8.2 above, ITV shall be entitled to terminate this Agreement:
 - 8.3.1 immediately, if the Client fails to make any payment when due in accordance with the terms of this Agreement;
 - 8.3.2 by giving one week's written notice to the Client in the following circumstances:
 - 8.3.2.1 any breach by the Client of clause 4.3.1;
 - 8.3.2.2 any breach by the Client of paragraph 2.8 of Schedule 3; and/or
 - 8.3.2.3 if production or transmission of the Programme(s) is cancelled or suspended for any reason, provided that one week's notice is possible (otherwise ITV shall be entitled to terminate this Agreement by giving to the Client such notice as is reasonably practicable).
- 8.4 In the event of termination or expiry:
 - 8.4.1 ITV shall cease production, performance and other preparations of work in respect of the Services or Deliverables (as applicable);
 - 8.4.2 all rights and licences granted pursuant to this Agreement shall cease (except for those which shall continue to exist in accordance with clause 8.5), provided that if the Usage Term (as set out in the Deal Terms) is longer than the Term in the event of termination by the Client, the Deliverables which have been created to that point shall be delivered to the Client and the Client shall continue to be able to use the Deliverables until the end of that Usage Term;
 - 8.4.3 the Client shall pay to ITV: (a) all costs (including any Agreed Expenses) incurred or irrevocably committed by ITV prior to the date of termination; and (b) a pro-rated Fee in respect of the Services and Deliverables provided prior to the date of termination (such Fee to be determined by ITV acting reasonably and in good faith); and
 - 8.4.4 the Client shall at its own expense, and within fifteen (15) Business Days, return or otherwise dispose of in accordance with the directions and sole discretion of ITV all remaining physical products created pursuant to this Agreement in its possession or control; and all records and copies of: (a) the Copyright Material listed as Licensed Property in the Deal Terms; (b) Promotional Material; and (c) Confidential Information in its possession or communicated to it by ITV, either preparatory to, or as a result of, this Agreement to the extent such material remains confidential.

- 8.5 Termination of all or part of this Agreement shall not affect any accrued rights or liabilities nor the coming into force of this Agreement or any terms of this Agreement which expressly or by implication are intended to come into or continue in force by or on or after such termination.

9 **SUSPENSION OF SERVICES AND/OR REMOVAL OF DELIVERABLES**

- 9.1 ITV shall have the right at any time by giving notice in writing (which may be by e-mail) to the Client to withdraw the Deliverables (or any part thereof) from this Agreement if in the reasonable opinion of ITV, the Deliverables (or any element thereof) become unavailable for distribution due to (i) actual or threatened litigation relating to the Deliverables; (ii) non-payment by Client; or (iii) any reason beyond ITV's control. Such notice of withdrawal shall be given as far in advance as reasonably possible. Following the receipt of such notice of withdrawal, the Client agrees to immediately withhold the release of or withdraw from distribution any affected Deliverables and confirm in writing to ITV (which may be by e-mail) that such Deliverables have been withdrawn. ITV may (in its sole discretion) either provide replacement Deliverables or refund the Client part of the Fee on a pro-rata basis (based on the amount of Deliverables withdrawn).
- 9.2 Without prejudice to ITV's rights pursuant to clause 8, which for the avoidance of doubt shall be exercisable at any time, ITV shall have the option (at its sole discretion) to suspend providing the Services or Deliverables (as applicable) for a total of up to twenty (20) Business Days by providing written notice to the Client if any of the following events occur:
- 9.2.1 the Client fails to pay any part of the Fee in accordance with the Payment Terms set out in the Deal Terms;
 - 9.2.2 ITV determines, acting reasonably, that continuing to work with the Client to provide the Services or Deliverables (as applicable) would be detrimental to the reputation of ITV, ITV Group or its Affiliates;
 - 9.2.3 ITV has reason to believe a breach of Data Protection Laws has occurred; or
 - 9.2.4 ITV has reason to believe a breach of third party Intellectual Property Rights has occurred.

For the avoidance of doubt, the number of times that ITV can suspend providing the Services or Deliverables in these circumstances is not limited.

- 9.3 Where ITV is providing any Digital Deliverables as set out in the Deal Terms, ITV shall have the right, at any time, to remove any of the Client Materials and/or deactivate any Links once live from any platforms including the Platforms if ITV determines, in its sole discretion, that the Client Materials or any part of them breach the then applicable technical or creative specifications or editorial policy of ITV or any third party platform provider or any Relevant Laws & Codes, or would or might cause ITV or any platform provider to breach any statutory or regulatory duty, or to infringe or possibly infringe a third party's Intellectual Property Rights or other rights.
- 9.4 Any social media activity that ITV may commit to do in the associated Deal Terms shall be subject to all Relevant Laws & Codes and the third party terms that govern the relevant social media platform. ITV shall have full editorial control over any such social media activity via social media accounts operated by any member of the ITV Group (or its licensors). Notwithstanding anything else in this Agreement, ITV shall not be in breach of this Agreement and shall have no liability whatsoever to the Client for the removal of and/or amendment to any social media activity and content to the extent that ITV is complying with any request by a social media platform.

10 **MARKETING AND CONFIDENTIALITY**

- 10.1 Each party undertakes to use the other party's Confidential Information only for the purposes of fulfilling its obligations under this Agreement and agrees to keep confidential and not to disclose to any person any Confidential Information without the prior written consent of the disclosing party except as permitted by this Agreement.

- 10.2 The receiving party may disclose or permit the disclosure of Confidential Information: (a) to persons employed or engaged by it only to the extent necessary to enable them to perform or cause to be performed or to benefit from or enforce any of its rights or obligations under this Agreement, and provided that the receiving party shall ensure that all such persons shall comply with these confidentiality obligations in the same manner as if they were the receiving party; or (b) when required to do so by law, regulation, court order or by the listing rules of any relevant stock exchange, provided that the receiving party shall notify the disclosing party of any required disclosure as soon as reasonably practicable in the circumstances if permitted to do so and shall take reasonable action to avoid or limit such disclosure.
- 10.3 The provisions of this clause 10 shall not prevent the receiving party from disclosing any information which: (a) is or subsequently comes into the public domain other than as a result of a breach of this clause 10; or (b) was independently developed by the receiving party; or (c) was received from a third party which was free to divulge such information.
- 10.4 The parties agree that damages alone may not be an adequate remedy for the breach of this clause 10 and without prejudice to any other rights and remedies it may have, the disclosing party shall be entitled to seek equitable relief (including injunctive relief) concerning any threatened or actual breach of any of the provisions of this clause 10.
- 10.5 ITV (and its subcontractors (if any)) shall be entitled to make public the fact that it has undertaken work for the Client and to use the Deliverables (or extracts from the Deliverables) for reasonable promotional and marketing purposes.
- 10.6 Neither party shall use nor refer to the name, trademarks or logos of the other (or its subcontractors (if any)) in connection with this Agreement or in any publicity, advertisement or other disclosure in relation to the same (except to the extent included within the Deliverables and/or Services or as expressly permitted herein) without the other party's prior written approval, not to be unreasonably withheld or delayed, except as required by law or by any legal or regulatory authority.

11 DATA PROTECTION

- 11.1 This Agreement allocates certain rights and responsibilities among the parties as enforceable contractual obligations between themselves, however nothing in this Agreement is intended to limit or exclude either party's responsibilities or liabilities under Data Protection Laws (including under Article 82 of the UK GDPR and the duties owed by each party to Data Subjects under any Data Protection Laws).
- 11.2 Based on the nature of the Services and/or the Deliverables (as applicable), the parties acknowledge and agree that each party is an independent Controller for any Personal Data that is shared. If and to the extent that the parties determine that the relationship between them is not one of separate and independent Controllers because it is between Joint Controllers, or between one or more Controllers and one or more Processors, then they will cooperate in agreeing and documenting appropriate arrangements for that other relationship or those other relationships.
- 11.3 Each party is separately responsible for complying with its own respective obligations under Data Protection Laws and commits that it shall do so including:
 - 11.3.1 ensuring that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful Processing of Personal Data against accidental loss or destruction of or damage to Personal Data;
 - 11.3.2 having in place a lawful basis under Article 6 of the UK GDPR for the processing of Personal Data by it and an Article 9 condition under the UK GDPR for any special category data processed including as required for the sharing of Personal Data under this Agreement;
 - 11.3.3 ensuring that all necessary information is provided to Data Subjects with regards to its Processing under Articles 5(1)(a), 13 and 14 of the UK GDPR or any similar Data Protection Laws, including as required for the sharing of Personal Data under this Agreement.
- 11.4 To the extent that Shared Personal Data is shared between the parties under this Agreement, the parties further agree that:

- 11.4.1 each party shall only provide or Process Personal Data as part of the Shared Personal Data as necessary for the purposes of this Agreement;
- 11.4.2 each party is responsible for processing and responding to Data Subject rights requests, complaints or other communications relating that party's own processing activities;
- 11.4.3 in the event of any Personal Data Breach impacting the Shared Personal Data, the party first aware of it shall promptly notify the other party;
- 11.4.4 the parties shall reasonably co-operate in relation to any complaints or queries received from any Data Subject or regulator; and
- 11.4.5 the Processing of the Shared Personal Data shall only take place within the United Kingdom and/or the European Economic Area (and if applicable, subject to appropriate safeguards as may be required under the Data Protection Law from time to time). Onward transfers of the Shared Personal Data may also take place elsewhere in the world, subject to any applicable lawful transfer mechanism required by Data Protection Laws from time to time.

