



NON-SCRIPTED DEVELOPMENT GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

1.1 In this Agreement the following capitalised terms shall, unless specified otherwise or the context otherwise requires, have the following meanings:

Acceptance Date	The sooner of either (i) the date on which the ITV Commissioning Representative notifies the Producer in writing that the Development Work has been accepted or (ii) the Deemed Acceptance Date;
Deemed Acceptance Date	The date which occurs 45 (forty-five) days after the Delivery Date (inclusive);
ITV Rights	any and all rights granted or expressed to be granted to ITV pursuant to this Agreement and/or the ITV Terms of Trade Agreement;
ITV Terms of Trade Agreement	For Programmes produced for ITV1, the Programme will be governed by ITV's Terms of Trade as are current at the time of commission of the Programme. For Programmes produced for ITV's Digital Channels, the Programme will be governed by ITV's Digital Channels Terms and Conditions as are current at the time of commission of the Programme;
Option Period	9 (nine) months commencing from the Acceptance Date and any extension thereto pursuant to clause 3.3 below and/or 7.1, unless prior to the end of this period ITV should notify the Producer in writing that ITV does not wish to exercise the Option (as defined in clause 3.1) in which case the Option Period shall expire on the date of such notification;
Programme	One or more programmes or a series of programmes based upon the Development Work;
Specification	The description of the Development Work agreed by the parties as attached at Appendix B of the Development Agreement.

2. PRODUCTION AND DELIVERY OF DEVELOPMENT WORK

- 2.1 The Producer shall produce the Development Work in accordance with the ITV Commissioning Representative's editorial requirements and reasonable directions and instructions and shall deliver the Development Work to ITV on or prior to the Delivery Date and otherwise in accordance with the terms of this Development Agreement.
- 2.2 The ITV Commissioning Representative shall have prior approval rights over all Principal Contributors, such approval not to be unreasonably withheld or delayed and the Producer shall not enter into any agreement with such Principal Contributors and/or other third parties in connection with the Development Work that would affect the rights granted to ITV under this Agreement. The Producer shall upon request provide the ITV Legal & Business Affairs representative with copies of any agreements entered into with Principal Contributors and/or other third parties in connection with the Development Work (which ITV agrees to treat as confidential information and to treat all Personal Data therein in accordance with the Data Protection Act 2018).
- 2.3 The ITV Commissioning Representative shall have a reasonable period following delivery of each element of the Development Work to consider such element and to request amendments and/or revisions to the same by notice in writing to the Producer, subject to any limitations imposed by the Producer's agreements with relevant Principal Contributors as notified in advance to ITV pursuant to clause 2.2 above. The Producer shall implement and/or procure that such amendments and/or revisions are implemented and that the amended and/or revised element of the Development Work is delivered to ITV within such reasonable period as ITV shall specify in its written request to the Producer. Unless otherwise agreed by ITV in writing, the Producer shall make all such amendments and/or revisions at the Producer's own cost. In the event that the parties have agreed a Specification for the Development Work, ITV hereby agrees that it shall negotiate in good faith with the Producer with respect to the terms upon which ITV shall request any amendments and/or revisions to the Development Work pursuant to this clause 2.3 that are in addition to or a variation to the agreed Specification.
- 2.4 The Producer shall ensure that its agreements with any talent connected to the Development Work shall contain a right of cut-off for ITV after delivery of the Development Work, meaning that ITV shall not be obliged to include such talent in any commission of the Programme.

3. OPTION

- 3.1 In consideration of the payment to the Producer of the Option Fee the Producer, as legal and beneficial owner of the Development Work, hereby grants to ITV an irrevocable and exclusive option for the Option Period (or, if earlier, the date on which ITV notifies the Producer that it does not wish to exercise the Option, as defined below) to commission the Producer to produce the Programme based on the Development Work ("the **Option**") and to acquire the ITV Rights in the Programme in accordance with the ITV Terms of Trade Agreement.

