

ITV CONTRACT NUMBER: <<CONTRACT REF>>

**STANDARD TRIPARTITE LICENCE  
PROGRAMME SPECIFICATION AND SPECIAL TERMS**

**ITV RIGHTS LIMITED**

- and -

**ITV BROADCASTING LIMITED**

- and -

**<<PRODUCTION COMPANY>>**

- and -

**<<PARENT COMPANY GUARANTOR (IF APPLICABLE)>>**

**TRIPARTITE PRODUCTION, LICENCE AND COMPLIANCE CONTRACT  
(DIRECT ACCESS)**

relating to a Programme tentatively  
entitled

**<<“PROGRAMME TITLE”>>**

**(“the Programme”)**

ITV Redraft 10 July 2009

**MODEL FORM PUBLISHED BY ITV RIGHTS LIMITED**

**PLEASE NOTE THAT THESE SPECIAL TERMS NEED TO BE READ IN CONJUNCTION WITH  
THE ITV TERMS OF TRADE AS AMENDED BY THE PACT MEMORANDUM OF  
UNDERSTANDING EFFECTIVE FROM 28 SEPTEMBER 2018 (“MOU 2018”) AND THE PACT  
MEMORANDUM OF UNDERSTANDING EFFECTIVE FROM 1 JANUARY 2023 (“DEAL TERMS  
2023”) – GENERAL TERMS APPLICABLE TO ITV DIRECT ACCESS COMMISSIONS A COPY OF  
WHICH CAN BE FOUND AT <http://www.itv.com/commissioning/guidelines/terms-of-trade>  
(together the “General Terms and Conditions”)**

**IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE GENERAL TERMS AND CONDITIONS  
AND THIS AGREEMENT, THIS AGREEMENT SHALL PREVAIL.**

**DATE:**

**PARTIES:**

- (1) **ITV RIGHTS LIMITED** (company number 06633451) whose registered office is at ITV White City, 201 Wood Lane, London, W12 7RU ("**ITV**" such term to include its successors and assigns);
- (2) **ITV BROADCASTING LIMITED** (company number 00955957) whose registered office is at ITV White City, 201 Wood Lane, London, W12 7RU ("**Compliance Licensee**" such term to include its successors and permitted assigns); and
- (3) **<<PRODUCER'S REGISTERED NAME>>** (company number <<REGISTERED COMPANY NUMBER>>) whose registered office is at <<Registered Address>> ("**Producer**" such term to include its successors and permitted assigns); and
- (4) **<<GUARANTOR REGISTERED NAME>>** (company number <<REGISTERED COMPANY NUMBER>>) whose registered office is at <<Registered Address>> ("**Guarantor**" such term to include its successors and permitted assigns).

**INTRODUCTION**

1. The Producer has presented a proposal for a programme to ITV as more particularly described in Part A to the Schedule to this Agreement ("**Programme**"). ITV wishes the Producer to produce the Programme and wishes to acquire certain broadcast and associated rights in the Programme.
2. The Compliance Licensee has been nominated to perform the compliance and production monitoring role in respect of the Programme.
3. Accordingly, ITV, the Producer, the Guarantor and the Compliance Licensee agree on the terms set out in this Agreement.

**IN CONSIDERATION OF** the payments and mutual promises contained in this Agreement, the parties agree as follows:

1. ITV commissions the Producer and the Producer agrees to produce and deliver the Programme to ITV and to license to ITV the broadcast and associated rights in the Programme specified in this Agreement, all in accordance with the terms of this Agreement.
2. ITV engages the Compliance Licensee and the Compliance Licensee agrees to perform the compliance, production monitoring and verification role in respect of the Programme as specified in and in accordance with the provisions of this Agreement.
3. This signature page, the Schedule, the General Terms and Conditions and any other schedules, annexes, exhibits and/or other documents attached hereto and/or incorporated by reference herein shall be read as one and constitute the entire agreement between the parties.

**IN WITNESS** of which this Agreement has been signed on behalf of each of the parties on the above date.

**SIGNED** by )  
duly authorised for and on )  
behalf of **ITV RIGHTS LIMITED** )

**SIGNED** by )  
duly authorised for and on )  
behalf of **ITV BROADCASTING LIMITED** )

**Please note that this Agreement is subject to ITV's General Terms and Conditions (as defined on the front page). [ITV's General Terms and Conditions](#) contain important terms and you should ensure that before signing this Agreement you have read and understood them.**

**SIGNED** by )  
duly authorised for and on )  
behalf of <<**PRODUCER'S REGISTERED NAME**>> )

**SIGNED** by )  
duly authorised for and on )  
behalf of <<**GUARANTOR REGISTERED NAME**>> )

**SCHEDULE****PART A****PROGRAMME TERMS****1. PROGRAMME SPECIFICATION**

*Please fill out the following specification as fully as possible. If you do not have the relevant information, please add TBC and inform the ITV Commercial Affairs executive as soon as the information becomes available or if you feel that the requested information is inapplicable for your commission, please write N/A.*

<b>Contract Number</b>	
<b>Producer</b>	
<b>Producer's Contact</b>	
<b>Parent Guarantor</b>  <i>Note: A parent guarantor will always be required where the producer is an SPV.</i>	
<b>Parent Guarantor's Commercial Affairs Contact</b>	
<b>Working Title of Programme</b>  <i>Note: Any proposal to vary this title must have the prior written approval of ITV</i>	
<b>ITV Commissioning Department</b>	
<b>ITV Commissioning Executive</b>	
<b>ITV Legal &amp; Business Affairs Executive</b>	
<b>Compliance Licensee</b>	ITV BROADCASTING LIMITED
<b>Compliance Representative</b>	CLAIRE POSNER
<b>Number of Episodes</b>	
<b>Slot length</b>	

<p><b>Running time of the Programme</b> inclusive of main and end titles but exclusive of sponsorship allowance where applicable.</p> <p><i>Please note: ITV is entitled to reject the Programme if it does not comply with ITV's Policy on Running Times. It is a material term of this Agreement that the Programme is delivered to its exact contractual running time or within a permitted tolerance of 30 seconds below its contractual running time and any variance to the specified running time requires the prior written (including via email) approval of the Broadcast Strategic Senior Support Manager at ITV and the Compliance Licensee.</i></p>	<p>It is the Producer's responsibility to confirm the exact running time(s) with ITV's Presentation Strategy Department.</p>
<p><b>Number of commercial breaks</b></p>	
<p><b>Suitability for Transmission</b></p>	<p><input type="checkbox"/> Any time  <input type="checkbox"/> Post 19:30  <input type="checkbox"/> Post 21:00  <input type="checkbox"/> Special Discretion Required</p>
<p><b>Is the Programme topical?</b></p> <p><i>Please specify any relevant tie-in such as anniversaries etc and also whether there are any linked events (such as DVD releases, book launches etc).</i></p>	<p><input type="checkbox"/> Yes  <input type="checkbox"/> No</p>
<p><b>Type of Programme</b></p>	
<p><b>Editorial Brief / Synopsis</b></p> <p><i>Please provide a description of the Programme or attach a treatment including running order (if available) which is sufficient to identify its main on-screen elements (ie not a publicity blurb or billing) on a minimum one-half A4.</i></p>	<p>Attached at Part E</p>
<p><b>Details of Underlying Rights</b></p> <p><i>If Programme Format is owned by a third party or if the Programme is based on third party underlying Source Material, please give brief details and date of agreement to enable production and list any potential restrictions on ability of ITV to exercise rights granted hereunder.</i></p>	
<p><b>Executive Producer(s)</b></p>	
<p><b>Individual Producer(s)</b></p>	

