



# THE FOURTH NATIONAL LOTTERY LICENCE COMPETITION

## Short Form Trust Deed

Version: ITA Phase 1  
26 October 2020

**FOURTH NATIONAL LOTTERY LICENCE COMPETITION  
 SHORT FORM DEED OF TRUST<sup>1</sup>**

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<sup>1</sup>Note to Applicants: As described in the ITA and the accompanying Trust Explanatory Note, this Short Form Trust Deed sets out the key aspects of the 4NL Trust. The Commission seeks feedback from Applicants and their Proposed Trustees on the provisions of this document during Phase One, and will consider that feedback alongside its own further development work. The Commission intends to provide a Long Form Trust Deed at the start of Phase Two of the Competition.

## SHORT FORM TRUST DEED

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## SHORT FORM DEED OF TRUST

THIS TRUST DEED is dated

20[●●]

PARTIES<sup>2</sup>:

- (1) [ ], a company registered in England and Wales with registered number [ ] whose registered office is at [ ] (the "**Licensee**"); and
- (2) [ ], a company registered in England and Wales with registered number [ ] whose registered office is at [ ] (the "**Trustee**").

## BACKGROUND

- (A) Subject to the terms of the Enabling Agreement, it is intended that the Licensee will be awarded the fourth National Lottery Licence (the "**Licence**") pursuant to section 5 of the National Lottery etc Act 1993 (the "**Act**") following the expiry of the third National Lottery licence (the "**Third Licence**"), which is currently due to expire on 31 July 2023.
- (B) The Licence requires the Licensee to implement and maintain during the Licence Term arrangements to ensure that Participants are protected by:
- (a) appointing a Trustee to holds certain property and rights on trust for Participants who are due to be paid monies by the Licensee in certain circumstances;
  - (b) ensuring that certain National Lottery monies and other assets will be available to discharge the Licensee's obligations to those Participants, if those circumstances arise; and
  - (c) providing a mechanism for the appointed trustee (or a receiver or other person appointed on its behalf) to be appointed if necessary, to access the Licensee's systems, take control of the specified assets and pay the amounts owed to those Participants.
- (C) The Trustee has agreed to act as trustee for the purposes of this Deed upon the terms and subject to the conditions set out in this Deed.
- (D) On [●], the Trustee and the Licensee entered into a Trust Implementation Agreement which provides for the establishment of the Trust Arrangements and the transfer, on the Effective Date, of certain funds from the trusts established pursuant to the Third Licence to the trusts established by the Trust Arrangements set out in this Deed.

Capitalised terms used in this Deed shall have the meanings given to them in Schedule 1.

## OPERATIVE PROVISIONS

1. **CONDITION PRECEDENT<sup>3</sup>**

<sup>2</sup> Note to Applicants: This Short Form Trust Deed does not make provision for independent section 6 licensees. The Commission will consider whether this is required in the Long Form Trust Deed.

<sup>3</sup> Note to Draft: As envisaged by the Enabling Agreement, the Commission expects that the Trust Deed will be entered into during the Implementation Period. The Trust Implementation Agreement will provide for the steps which need to be taken by the Trustee and the Licensee in the Implementation Period to establish the Trust Arrangements and receive the relevant funds from the trustee under the 3NL Trust. This provision may require further amendment depending on the transition arrangements.

- 1.1 The provisions of the following clauses of this Deed shall be legally binding immediately following this Deed being signed by the parties to it: [●]
- 1.2 All other provisions of this Deed shall be effective and legally binding upon the parties immediately following the grant of the Licence to the Licensee (the “**Effective Date**”).
- 1.3 If the Licence is not granted to the Licensee on or before [●], this Deed will terminate.

## 2. LICENSEE'S COVENANT

- 2.1 The Licensee covenants to the Trustee to pay and discharge in full all of the Secured Obligations (the “**Licensee’s Covenant**”).
- 2.2 The Trustee will hold the benefit of the Licensee’s Covenant (and the benefit of all other covenants given by the Licensee in favour of the Trustee) on trust for itself and for the Beneficiaries pursuant to the terms of this Deed.
- 2.3 The Licensee acknowledges and agrees that the Trustee is authorised to enforce the Licensee’s Covenant in respect of the Secured Obligations owing to itself and the Beneficiaries.

## 3. LOTTERY ACCOUNTS

- 3.1 The Licensee covenants with the Trustee that it shall at all times maintain:
- (a) an account (the “**Lottery Operating Account**”) for the purpose of:
- (i) receipt of Direct Receipts and Indirect Receipts;
  - (ii) receipt of all other Licensee Revenue;
  - (iii) receipt of the EuroMillions Trust Receipt Amount in accordance with clause 13.5; and
  - (iv) paying the amounts set out in clauses 6.1, 8.2(c) and 13,
- and for no other purpose;
- (b) an account (the “**Lottery Prize Account**”) for the purpose of paying Prizes pursuant to clause 7 and for no other purpose; and
- (c) an account (the “**Lottery EuroMillions Account**”) for the purposes of:
- (i) receipt of EuroMillions Trust Payment Amounts and paying such amounts to the EuroMillions Trust Account; and
  - (ii) receipt of EuroMillions Trust Receipt Amounts and paying such amounts to the Lottery Operating Account,
- and for no other purpose.
- 3.2 Without restricting its entitlement to make the payments contemplated in clause 6 prior to the occurrence of a Default Event, the Licensee declares, agrees and gives notice that it shall, as a continuing first fixed security for the payment and discharge of all of the Secured Obligations, hold:

- (a) all monies from time to time standing to the credit of the Lottery Accounts; and
- (b) all of its rights to be paid any monies from the Lottery Accounts,  
on trust for the Trustee on behalf of the Beneficiaries.

3.3 The Licensee must establish and at all times maintain the Lottery Accounts with the Account Bank and in accordance with the Licensee Treasury Requirements.

#### 4. TRUST ACCOUNTS

4.1 The Trustee agrees (for the benefit of the Beneficiaries) that it shall at all times maintain:

- (a) an account into which the Licensee from time to time pays Ticket Entitlement Amounts (the "**Trust Entitlement Account**");
- (b) an account from which amounts may be paid from time to time to the Lottery Prize Account in accordance with clause 9.1 (the "**Trust Operating Account**");
- (c) an account from which amounts may be paid from time to time to the Trust Operating Account in accordance with clause 10.2 (the "**Trust Primary Reserve Account**"); and
- (d) an account in which the Trust Final Reserve Balance shall be maintained (the "**Trust Final Reserve Account**").

#### 5. NATIONAL LOTTERY RECEIPTS AND LICENSEE REVENUE

The Licensee covenants with the Trustee that it shall:

- (a) receive or immediately pay all Direct Receipts into the Lottery Operating Account;
- (b) ensure that:
  - (i) every Retailer receives all Indirect Receipts on behalf the Licensee;
  - (ii) on each Weekly Payment Day, every Retailer pays the relevant Retailer Net Receipt Amount (if any) into the Lottery Operating Account;
- (c) pay all Licensee Revenue, and ensure that all Licensee Revenue is paid, into the Lottery Operating Account.

#### 6. THE LOTTERY OPERATING ACCOUNT

6.1 On each Weekly Payment Day, the Licensee must pay from the Lottery Operating Account the following amounts in the following order of priorities:

- (a) first, to the Trust Entitlement Account, the lesser of:
  - (i) the Ticket Entitlement Amount (if any) calculated in respect of the immediately preceding Weekly Payment Period; or
  - (ii) the LOA Balance;
- (b) second, to the Trust Operating Account, the lesser of:

- (i) the Trust Operating Amount (if any) calculated in respect of the immediately preceding Weekly Payment Period; or
    - (ii) the LOA Balance remaining after any payment made pursuant to paragraph (a);
  - (c) third, (subject to clause 6.2) to Retailers, the lesser of:
    - (i) the Retailer Net Reimbursement Amount (if any) calculated in respect of the immediately preceding Weekly Payment Period; or
    - (ii) the LOA Balance remaining after any payment made pursuant to paragraphs (a) and (b);
  - (d) fourth, to the Trust Primary Reserve Account, the lesser of:
    - (i) the Trust Primary Reserve Amount for such Weekly Payment Day; or
    - (ii) the LOA Balance remaining after any payment made pursuant to paragraphs (a), (b) and (c);
  - (e) fifth, to Good Causes, the lesser of:
    - (i) the aggregate of the Scheduled Weekly Payment and any Additional Weekly Good Causes Payment; or
    - (ii) the LOA Balance remaining after any payment made pursuant to paragraphs (a), (b), (c) and (d);
  - (f) sixth, to the Licensee any LOA Balance remaining after any payment made pursuant to paragraph (a), (b), (c), (d) and (e).
- 6.2 If an obligation arises on the Licensee pursuant to the Licence to pay any Other Good Causes Payment, the Licensee shall promptly pay, from the Lottery Operating Amount to Good Causes:
- 6.3 This clause 6.2 applies if, on any Weekly Payment Day, the aggregate amount available to be paid to Retailers pursuant to clause 6.1(c) is less than the aggregate of all Retailer Net Reimbursement Amounts as at that date. Where this clause 6.2 applies:
- (a) the aggregate amount available to be paid to Retailers pursuant to clause 6.1(c) shall be paid to Retailers pro rata to their respective Retailers Reimbursement Amounts;
  - (b) for the purposes of calculating each Retailer Net Amount, the Retailer Expenses of each Retailer shall be calculated as the amount to be paid to that Retailer pursuant to paragraph (a).
- 6.4 Following the service of an Enforcement Notice, the Trustee shall pay or otherwise use all or any part of the funds standing to the credit of the Lottery Operating Account to discharge the Secured Obligations in accordance with the Trust Priority of Payments.

## 7. LOTTERY PRIZE ACCOUNT

7.1 The Licensee must make, from the Lottery Prize Account:

- (a) all Direct Prize Payments from the Lottery Prize Account; and
- (b) all Non-Cash Prize Supplier Payments to the relevant Non-Cash Prize Supplier.

## 8. TRUST ENTITLEMENT ACCOUNT

8.1 If a Participant acquires a Ticket by using a Ticket Entitlement:

- (a) the Licensee shall notify the Trustee of the relevant Ticket Entitlement Amount; and
- (b) the Trustee shall pay the relevant Ticket Entitlement Amount from the Trust Entitlement Account to the Lottery Operating Account.