11.5 Each party shall notify the other party promptly and without undue delay in the event that it:

- 11.5.1 receives or becomes aware of any claim, complaint, query and/or exercise or purported exercise of proposed rights by a Data Subject under the Data Protection Laws in relation to the Shared Personal Data where it impacts the other party in whole or in part;
- 11.5.2 receives or becomes aware of any investigation or enforcement activity by the Information Commissioner or any other relevant regulator in relation to the Shared Personal Data in whole or in part.

11.6 Each party shall provide reasonable and timely assistance, information and cooperation where reasonably requested by the other party in respect of the collection and/or Processing of the Shared Personal Data under this Agreement.

12 **FORCE MAJEURE**

- 12.1 Neither party shall be liable in any way for any losses arising directly or indirectly from any failure or delay in performing any of its obligations under this Agreement caused by any Force Majeure Event, provided that such Force Majeure Event is notified promptly to the other party.
- 12.2 In the event that either party receives a notification under clause 12.1 above, the parties shall have a good faith discussion taking into account the work performed under the Agreement by each party and the fees incurred up to the date of the notice.
- 12.3 If a party is unable to perform any of its obligations under this Agreement for more than twenty (20) Business Days as a result of the Force Majeure Event, either party may terminate this Agreement at any time and without further liability upon giving written notice to the other party.
- 12.4 The Client acknowledges that ITV may deem it necessary to alter or suspend normal programming on the relevant television network operated by ITV or its Affiliates due to a Force Majeure Event or to provide coverage of an Event of National Importance. Such events may necessitate the rescheduling of the transmission or broadcast of the Programme, which may require the extension of the Programme Period and Term respectively. The Client agrees that any such rescheduling pursuant to this clause shall not constitute a breach of this Agreement.

13 **SUBCONTRACTING**

- 13.1 The Client shall not be entitled to assign, sub-license, sub-contract or otherwise dispose of any of its rights under this Agreement without ITV's prior written consent.
- 13.2 Any third party to whom the Client grants a sub-contract and/or sub-licence (including without limitation any manufacturers or third party distributors) in accordance with clause 13.1 shall be a "**Subcontractor**".
- 13.3 Notwithstanding the foregoing, the Client shall ensure that all Subcontractors comply with the provisions of this Agreement as if they were the Client (including, where applicable, the obligations of the Client in respect of the subcontracted rights or obligations and any restrictions within the licences granted pursuant

to this Agreement). The Client shall remain liable for all of its obligations under this Agreement and shall be fully responsible and liable for the acts and omissions of its Subcontractors and shall indemnify ITV against all costs, expenses, claims, loss or damage incurred or suffered by ITV, or for which ITV may become liable (whether direct, indirect or consequential and including any economic loss or other loss of profits, business or goodwill) arising out of any act or omission of any Subcontractor.

- 13.4 ITV may, without the Client's consent, at any time assign, transfer, charge or sub-contract all or any of its rights or obligations under this Agreement to any of its Affiliates or subcontractors.

14 GENERAL

- 14.1 Nothing in this Agreement shall be construed as constituting a partnership between or joint venture by the parties and neither party shall be, or hold itself out to be, the agent of the other party. Neither party shall have any authority to make any commitments on the other party's behalf.
- 14.2 No waiver by either party of any breach of any term of this Agreement shall be deemed a waiver of any preceding or succeeding breach of the same or any other term.
- 14.3 This Agreement (including any agreed Changes if applicable) represents the entire agreement between the parties relating to this Agreement and shall be legally binding. The parties agree that this Agreement shall take precedence over any additional and/or differing terms or conditions in any other document or arrangement not forming part of this Agreement, including but not limited to any click-through terms or order form(s) shared between and/or signed by the parties before or after signature of this Agreement ("**Additional Agreements**"). Any such Additional Agreements shall be considered void and any variation, supplement, deletion or replacement of or from this Agreement or any of its terms shall only be effective if it: (i) is In writing; (ii) expressly references and excludes this clause 14.3; and (iii) is signed by or on behalf of each party with the intention to vary, supplement, delete or replace being clearly expressed. The Client acknowledges that ITV's sub-contractors are not authorised to bind ITV in respect of any change to this Agreement.
- 14.4 Subject to clause 14.6 below, each of the parties acknowledges and agrees that:
- 14.4.1 it does not enter into this Agreement on the basis of, and does not rely and has not relied upon, any statement, representation, warranty, forecast or other information (in any case whether oral, written, express or implied) made, given or agreed by any person (whether negligently or innocently and whether or not made by a party to this Agreement) which is not expressly contained or referred to in this Agreement (a "**Representation**");
 - 14.4.2 it shall have no remedy (including any rights to damages or rescission in an action for misrepresentation) for any Representation which was, is or becomes false or misleading; and
 - 14.4.3 without prejudice to clause 6 above and subject to clause 7.2, the only rights or remedies available in respect of any statement, representation, warranty, forecast or other information (in any case whether oral, written, express or implied) made, given or agreed by any person (whether negligently or innocently and whether or not made by a party to this Agreement) which is expressly contained or referred to in this Agreement shall be the rights and remedies for breach of contract under this Agreement.
- 14.5 If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision and all other provisions in this Agreement shall continue in full force and effect.
- 14.6 Save for any ITV Group company or third party rights holder, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this Agreement. Notwithstanding the foregoing, this Agreement may be rescinded or varied in any way and at any time by the parties to this Agreement without the consent of any of the members of the ITV Group.

- 14.7 This Agreement may be executed in any number of counterparts (each of which taken together will be deemed to constitute one and the same agreement and each of which individually will be deemed to be an original) with the same effect as if the signatures on each counterpart were the same original document.
- 14.8 Any notice given under the terms of this Agreement shall be given in writing excluding email except where expressly provided and addressed to the applicable Client or ITV Contact. Where a notice is sent to ITV, one copy shall also be sent to: Head of Legal (Commercial) at ITV Media and Entertainment at the address set out on the Deal Terms. Any written notice shall be deemed to have been duly served on given to or made in relation to a party if it is left at the authorised address of that party or posted by pre-paid first class post addressed to that party at such address and shall if:
- 14.8.1 personally delivered be deemed to have been received at the time of delivery; or
- 14.8.2 posted to an inland address in the United Kingdom be deemed to have been received on the second Business Day after the date of posting;
- provided that where in the case of delivery by hand delivery occurs after 5.00pm on a Business Day or on a day which is not a Business Day, receipt shall be deemed to occur at 9.30am on the next following Business Day.
- 14.9 The provisions of those clauses intended to have continuing effect (including, without limitation, clauses 1 (Definitions and Interpretation), 2 (Services and Payment); 4.3.1.4 (Warranties); 5.1 and 5.3 (Intellectual Property); 6 (Indemnity); 7 (Insurance and Liability); 8.4 and 8.5 (Term and Termination); 10 (Marketing and Confidentiality); 11 (Data Protection) and 14 (General); Schedule 1; Schedule 2 paragraphs 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, 3.1 and 3.2; and Schedule 3 paragraphs 1.2, 1.4, 1.5, 2.2, 2.4, 3.2, 3.3, 3.4, 3.5, 3.7, 3.8 and 3.10)) shall continue in full force and effect following the termination or expiry of this Agreement.
- 14.10 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by, and will be construed in accordance with, the laws of England and Wales. The parties submit to the exclusive jurisdiction of the courts of England and Wales over any claim, dispute or other matter arising under or in connection with this Agreement (including non-contractual disputes or claims).

SCHEDULE 1

GLOSSARY

In these Terms and Conditions all capitalised terms shall have the meaning ascribed to them in the Deal Terms unless specified otherwise below. The following capitalised words and expressions have the meanings set out next to them:

“Advance” means any amount specified as an “Advance” within the Minimum Guarantee definition set out in the Deal Terms;

“Affiliate” means in relation to any party, each member of that party's Group and any person which, directly or indirectly, (i) is controlled by that party; or (ii) controls that party; or (iii) is under substantially common control with that party, and for this purpose “control” means the power of a person to secure (whether by the holding of shares, possession of voting rights or by virtue of any powers conferred by articles of association, constitution, partnership agreement or other document regulating such person) that the affairs of another are conducted in accordance with its wishes and “controlled” shall be construed accordingly;

“Agency” has the meaning given to it in the Deal Terms;

“Agreed Expenses” means costs and expenses legitimately incurred by ITV in the performance of the Services that are approved in advance in writing by and chargeable to Client in addition to the Fee (such approval not to be unreasonably delayed or withheld) and which may include payments for third party consents for the use and exploitation of the Deliverables;

“Agreement” means these Terms and Conditions (including this Glossary), the Deal Terms, and any of the following to the extent they apply: (i) the Product Placement Terms Schedule; (ii) the Promotional Licence Terms Schedule; (iii) the Production Services Terms Schedule; (iv) Competition Requirements Schedule; and/or the Promotional Product Terms Schedule;

“Approvals Process” means any specific approvals process set out in the Deal Terms, plus (i) Paragraph 3 of Schedule 3 in relation to Promotional Licence Deliverables; (ii) Paragraph 3 of Schedule 4 in relation to Production Deliverables; and (iii) any other directions notified to the Client by ITV in advance;