<b>Head of Production/ Production Manager</b>	
<b>Director(s)/First Assistant Director (if appropriate)</b>	
<b>Editor(s)</b>	
<b>Director of Photography</b>	
<b>Designer</b>	
<b>Costume Designer</b>	
<b>Musical Composer(s)</b>	
<b>Sound Recordist</b>	
<b>Scriptwriter(s)</b>  <i>Note: All scripts require the prior written approval of ITV and the Compliance Licensee.</i>	
<b>Presenter/Key Talent</b>	
<b>Narrator/Voice-over</b>	
<b>Any other Approved Contributors</b>	
<b>Will the programme include a PRTS element?</b>  <i>Note: PRTS including SMS. All PRTS elements require full involvement and approval by ITV and the Compliance Licensee of all aspects.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Will the programme include Interactive elements?</b>  <i>Note: Interactive elements require full involvement and approval by ITV and the Compliance Licensee of all aspects.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Prize Funds</b>  Please indicate how the prizes are to be funded and how the risk of deficit (if any) is to be managed.	
<b>Archive material</b>  <i>Please list as far as possible sources of key archive material to be included in the Programme and to what extent such material is cleared/clearable for exploitation of the rights granted to ITV hereunder during Licence Period. Full details of all archive material that cannot be cleared for all ITV</i>	

<p><i>exploitation under this Agreement must be given.</i></p>	
<p><b>Access restrictions (if any)</b></p>	
<p><b>Location/foreign filming</b></p>	
<p><b>Music</b></p> <p><i>Note: ITV Blankets apply for use of MCPS, PRS and PPL repertoire. See <a href="#">Music Clearance at ITV</a> and <a href="#">ITV Policy on Underlying Rights Clearances via ITV's Producer's Guidelines page</a> and . All music intended to be included in the Programme that does not fall under the ITV blanket licence must be listed here.</i></p>	
<p><b>SPECIFIED PERSONS</b></p> <p>These shall be specified persons ("<b>Specified Persons</b>") for the purposes of the following clauses of the General Terms:</p>	<p>For the purposes of Clause 3 of the General Terms (approvals and production) the Specified Persons shall be:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Executive producer</li> <li><input type="checkbox"/> Individual producer</li> <li><input type="checkbox"/> Director</li> <li><input type="checkbox"/> Principal cast</li> <li><input type="checkbox"/> Other contributors</li> <li><input type="checkbox"/> Underlying rights holders</li> <li><input type="checkbox"/> Scriptwriter</li> <li><input type="checkbox"/> Presenter</li> <li><input type="checkbox"/> Other [<i>Please state</i>]</li> </ul> <p>For the purposes of Clause 4.1.1 of the General Terms (insurance) the Specified Persons shall be:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Executive producer</li> <li><input type="checkbox"/> Individual producer</li> <li><input type="checkbox"/> Director</li> <li><input type="checkbox"/> Principal cast</li> <li><input type="checkbox"/> Other contributors</li> <li><input type="checkbox"/> Underlying rights holders</li> <li><input type="checkbox"/> Scriptwriter</li> <li><input type="checkbox"/> Presenter</li> <li><input type="checkbox"/> Other [<i>Please state</i>]</li> </ul> <p>For the purposes of Clause 17 of the General Terms (publicity) the Specified Persons shall be</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Executive producer</li> <li><input type="checkbox"/> Individual producer</li> <li><input type="checkbox"/> Director</li> <li><input type="checkbox"/> Principal cast</li> <li><input type="checkbox"/> Other contributors</li> <li><input type="checkbox"/> Underlying rights holders</li> <li><input type="checkbox"/> Scriptwriter</li> <li><input type="checkbox"/> Presenter</li> <li><input type="checkbox"/> Other [<i>Please state</i>]</li> </ul>

	<p>For the purposes of Clause 23 of the General Terms (termination) the Specified Persons shall be</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Executive producer</li> <li><input type="checkbox"/> Individual producer</li> <li><input type="checkbox"/> Director</li> <li><input type="checkbox"/> Principal cast</li> <li><input type="checkbox"/> Other contributors</li> <li><input type="checkbox"/> Underlying rights holders</li> <li><input type="checkbox"/> Scriptwriter</li> <li><input type="checkbox"/> Presenter</li> <li><input type="checkbox"/> Other [<i>Please state</i>]</li> </ul>
<p><b>Key Programme Elements</b></p> <p>These shall be key programme elements ("<b>Key Programme Elements</b>") for the purposes of this Agreement.</p>	
<p><b>Will there be Additional Content?</b></p> <p><b>Will the Producer create the Additional Content?</b> <i>Please note that, where the Producer creates Additional Content, the Producer shall enter into a separate Additional Content Agreement with the relevant ITV contracting entity.</i></p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Yes</li> <li><input type="checkbox"/> No</li> <li><input type="checkbox"/> TBC</li>   <li><input type="checkbox"/> Yes</li> <li><input type="checkbox"/> No</li> <li><input type="checkbox"/> TBC</li> </ul>

**2. PRODUCTION DETAILS**

<b>Start of pre-production</b>	
<b>Commencement of principal photography</b>	
<b>Completion of principal photography</b>	
<p><b>Production medium</b></p> <p>ASPECT RATIO: (delivery to a 16 x 9 format)</p> <p>Drama commissions: Special dispensation shall be required from the ITV Commissioning Executive to shoot and deliver in 2:1</p> <p>Please also note delivery specifications in Part D below and further technical details contained in <a href="#">Programme Delivery Document</a>.</p> <p>Please note if any material is to be shot on DV format, the prior approval of ITV and the Compliance Licensee will be required.</p>	<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> HD</li> </ul>
<b>Production studio</b>	
<b>Post production facilities</b>	



**3. DELIVERY**

<p><b>Delivery Date for Programme</b></p> <p><i>Note: Any change to the agreed Delivery Date requires consultation with the Compliance Licensee and also the prior written approval of the ITV Commercial Affairs executive. Written approval given via e-mail is acceptable for this purpose.</i></p>	<p><b>Time shall be of the Essence</b></p>
<p><b>Delivery Address for Programme</b></p>	<p>Please deliver the Programme to the ITV Content Delivery team in accordance with <a href="#">Part D</a>.</p> <p>It is the Producer's responsibility to confirm exact delivery requirements with Content Operations, any questions regarding delivery of the Programme should be directed at <a href="mailto:contentoperations@itv.com">contentoperations@itv.com</a>.</p>
<p><b>Delivery Date for Promotional Materials</b></p>	<p>In accordance with the timetable set out in Part D.</p>
<p><b>Delivery Address for Promotional Materials</b></p>	<p><a href="#">The ITV Creative Landing Pad</a></p>
<p><b>Limitations on Promotion, Publicity and Advertising</b></p> <p><i>Note: Details must be given where known. If details are not known prior to signature, full details must be given as soon as the Producer becomes aware (and always prior to the Delivery Date).</i></p> <p>ITV's Publicity Guidelines can be found <a href="#">here</a></p>	
<p><b>Delivery Requirements</b></p> <p>(i.e. HD, digitised format)</p> <p><i>Specify if materials to be delivered in high definition/digitised format</i></p>	<p>DPP compliant file delivery with further details to be advised by the ITV Content Operations team.</p> <p>Please see <a href="#">Part D</a>.</p> <p><b>It is the Producer's responsibility to confirm exact delivery requirements with Content Operations at <a href="mailto:contentoperations@itv.com">contentoperations@itv.com</a>.</b></p>