8.2 If any Participant in accordance with the terms of a Ticket Entitlement or any statutory rights cancels or terminates such Ticket Entitlement:

- (a) the Licensee shall notify the Trustee of the relevant Ticket Entitlement Amount;
- (b) the Trustee shall pay the relevant Ticket Entitlement Amount from the Trust Entitlement Account to the Lottery Operating Account; and
- (c) the Licensee shall pay that amount from the Lottery Operating Account to the relevant Participant.

8.3 Following the service of an Enforcement Notice, the Trustee shall pay or otherwise use all or any part of the Ticket Entitlement Amounts to discharge the Secured Obligations in accordance with the Trust Priority of Payments.

8.4 No payment shall be made from the Trust Entitlement Account, and that account shall have no liabilities, other than pursuant to clauses 8.1, 8.2 or 8.3.

## 9. TRUST OPERATING ACCOUNT

9.1 The Trustee shall pay the Prize Drawdown Amounts from the Trust Operating Account to the Lottery Prize Account.

9.2 Prize Drawdown Amounts shall be:

- (a) paid [*Application Specific Provision: Applicant to propose frequency of payment of Prize Drawdown Amounts*];
- (b) calculated as follows: [*Applicant Specific Provision: Applicant to propose methodology for calculation of Prize Drawdown Amounts*]

9.3 Following the service of an Enforcement Notice, the Trustee shall pay or otherwise use the Trust Operating Balance or any part of it to discharge the Secured Obligations in accordance with the Trust Priority of Payments.

9.4 No payment shall be made from the Trust Operating Account, and that account shall have no liabilities, other than pursuant to clauses 9.1, 9.3 or 13.



## 10. TRUST PRIMARY RESERVE ACCOUNT

- 10.1 The Trust Primary Reserve Amount on each Weekly Payment Day shall be calculated as follows: *[Application Specific Provision: Applicant to propose methodology for calculation of Trust Primary Reserve Amount]*.
- 10.2 If the Daily Report identifies (or the Trustee otherwise becomes aware) that the liabilities of the Trust Operating Account exceed the Trust Operating Balance, the Trustee will pay to the Trust Operating Account from the Trust Primary Reserve Account the lesser of:
- (a) the amount of the shortfall; or
  - (b) the Primary Reserve Balance.
- 10.3 If the Primary Reserve Balance is less than the Threshold Primary Reserve Balance, the shortfall shall be paid by way of adjustments to the Trust Primary Reserve Amounts as follows: *[Application Specific Provision: Applicant to propose the methodology for calculating and paying the adjusting payments to restore the Threshold Primary Reserve Balance]*
- in order to restore the Trust Primary Reserve Account to the Threshold Primary Reserve Balance.
- 10.4 If the Daily Report identifies (or the Licensee otherwise becomes aware) that the Primary Reserve Balance is less than the Minimum Primary Reserve Balance, the Licensee must pay the amount of the shortfall from the Licensee Operating Account into the Trust Primary Reserve Account on the next Business Day.
- 10.5 Following the service of an Enforcement Notice, the Trustee shall use the Primary Reserve Balance or any part of it to discharge the Secured Obligations in accordance with the Trust Priority of Payments.

## 11. TRUST FINAL RESERVE ACCOUNT

- 11.1 The Final Reserve Balance is £*[Application Specific Provision: Applicant to include proposed amount to be held in Trust Final Reserve Account]*.
- 11.2 On the Business Day prior to the Effective Date, the Licensee shall pay the amount specified in clause 11.1 into the Trust Final Reserve Account.
- 11.3 Following the service of an Enforcement Notice, the Trustee shall use the Final Reserve Balance or any part of it to discharge the Secured Obligations in accordance with the Trust Priority of Payments.
- 11.4 No amount shall be paid from the Trust Final Reserve Account except in accordance with clause 11.3.

## 12. ADDITIONAL ACCOUNTS

Where any provision of this Deed or the Licence requires that any account be maintained or any monies be paid into an account in either case with respect to a purpose specified in that provision:

- (a) the Commission or the Trustee may require; or

(b) the Licensee may propose, and the Commission and the Trustee may agree, that monies be paid in relevant proportions to, or that more than one account shall be maintained, for that purpose.

### 13. EUROMILLIONS

- 13.1 This clause 13 applies if and for so long as the Licensee holds any EuroMillions Section 6 Licence.
- 13.2 Promptly following the issue of the Daily Report, the Licensee must pay the LEMA Payment Amount from the Lottery Operating Account to the Lottery EuroMillions Account.
- 13.3 The Licensee must pay each EuroMillions Trust Payment Amount from the Lottery EuroMillions Account to the EuroMillions Trust Account(s) in accordance with the EuroMillions Documents.
- 13.4 The Licensee must procure that each EuroMillions Trust Receipt Amount is paid from the EuroMillions Trust Account(s) to the Lottery EuroMillions Account in accordance with the EuroMillions Documents.
- 13.5 Immediately on a EuroMillions Trust Receipt Amount being received into the Lottery EuroMillions Account, the Licensee must promptly pay such amount into the Lottery Operating Account.
- 13.6 The Licensee must procure that any amounts to be transferred from the Lottery EuroMillions Account to the Lottery Operating Account pursuant to clause 13.5 are converted into sterling prior to receipt in the Lottery Operating Account.

### 14. ADDITIONAL WEEKLY GOOD CAUSES PAYMENT

- 14.1 If any obligation on the Licensee to pay any Additional Weekly Good Causes Payment arises, that obligation shall be included in the next Daily Report.
- 14.2 To the extent that any amount is reserved or otherwise held in any Approved Account other than the Lottery Operating Account in respect of an obligation described in clause 14.1, that Daily Report shall also provide for the prompt payment of such amount from such other account to the Lottery Operating Account (“**Additional Funds Movement Payment**”).
- 14.3 The Licensee or the Trustee, as the case may be, shall pay any Additional Funds Movement Payment recorded in the Daily Report.

### 15. PROTECTION POLICIES AND CRITERIA

- 15.1 The Licensee must implement and maintain in place at all times the Protection Policies.
- 15.2 The Trustee must implement and maintain in place at all times the Trustee Protection Policies.
- 15.3 If the Commission or the Licensee propose a change to any Protection Policy, the Licensee shall consult with the Trustee and take reasonable account of the Trustee’s views. If and to the extent that:

- (a) any change to any Protection Policy would materially increase the obligations of the Trustee or the risks to which the Trustee is exposed, such change shall not take effect without the prior written agreement of the Trustee;
  - (b) otherwise the change will take effect when determined in accordance with the Licence.
- 15.4 The Licensee shall, in consultation with the Trustee, from time to time establish Protection Criteria which give effect to and reflect the Protection Policies.
- 15.5 The Licensee and the Trustee shall comply with the Protection Criteria provided that no change to any Protection Criteria which would materially increase the obligations of the Trustee or the risks to which the Trustee is exposed shall take effect without the prior written agreement of the Trustee.
- 16. **SCOPE AND NATURE OF SECURITY**
- 16.1 Subject to clause 13, as security for the payment and discharge of all of the Secured Obligations, the Licensee will, with full title guarantee, create security to be held in favour of the Trustee (for the benefit of the Beneficiaries). That security will be a first ranking fixed and floating charge over:
  - (a) all right, title, interest and benefit (present and future) the Licensee may have in any National Lottery revenues, including all payments which have been made or are due in respect of ticket sales and including all monies in all Lottery Accounts;
  - (b) the whole of the undertaking of the Licensee and all its property, assets and rights whatsoever and wheresoever situate, present and future (including the Licensee Assets),(together the “**Charged Assets**”).
- 16.2 Subject only to the first ranking floating charge granted to the EuroMillions Trustee (pursuant to the EuroMillions Trust Documents), the Licensee charges, by way of a floating charge in favour of the Trustee, all of its right, title, interest and benefit (present and future) in and to all sums of money standing to the credit of each EuroMillions Trust Account together with all interest accruing on such amounts from time to time.
- 16.3 The Licensee assigns absolutely by way of first fixed security to the Trustee all of its rights, title, interest and benefit (present and future) in and to the EuroMillions Trust Deed and the EuroMillions Framework Agreement (including all EuroMillions Trust Receipt Amounts which are at any time due or owing to the Licensee).
- 16.4 The floating charges described in clauses 16.1 and 16.2 will crystallise and the charges will become immediately enforceable if the Trustee serves an Enforcement Notice on the Licensee.
- 17. **SECURITY MECHANICS**
- 17.1 The Licensee covenants with the Trustee that it shall take all steps and actions (including making all filings, registrations, transfers, endorsements, renewals, payments and notifications and obtaining, keeping in force and complying with all licences, approvals and consents) as may be necessary for the purpose of the creation, perfection, protection or

maintenance of any Trust Security conferred or intended to be conferred on the Trustee on behalf of the Beneficiaries by or pursuant to this Deed, any instrument supplemental to this Deed or any other document or instrument creating any Trust Security.

- 17.2 The Licensee further covenants with the Trustee that it shall provide the Trustee:
- (a) on the Effective Date and on each anniversary of the Effective Date, with an opinion of counsel acceptable to the Trustee and addressed to the Trustee confirming that the Trust Security is valid, effective and enforceable in accordance with its terms and detailing all registrations, filings, transfers, endorsements, licenses, acknowledgements, renewals, payments, notifications, consents or any other documents or steps which may be required to perfect the security created in favour of the Trustee or to maintain the priority of such security with respect to other creditors of the Licensee; and
  - (b) with copies of any such registrations, filings, transfers, endorsements, licenses, acknowledgements, renewals, payments, notifications, consents or other documents relating to the creation, perfection and maintenance of the Trust Security as may be requested by the Trustee.

