

Appendix 3 - Cooperation Agreement

AMENDED AND RESTATED ON

7 November 2023

THE GAMBLING COMMISSION

- and -

CAMELOT UK LOTTERIES LIMITED

- and -

THE INCOMING LICENSEE

COOPERATION AGREEMENT



Ref: C1/PW/WEEKSCAI

Hogan Lovells International LLP
Atlantic House, Holborn Viaduct, London EC1A 2FG

CONTENTS

CLAUSE	PAGE
1. TERM AND EFFECT	2
2. OPERATION OF THIS AGREEMENT	2
3. DECISION PROCESS	3
4. CHANGE CONTROL PROCESS	4
5. TRANSITION PLANS	4
6. LIST OF ITEMS TO TRANSFER	6
7. CONTINUING OBLIGATIONS	8
8. TRANSFER ACTIVITIES	11
9. TRANSITION ASSISTANCE SERVICES ACTIVITIES	13
10. OTHER COOPERATION ACTIVITIES	15
11. INFORMATION AND ACCESS	16
12. TRANSFER REGULATIONS	16
13. LOTTERY IP	17
14. TRANSITION TO THE 4NL TRUST	19
15. WRONG POCKETS AND FINANCIAL RECONCILIATION	21
16. INDEMNITIES	23
17. DATA PROTECTION	24
18. REMEDIES	24
19. MONITORING OF COOPERATION	25
20. GOVERNANCE	25
21. TERMINATION	27
22. INTERRELATION OF AGREEMENTS	28
23. DELAYS TO THE START DATE	28
24. CONFIDENTIALITY	29
25. OUTGOING LICENSEE AND INCOMING LICENSEE AS AFFILIATES	30
26. COSTS	31
27. DISPUTES	33
28. FREEDOM OF INFORMATION	34
29. COMMISSION'S DUTIES	34
30. ASSIGNMENT	34
31. NOTICES	34
32. SURVIVAL	36
33. THIRD PARTY RIGHTS	37
34. MISCELLANEOUS TERMS	37

STRICTLY CONFIDENTIAL

35. ENTIRE AGREEMENT	37
36. GOVERNING LAW AND JURISDICTION	37
SCHEDULE 1	40
Interpretation	40
SCHEDULE 2	57
Key Dates	57
SCHEDULE 3	60
The Categories	60
SCHEDULE 4	61
Transferring Items	61
SCHEDULE 5	68
Expert Determination	68
SCHEDULE 6	69
Deeds of Adherence	69
APPENDIX 1	73
Transition Plan Requirements	73
APPENDIX 2	75
Transfer and Receipt Mechanics	75
APPENDIX 3	82
Forms of Transfer	82

THIS AGREEMENT is dated

7 November 2023

BETWEEN:

- (1) The Gambling Commission of Victoria Square House, Victoria Square, Birmingham, B2 4BP (the "**Commission**");
- (2) Camelot UK Lotteries Limited, a company registered in England and Wales with registered number 02822203 whose registered office is at Tolpits Lane, Watford, Hertfordshire, WD18 9RN (the "**Outgoing Licensee**"); and
- (3) Allwyn Entertainment Ltd, a company registered in England and Wales with registered number 13157556 whose registered office is at 5th Floor, One Connaught Place, London W2 2ET (the "**Incoming Licensee**").

BACKGROUND:

- (A) The Commission is responsible for authorising persons to run the National Lottery.
- (B) The Outgoing Licensee currently runs the National Lottery pursuant to the Third Licence which expires at 23:59 on the Expiry Date.
- (C) The Incoming Licensee will run the National Lottery pursuant to the New Licence from 00:00 on the Start Date.
- (D) The Incoming Licensee will be selected in the Competition and, pursuant to the commitments made by the Successful Applicant in the Deed of Commitment, will then execute the Enabling Agreement and the Deed of Adherence to this Agreement.
- (E) The Third Licence requires the Outgoing Licensee, and the Enabling Agreement will require the Incoming Licensee, each to do certain things with respect to:
 - (i) transfer of assets, liabilities, rights and obligations from the Outgoing Licensee to the Incoming Licensee;
 - (ii) transition of operation and control of the National Lottery from the Outgoing Licensee to the Incoming Licensee;
 - (iii) the handover of control of and/or responsibility for certain continuing obligations from the Outgoing Licensee to the Incoming Licensee;
 - (iv) provision of transition assistance services by the Outgoing Licensee to the Incoming Licensee; and
 - (v) cooperation with each other and with the Commission,

in each case to enable the transfer as a going concern of the business or relevant part of the business of providing the National Lottery, and the orderly handover of control of the operation of the National Lottery to the Incoming Licensee and to enable the Outgoing Licensee to cease running the National Lottery from the Expiry Date and the Incoming Licensee to commence running the National Lottery from (subject to the Enabling Agreement) the Start Date (the "**Operator Transfer**"). The Handover Period for the purposes of the Third Licence started on 19 July 2021.

- (F) This Agreement regulates how those requirements will apply in practice to ensure that outcome.

- (G) Governance matters which relate to the Operator Transfer and the Purpose of Cooperation will be dealt with by the Joint Transition Governance Board in accordance with the terms of this Agreement. Governance matters which relate to Implementation and the Purpose of Implementation will be dealt with by the Incoming Transition Governance Board in accordance with the terms of the Enabling Agreement.
- (H) This Agreement was executed between the Commission and the Outgoing Licensee on 3 September 2021 and adhered to by the Incoming Licensee on 16 September 2022. The parties have agreed to amend and restate this Agreement with effect from 7 November 2023 to reflect certain process and timetable changes agreed between the Incoming Licensee and the Commission as amendments to the Enabling Agreement.

1. TERM AND EFFECT

- 1.1 This Agreement, which will be interpreted in accordance with Schedule 1, binds the Commission and the Outgoing Licensee on and from the Effective Date.
- 1.2 From the Adherence Date, an Incoming Licensee will be a party to, and will enjoy the benefits, and be subject to the obligations, of the Incoming Licensee set out in, this Agreement. References to rights and obligations of an Incoming Licensee relate only to the period on and from the Adherence Date.
- 1.3 Subject to earlier termination in accordance with its terms and to clause 32 (*Survival*), this Agreement will expire on the Long Stop Date.

2. OPERATION OF THIS AGREEMENT

- 2.1 The purpose of this Agreement is to ensure:
- (a) the continuity of, and an orderly handover of control of, the National Lottery;
 - (b) the continuity of, and an orderly handover of control of, the provision of supplies or services in connection with the National Lottery arrangements which are transferring to the Incoming Licensee in accordance with the Third Licence and this Agreement;
 - (c) the continuity of, and orderly handover of control of, the operation of any Licensee Assets that are transferring in accordance with the Third Licence and this Agreement;
 - (d) the orderly management and discharge of obligations and disputes connected with the operation of the National Lottery; and
 - (e) that the National Lottery is continued with the minimum of disruption or inconvenience to the public,
- (the "**Purpose of Cooperation**") in the context of the Operator Transfer including through the:
- (i) alignment of the timetables to be followed under this Agreement and the Enabling Agreement through the Key Dates;
 - (ii) alignment of the Outgoing Transition Plan and the Incoming Transition Plan and the orderly implementation of the elements of those transition plans which require cooperative activity ("**Transition Plan Activities**");

- (iii) orderly transfer of Transferring Items from the Outgoing Licensee to the Incoming Licensee ("**Transfer Activities**");
- (iv) making of arrangements with respect to Continuing Obligations and Ongoing Disputes;
- (v) identification and scoping and orderly performance of Transition Assistance Services by the Outgoing Licensee to ensure a successful transfer of the operation of the National Lottery to the Incoming Licensee with no or minimal disruption or deterioration to service delivery quality to the Commission or members of the public ("**Transition Assistance Services Activities**");
- (vi) transfer and continuing operation of those Games which are operated by the Outgoing Licensee under the Third Licence and which, as provided in the Enabling Agreement, are intended to be operated by the Incoming Licensee from the Start Date ("**Continuing Games**"); and
- (vii) determination and implementation of such other steps as the Commission may specify in order to achieve those outcomes ("**Other Cooperation Activities**"),

(together the "**Transition Activities**").

2.2 This Agreement sets out, in respect of each category of Transition Activities described in clause 2.1:

- (a) processes to identify and determine specific actions to be taken and, where relevant, the legal requirements applicable to those actions by reference (as applicable) to this Agreement, the Third Licence and the Enabling Agreement; and
- (b) the timescales associated with those actions by reference to the Key Dates, as summarised in Schedule 2.

2.3 The Outgoing Licensee and the Incoming Licensee must not act unreasonably in interpreting and performing their respective obligations arising under this Agreement.

3. **DECISION PROCESS**

3.1 Where this Agreement provides that a "**Decision Process**" will take place with respect to a matter specified as a "**Decision**" that shall mean that the following steps shall be undertaken within the timeframes specified:

- (a) the Licensee Parties must cooperate and discuss in good faith with a view to agreeing the Decision on or before the date specified as the "**Required Decision Date**";
- (b) on or before the Required Decision Date, the Licensee Parties must confirm to the Commission whether they have agreed the Decision. If so, they must provide the details of the agreed Decision (including copies of any relevant documentation) to the Commission; or
- (c) if:

- (i) the Licensee Parties do not confirm, on or before the Required Decision Date, that a Decision has been agreed by them, the Commission may take the Decision and the Licensee Parties must implement that Decision;
 - (ii) the Commission is not satisfied that a Decision which has been agreed by the Licensee Parties will ensure that the Purpose of Cooperation is achieved, the Commission may direct that amendments be made to the Decision, and the Licensee Parties must implement the Decision as so amended;
- (d) the Commission must take any Decision, or give any direction, provided for under clause 3.1(c) on or before the date specified as the “**Commission Direction Date**” and in a manner calculated to achieve the Purpose of Cooperation.
- 3.2 If it considers it necessary to achieve the Purpose of Cooperation, the Commission may amend a Required Decision Date or a Commission Direction Date to a later date.

4. **CHANGE CONTROL PROCESS**

4.1 If a Licensee Party considers that it is necessary to make a change to any document or other matter which has been approved or agreed in accordance with this Agreement, that Licensee Party must make a Change Proposal. Where any party makes a Change Proposal, the process set out in clauses 4.2 and 4.3 will apply with respect to that Change Proposal (the “**Change Control Process**”).

4.2 Subject to clause 4.3, a Change Proposal must be submitted to:

- (a) any relevant Operational Committee for review in accordance with the relevant Terms of Reference; and
- (b) the Joint Transition Governance Board for review and approval in accordance with the relevant Terms of Reference and the change set out in the Change Proposal will take effect if and when that Change Proposal is approved by the Joint Transition Governance Board.

4.3 A Change Proposal which:

- (a) is approved by the Incoming Transition Governance Board in accordance with the Enabling Agreement; and
- (b) the Commission determines has no detrimental implication, impact or effect upon the Outgoing Licensee or the Outgoing Transition Plan,

shall not require the agreement of, or discussion with, the Outgoing Licensee or the Joint Transition Governance Board and shall take effect immediately upon it being confirmed by the Incoming Transition Governance Board in accordance with the Enabling Agreement.

5. **TRANSITION PLANS**

5.1 Pursuant to:

- (a) the Third Licence, the Outgoing Licensee is subject to the Outgoing Transition Plan Obligations; and
- (b) the Enabling Agreement, the Incoming Licensee is subject to the Incoming Transition Plan Obligations.

- 5.2 In order to ensure that the Transition Plans align and operate to achieve the purpose:
- (a) the Outgoing Licensee shall include within the Outgoing Transition Plan; and
 - (b) the incoming Licensee shall include within the Incoming Transition Plan,
- the Coordinated Action Plan.
- 5.3 No later than the First Information Date, based on the information available to each Licensee Party at that time (and acknowledging that there will have been no opportunity for the Licensee Parties to cooperate or exchange information in relation to the Transition Plans prior to that date):
- (a) the Outgoing Licensee must provide to the Commission and the Incoming Licensee a Proposed Outgoing Transition Plan; and
 - (b) the Incoming Licensee must provide to the Commission and the Outgoing Licensee the Proposed Incoming Transition Plan.
- 5.4 A Decision Process will take place where:
- (a) the Decision will:
 - (i) identify any changes which need to be made to the Proposed Outgoing Transition Plan and Proposed Incoming Transition Plan to ensure that those plans will, if implemented together, achieve the Purpose of Cooperation;
 - (ii) identify the steps within the scope of the Transition Plans which require directly cooperative action on the part of the Licensee Parties (including those steps referred to in clause 14) which will form a Coordinated Action Plan and will be included in each of the Outgoing Transition Plan and the Proposed Incoming Transition Plan;
 - (b) the Required Decision Date will be the Second Initial Checkpoint;
 - (c) the Commission Direction Date will be the First Confirmation Date;
 - (d) the Transition Plans determined as a result of that Decision will be the “**Initial Transition Plans**”, and those Initial Transition Plans will include the Coordinated Action Plan decided as part of the Decision Process described in this clause 5.4.
- 5.5 At all times from the First Confirmation Date to the Second Final Checkpoint, each Licensee Party shall promptly notify the other and the Commission if it becomes aware of any fact, matter or circumstance which might require an amendment to either Initial Transition Plan (including the Coordinated Action Plan contained within the Initial Transition Plans), in order to ensure that the Initial Transition Plans are, and continue to be, fit to achieve the Purpose of Cooperation. Any such notification will be a Change Proposal.
- 5.6 No later than the Second Final Checkpoint:
- (a) the Outgoing Licensee must provide to the Commission and the Incoming Licensee a Proposed Final Outgoing Transition Plan; and
 - (b) the Incoming Licensee must provide to the Commission and the Outgoing Licensee a Proposed Final Incoming Transition Plan,

and the Outgoing Licensee and the Incoming Licensee must each ensure that such Transition Plan as they provide is fit to achieve the Purpose of Cooperation in respect of the period from the Final Confirmation Date to the Long Stop Date.