**4. LICENCE FEE AND FUNDING DETAILS**

<p><b>Licence Fee</b>  <i>Payable on signature of this agreement and in accordance with Part C, Clause 1.</i></p>	<p><b>Total:</b>   <b>Per Episode:</b></p>
<p><b>[FOR SCRIPTED COMMISSIONS]</b>  <b>Scripted Fee Payment</b>   <i>Payable in accordance with clause 4.2 of the Deal Terms 2023</i></p>	<p><b>[1% of the Licence Fee]</b></p>
<p><b>Directors UK Contribution</b>  <i>This amount is to be deducted from the Licence Fee on the Producer's first invoice.</i></p>	<p>Total:</p>
<p><b>[FOR NON-SCRIPTED COMMISSIONS]</b>  <b>Screenskills Contribution</b>  <i>This amount is to be deducted from the Licence Fee on the Producer's first invoice.</i></p>	<p>Total:</p>
<p><b>Production Financing</b>   <i>Complete Section 4A unless Self Financed</i></p>	<p><input type="checkbox"/> Self Financed:   <input type="checkbox"/> Agreed bank(s)/Financier(s) - the parties shall enter into an Inter-Party Agreement in the event of bank financing, which shall be signed at the same time as the Commissioning Agreement is signed.</p>

**4A. FINANCING ARRANGEMENTS**

Complete unless licence fee fully funds cost of production or programme is self-financed.

	<b>Identity</b>	<b>Amount of Funding</b>	<b>Principal Terms (e.g. premiering obligations, territory)</b>	<b>Terms affecting ITV's Rights (e.g. recoupment position)</b>
<b>Financier (e.g. bank)</b>				
<b>Co-Producer (e.g. foreign co-producer)</b>				
<b>Foreign Investment (e.g. foreign state funding)</b>				
<b>Pre-Sales</b>				
<b>Distribution Advances</b>				
<b>Other Deficit Funding (e.g. gap financing, producer investment)</b>				

## 5. LICENCE PERIOD, FURTHER USE, EXCLUSIVITY, TRANSMISSIONS AND REPEAT COSTS

### 5.1 Licence Period

As set out under clause 3.1 and 3.2 of the Deal Terms 2023.

### 5.2 Licence Period Extension and Extension Fee

As set out under clause 3.3 of the Deal Terms 2023

### 5.3 Further Use

As set out under clause 4.1 of the Deal Terms 2023.

### 5.4 Exclusivity and Exclusivity Extension Fee

As set out under clause 5 of the Deal Terms 2023.

References to the Primary Window as defined under the Terms of Trade are hereby replaced with Exclusivity Window as defined under the Deal Terms 2023.

### 5.5 Broadcast and On Demand Rights

ITV shall be entitled to broadcast, transmit or otherwise make available the Programme in the UK on any “ITV Services” on an unlimited number of occasions during the Licence Period, subject only to any actual third party clearance costs (subject to ITV being notified of and approving those costs in writing in advance of delivery of the Programme) in respect of any transmission over and above the number of Pre-Cleared Transmissions set out below (meaning that the Producer must ensure that the Programme is at least clearable for each such further transmission).

For these purposes “ITV Services” shall be as defined under clause 1.2 of the Deal Terms 2023.

Where the On Demand Rights are exploited by the Producer during and after the Term in accordance with the General Terms and Conditions, the following conditions shall apply:

- (i) any such exploitation during the Licence Period shall be subject to the conditions of Clause 10.1.5 of the Terms of Trade including for the avoidance of doubt that the Programme shall at all times be identified as “an original ITV commission” in such form and format as ITV may approve, acting reasonably; and
- (ii) in respect of any such exploitation after expiry of the Licence Period and/or at any time outside the Territory, the Programme shall at all times be identified as “an original ITV commission”.

### 5.6 Related Broadcast Rights

The above Broadcast Rights shall include the right to (i) make a simultaneous transmission of the Programme in the UK via any broadcast media, and/or (ii) broadcast the Programme on a delayed version of ITV1 (with a maximum delay of 3 hours) and on an HD version of ITV. None of the foregoing shall be deemed to be a separate transmission for the purposes of the Broadcast Rights above.

### 5.7 Pre-Cleared Transmissions

Unlimited, save as otherwise provided for in the Deal Terms 2023.

*[Note: Over and above this number of ITV Transmissions, ITV is obliged to reimburse the Producer for agreed Third Party Residuals and Clearance Costs.]*

**5.8 Pre-Paid Transmissions**

Unlimited

**5.9 Third Party Residuals and Clearance Costs**

ITV will not be responsible for any Third Party Residuals and Clearance Costs unless complete and accurate details are notified to ITV no later than at the point of Delivery of the final Episode of the Programme and ITV has agreed such Third Party Residuals and Clearance Costs . Please add any known third party residuals or clearance costs below:

*IMPORTANT NOTE: Any Third Party Residuals and Clearance Costs should in any case comply with ITV's Policy on Underlying Rights and the General Terms. ITV should be kept fully informed of all potential Third Party Residuals and Clearance Costs.*

**PART B**  
**NET RECEIPTS**

**1. DURING THE LICENCE PERIOD**

Rights	Party exercising the Rights (subject to applicable holdbacks)	Split of Net Receipts
<b>Exploitation within the Territory</b>		
Exploitation of Programme Website	Producer (in accordance with Clause 9.5 of the General Terms)	80% to Producer, 20% to ITV
On Demand Rights	Producer	80% to Producer, 20% to ITV
Download to Own Rights	Producer (as per Part B)	80% to Producer, 20% to ITV
UK Secondary Broadcast Rights	Producer	80% to Producer, 20% to ITV
<b>Exploitation Worldwide (excluding the Territory)</b>		
All other exploitation of the Programme and Programme Format during the Licence Period  <i>Note: This only applies to the Producer's Net Receipts and so will not apply where the Producer receives no such monies (e.g. where the programme format is owned by a third party)</i>	Producer	90% to Producer, 10% to ITV  <i>[DRAFTING NOTE: THE ABOVE SPLIT APPLIES EXCEPT IN CIRCUMSTANCES SET OUT IN CL.7.3 OF THE DEAL TERMS 2023, THE FOLLOWING SHALL APPLY</i>  Option 2: 92.5% to Producer, 7.5% to ITV]