## 18. PROTECTION OF SECURITY

- 18.1 The Licensee must not, without the prior written consent of the Trustee, create, attempt to create or permit to subsist any encumbrance over any Charged Assets, other than the Trust Security.
- 18.2 The Licensee will not dispose of any Charged Assets without the consent of the Trustee, other than a disposal which is:
- (a) on arm's length terms;
  - (b) in the ordinary course of business; and
  - (c) in respect of any Charged Asset or Charged Assets which, individually or in aggregate, have a [book value of £[500,000] or less].
- 18.3 From time to time, if required to do so by the Trustee (and at the Licensee's cost) the Licensee must promptly sign all documents and take all such steps as the Trustee may require to perfect or protect the Trust Security, or to facilitate the enforcement of such security if required.
- 18.4 If at any time it appears to the Trustee, or if the Commission has notified the Trustee in writing that it appears to it, that any Charged Assets are in danger of distress or being seized as part of a legal process, or otherwise that the Trust Security may be jeopardised, the Trustee may (or may appoint a Receiver to) take possession of those Charged Assets. The appointment of a Receiver in accordance with this clause 18.4, and the powers of that Receiver, shall be governed by the provisions of clause 24.

## 19. REPRESENTATIONS, COVENANTS AND TRUSTEE ACCESS

- 19.1 The Licensee gives the representations set out in Schedule 2 (the "**Representations**") to the Trustee (for its own benefit and for the benefit of the Beneficiaries) on the date the Trust Deed is executed. Those Representations are deemed to be repeated by the Licensee on

the last Business Day of each Quarter, by reference to the facts and circumstances in existence on that date.

- 19.2 The Licensee covenants with the Trustee (for its own benefit and for the benefit of the Beneficiaries) that at all times whilst there are Secured Obligations outstanding and there is security in existence under the Trust Documents, it will do the things set out in Schedule 2, or will procure that those things are done (the “**Covenants**”).
- 19.3 The Licensee will ensure that arrangements are in place such that, if there is a Default Event and the Trustee takes Enforcement action, without any further action being taken or required by the Licensee, the Trustee (or its nominee) will be able to access:
- (a) the Licensee’s premises;
  - (b) any and all Licensee Assets; and
  - (c) any and all information, data and documentation in relation to the operation of the National Lottery.

## 20. INFORMATION AND REPORTING TO THE TRUSTEE AND THE COMMISSION

- 20.1 The Licensee must provide to the Trustee all information necessary to operate the Trust Arrangements and monitor the Licensee’s compliance with the Trust Documents on an ongoing basis including, at a minimum:
- (a) to the Trustee on each Business Day a statement setting out the balance of each Approved Account and each payment which this Deed provides shall be or is made or received from or by each of the accounts referred to in clauses 3 to 14, including details of:
    - (i) the Prize Drawdown Amounts;
    - (ii) the Primary Reserve Balance;
    - (iii) the Final Reserve Balance;
    - (iv) the LEMA Payment Amount
    - (v) any EuroMillions Trust Receipt Amount;
    - (vi) any Additional Funds Movement Payment;
    - (vii) any accrued Trust Income;
    - (viii) any accrued Trust Costs; and
    - (ix) any other matter which this Deed refers to or requires to be dealt with in that report,(the “**Daily Report**”);
  - (b) to the Commission on each Weekly Reporting Date a statement setting out the balance of each Approved Account and the calculation of each amount referred to in clauses 3 to 14 during the Weekly Reporting Period (the “**Weekly Report**”);

- (c) if there is a Financial Distress Event, such additional information and/or regular reporting as the Trustee may require; and
  - (d) the following additional reports [*Application Specific Provision: Applicant to propose details of additional reports (including form, content and frequency) to be provided to the Trustee and/or the Commission to allow the Trustee and/or the Commission to monitor the Licensee's compliance with this Deed and Condition 16 of the Licence*].
- 20.2 The Licensee will engage the Auditor to verify the payments made into and out of each of the Lottery Accounts and the Trust Accounts and to confirm that those payments have been calculated and made in accordance with the Licence and the Trust Documents.
- 20.3 The Licensee will procure that the Auditor produces a monthly certificate which contains the information described in clause 20.2, along with any other information required by the Trustee or the Commission from time to time (the “**Monthly Audit Certificate**”). The Licensee must provide a copy of the Monthly Audit Certificate to the Trustee and the Commission within 10 Business Days from the end of the month to which that certificate relates.
- 20.4 Any shortfall in any Trust Account which is identified by the Auditor in its Monthly Audit Certificate must be paid by the Licensee within one Business Day from the date of the Monthly Audit Certificate.<sup>4</sup>
- 20.5 The Licensee must at all times maintain:
- (a) proper books of account;
  - (b) all records and information necessary to ensure the continued oversight, function and transparency of the Trust Arrangements,
- and must provide such information to the Commission on request, or if the Trustee determines it is necessary in order for it to carry out its duties, allow the Trustee or its nominee access to such information.
- 20.6 The Trustee must provide to the Commission, within a reasonable timeframe specified by the Commission, any information, data or documents required by the Commission in relation to the Trust Arrangements.
- 21. POTENTIAL DEFAULT EVENT**
- 21.1 If the Trustee becomes aware that a Potential Default Event has occurred, it will serve a Potential Default Notice on the Licensee, with a copy to the Commission.
- 21.2 The Potential Default Notice will specify the grace period within which the Licensee must demonstrate to the Trustee that it has cured the Potential Default Event (the “**Grace Period**”). Such Grace Period may be extended by the Trustee [and the Commission] by notice to the Licensee.
- 21.3 During the Grace Period, the Licensee must:

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<sup>4</sup> Note to Applicants: The Commission is prepared to consider an alternative mechanism proposed by Applicants, provided an equivalent (or greater) level of assurance to that described above can be given.

- (a) comply with the requirements of the Trustee or the Commission; and
- (b) provide such further information or reporting to the Trustee and the Commission if so required,

with a view to the Licensee curing the Potential Default Event before the expiry of the Grace Period.

21.4 If, on the final day of the Grace Period, the Licensee has not demonstrated to the Trustee's satisfaction that the Potential Default Event has been remedied, that Potential Default Event will be a Continuing Potential Default Event for the purposes of Schedule 4.

## 22. ENFORCEMENT PROCESS

22.1 The Trustee must notify the Commission promptly upon becoming aware that a Default Event has occurred.

22.2 Following a Default Event, the Trustee may, and if directed to do so by the Commission shall, serve an Enforcement Notice on the Licensee, with a copy to the Commission (in advance, where possible), confirming that:

- (a) a Default Event has occurred; and
- (b) the Trustee intends to take steps to enforce the Trust Security.

22.3 On service of the Enforcement Notice all Secured Obligations become immediately due and payable by the Licensee, and all of the Trust Security becomes enforceable by the Trustee. Only the Trustee (and, for the avoidance of doubt, no Beneficiary) has the right to enforce the Trust Security.

22.4 If there is a Termination Event, or immediately following service of an Enforcement Notice:

- (a) the Licensee's access to, and operation of, the Lottery Accounts shall terminate and (in accordance with the Account Bank Agreement) such accounts may be operated by the Trustee or a Receiver; and
- (b) the Trustee or a Receiver may require Retailers and other third parties to pay funds into a separate bank account rather than the Lottery Operating Account, to which the Licensee does not have access<sup>5</sup>.

22.5 At any time after the service of an Enforcement Notice, the Trustee may, and if directed to do so by the Commission shall, appoint a Receiver in respect of the whole or any part of the Licensee Assets which are subject to the Trust Security.

22.6 Following the service of an Enforcement Notice, the Trustee shall provide to the Commission regular reports (at such frequency, and in such detail, as the Commission may request) setting out the details of the progress made by it (or any Receiver appointed by it) in discharging the Secured Obligations in favour of the Beneficiaries. The Trustee shall continue to provide such regular reports until:

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<sup>5</sup> Note to Applicants: The agreements the Licensee enters into with Retailers should include a third party right allowing the Trustee to direct this.



- (a) it has confirmed to the Commission that all Secured Obligations have been fully discharged; or
- (b) the Commission confirms to the Trustee that such reporting is no longer required.

23. **DISCHARGE OF OBLIGATIONS TO BENEFICIARIES<sup>6</sup>**

23.1 The Licensee must put in place arrangements to ensure that, immediately following the service of an Enforcement Notice, the Trustee (or a Receiver appointed by it) has full access to, and full use of:

- (a) the Independent Verification System;
- (b) the Entry and Prize System;
- (c) any software, system, asset, function or service which is necessary for the operation of the Independent Verification System, the Entry and Prize System or a Critical Function (**Critical Item**); and
- (d) any other:
  - (i) Licensee Asset;
  - (ii) the benefit of any Lottery Subcontract;
  - (iii) Lottery IP;
  - (iv) Lottery Data; or
  - (v) Lottery Information;

which might reasonably be expected to be required by the Trustee (or a Receiver appointed by it) [in order to identify Beneficiaries and make payments to them in accordance with the Trust Priority of Payments].

23.2 The Licensee must ensure that each Lottery Subcontract which relates to any asset, contract, information, system, service or function described in clause 23.1 (a **Critical Access Contract**) contains provisions which:

- (a) ensure that the Trustee (or a Receiver appointed by it) has the rights of access and use described in clause 23.1, and otherwise generally receives the benefit of the Critical Access Contract as if it were the Licensee;
- (b) ensure that the Trustee (or a Receiver appointed by it) can operate the relevant systems and software as if it were the Licensee and with at least the same level of efficiency and functionality as is operated by the Licensee immediately prior to the service of the Enforcement Notice;
- (c) require the Lottery Subcontractor not to [immediately] terminate the Lottery Subcontract if there has been a Default Event;

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<sup>6</sup> Note to Draft: The Long Form Trust Deed will include provisions which deal with the protection of any Participant Data which is shared with the Trustee or any Receiver. This will include obligations on the Licensee to ensure that such data can be used by the Trustee or any Receiver, in accordance with Applicable Laws, in connection with the discharge by the Trustee or a Receiver of their duties under the Trust Documents



- (d) allow the Trustee (or a Receiver appointed by it) to directly enforce the rights described in (a) to (c) above against the Lottery Subcontractor,
- in each case without any further consent or authorisation being required from the relevant Lottery Subcontractor other than the entry by the Trustee (or a Receiver Appointed by it) into a confidentiality agreement with that Lottery Subcontractor (if required).
- 23.3 Any consent or other authorisations required to provide for this must be obtained by the Licensee at the time the relevant Critical Access Contract is entered into and must be maintained during the term of that contract.
- 23.4 The Licensee:
- (a) may not enter into a new Critical Access Contract:
- (i) without the prior written consent of the Trustee; and
- (ii) if that Critical Access Contract is a Designated Lottery Subcontract under the Licence and if, during the 20 Business Day period specified in Condition 5.7 of the Licence:
- (1) it has been directed by the Commission not to enter into that contract in accordance with Condition 5.8(a) of the Licence; and
- (2) it has been directed by the Commission not to enter into that contract unless it contains certain amendments specified by the Commission in accordance with Condition 5.8(b) and no other changes, and such amendments have not, or cannot, be made by the Licensee;
- (b) may not amend, or permit the amendment of, an existing Critical Access Contract:
- (i) without the prior written consent of the Trustee; and
- (ii) if a Critical Access Contract is a Designated Lottery Subcontract under the Licence and if, during the 20 Business Day period specified in Condition 5.7 of the Licence:
- (1) the Commission has directed the Licensee not to agree to the amendment of the contract unless the amendment is in the form notified to the Licensee by the Commission (and no other changes):
- (2) the Licensee does not, or cannot, make the amendments to the Critical Access Contract in the form specified by the Commission.
- 23.5 Any payments due, at any time, to a Lottery Subcontractor in connection with the rights granted to a Trustee or a under a Critical Access Contract (whether before or after service of an Enforcement Notice) must be paid by the Licensee.
- 23.6 The Licensee must obtain any consents from Participants which are necessary to allow Participant Data to be accessed and used by the Trustee (or a Receiver appointed by it) in accordance with the terms of the Trust Documents following the service of an Enforcement Notice.