“Background IPR” means any and all Intellectual Property Rights owned by ITV that were created prior to, and/or independently of, the Deliverables;

“Bribery” means conduct which constitutes an offence under the Bribery Act 2010 or which would constitute an offence under the Bribery Act 2010 if that Act were in force in the jurisdiction where the conduct took place;

“Business Day” means Monday to Friday excluding any bank holidays in the UK;

“Change” means a change to the material terms of this Agreement, including, but not limited to a change in the Deliverables, Usage Term, Permitted Uses, Delivery Schedule (as each are described in the Deal Terms) and/or Talent (and any corresponding amendment to the Fee or Agreed Expenses);

“Change Control Note” means the written record (including email correspondence) of any Change agreed or to be agreed by the parties pursuant to the Change Control Procedure;

“Change Control Procedure” means the procedure for agreeing a Change, as set out in paragraph 2 of the Production Services Terms Schedule;

“Client” has the meaning given to it in the Deal Terms;

“Client Contact” has the meaning given to it in the Deal Terms;

“Client Materials” means any of the marks, logos, images, stills, footage, clips, music, recordings, assets, documents, guidelines, or any other materials provided by or on behalf of the Client for use in connection with this Agreement, including (as applicable) any Product;

“Competition(s)”: has the meaning given to it in the Deal Terms;

“Competition Requirements Schedule” means Schedule 5 of these Terms and Conditions (to the extent applicable to the Deal Terms);

“Confidential Information” means any information in any form emanating from either party or any member of the ITV Group and any compilation of otherwise public information in a form not publicly known, including (but not limited to):

- (a) the existence and contents of this Agreement; and
- (b) any information materials or data (including Personal Data) in any form produced by, for, on behalf of or shared with either party during the Term of and pursuant to this Agreement.

Confidential Information shall not include:

- (a) information which at the time of disclosure is publicly known;
- (b) information which after disclosure becomes publicly known other than as a result of any breach of this Agreement;
- (c) information which can be shown to be known to the other party other than under a subsisting obligation of confidentiality or restricted use prior to the disclosure; and
- (d) the Product and any other Client Materials provided for the purposes of broadcast or other public distribution;

"Copy Clearance Body" means any advertising copy clearance body nominated by the Client and approved by the distribution platform which may include without limitation Clearcast Limited or any successor or replacement service;

"Copyright Material" means the copyright material listed in the Deal Terms and any logos included in the Marks;

"Data Protection Laws" means all applicable data protection and privacy legislation in force from time to time in the UK including the Data Protection Act 2018 (DPA), the General Data Protection Regulation ((EU) 2016/679) (EU GDPR) as transposed into UK Laws by the European Union (Withdrawal) Act 2018 and the DPA ("**UK GDPR**"); any other applicable Laws 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 statutory codes of practice issued by the Information Commissioner applicable to a party. **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, process and/or processing, special categories of personal data**, shall have the meanings given to them in the relevant Data Protection Laws;

"Deal Terms" means the agreed commercial terms which refer to and incorporate these Terms and Conditions;

"Deliverables" means any deliverables set out in the Deal Terms, including but not limited to, any Product Placement Deliverables, Promotional Licence Deliverables, Production Deliverables, Digital Deliverables, Competition Deliverables and General Deliverables, each as defined in the Deal Terms;

"Delivery Deadline" means any relevant delivery deadline defined in the Deal Terms;

"Delivery Schedule" has the meaning given to it in the Deal Terms;

"Derivative Works" means any content that is derived from, or is an adaptation, modification or transformation of any Deliverable(s);

"Digital Deliverables" has the meaning given to it in the Deal Terms;

"Editorial Decisions" means any decision concerning the development, production, content, scheduling, marketing, promoting and/or advertising of the Programme;

"Event of National Importance" means any national or international event of major significance;

"Fee(s)" means the fee agreed between the Client and ITV for the provision of the Services and Deliverables as set out in the Deal Terms;

"Force Majeure Event" means an event, inability or delay which is caused by circumstances beyond the relevant party's reasonable control and which cannot be cured by measures which might reasonably be taken in the course of that relevant party's business, including (but not limited to) a pandemic, epidemic or similar, war or other action of military forces, terrorism, riot, civil commotion, sabotage, vandalism, accident, breakdown or damage to machinery or equipment or technology, fire, flood, acts of God or legislative

interference, provided that no circumstance or cause shall be considered to be beyond the control of a party if it arises as a result of that party's failure to take reasonable care;

"Guarantee Period" has the meaning given to it in paragraph 5.2.4 of Schedule 6;

"Group" means (in relation to any company) that company and any holding company of that company and any subsidiary undertakings from time to time of that company or of any such holding company;

"Insolvent" means, in relation to any legal person, if:

- (a) it is unable or admits inability to pay its debts as they fall due or is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness (except as part of a genuine refinancing); or
- (b) any corporate action, legal proceedings or other procedure or step is taken in relation to it for:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise);
 - (ii) any composition, compromise, assignment or arrangement with any creditor; or
 - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of it, any Affiliate or any of its assets;

"Information Commissioner" means the UK regulator or supervisory authority for Data Protection Laws;

"ITV" has the meaning given to it in the Deal Terms;

"ITV Contact" has the meaning given to it in the Deal Terms;

"ITV Group" means ITV or any member of its Group;

"Intellectual Property Rights" means trade marks, service marks, logos, brand names, company names, business names, domain names, copyright, patents, rights in computer software, moral rights, design rights, know how, database rights, confidential information, rights protecting goodwill, reputation and image and/or any other right of a similar nature whether or not registered or capable of registration and any applications for the protection or registration of any of these rights and all renewals, revivals and extensions thereof throughout the world;

"Latest Product Release Date" has the meaning given to it in the Deal Terms;

"Licence Term" has the meaning given to it in the Deal Terms;

"Licensed Property" has the meaning given to it in the Deal Terms;

"Licensed Rights" has the meaning given to it in the Deal Terms;

"Link" means a hypertext or other link from a webpage on one website to a webpage on another website;

"Marks" means the Registered Trade Marks and any unregistered trade marks or logos;

"MG Instalment" has the meaning given to it in paragraph 5.2.4 of Schedule 6;

"Minimum Guarantee" has the meaning given to it in the Deal Terms;

"Modern Slavery" means conduct which constitutes an offence under the UK's Modern Slavery Act 2015, or which would constitute an offence under the Modern Slavery Act 2015 if that Act were in force in the jurisdiction where the conduct took place;

"Named Talent" has the meaning given to it in the Deal Terms;

"Net Revenue" means the greater of all amounts received and all amounts invoiced by the Client from or in connection with uses, sales, or other supplies of the Promotional Products (including associated packaging where applicable) net of Value Added Tax ("**VAT**") or its equivalent and other sales taxes. No deduction may be made for trade discounts, cash discounts, year-end rebates, early payment rebates, bank charges, exchange rate differentials, marketing contributions, returns, uncollectable amounts or for any other sums;

"Nominated Approval Contact" means the representative of ITV with authority for approving any Change in accordance with the Change Control Procedure;

"Ofcom" means the Office of Communications or its successor;

"Payment Terms" has the meaning given to it in the Deal Terms;

"Permitted Channels" has the meaning given to it in the Deal Terms;

"Permitted Uses" has the meaning given to it in the Deal Terms;

"Platforms" means the websites (including dedicated Programme websites (if applicable)), apps and/or other platforms owned or operated by the ITV Group in respect of any Programme shown on any ITV television channels;

"Prize" has the meaning given to it in the Deal Terms;

"Programme" means any television programme set out in the Deal Terms;

"Programme Period" has the meaning given to it in the Deal Terms;

"Product" means any product defined in the Deal Terms and includes the product packaging;

"Product Placement Period" means any product placement time period specified in the Deal Terms;

"Product Placement Terms Schedule" means Schedule 2 of these Terms and Conditions (to the extent applicable to the Deal Terms);

"Production Services Terms Schedule" means Schedule 4 of these Terms and Conditions (to the extent applicable to the Deal Terms);

"Promotional Licence Terms Schedule" means Schedule 3 of these Terms and Conditions (to the extent applicable to the Deal Terms);

"Promotional Material" means promotional or advertising material or other material created in connection with the exploitation of the Licensed Rights and featuring the Licensed Property, including but not limited to (i) advertising material in any media (including but not limited to television, cinema, print, radio, and online (including on social media) and direct marketing communications); (ii) point of sale material; (iii) labels or packaging material for consumer products; and (iv) programmes or brochures sold or given to audiences or attendees of any licensed event or performance;

"Promotional Products" means the products bearing the Licensed Property (or any element of it) that the Client is licensed to produce as specified in the Deal Terms. In relation to Promotional Products that consist of software stored on a physical storage device or medium, the term **"Promotional Product"** shall be deemed to include both the software and the physical storage device or medium;

"Promotional Product Terms Schedule": means Schedule 6 of these Terms and Conditions (to the extent applicable to the Deal Terms);

"Registered Trade Marks" means any registered trade marks and/or applications for registered trade marks listed in the Deal Terms;