**2. AFTER EXPIRY OF THE LICENCE PERIOD WORLDWIDE (INCL. THE TERRITORY)**

Rights	Party exercising the Rights (subject to applicable holdbacks)	Split of Net Receipts
All exploitation of the Programme and Programme Format <u>following expiry or earlier termination</u> of the Licence Period	Producer	90% to Producer, 10% to ITV in perpetuity  <i>[DRAFTING NOTE: THE ABOVE SPLIT APPLIES, EXCEPT IN CIRCUMSTANCES SET OUT IN CL.7.3 OF THE DEAL TERMS 2023, THE FOLLOWING SHALL APPLY</i>

		Option 2: 92.5% to Producer, 7.5% to ITV]
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In this Agreement, "**Net Receipts**" shall have the following meanings in respect of the following rights:

<p>Exploitation of any Programme Websites</p>	<p>All sums actually received by or on behalf of ITV or the Producer (as applicable) in respect of the exploitation of any Programme Website including any advertising and/or sponsorship fees directly attributable to the Programme Website but excluding:</p> <p>(a) any revenues derived from the exploitation of software and/or hardware utilised in connection with the exploitation of the Programme Website which, for the avoidance of doubt, shall be the exclusive property of ITV or the Producer (as applicable); and</p> <p>(b) any advertising and/or sponsorship fees (other than those relating directly to the Programme Website); and</p> <p>(c) any revenues derived from the sale of merchandising relating to the Programme or the Programme Format via the Programme Website, and less the proper, actual and reasonable direct sums expended by or charged to ITV (or the ITV Group) or (as applicable) the Producer in connection with, and to the extent applicable to, any and all exploitation of the Programme Website including:</p> <p>(i) actual editorial and associated additional production costs in the commissioning of Additional Content and/or re-editing, reformatting, digitising, encoding and/or other adjustment of Programme materials used in connection with the Programme Website;</p> <p>(ii) any actual and direct third party technical costs charged by third party application providers, third party service providers, third party platform operators, telecommunications operators and/or aggregators (such as website, WAP portal and/or red button application build and design costs and authentication service charges);</p> <p>(iii) prizes and prize sourcing and fulfilment costs, any agreed charity donations and/or other sums payable to customer- users;</p> <p>(iv) any Third Party Residuals and Clearance Costs actually and necessarily incurred;</p> <p>(v) any applicable taxes, duties or other statutory levies including VAT and any other costs pre-agreed by the parties; and</p> <p>(vi) such other amounts as the parties may agree in good faith.</p>
<p>On Demand Rights</p>	<p>All sums actually received by or on behalf of Producer in respect of the exploitation of the On Demand Rights (excluding VAT) (whether on a per Programme basis or relating to a subscription period and it being acknowledged that where a subscription charge is levied for a bundled service which includes both the Programme and other programmes then the charge shall be pro-rated appropriately on a count of views basis) save for any advertising and/or sponsorship fees and any revenues derived from the exploitation of software and/or hardware utilised in connection with the exploitation of the On Demand Rights which, for the avoidance of doubt, shall be the exclusive property of ITV and less the proper, actual and reasonable direct sums expended by or charged to ITV (or the ITV Group) in connection with, and to the extent applicable to, any and all exploitation of the On Demand Rights including, without limitation:</p> <p>(i) actual editorial costs in the commissioning of new content and/or re-editing, reformatting, digitising, encoding and/or other adjustment of Programme materials used in connection with the On Demand Rights;</p> <p>(ii) any actual and direct third party costs charged by third party service providers, third party platform operators, telecommunications operators and/or aggregators (such as any bandwidth, delivery and storage charges);</p>



DRAFT – SUBJECT TO CONTRACT

	<p>(iii) any Third Party Residuals and Clearance Costs actually and necessarily incurred;</p> <p>(iv) any applicable taxes, duties or other statutory levies including VAT and any other costs pre-agreed by the parties; and</p> <p>(v) such other amounts as the parties may agree in good faith.</p>
Download to Own Rights	<p>All sums actually received by or on behalf of ITV or the Producer, as the case may be, in respect of the exploitation pursuant to Clause 10.2 of the Download to Own Rights (but excluding VAT) (whether on a per Programme Download basis or where the Programme is sold as part of a bundle of programmes, it being acknowledged that where a programme is sold within a bundled service which includes both the Programme and other programmes then the charge shall be allocated pro-rata the number of programmes downloaded) but, for the avoidance of doubt, not including any revenues derived from the provision of software and/or hardware in connection with any Download to Own service and any advertising and/or sponsorship fees and less the proper, actual and reasonable direct sums expended by or charged to ITV (or the ITV Group) or the Producer, as the case may be, in connection with, and to the extent applicable to, any and all exploitation of the Download to Own Rights including:</p> <p>(i) actual editorial costs in the commissioning of new content and/or re-editing, reformatting, digitising, encoding and/or other adjustment of Programme materials used in connection with the Download to Own Rights;</p> <p>(ii) any actual and direct third party costs charged by third party service providers, third party platform operators, telecommunications operators and/or aggregators (such as any bandwidth, delivery and storage charges);</p> <p>(iii) any Third Party Residuals and Clearance Costs actually and necessarily incurred;</p> <p>(iv) any applicable taxes, duties or other statutory levies including VAT and any other costs pre-agreed by the parties; and</p> <p>(v) such other amounts as the parties may agree in good faith.</p>
UK Secondary Broadcast Rights	<p>All sums actually received by or on behalf of the Producer in respect of the exploitation of the UK Secondary Broadcast Rights excluding any advertising and/or sponsorship fees and less only:</p> <p>(i) any actually incurred, reasonable and customary third party distribution commission and direct costs and expenses (but excluding any general overhead costs) in each case in line with standard industry practice;</p> <p>(ii) any Third Party Residuals and Clearance Costs actually and necessarily incurred;</p> <p>(iii) any applicable taxes, duties or other statutory levies including VAT and other costs pre-agreed by the parties; and</p> <p>(iv) such other amounts as the parties may agree in good faith.</p>
All other exploitation of the Programme and Programme Format during the Licence Period	<p>All sums actually received by or on behalf of the Producer in respect of the exploitation of the Programme and Programme Format but, for the avoidance of doubt, excluding any advertising and/or sponsorship fees and any income used to defray the costs of production of the Programme, as set out in the approved Budget (or the costs of production of other products of the exploitation of the Programme and/or Programme Format incurred by the Producer), less only:</p> <p>(i) any actually incurred, reasonable and customary third party distribution commission and direct costs and expenses (but excluding any general overhead costs) in each case in line with standard industry practice;</p> <p>(ii) any Third Party Residuals and Clearance Costs actually and necessarily incurred;</p> <p>(iii) any applicable taxes, duties or other statutory levies including VAT and other costs pre-agreed by the parties; and</p> <p>(iv) such other amounts as the parties may agree in good faith.</p>