- 23.7 If the Licensee proposes to store or process Lottery Data (including Participant Data) in a cloud-based solution:
- (a) any Lottery Subcontract with a cloud services provider will be a Critical Access Contract; and
  - (b) in addition to the provisions described in clause 23.2 above, the Licensee must ensure that such Critical Access Contract includes terms which provide that such data is:
    - (i) logically or physically separated such that it is easily identifiable as Lottery Data;
    - (ii) not deleted or otherwise changed or destroyed by the cloud services provider if there is a breach of the cloud services agreement or a Default Event, and is maintained by the provider in accordance with the terms of the relevant agreement; and
    - (iii) accessible to, and able to be used by, the Trustee (or a Receiver appointed by it) following the service of an Enforcement Notice.

#### 24. **ROLE OF A RECEIVER<sup>7</sup>**

- 24.1 At any time on or after the service of an Enforcement Notice, the Trustee may (and if directed by the Commission, shall) appoint one or more persons to be a Receiver of the Charged Assets.
- 24.2 The Receiver will have the right to do anything with the Charged Assets as if it were the Licensee, in order to discharge the Secured Obligations by way of payments to Beneficiaries in accordance with the Trust Priority of Payments. The Receiver will have all of the powers available to it as a receiver or administrative receiver under the Insolvency Act 1986, along with additional powers, including:
- (a) to take possession of or collect the Charged Assets;
  - (b) access the systems, services, premises and assets of the Licensee;
  - (c) to assign, lease, licence or otherwise dispose of the whole or any part of the Charged Assets without restriction, and linked to this, to
    - (i) enter into covenants and other contractual obligations in the name of the Licensee; and
    - (ii) accept any payment in respect of the Charged Assets that the Receiver thinks fit, in their discretion;
  - (d) to make any arrangements or compromise of claims the Receiver thinks fit; and
  - (e) to take or defend proceedings in the Licensee's name.

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<sup>7</sup> Note to Draft: The Long Form Trust Deed will contain detailed provisions as to the rights, powers and obligations of a Receiver appointed by the Trustee.

**25. TRANSITION TO 5NL TRUST**

The Trustee must cooperate with the Licensee, the Commission and/or the Next Licensee in connection with any:

- (a) replacement of the Trust Arrangements; and
- (b) transfer of any relevant funds standing to the credit of the Trust Accounts,

to the trust provider appointed by the Next Licensee to operate a trust for the benefit of Participants in accordance with the conditions of the Next Licence, including providing any information, data or documentation reasonably requested by any such person for that purpose.

**26. APPOINTMENT OF TRUSTEE**

26.1 The Trustee is appointed under the Trust Deed and is empowered to act as trustee for the benefit of the Beneficiaries, and to exercise such rights, powers and discretions as are vested in the Trustee under the Trust Deed.

26.2 The Trustee may resign on no less than [120 days'] notice to the Commission and the Licensee. That notice may request that the Licensee (with the prior approval of the Commission) appoints a Replacement Trustee within the [120 day period].

26.3 No resignation or removal of the Trustee will take effect until a Replacement Trustee, which has been approved by the Commission, has been appointed by the Licensee and the Trustee must continue to perform its obligations under the Trust Documents until such time as the Trust Arrangements have been transferred to the Replacement Trustee.

26.4 The Trustee shall provide all [reasonable] information and cooperation to the Replacement Trustee, the Licensee and the Commission to enable the arrangements constituted by the Trust Documents (including the Trust Documents themselves and the benefit of the Trust Security) to be transferred to the Replacement Trustee with the minimum of disruption and risk to the Beneficiaries and the National Lottery more broadly.

**27. RELATIONSHIP BETWEEN THE TRUSTEE AND THE COMMISSION**

27.1 Either of the Trustee or the Commission may, at any time, consult and share information with the other in relation to any concerns, matters, facts or circumstances which relate to, or may impact upon, the Trust Arrangements, including the existence of, or context for, a Potential Default Event or Default Event, or the exercise by the Trustee of any discretion given to it under the Trust Documents. The Licensee expressly acknowledges, and consents to, such consultation and discussion.

27.2 Any of the Licensee, the Trustee or the Commission may, on reasonable written notice, request a meeting between them and (if required by the person calling the meeting) the Account Bank and/or the Auditors, for the purpose of reviewing and discussing the Trust Arrangements (a "**Review Meeting**").

27.3 If notice of a Review Meeting is given in accordance with clause 27.2, the Licensee will procure that its representatives, and representatives of the Account Bank and the Auditors (if requested) will attend the meeting.

**28. TRUSTEE REQUIREMENTS**

28.1 The Trustee must meet the Trustee Requirements on the Effective Date and at all times during the term of this Deed.

28.2 If, at any time, the Trustee or the Licensee becomes aware that:

- (a) the Trustee no longer meets the Trustee Requirements; or
- (b) circumstances exist which mean that it is reasonably likely that the Trustee will to cease to meet the Trustee Requirements,

it must promptly notify the Commission (with a copy to the Licensee or the Trustee as the case may be), providing a full explanation of the relevant facts and circumstances along with copies of any relevant documentation

28.3 If at any time the Commission notifies the Licensee that it is no longer satisfied that the Trustee both meets, and will continue to meet, the Trustee Requirements, the Trustee shall, upon direction from the Licensee:

- (a) takes such remedial steps as may be necessary in order to ensure that the Trustee continues to meet or (as the case may be) returns to meeting the Trustee Requirements; and/or
- (b) implement additional safeguards or other protections (taking account of any requirements of the Licensee and/or the Commission) to ensure that no Matter to be Protected is harmed by the failure of the Trustee to meet the Trustee Requirements.

28.4 If the Commission is not satisfied that the Trustee meets the Trustee Requirements, in accordance with Condition 16 of the Licence, it may require the Licensee to serve a Trustee Replacement Notice on the Trustee.

28.5 Following service of a Trustee Replacement Notice, each of the Trustee and the Licensee shall fully cooperate with each other, the Commission and with the Replacement Trustee, including taking all such steps and entering into any documents required by the Licensee or the Commission in order to:

- (a) ensure that the arrangements constituted by the Trust Documents (including the Trust Documents themselves and the benefit of the Trust Security) can be transferred to a Replacement Trustee with the minimum of disruption and that there is no damage to any Matter to be Protected;
- (b) in the period prior to the transfer contemplated by clause (a) above, implement such safeguards as the Licensee or the Commission determines are necessary to ensure that the interests of the Beneficiaries and that there is no damage to any Matter to be Protected.

**29. ACCOUNT BANK REQUIREMENTS**

29.1 It is a requirement of the Account Bank Agreement that the Account Bank must meet the Account Bank Requirements on the Effective Date and at all times during the term of this Deed.

- 29.2 If, at any time, the Trustee or the Licensee becomes aware that:
- (a) the Account Bank no longer meets the Account Bank Requirements; or
  - (b) circumstances exist which mean that it is reasonably likely that the Account Bank will to cease to meet the Account Bank Requirements,
- it must promptly notify the Commission (with a copy to the Licensee or the Trustee as the case may be), providing a full explanation of the relevant facts and circumstances along with copies of any relevant documentation
- 29.3 If the Commission is not satisfied that the Account Bank meets the Account Bank Requirements, in accordance with Condition 16 of the Licence, it may require the Licensee to serve a Account Bank Replacement Notice on the Account Bank .
- 29.4 If the Trustee receives an Account Bank Replacement Notice in accordance with Condition 16 of the Licence, the Trustee and the Licensee must cooperate with each other, the Commission and each of the Account Bank and the Replacement Account Bank, including taking all such steps and entering into any documents reasonably required by the Commission in order to:
- (a) ensure that the arrangements constituted by the Trust Documents (including the Trust Documents themselves and the benefit of the Trust Security) insofar as they relate to or involve the Account Bank can be transferred to the Replacement Account Bank with the minimum of disruption and risk to the Beneficiaries and the National Lottery more broadly; and
  - (b) in the period prior to the transfer contemplated by clause (a) above, assist the Licensee and the Account Bank with the implementation of such safeguards in respect of the Account Bank as the Licensee or the Commission determines are necessary to ensure that the interests of the Beneficiaries, and there is no damage to any Matter to be Protected.
30. **TRUSTEE POWERS AND DUTIES<sup>8</sup>**
- 30.1 The Trustee has the powers and duties conferred on it by the Trustee Acts, along with the specific powers, duties, rights, obligations and discretions given to it under the Trust Documents.
- 30.2 The Trustee may:
- (a) assume that there has been no Potential Default Event, Default Event or Termination Event unless it has been notified that such an event has occurred;
  - (b) rely on any report, certificate or information provided to it by the Licensee, provided that it complies with the requirements of the Trust Documents;
  - (c) rely on any notice or communication on the assumption it is genuine.
- 30.3 The Trustee:

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<sup>8</sup> Note to Draft: These provisions have been included to give Applicants a general understanding of the types of provisions which will be included in significantly greater detail in the Long Form Trust Deed in relation to the duties and powers of the Trustee. The Long Form Trust Deed will also include certain exclusions as to the liability and responsibility of the Trustee.