"Relevant Laws & Codes" any applicable statute, enactment, ordinance, order, regulation or other similar instrument (including those relating to Bribery, Modern Slavery, Tax Evasion and the Data Protection Laws) together with any code of practice, adjudication, decision, direction or rule of any regulator, regulatory or self-regulatory body (including Ofcom, the Broadcast Committee of Advertising Practice (BCAP), the Committee of Advertising Practice (CAP) and the Advertising Standards Authority (ASA)) which relate to the performance of this Agreement;

"Reporting Period" has the meaning given to it in the Deal Terms;

"Required Legal Notice" has the meaning given to it in the Deal Terms;

"Royalty" has the meaning given to it in the Deal Terms;

"Satisfactory Quality" means products or material shall be free and remain free from any material defects, material design and programming errors and be free from viruses, malware, malicious or harmful code and shall meet the standard that a reasonable person would regard as satisfactory, taking account of any description of the goods, the price (if relevant) and all the other relevant circumstances and for the purposes of this Agreement, the quality of goods includes their state and condition and the following

(among others) are in appropriate cases aspects of the quality of goods: (a) fitness for all the purposes for which goods of the kind in question are commonly supplied; (b) appearance and finish; (c) safety; and (d) durability;

"Sell-off Period" has the meaning given to it in the Deal Terms;

"Services" means any services to be performed by ITV for Client in order to produce the Deliverables and any other services set out in this Agreement;

"Shared Personal Data" has the meaning given to it in the Deal Terms;

"Specific Terms Schedules" means each of the Product Placement Terms Schedule, the Promotional Licence Terms Schedule, the Production Services Terms Schedule, the Competition Requirements Schedule and the Promotional Product Terms Schedule;

"Style Guide" means the document to be supplied by ITV to the Client (as amended from time to time) containing artwork reference material and descriptions defining and governing the use of the Licensed Property;

"Subcontractor" has the meaning given to it in Clause 13.2;

"Talent" means any on-screen contributors for the Deliverables including Named Talent and extras;

"Tax Evasion" means conduct that constitutes any criminal offence of tax evasion or facilitation of tax evasion in any jurisdiction, including the tax evasion facilitation offences under section 45(1) and 46(1) of the Criminal Finances Act 2017;

"Term" has the meaning given to it in the Deal Terms;

"Territory" has the meaning given to it in the Deal Terms;

"Usage Term" has the meaning given to it in the Deal Terms; and

"VAT" means value added tax or any analogous tax in any relevant jurisdiction including but not limited to use, sales and local sales taxes of any kind.

SCHEDULE 2

PRODUCT PLACEMENT: SPECIFIC TERMS AND CONDITIONS

1. ITV'S OBLIGATIONS

- 1.1. ITV enters into this Agreement, in connection with the Product, as agent on behalf of one or more of the following companies:
 - (a) in respect of any appearance of the Product in the Programme when broadcast on ITV1, ITV Rights Limited;
 - (b) in respect of any appearance of the Product in the Programme when broadcast on ITV2, ITV4 and/or ITVBe, ITV2 Limited;
 - (c) in respect of any appearance of the Product in the Programme when broadcast on ITV3 and/or, ITV Digital Channels Limited;
 - (d) in respect of any appearance of the Product in the Programme when broadcast on ITV Breakfast, ITV Breakfast Broadcasting Limited; and
 - (e) in respect of any appearance of the Product in the Programme when posted on ITVX, ITV Consumer Limited.
- 1.2. This Agreement only requires ITV to ensure that the Product appears in a duly prominent and non-promotional manner in the Programme when it is transmitted, broadcast and/or posted in accordance with the Deal Terms during the Product Placement Period. ITV may, at its discretion, itself transmit, broadcast and/or post the Programme or any excerpt from it with or without the appearance of the Product on further occasions or on other platforms whether in any part of the United Kingdom or any other territory, and may licence or permit any other person to do so, but shall not be required to ensure that the Product appears in any such further transmission, broadcast or posting unless provided for in a separate agreement.

2. CLIENT'S AGREEMENTS AND OBLIGATIONS

- 2.1. The Client agrees that all Editorial Decisions shall be made entirely and at the sole discretion of ITV.
- 2.2. The Client acknowledges that the Product will only be included in the Programme if it is approved by ITV Rights Limited and any accompanying notes of guidance published by Ofcom from time to time (including, but not limited to, editorial justification for any appearance of a Product in a Programme) and shall be subject to the editorial requirements of the Programme. The Client acknowledges that any decisions on how the Product is featured in a Programme shall be made by ITV, ITV's editorial commissioners and/or the Programme producers in their sole discretion and are subject to change.
- 2.3. The Client shall at no cost to ITV supply ITV with Products on or before the applicable Delivery Deadline(s) in accordance with the specifications and delivery instructions (including as to location) supplied by ITV from time to time. The Client shall also be responsible for all costs associated with the removal of the Product from the location specified by ITV.
- 2.4. Except where ITV damages the Products, the Client shall at no cost to ITV replace any damaged Products and deliver such replacement Products to the Programme studio set (with the exact address to be confirmed by ITV in advance). For the avoidance of doubt, where ITV damages any Product, the Client shall still be required to deliver replacement Products but at no cost to the Client.
- 2.5. ITV shall not be in breach of this Agreement in any way as a result of any failure to place the Product into the Programme if ITV does not receive the Product by the relevant Delivery Deadline(s) or other Client Materials by delivery deadlines reasonably specified by ITV or if the Product or Client Materials do not comply with ITV's specifications or delivery instructions or the Client is otherwise in breach of this Agreement. In such circumstances, ITV shall remain entitled to charge in full for any fees payable pursuant to this Agreement.

- 2.6. The Client agrees that if in ITV's reasonable opinion changes to the Product (including, without limitation, removing, amending or obscuring the Product) are necessary to comply with the provisions of this Agreement and/or Relevant Laws & Codes, ITV may make such changes and shall have no liability to the Client for the same.
- 2.7. Any Intellectual Property Rights in the Product and/or the Client Materials (which do not become inextricably connected with any Intellectual Property Rights of the ITV Group) shall, as between the parties, be the property of the Client.
- 2.8. To the extent necessary, the Client hereby acknowledges and agrees that ITV may itself, and permit any other person to, broadcast, transmit and post, in any form, on any platform, in any jurisdiction and in perpetuity, the Programme incorporating the Product and references to it.
- 2.9. The Client agrees that all rights (including Intellectual Property Rights) in the Programme and any Platforms (including any domain name and all materials and features contained on or in the same) shall at all times be vested in and belong to or be under the control of ITV (or its licensors as the case may be) and the Client shall not acquire any rights (including Intellectual Property Rights) in or associated with the Programme or the Platforms as a result of this Agreement.
- 2.10. The Client shall cooperate fully with ITV and provide all assistance free of charge that is reasonably required as a result of any challenge by any regulatory body including Ofcom or complaint from any third party in connection with this Agreement including the placing of the Product in the Programme.
- 2.11. The Client acknowledges and agrees that ITV reserves the right to sell, or allow to be sold other product placement opportunities within the Programme to third parties.
- 2.12. The Client represents, warrants and undertakes that:
 - (a) it is able to grant the licence under paragraph 2.8 of this Schedule 2 and that the broadcast and/or transmission and/or posting of the Programme incorporating the Product or any other Client Materials by ITV and its authorised licensees on any media or platforms including digital terrestrial, digital satellite, cable, online, IPTV or mobile platforms, whether by linear or non-linear means, shall not infringe the rights (including, without limitation, Intellectual Property Rights) of any third party; and
 - (b) the Product shall be safe and comply with all Relevant Laws & Codes in force from time to time.
- 2.13. If the Client fails to make any payment when due, without affecting any other rights which it may have, ITV may (at its sole discretion) remove the Product from the Programme and suspend any other Service(s) or licence(s) set out in the Deal Terms until the relevant amount is paid and charge the Client any costs associated with removal of the Product from the Programme or the suspension of such Service(s) or licence(s) in addition to all other sums due under this Agreement.
- 2.14. Without prejudice to clause 10 of the Terms and Conditions, the Client shall ensure that any promotion of its product placement or other rights under this Agreement shall be subject to ITV's prior approval and that such promotion shall comply with Relevant Laws & Codes. To the extent that the Client makes any communications by social media, such communications must also comply with any and all third party terms that govern the social media platform. If ITV and/or any social media platform objects to any communications made by the Client for any reason, the Client shall immediately remove or amend (as directed by ITV) such communications.
- 2.15. Where ITV is acting as agent for more than one party then termination by the Client in accordance with clause 8.2 of the Terms and Conditions, shall only be in respect of the part of the Agreement relating to that party and the remaining provisions of the Agreement will continue in full force. In the event that part of this Agreement is terminated pursuant to this paragraph 2.14 of Schedule 2, the parties shall agree, in good faith, an adjustment to the Fees.

3. **LIABILITY**

- 3.1 The parties agree that the liability of each of the principals, on behalf of whom ITV has entered into this Agreement as agent, for their obligations and liabilities relating to their respective Platforms under this Agreement shall be several and shall extend only to any loss or damage arising out of their own breaches. Where more than one of the principals is liable for the same obligation or liability, liability for the total sum recoverable shall be attributed to the relevant persons in equal shares.