<p><u>All</u> exploitation of the Programme and Programme Format <u>following expiry or earlier termination</u> of the Licence Period</p>	<p>All sums actually received by or on behalf of the Producer in respect of the exploitation of the Programme and Programme Format but, for the avoidance of doubt, excluding any advertising and/or sponsorship fees and any income used to defray the costs of production of the Programme, as set out in the approved Budget (or the costs of production of other products of the exploitation of the Programme and/or Programme Format incurred by the Producer), less only:</p> <p>(i) any actually incurred, reasonable and customary third party distribution commission and direct costs and expenses (but excluding any general overhead costs) in each case in line with standard industry practice);</p> <p>(ii) any Third Party Residuals and Clearance Costs actually and necessarily incurred;</p> <p>(iii) any applicable taxes, duties or other statutory levies including VAT and other costs pre-agreed by the parties; and</p> <p>(iv) such other amounts as the parties may agree in good faith.</p>
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For the purposes of the above definitions of Net Receipts, where the Producer is exploiting any rights the term "**Third Party Residuals and Clearance Costs**" shall mean:

- (a) any third party residuals, re-use fees, payments, royalties and fees payable either (i) pursuant to any union mandated or collective bargaining agreements or (ii) on industry standard arms length terms or (iii) as otherwise approved by ITV (such approval not to be unreasonably withheld or delayed), and in any event which the Producer is required to observe (but excluding, for the avoidance of doubt, any third party profit participations which shall be payable by the Producer); and
- (b) the cost of any clearances in respect of third party music and/or other elements required to be obtained,

which are actually paid or will actually be payable as a result of the exploitation of such rights by, on behalf of or under licence from the Producer. Such Third Party Residuals and Clearance Costs shall be in accordance with the ITV Policy on Underlying Rights and the ITV Policy on Talent Fees (save as otherwise agreed in writing by ITV).

Where the Producer is exploiting any rights, then prior to accounting to ITV for its appropriate share of Net Receipts, the Producer shall be entitled to recoup from 100% of Net Receipts arising from such exploitation, any deficit funding (including deferred production fees) described in Section 4A of this Schedule which is used to defray the costs of production of the Programme in accordance with the Budget as approved by ITV.

**PART C**

**SPECIAL CONDITIONS**

1.1 Payment of the Licence Fee will be subject to confirmation of delivery and acceptance of the Programme by the Compliance Licensee and receipt by ITV of an accurate and valid invoice. . Invoices are required to be received by ITV on or before the 25th day of each month in respect of episodes of the Programme delivered in that month. All invoices are to specify **contract reference number <<CONTRACT REF>>, ITV purchase order number <<PURCHASE ORDER>>, title of the Programme, number of episodes, Licence Fee per episode and full details of bank account for payment (which shall match the IPA, where applicable).**

1.2 Cost Report

Following completion of the production of the Programme, the Producer shall send a final cost report to ITV (if requested by ITV) that shows the actual costs of production of the Programme to demonstrate any difference between the Programme budget and the Licence Fee.

1.3 The Producer shall produce the Programme in accordance with their commitments under ITV's Production Principles form and shall deliver the Production Principles Completion form at the end of production and prior to delivery of the Programme and the Producer shall ensure the Programme is albert certified.

1.4 **[FOR SCRIPTED COMMISSIONS]** Where part of the budget expenditure for the Programme qualifies for UK Television Tax Relief ("**TTR**") and the Producer (or other qualifying company on the Programme) applies for the same, the Producer agrees that it shall where possible make provision in the Budget for, and only where the application is successful and the applicant has received said tax credit from HMRC, shall pay the appropriate Skills Fund Contribution to Screen Skills Investment Fund.

2. Policy on Underlying Rights

The Producer shall comply with ITV's Policy on Underlying Rights as available at [www.itv.com/commissioning/articles/terms-of-trade](http://www.itv.com/commissioning/articles/terms-of-trade) and as updated by ITV from time to time.

The Producer shall include wording in any contract made with any on screen talent and/or key creatives associated with the Programme that permits (at the Producer's and/or ITV's election) either immediate termination/cancellation of their engagement or immediate suspension on no pay (with the option to terminate later at ITV's discretion) in relation to any act or omission which in the Producer's or ITV's reasonable opinion could bring the Programme, the Producer and/or ITV into disrepute or prejudice the production or successful exploitation of the Programme. The Producer shall also ensure that: (i) the definition of disrepute within the engagement contract for talent and/or key creatives covers all types of acts or omissions in all media, including social media and including historical actions that only come to light later; and (ii) in addition to the disrepute provisions, there is a clear requirement for talent to conduct themselves with due regard to public morals, societal conventions and any ITV policies regarding personal conduct, including ITV's Code of Ethics and Conduct, Bullying & Harassment/ Dignity at Work Policy and Social Media Guidelines all as updated from time to time (all available at [itvplc.com](http://itvplc.com))

3. The other key rights granted to ITV are as follows (with no additional licence fees or other fees payable to the Producer in respect of any of the same, except where stated):

3.1 Download To Own Rights

As agreed between ITV and Producer.

3.2 Sideloaded Rights

As set out in an agreement between PACT and ITV dated 8 December 2015 with effect from 9 November 2015, the grant of the Primary and the ITV Secondary Service Rights by the Producer shall include Sideloaded Rights.

4. Product Placement

The parties would like to explore the opportunity to identify appropriate Product Placement (“PP”) opportunities within the Programme(s) commissioned pursuant to the terms of this Agreement, to be undertaken within the General Terms and Conditions, any editorial justification test requirements and any other factors that will need to be considered by the parties from time to time. It is agreed between the parties that ITV Commercial will exclusively facilitate and co-ordinate all sales activity with advertisers and their agencies.

The Producer shall be consulted in relation to the PP opportunities applicable to the Programme(s) to ensure that the Producer and ITV Commissioning Executive are in agreement relating to the editorial impact any PP may have on the Programme(s).

The parties acknowledge and agree that any Net Receipts received by or on behalf of ITV in respect of PP shall be shared with the Producer on a 50:50 basis. Any sales commission (if and to the extent required to be deducted by ITV Commercial and agreed by ITV and the Producer) shall be deducted from gross revenues before accounting for Net Receipts.

5. Clearances

In meeting any of its clearance obligations set out in this Agreement, the Producer may rely at no cost on any applicable ITV blanket licence or guild agreements currently in force, as advised by ITV Commercial Affairs.

Promotional clip use and other promotional use shall be cleared in any event by the Producer. Subject to the foregoing sentence, the Producer shall ensure that the Programme is cleared or clearable in relation to ITV’s exploitation of the rights set out hereunder, together with UK non-terrestrial broadcast, “multiplex”/ delayed version, simultaneous transmission on an HD version of ITV and online uses. It is agreed all such residuals and royalties (“**Clearance Costs**”) shall be paid from gross receipts prior to split of Net Receipts, on the terms of the relevant contributor union agreements applied by the Producer (e.g. Pact/ Equity, Pact/ WGGB). Unless otherwise agreed with ITV, the Producer shall undertake the calculation and payment of all applicable Clearance Costs for each applicable use then provide such information to ITV promptly for approval. The Producer shall be solely responsible for the calculation, payment and distribution of all applicable Clearance Costs and all related administration including tax reporting in respect of any of the rights granted hereunder.

6. Data Protection

**PROCESSORS – (PART H)**

- 6.1 Should the performance of the Producer’s or ITV’s obligations under this Agreement involve the processing of any personal data in respect of either party being the processor on behalf of the other party, the provisions of Part I shall apply and the parties shall comply with the terms of Part I. Terms used but not defined in this clause 6 shall have the meanings given in Part I.