- (a) will have absolute discretion in exercising its powers under the Trust Documents and Applicable Laws, and will not be liable for any costs or expenses which arise on behalf of the Licensee or any other person as a result of the exercise of that discretion;
- (b) may do anything in the exercise of its duties as it deems appropriate for the protection and benefit of the Beneficiaries;
- (c) may refrain from exercising any of its powers or taking any action in accordance with the Trust Documents where to do so would not be permitted under Applicable Laws.

30.4 In relation to the Charged Assets, the Trustee:

- (a) is entitled to accept such title as the Licensee may have in the Charged Assets without making any enquiry in relation to that title;
- (b) will not be under any obligation to insure the Charged Assets;
- (c) if it sees fit to do so, may take any steps it determines in relation to the registration or other protection of any of the Charged Assets.

**31. TRUSTEE ADMINISTRATION MATTERS<sup>9</sup>**

- 31.1 The Trustee may charge fees (and disbursements, if applicable) for its work in connection with the Trust Documents. Those fees will be agreed between the Trustee and the Licensee and will be paid in accordance with Condition 16 of the Licence.
- 31.2 If there is a Potential Default Event or a Default Event or otherwise exceptional action is taken by the Trustee or a Receiver outside the ordinary course of operating the Trust, including the compliance by the Trustee with its obligations under clause 29.2, there may be additional fees charged by the Trustee which will be agreed with, and paid by, the Licensee.
- 31.3 The Trustee is not required to expend its own funds or incur any financial liability in connection with the performance of its duties under the Trust Documents.
- 31.4 The Trustee and the Licensee may also agree that certain costs and expenses of the Trustee will be payable by the Licensee, for example, if there is a change to the Licence which means that a change to the Trust Documents is required.
- 31.5 The Licensee must indemnify the Trustee, its officers, employees and agents against all claims demands, liabilities, proceedings etc. incurred by any of them in accordance with the Trust Documents in relation to or arising out of:
- (a) any thing done or omitted to be done in connection with the Trust Documents or pursuant to any law or regulation.
  - (b) the exercise of rights under the Trust Documents; and
  - (c) the holding, taking or enforcing of the Trust Security,

<sup>9</sup> Note to Draft: These provisions have been included to give Applicants a general understanding of the types of provisions which will be included in significantly greater detail in the Long Form Trust Deed in relation to matters of Trustee administration.

in each case in accordance with the Trust Documents and Applicable Laws.

31.6 The Licensee ratifies and confirms all transactions properly entered into by the Trustee or its nominee in the exercise of the Trustee's (or a Receiver's) powers and all transactions and documents entered into by it, in each case in accordance with the Trust Documents and Applicable Laws.

32. **TRUST INCOME**

32.1 On each Weekly Payment Day:

- (a) the Licensee shall pay any Trust Income accrued in the Lottery Prize Account or the Lottery EuroMillions Account into the Lottery Operating Account; and
- (b) the Trustee shall pay any Trust Income accrued in the Trust Entitlement Account, the Trust Primary Reserve Account or the Trust Final Reserve Account into the Trust Operating Account; and
- (c) any Trust Costs accrued and payable as at that date shall be paid:
  - (i) to the extent such Trust Costs do not exceed Trust Income in the Trust Operating Account as at that date, by the Trustee out of Trust Income;
  - (ii) otherwise, by the Licensee.

32.2 Trust Income shall be applied first, in accordance with 32.1(c)(i), and second in accordance with Part B of Schedule 1.

33. **BOILERPLATE<sup>10</sup>**

*[To be included in Long Form Trust Deed]*

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<sup>10</sup> Note to Draft: Legal "boilerplate" will be included in the Long Form Trust Deed, including a power of attorney granted by the Licensee in favour of the Trustee and any Receiver in the event of Enforcement action being taken, and a third party right in favour of the Commission to enforce any terms of the Deed which confer on it a right or benefit.

## SCHEDULE 1

**Part A - Trust Priority of Payments<sup>11</sup>**

Following the service of an Enforcement Notice the Trustee shall apply all monies received or held by it in connection with the realisation or enforcement of the Charged Assets in the following order of priority:

1. firstly, to the Trustee, the fees, costs, expenses and other amounts which are due and payable to the Trustee pursuant to this Deed and to any Receiver acting on its behalf, together with interest as provided in this Deed;
2. secondly, if and for so long as the Licensee holds any EuroMillions Section 6 Licence, to the EuroMillions Trustee, the fees, costs, expenses and other amounts which are due and payable to the EuroMillions Trustee pursuant to the EuroMillions Trust Deed, together with interest as provided in the EuroMillions Trust Deed;
3. thirdly, to the Account Bank, all bank charges, other costs and fees which are due and payable to the Account Bank pursuant to the Account Bank Agreement [in respect of the maintenance and operation of the Trust Accounts];
4. fourthly, to the Auditors, the fees, costs and expenses which are due and payable to the Auditors regarding the verification of the receipts and payments made into and out of the Trust Accounts [and the Lottery Accounts], in respect of the preparation of the Monthly Auditor's Certificates and in respect of any accounts required to be produced pursuant to this Deed;
5. fifthly, to each Participant who has a Ticket Entitlement, but only to the extent of their Ticket Entitlement Amount;
6. sixthly, in respect of each of the Games of the Licensee, to:
  - (a) Prize Winners (other than Non-Cash Prize Winners), but only to the extent of their Prize Payments;
  - (b) Non-Cash Prize Winners, to the extent only of the Cash Equivalents in respect of their Non-Cash Prizes; and
  - (c) Participants who are beneficially entitled to receive the cost of the Refunded Tickets in respect of any Game which is subject to a Cancellation Event;

and if the monies available are insufficient to pay all of the amounts referred to in each of paragraphs (a) to (c) above, such payments will be made to the relevant persons so entitled pro rata in accordance with their respective entitlements;

7. seventhly, to the Licensee in respect of any amount due but unpaid which would, but for the service of an Enforcement Notice or the occurrence of the Termination Event, be payable in respect of:

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<sup>11</sup> Note to Draft: The Priority of Payments may need to be adapted to reflect the Application e.g. if the Commission accepts a surety bond as alternative for a cash payment into the Trust Final Reserve Account.



- (a) [any amounts payable by way of licence fees or other payments which are due and payable by the Licensee in respect of the Critical Access Contracts; and
  - (b) any amounts due to Retailers in respect of any Retailer Net Reimbursement Amount which is due and payable by the Licensee;]
8. [eighthly, to Good Causes, any Unclaimed Prize Payment in respect of which the relevant Unpaid Prize Period has expired;
9. finally, any balance so remaining shall be payable to the Licensee.]

**Part B - Trust Priority of Trust Income**

*[Applicant Specific Provision: Applicant to propose calculation of surplus Trust Income and how this will be applied]*

## SCHEDULE 2

## Representations

1. It is the lawful and beneficial owner of all of the Licensee Assets free from any encumbrance, other than any security created by, or trust declared in or pursuant to:
  - (a) this Deed;
  - (b) or otherwise in favour of the Trustee for the benefit of (i) the Beneficiaries or (ii) pursuant to the EuroMillions Trust Deed.
2. The entry into the Trust Documents by the Licensee does not violate or exceed any power or restriction granted or imposed under, or pursuant to,
  - (a) Applicable Law;
  - (b) any agreement or arrangement to which the Licensee is a party, or which otherwise is binding on the Licensee; or
  - (c) its Articles of Association.
3. The Licensee has the necessary power to, and authority to enable it to, enter into and perform its obligations under the Trust Documents.
4. All actions, conditions and steps which are required to be taken, fulfilled or implemented (including obtaining all necessary authorisations, approvals, licences and consents) in order to enable the Licensee to:
  - (a) lawfully enter into and perform and comply with its obligations under or pursuant to the Trust Documents and to ensure that those obligations are valid and legally binding; and
  - (b) create the Trust Security created by or the declaration of any trust in or pursuant to the Trust Documents and to ensure that (subject to all necessary registrations being made) the Trust Security created by or the declaration of any trust in or pursuant to the Trust Documents is valid and legally binding;
5. The Trust Documents constitute valid and legally binding obligations of the Licensee.
6. The Licensee has not taken any corporate action nor to the best of its knowledge and belief, have any other steps been taken or legal proceedings been started or threatened against it for its winding-up, liquidation, administration, dissolution or reorganisation or for the appointment of an administrator, administrative receiver or manager, receiver, trustee or similar officer with respect to the Licensee or of the whole or any substantial part of its assets or revenues.
7. [Save as disclosed in writing to the Trustee,] there are no legal proceedings pending against it before any court or tribunal where the amount in issue in respect of each such legal proceedings exceeds £2,000,000 (two million pounds).
8. It is not necessary in order to enable the Trustee and/or any Receiver to perform its functions or duties under this Deed for the Trustee and/or any Receiver to be licensed under, or have the benefit of, any Lottery Subcontract other than **Application Specific**

*Provision: Applicants to include the details of the relevant contracts to which the Trustee has third party rights].*

9. All of the information relating to each Beneficiary which is held or used by or for the benefit of the Licensee:
  - (a) the Licensee has the right to use any and all information which it holds or uses in relation to any Participant; and
  - (b) the Trustee and/or any Receiver is or would be entitled to extract such information from any database on which such information is stored (including [*Application Specific Provision: Details of databases on which Lottery Data is stored to be included*]) pursuant to:
    - (i) [*Application Specific Provision: Details of relevant Critical Access Contracts to be included*]; or
    - (ii) any other licence or agreement entered into by the Licensee in relation to any Critical Item.
10. The Licensee is using the Critical Item in accordance with the terms and conditions of each Critical Access Contract.
11. All software used by the Licensee or any Licensee Subsidiary in connection with the operation of the National Lottery that is not a Critical Item is generally commercially available off-the-shelf.