5.7 A Decision Process will take place where:

- (a) the Decision will identify any changes which need to be made to the Proposed Final Outgoing Transition Plan and the Proposed Final Incoming Transition Plan to ensure that those plans will, if implemented together, achieve the Purpose of Cooperation;
- (b) the Required Decision Date will be the Second Final Checkpoint;
- (c) the Commission Direction Date will be the Final Confirmation Date; and
- (d) the Transition Plans determined as a result of that Decision will be the **"Final Transition Plans"**.

5.8 The Transition Plans agreed and (if applicable) further amended in accordance with this clause 5 shall be binding on the Outgoing Licensee and the Incoming Licensee (as applicable) and shall (as so amended or varied) each be appended to this Agreement from time to time and, for the avoidance of doubt:

- (a) the Outgoing Transition Plan from time to time shall be the Transition Plan which the Outgoing Licensee is required by the Third Licence to implement; and
- (b) the Incoming Transition Plan from time to time shall be the Transition Plan which the Incoming Licensee is required by the Enabling Agreement to implement.

5.9 Nothing in this Agreement shall require the Incoming Licensee to share with the Outgoing Licensee any data or information included in the Incoming Transition Plan which wholly relates to the Purpose of Implementation and does not in any way relate to the Purpose of Cooperation.

6. LIST OF ITEMS TO TRANSFER

6.1 All:

- (a) information required to be provided by the Outgoing Licensee pursuant to this clause 6:
 - (i) shall be provided:
 - (1) to the Commission (by indicating where such information is available in the Competition Data Room, if applicable), who may provide it to the Incoming Licensee; and/or,
 - (2) at the direction of the Commission, directly to the Incoming Licensee;
 - (ii) may, to the extent appropriate, be given in the form of a confirmation that information previously provided to the Commission and included in the Competition Data Room remains true, complete and accurate; and
- (b) information which the Outgoing Licensee is required to provide and all notices to be given by the Incoming Licensee or the Commission pursuant to this clause 6:

- (i) shall describe all assets, liabilities, rights and obligations by reference to the Categories; and
- (ii) may, in respect of a Homogeneous Group, describe all assets, liabilities, rights and obligations by the characteristics of that group,

and shall include the Required Information specified in Schedule 4 which information must be provided in sufficient time to enable the Incoming Licensee to determine the Transferring Items and to make all necessary preparations for the transfer of those items.

- 6.2 No later than the First Information Date the Outgoing Licensee must provide details of all Items to Potentially Transfer by reference to the facts, matters and circumstances in existence on the First Reference Date.
- 6.3 No later than the First Scope Date the Incoming Licensee must notify the Outgoing Licensee and the Commission of Items to Potentially Transfer which, as at that date, it intends to request to be Transferring Items (together the "Initial List").
- 6.4 Promptly following confirmation of the Initial List in accordance with clause 6.3 and in any event no later than the Second Initial Checkpoint, the Outgoing Licensee must provide to the Commission a proposal setting out the proposed:
- (a) scope of the Asset Survey to be procured by the Outgoing Licensee in accordance with Condition 18.18 of the Third Licence, with such assessment being based on those Items to Potentially Transfer identified in the Initial List and any other items specified by the Commission; and
 - (b) identity of the Independent Surveyor who the Outgoing Licensee proposes to appoint to carry out the Asset Survey, along with their proposed terms of appointment.
- 6.5 On or before the First Confirmation Date, the Commission will confirm to the Outgoing Licensee whether it:
- (a) has approved the proposed scope of the Asset Survey, and separately has approved the identity and terms of appointment of the Independent Surveyor, as provided to the Commission in accordance with clause 6.4; or
 - (b) has not approved the proposed scope of Asset Survey, and identity and terms of appointment of the Independent Surveyor provided to the Commission in accordance with clause 6.4, in which case the Outgoing Licensee must take such steps as the Commission may direct in order to:
 - (i) identify an alternative and suitably qualified person to be the Independent Surveyor; and/or
 - (ii) amend or update the proposed scope of the Asset Survey or the terms of appointment of the Independent Surveyor.
- 6.6 The Asset Survey must be completed in accordance with the scope, and by the Independent Surveyor engaged on the relevant terms, each of which has been approved by the Commission in accordance with clause 6.5. A copy of the completed Asset Survey will be provided to the Commission by the Outgoing Licensee on the date which is 60 Business Days from the First Confirmation Date (or such other date as is agreed between

the Outgoing Licensee and the Commission). The Commission will provide a copy of the Asset Survey to the Incoming Licensee.

- 6.7 No later than the Second Final Checkpoint, the Outgoing Licensee must provide to the Commission and the Incoming Licensee:
- (a) full details of any changes to the Initial List necessary to reflect all Items to Potentially Transfer together with an explanation of the reasons for such changes; and
 - (b) the Required Information in relation to each Item to Potentially Transfer, including any updates to the Required Information previously provided in relation to such items,

in each case by reference to the facts, matters and circumstances in existence on the Second Reference Date.

- 6.8 The Incoming Licensee and the Outgoing Licensee must include details of Items to Potentially Transfer which the Incoming Licensee requires to be Transferring Items (together the "**Final List**") in their Final Transition Plans.
- 6.9 Following receipt of the Final List in accordance with clause 6.8, the Commission may require the Outgoing Licensee to undertake rectification and/or maintenance work in accordance with Condition 18.19 of the Third Licence.

7. CONTINUING OBLIGATIONS

- 7.1 No later than the First Information Date each Licensee Party must provide to the Commission information in relation to obligations which each of them considers should be Continuing Obligations, and the arrangements which it considers will need to be put in place regarding those Continuing Obligations in order to achieve the Purpose of Cooperation.
- 7.2 No later than the First Initial Checkpoint, the Commission shall confirm to the Outgoing Licensee and the Incoming Licensee the Continuing Obligations (by reference to categories of such obligation, where the Commission considers it appropriate), those matters which, as at that date, the Commission has determined should be Continuing Obligations (the "**Statement of Continuing Obligations**")
- 7.3 Once the Statement of Continuing Obligations has been determined in accordance with clause 7.2, a Decision Process will take place where:
- (a) the Decision will be the arrangements (including any Operational Actions and Transition Assistance Services) which are necessary to ensure that the Continuing Obligations identified in the Statement of Continuing Obligations are discharged (including arrangements for the transfer to, or conduct by, the Incoming Licensee) on and from the Start Date in a manner which will ensure that the Purpose of Cooperation is achieved;
 - (b) the Required Decision Date will be the Second Initial Checkpoint;
 - (c) the Commission Direction Date will be the First Confirmation Date; and
 - (d) the arrangements in respect of the Continuing Obligations determined as a result of that Decision will be documented in the "**Initial Continuing Obligations Plan**" and any Operational Actions or Transition Assistance Services identified as part of

this Decision will be included in the Initial Transfer Plan and/or the Initial Statement of Transition Assistance Services, as applicable.

- 7.4 In relation to Continuing Obligations which relate to a Continuing Game, the Licensee Parties must consider in detail, and implement in accordance with the Continuing Obligations Plan, the practical arrangements which need to be put in place to ensure that the handover of the operation of each Continuing Game achieves the Purpose of Cooperation.
- 7.5 In relation to Continuing Obligations which are Lottery Disputes, the Continuing Obligations Plan must, to the extent and in the manner specified by the Commission, include provisions which ensure that the Incoming Licensee is able to assume or take over the conduct of any proceedings and/or negotiations arising in connection with any Lottery Dispute, including:
- (a) the provision of all relevant documents or information in the Outgoing Licensee's possession, custody or power which relate to such Lottery Dispute;
 - (b) the Outgoing Licensee making available all personnel in the employment of the Outgoing Licensee as the Incoming Licensee or the Commission may request, for the purpose of providing relevant evidence and/or witness statements and for the giving of such evidence in any form of dispute resolution in connection with such Lottery Dispute;
 - (c) the Outgoing Licensee providing all reasonable assistance to locate personnel previously, but not at the time, in the employment of the Outgoing Licensee for the purpose of providing relevant evidence and/or witness statements and for the giving of such evidence in any form of dispute resolution proceedings in each case in connection with such dispute;
 - (d) the Incoming Licensee acting reasonably and consulting and having regard to the representations of the Outgoing Licensee;
 - (e) executing all formal documents, deeds, assignments or agreements which are or may be necessary in order to pursue such Lottery Dispute or effect any settlement or agreement in respect of that Lottery Dispute;
 - (f) the Outgoing Licensee complying with any other reasonable instructions or requirements of the Incoming Licensee or the Commission in respect of the conduct of any proceedings or negotiations relating to such Lottery Dispute; and
 - (g) the recovery (in accordance with clause 15.5 of this Agreement):
 - (i) by the Outgoing Licensee from the Incoming Licensee of OL Recoverable Dispute Costs; and
 - (ii) by the Incoming Licensee from the Outgoing Licensee of any IL Recoverable Dispute Costs

in each case in accordance with clause 7.6.

7.6 The:

- (a) Outgoing Licensee shall be entitled to recover from the Incoming Licensee any costs reasonably incurred and not recovered by the Outgoing Licensee prior to the Ongoing Dispute being assumed or taken over by the Incoming Licensee in the

event of a claim of costs awarded or settled in favour of the Incoming Licensee (“**OL Recoverable Dispute Costs**”);

- (b) Incoming Licensee shall be entitled to recover from the Outgoing Licensee any costs incurred or suffered by the Incoming Licensee by way of any liability, claim, cost, judgment, damage or expense (including reasonable attorney’s fees) as a result of having assumed the conduct of any proceedings and/or negotiations arising in connection with such Lottery Dispute in accordance with this clause 7 (“**IL Recoverable Dispute Costs**”).

7.7 If the Commission issues a Cooperation Direction to the Outgoing Licensee requiring it to provide security, on terms, and in a form and of an amount determined by the Commission, for the performance of the obligations of the Outgoing Licensee under Condition 18.36 of the Third Licence (as replicated here in clause 7.6(b)), the Outgoing Licensee must promptly comply with such direction.

7.8 In the period starting on the First Confirmation Date:

- (a) the Outgoing Licensee and the Incoming Licensee shall each take all reasonably necessary steps to prepare for implementation of the Initial Continuing Obligations Plan; and
- (b) each Licensee Party must promptly update the Commission and the other Licensee Party:
 - (i) of any obligation (or category of obligation) it considers should be a Continuing Obligation which was not notified to the Commission in accordance with clause 7.1; and
 - (ii) any new or updated information in relation to those Continuing Obligations referred to in the Statement of Continuing Obligations, upon becoming aware of that information.

7.9 At any time after the First Confirmation Date but no later than the Second Final Checkpoint, the Commission may notify the Outgoing Licensee and the Incoming Licensee of any obligation (or category of obligation) which will be Continuing Obligations and which were not previously identified as a Continuing Obligation which it has determined must be transferred to or conducted by (as applicable) the Incoming Licensee on and from the Start Date. The Statement of Continuing Obligations shall be amended to include any such Continuing Obligations.

7.10 Following the Last Scope Date, a Decision Process will take place where:

- (a) the Decision will be that the Initial Continuing Obligations Plan is amended to reflect any changes which are necessary to ensure that the Continuing Obligations identified in the Statement of Continuing Obligations (as amended in accordance with clause 7.9) are discharged on and from the Start Date in a manner which will ensure that the Purpose of Cooperation is achieved;
- (b) the Required Decision Date will be the Second Final Checkpoint;
- (c) the Commission Direction Date will be the Final Confirmation Date;
- (d) actions to be taken, and arrangements to be put in place, by the Outgoing Licensee and the Incoming Licensee determined as a result of that Decision will be

documented in the “**Final Continuing Obligations Plan**” and any new or updated Operational Actions or Transition Assistance Services identified as part of this Decision will be included in the Final Transfer Plan and/or the Final Statement of Transition Assistance Services, as applicable.

- 7.11 The Continuing Obligations Plan agreed and (if applicable) further amended in accordance with this clause 7 shall be binding on the Outgoing Licensee and the Incoming Licensee (as applicable) and
- (a) the Outgoing Licensee must implement and comply with that plan pursuant to the Third Licence; and
 - (b) the Incoming Licensee must implement and comply with that plan pursuant to the Enabling Agreement.

8. **TRANSFER ACTIVITIES**

8.1 Pursuant to:

- (a) the Third Licence, the Outgoing Licensee is required to undertake and implement the Transfer Mechanics set out in Part A of Appendix 2; and
- (b) the Enabling Agreement, the Incoming Licensee is required to undertake and implement the Receipt Mechanics.

8.2 Part B of Appendix 2 describes certain specific Transfer and Receipt Mechanics which apply to the legal transfer of certain Licensee Assets.

8.3 Following confirmation of the Initial List in accordance with clause 6.3, a Decision Process will take place where:

- (a) the Decision will be the Operational Actions which each Licensee Party will respectively take to implement the Transfer Mechanics and Receipt Mechanics with respect to the assets, liabilities, rights and obligations on the Initial List which will ensure that they are transferred from the Outgoing Licensee to the Incoming Licensee efficiently and without disruption to the National Lottery;
- (b) the Required Decision Date will be the Second Initial Checkpoint;
- (c) the Commission Direction Date will be the First Confirmation Date;
- (d) the Operational Actions determined as a result of that Decision will be documented in the “**Initial Transfer Plan**”.

8.4 In the period starting on the First Confirmation Date, the Outgoing Licensee and the Incoming Licensee shall each take all reasonably necessary steps to prepare for implementation of the Initial Transfer Plan, as updated from time to time in accordance with clause 8.5.