*Examples envisaged whereby ITV may process on behalf of Producer include where there is an exchange of personal data such as:*

- *employee and/or freelancer/contractor data being sent from the Producer to ITV (e.g. name, title, email address) to document key personnel involved in the production;*
- *contributor and/or talent information being sent from the Producer to ITV for the purpose of the commissioning broadcaster making a decision related to casting.*

*Examples envisaged whereby Producer may process on behalf of ITV include where there is an exchange of personal data such as:*

- *employee data being sent from ITV to the Producer (e.g., name and email address) to allow Producer to deal with ITV individuals with regards to compliance, content delivery and editorial and legal issues and queries;*
- *contributor and/or talent data being processed by Producer on behalf of ITV for example, where ITV for compliance purposes needs changes to a programme (such as editing out an individual from a scene due to compliance concerns).*

#### **PRODUCER AS CONTROLLER**

- 6.2 Without prejudice to clause 6.4 and the provisions of Part H, to the extent that the provision of the Programme and/or Producer's obligations under this Agreement involves any personal data in respect of which the Producer is the controller, Producer warrants, undertakes and represents on an ongoing basis that it shall comply with the Data Protection Laws with respect to all such personal data (including without limitation personal data relating to contestants, contributors and talent).

#### **ITV AS CONTROLLER**

- 6.3 Without prejudice to clause 6.4 and the provisions of Part H, to the extent that the provision of the Programme and/or ITV's obligations under this Agreement involves any personal data in respect of which ITV is the Controller including such data as set out in clause 6.4, ITV warrants, undertakes and represents on an ongoing basis that it shall comply with the Data Protection Laws with respect to all such personal data.
- 6.4 For the avoidance of doubt as between ITV and the Producer, ITV shall be the data controller of, shall own and shall be entitled to retain all data (whether personal data, for the purposes of the Data Protection Laws, or otherwise) collected by or on behalf of ITV or the Producer and/or any Aggregator during the exercise of the Interactive Rights, the PRTS Rights, ITV's rights under Clause 9.5 of the General Terms and Conditions with respect to Programme Websites and/or the Auxiliary Rights.

- 6.4.1 In relation to any broadcast rights and other Rights granted to ITV, to allow ITV to meet the requirements of Article 14 of the GDPR, Producer shall use its reasonable endeavours to direct its contributors, talent and/or freelancers ("**Contributors**") to ITV's privacy notice by inserting a web link to ITV's notice as set out in Pact's model contributor agreement template. Suggested wording in directing Contributors accordingly is: "Should you wish to know more about how the broadcaster will manage your data please click here [https://www.itv.com/\\_data/documents/pdf/ITV\\_Broadcasting\\_Privacy\\_Notice.pdf](https://www.itv.com/_data/documents/pdf/ITV_Broadcasting_Privacy_Notice.pdf)"

#### **JOINT CONTROLLERS**

- 6.5 ITV shall be the Controller in relation to any such personal data set out in clause 6.4 save for where the parties are joint data controllers. To the extent the parties in the course of performing their obligations and exercising their rights under this Agreement will be joint data controllers with respect to the processing of certain personal data each party shall:
- 6.5.1 only do so in compliance with the Data Protection Laws and take all measures required of data controllers pursuant to Article 32 (*Security of Processing*) of the GDPR;
- 6.5.2 where any data subject exercises any right(s) laid down in Part III (*Rights of the data subject*) of the GDPR promptly notify the other party to the extent that any action is required of, or information is required from, the other party for the fulfilment of such right(s);
- 6.5.3 provide all cooperation and information reasonably requested by the other party:

- a) for the fulfilment of the other party's obligation to respond to requests for exercising the data subject's rights laid down in Part III (*Rights of the data subject*) of the GDPR; and
- b) for the investigation of any personal data breach and the fulfilment of any related notification obligations under the Data Protection Laws,

such cooperation shall include: (i) promptly informing each other if any personal data is lost or destroyed or becomes damaged, corrupted or unusable (and restoration of such data where necessary and appropriate to do so); (ii) and taking appropriate technical and organisational measures to integrate the necessary safeguards into the processing in order to meet the requirements of Part III of the GDPR and demonstrate that personal data is being treated in accordance with the Data Protection Laws;

- 6.6 This clause 6 shall replace and supersede clause 16.1 of the General Terms and Conditions and clause 16.3 and 16.4 of the General Terms and Conditions shall be amended so that all references to the DPA are replaced with the words "Data Protection Laws".
- 6.7 To the extent that the parties, at a later date, enter into specific binding written arrangements (not including email) with respect to the processing of personal data, then to the extent that such arrangements are inconsistent with the arrangements set out herein, such later arrangements shall take precedence with respect to such inconsistency.

7. Diversity And Project Diamond

The following definitions shall apply to Clause 7 below, of the Special Conditions:

<b>"Contributors Form"</b>	a form generated by Silvermouse to record on-screen and off-screen participants
<b>"Data Protection Legislation"</b>	the Data Protection Act 1998 and all applicable laws and regulations relating to personal data and privacy as may be in force from time to time
<b>"Diamond"</b>	a diversity monitoring initiative set up by the Creative Diversity Network to monitor the diversity of individuals participating in productions both on-screen and off-screen in the United Kingdom
<b>"Diamond Broadcaster"</b>	a broadcaster participating in Diamond
<b>"Diamond Diversity Data"</b>	all personal data inputted into the Diversity Data Modules
<b>"Diversity Actual Form"</b>	a form generated by Silvermouse which (i) is auto-populated from Participants entered on the Contributors Form (ii) allows Participants with a mandatory role type (other than those recorded on the Contributors Form) to be added or excluded (iii) allows Participants with a non-mandatory role type to be added (iv) allows Participants who have filled in a Diversity Self-Service Form to be added
<b>"Diamond Guidance Notes"</b>	the Diamond Guidance Notes version 1.1 dated August 2016 as may be varied from time to time in agreement with Pact, such agreement not to be unreasonably withheld or delayed
<b>"Diversity Characteristics"</b>	for the purposes of Diamond the six diversity characteristics are: gender, gender identity, age, ethnicity, sexual orientation and disability

<b>“Diversity Data Modules”</b>	means the data forms and functionality on Silvermouse created for the purposes of collecting and reporting on Diamond Diversity Data
<b>“Diversity Perceived Form”</b>	a form generated by Silvermouse to record perceived Diversity Characteristics of Participants, where evident
<b>“Diversity Self-declaration Form”</b>	a form generated by Silvermouse which invites Participants to submit their actual Diversity Characteristics
<b>“Form”</b>	Characteristics
<b>“Diversity Self-Service Form”</b>	a form that invites Participants to directly enter their actual Diversity Characteristics
<b>“Excluded Categories”</b>	categories of role types and Participants for which data should not be collected in Diamond, as specified in the Diamond Guidance Notes
<b>“Participant”</b>	a participant in the Programme, whether on-screen or off-screen, as detailed in the Diamond Guidance Notes
<b>“Silvermouse”</b>	a web-based system developed by Soundmouse used by broadcasters and production companies for production paperwork or any equivalent replacement web-based diversity monitoring system adopted for Diamond
<b>“Soundmouse”</b>	Soundmouse Limited

The parties acknowledge and agree that ITV is participating in Diamond. For the purposes of Diamond, the parties acknowledge and agree that the Diamond Broadcasters will be the Data Controllers of all Diamond Diversity Data and the Producer will be the Data Processor of the Diamond Diversity Data inputted by the Producer to the Diversity Data Modules, and ITV will use all Diamond Diversity Data in accordance with its obligations under the Data Protection Legislation.