3.2 Pursuant to paragraph 3.1 of this Schedule 2 and for the avoidance of doubt, the Client agrees that:

- (a) ITV Rights Limited shall be solely responsible for the obligations and liabilities under this Agreement relating to product placement on ITV;
- (b) ITV Digital Channels Limited shall be solely responsible for the obligations and liabilities under this Agreement relating to product placement on ITV3;
- (c) ITV2 Limited shall be solely responsible for the obligations and liabilities under this Agreement relating to product placement on ITV2, ITV4 and/or ITVBe;
- (d) ITV Breakfast Broadcasting Limited shall be solely responsible for the obligations and liabilities under this Agreement relating to product placement on ITV Breakfast; and
- (e) ITV Consumer Limited shall be solely responsible for the obligations and liabilities under this Agreement relating to product placement on ITVX,

and the Client agrees that it shall not bring a claim or proceedings against any party other than the party who is responsible for the relevant Platform to which the claim or proceeding relate.

SCHEDULE 3

PROMOTIONAL LICENCE: SPECIFIC TERMS AND CONDITIONS

1. GRANT OF LICENCE

- 1.1. In consideration of the obligations, warranties and undertakings of the Client herein contained and subject to their full and timely performance and observance, ITV hereby grants to the Client a non-exclusive licence to exploit the Licensed Rights for the Licence Term throughout the Territory on and subject to the terms and conditions set forth in this Agreement.
- 1.2. The Client may not utilise the Licensed Property or any other material supplied by ITV for any purpose other than to fulfil its obligations or exercise its rights under this Agreement.
- 1.3. The Client acknowledges that ITV is the owner (or licensee) of the Marks and Licensed Property.
- 1.4. All rights not expressly granted are reserved to ITV (or, if applicable, any third party rights holder) absolutely.
- 1.5. Save in respect of the grant of the Licensed Rights to the Client, ITV shall not be liable in any respect in relation to or in connection with any Promotional Material or licensed products or services and the Client shall ensure that all notices, warnings, disclaimers, statements and terms and conditions necessary and appropriate are included on all Promotional Material and/or licensed products or services.

2. CLIENT'S OBLIGATIONS

- 2.1. The Client shall comply strictly with the directions of ITV regarding the form and manner of the use and application of the Licensed Property on and in connection with the Promotional Material, including the directions contained in the Style Guide. The Style Guide shall at all times remain the property of ITV and shall not be copied, reproduced or used other than in accordance with the terms of this Agreement.
- 2.2. The Client shall not without ITV's prior written consent use the name, likeness, image or voice of any person or Talent appearing in the Programme in connection with the exploitation of the Licensed Rights including on or in any Promotional Material or to endorse the Client's products and/or services.
- 2.3. The Client acknowledges and agrees that where any music from the Programme is used in any exploitation of the Licensed Rights and/or Promotional Material, clearances for such music must be obtained by the Client directly from the owner thereof prior to the relevant exploitation and/or distribution of the Promotional Material. The Client shall inform ITV of any proposed use of such music prior to approaching the owner. For the avoidance of doubt, no music is included in the Licensed Property under the terms of this Agreement.
- 2.4. The Client shall promptly provide ITV with details of any consumer or third party complaints it has received and with any copies or transcripts of any communications with any regulatory, industry or other authority that relate to the exploitation of the Licensed Rights and/or Promotional Material together with reports on the manner in which such complaints or investigations are being, or have been, dealt with and shall comply with any reasonable directions given by ITV in respect thereof.
- 2.5. The Client shall bear the costs of producing and distributing the Promotional Material and any other costs associated with the exploitation of the Licensed Rights (as applicable).
- 2.6. The Client shall ensure that it has appropriate recall procedures in place to deal with any requirements to withhold, withdraw or return Promotional Material in accordance with paragraph 6 below.
- 2.7. The Client shall ensure that the Promotional Material does not feature any third party advertisements, commercial, sponsorship, promotional material and/or external third party links without the prior written consent of ITV.
- 2.8. The Client shall ensure that in its exploitation of the Licensed Rights it shall not do or permit to be done, anything that would or is likely to adversely affect the name, image, or reputation of ITV, the ITV Group

and/or any third party rights holder and/or its or their goodwill, brands, programmes, business names, and/or trademarks.

- 2.9. The Client shall ensure that the promotional material and/or the exploitation of the Licensed Rights: (i) do not infringe the Intellectual Property Rights of any third party; (ii) are not defamatory; (iii) are not an infringement of rights to privacy; (iv) are not obscene; (v) are not a violation of antidiscrimination laws or regulations; (vi) do not constitute unfair competition; (vii) do not cause ITV (or any third party rights holder) to breach any statutory or regulatory duty or criminal law; and (viii) are not in any other way unlawful.
- 2.10. The Client shall not use any modification, abbreviation or adaptation of the Licensed Property, except where set out in the Deal Terms.
- 2.11. The Client shall bear all design, development, production, maintenance, support, distribution, operation, hosting, advertising, marketing and promotion costs for its exploitation of the Licensed Rights.

3. **APPROVALS PROCESS FOR PROMOTIONAL LICENCE DELIVERABLES**

- 3.1. Unless otherwise set out in the Deal Terms, the Client shall comply with the approvals process set out in this paragraph 3 of Schedule 3 in relation to any Promotional Licence Deliverables.
- 3.2. The Client shall obtain ITV's prior approval of all uses of the Licensed Property on or in relation to the Promotional Material or otherwise in connection with the exploitation of the Licensed Rights. In obtaining such approval the Client shall comply with the procedures set out in this paragraph 3 of Schedule 3 or such other procedures to be notified to the Client by ITV from time to time.
- 3.3. Prior to distribution, the Client shall submit the Promotional Material to ITV for approval via email to the ITV Contact in stages, as follows ("**Stages**"):
 - 3.1.1 Stage 1: initial artwork, other copyright work (including without limitation literary work or otherwise) or concept;
 - 3.1.2 Stage 2: pre-production sample, strike off or colour proof; and
 - 3.1.3 Stage 3: final production sample.
- 3.4. At Stages 2 and 3, the number of samples of Promotional Material to be distributed in printed form to be provided by the Client to ITV shall be as requested by ITV, but in any event shall be no more than 4 (such samples to be provided without charge to ITV). At the request of ITV, the Client shall provide further samples at cost price.
- 3.5. The approvals procedure may be subject to addition and/or variation in relation to specific Promotional Material (on notification to the Client) where in its sole discretion ITV considers additional approvals and/or variation of these Stages necessary.
- 3.6. ITV shall endeavour to give its approval or otherwise within ten (10) Business Days of receipt of submitted materials. The Client shall not proceed to the next Stage of development unless ITV has given written approval. If approval is not given, it shall be deemed withheld.
- 3.7. In the event that ITV requires changes, the Client shall effect such changes at each Stage and re-submit designs for ITV's approval within any timescales notified by ITV to the Client. The Client shall not proceed with further development unless and until ITV approves the re-submitted material.
- 3.8. The Client shall not proceed with performance, display or distribution of any Promotional Material unless and until the Client obtained the final written approval of ITV in accordance with these provisions.
- 3.9. If at any time after receiving final approval the Client wishes to change any Promotional Material, the Client shall submit the revised material for ITV's approval in accordance with this paragraph 3 of Schedule 3 prior to performance, display or distribution (as applicable).
- 3.10. Upon written request from the Client, ITV may in ITV's sole and absolute discretion agree to waive the rights of approval herein stated at any or all Stages of the process provided that no such waiver shall

constitute or imply a waiver of the rights of approval over any other aspects of the exploitation of the Licensed Rights or the Promotional Material or over any other Stage not so specified, and may be withdrawn at any time.

- 3.11. The Client shall at all times ensure that the Promotional Material performed, displayed or distributed (as applicable) shall conform in all respects with the versions and uses approved by ITV in accordance with this clause.
- 3.12. For the avoidance of doubt, any approval given by the ITV under this paragraph 3 of Schedule 3 shall not absolve the Client from any of its other obligations under this Agreement.

4 TITLE, GOODWILL AND REGISTRATIONS

- 4.1 The Client shall procure that all Promotional Material bears the Required Legal Notice and/or any other statement as notified in writing by ITV to the Client (and shall not remove or authorise the removal of the same).
- 4.2 Any goodwill derived from the use by the Client of any Mark included in the Licensed Property shall accrue to the registered proprietor of the Mark. ITV may at any time call for a confirmatory assignment of that goodwill and the Client shall immediately execute it.
- 4.3 The Client shall not do, or omit to do, or permit to be done, any act that will or may weaken, damage or be detrimental to any of the Licensed Property or the reputation, goodwill or registrations associated with the Licensed Property.
- 4.4 The Client shall not apply for, or obtain, registration of the Marks (or any of them) and/or for any trade or service mark which consists of, or comprises, or is similar to, the Marks (or any of them) for any goods or services in any country.
- 4.5 The Client shall not apply for, or obtain, registration of any domain name which consists of, or comprises, or is similar to, the Marks (or any of them).
- 4.6 The Client shall, at the request of ITV, assist in recording, or obtaining registration of, this Agreement as a licence of any Registered Trade Mark at the appropriate trade mark registry.
- 4.7 The Client hereby assigns to ITV free of all liens, charges, encumbrances and third party rights of whatsoever nature (and by way of present assignment of future copyright where material has yet to be created) all copyright and any other Intellectual Property Rights and accrued rights of action in any element of the Promotional Material including Derivative Works (whether created as at the date of this Agreement or in the future) for the full duration of such rights throughout the world, including any extensions, reversions and renewals thereof. The Client undertakes to obtain an assignment of rights in materially the same form as the assignment in this paragraph 4.7 of Schedule 3 to ITV from any person who, on behalf of the Client, creates any Derivative Works.
- 4.8 The Client irrevocably and unconditionally waives and agrees to procure the irrevocable and unconditional waiver in perpetuity of any provision of law known as moral rights and, so far as is legally possible, any broadly equivalent rights in any territory of the world, in respect of any Derivative Works.
- 4.9 This Agreement shall not be construed as an assignment or grant to the Client of any title in the Intellectual Property Rights constituting or associated with the Licensed Property.
- 4.10 On ITV's request, the Client shall execute or cause to be executed all documents and do or cause to be done all further acts and things as that other party so requiring may reasonably require to give full effect to the terms of this Agreement.