**SCHEDULE 3****Covenants**

1. The Licensee will promptly inform the Trustee in writing if:
  - (a) a Termination Event or a Default Event occurs; or
  - (b) it becomes aware of a Potential Default Event,and if requested to do so from time to time, will promptly confirm to the Trustee in writing that it is not aware that any such event has occurred.
2. No later than [10 Business Days after the end of each Licence Year], and otherwise within 28 days of any request by the Trustee, the Licensee will deliver to the Trustee [and the Commission] a certificate of the Licensee signed by two Authorised Signatories confirming that, to their best knowledge, information and belief (and having made all reasonable enquiries) confirming that:
  - (a) no Termination Event, Default Event or Potential Default Event exists or have existed since the date of the last certificate (or if such an event exists or has existed, details of the relevant event);
  - (b) during the previous Licence Year (or such period as the Trustee may specify) and to the date of the certificate, the Licensee has complied in all material respects with its obligations under the Act, the Licence and the Trust Documents, or providing details of any non-compliance [save to the extent that it has been notified to the Commission prior to the date of the certificate];
3. The Licensee will at all times give to the Trustee or any Receiver such information as the Trustee or that Receiver may reasonably require.
4. For each Licence Year, the Licensee will prepare audited accounts in respect of the Lottery Accounts and the Trust Accounts.
5. The Licensee will comply in all material respects with its obligations under:
  - (a) the Act;
  - (b) the Regulations;
  - (c) the Licence;
  - (d) each licence granted to it under s6 of the Act;
  - (e) the Trust Documents; and
  - (f) the Critical Access Contracts.
6. The Licensee will provide to the Trustee, at the time of issue, any notice, statement or circular issued to the holder of any securities issued by the Licensee or any parent company of the Licensee.

7. The Licensee will, to the extent permitted by Applicable Law, at all times execute all such further documents, and do such further things, as may be necessary at any time in the reasonable opinion of the Trustee to give effect to the provisions of the Trust Documents.
8. The Licensee will promptly (and in any event within 2 Business Days) notify the Trustee upon becoming aware of any of the following:
- (a) a meeting of its shareholders, directors or other officers is convened for the purpose of considering any resolution for Dissolution) or any such resolution is passed;
  - (b) any person presents a petition, or files documents with a court or any registrar, for its Dissolution;
  - (c) an order for its Dissolution is made;
  - (d) any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer is appointed in respect of the Licensee or any of its assets;
  - (e) its shareholders, directors or other officers resolve to request the appointment of, or give notice of their intention to appoint a liquidator, trustee in bankruptcy, judicial custodian, compulsory, manager, receiver, administrative receiver, administrator, or similar officer; or
  - (f) any other analogous step or procedure is taken in any jurisdiction.
9. The Licensee will promptly (and in any event within 5 Business Days) notify the Trustee upon receiving notice from the Commission or any agency or governmental body which has authority over the conduct of its business that:
- (a) [the Licensee is being placed under regulatory supervision other than pursuant to or relating to Sections 5 or 6 of the Act;]
  - (b) the Licence or any other licence, permit, charter, membership or registration material to the conduct of the Licensee's business is to be terminated, suspended or revoked;
  - (c) the Licensee must cease and desist any practice, procedure or policy employed by the Licensee in the conduct of its business, and such cessation will materially adversely affect the conduct of the Licensee's business or materially adversely affect the financial affairs of the Licensee,
- other than in respect of any process, proceeding, litigation or investigation which does not exceed £2,000,000 (two million pounds).
10. The Licensee will promptly (and in any event within 5 Business Days) notify the Trustee if:
- (a) it receives notice that the Commission is commencing:
    - (i) a Formal Investigation;
    - (ii) an Independent Performance Review
  - (b) the Commission orders the Licensee to pay a financial penalty;

- (c) it is the subject of any injunctive action or other order of a court, including by the Commission under s9 of the Act;
  - (d) a direct internal audit is required;
  - (e) a condition of the Licence has been varied or a new condition has been included;
  - (f) [it receives notice of any breach of covenant, representation or warranty under any Retailer Agreement;]
  - (g) there is a Financial Distress Event;
  - (h) a Financial Distress Remediation Plan has been approved by the Commission;
  - (i) there is any other event or circumstance which might reasonably be expected to adversely affect its ability to perform its obligations under the Licence, [any Retailer Agreement] or any Trust Document.
11. The Licensee will carry on and conduct its business in an [efficient, prudent and business-like manner] and in accordance with the terms of the Licence.
12. The Licensee will not, without the prior written consent of the Trustee and the Commission, open any new or replacement accounts other than the Lottery Accounts.
13. The Licensee will deliver to the Trustee:
- (a) no later than 5 November in each Licence Year, a copy of the Annual Resilience Assurance Statement in respect of the previous Licence Year which it has provided to the Commission in accordance with the Licence;
  - (b) within 5 Business Days of the accounts being approved by the board of directors of the Licensee, a copy of the Licensee's Audited Accounts in respect of the previous Licence Year;
  - (c) a copy of any Financial Distress Remediation Plan which has been approved by the Commission in accordance with the Licence, within 5 Business Days of such approval; and
  - (d) from time to time on request by the Trustee, such information about its business and financial condition as the Trustee may reasonably require and in such form as the Trustee may require, which has (if required by the Trustee) been certified by two Authorised Signatories as being true and complete in all material respects.
14. The Licensee must obtain, comply with the terms of, and do all that is necessary to maintain in full force and effect:
- (a) all authorisations, approvals, licences and consents required by Applicable Law to enable it to comply with its obligations under the Licence, the Trust Documents and each Critical Access Contract; and
  - (b) all consents required for the creation or subsistence of the floating charge.
15. The Licensee must make arrangements reasonably satisfactory to the Trustee that each counterparty to a Critical Access Contract and any of their respective successors has

arrangements in place for the relevant systems, assets or software to be accessed by, or licensed to (as applicable) the Trustee or any Receiver in accordance with clause 23.2.

16. The Licensee will:
- (a) not amend, modify or vary the Trust Documents or the arrangements relating to the Lottery Accounts or the Trust Accounts or in respect of any payments made to or from such accounts; and
  - (b) operate the Lottery Accounts only in accordance with the Licence and the Trust Documents.
17. At all times (whether before or after an Enforcement Notice has been served) the Licensee will:
- (a) cooperate with the Trustee in order to permit the Trustee to properly carry out its duties under the Trust Documents; and
  - (b) use all reasonable endeavours to ensure that any of its Senior Executives and Lottery Staff shall, to the extent necessary or required in the sole opinion of the Trustee or any Receiver, carry out any and all tasks or requests of the Trustee or Receiver relating to any matter set out in the Trust Documents.
18. The Licensee must not, and shall ensure that none of its Senior Executives or members of Lottery Staff do not, without the prior consent of the Trustee, publicise or make any public announcement of any matter set out in the Trust Documents or relating to the Trustee.
19. [The Licensee must:
- (a) not make any amendment or variation to any of the Retailer Agreements where the effect of that amendment or variation would be to change the assignment provisions or any payment instructions contained in those agreements;
  - (b) not make any amendment or variation to the EuroMillions Trust Deed without the prior consent of the Trustee [and the Commission];
  - (c) not make any amendment or variation to a Critical Access Contract other than where such amendment is made in compliance with the terms of this Deed and the Licence;
  - (d) use all reasonable endeavours to ensure that any successor in title to any counterparty to a Critical Access Contract is under equivalent obligations as the original counterparty to that contract; and
  - (e) *[Application Specific Provision: Applicant and its Proposed Trustee to propose additional covenants which reflect key changes to the Critical Software which should not be undertaken without the Trustee's prior consent]*
20. At least one month prior to launch, the Licensee will notify the Trustee of the details of any Game which:
- (a) offers a Non-Cash Prize;



- (b) *[Application Specific Provision: Applicant and its Proposed Trustee to propose additional covenants to reflect any features of any Games which should be notified to the Trustee prior to the launch of such Game]*

and will provide any information as the Trustee may require in relation to such Game.

21. The Licensee will give the Trustee at least [10 Business Days] prior written notice of any proposed change in the rules of any Game.
22. *[Application Specific Provision: Applicant and its Proposed Trustee to propose any additional covenants which reflect the Applicant's proposed business model (including the nature of the assets proposed to be owned or controlled by the Licensee)]*

## SCHEDULE 4

### Default Events

1. There is a Potential Default Event which is continuing.
2. The Licensee fails to observe or comply with any of its obligations under any Trust Document, and such failure is continuing and/or is not capable of remedy.
3. The Licensee:
  - (a) defaults under any Finance Agreement;
  - (b) fails to make a payment under a Finance Agreement when such payment is due; or
  - (c) has granted security to a third party (other than the Trustee) in connection with a loan which is enforced or becomes enforceable by that third party,where the aggregate amount of any indebtedness under the Finance Agreement referred to in (a) – (c) above is equal to or greater than £2 million.
4. The Licence is revoked by the Commission in accordance with the Act, any of the grounds for revocation under the Act occurs, or an order is made by a court under the Act (a **Termination Event**).
5. Any representation made or repeated by the Licensee under this Deed is untrue or incorrect when made or repeated by reference to the facts at that time, in circumstances where such a breach cannot be remedied within [45 Business Days] of the Licensee becoming aware of that representation being incorrect, unless such period for remedy would expire after the tenth Business Day of the then current Quarter, in which case the period shall be reduced such that the last day of that period is the tenth Business Day after the then current Quarter.
6. The crystallisation of a floating charge granted by the Licensee to any third party (other than the Trustee).
7. Any of the following events occurs in respect of the Licensee:
  - (a) a meeting of its shareholders, directors or other officers is convened for the purpose of considering any resolution for (or to petition for or to file documents with a court or any registrar for) its winding-up, administration or dissolution (**Dissolution**) or any such resolution is passed;
  - (b) any person presents a petition, or files documents with a court or any registrar, for its Dissolution (except in respect of a petition for winding-up presented by a creditor which is being contested in good faith and with due diligence and is discharged or struck out within [30 days]);
  - (c) an order for its Dissolution is made;
  - (d) any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer is appointed in respect of the Licensee or any of its assets;

- (e) its shareholders, directors or other officers resolve to request the appointment of, or give notice of their intention to appoint a liquidator, trustee in bankruptcy, judicial custodian, compulsory, manager, receiver, administrative receiver, administrator, or similar officer; or
  - (f) any other analogous step or procedure is taken in any jurisdiction.
- 8. The Licensee stops, or threatens to stop, payment of its obligations generally or the carrying on of its business (except for the purposes of a reorganisation which has been approved in advance by the Trustee and the Commission).
- 9. The Licensee is unable or deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or makes a general assignment for the benefit of its creditors or suspends making payments (whether of principal and interest) generally with respect to its debts.
- 10. An encumbrancer takes possession or a receiver is appointed of the whole or any material part of the assets of the Licensee, or any attachment, sequestration, distress or execution is levied or enforced upon or sued out against any substantial part of the assets of the Licensee and is not removed, discharged or paid out within 30 days.
- 11. The Licensee begins negotiations for, takes any proceedings concerning, proposes or makes any agreement for the referral, rescheduling or other readjustment of all of (or all of a particular type of) its debt, or proposes or makes a general assignment or composition with or for the benefit of some or all of its creditors, or a moratorium is agreed or declared in respect of or affecting all or a material part of (or a particular type of) its debt.