- 7.1 The Producer shall, save in respect of the Excluded Categories: (i) notify the Participants of the submission of their e-mail addresses into Silvermouse for the purpose of being invited to complete the Diversity Self-declaration Form, and (ii) complete the Contributors Form, the Diversity Actual Form and (iii) complete the Diversity Perceived Form in Silvermouse. For the purposes of this clause, “complete” shall have the meaning set out in the Diamond Guidance Notes.
- 7.2 Where a Participant does not provide the Producer with an e-mail address the Producer will use reasonable endeavours to supply or make available to the Participant a Diversity Self-Service Form.
- 7.3 ITV may compile reports using Diamond Diversity Data relating to the Programme that is contained in the Diversity Data Modules (the “**Reports**”). ITV may choose to share the Reports with the Producer and will do so on the basis that the Producer acts as a Data Processor of the Reports and the Producer agrees to treat the Reports as confidential and hold them in accordance with the provisions of the Data Protection Legislation.
- 7.4 ITV shall indemnify the Producer against Data Protection liability in accordance with the following terms:
  - 7.4.1 Subject to the provisions of 7.4.2 below, ITV shall indemnify the Producer against:
    - a) any direct financial loss and or penalty actually suffered by the Producer due to a data infringement under Data Protection Legislation with respect to the Diamond Diversity Data that is incurred by the Producer substantially and directly as a result of the

Producer being a data processor of Diamond Diversity Data where such infringement is as a direct result of ITV's, or Soundmouse's actions; and/or

- b) any reasonable external legal costs actually incurred by the Producer in respect of (a) such data infringement claim referred to in (i) above, and/or (b) defending any claim or action with respect to mishandling of the Diamond Diversity Data made against the Producer by a Participant substantially and directly as a consequence of the Participant's involvement in Diamond, and being made as a direct result of ITV's, and/or Soundmouse's actions.

7.4.2 The indemnity set out in 7.4.1 shall be subject to the following:

the Producer has fully complied with all its obligations and responsibilities under the applicable contract (if any) between itself and the affected individual, the provisions relating to Diamond and data protection in this Agreement, Data Protection Legislation and the Diamond Guidance Notes (in so far as the Diamond Guidance Notes are relevant to a claim under this indemnity). If a Producer has reason to believe that the Data Protection Legislation and the Diamond Guidance Notes are inconsistent, it shall promptly notify ITV and follow the instructions subsequently given to it by ITV. For the avoidance of doubt, providing the Producer acts in accordance with the provisions of this clause 7.4.2, if a regulatory body or court of competent jurisdiction determines that the Diamond Guidance Notes are not fully consistent with the Data Protection Legislation and such inconsistency results in the Producer making a claim under this indemnity, the validity of the indemnity shall not be affected;

- a) where the Producer has contracted the Participants the contract incorporates the pan-industry agreed or equivalent wording for project Diamond;
- b) the Producer will notify ITV immediately in writing in the event that a claim arising under 7.4.1 has been made against the Producer;
- c) ITV is entitled to control any investigation into and/or defence to such actions/claims/proceedings being made;
- d) the Producer will provide such cooperation or assistance as ITV may reasonably request in conducting such investigation and/or defence;
- e) the Producer will not make any admissions of liability or agreement to settle nor incur any legal costs in investigating or defending any such claim without the prior written consent of ITV;
- f) the Producer will take all reasonable steps to mitigate their losses;
- g) In the event that ITV terminates its participation in the Diamond project or ceases to be a member of the CDN this indemnity will no longer apply. For the avoidance of doubt, if the act or omission which gives rise to any liability under this indemnity occurs prior to the date ITV terminates its participation in the Diamond project or ceases to be a member of the CDN, the validity of this indemnity shall not be affected.

8. Parent Company Guarantee [*Only applicable if using an SPV or company guarantor - otherwise N/A*]

In consideration of ITV entering into this Agreement with the Producer, the Guarantor hereby irrevocably and unconditionally:

- a) undertakes to procure the Producer's full and prompt performance and observance when the same become due of all of its obligations under this Agreement (together the "Producer Obligations");



- b) guarantees as a continuing guarantee to ITV and on demand the due and punctual performance and observance of the Producer Obligations by the Producer when the same become due under this Agreement if for any reason the Producer shall fail to perform or observe any of the Producer Obligations when due and undertakes that, in the event that the Producer shall at any time fail to perform any of the Producer Obligations when due, the Guarantor will perform each such Obligation in place of the Producer; and
- c) agrees to indemnify and keep the Licensee indemnified against all losses, damages, costs and expenses (including court costs and reasonable legal fees and VAT) of whatever nature which ITV suffers, incurs or sustains arising as a result of a failure by the Producer to perform any of the Producer Obligations and/or any breach by the Producer of any of its warranties, undertakings and representations as set out in this Agreement and/or ITV Terms of Trade Agreement and/or any claim in respect of any such failure on the part of the Producer, including (without limitation) in respect of:
  - i) any breach of copyright; and/or
  - ii) the underlying rights in the Programme

**PART D**

**ITV DELIVERABLES**

The Producer must deliver all Delivery Materials in accordance with ITV's General Terms and Conditions, and in particular, the Codes and Guidelines as defined therein, including but not limited to: the 'ITV Contractual Delivery Document' ("Delivery Requirements") and, the 'ITV Publicity Guidelines' all of which are available on ITV's website.

A link to the current Delivery Requirements is provided below. Any updates to the Delivery Requirements shall be made available on ITV's Producer Guidelines page (here).

[ITV Deliverables](#)

**PART E**

**EDITORIAL SPECIFICATION / SYNOPSIS**

**BUDGET AND PRODUCTION SCHEDULE**

**PART F**  
**ADDITIONAL CONTENT AGREEMENT**

**PART G**

**REGIONAL LICENSEES**

Company names, registered offices and company numbers as follows:

1. **ITV Broadcasting Limited**  
ITV White City  
201 Wood Lane  
London  
W12 7RU  
Company No. 00955957
  
2. **STV Central Limited**  
Pacific Quay  
Glasgow G51 1PQ  
Company number: SC172149

## PART H

### PROCESSOR DATA PROTECTION ADDENDUM

1. In this Part H:

- 1.1. **“Data Protection Act”** means the Data Protection Act 2018, as amended, repealed, replaced or supplemented from time to time, in the UK;
- 1.2. **“Data Protection Laws”** means all laws relating to data protection, data privacy and/or information security which are applicable to the Programme, the Rights and/or the performance by each party of its obligations under this Agreement, including the Data Protection Act, the General Data Protection Regulation (GDPR) ((Regulation (EU) 2016/679) and the Privacy and Electronic Communications (EC Directive) Regulations 2003, in each case as amended, repealed, replaced or supplemented from time to time;
- 1.3. **“GDPR”** means the General Data Protection Regulation (Regulation (EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended, repealed, replaced or supplemented from time to time, in the UK;
- 1.4. the following terms (and their derivatives) shall, where applicable, have the meanings given to each of them in the GDPR, in each case as amended, replaced or supplemented from time to time:
  - 1.4.1. “controller”;
  - 1.4.2. “processor”;
  - 1.4.3. “data protection officer”;
  - 1.4.4. “data subject”;
  - 1.4.5. “international organisation”;
  - 1.4.6. “Member State”;
  - 1.4.7. “personal data”;
  - 1.4.8. “personal data breach”;
  - 1.4.9. “processing”;
  - 1.4.10. “supervisory authority”;
  - 1.4.11. “third country”;
  - 1.4.12. “Union”;

and;

- 1.5. this Part H shall only take effect from and including 25 May 2018.