- 3.2 The Option shall be exercisable by ITV within the Option Period upon written agreement between the parties of the licence fee for the commission of the Programme.
- 3.3 The Option Period may be extended for a further period of 9 (nine) months (or such other period as the parties shall agree in good faith) upon the Producer receiving written notice requesting additional Development Work and subject to agreement between the parties as to the payment of any additional costs in relation to any such additional Development Work. If the Option Period is so extended, the definition of the Option Period shall include this extension.
- 3.4 During the Option Period, the Producer agrees not to license any foreign version programme or series based upon the Development Work ("**Foreign Version Programmes**") within the United Kingdom and thereafter to the extent ITV exercises the Option in relation to the Development Work, the Producer shall only license such Foreign Version Programmes in the United Kingdom in accordance with the ITV Terms of Trade Agreement or as otherwise agreed between the parties.

4. OPTION FEE

- 4.1 Subject to the Producer's grant of the Option and performance of its obligations hereunder ITV will pay the Producer the Option Fee upon delivery and acceptance by ITV of the Development Work following receipt of a signed copy of this Agreement together with a valid invoice. The invoice must be sent for the attention of the ITV Business Service Centre to **itvpayments@itv.com**.
- 4.2 The Producer undertakes to use the Option Fee solely for the purpose of defraying the cost of the Development Work.
- 4.3 The Option Fee may be treated as an advance against any licence fee payable by ITV to the Producer pursuant to any commission resulting from the exercise of the Option.
- 4.4 The Producer acknowledges and agrees that payment of the Option Fee is sufficient consideration to procure the production of the Development Work and to grant the rights granted under this Agreement.

5. OPTION TERMS

- 5.1 The parties hereby acknowledge that if ITV exercises the Option and commissions the Producer to produce the Programme, the Programme shall be contracted on the following terms:
- 5.1.1 The Programme shall be commissioned in accordance with the ITV Terms of Trade Agreement in effect at the time of commissioning the Programme and to the extent that the Development Work forms part of the Programme, ITV shall also acquire such rights in the Development Work as appropriate in accordance with the ITV Terms of Trade Agreement.

5.1.2 The licence fee will be agreed in good faith by the parties, following a review of the full budget and in accordance with any conditions agreed in the Commercial Terms.

5.1.3 ITV shall have final editorial control and approval over all aspects of the Programme. In particular, ITV shall have a right of final approval over (without limitation): the Programme specification, the budget, the production schedule, any scripts (including running orders) and the choice of all key on- and off-screen personnel.

5.1.4 The Producer and ITV shall discuss in good faith whether the Programme will, as at the date of delivery of the Programme under the commissioning agreement, qualify as a regional production according to the OFCOM definition for reporting in respect of the Regional Production Quota.

5.2 In the event that ITV commissions the Producer to produce the Programme pursuant to clause 5.1 hereof but the Producer does not deliver the Programme to ITV for any reason other than: (1) the breach by ITV of the commissioning agreement pursuant to which the Programme is commissioned; or (2) as a result of circumstances outside of the Producer's reasonable control; or (3) where otherwise agreed between ITV and the Producer, the Producer shall repay ITV an amount equal to the Option Fee.

5.3 If by the expiry of the Option Period ITV does not exercise the Option, then the Option shall lapse. The Producer shall repay an amount equal to the Option Fee or such other amount as is agreed in good faith between the parties. It is agreed and acknowledged however that the Producer shall not be obliged to repay such sum until it has entered into a production agreement with a third party co-producer, broadcaster, or financier in respect of the Development Work but thereafter such sum shall be repayable on the commencement of principal photography and within 30 (thirty) days of receipt by the Producer of ITV's invoice in respect thereof.

5.4 In the event ITV and the Producer enter into an agreement to commission the Programme in accordance with clause 5.1 and the Producer contracts through a special purpose vehicle/subsidiary company, ITV will require a parental guarantee (or such other guarantee as may be agreed) to ensure the performance of all the Producer's obligations under such agreement.