5 PROTECTION OF THE LICENSED PROPERTY

- 5.1 The Client shall immediately notify ITV in writing giving full particulars if any of the following matters come to its attention:

- 5.1.1 any actual, suspected or threatened infringement of the Licensed Property (or any part of it) by the Client or anyone performing any obligations on behalf of the Client under this Agreement;
 - 5.1.2 any claim that use of the Licensed Property (or any part of it) infringes the rights of any third party;
 - 5.1.3 any claim that any Mark is invalid or any opposition to any Mark; and
 - 5.1.4 any other form of attack, charge or claim to which the Licensed Property (or any part of it) may be subject or anything else which may conflict with any of the rights granted under this Agreement.
- 5.2 In respect of any of the matters listed in paragraph 5.1, ITV and/or the proprietor of the relevant part of the Licensed Property shall:
- 5.2.1 in their absolute discretion, decide what action if any to take;
 - 5.2.2 have exclusive control over, and conduct of, all claims and proceedings; and
 - 5.2.3 bear the cost of any proceedings and shall be entitled to retain all sums recovered in any action for their own account.
- 5.3 In respect of any of the matters listed in paragraph 5.1, the Client shall not make any admissions other than to ITV and/or the proprietor of the relevant part of the Licensed Property and shall provide them with all assistance that they may reasonably require in the conduct of any claims or proceedings.
- 5.4 The provisions of section 30 of the Trade Marks Act 1994 (and where applicable the rights of exclusive Clients to bring proceedings under article 22(3) of Council Regulation 207/09 on the Community Trade Mark) are expressly excluded.

6 WITHDRAWAL OF PROMOTIONAL MATERIAL AND LICENSED PROPERTY

- 6.1 Upon giving five (5) Business Days' written notice, ITV shall have the right to require the Client to withhold the release of any Promotional Material or to withdraw any Promotional Material from distribution where in the reasonable opinion of ITV such Promotional Material or the distribution of them breaches or would breach the Client's obligations or warranties under this Agreement. Following the receipt of such notice thereof from ITV, the Client hereby agrees to immediately withhold or withdraw such Promotional Material. In the event that the Promotional Material poses any danger to health or safety, ITV may give less than five (5) Business Days' notice.
- 6.2 ITV shall have the right at any time by giving notice in writing to the Client to withdraw the Licensed Property (or any element of it) from this Agreement if in the reasonable opinion of ITV the Licensed Property (or any element of it) becomes unavailable for distribution due to (i) actual or threatened litigation relating to the Licensed Property; (ii) ITV having been advised by its legal advisors to withdraw it for reasons including but not limited to restrictions imposed on ITV by any third party rights holders and/or creative participants in the Licensed Property; or (iii) any reason beyond ITV's control. Such notice of withdrawal shall be given as far in advance as reasonably possible and in any event with no less than five Business Days' notice. Following the receipt of such notice of withdrawal the Client hereby agrees to: (i) immediately withhold the release of or withdraw from distribution any Promotional Material containing the Licensed Property (or, if applicable, the element of the Licensed Property that has been withdrawn); and (ii) accept a refund of the Fee on a pro-rata basis.
- 6.3 If the Licensed Property is withdrawn no other sums or compensation, other than that set out in paragraph 6.2 above, shall be payable by ITV and the Client shall and does waive all claims against ITV that may arise from such withdrawal of the Licensed Property.

SCHEDULE 4
PRODUCTION SERVICES: SPECIFIC TERMS AND CONDITIONS

1. SUPPLY OF SERVICES

- 1.1. The Client hereby appoints ITV for the Term to produce and deliver the Deliverables in accordance with the terms of this Agreement and ITV hereby accepts such appointment.
- 1.2. References in this Schedule 4 to “**Deliverables**” shall mean the Production Deliverables (as defined in the Deal Terms).
- 1.3. ITV shall supply the Services and deliver the Deliverables in accordance with good industry practice and comply with the Client's reasonable instructions from time to time, subject to the terms and conditions of this Agreement.
- 1.4. ITV hereby grants the Client a sub-licensable licence to use the Deliverables throughout the Territory only for the Permitted Uses for the Usage Term subject to any restrictions on third party materials within the Deliverables which ITV may reasonably specify from time to time.
- 1.5. ITV shall provide such information and updates as Client may reasonably request from time to time.
- 1.6. ITV shall be under no obligation to supply the Services and deliver the Deliverables until a purchase order for such supply and delivery has been raised by the Client in accordance with the Deal Terms.

2. CHANGE CONTROL

- 2.1. The Client may at any time submit a written request for Change to ITV in accordance with this paragraph 2. No Change will come into effect until a Change Control Note has been agreed in writing by the Nominated Approval Contact.
- 2.2. A Change request must be in writing (which may include email) to the ITV Contact and include sufficient information to enable ITV to assess the Change, including as a minimum the date of request and an appropriately detailed description of the requested Changes, including any impact on the Deliverables, Usage Term, Permitted Uses, Delivery Schedule and/or any Talent arrangements as set out in the Deal Terms.
- 2.3. Following receipt of a Change request from the Client, ITV shall assess the requested Change and as soon as reasonably practicable following approval from the Nominated Approval Contact confirm to the Client if ITV can accommodate such request or not. If ITV can accommodate such Change, it shall issue a Change Control Note to the Client Contact including:
 - (a) a description of the Change;
 - (b) the effect of the proposed Change on the material terms of this Agreement, which may include changes to: (i) the Deliverables Usage Term, Permitted Uses, Delivery Schedule and/or Talent arrangements; (ii) the Fee and Payment Terms; and (iii) any other term of this Agreement; and
 - (c) the date of expiry of validity of the Change Control Note.
- 2.4. If Client confirms its agreement to a Change of Control Note (including via email correspondence) and ITV proceeds to implement such changes, then that Change Control Note will amend this Agreement with effect from Client's approval.
- 2.5. Without prejudice to paragraphs 2.1 to 2.4 of this Schedule 4, if during the course of the production of the Deliverables, the Client requires ITV to postpone the production schedule or carry out any extra work arising from alterations in or departure from the approved treatment, script, artwork, storyboard, or any additions, revisions or other changes in the commercial(s) made at the request of the Client, the Client agrees to pay such additional charges as Agreed Expenses.

3. APPROVALS PROCESS FOR PRODUCTION DELIVERABLES

- 3.1. Unless otherwise set out in the Deal Terms, all Client approvals shall be given within one (1) Business Day for Production Deliverables.,.

- 3.2. If the Client, acting reasonably, rejects any Production Deliverable for not complying with any specifications agreed between the parties, ITV shall submit a revised Production Deliverable for approval as soon as reasonably practicable.
- 3.3. ITV or its subcontractors may propose the inclusion of materials that are time sensitive or subject to other restrictions (by way of example only, materials that are included under the so called "fair dealing" provisions of copyright law or footage of events / films that have been offered by third parties for use by the media for a limited period only). ITV, or its subcontractors, shall inform the Client of any applicable restrictions during the Approval Process. If the inclusion of such materials is agreed by the Client, the Client shall abide by such restrictions.
- 3.4. Where the parties agree in advance to include music in the Production Deliverables and this is set out in the Deal Terms, ITV shall be responsible for obtaining and paying for synchronisation licences for the inclusion of musical compositions or sound recordings in the Production Deliverables for the Permitted Uses. Other than such synchronisation licences, ITV is not responsible for clearing or paying for any licences or clearances relating to any musical composition or sound recording in the Production Deliverables or the exploitation, communication to the public or performance in public of such musical composition or sound recording.
- 3.5. The Client acknowledges and agrees that ITV is in no way liable for the payment of any commission to its Agency or otherwise and if the Agency fails to perform any relevant obligation under this Agreement on the Client's behalf (including paying the Fee (if applicable)) then the Client shall remain liable for the full performance of such obligation.

4. ADVERTISING AND OTHER CLEARANCES

- 4.1. The Client shall review any briefs, story boards and deliverables to ensure that information is available to substantiate product claims made in the Deliverables or as otherwise required to satisfy the requirements of Relevant Laws & Codes in the UK.
- 4.2. In addition, ITV shall (where applicable) submit the Deliverables to any Copy Clearance Body for approval. The Client shall provide or procure the provision of any information required by any Copy Clearance Body to substantiate any claims made in respect of the Deliverables and any Client products or services and shall ensure that any information, editorial requirements or materials provided by the Client for use in the Deliverables is compliant with the requirements of the Copy Clearance Body. For the avoidance of doubt, ITV shall not be responsible for acceptance or clearance of the Deliverables by distribution platforms (for example, social media platforms or cinema exhibitors).