## SCHEDULE 5

## Glossary of Defined Terms

In this Deed:

“**Account Bank**” means [*Application Specific Provision: Applicant to identify its Proposed Account Bank*], or such other bank as has been approved in writing by the Commission from time to time;

“**Account Bank Agreement**” means the Account Bank Agreement dated [●] between the Licensee, the Trustee and the Account Bank (as updated from time to time) in connection with the appointment of, and services to be provided by, the Account Bank;

“**Account Bank Replacement Notice**” has the meaning given to that term in the Licence

“**Additional Weekly Good Causes Payment**” means any payment which the Licensee is required by the Licence to make to Good Causes with any Scheduled Weekly Payment;

“**Annual Resilience Assurance Report**” has the meaning given to that term in the Licence;

“**Applicable Laws**” means each law (including statute, secondary legislation, regulations, statutory guidance and codes of practice having the force of law, and any judgement ruling or other requirement from any governmental, administrative or regulatory agency or body or court) which is applicable to the Trust Arrangements, the Trust Documents and the operation of the Trust Arrangements by the Licensee and/or the Trustee (as applicable);

“**Approved Accounts**” means the Lottery Accounts, the Trust Accounts and each bank account established in accordance with clause 12;

“**Articles of Association**” means the Articles of Association of the Licensee from time to time;

“**Audited Accounts**” means the audited annual accounts of the Licensee, produced in accordance with the requirements of the Licence;

“**Auditor**” means [*Application Specific Provision: Applicant to identify its proposed auditor*] or such other firm of independent and nationally recognised auditors which the Commission and the Trustee may, from time to time, nominate or approve in writing;

“**Beneficiary**” means:

- (a) each and every Prize Winner from time to time (including those Prize Winners who have won Non-Cash Prizes);
- (b) each Participant who holds a Ticket Entitlement from time to time;
- (c) the Trustee;
- (d) any Receiver appointed by the Trustee in accordance with this Deed; and

any person other than the Licensee who is entitled to any amount under, and in respect of, the Trust Priority of Payments;

“**Business Day**” has the meaning given to that term in the Licence

“**Cancellation Event**” means:

- (a) [the termination, cancellation or withdrawal of any Game with the consent of the Commission, whether before or after the service of an Enforcement Notice or the occurrence of a Termination Event and as a consequence:
  - (i) no Draw or settlement or declaration of any Prize Winner has been or will be made; or
  - (ii) a Draw or a Game has been declared void or annulled and the persons who have played such Game have become ineligible to participate in such Game or to receive any Prize in respect of that Game; or
- (b) the cancellation or repurchase of any Ticket by the Licensee in accordance with the provisions of the Licence or the rules of the Game in respect of which such Ticket has been issued;]

**“Cash Equivalent”** means:

- (a) the amount due to any Non-Cash Prize Winner as a cash alternative for the relevant Non-Cash Prize in accordance with the rules of the relevant Game; or
- (b) following the service of an Enforcement Notice, an amount (including VAT) equal to the amount that would have been paid or reimbursed by the Licensee by way of a Non-Cash Prize Supplier Payment for the purpose of providing a Non-Cash Prize to a Non-Cash Prize Winner;

**“Charged Assets”** has the meaning given to that term in clause 16;

**“Commission”** means the Gambling Commission;

**“Critical Function”** has the meaning given to that term in the Licence;

**“Critical Item”** has the meaning given in clause 23.1(c);

**“Default Event”** means each event specified in Schedule 4;

**“Designated Lottery Subcontract”** has the meaning given to that term in the Licence;

**“Direct Prize Payment”** means any Prize other than one which is paid to the Prize Winner by a Retailer;

**“Direct Receipts”** means National Lottery Receipts other than Indirect Receipts;

**“Draw”** has the meaning given to that term in the Licence;

**“Enabling Agreement”** means the enabling agreement entered into between the Licensee and the Commission dated [●] to govern (amongst other things) the Licensee’s preparation to run the National Lottery in accordance with the Licence;

**“Enforcement Notice”** means a notice given by the Trustee pursuant to clause 22.1 which states that a Default Event has occurred and that the Trustee intends to enforce the to the extent permitted by this Deed and/or by law;

**“Entry and Prize System”** has the meaning given to that term in the Licence;

**“EuroMillions Deed of Priority”** means the deed of consent and postponement between the Trustee, the EuroMillions Trustee, the [EuroMillions] Account Bank and the Licensee;

**“EuroMillions Documents”** means the EuroMillions Trust Deed, the EuroMillions Deed of Priority, the EuroMillions Lottery Operator Agreement, the EuroMillions Framework Agreement and any other document designated by the Licensee, with the agreement of the Commission, the Trustee and the EuroMillions Trustee as a EuroMillions Document;

**“EuroMillions Framework Agreement”** means the framework agreement between the Other EuroMillions Operators and Services aux Loteries en Europe SCRL (as amended from time to time), to which the Licensee has executed a deed of adherence;

**“EuroMillions Game(s)”** means each Co-ordinated Lottery (as defined in the EuroMillions Lottery Operators’ Agreement) established and promoted by the Licensee in the UK pursuant to the Lottery Operators’ Agreement and a relevant EuroMillions Section 6 Licence;

**“EuroMillions Lottery Operators’ Agreement”** means the operators’ agreement dated 30 January 2004 between the Other EuroMillions Operators and Services aux Loteries en Europe SCRL, to which the Licensee has executed a deed of adherence (as amended from time to time);

**“EuroMillions Section 6 Licence(s)”** means the licence(s) granted to the Licensee pursuant to section 6 of the National Lottery etc. Act 1993 in respect of the promotion of the EuroMillions Game(s) by the Licensee;

**“EuroMillions Trust Account(s)”** means any bank account(s) which the Licensee is required by the EuroMillions Trust Deed to maintain from time to time;

**“EuroMillions Trust Deed”** means the security trust deed dated 29 January 2004 (as amended from time to time) originally between, inter alia, the EuroMillions Trustee, the Original Participants (as defined in that trust deed) and Services aux Loteries en Europe SCRL (as amended from time to time), to which the Licensee has executed a deed of adherence;

**“EuroMillions Trust Payment Amount”** means any amounts which the Licensee is required, pursuant to the EuroMillions Documents, to pay to a EuroMillions Trust Account;

**“EuroMillions Trust Receipt Amount”** means any amounts which, pursuant to the EuroMillions Trust Deed, the EuroMillions Trustee is required to pay to the Licensee;

**“EuroMillions Trustee”** means the Law Debenture Trust Corporation plc as security trustee pursuant to the EuroMillions Trust Deed and/or any other person for the time being appointed as trustee, or as an additional trustee, under the EuroMillions Trust Deed;

**“Final Reserve Balance”** means the amount specified in clause [9.1] standing to the credit of the Trust Final Reserve Account;

**“Finance Agreement”** has the meaning given to that term in the Licence;

**“Financial Distress Event”** has the meaning given to that term in the Licence;

**“Financial Distress Remediation Plan”** has the meaning given to that term in the Licence;

**“Formal Investigation”** means

**“Game”** has the meaning given to that term in the Licence;

“**Good Causes**” has the meaning given to that term in the Licence;

“**Independent Performance Review**” has the meaning given to that term in the Licence;

“**Independent Verification System**” has the meaning given to that term in the Licence;

“**Indirect Prize Payment**” means a Prize which is paid at or through any Retailer;

“**Indirect Receipts**” means National Lottery Receipts received by any Retailer;

“**Interactive Players**” means any person who has registered as the holder of an Online Participant Account;

“**LEMA Payment Amount**” means [*Application Specific Provision: Applicants to propose mechanism to calculate the amount which will be paid, on a daily basis, to the Lottery EuroMillions Account, in order that the relevant EuroMillions Trust Payment Amount can be paid from the Lottery EuroMillions Account to the EuroMillions Trust Account(s) in accordance with the EuroMillions Documents*]

“**Licensee Assets**” has the meaning given to that term in the Licence;

“**Licensee Revenue**” has the meaning given to that term in the Licence;

“**Licensee Treasury Requirements**” means [the treasury requirements specified by the Commission in accordance with Condition 16 of the Licence];

“**Licence Year**” has the meaning given to that term in the Licence;

“**LOA Balance**” means at any time the lesser of:

- (a) the amount standing to the credit of the Lottery Operating Account; or
- (b) National Lottery Receipts paid into the Lottery Operating Account in respect of the immediately preceding Weekly Payment Period;

“**Lottery Accounts**” means the Lottery Operating Account, the Lottery Prize Account and the Lottery EuroMillions Account;

“**Lottery Account Income**” means the aggregate of:

- (a) any amounts paid into the Lottery Operating Account pursuant to clause [32.1]; and
- (b) any Trust Income otherwise accrued in the Lottery Operating Account;

“**Lottery Data**” has the meaning given to that term in the Licence;

“**Lottery EuroMillions Account**” has the meaning given to that term in clause [3.1];

“**Lottery Information**” has the meaning given to that term in the Licence;

“**Lottery IP**” has the meaning given to that term in the Licence;

“**Lottery Monies**” has the meaning given to that term in the Licence;

“**Lottery Staff**” has the meaning given to that term in the Licence;

“**Lottery Subcontract**” has the meaning given to that term in the Licence;

“**Lottery Subcontractor**” has the meaning given to that term in the Licence;

“**Matter to be Protected**” has the meaning given to that term in the Licence;

“**Minimum Primary Reserve Balance**” means £ [*Application Specific Provision: Applicant to specify its proposed Minimum Primary Reserve Balance*]