8.5 The Initial Transfer Plan will be updated and amended as follows:

- (a) at all times from the First Confirmation Date to the Second Final Checkpoint, if either the Outgoing Licensee or the Incoming Licensee becomes aware of any fact, matter or circumstance which might require an amendment to the Initial Transfer Plan in order to ensure the efficient transfer of assets, liabilities, rights and obligations on

the Initial List and without disruption to the National Lottery, it must submit a Change Proposal;

- (b) if, between the First Confirmation Date and the Second Final Checkpoint, the Outgoing Licensee becomes aware of any asset, liability or right related to the National Lottery which was not included on the Initial List it shall promptly notify the Incoming Licensee and the Commission and:
 - (i) the Incoming Licensee (in all other cases) may require that such item be added to the Initial List;
 - (ii) a Decision Process will take place where:
 - (1) the Decision will be the Operational Actions which each Licensee Party will respectively take to implement the Transfer Mechanics and Receipt Mechanics with respect to the asset, liability, right or obligation (as applicable) which is added to the Initial List in accordance with clause 8.5(b)(i) to ensure the transfer from the Outgoing Licensee to the Incoming Licensee efficiently and without disruption to the National Lottery;
 - (2) the Required Decision Date will be the day which is 25 Business Days from the date of the notification in clause 8.5(b);
 - (3) the Commission Direction Date will be the day which is 10 Business Days from the Required Decision Date;
 - (4) the Operational Actions determined as a result of that Decision will be added to the Initial Transfer Plan.

8.6 Following the confirmation of the Final List in accordance with clause 6.8, a Decision Process will take place where:

- (a) the Decision will identify any amendments to the Initial Transfer Plan necessary to reflect the Operational Actions which each Licensee Party would respectively take to implement the Transfer Mechanics and Receipt Mechanics with respect to the assets, liabilities and rights on the Final List in order to ensure that they are transferred efficiently from the Outgoing Licensee to the Incoming Licensee and without disruption to the National Lottery;
- (b) the Required Decision Date will be the Second Final Checkpoint;
- (c) the Commission Direction Date will be the Final Confirmation Date;
- (d) the Operational Actions determined as a result of that Decision will be documented in the "**Final Transfer Plan**".

8.7 The Transfer Plan agreed and (if applicable) further amended in accordance with this clause 8 shall be binding on the Outgoing Licensee and the Incoming Licensee (as applicable) and:

- (a) the Outgoing Licensee must implement and comply with that plan pursuant to the Third Licence; and
- (b) the Incoming Licensee must implement and comply with that plan pursuant to the Enabling Agreement.

- 8.8 The:
- (a) Outgoing Licensee agrees and acknowledges that, pursuant to the Third Licence it will perform the Transfer Mechanics, including without limitation, executing the relevant Form of Transfer Document, with respect to all Transferring Items and Continuing Obligations; and
 - (b) Incoming Licensee agrees and undertakes to perform the Receipt Mechanics, including without limitation, executing the relevant Form of Transfer Document, with respect to all Transferring Items and Continuing Obligations,

in each case as set out in the Final Transfer Plan.

- 8.9 The Outgoing Licensee and the Incoming Licensee may (with the prior consent of the Commission) agree amendments to:

- (a) the Form of Transfer Document; and/or
- (b) the Transfer Mechanics and/or Receipt Mechanics,

in any specific circumstances where they consider it would be necessary for, or that it would facilitate, the purposes of the Operator Transfer or the Purpose of Cooperation.

9. **TRANSITION ASSISTANCE SERVICES ACTIVITIES**

- 9.1 Pursuant to the Third Licence, the Outgoing Licensee is subject to the Transition Assistance Services Obligations.

- 9.2 Without limiting their scope, the Transition Assistance Services may include, in respect of any assets, software or systems, the provision of:

- (a) suitable training and know-how to the Incoming Licensee and any third parties specified by the Incoming Licensee;
- (b) copies of the Outgoing Licensee's training and instructional materials; and
- (c) a non-exclusive, payment-free and royalty-free licence in favour of the Incoming Licensee to use such materials.

- 9.3 If any Transition Assistance Services are identified in accordance with this clause:

- (a) those services will be summarised in the Transition Plans; and
- (b) the details of those services and any associated service levels will be reflected in a Statement of Transition Assistance Services which will be appended to and incorporated in the Transition Plans.

- 9.4 No later than the First Information Date:

- (a) the Outgoing Licensee must provide to the Commission and the Incoming Licensee details of all activities which might reasonably be required to be performed by the Outgoing Licensee for the benefit of the Incoming Licensee as Transition Assistance Services; and
- (b) the Incoming Licensee must provide to the Commission and the Outgoing Licensee a statement of any activities which it might reasonably require to be

provided or procured by the Outgoing Licensee for the benefit of the Incoming Licensee as Transition Assistance Services.

- 9.5 Following the exchange of proposals in relation to the scope of the Transition Assistance Services to be provided in accordance with clause 9.4, a Decision Process will take place where:
- (a) the Decision will be the scope of the Transition Assistance Services which are necessary to achieve the Purpose of Cooperation (and the equitable apportionment of costs to be borne by each Licensee Party in respect of those Transition Assistance Services);
 - (b) the Required Decision Date will be the First Initial Checkpoint;
 - (c) the Commission Direction Date will be the First Scope Date;
 - (d) the scope of Transition Assistance Services determined as a result of that Decision will be the **"Initial Transition Assistance Services Scope"**.
- 9.6 Once the Transition Assistance Services Scope has been determined in accordance with clause 9.5, a Decision Process will take place where:
- (a) the Decision will be the arrangements (including any service levels) for the provision of the Transition Assistance Services which are specified in the Initial Transition Assistance Services Scope which will ensure that the Purpose of Cooperation is achieved and the equitable apportionment of costs to be borne by each Licensee Party in respect of those services;
 - (b) the Required Decision Date will be the Second Initial Checkpoint;
 - (c) the Commission Direction Date will be the First Confirmation Date;
 - (d) the arrangements for the provision of Transition Assistance Services determined as a result of that Decision will be the **"Initial Statement of Transition Assistance Services"**.
- 9.7 At all times from the First Confirmation Date to the Second Final Checkpoint, if either the Outgoing Licensee or the Incoming Licensee becomes aware of any fact, matter or circumstance which might require an amendment to the Initial Statement of Transition Assistance Services in order to ensure that it is fit to achieve the Purpose of Cooperation, it must submit a Change Proposal.
- 9.8 No later than the Second Final Checkpoint each Licensee Party must provide to the other and to the Commission details of any proposed amendments to the Initial Statement of Transition Assistance Services which are necessary to ensure that the Transition Assistance Services and the arrangements for their provision (including service levels) are adequate to ensure that the Purpose of Cooperation is achieved in respect of the period from the Final Confirmation Date to the Long Stop Date.
- 9.9 Following receipt of the proposals described in clause 9.8, a Decision Process will take place where:
- (a) the Decision will identify the amendments (if any) required to be made to the Initial Statement of Transition Assistance Service such as to ensure that those services will be adequate to achieve the Purpose of Cooperation and that the statement (as amended) will comply with the requirements of this Agreement;

- (b) the Required Decision Date will be the Second Final Checkpoint;
- (c) the Commission Direction Date will be the Final Confirmation Date;
- (d) the arrangements for the provision of Transition Assistance Services determined as a result of that Decision will be the “**Final Statement of Transition Assistance Services**”.

9.10 The Statement of Transition Assistance Services agreed and (if applicable) further amended in accordance with this clause 9 shall be binding on the Outgoing Licensee and the Incoming Licensee (as applicable) and

- (a) the Outgoing Licensee must implement and comply with that statement pursuant to the Third Licence; and
- (b) the Incoming Licensee must implement and comply with that statement pursuant to the Enabling Agreement.

10. OTHER COOPERATION ACTIVITIES

10.1 The Outgoing Licensee (pursuant to the Third Licence) and the Incoming Licensee (pursuant to the Enabling Agreement), are each required:

- (a) to cooperate with each other and with the Commission, its representatives and advisors, and such other persons as the Commission may specify, as may be required to achieve the Purpose of Cooperation; and
- (b) not to take any action or steps (or omit to take any action or steps) which has or have the effect, directly or indirectly, of preventing, prejudicing or frustrating the Purpose of Cooperation.

10.2 Without prejudice to the Commission’s ability to give Cooperation Directions at any time where it considers it appropriate to do so, with respect to Cooperation Directions requested by the Outgoing Licensee or the Incoming Licensee, or considered necessary by the Commission, to be made on or prior to the First Confirmation Date:

- (a) no later than the First Information Date, each Licensee Party must provide to the other and the Commission details of any actions, steps or cooperation with respect to the Purpose of Cooperation in respect of which it requests the Commission to make a Cooperation Direction in order to ensure that the Purpose of Cooperation is achieved; and
- (b) the Commission shall consider such requests and if it considers it appropriate shall, not later than the First Scope Date, provide to the Outgoing Licensee and the Incoming Licensee any proposals for Cooperation Directions to ensure that the Purpose of Cooperation is achieved. Any such proposed Cooperation Directions shall be reviewed by the Joint Transition Governance Board in accordance with clause 20 and, subject to such review, the Commission may provide to the Outgoing Licensee and the Incoming Licensee final and binding Cooperation Directions on the First Confirmation Date.

10.3 At all times from the First Confirmation Date to the Long Stop Date, if the Outgoing Licensee or the Incoming Licensee wish to request the Commission to make a Cooperation Direction to the other in order to ensure that the Purpose of Cooperation is achieved, that party must make a Change Proposal, following which the Commission (if it considers it appropriate to do so) may make a Cooperation Direction.

10.4 As required by the Third Licence and the Enabling Agreement respectively, each Licensee Party must comply with all Cooperation Directions made in accordance with this clause 10 to ensure that the Purpose of Cooperation is achieved.

11. INFORMATION AND ACCESS

11.1 In order to ensure the Purpose of Cooperation is achieved and without prejudice to any other obligations under the Third Licence or the Enabling Agreement, the Outgoing Licensee and the Incoming Licensee shall each provide to the Commission and to the other such information, and access to such documentation, materials, facilities and personnel as:

- (a) the Commission may specify; and/or
- (b) the other may reasonably request, provided that:
 - (i) any such request for information shall be provided to the Commission as well as to the other; and
 - (ii) further provided that any question as to whether such request is reasonable shall be subject to assessment in accordance with clause 20 in connection with the Purpose of Cooperation.

11.2 If either the Outgoing Licensee or the Incoming Licensee becomes aware that any information, documentation, materials, facilities or personnel which it has provided, or provided access, to the Commission or to the other (including any change in the condition of any asset which was the subject of the Asset Survey) was inaccurate or has changed in any material respect it shall promptly notify the Commission and the other providing reasonable details of the relevant change and/or accurate information, as applicable.

11.3 Upon reasonable request from the Incoming Licensee, or upon direction from the Commission, the Outgoing Licensee must give to the Incoming Licensee and/or the Commission reasonable access to:

- (a) existing infrastructure and access to test software and systems;
- (b) Distributors and any Distributor databases to which the Outgoing Licensee has access;
- (c) copies of data relating to Player Subscriptions and online accounts; and
- (d) subcontractors of the Outgoing Licensee, where the contract to which that subcontractor and the Outgoing Licensee is a party has been, or the Incoming Licensee indicates may be, selected by the Incoming Licensee as an Item to Transfer,

provided in each case that any access by the Incoming Licensee must not, in the opinion of the Commission, unduly interfere with the continuing provision and running of the National Lottery by the Outgoing Licensee.

12. TRANSFER REGULATIONS

12.1 The parties consider the Operator Transfer will constitute a relevant transfer for the purposes of the Transfer Regulations and agree that the contracts of employment of the Transferring Licensee Staff and any collective agreements with trade unions recognised by the Outgoing Licensee in respect of the Transferring Licensee Staff will have effect from the Start Date as if originally made between the Incoming Licensee and the Transferring

Licensee Staff or the relevant trade unions as appropriate (except in respect of pension arrangements).

- 12.2 The Licensee Parties will comply with the Transfer Regulations with respect to all Transferring Licensee Staff and will cooperate to ensure that the requirements of the Transfer Regulations (in particular, with regard to consultation and information processes and the implementation of the transfers and any redundancies) are fulfilled.
- 12.3 On or before the First Confirmation Date, the Incoming Licensee will confirm to the Outgoing Licensee and the Commission which Transferring Licensee Staff members the Incoming Licensee intends will be a Lottery Supervisor or a Critical Function Employee on and from the Start Date.
- 12.4 In relation to those Transferring Licensee Staff members notified to the Outgoing Licensee in accordance with clause 12.3, the Outgoing Licensee must:
- (a) provide the information requested by the Commission, within the timeframes requested by the Commission; and
 - (b) use its best endeavours to procure that each Transferring Licensee Staff member provides the information requested by the Commission, within the timeframes requested by the Commission,

in order to facilitate the vetting process to be carried out in relation to each such member of Transferring Licensee Staff by the Commission in advance of the Start Date.

- 12.5 If the Outgoing Licensee or the Incoming Licensee identify that the Operator Transfer constitutes, or may constitute, a relevant transfer for the purposes of the Transfer Regulations with respect to the contracts of employment of any employees of any person who has entered into a contract with the Outgoing Licensee:
- (a) the Outgoing Licensee will cooperate with the Incoming Licensee to enable the Incoming Licensee to identify any persons who may become Transferring Subcontractor Staff and to obtain details of such persons from the relevant subcontractor;
 - (b) each of the:
 - (i) Outgoing Licensee will use all reasonable endeavours to ensure that any such relevant subcontractor complies; and
 - (ii) Incoming Licensee will itself comply, and will use all reasonable endeavours to ensure that any relevant subcontractor complies,

with the provisions of clauses 12.1 to 12.4 with respect to such employees as if such persons were Transferring Licensee Staff.

13. **LOTTERY IP**

- 13.1 In order to enable the Incoming Licensee to prepare to run the National Lottery:
- (a) the Incoming Licensee will, on or before the First Scope Date, provide to the Commission such information as the Commission may reasonably require regarding the scope of use of Lottery IP which will be required for that purpose;

- (b) in accordance with Condition 21.12 of the Third Licence, the Outgoing Licensee will on or before the First Confirmation Date grant to the Incoming Licensee a licence to use such Lottery IP in such manner as the Commission may specify as being necessary for the Purpose of Cooperation. That licence will be royalty and payment free and will entitle the Incoming Licensee to grant sub-licences to the extent necessary for that purpose (including for the purpose of granting Incoming Licensee Lottery IP Sub-Licences in accordance with clause 13.2(b)(ii)).