5. INSURANCE

- 5.1. Unless otherwise stated in the Deal Terms, the Client shall, at its own cost, arrange for a production insurance programme (such as AdWrap) on the Production Deliverables. The Client further agrees to make its insurance policies available to ITV for inspection and if requested by ITV, name ITV as a beneficiary on such policies. For the avoidance of doubt, in the event any losses arise that are subject to the cover of such insurance policies, the Client shall make a claim on such policies to recover such losses.

SCHEDULE 5

COMPETITION REQUIREMENTS

GENERAL RUNNING OF COMPETITIONS USING THE LICENSED PROPERTY

1. The Client shall obtain ITV's prior approval of all uses of the Licensed Property on or in relation to the Promotional Material or otherwise in connection with running a Competition. In obtaining such approval the Client shall comply with the procedures set out in the Deal Terms or such other procedures to be notified to the Client by ITV from time to time.
2. The Client warrants that the privacy notice, and terms and conditions relating to each of the Competitions ("**Competition Ts&Cs**") shall include terms in accordance with paragraph 3 below and it shall conduct the Competitions in accordance with all Relevant Laws & Codes and, if the Competitions are run on a third party platform, with any third party platform terms and conditions.
3. The Client shall provide to ITV the Competition Ts&Cs for ITV's prior written approval. The Competition Ts&Cs shall be provided to ITV no less than five (5) working days prior to the relevant Competition going live and shall include provisions stating:
 - 3.1 all entrants must be eighteen (18) years old or over;
 - 3.2 ITV is not responsible for the administration of the Competition;
 - 3.3 where applicable, in accordance with Data Protection Laws, that the winner's personal data will be passed to any authorised third parties for the purpose of fulfilment of any Prize;
 - 3.4 where a Prize contains travel outside of the UK, that it is the sole responsibility of the prize winner and any companions to ensure compliance with UK and the destination country's travel and entry requirements, including but not limited to any vaccination or testing requirements;
 - 3.5 where a Prize contains access to an ITV set, filming location or production:
 - 3.5.1 the prize winner and any companions will be required to follow all production requirements which may include, but is not limited to, showing proof of any vaccination status, submitting to a prior or onsite antigen test and wearing a face covering. Should the prize winner and/or their companions be unable to meet these requirements, they will not be able to redeem the Prize and no alternative prize will be offered; and
 - 3.5.2 ITV reserves the right to refuse admission in the event that the attendees are under the influence of alcohol or drugs on arrival or for reasons of public safety or for any unacceptable behaviour likely to cause damage, nuisance, embarrassment or injury;
 - 3.6 it is the sole responsibility of the prize winner to inform ITV of any wheelchair or similar access requirements for the winner and/or their companions when taking up the Prize, and to adhere to any applicable health and safety guidelines;
 - 3.7 where a Prize contains a stay at a hotel, the winner will need a current and valid credit/debit card with sufficient available funds in order to check in at the hotel for security deposit purposes; and
 - 3.8 any additional terms set out in the 'Competition Details' section of the Deal Terms.
4. The Client shall provide confirmation and/or evidence (satisfactory to ITV) on request from ITV that the Prize(s) relating to the Competition(s) have been obtained or contractually secured by the Client and shall provide such other information and/or materials as may be reasonably requested by ITV.
5. For the avoidance of doubt, no Promotional Material relating to the Competition(s) shall be distributed or made available to the public by or on behalf of the Client unless and until the Client has provided

the information specified under paragraph 2 above to ITV's satisfaction and has obtained ITV's prior written approval of the Competition Ts&Cs.

6. Where ITV is providing a Prize, in the event the Prize cannot be fulfilled due to circumstances beyond ITV's reasonable control (which for the avoidance of doubt, may include but is not limited to, schedule changes, editorial decision-making and reputational reasons), ITV may provide an alternative prize (as determined by ITV in its sole discretion).

SCHEDULE 6

PROMOTIONAL PRODUCT SPECIFIC TERMS AND CONDITIONS

1. CLIENT'S OBLIGATIONS

- 1.1 The Client and, where applicable, any Subcontractor shall comply strictly with the directions of ITV regarding the form and manner of the use and application of the Licensed Property on and in connection with the Promotional Products and Promotional Material, including the directions contained in the Style Guide. The Style Guide shall at all times remain the property of ITV and shall not be copied, reproduced or used other than in accordance with the terms of this Agreement.
- 1.2 The Client shall not without ITV's prior written consent use the name, likeness, image or voice of any person appearing in the Programme on or in any Promotional Products or Promotional Material or to endorse the Promotional Products.
- 1.3 The Client acknowledges and agrees that where any music from the Programme is used in the Promotional Products or Promotional Material, clearances for such music must be obtained by the Client directly from the owner thereof prior to the incorporation of such music into the Promotional Products and/or Promotional Material as applicable. The Client shall inform ITV of any proposed use of such music prior to approaching the owner. For the avoidance of doubt, no music is included in the Licensed Property under the terms of this Agreement.
- 1.4 The Client shall promptly provide ITV with details of any consumer or third party complaints it has received relating to the Promotional Products or Promotional Material and with copies or transcripts of any communications relating to any complaint or investigation by any regulatory, industry or other authority that relates to the Licensed Property, the Promotional Products or Promotional Material together with reports on the manner in which such complaints or investigations are being, or have been, dealt with, and shall comply with any reasonable directions given by ITV in respect thereof.
- 1.5 The Client shall use its best endeavours to promote and expand the supply of Promotional Products throughout the Territory on the maximum possible scale, and shall provide such advertising and publicity as may reasonably be expected to bring the Promotional Products to the attention of as many potential users or purchasers as possible (and at least to the same level as similar premium products or services provided by Client). The Promotional Products shall be given fair and equitable treatment and shall not be discriminated against in favour of any other products that the Client may develop, sell or distribute.
- 1.6 Upon ITV's request, the Client shall provide ITV with a detailed marketing plan for the Promotional Products broken down by territory and shall provide updates to the same for each Reporting Period or as otherwise requested by ITV.
- 1.7 The Client shall bear all design, development, production, maintenance, support, distribution, operation, hosting, advertising, marketing and promotion costs for the Promotional Products and Promotional Material.
- 1.8 The Client shall ensure that the Promotional Products and the Promotional Material do not feature any third party advertisements, commercial, sponsorship, promotional material and/or external third party links without the prior written consent of ITV.
- 1.9 The Client shall ensure that it, and where applicable, any Subcontractor, has appropriate recall procedures in place to deal with any requirements to withhold, withdraw or return Promotional Products or Promotional Material in accordance with paragraphs 5 or 8 of this Schedule 6.
- 1.10 The Client hereby acknowledges and agrees that it shall be solely responsible for the liability or risk of liability arising out of the distribution, sale, consumption or use of the Promotional Products and associated packaging (including any liability arising out of the distribution or sale of Promotional Products made by any Subcontractor), labelling and/or Promotional Material and any other materials issued or used in connection with the Promotional Products.

- 1.11 The Client shall be responsible for obtaining any necessary import licences or permits necessary for the entry or transportation of the Promotional Products, including, but not limited to, any documentation required to enter any country or region. The Client shall be responsible for any customs duties, clearance charges, taxes, brokers' fees and other amounts payable in connection with the importation and delivery of the Promotional Products.

2. DEVELOPMENT, MANUFACTURE AND DISTRIBUTION OF PROMOTIONAL PRODUCTS

- 2.1 In developing, manufacturing and/or distributing any Promotional Products, the Client warrants it shall, and shall procure that any of its Subcontractors under this Agreement shall:
- 2.1.1 comply with all local laws relating to employment and working conditions including that: (i) employees are all over the minimum age established by local law; (ii) employee working hours comply with local laws and are in any event are not more than 60 hours per week for full-time employment; and (iii) the Promotional Products are manufactured in a safe, hygienic working environment;
- 2.1.2 perform all inspections and testing necessary to ensure that all Promotional Products meet or exceed all applicable safety, quality, performance and flammability requirements, and industry standards and guidelines, including, by way of example, affixing a CE mark where valid and applicable; and
- 2.1.3 adopt ethical and responsible business practices including without limitation requiring a positive audit report for suppliers based in China and other countries with a similar or greater risk of exposure to unethical business practices.
- 2.2 The Client shall sell and distribute the Promotional Products outright and not on an approval or consignment basis and shall not sell the Promotional Products to hawkers, peddlers or street vendors.
- 2.3 The Client shall bear the costs of production and publication of the Promotional Material.

3. CLIENT WARRANTIES

- 3.1 The Client represents, warrants and undertakes to ITV that:
- 3.1.1 the Promotional Products and Promotional Material:
- 3.1.1.1 shall not affect adversely the name, image or reputation of ITV or its Affiliates (or rightsholders) and/or its or their goodwill, brands, programmes, business names, trade marks;
- 3.1.1.2 shall comply with all applicable laws, regulations, industry standards and codes of practice (including the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing and the UK Code of Broadcast Advertising) and all legal compliance policies and procedures issued by ITV;
- 3.1.1.3 shall be of Satisfactory Quality and be of a quality equal to other products offered or developed by the Client;
- 3.1.1.4 (i) do not infringe the rights of any third party including Intellectual Property Rights or privacy rights; (ii) are not defamatory; (iii) are not obscene; (iv) do not violate anti-discrimination laws or regulations; (v) do not constitute unfair competition; (vi) do not cause ITV to breach any statutory or regulatory duty or criminal law; and (vii) do not facilitate the commission of any crime, tortious, unlawful or illegal act or are in any other way unlawful;
- 3.1.2 it, and any Subcontractor, shall upon written request of ITV return or destroy (at the discretion of ITV) any Promotional Products to ITV at the expiry of the Term;

3.1.3 it shall not copy, use distribute or otherwise deal in the Licensed Property other than strictly in accordance with the terms of this Agreement; and

3.1.4 it shall not actively market or seek orders for the Promotional Products outside the Territory.