6. PRODUCER'S WARRANTIES

6.1 The Producer hereby represents, warrants and undertakes that:

6.1.1 the Producer is entitled to enter into this Agreement and is fully empowered to perform its obligations under this Agreement;

6.1.2 the Producer is entitled to grant the Option to ITV and the Development Work will be free of all liens, claims and encumbrances that could in any way interfere with or inhibit the full exercise or exploitation of any and all of the ITV Rights in the Development Work and/or the Programme;

- 6.1.3 for the duration of the Option Period and in the production of the Development Work, the Producer will comply with all relevant industry agreements to the extent applicable, all statutory obligations and all other obligations imposed by law;
- 6.1.4 the Producer has obtained or will before the Delivery Date obtain an assessment of necessary permits and consents to permit or enable the Development Work and/or the Programme to be produced and exploited in accordance with the ITV Terms of Trade Agreement;
- 6.1.5 the Producer will ensure that all material incorporated in the Development Work is or will be original except in so far as it may be in the public domain;
- 6.1.6 nothing in the Development Work will to the best of the Producer's knowledge and belief (after due and diligent enquiry) be defamatory of any person firm or corporation and nothing therein will or does infringe the copyright or other personal proprietary right of any person firm or corporation or any obligation imposed by law;
- 6.1.7 the Development Work will be produced by the Producer in a first class manner;
- 6.1.8 to the best of the Producer's knowledge and belief after all due and diligent enquiry there are no claims or proceedings pending or threatened which might adversely affect the exploitation of the Development Work and/or the Programme;
- 6.1.9 the Producer is duly and properly established and existing according to English law;
- 6.1.10 the Producer will not assign, license, mortgage, charge or otherwise dispose or deal with or encumber any rights whatsoever in the Development Work that may derogate from or affect ITV's Rights without the prior written consent of ITV other than with respect to an assignment or licence of rights to a subsidiary of the Producer in which case ITV will require a parental guarantee (or such other guarantee as may be agreed) to ensure the performance of all the Producer's obligations under this Agreement;
- 6.2 the Producer hereby agrees to indemnify and hold harmless and keep indemnified and held harmless ITV PLC and subsidiaries, its parent and subsidiaries and each of their directors, employees and agents from time to time against all expenses, claims, awards, damages, losses and costs (including any interest, penalties and reasonable legal and other professional costs and expenses) and/or any other liabilities arising directly out of or reasonably foreseeably as a result of any breach or non-performance of the Producer's warranties, undertakings or obligations in this Agreement.
- 6.3 the Producer shall:
- a. put in place, and maintain all processes, procedures and compliance systems reasonably necessary to ensure that Tax Evasion and/or Bribery and/or Modern Slavery does not occur within the Producer's business or in its own supply chain;

- b. at all times:
 - i. comply with all applicable laws relating to Tax Evasion, Bribery and Modern Slavery;
 - ii. not engage in any activity, practice or conduct which would constitute an offence under:
 - A. sections 1, 2 or 6 of the Bribery Act 2010;
 - B. the Modern Slavery Act 2015; or
 - C. the Criminal Finances Act 2017,if such activity, practice or conduct had been carried out in the United Kingdom, and;
- c. immediately notify ITV (in writing) if:
 - i. the Producer, its associates, or any other person who performs or has performed services for or on behalf of the Producer are investigated by any law enforcement agency or customer in relation to Tax Evasion and/or Bribery and/or Modern Slavery; or
 - ii. Tax Evasion and/or Bribery and/or Modern Slavery has occurred, or the Producer has reasonable cause to believe any have occurred, in the Producer's business or within the Producer's supply chain;

6.4 A breach of clause 6.3(a) and/or clause 6.3(b) shall be deemed a material breach of the Producer's obligations that is incapable of remedy for the purpose of clause 7 (Suspension and Termination).

6.5 For the avoidance of doubt the following capitalised terms shall have the following meaning:

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;

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;

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.