13.2 Upon the Expiry Date:

- (a) the Outgoing Licensee Lottery IP Licence will terminate. Not later than the Final Confirmation Date the Commission will grant to the Outgoing Licensee a licence to use Lottery IP with effect from the Start Date on such terms and for such period as the Commission may specify as being necessary to ensure the Purpose of Cooperation, provided that any such licence shall be payment and royalty free.
- (b) the Outgoing Licensee Lottery IP Sub-Licences will terminate and consequent upon this:
 - (i) the Outgoing Licensee must, when it provides any information to the Commission or the Incoming Licensee regarding any Licensee Subcontract (and in any event no later than the Second Final Checkpoint), confirm to the Commission whether an Outgoing Licensee Lottery IP Sub-Licence has been granted to the relevant Licensee Subcontractor;
 - (ii) the Outgoing Licensee must provide all cooperation reasonably required to enable the Incoming Licensee to grant Incoming Licensee Lottery IP Sub-Licences as may be required by any Licensee Subcontractor to perform its obligations under a Licensee Subcontract, where relevant both before and after the Expiry Date.

13.3 If, in order to achieve the Purpose of Cooperation, the Incoming Licensee will require the use of any Gaming Software:

- (a) on or before the Second Final Checkpoint, the Incoming Licensee must provide to the Commission details of its requirements for such use;
- (b) if the Incoming Licensee provides details to the Commission in accordance with clause 13.3(a) and the Commission concludes that such use is necessary, the Commission will direct the Outgoing Licensee accordingly and, in accordance with Conditions 18.21 and 18.22 of the Third Licence, the Outgoing Licensee must:
 - (i) grant the Incoming Licensee a licence to use any Gaming Software owned (but, for the avoidance of doubt, not merely licensed) by the Outgoing Licensee; and
 - (ii) use its best endeavours to procure the grant to the Incoming Licensee of a licence to use any Gaming Software owned by a third party and licensed to the Outgoing Licensee,

in each case until the second anniversary of the Expiry Date on such terms as the Commission may specify.

13.4 With respect to Prize Validation Software, the Outgoing Licensee must:

- (a) provide to the Commission not later than the Second Final Checkpoint, such information as the Commission may require regarding the terms upon which the Outgoing Licensee has been and is using that software during the Handover Period; and
- (b) grant, or procure that a third party grants, to the Incoming Licensee not later than the Final Confirmation Date a licence entitling the Incoming Licensee to use the Prize Validation Software for the purposes of operating the National Lottery:
 - (i) for 230 days following the Expiry Date or such longer period as the Commission may specify;
 - (ii) upon terms which are substantially the same as those upon which the Outgoing Licensee has been and is using that software during the Handover Period;

and the Outgoing Licensee shall provide to the Commission such information and documentation as the Commission may require in order to satisfy itself that the Outgoing Licensee is complying with the requirements of this Condition.

13.5 The Commission specifies that each of the items described in Condition 21.13 of the Third Licence are Lottery IP.

14. **TRANSITION TO THE 4NL TRUST**

14.1 The Outgoing Licensee shall, on such dates and with such frequency as the Commission may specify, provide to the Commission and the Incoming Licensee such information as the Commission may specify with respect to:

- (a) Protected Continuing Obligations;
- (b) other 3NL Trust Secured Obligations;
- (c) 3NL Trust Monies; and
- (d) Other Licensee Reserves.

14.2 The information to be provided in accordance with Clause 14.1 shall include details of:

- (a) the matters specified in that Clause 14.1 as at the date provided;
- (b) the basis on which the Outgoing Licensee calculates or estimates:
 - (i) Protected Continuing Obligations; and
 - (ii) the appropriate amount of:
 - (1) 3NL Trust Monies; and
 - (2) Other Licensee Reserves,

calculated or estimated to ensure that the Protected Continuing Obligations are capable of being discharged; and

- (c) the Outgoing Licensee's estimate of the matters specified in Clause 14.1 as at the Expiry Date.

- 14.3 In accordance with:
- (a) Condition 18.8 of the Third Licence, the Outgoing Licensee shall take such steps as are open to it; and
 - (b) Condition 18.9 of the Third Licence, the Outgoing Licensee shall take such steps as are open to it to require the 3NL Trustee to take such steps open to it,
- in each case to ensure that the requirements of clause 14.4 are fulfilled provided always that neither this clause 14.3 nor clause 14.4 shall require the Outgoing Licensee to make any payment save to the extent such payment is required, or may be required by the Commission to be made, pursuant to the Third Licence.
- 14.4 The requirements of this clause are that (subject to the proviso to clause 14.3):
- (a) as at the Expiry Date the 3NL Trust Monies are sufficient to discharge the Protected Continuing Obligations; and
 - (b) the 3NL Trust Monies at the Expiry Date are available, pursuant to arrangements for Protected Continuing Obligations, to discharge the Protected Continuing Obligations.
- 14.5 Without prejudice to clause 14.3, in accordance with Condition 18.32(c) of the Third Licence the Outgoing Licensee shall:
- (a) ensure that the Other Licensee Reserves are sufficient to discharge any 3NL Trust Shortfall; and
 - (b) if required by the Commission ensure that sums sufficient to pay all Protected Continuing Obligations which are Prizes in any game promoted by the Outgoing Licensee, or costs associated with payment of such Prizes, are paid in accordance with Continuing Player Obligation Arrangements to the person or persons specified in those arrangements, but only to the extent that such sums have not been paid, or will not be paid, into the 3NL Trust.
- 14.6 The Outgoing Licensee and the Incoming Licensee must include in their Transition Plans details of the steps to be taken by that Licensee Party (or, in the case of the Outgoing Licensee, the 3NL Trustee (subject to the terms of the 3NL Trust) and, in the case of the Incoming Licensee, the 4NL Trustee (subject to the terms of the 4NL Trust) by way of Continuing Player Obligation Arrangements.
- 14.7 The Outgoing Licensee and the Incoming Licensee may each identify and propose to the other any:
- (a) Other Continuing Secured Obligation Arrangements; or
 - (b) Other 3NL Trust Arrangements,
- which they consider may be necessary to protect the interests of the 3NL Trust Beneficiaries or otherwise for the Purpose of Cooperation.
- 14.8 The Commission may propose to the Outgoing Licensee and the Incoming Licensee any:
- (a) Other Continuing Secured Obligation Arrangements; or
 - (b) Other 3NL Trust Arrangements,

which it considers may be necessary or appropriate to protect the interests of the 3NL Trust Beneficiaries or otherwise for the Purpose of Cooperation. The Commission will provide each of the Outgoing Licensee and the Incoming Licensee with a reasonable opportunity to make representations to it with respect to any such proposals.

14.9 A Decision Process will take place where:

- (a) the Decision will be:
 - (i) to determine the Continuing Player Obligation Arrangements; and
 - (ii) to determine whether any Other Continuing Secured Obligation Arrangements or Other 3NL Trust Arrangements are necessary or appropriate to protect the interests of the 3NL Trust Beneficiaries or otherwise for the Purpose of Cooperation and, if so, the nature and details of those arrangements;
 - (iii) determine any Relevant 3NL Trust Date to the extent the same is not determined in accordance with the 3NL Trust Deed; but

such Decision will not require the Outgoing Licensee to make or provide for payment of any amounts in excess of those required to be made, or which the Commission may require the Outgoing Licensee to make, pursuant to the Third Licence;

- (b) the Required Decision Date will be the Second Final Checkpoint; and
- (c) the Commission Direction Date will be twenty Business Days after the Final Confirmation Date.

14.10 The:

- (a) Outgoing Licensee must, and must take all steps open to it to require the 3NL Trustee to; and
- (b) the Incoming Licensee must, and must take all steps open to it to require the 4NL Trustee to,

implement and comply with any Trust and Reserve Arrangements.

14.11 The Outgoing Licensee and the Incoming Licensee must each ensure (insofar as they are respectively able to do so) that any Trust and Reserve Arrangements ensure that 3NL Trust Monies paid to any party pursuant to those arrangements are used only to discharge:

- (a) Protected Continuing Obligations; and
- (b) any other relevant 3NL Trust Secured Obligation and any other amounts payable in accordance with the 3NL Trust Deed.

15. **WRONG POCKETS AND FINANCIAL RECONCILIATION**

15.1 If, after the Start Date, either the Incoming Licensee or the Outgoing Licensee becomes aware that possession and/or ownership of a Transferring Item was not transferred to the Incoming Licensee on the Start Date, the Outgoing Licensee and the Incoming Licensee must promptly procure that the relevant Transferring Item is transferred to the Incoming Licensee on the terms of the relevant form of Deed of Transfer set out in Appendix 2.

- 15.2 If the Incoming Licensee becomes aware that the Outgoing Licensee has transferred to the Incoming Licensee possession and/or ownership of an asset that is not a Transferring Item, the Incoming Licensee and the Outgoing Licensee must make sure that the possession and/or ownership (as the case may be) of that asset is promptly transferred from the Incoming Licensee to the Outgoing Licensee on such terms as the Incoming Licensee and the Outgoing Licensee, acting reasonably, agree.
- 15.3 The Outgoing Licensee shall bear the cost of any transfer of an asset pursuant to clause 15.1 or 15.2, other than where the Outgoing Licensee can demonstrate that such transfer was made based on incorrect information being provided by the Incoming Licensee, in which case the costs of such transfer shall be for the Incoming Licensee's account.
- 15.4 If and to the extent that any Transfer Activity, or the process of dealing with any Continuing Obligation, gives rise to the transfer or apportionment of any financial entitlement, obligation or liability, to the extent not otherwise provided for in this Agreement (including pursuant to clause 26) (a "**Financial Amount**"):
- (a) the Licensee Parties will determine the appropriate transfer or apportionment as the case may be;
 - (b) to the extent any amount is or has been paid or received other than in accordance with such determination, the Outgoing Licensee or the Incoming Licensee (as the case may be) shall pay to the other such amount as is necessary to reflect such determination; and
 - (c) if and to the extent that the appropriate transfer or apportionment (as the case may be) of any cost cannot be agreed by the Outgoing Licensee and the Incoming Licensee after reasonable discussion and cooperation between the Licensee Parties, either Licensee Party may refer the matter to an Expert for determination in accordance with Schedule 5.
- 15.5 If:
- (a) either the Incoming Licensee or the Outgoing Licensee becomes aware that any payment associated with a Financial Amount has been paid or received other than in accordance with the provisions of clause 15.4;
 - (b) either the Incoming Licensee or the Outgoing Licensee otherwise pays or receives any amount which should properly be paid or received (as the case may be) and is for the account of the other and the Licensee Parties have not agreed (whether in this Agreement or otherwise) any other apportionment;
 - (c) pursuant to clause 7.6:
 - (i) the Outgoing Licensee is entitled to recover from the Incoming Licensee any OL Recoverable Dispute Costs; and/or
 - (ii) the Incoming Licensee is entitled to recover from the Outgoing Licensee any IL Recoverable Dispute Costs;
- the Outgoing Licensee or the Incoming Licensee must promptly reimburse the other in full for such amount.

16. INDEMNITIES

- 16.1 Where a provision of this Agreement provides, or the Licensee Parties otherwise agree, that one party (Party A) should indemnify another party (Party B) (an “**Indemnity**”), any claims under that Indemnity shall be made by Party B (an “**Indemnity Claim**”) in accordance with this clause 16.
- 16.2 Each Indemnity sets out the circumstances in respect of which Party A must indemnify Party B (the “**Indemnified Matter**” and the losses in respect of which Party A must indemnify, and keep indemnified, Party B, if any such Indemnified Matter arises are “**Indemnified Losses**”).
- 16.3 As soon as reasonably practicable after becoming aware of any matter that is likely to give rise to any Indemnity Claim, Party B shall give written notice of that fact to Party A.
- 16.4 Party B shall have conduct of any action which needs to be taken in relation to any Indemnified Matter that is, or is anticipated to be, the subject of an Indemnity Claim, provided that Party B must ensure that (subject to appropriate arrangements to maintain confidentiality and, if appropriate, privilege):
- (a) reasonably frequent reports are provided to Party A regarding the progress of any Indemnified Matter;
 - (b) Party A is provided with copies of all material correspondence and documentation relating to the Indemnified Matter;
 - (c) reasonable requests by Party A are considered and, at Party B’s discretion, taken into account or implemented by Party B; and
 - (d) no settlement or admission (including any failure to appeal or decision not to do so) is agreed or made between Party B and any third party in relation to any Indemnified Matter without the prior written consent of Party A, such consent not to be unreasonably withheld or delayed.
- 16.5 Nothing in clause 16.4 shall entitle Party A to be appointed as the agent of, or otherwise act in the name of, Party B or to communicate with any third party in relation to the Indemnified Matter.
- 16.6 Except in relation to clause 16.7, any failure by Party B to comply with the terms of clause 16.3 or 16.4 shall not prejudice the rights of Party B in relation to any Indemnity Claim, except to the extent that such failure prejudices Party A.
- 16.7 If Party B wishes to make an Indemnity Claim, it shall notify Party A in writing confirming:
- (a) the Indemnified Losses; and
 - (b) providing sufficient detail to enable Party A to understand the grounds on which the Indemnity Claim is based.
- 16.8 Subject to clause 16.9, in respect of an Indemnity Claim made by Party B, Party A shall pay to Party B an amount equal to the Indemnified Losses set out in the notice given to Party A in accordance with clause 16.7 on or before the date which is 20 Business Days after the date of such notice (or such other date as may be agreed between Party A and Party B),
- 16.9 If, in respect of any Indemnity Claim notified to Party A in accordance with clause 16.7, Party A disputes an Indemnity Claim:

- (a) if the dispute is in respect of the amount of the Indemnified Losses, Party A and Party B shall appoint an Expert to determine the amount of such Indemnified Losses in accordance with Schedule 5; or
- (b) if the dispute is in relation to any other aspect of the Indemnity Claim, Party A and Party B shall follow the procedure set out in clause 27.