“**National Lottery Receipt**” means any amount paid by any Participant in cash or kind in respect of either:

- (a) any Ticket; or
- (b) any Ticket Entitlement;

“**Net Retailer Receipts Payment**” means, in respect of any Retailer, for any Weekly Payment Period, the Indirect Receipts less:

the aggregate of:

- (a) Indirect Prize Payments; plus
- (b) Retailer Remuneration;

“**Next Licensee**” has the meaning given to that term in the Licence;

“**Next Licence**” means the fifth National Lottery Licence to be awarded under s5 of the Act;

“**Non-Cash Prize**” means any Prize which is not satisfied in cash;

“**Non-Cash Prize Supplier**” means any person with whom the Licensee has entered into a Non-Cash Prize Supply Agreement;

“**Non-Cash Prize Supplier Payment**” means an amount which is payable by the Licensee to a Non-Cash Prize Supplier in accordance with a Non-Cash Prize Supply Agreement for the purpose of purchasing a Non-Cash Prize for supply to a Non-Cash Prize Winner where such Non-Cash Prize has been determined as, and is actually due to, a Non-Cash Prize Winner or a part of any such Non-Cash Prize to the extent not represented in any previous Non-Cash Prize Supplier Payment;

“**Non-Cash Prize Supply Agreement**” means any agreement between the Licensee and any person whereby the Licensee agrees to purchase and that person agrees to sell or provide goods or services or any financial or other product which are to be used as Non-Cash Prizes in respect of any Game;

“**Non-Cash Prize Winner**” means a Prize Winner who has won a Non-Cash Prize;

“**Online Participant Account**” means an account registered by a Participant via any website or other interactive platform operated by the Licensee or a Related Party;

“**Other EuroMillions Operator**” means each lottery operator other than the Licensee who is an “Original Participant” or a “Further Participant” under the EuroMillions Trust Deed.

“**Participants**” has the meaning given to that term in the Licence;



“**Participant Data**” has the meaning given to that term in the Licence;

“**Potential Default Event**” means any event or circumstance which (with the giving of notice to the Licensee and/or the passage of time) will, or is reasonably likely to become a Default Event listed in paragraphs 2 to 11 of Schedule 4;

“**Primary Reserve Balance**” means the amount standing to the credit of the Trust Primary Reserve Account from time to time;

“**Prize**” has the meaning given to that term in the Licence;

“**Prize Drawdown Amounts**” means amounts to be calculated in accordance with clause 9.1;

“**Prize Winner**” means a Participant who is entitled to any Prize (including a Non-Cash Prize) irrespective of whether the determination of Prizes and the relevant Prize Winners may have been made before or after the service of an Enforcement Notice;

“**Protection Criteria**” means specific criteria and thresholds for the application of Protection Policies to Lottery Monies;

“**Protection Policies**” means policies, processes and procedures (including in relation to the making of provisions and reserves and in relation to treasury, administration and investment of Lottery Monies) attached in Appendix 1 (as amended from time to time in accordance with this Deed);

“**Quarter**” has the meaning given to that term in the Licence;

“**Receiver**” means a receiver and/or manager, administrative receiver, administrator, trustee or similar officer appointed pursuant to this Deed or by any court for the purpose of realising or disposing of the Charged Assets;

“**Refunded Tickets**” means any Ticket in respect of which the Ticketholder shall be entitled to a refund in accordance with the rules of the relevant Game;

“**Regulations**” means the National Lottery Regulations 1994 (as amended from time to time) and any other regulations issued from time to time in relation to the operation of the National Lottery;

“**Related Party**” has the meaning given to that term in the Licence;

“**Replacement Account Bank**” means the person identified as such in an Account Bank Replacement Notice;

“**Replacement Trustee**” means the person identified as such in a Trustee Replacement Notice;

“**Retailer**” has the meaning given to it in the Licence;

“**Retailer Agreement**” means any agreement or arrangement between the Licensee and any Retailer;

“**Retailer Expenses**” means, in respect of any Retailer, for any Weekly Payment Period, the aggregate of:

- (a) Indirect Prize Payments made by it; and
- (b) Retailer Remuneration to which it is entitled,

in each case calculated with respect to that period;

**"Retailer Net Amount"** means in respect of any Retailer, for any Weekly Payment Period:

- (a) its Indirect Receipts; less
- (b) its Retailer Expenses,

in each case calculated with respect to that period;

**"Retailer Net Receipt Amount"** means in respect of any Retailer, on any Weekly Payment Day, if:

- (a) the Retailer Net Amount is positive, that amount;
- (b) the Retailer Net Amount is negative, zero,

in each case calculated with respect to the Weekly Payment Period ending immediately before that date;

**"Retailer Net Reimbursement Amount"** means in respect of any Retailer, for any Weekly Payment Day if:

- (a) if the Retailer Net Amount is negative, the amount by which its Retailer Expenses exceed its Indirect Receipts;
- (b) if the Retailer Net Amount is positive, zero,
- (c) in each case calculated with respect to the Weekly Payment Period ending immediately before that date;

**"Retailer Remuneration"** means any amount of commission or other remuneration payable to any Retailer, or which any Retailer is otherwise entitled to retain, in respect of any Sale;

**"Review Meeting"** has the meaning given to that term in clause 27.2;

**"Scheduled Weekly Payment"** has the meaning given to it in the Licence;

**"Secured Obligations"** means the aggregate of the present, future, actual and contingent obligations of the Licensee owed and from time to time owing to the Beneficiaries, and which:

- (a) in respect of Prize Winners, relate to all Prize Payments and Non-Cash Prizes (or their Cash Equivalents) in respect of which such Prize Winners are from time to time entitled, in accordance with the rules of the relevant Game and the provisions of the Licence and this Deed; and
- (b) in respect of Participants who hold Ticket Entitlements, the Ticket Entitlement Amounts due to be refunded to those Participants from time to time in accordance with this Deed, the Licence and/or the rules of the relevant Game; and
- (c) in respect of the other Beneficiaries, amounts payable to such Beneficiaries from time to time in accordance with, or relating to, the provisions of this Deed or any other Trust Document and/or the rules of any applicable Game;

**"Senior Executive"** has the meaning given to that term in the Licence;

“**Start Date**” has the meaning given to that term in the Licence;

“**Termination Event**” has the meaning given to that term in paragraph 4 of Schedule 4;

“**Threshold Primary Reserve Balance**” means *[Application Specific Provision: Applicant to specify its proposed Threshold Primary Reserve Balance]*

“**Ticket**” means a ticket in any game;

“**Ticket Entitlement**” means any entitlement to acquire a Ticket;

“**Ticket Entitlement Amount**” means any amount paid by any Participant to any Retailer for any Ticket Entitlement;

“**Trust Accounts**” means the accounts established from time to time by the Trustee, including the Trust Entitlement Account, the Trust Final Reserve Account, the Trust Operating Account and the Trust Primary Reserve Account;

“**Trust Arrangements**” means the arrangements for the protection of Participant funds established pursuant to the Trust Documents;

“**Trust Cost**” has the meaning given to that term in the Licence;

“**Trust Documents**” means each of this Deed, the Account Bank Agreement, each Security Document and any other document designated by the Licensee, with the agreement of the Commission and the Trustee as a Trust Document;

“**Trust Entitlement Account**” has the meaning given to that term in clause [3.1(a)];

“**Trust Final Reserve Account**” has the meaning given to that term in clause [3.1(d)];

“**Trust Final Reserve Balance**” means *[Application Specific Provision: Applicant to specify its proposed Trust Final Reserve Balance]*;

“**Trust Income**” mean any interest or other return on monies held in any Lottery Account or Trust Account in respect of any period;

“**Trust Investment Guidelines**” has the meaning given to that term in the Licence;

“**Trust Primary Reserve Account**” has the meaning given to that term in clause [3.1(c)];

“**Trust Primary Reserve Amount**” means an amount calculated in accordance with clause [8.1]

“**Trustee Protection Policies**” means those of the Protection Policies as are applicable to the activities of the Trustee set out in Part A of Appendix 1 (as amended from time to time in accordance with this Deed);

“**Trust Priority of Trust Income**” means the order of priority of payments set out in Part B Schedule 1;

“**Trust Priority of Payments**” means the order of priority of payments set out in Part A Schedule 1;

“**Trust Operating Account**” has the meaning given to that term in clause [3.1(b)]

"**Trust Operating Amount**" means the aggregate of:

- (a) *[Application Specific Provision: Applicant to specify its proposed mechanism for calculating the Trust Operating Amount (other than Lottery Account Income) being the amount necessary to fund the Trust Operating Amount]*; and
- (b) Lottery Account Income;

"**Trust Operating Balance**" means the amount standing to the credit of the Trust Operating Account from time to time;

"**Trust Security**" means any security granted by the Licensee in favour of the Trustee on behalf of the Beneficiaries from time to time;

"**Trustee Acts**" means each of the Trustee Act 1925 and the Trustee Act 2000, as updated from time to time;

"**Trustee Requirement**" has the meaning given to that term in the Licence;

"**Trustee Replacement Notice**" has the meaning given to that term in the Licence;

"**Unclaimed Prize**" means, on any date, any Prize which has not been claimed by any Prize Winner;

"**Unclaimed Prize Payment**" means, at any time, the amounts of the Unclaimed Prizes relating to Games, and amounts which would have been Non-Cash Prize Supplier Payments had the relevant Non-Cash Prize not been an Unclaimed Prize, in respect of which the last day of the Unclaimed Prize Period has passed;

"**Unclaimed Prize Period**" means the period of 180 days during which a Prize Winner is entitled to claim their Prize in accordance with the rules of the relevant Game;

"**Weekly Payment Day**" meaning the day so specified in the Licence;

"**Weekly Payment Period**" means with respect to any Weekly Payment Day the period which:

- (a) starts immediately following the end of the preceding Weekly Payment Period; and
- (b) ends immediately before that Weekly Payment Day

"**Weekly Reporting Date**" means the first Business Day after the end of each Weekly Reporting Period; and

"**Weekly Reporting Period**" means *[Application Specific Provision: Applicants to specify exact time period to be used for the purposes of providing Weekly Reports]*

**APPENDIX 1**

**Protection Policies**

**Part A – Trustee Protection Policies**

**Part B – Other Protection Policies**