4. INDEMNITY

4.1 The Client shall indemnify and keep indemnified ITV and its Affiliates and third party rights holders against all liabilities, costs, expenses, damages or losses (including all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by ITV or its Affiliates or third party rights holders arising out of or in connection with:

- 4.1.1 any product or professional liability claim relating to Promotional Products developed, manufactured, supplied or put into use by the Client, or where applicable, any Subcontractor; and/or
- 4.1.2 any claim made against ITV by a third party for death, personal injury or damage to property arising out of or in connection with the Promotional Products, to the extent that the defect in the Promotional Products is attributable to the acts or omissions of the Client, its employees, agents, sub-Clients or Subcontractors.

5. PAYMENTS

5.1 *Royalty*

5.1.1 The Client shall pay the Royalty. The Royalty shall accrue on the date when the Promotional Product is downloaded, played, lent, leased, let on hire, used, sold, invoiced, paid for, installed, delivered or otherwise supplied (whichever is the earliest).

5.1.2 Within thirty (30) days after the end of each Reporting Period (or the end of the Term if the end of the Term does not coincide with the end of a Reporting Period) the Client shall send to ITV a completed statement in the form of Appendix 1 to this Schedule 6 recording the calculation of Royalties for that Reporting Period (or from the end of the last Reporting Period to the end of the Term (as applicable)). Upon request from ITV, the Client shall provide ITV with such documentation as ITV may require in order to verify the Royalty. Upon receipt of the statement ITV shall have the right to issue an invoice for the Royalties due.

5.1.3 The amount payable to ITV in respect of any sales (or other supplies) made by the Client which are not at arms length will be deemed to be equivalent to such total amount as would have been payable by an independent arm's length purchaser under the terms of this Agreement and paid by the Client accordingly.

5.2 *Minimum Guarantee*

- 5.2.1 The Client shall pay the Minimum Guarantee in accordance with the Payment Terms (subject to receipt of an invoice from ITV).
- 5.2.2 If no date for payment of the Minimum Guarantee is specified in the Payment Terms the Minimum Guarantee shall become due at the end of the Sell-off Period (or if payable in instalments on the last day of the relevant Guarantee Period). ITV shall issue an invoice for the Minimum Guarantee and the Client shall make payment within 30 days of the date of the invoice.
- 5.2.3 The Minimum Guarantee (including any Advance) shall be reduced at the time of payment by the sum of all Royalties actually paid to ITV and received by ITV at the date on which the Minimum Guarantee is due to be paid.
- 5.2.4 Notwithstanding the foregoing, where a Minimum Guarantee is stated in the Deal Terms to be payable in staged payments relating to discrete periods (each such period being a "**Guarantee**

Period” and each such payment being an **“MG Instalment”**), each MG Instalment shall be reduced at the time of payment by the sum of all Royalties received by ITV during the relevant Guarantee Period. For the avoidance of doubt, for the purpose of this clause, if an Advance is paid prior to the commencement of the first Guarantee Period, it shall be deemed to have been paid within the first Guarantee Period.

- 5.2.5 On the early termination of this Agreement howsoever caused, save for the breach of a material term of this Agreement by ITV, any part of the Minimum Guarantee then unpaid (including any MG Instalments not yet due) shall be immediately due and payable in full, regardless of any payment date(s) specified in the Payment Terms (subject to the deduction of the sum of all Royalties and Advances actually paid to ITV).

6. **INTELLECTUAL PROPERTY RIGHTS AND WITHDRAWAL OF PROMOTIONAL PRODUCTS, PROMOTIONAL MATERIAL AND LICENSED PROPERTY**

The parties agree that paragraphs 4, 5 and 6 of Schedule 3 shall apply to the Licensed Property referenced in this Schedule 6 *mutatis mutandis*.

7. **SELL-OFF PERIOD**

Notwithstanding anything to the contrary, on expiry or termination of this Agreement for any reason, the Client shall have the right to dispose of all stocks of finished Promotional Products in its possession or control until the end of the Sell-Off Period. For the avoidance of doubt, the Client shall not during the Sell-Off Period produce or arrange further manufacture of any new stock.

8. **SUBCONTRACTING**

- 8.1 The Client shall ensure that, in respect of any third party distributors, it has contractual arrangements in place with such third parties which include rights of termination and/or withdrawal in accordance with the termination and/or withdrawal rights set out in this Agreement and it shall exercise such rights either itself or promptly on request by ITV in respect of any third parties who do not comply with the obligations and restrictions as set out in this Agreement. Any such contractual rights of termination or withdrawal as set out above shall include a requirement on the third parties to promptly remove the Promotional Products from the Permitted Channels and to promptly return or otherwise dispose of any Promotional Products and/or any other materials containing the Licensed Property (including without limitation any Promotional Material) in accordance with the terms of this Agreement, applied *mutatis mutandis* to the third party distributors.

- 8.2 Upon the engagement of any Subcontractor, the Client shall promptly provide ITV with a signed subcontractor agreement as set out at Appendix 2 to this Schedule 6, to be signed and dated by the Subcontractor.

9 **REGULATORY CHANGE**

- 9.1 In the event of a change in the applicable laws or regulations imposed by a relevant legislative or regulatory authority which is not reasonably foreseeable and not within the contemplation of the parties at the date of this Agreement and which means that the Client is prevented from offering the Promotional Products then the following procedure will apply:

- 9.1.1 the parties shall meet as soon as is reasonably practicable on becoming aware of such change to discuss the impact of the change in good faith to see if the effect can be mitigated with the aim to take reasonable action to mitigate the cost and impact of dealing with the change;
- 9.1.2 if the parties are unable to agree the impact of the change and/or reasonable mitigation within thirty (30) Business Days of meeting then either party may terminate this Agreement by giving no less than twenty (20) Business Days written notice to the other party (provided that both parties will work together in good faith to perform and observe their respective rights and obligations during

any subsequent termination notice period as nearly as possible without being in breach of any law or regulation).

10 TERMINATION

- 10.1 ITV may by written notice to the Client terminate this Agreement immediately if the Client fails to release, sell or distribute any Promotional Product by the Latest Product Release Date.
- 10.2 On expiry or termination of this Agreement for any reason and subject to any express provisions set out elsewhere in this Agreement the Client shall at its own expense, and within fifteen Business Days, return or otherwise dispose of in accordance with the directions of ITV all remaining physical Promotional Products in its possession or control.

APPENDIX 1 TO SCHEDULE 6**ROYALTY STATEMENT****CLIENT:****ITV COMMERCIAL:****PROMOTIONAL****PRODUCT:****ACCOUNTING****PERIOD:****CONTRACT****PERIOD:****Current Accounting****Period Analysis**

<i>Promotional Product (including item name)</i>	<i>Period</i>	<i>Unit/Play/Licence</i>	<i>Units Sold/Played/Licensed</i>	<i>Gross Revenue</i>	<i>Net Revenue</i>	<i>Client Share</i>	<i>Royalty Rate</i>
		Price	0	0.00	0.00	0.00	0%

Cumulative Accounting**Periods Analysis**

<i>Promotional Product (including item name)</i>	<i>Period</i>	<i>Unit/Play/Licence</i>	<i>Units Sold/Played/Licensed</i>	<i>Gross Revenue</i>	<i>Net Revenue</i>	<i>Client Share</i>	<i>Royalty Rate</i>
		Price	0	0.00	0.00	0.00	0%

ROYALTY SUMMARY

Royalties Earned this Accounting Period	£0.00
Cumulative Royalties	£0.00
Min Guarantee paid	£0.00
Net Royalty due	£0.00
Royalty previously paid	£0.00
Royalty payable this Accounting period	£0.00
VAT @ 20%	£0.00
TOTAL PAYMENT DUE	£0.00

APPENDIX 2 TO SCHEDULE 6

SUBCONTRACTOR AGREEMENT

To: [INSERT NAME AND ADDRESS OF APPLICABLE ITV ENTITY]

Date:.....

Dear [.....],

Product Licence Agreement between [INSERT NAME ITV ENTITY] ("ITV") and [INSERT NAME] ("Client") (the "Agreement")

We refer to the Agreement as stated above. Words and expressions defined in the Agreement shall bear the same meaning in this letter.

This is to confirm that we shall manufacture, distribute and/or sell the Promotional Products in accordance with the terms and conditions set out in the Agreement. We have reviewed and will comply with the obligations relevant to us in the Agreement.

We confirm that we have been made aware of the time period in which this subcontractor agreement applies and acknowledge that our right to manufacture, distribute and/or sell the Promotional Products shall not extend beyond the Sell-off Period of the Agreement (subject to any sell-off period expressly agreed in writing by ITV).

Yours faithfully,

.....

For and on behalf of

[NAME OF MANUFACTURER/DISTRIBUTOR]