16.10 Nothing in this clause 16 shall:

- (a) have the effect of limiting Party B's duty under law to mitigate its losses; or
- (b) require Party A to indemnify Party B for any Indemnified Loss in respect of which Party B has already recovered from a third party.

17. DATA PROTECTION

17.1 Where the Outgoing Licensee or the Incoming Licensee is provided with Personal Data in connection with its obligations under this Agreement and, under Data Protection Legislation, that person is a Data Controller, it shall comply with all obligations imposed on a Data Controller under Data Protection Legislation.

17.2 Each Licensee Party shall assist the other in complying with all applicable requirements of the Data Protection Legislation in connection with Personal Data transferred or to be transferred from the Outgoing Licensee to the Incoming Licensee or vice versa.

18. REMEDIES

18.1 The:

- (a) Outgoing Licensee pursuant to the Third Licence; and
- (b) Incoming Licensee pursuant to the Enabling Agreement,

is each required to comply with this Agreement and other than where this Agreement provides for a matter to be referred to an Expert for determination, and subject to clause 18.2, the sole remedy of any party for any breach of this Agreement will be pursuant to the Third Licence and the Act or the Enabling Agreement (as the case may be).

18.2 The rights and remedies of each Licensee Party under or pursuant to:

- (a) each of clauses:
 - (i) 15.5 (*Wrong Pockets and Financial Reconciliation*); and
 - (ii) 24 (*Confidentiality*), and
- (b) any agreement, deed, document or other legal instrument or transaction for the purposes of transferring any thing or granting any right necessary to give effect to this Agreement,

shall not be limited by clause 18.1.

18.3 For the avoidance of doubt, save to the extent otherwise agreed between them, neither the Outgoing Licensee nor the Incoming Licensee will be responsible or liable for the actions or omissions of the other.

19. MONITORING OF COOPERATION

19.1 Each Licensee Party must:

- (a) provide reports to the Commission weekly (or at such other frequency as the Commission may specify) regarding progress of the implementation of the Transition Plans in accordance with the timetable specified in each of the Transition Plans;
- (b) immediately notify the Commission of any Transition Issue or any fact, matter or circumstance which might give rise to any Transition Issue; and
- (c) use its best endeavours to enable the Commission to conduct Transition Reviews when required by the Commission.

19.2 If, following any Transition Review, the Commission makes any recommendations to the Outgoing Licensee or the Incoming Licensee regarding the Operator Transfer, the Outgoing Licensee or the Incoming Licensee, as applicable, will consider those recommendations in good faith and will provide promptly a written response setting out the steps it will take (if any) to address those recommendations.

20. GOVERNANCE

20.1 Each Licensee Party must appoint a Transition Programme Manager who will be responsible for managing the Outgoing Licensee or Incoming Licensee's (as applicable) deliverables, communications and operational coordination with the other parties to this Agreement.

20.2 The Joint Transition Governance Board will:

- (a) oversee and review cooperation between the parties and the operation of this Agreement, including compliance by the Outgoing Licensee and the Incoming Licensee with any Cooperation Directions; and
- (b) review and confirm all significant milestones and deliverables (including achievement against agreed service and delivery acceptance criteria and anticipated performance against those milestones) under each of:
 - (i) the Transition Plans;
 - (ii) the Transfer Plan;
 - (iii) the Continuing Obligation Plan; and
 - (iv) the Statement of Transition Assistance Services;

each as updated from time to time in accordance with this Agreement.

20.3 Each Licensee Party will ensure that it fully participates in the Joint Transition Governance Board which will meet at least monthly, or with such other frequency as may be specified from time to time by the Commission.

20.4 Where this Agreement refers to a decision or approval by the Joint Transition Governance Board:

- (a) each party shall ensure that the members of the Joint Transition Governance Board appointed by it discuss the matter in good faith; and
 - (b) to the extent that, within a reasonable period of time specified by the Commission, the members of the Joint Transition Governance Board have not reached unanimous agreement on the relevant matter, the members of the Joint Transition Governance Board appointed by the Commission may determine the decision of the Joint Transition Governance Board.
- 20.5 The parties will also operate from time to time such Operational Committees as the Commission may specify, each of which:
- (a) will have such membership, remits and responsibilities; and
 - (b) meet with such frequencies,
- as the Commission may specify.
- 20.6 If any Transition Issue is identified by either of the Incoming Licensee or the Outgoing Licensee, that party will ensure that the relevant issue is escalated to that party's Transition Programme Manager within 2 Business Days (or earlier, if required by the Commission), who will discuss the Transition Issue with the other party's Transition Programme Manager with a view to identifying steps to be taken by the Outgoing Licensee and/or the Incoming Licensee, as applicable, to resolve the Transition Issue.
- 20.7 If the Transition Programme Managers cannot agree on the steps to be taken to resolve the Transition Issue within 3 Business Days of notification in accordance with clause 20.6 (or earlier, if required by the Commission),
- (a) where that Transition Issue:
 - (i) falls within the remit of an Operational Committee, it is escalated immediately to that committee which will discuss it within 2 Business Days (or earlier, if required by the Commission); or
 - (ii) does not fall within the remit of an Operational Committee, it is escalated immediately to the Joint Transition Governance Board which will discuss it at its next scheduled meeting (or earlier, if required by the Commission);
 - (b) any issue which is escalated to an Operational Committee will:
 - (i) in all cases, be notified for information to the Joint Transition Governance Board within 3 Business Days of being identified (or earlier, if required by the Commission); and
 - (ii) where not resolved by that Operational Committee within 2 Business Days of being referred to it (or earlier, if required by the Commission), is escalated to the Joint Transition Governance Board which will discuss it at its next scheduled meeting (or earlier, if required by the Commission):
 - (c) in all cases, each Licensee Party promptly takes all steps open to it to rectify the Transition Issue; and
 - (d) information in relation to the rectification of any Transition Issue must be included in the weekly update reports provided to the Commission in accordance with clause 19.1(a).

21. TERMINATION

21.1 Neither the Outgoing Licensee nor the Incoming Licensee will have any right to terminate this Agreement.

21.2 If the Commission serves an EA Termination Notice on the Incoming Licensee in accordance with the terms of the Enabling Agreement, the Commission may:

- (a) terminate this Agreement;
- (b) if that notice is served on or before the First Confirmation Date, serve a Reserve Applicant Notice on the Incoming Licensee and the Outgoing Licensee.

21.3 If the Commission serves a Reserve Applicant Notice in accordance with clause 21.2:

- (a) the party who was the Incoming Licensee at the Adherence Date shall no longer be a party to this Agreement (and from the date of the Reserve Applicant Notice shall become the "**Removed Incoming Licensee**"); and
- (b) such other person as the Commission may identify in that Reserve Applicant Notice shall become a party to this Agreement from the date upon which they execute a Reserve Applicant Deed of Adherence and, from that date:
 - (i) such person shall be the "Incoming Licensee"; and
 - (ii) the Outgoing Licensee and the Incoming Licensee must undertake a Decision Process where:
 - (1) the Decision will be that the Key Dates listed in Schedule 2 are amended to ensure that the Incoming Licensee's Application and Incoming Transition Plan can be implemented:
 - i. such that the New Licence can Start on and from the Start Date; and
 - ii. to achieve the Purpose of Cooperation;
 - (2) the Required Decision Date will be 20 Business Days after the date of the Reserve Applicant Notice;
 - (3) the Commission Direction Date will be the 10 Business Days from the Required Decision Date; and
 - (4) the updates to Schedule 2 determined as a result of that Decision will be binding on the parties; and
- (c) following the steps set out in (a) and (b), the Outgoing Licensee, the Incoming Licensee and the Commission shall implement the steps set out in this Agreement in accordance with the Key Dates as set out in Schedule 2 (as revised in accordance with (b) above).

21.4 The fact that an Incoming Licensee becomes a Removed Incoming Licensee shall not:

- (a) itself give rise to any rights or liabilities for any party under this Agreement; or
- (b) affect either:

- (i) any liabilities which may arise, or have arisen, under the Enabling Agreement; or
- (ii) any rights or liabilities accrued by any party prior to the date of the Reserve Applicant Notice,

and for the avoidance of doubt, no rights or liabilities of a Removed Incoming Licensee shall be assumed by an Incoming Licensee who has executed a Reserve Applicant Deed of Adherence.

22. INTERRELATION OF AGREEMENTS

22.1 If, and to the extent, that there is any conflict:

- (a) between this Agreement and the Enabling Agreement with respect to any matter to the extent the Enabling Agreement expressly creates an obligation on the Incoming Licensee to do, or not to do, something with respect to that matter, the Enabling Agreement shall prevail;
- (b) between this Agreement and the Third Licence with respect to any matter to the extent the Third Licence expressly creates an obligation on the Outgoing Licensee to do, or not to do, something with respect to that matter, the Third Licence shall prevail; and
- (c) otherwise, this Agreement shall prevail.

22.2 No provision of this Agreement or a Transition Plan shall in any way limit the rights and obligations of:

- (a) the Outgoing Licensee under the Third Licence; or
- (b) the Incoming Licensee under the Enabling Agreement or the New Licence.

23. DELAYS TO THE START DATE

If the Start Date is after the Expiry Date (or on such later date as any other authorisation granted to the Outgoing Licensee to run the National Lottery ceases to apply):

- (a) the Commission acknowledges that following the Expiry Date, the Outgoing Licensee:
 - (i) shall have no obligation or right to continue to run the National Lottery;
 - (ii) shall not be under any obligation to the Commission which would prevent it from disposing of any Licensee Assets, terminating Licensee Subcontracts or allowing them to expire and that persons may cease to be Licensee Staff;
- (b) notwithstanding paragraph (a) above the Licensee Parties will use their reasonable endeavours to implement this Agreement subject to any modifications necessary to reflect any change of circumstance (with such modifications being discussed between the Licensee Parties and the Commission);
- (c) if the Commission so directs, the Licensee Parties will give effect to the relevant provisions of this Agreement to transfer such undertaking of the Outgoing Licensee as relates to the National Lottery (including any Licensee Assets, Licensee Subcontracts and Licensee Staff as may be identified by the Commission) on:

- (i) the Start Date; or
- (ii) a date specified by the Commission which is after the Expiry Date but is earlier than the Start Date,

provided that if the Start Date does not occur within 12 months of the Expiry Date this Agreement will terminate.

24. CONFIDENTIALITY

24.1 The Outgoing Licensee and the Incoming Licensee must not, without the prior written consent of the Commission, use Confidential Information for any purpose other than for the purposes of this Agreement and the operation of the National Lottery (including for these purposes the promotion of Games and the operation of any Ancillary Activity) in accordance with the terms of:

- (a) in respect of the Outgoing Licensee, the Third Licence, and,
- (b) in respect of the Incoming Licensee, the Enabling Agreement and the New Licence,

(“**Permitted Purposes**”) provided that any consent given by the Commission shall not prejudice the rights of either Licensee Party to protect its own Confidential Information with respect to the use of that information other than for a Permitted Purpose.

24.2 The Outgoing Licensee and the Incoming Licensee shall not disclose any Confidential Information to any third party unless such disclosure is:

- (a) made to:
 - (i) a director, officer or member of staff of the Outgoing Licensee or the Incoming Licensee;
 - (ii) a subcontractor, or a director, officer or member of staff of that subcontractor;
 - (iii) a direct or indirect shareholder;
 - (iv) an auditor, legal, financial or other professional advisor,

in each case where it is necessary for such person to know the Confidential Information in connection with the Purpose of Cooperation (each an “**Authorised Person**”) and on the basis that each Authorised Person must owe a duty of confidentiality to the Outgoing Licensee or the Incoming Licensee (as applicable) in respect of such Confidential Information which is no less onerous than the confidentiality obligations set out in this Agreement; or

- (b) expressly required:
 - (i) by the terms of the Third Licence, the New Licence or this Agreement;
 - (ii) by or under applicable law, a court of competent jurisdiction or any judicial, governmental, supervisory or regulatory authority;
 - (iii) for the purpose of legal proceedings arising out of or in connection with this Agreement; or

- (c) approved by the Commission in writing.
- 24.3 The Outgoing Licensee and the Incoming Licensee must promptly notify the Commission if they become aware that any Confidential Information has been disclosed in breach of Condition 24.1.
- 24.4 If the Outgoing Licensee or the Incoming Licensee becomes aware that it, or one of its Authorised Persons, may be required to disclose any Confidential Information in accordance with Conditions 24.2(b)(ii) to (iii), to the extent permitted by law, the Outgoing Licensee or the Incoming Licensee, as applicable, must:
- (a) promptly notify the Commission with full details of the required disclosure. The Outgoing Licensee or the Incoming Licensee must do everything it can to make this notification before the Confidential Information is disclosed;
 - (b) ensure that any disclosure of Confidential Information is limited to the minimum amount of Confidential Information required to satisfy its disclosure obligation;
 - (c) consult with the Commission as to the timing, content and manner of making the disclosure, and take into account the views and opinions of the Commission; and
 - (d) do anything the Commission directs in order to mitigate the effects of, or avoid the requirement for, disclosure.
- 24.5 Within 10 Business Days of the service of a Reserve Applicant Notice in accordance with clause 21.2(b), the Removed Incoming Licensee must, and must ensure that each of its Authorised Persons shall return to the Outgoing Licensee or, at the Commission's sole option destroy, all Confidential Information provided to it and its Authorised Persons, save to the extent applicable law or any governmental, supervisory or regulatory authority requires copies of such information to be retained (provided the confidentiality of such information is maintained).
- 24.6 If requested by the Commission, the Removed Incoming Licensee must promptly provide a certificate (approved by its board of Directors) confirming that it has complied with its obligations under clause 24.5.