7. SUSPENSION AND TERMINATION

- 7.1 Without prejudice to ITV's rights under clauses 6.2 and 7.2 the Parties hereby agree that if at any time prior to the exercise of the Option any legal claim, action or proceeding is brought against the Producer by any person, firm or corporation (including ITV) whereby it is apparent that the Producer is in breach of the representations, warranties or undertakings set out in this Agreement or does not have or may not have the right to grant the Option, then ITV may at its election, suspend the Option Period until such claim, action or proceeding is finally judicially determined or otherwise resolved and, subject as hereinafter provided, shall be extended for a period thereafter equal to the period of suspension. For the avoidance of doubt, during the continuance of any suspension hereunder the Producer shall not deal with, dispose of or otherwise encumber any of the rights in the Development Work which are the subject of the Option.
- 7.2 If the Producer shall commit a material breach of this Agreement and shall fail to remedy any breach capable of remedy within 14 (fourteen) days of ITV's written notice in respect thereof or should the Producer suffer the making of an administrative order or have a receiver (including an administrative receiver) or manager appointed over the whole or any part of the Producer's assets or if any order shall be made or a resolution passed for the Producer's winding up (except for the purpose of amalgamation or reconstruction) or if the Producer shall enter into any composition or arrangement with its creditors or if the Producer shall cease to carry on business, ITV shall be entitled (without prejudice to any accrued rights it may have) to terminate this Agreement by notice in writing to the Producer and repayment of the Option Fee in accordance with clause 5.3 hereof.

8. GENERAL

- 8.1 Nothing in this Agreement shall be deemed to constitute a partnership between the Producer and ITV.
- 8.2 All notices required to be given under this Agreement shall be served by sending the same to the party to whom such notice is to be sent at its address stated at the head of this Agreement or such other address as it shall notify. Notices may be served by first class post or personal delivery or by email message and shall be deemed served two days after posting (if sent by post) or upon receipt (if delivered personally) or upon acknowledgment of receipt (if sent by email).
- 8.3 This Agreement is personal to the Producer and shall not be assigned to any person, firm or corporation without the prior written consent of ITV such consent not to be unreasonably withheld. ITV shall be entitled to assign this agreement to any company within the ITV plc group save that ITV shall not without the approval of the Producer assign or sub-license this Agreement or any of its rights under this Agreement to either of ITV Global Distribution Limited or ITV Studios Limited (or any successor entities thereto). It is agreed and acknowledged that in the event that the Producer assigns this agreement or any rights in the Development Work that may derogate from or affect ITV's Rights to a subsidiary or a special purpose vehicle, ITV and the Producer will

require a parental guarantee to ensure the performance of all of the Producer's obligations under this Agreement.

- 8.4 This Agreement contains the entire understanding between the parties and any variation or amendment from the provisions of this Agreement shall not be effective unless such variation is in writing signed on behalf of both parties.
- 8.5 This Agreement does not create or confer any rights under the Contracts (Rights of Third Parties) Act 1999 enforceable by any person who is not a party to the Agreement.
- 8.6 Neither party shall without the prior consent of the other disclose or supply any information relating to the Development Work and/or the Programme to any person (other than to the Producer's professional advisors or relevant third parties connected to the production of the Development Work and/or the Programme) or to the public. Neither party shall disclose any confidential information relating to the affairs of the other party which may come to its knowledge during or in connection with the subject matter of this Agreement to any third party (other than its respective bona fide professional advisors who are bound by a similar duty of confidence) or to the public but this clause shall not apply to any such information which is already in the public domain through no fault of the disclosing party.
- 8.7 The failure by either party to enforce at any time or for any period any one or more of the terms and conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.
- 8.8 Illegality and/or unenforceability of any part of this Agreement shall not affect the enforceability of the remainder of this Agreement.
- 8.9 This Agreement may be executed by scanned copy exchanged by email (including without limitation a scanned copy saved electronically in Adobe Portable Document Format) and in counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute one and the same agreement.
- 8.10 This Agreement shall be interpreted in accordance with the laws of England & Wales and the parties agree to submit to the exclusive jurisdiction of the courts of England & Wales.