2. The Processor warrants, undertakes and represents on an ongoing basis that, to the extent it processes any personal data as processor in connection with the Programme, the Rights and/or its obligations under this Agreement:

- 2.1. it shall process the personal data only on and in accordance with documented instructions from controller which may be given by email), including with regards to transfers of personal data to a third country or international organisation, unless required to do so by Union or Member State law to which Producer is subject, in which case processor shall inform the controller in writing of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest. Processor shall immediately inform the controller in writing if, in its opinion, an instruction from controller infringes the GDPR or other Union or Member State data protection provisions;
- 2.2. it shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- 2.3. it shall take all measures required pursuant to Article 32 (Security of Processing) of the GDPR;

- 2.4. it shall not engage another processor without the prior specific written, or general written, authorisation of the controller. Where Processor has the prior general written authorisation of the controller, the processor shall inform the controller in writing in advance of any intended additional or replacement processors, giving the controller the opportunity to object to such changes (controller to notify the Processor of any such objection promptly after (and in any event within fifteen (15) business days of and sooner where possible) Processor notifying the controller of the additional or replacement processor). In the case of any such objection, Processor shall not engage such additional or replacement processor;
- 2.5. if Processor engages another processor, Processor shall ensure that the same data protection obligations as set out in the Agreement (including this Part H) shall be imposed on that other processor by way of a written contract, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the Data Protection Laws. Processor shall ensure that any such processor complies with such obligations and Processor shall remain fully liable to Controller for the performance by such other processor of such obligations;
- 2.6. it shall, taking into account the nature of the processing, assist the Controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III (Rights of the data subject) of the GDPR;
- 2.7. it shall assist the Controller in ensuring compliance with the obligations in Articles 32 to 36 (*Security of personal data*) and (*Data protection impact assessment and prior consultation*) of the GDPR, taking into account the nature of Processor's processing of the personal data and the information available to Processor;
- 2.8. at the Controller's election, it shall delete or return all the personal data to the Controller after the provision of the services relating to processing and delete all existing copies unless Union or Member State law requires storage of the personal data;
- 2.9. make available to the Controller all information necessary to demonstrate compliance with the obligations set out in this Part H and under the GDPR and shall make this information available to the Controller and allow for and contribute to audits, including inspections, conducted by the Controller or any auditor mandated by the Controller, and shall provide reasonable assistance to the Controller and any auditor in respect of such audits;
- 2.10. taking into account the state of the art, the cost of implementation and the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for rights and freedoms of natural persons posed by the processing, it shall implement appropriate technical and organisational measures (which may include, where appropriate: pseudonymising and encrypting personal data; ensuring confidentiality, integrity, availability and resilience of its systems and services; ensuring that availability of and access to personal data can be restored in a timely manner after an incident; and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it) which are designed to implement data-protection principles, such as data minimisation, in an effective manner and to integrate the necessary safeguards into the processing in order to meet the requirements of the Data Protection Laws, to protect the rights of data subjects, and to ensure and to be able to demonstrate that processing is performed in accordance with the Data Protection Laws;
- 2.11. it shall implement appropriate technical and organisational measures for ensuring that, by default, only personal data which are necessary for each specific purpose of the processing are processed. That obligation applies to the amount of personal data collected, the extent of their processing, the period of their storage and their accessibility;
- 2.12. the Producer where processing on ITV's behalf shall not transfer, or permit the transfer, of the personal data to a third country or international organisation unless ITV has given its prior

written consent which shall not be unreasonably withheld and such transfer complies with Data Protection Laws (and in particular Chapter V (Transfers of personal data to third countries or international organisations) of the GDPR);

- 2.13. it shall promptly inform the Controller if any personal data is lost or destroyed or becomes damaged, corrupted or unusable and will restore such data at its own reasonable and fair expense and where it is necessary and appropriate to do so;
- 2.14. in the case of a personal data breach relating to personal data being processed by one party on the other's behalf the Processor without undue delay and not later than 24 hours after becoming aware of the breach will notify the Controller of the personal data breach unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural person Such notification shall be in writing and shall include at least the information set out in Article 33 of the GDPR to the extent such information is available to the processor. The processor shall immediately update such notification if additional information becomes available to it from time to time;
3. If Producer or ITV receives notice or otherwise becomes aware of, any claim, complaint, request, direction, query, investigation, proceeding or other action of any data subject, court, regulatory or supervisory authority, or any body, organisation or association as referred to in Article 80 (Representation of data subjects) of the GDPR, in each case which relates in any way to any personal data processed by either Producer or ITV on behalf of the other party in connection with the Agreement (collectively, "**Regulatory Action**"), or any threat or possibility of any Regulatory Action, then the receiving party shall:
  - 3.1. promptly notify the other in writing with reasonable detail of the Regulatory Action, including copies of any relevant correspondence;
  - 3.2. obtain Controller prior written approval of any action that they propose to take or refrain from taking in response to or in order to comply with any Regulatory Action;
  - 3.3. allow the relevant Controller (where it is either ITV or Producer, as applicable) of the personal data that is subject to Regulatory Action, at their request, to take over the conduct of any Regulatory Action;
  - 3.4. both parties shall provide full co-operation and assistance with respect to any Regulatory Action; and
  - 3.5. disclose and supply to ITV or the Producer (as relevant) in utmost good faith all facts, circumstances, information, documents and materials which might reasonably be considered relevant to, or which ITV or the Producer requests in relation to, any Regulatory Action, except, in each case, to the extent that Producer or ITV is prohibited from doing so by applicable law. This paragraph 3 is without prejudice to the Controllers obligations under Article 31 (Cooperation with the supervisory authority) of the GDPR.
4. The parties shall review and update this Part H as may be reasonably required to reflect any changes to Data Protection Laws.
5. The parties shall set out and agree elsewhere (which may for example be by way of separate interactive deal memos, service contracts, interactive commissioning specifications or additional content licences) details of the subject-matter and duration of the processing to be undertaken by Producer, the nature and purpose of such processing, the type(s) of personal data to be processed, and the categories of data subjects which are subject to such processing. If any of the details are to change then the parties shall agree an appropriate amendment in writing.