25. **OUTGOING LICENSEE AND INCOMING LICENSEE AS AFFILIATES**

- 25.1 If the Outgoing Licensee and the Incoming Licensee are:
- (a) Affiliates; or
 - (b) the same person,
- the provisions of this clause 25 will apply.
- 25.2 If the Outgoing Licensee and the Incoming Licensee are the same legal person:
- (a) references in this Agreement to:
 - (i) the Outgoing Licensee shall be to that legal person in its capacity as the holder of the Third Licence; and
 - (ii) to the Incoming Licensee shall be to that legal person in its capacity as the person to whom the Commission intends to grant the New Licence;

- (b) subject to (c) below, that legal person shall give effect to the obligations of each of the Outgoing Licensee and the Incoming Licensee as if those were separate legal persons; and
- (c) that legal person may make a Change Proposal in respect of any terms of this Agreement which may need to be:
 - (i) amended or varied; or
 - (ii) disapplied,

in order to reflect the fact that the Outgoing Licensee and the Incoming Licensee are the same legal person and that therefore there will be no handover of control of the running of the National Lottery, nor any transfer of information, assets or other items, to a different legal person. Any such Change Proposal will be considered and determined in accordance with clause 4.

25.3 If the Outgoing Licensee and the Incoming Licensee are Affiliates, the Outgoing Licensee and/or the Incoming Licensee may make a Change Proposal in respect of any terms of this Agreement which it may be appropriate to amend or vary to reflect the fact that the Outgoing Licensee and the Incoming Licensee are Affiliates provided that no Change Proposal may be made which would:

- (a) undermine or conflict with the Purpose of Cooperation;
- (b) result in costs being apportioned between the Outgoing Licensee and the Incoming Licensee in a manner which would be different to the apportionment of costs which would be agreed between the Licensee Parties if they were not Affiliates; or
- (c) damage, or risk harm to any of the Matters to be Protected.

26. COSTS

26.1 In respect of costs and expenses which are incurred by:

- (a) any party, in relation to the negotiation, preparation and execution of this Agreement and any ancillary documents, including the fees and disbursements of their respective legal, accountancy and other advisers, each party must bear its own costs;
- (b) the Outgoing Licensee in relation to compliance with its obligations under the Third Licence, the Outgoing Licensee must bear its own costs (except where specifically determined otherwise in accordance with this Agreement); and
- (c) the Incoming Licensee in relation to compliance with its obligations under the Enabling Agreement or the New Licence, the Incoming Licensee must bear those costs in accordance with the terms of the Enabling Agreement and the New Licence; and
- (d) the Outgoing Licensee in connection with the provision of the Transition Assistance Services to the Incoming Licensee, to the extent that:
 - (i) the provision of those Transition Assistance Services is requested by the Incoming Licensee; and

- (ii) the Outgoing Licensee would not otherwise incur such costs pursuant to its obligations under the Third Licence or this Agreement,

those costs shall be reimbursed by the Incoming Licensee on the basis set out in the Statement of Transition Assistance Services.

26.2 Save to the extent that this Agreement provides for the allocation of costs arising under this Agreement (which excludes, for the avoidance of doubt, costs and expenses described in clause 26.1), such costs will be borne equitably as between the Outgoing Licensee and the Incoming Licensee which shall mean that the cost shall be apportioned according to the principles set out in clause 26.3 and 26.4.

26.3 The following principles shall be taken into account in determining the equitable apportionment of any cost described in clause 26.2:

- (a) costs shall be apportioned proportionately to any benefit or benefits received as a result of that cost being incurred;
- (b) costs (including the reasonable fees of any professional advisers) shall be apportioned proportionately to any breach by the Outgoing Licensee or the Incoming Licensee of this Agreement, the Third Licence, the Enabling Agreement, any instrument of transfer or any Licensee Subcontract which is an Item to Potentially Transfer and costs which arise solely and specifically as a result of a breach shall be borne by the party which has committed that breach;
- (c) whether costs incurred by a Licensee Party are to be taken into account when calculating the amount payable to Good Causes pursuant to the conditions of the Third Licence, the Enabling Agreement or the New Licence (as applicable) shall not be taken into account when considering how costs should be apportioned between the Licensee Parties; and
- (d) if the Outgoing Licensee and the Incoming Licensee are Affiliates or the same person, each of the Outgoing Licensee and the Incoming Licensee must:
 - (i) ensure that the apportionment of costs in accordance with this clause 26 is undertaken on the principles set out in (a) to (c) above as if those parties were not Affiliates or the same person;
 - (ii) ensure that no costs which are associated with the operation of the National Lottery pursuant to the Third Licence, including costs incurred by the Outgoing Licensee in compliance with its obligations this Agreement are apportioned as costs of the Incoming Licensee (or otherwise as Recoverable Implementation Costs under the Enabling Agreement or Licensee Operating Cost under the New Licence); and
 - (iii) must provide sufficient information and demonstrate to the satisfaction of the Commission that this is the case.

26.4 To the extent that either the Outgoing Licensee or the Incoming Licensee incurs any cost associated with implementation of this Agreement (that party being the **"Incurring Party"** and the other being the **"Non-Incurring Party"**):

- (a) where in accordance with clause 26.3 the Non-Incurring Party should bear any part of that cost it promptly will reimburse to the Incurring Party that part of the cost; and

- (b) otherwise the Incurring Party will bear that cost.
- 26.5 Within 10 Business Days from the end of each month, the Outgoing Licensee and the Incoming Licensee shall cooperate to agree the equitable apportionment of the costs which were incurred by each of them in the previous month in connection with the implementation of this Agreement. When considering such equitable apportionment the Outgoing Licensee and the Incoming Licensee must apply the principles set out in clauses 26.3 and 26.4.
- 26.6 If and to the extent that the equitable apportionment of any cost is not agreed by the Outgoing Licensee and the Incoming Licensee within the 10 Business Day period set out in clause 26.5 (a "**Disputed Cost**"), the matter shall be escalated to the Transition Programme Managers for resolution.
- 26.7 If, within 20 Business Days of referral to the Transition Programme Managers in accordance with clause 26.6 (or earlier, if required by the Commission), the Outgoing Licensee and the Incoming Licensee have not agreed on the equitable apportionment of a Disputed Cost, the matter will be referred to an Expert for determination in accordance with Schedule 5.

27. **DISPUTES**

- 27.1 The parties acknowledge and agree that this Agreement is entered into pursuant to the Commission's statutory functions with respect to the grant and enforcement of licences pursuant to section 5 of the Act.
- 27.2 Without prejudice to clause 18 or the Commission's ability to take enforcement action under the Third Licence or enforce a breach of the Enabling Agreement, if any dispute arises between the parties regarding any matter relating to or arising out of this Agreement, any party may notify both of the other parties of such dispute (the first such notice in respect of any matter being a "**Dispute Notice**"):
- (a) the matter shall be discussed at the Joint Transition Governance Board;
 - (b) if the matter is not resolved by the Joint Transition Governance Board within 10 Business Days of the Dispute Notice (or earlier, if required by the Commission) and the relevant parties agree that escalation to the Chief Executives of each relevant party would resolve the dispute, the matter shall be escalated to the Chief Executives of each relevant party;
 - (c) if the matter is:
 - (i) not referred to the Chief Executives of the relevant parties by agreement in accordance with clause 27.2(b) within 20 Business Days of the Dispute Notice (or earlier, if required by the Commission); or
 - (ii) referred to the Chief Executives of those parties but is not resolved by them within 20 Business Days of the Dispute Notice (or earlier, if required by the Commission),

on the election of the Commission, the parties shall appoint a qualified mediator nominated by the Commission (following consultation with the other relevant party or parties) and shall cooperate in a mediation process determined by that mediator with a view to resolving the dispute. The relevant parties will bear the costs of any mediation process in accordance with any recommendation of the mediator; and

- (d) if the matter is not resolved by agreement between the parties following such mediation, the Commission may make a determination regarding such matter and, subject to clause 18 and clause 27.3, such decision shall be final and binding on the parties.

27.3 Nothing in this Agreement shall restrict, exclude or limit the jurisdiction of the court under section 31 of the Senior Courts Act 1981 or section 7 of the Human Rights Act 1998.

28. FREEDOM OF INFORMATION

28.1 The Outgoing Licensee and the Incoming Licensee acknowledge that the Commission is subject to the requirements of the FOIA and the EIR. The Outgoing Licensee and the Incoming Licensee must do, and must each ensure that any Authorised Person does, everything it can to enable the Commission to comply with its obligations under the FOIA and the EIR.

28.2 If the Commission receives a request for information in relation to information held by the Outgoing Licensee, the Incoming Licensee or any Authorised Person on behalf of the Commission (for the purposes of section 3(2)(b) of the FOIA and regulation 3(2)(b) of the EIR) and which the Commission does not hold itself, the Outgoing Licensee or the Incoming Licensee, as applicable, must do, and must ensure that any Authorised Person does, everything it can to provide:

- (a) the Commission with a copy of the information; and
- (b) all assistance requested by the Commission, to enable the Commission to respond to the request for information within the time for compliance.

28.3 Each Licensee Party must ensure that any information held by it or its Authorised Persons on behalf of the Commission (for the purposes of section 3(2)(b) of the FOIA and regulation 3(2)(b) of the EIR) is either:

- (a) returned to the Commission after the Long Stop Date; or
- (b) retained for disclosure for at least two years after the Long Stop Date.

28.4 The Outgoing Licensee and the Incoming Licensee must ensure that any Authorised Person acknowledges that the Commission may be obliged under the FOIA or the EIR to disclose information concerning the Outgoing Licensee or the Incoming Licensee (as applicable), any Authorised Person, or the National Lottery without consulting with the Outgoing Licensee or the Incoming Licensee (as applicable) or any Authorised Person.

29. COMMISSION'S DUTIES

Nothing in this Agreement shall in any way fetter the Commission in performing its statutory duties under the Act.

30. ASSIGNMENT

No party may assign, transfer, charge or deal in any other manner with any of its rights or obligations under this Agreement.

31. NOTICES

31.1 Any notice, permission or other communication under or in connection with this Agreement must be in writing and in English.

31.2 Any notice will be valid and effective only if it is:

- (a) signed by or on behalf of the person giving it; and
- (b) delivered by hand or sent by recorded delivery post or by email to the relevant party to the contact address and set out in clause 31.3 (or if otherwise notified by the relevant person under clause 31.3 to such other contact address as has been so notified).

31.3 The contact address for each party is:

- (a) in the case of the Commission as follows:

Address: The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP

Email: **Redacted - Confidential Information**

Attention: John Tanner, 4NLC Executive Director and SRO

with, in the case of notices only, a copy to:

Address: The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP

Email: **Redacted - Confidential Information**

Attention: The General Counsel

- (b) in the case of the Outgoing Licensee as follows:

Address: Camelot UK Lotteries Limited, Tolpits Lane, Watford WD18 9RN

Email: **Redacted - Confidential Information**

Attention: Gaby Heppner-Logan, Director of Regulatory Affairs, and

with, in the case of notices only, a copy to the Company Secretary, as follows:

Address: Camelot UK Lotteries Limited, Tolpits Lane, Watford WD18 9RN

Email: **Redacted - Confidential Information**

Attention: Company Secretary.

- (c) in the case of the Incoming Licensee as follows:

Address: Allwyn Entertainment Ltd, 5th Floor, One Connaught Place, London W2 2ET

Email: **Redacted - Confidential Information**

Attention: Harry Willits, General Counsel, Allwyn Entertainment Ltd; and

with, in the case of notices only, a copy to each of Alastair Ruxton and Jonathan Handyside, as follows:

Address: Allwyn Entertainment Ltd, 5th Floor, One Connaught Place, London W2 2ET

Email: Redacted - Confidential Information

Redacted - Confidential Information

Attention: Alastair Ruxton, Corporate Affairs Director; and
Jonathan Handyside, Group General Counsel

31.4 A party must give the other party reasonable advance notice of any change to the notice details set out in clause 31.3.

31.5 A notice is deemed to have been received (provided that all other requirements in this clause 31 have been satisfied):

- (a) if delivered by hand, on signature of a delivery receipt;
- (b) if sent by recorded delivery post, at 9.00 am on the second Business Day after posting;
- (c) if sent by email, at the time of transmission,

provided that if deemed receipt under paragraphs (a) to (c) of this clause 31.5 would occur outside the Usual Business Hours, the notice shall be deemed to have been received when Usual Business Hours next recommence. For the purposes of this clause 31.5, Usual Business Hours means 9.00 am to 5.30 pm on a Business Day.

32. SURVIVAL

32.1 The following clauses shall survive the expiry or termination of this Agreement:

- (a) clause 15 (Wrong Pockets and Financial Reconciliation);
- (b) clause 16 (*Indemnities*);
- (c) clause 18 (*Remedies*);
- (d) clause 24 (*Confidentiality*);
- (e) clause 26 (*Costs*);
- (f) clause 27 (*Disputes*);
- (g) clause 28 (*Freedom of Information*);
- (h) clause 29 (*Commission's Duties*);
- (i) clause 31 (*Notices*);
- (j) clause 33 (*Third Party Rights*);
- (k) clause 34 (*Miscellaneous Terms*);
- (l) clause 35 (*Entire Agreement*); and
- (m) clause 36 (*Governing Law and Jurisdiction*).

33. THIRD PARTY RIGHTS

- 33.1 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce this Agreement.
- 33.2 This Agreement may be rescinded or terminated, and a term may be amended or waived without the permission of any third party or its permitted assignees even if that takes away a right which the third party or its permitted assignees would otherwise have.

34. MISCELLANEOUS TERMS

- 34.1 Without prejudice to the provisions of the Third Licence, a variation of this Agreement is valid only if it is in writing and signed by the parties or their duly authorised representatives.
- 34.2 Failure to exercise, or a delay in exercising, a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or by law prevents the further exercise of the right or remedy or the exercise of another right or remedy. A waiver of a breach of this Agreement does not constitute a waiver of a subsequent or prior breach of this Agreement.
- 34.3 The rights and remedies provided by this Agreement are cumulative and, subject to clause 27.2(d), do not exclude any rights and remedies provided by law.
- 34.4 If a provision of this Agreement is found to be illegal, invalid or unenforceable, then to the extent it is illegal, invalid or unenforceable, that provision will be given no effect and will be treated as though it were not included in this Agreement, but the validity or enforceability of the remaining provisions of this Agreement will not be affected.
- 34.5 Nothing in this Agreement constitutes a partnership between the parties to it or constitutes either as agent of the other for any purpose whatever and neither party has authority or power to bind the other or to contract in the name of or create liability against the other in any way or for any purpose.
- 34.6 This Agreement may be entered into in any number of counterparts and either party may enter into this Agreement by executing any counterpart. A counterpart constitutes an original of this Agreement and all executed counterparts together have the same effect as if each party had executed the same document.

35. ENTIRE AGREEMENT

- 35.1 This Agreement (together with the documents referred to in it) sets out the entire agreement between the parties and supersedes any previous agreement or arrangement between the parties relating to the subject matter of it.
- 35.2 Nothing in this clause limits or excludes liability arising as a result of fraud or wilful misconduct.

36. GOVERNING LAW AND JURISDICTION

- 36.1 This Agreement, the jurisdiction clause contained in it, all documents referred to in it which are not expressed to be governed by another law, and all non-contractual obligations arising in any way whatsoever out of or in connection with this Agreement or any such document are governed by, construed and take effect in accordance with English law.
- 36.2 Without prejudice to clause 18 and clause 27, the courts of England have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way

whatsoever out of or in connection with this Agreement (including without limitation claims for set-off or counterclaim) or the legal relationships established by this Agreement.

THIS AMENDED AND RESTATED AGREEMENT IS SIGNED BY the duly authorised representatives of the parties on the date stated at the beginning of this Agreement.

Signed by John Tanner for and on behalf of The Gambling Commission

) Redacted - Confidential Information
)
)

Signed by Neil Brocklehurst for and on behalf of Camelot UK Lotteries Limited

) Redacted - Confidential Information
)
)

Signed by Justin King and Andria Vidler for and on behalf of Allwyn Entertainment Ltd

) Redacted - Confidential Information
)
)

SCHEDULE 1**Interpretation**

In this Agreement the terms used to describe the Categories as set out in Schedule 2 shall have those meanings and the following words and expressions shall have the following meanings:

3NL Trust Beneficiaries	the persons named as beneficiaries in the 3NL Trust Deed
3NL Trust	the player's trust arrangements operated by the 3NL Trustee in accordance with the Third Licence
3NL Trust Monies	as at the Relevant 3NL Trust Transition Date, any and all monies which, pursuant to the 3NL Trust Deed are held by the Outgoing Licensee or the 3NL Trustee and are subject to any trust or security for the benefit of the 3NL Beneficiaries
3NL Trust Deed	the Security Trust Deed dated 12 November 1994 (as the same has been amended and updated) between the Outgoing Licensee and the 3NL Trustee
3NL Trust Secured Obligation	a Secured Obligation as defined in the 3NL Trust Deed
3NL Trust Shortfall	any amount (if any) by which the Protected Continuing Obligations exceed the 3NL Trust Monies in each case calculated as at the Expiry Date
3NL Trustee	The Law Debenture Trust Corporation plc, the trustee of the 3NL Trust
4NL Trust	the trust arrangements to be operated by the 4NL Trustee in accordance with the Fourth Licence
4NL Trustee	the "National Lottery Trustee" under the New Licence
Act	the National Lottery etc. Act 1993
Adherence Date	the date on which the Incoming Licensee becomes a party to this Agreement by execution of a Deed of Adherence or a Reserve Applicant Deed of Adherence (as applicable)
Affiliate	any person that directly or indirectly Controls, is Controlled by, or is under common Control with another person
Ancillary Activity	has the meaning given to it in the Third Licence
Application	Successful Applicant's application for the Incoming Licensee to be awarded the New Licence (a)
Asset Survey	the final asset survey of Licensee Assets described in Condition 18.18 of the Third Licence

Business Day		any day which is not a Saturday, a Sunday or a bank or public holiday in England
Category		in respect of assets, liabilities, rights and obligations, the categories specified in Schedule 3
Central System	Computer	the system used to record and store wagers, determine winners and validate prizes
Change Control Process		has the meaning given in clause 4.1
Change Proposal		a proposal by any Licensee Party in respect of a change to any document or other matter which has been approved or agreed in accordance with this Agreement
Commission Direction Date		has the meaning given in clause 3.1(d)
Competition		the competition organised by the Commission for the award of the New Licence
Competition Room	Data	the electronic site established by the Commission in which information in relation to the Competition and the National Lottery will be stored and made available: <ul style="list-style-type: none"> (a) during the Competition, for inspection by applicants; and (b) after the Adherence Date, for inspection by the Incoming Licensee
Completion		the time at which the Expiry Date ends and the Start Date begins
Confidential Information		all information relating to the National Lottery operation, any Ancillary Activity, the Competition, the Outgoing Licensee, the Incoming Licensee, or the Commission which is not in the public domain
Continuing Game		has the meaning given to it in clause 2.1(e)(vi)
Continuing Obligations		obligations which will arise or fall to be discharged following the Start Date and in respect of which the Commission considers it is necessary that arrangements be made pursuant to this Agreement which will ensure that those obligations are discharged in the interests of the Purpose of Cooperation. Continuing Obligations may include: <ul style="list-style-type: none"> (a) obligations to pay all prizes to prize winners, in accordance with the rules of any Game (and arrangements which it may be necessary to make in respect of the same, including all arrangements to ensure validation and payment of prizes and the

transfer of prize payment security arrangements undertaken by the Outgoing Licensee)

- (b) other obligations to Players, including those relating to player accounts, Player Subscriptions and advance payments for any Games which take place following the Start Date (and arrangements which it may be necessary to make in respect of the same, including arrangements for the transfer of, or of information relating to, those accounts, Player Subscriptions or advance payments);
- (c) obligations in connection with the operation of any Continuing Game by the Incoming Licensee on and from the Start Date;
- (d) other specified obligations:
 - (i) of the Outgoing Licensee which the Commission determines should be transferred to or assumed by the Incoming Licensee;
 - (ii) of the Outgoing Licensee which the Commission determines should not be transferred to or assumed by the Incoming Licensee, but in respect of which the Commission determines arrangements will need to be made between the Outgoing Licensee and the Incoming Licensee to ensure those obligations are discharged;
 - (iii) of the Incoming Licensee in respect of which the Commission determines arrangements will need to be made between the Outgoing Licensee and the Incoming Licensee to enable the Incoming Licensee to discharge those obligations; and
- (e) Lottery Disputes;

Continuing Obligations Plan	the plan in relation to the transfer to, or assumption by, the Incoming Licensee of the Continuing Obligations, as agreed, updated and in force from time to time in accordance with clause 7
Control	has the meaning given to that term in section 1124 of the Corporation Tax Act 2010
Cooperation Direction	a direction from the Commission requiring the Outgoing Licensee and/or the Incoming Licensee to take (or omit to take) any step in connection with the Purpose of Cooperation (which may, to the extent necessary to give effect to the Purpose of Cooperation, include requiring that a change be made to any plan, process, procedure or document created pursuant to this Agreement)
Coordinated Plan	Action a plan describing steps within the scope of the Transition Plans which require directly cooperative action on the part of the Licensee Parties

Critical Employee	Function	has the meaning given to it in the New Licence
Data Controller		has the meaning given to that term in the Data Protection Legislation in force in the UK from time to time
Data Protection Legislation		all applicable data protection and privacy legislation in force from time to time, including the UK Data Protection Regulation, the General Data Protection Regulation ((EU) 2016/679), the Data Protection Act 2018, the Privacy and Electronic Communications Directive (2002/58/EC) (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended
Decision and Decision Process		have the meanings given in clause 3
Deed of Adherence		the deed of adherence, in all material respects in the form set out in Part A of Schedule 6, entered into by the Incoming Licensee on 16 September 2022
Deed of Commitment		the Deed of Commitment executed by the Successful Applicant and submitted to the Commission with its Application, in substantially the form issued by the Commission at Phase 2 of the Competition
Director		any executive or non-executive director
Distributor		any person authorised by the Outgoing Licensee who sells or offers for sale any National Lottery tickets, other than the Outgoing Licensee
Draw		the process which culminates in the selection by the Outgoing Licensee of a set of winning numbers for a National Lottery Game on a random basis and includes any similar arrangement for determining the persons who have won prizes in a Game
Draw-based Facilities		facilities where tickets for a Draw-based Game may be purchased
Draw-based Game		any National Lottery game, the result of which is determined by a Draw and in which a Player's selection is recorded on the Outgoing Licensee's Central Computer System
EA Termination Notice		a notice terminating the Enabling Agreement issued to the Incoming Licensee by the Commission in accordance with the terms of the Enabling Agreement
Effective Date		the date of this Agreement
EIR		Environmental Information Regulations 2004
Enabling Agreement		an agreement to be entered into between the Commission and the Incoming Licensee in anticipation of the New Licence taking effect and, amongst other things, providing for Implementation, in substantially the form issued by the Commission at Phase 2 of the Competition

EuroMillions Shares		the shares in the capital of Services aux Loteries en Europe SCRL owned by the Outgoing Licensee immediately prior to Completion
Expert		has the meaning set out in Schedule 5
Expiry Date		the date on which the Third Licence expires
Extended Company	Group	any subsidiary or immediate, intermediate or ultimate holding company of the Outgoing Licensee from time to time and any subsidiary of any such immediate, intermediate or ultimate holding company from time to time, "subsidiary" and "holding company" having the meanings set out in section 1159 of the Companies Act 2006
Final Date	Confirmation	has the meaning given in Schedule 2
Final Obligations Plan	Continuing	has the meaning given in clause 7.10(d)
Final Transition Plan	Incoming	the Incoming Transition Plan determined in accordance with clause 5.7
Final List		has the meaning given in clause 6.8
Final Transition Plan	Outgoing	the Outgoing Transition Plan determined in accordance with clause 5.7
Final Statement of Transition Services	Statement of Assistance	has the meaning given in clause 9.9(d)
Final Transfer Plan		has the meaning given in clause 8.6(d)
Final Transition Plans		has the meaning given in clause 5.7(d)
First Confirmation Date		has the meaning given in Schedule 2
First Information Date		3 October 2022
First Initial Checkpoint		21 November 2022
First Reference Date		4 August 2022
First Scope Date		12 December 2022
Fit and Proper Check		has the meaning given to it in the New Licence
FOIA		Freedom of Information Act 2000
Form of Document	Transfer	with respect to any Items to Potentially Transfer, the form of document of transfer which is appended to this Agreement or is specified by the Commission (as the case may be) as is relevant to that item
Game		a lottery which forms part of the National Lottery and is the subject of a licence granted to the Outgoing Licensee under section 6 of the Act

Gaming Software	any software which is: <ul style="list-style-type: none"> (a) not a generally available business application software; and (b) integral to the operation of any Game
Good Causes	has the meaning given to it in the New Licence
Group Company	the Outgoing Licensee and any direct or indirect subsidiary of the Outgoing Licensee from time to time. "Subsidiary" has the meaning set out in section 1159 of the Companies Act 2006
handover	handover from the Outgoing Licensee to the Incoming Licensee
Handover Period	the period starting on the date of this Agreement and ending on the Long Stop Date
Homogeneous Group	any group of assets, liabilities, rights or obligations which: <ul style="list-style-type: none"> (a) are all of a single Category; and (b) are all of substantially the same nature such as contracts with a large number of parties all on substantially the same terms
Implementation	the process by which the Incoming Licensee implements its Application to run the National Lottery in accordance with the Enabling Agreement
Incoming Licensee Lottery IP Licence	the exclusive licence granted by the Commission to the Incoming Licensee to use Lottery IP
Incoming Licensee Lottery IP Sub-Licences	sub-licences granted by the Incoming Licensee to third parties of Lottery IP which has been licensed to the Incoming Licensee pursuant to the Incoming Licensee Lottery IP Licence
Incoming Transition Governance Board	a committee comprised of representatives of the Commission and the Incoming Licensee for the purposes of monitoring, and discussing any issues which arise with respect to Implementation
Incoming Transition Plan	a plan prepared, and to be implemented, by the Incoming Licensee, to achieve the Operator Transfer in a manner which fulfils the Purpose of Cooperation (it being acknowledged that the Incoming Transition Plan will also address the implementation of the Incoming Licensee's application to run the National Lottery)
Incoming Transition Plan Obligations	the obligations, pursuant to the Enabling Agreement, of the Incoming Licensee with respect to the Incoming Transition Plan as described in Appendix 1
Independent Surveyor	the independent surveyor appointed to undertake the Asset Survey
Initial Continuing Obligations Plan	has the meaning given to it in clause 7.3(d)

Initial Incoming Transition Plan	the Incoming Transition Plan which is the Initial Transition Plan to be adopted and implemented by the Incoming Licensee in accordance with clause 5
Initial List	has the meaning given to it in clause 6.3
Initial Outgoing Transition Plan	the Outgoing Transition Plan which is the Initial Transition Plan to be adopted and implemented by the Outgoing Licensee in accordance with clause 5
Initial Statement of Transition Assistance Services	has the meaning given to it in clause 9.6(d)
Initial Transfer Plan	has the meaning given to it in clause 8.3(d)
Initial Transition Assistance Services Scope	has the meaning given to it in clause 9.5(d)
Initial Transition Plans	has the meaning given to it in clause 5.4(d)
Items to Potentially Transfer	any item in any Category in each case that will, or is reasonably likely to, subsist as at Completion
Joint Transition Governance Board	a committee comprised of representatives of the Commission, the Outgoing Licensee and the Incoming Licensee for the purposes of monitoring, and discussing any issues which arise with respect to the Purpose of Cooperation or the Operator Transfer
Key Dates	each of the dates so specified in Schedule 2
Last Scope Date	has the meaning given in Schedule 2
Licensee Assets	all assets used in the operation of the National Lottery including, for the avoidance of doubt, any shareholdings
Licensee Parties	the Outgoing Licensee and the Incoming Licensee
Licensee Staff	in respect of the Outgoing Licensee, any and all of the following: <ul style="list-style-type: none"> (a) employees (temporary and permanent); (b) agency workers engaged in providing services; (c) any employees seconded from any other entity; and/or (d) any other worker (as defined in section 230 of the Employment Rights Act 1996) engaged in providing services
Licensee Subcontract	(a) any agreement including any software licence entered into by the Outgoing Licensee and any third party(ies) in connection with the National Lottery; or <ul style="list-style-type: none"> (b) save where the Commission agrees otherwise, any agreement relating to an Ancillary Activity which the

Outgoing Licensee has agreed with an Extended Group Company

Licensee Subcontractor	a third party with whom the Outgoing Licensee has entered into a Licensee Subcontract
Long Stop Date	the date which is 18 months from the Expiry Date
Lottery Data	any data (including Personal Data) which is controlled, maintained or processed by or on behalf of the Outgoing Licensee or any of its Group Companies in connection with the National Lottery, any Game or any Ancillary Activity
Lottery Database	<p>a collection of independent works, data or other materials which</p> <ul style="list-style-type: none"> (a) are arranged in a systematic or methodical way; (b) are individually accessible by electronic or other means; and (c) are owned, created and/or maintained by or on behalf of the Outgoing Licensee in connection with the National Lottery, any Game, or any Ancillary Activity, <p>including, for the avoidance of doubt, any Licensee Database (as defined in the Third Licence)</p>
Lottery Dispute	any dispute, claim or proceedings (whether actual, contingent, threatened, present or future) between the Outgoing Licensee and any third party in connection with the National Lottery, any Game or any Ancillary Activity
Lottery IP	<ul style="list-style-type: none"> (a) National Lottery Logos, being the logos from time to time approved by the Commission for use generally in connection with the National Lottery or any Game; (b) each name of a Game, including the design of the ticket or entry for that Game; (c) any patent, trade mark, service mark, logs, get-up, trade name, internet domain name, right in design, copyright (including rights in computer software) and moral rights, database right, semi-conductor topography right, utility model, rights in know-how and other intellectual property right, in each case whether registered or unregistered, and all rights or forms of protection having equivalent or similar effect anywhere in the world (and "registered" includes registration, and applications for registration) which is: <ul style="list-style-type: none"> (i) specified by the Commission as being "Lottery IP"; or (ii) used only in connection with the promotion and running of the National Lottery, any Game or any Ancillary Activity;

Lottery Obligations	obligations of the Outgoing Licensee which exist or arise in connection with the operation of the National Lottery including those which arise in connection with prizes, Players and other third parties
Lottery Rights	rights of the Outgoing Licensee which exist or arise in connection with the operation of the National Lottery including those which arise in connection with prizes, Players and other third parties
Lottery Supervisor	has the meaning given to it in the New Licence
Matters to be Protected	has the meaning given to it in the New Licence
New Licence	a licence to be awarded to the Incoming Licensee under s5 of the Act and in accordance with the terms of the Enabling Agreement, to come into effect on the Start Date
Operator Goodwill	the goodwill, interest and connection of the Outgoing Licensee or its relevant Group Companies in the businesses of acting as the licensee under section 5 of the National Lottery Act, the promoter of any Game and the operator of any Ancillary Activities
Ongoing Disputes	any disputes, claims or proceedings (whether actual, contingent, threatened, present or future) between the Outgoing Licensee and any other person in connection with the Third Licence, and which are continuing or expected to be continuing as at the Expiry Date
Operational Actions	in respect of each Category, the actions specified in Schedule 4
Operational Committee	any committee or group formed pursuant to this Agreement by representatives of the Commission and of each of the Licensee Parties for the purposes of overseeing, reviewing or discussing specific operational aspects of the Operator Transfer or the Purpose of Cooperation
Other Licensee Reserves	monies, if any, other than 3NL Trust Monies reserved or otherwise allocated by the Outgoing Licensee for the purposes of discharging Protected Continuing Obligations
Outgoing Licensee Lottery IP Licence	the exclusive licence granted by the Commission to the Outgoing Licensee to use Lottery IP
Outgoing Licensee Lottery IP Sub-Licences	sub-licences granted by the Outgoing Licensee to third parties of Lottery IP which has been licensed to the Outgoing Licensee pursuant to the Outgoing Licensee's Lottery IP Licence
Outgoing Transition Plan	a plan prepared, and to be implemented, by the Outgoing Licensee, to achieve Operator Transfer in a manner which fulfils the Purpose of Cooperation

Outgoing Transition Plan Obligations	the obligations, pursuant to the Third Licence, of the Outgoing Licensee with respect to the Outgoing Transition Plan as described in Appendix 1
party	save where the context otherwise requires, the Commission and the Outgoing Licensee and, with effect from the Adherence Date, the Incoming Licensee
Personal Data	has the meaning given to that term in the Data Protection Legislation in force in the UK from time to time
Player	in relation to a Game, a person who has bought or been given a ticket or a chance in the Game
Player Subscriptions	an agreement between the Outgoing Licensee and a Player whereby the Player commits to purchasing tickets in successive Constituent Lotteries in accordance with the terms and conditions for Draw-based Games
Prize	a prize in any Game
Prize Validation Software	software used for the purpose of verifying prize winners and the amounts of Prize payments
Prize Winner	a person who has won a Prize in accordance with the rules of the relevant Game
Property Interests	any property owned, leased, held under licence or otherwise operated and occupied by the Outgoing Licensee
Proposed Final Incoming Transition Plan	means the form of Final Incoming Transition Plan proposed by the Incoming Licensee in accordance with clause 5.6(b)
Proposed Final Outgoing Transition Plan	means the form of Final Outgoing Transition Plan proposed by the Outgoing Licensee in accordance with clause 5.6(a)
Proposed Incoming Transition Plan	means the form of the Initial Incoming Transition Plan proposed by the Incoming Licensee in accordance with clause 5.3
Proposed Outgoing Transition Plan	means the form of the Initial Outgoing Transition Plan proposed by the Outgoing Licensee in accordance with clause 5.3
Protected Continuing Obligation	any Continuing Obligation to pay any Prize or any other amount to any Player which is a 3NLTrust Secured Obligation

Purpose of Cooperation	the purpose stated in clause 2.1
Purpose of Implementation	that the Incoming Licensee shall run the National Lottery on and from the Start Date in the manner contemplated by the Application and in accordance with the New Licence and the Enabling Agreement
Receipt Mechanics	in respect of each asset or liability in any Category, those steps as stated in the column headed ' <i>Receipt Mechanics</i> ' of Part A of Appendix 2 with respect to that Category
Reletting Materials	means all books, records, systems, documents, software, scripts, processes, procedures, instructions, databases, information in relation to the Licensee Staff and the Outgoing Licensee's rights, powers, duties and liabilities in relation to the Licensee Staff, information or data kept by or on behalf of the Outgoing Licensee in connection with the National Lottery (including financial, operational, player or Distributor databases, information or data, and any market research and any market research testing and methodologies conducted or prepared by or on behalf of the Outgoing Licensee and any other materials specified by the Commission as being required)
Relevant 3NL Trust Transition Date	any date or dates, determined in accordance with the 3NL Trust Deed or otherwise in accordance with Trust and Reserve Arrangements, for the calculation of 3NL Trust Monies for the purposes of being applied following the end of the Third Licence
Removed Incoming Licensee	has the meaning given in clause 21.3(a)
Required Decision Date	has the meaning given in clause 3.1(a)
Required Information	in respect of each Category, the information specified in the column headed ' <i>Required Information</i> ' of the table set out in Schedule 4
Reserve Applicant	the person identified as the "Reserve Applicant" in the Reserve Applicant Notice
Reserve Applicant Deed of Adherence	a deed of adherence to be executed by the Reserve Applicant if it is appointed as the Preferred Applicant in accordance with the Deed of Commitment, in all material respects in the form set out in Part B of Schedule 6

Reserve Applicant Notice		a notice given by the Commission to the Outgoing Licensee and the Incoming Licensee confirming that an EA Termination Notice has been served and that the Removed Incoming Licensee will be replaced by the Reserve Applicant
Scratchcard Lottery		a Game which does not involve utilisation of Draw-based Facilities other than for activation or validation and in which a particular ticket is capable of being determined immediately following its purchase as a winning ticket and/or as conferring a right to participation in a future event
Scratchcard Tickets	Lottery	a ticket for a Scratchcard Lottery
Second Checkpoint	Final	has the meaning given in Schedule 2
Second Checkpoint	Initial	16 June 2023
Second Reference Date		has the meaning given in Schedule 2
Start Date		(a) the date immediately following the Expiry Date; or (b) such later date as the Commission may specify in accordance with the Enabling Agreement
Statement of Continuing Obligations	of	has the meaning given in clause 7.2
Statement of Transition Assistance Services		means a statement setting out the details of the Transition Assistance Services which will be provided to the Incoming Licensee by the Outgoing Licensee, as agreed, updated and in force from time to time in accordance with clause 9
Successful Applicant		the entity the Commission issues an Award Notification to (as defined in the Deed of Commitment)
Terms of Reference		the terms of reference for the operation of the relevant Operational Committee or the Joint Transition Governance Board (as the case may be), in each case proposed by the Commission and approved by that committee or the Joint Transition Governance Board (as applicable)
Third Licence		the licence awarded under s5 of the Act in effect at the date of this Agreement
Transfer Mechanics		in respect of each asset or liability in any Category, those steps as stated in the column headed ' <i>Transfer Mechanics</i> ' of Part A of Appendix 2 with respect to that Category

Transfer Plan	a plan prepared in accordance with clause 8 setting out the Operational Actions required for the transfer of assets, liabilities, rights and obligations from the Outgoing Licensee to the Incoming Licensee, as updated from time to time in accordance with clause 8
Transfer Regulations	the Transfer of Undertakings (Protection of Employment) Regulations 2006
Transferring Data	the Lottery Data which is an Item to Potentially Transfer which is required to be transferred to the Incoming Licensee in accordance with the Third Licence and the terms of this Agreement
Transferring Licensee Assets	each Licensee Asset which is an Item to Potentially Transfer which is required to be transferred to the Incoming Licensee in accordance with the Third Licence and the terms of this Agreement
Transferring Licensee Staff	each member of Licensee Staff whose employment transfers to the Incoming Licensee pursuant to the Third Licence, the terms of this Agreement and the Transfer Regulations
Transferring Items	Items to Potentially Transfer which are required to be transferred to the Incoming Licensee in accordance with the Third Licence and the terms of this Agreement
Transferring Lottery IP	any Lottery IP which is an Item to Potentially Transfer which is required to be transferred to the Commission or the Incoming Licensee in accordance with the Third Licence and the terms of this Agreement
Transferring Licensee Subcontract	each Licensee Subcontract which is an Item to Potentially Transfer which is required to be transferred to the Incoming Licensee in accordance with the Third Licence and the terms of this Agreement
Transferring Property Interests	each Property Interest which is an Item to Potentially Transfer which is required to be transferred to the Incoming Licensee in accordance with the Third Licence and the terms of this Agreement

Transferring Scratchcard Lottery Tickets	Scratchcard Lottery Tickets which are Items to Potentially Transfer which are required to be transferred to the Incoming Licensee in accordance with the Third Licence and the terms of this Agreement
Transferring Subcontractor Staff	any employee of any person who has entered into a contract with the Outgoing Licensee who transfers to the Incoming Licensee on or before the Start Date pursuant to the Transfer Regulations
Transition Assistance Services	transition assistance services which the Outgoing Licensee is required by the Third Licence to provide if required to do so
Transition Assistance Services Obligations	the obligations of the Outgoing Licensee described in paragraphs 1(c) and 2(c) of Appendix 1
Transition Issue	any issue, fact, matter or circumstance which might have an impact on or which is, or might reasonably be expected to result in, a breach of, or a dispute in relation to, this Agreement or a Transition Plan
Transition Lottery Monies	any monies which, as at 00:01 on the Start Date are held: <ul style="list-style-type: none"> (a) in any account established pursuant to Condition 19 of the Third Licence; (b) by any person subject to an obligation to pay those monies to an account established pursuant to Condition 19 of the Third Licence
Transition Plan	each of the Outgoing Transition Plan and the Incoming Transition Plan in place from time to time
Transition Programme Manager	the person appointed by each Licensee Party who has the responsibilities set out in clause 20.1
Transition Review	a review carried out as the Commission may specify from time to time by or for the Commission of the: <ul style="list-style-type: none"> (a) Outgoing Licensee's compliance with the Outgoing Transition Plan; and/or (b) Incoming Licensee's compliance with the Incoming Transition Plan
Trust and Reserve Arrangements	arrangements which: <ul style="list-style-type: none"> (a) provide for the discharge of all Protected Continuing Obligations using 3NL Trust Monies and Other Licensee Reserves whether any such payment is made by:

- (i) the Outgoing Licensee;
 - (ii) the 3NL Trustee;
 - (iii) the Incoming Licensee; or
 - (iv) the 4NL Trustee;
- (“Continuing Player Obligation Arrangements”)
- (b) provide for any arrangements between the Outgoing Licensee, the Incoming Licensee, the 3NL Trustee and the 4NL Trustee in relation to discharge of any other 3NL Secured Obligation (“**Other Continuing Secured Obligation Arrangements**”); and
 - (c) provide for any arrangements between the Outgoing Licensee, the Incoming Licensee, the 3NL Trustee and 4NL Trustee in relation to disbursement of the 3NL Trust Monies (“**Other 3NL Trust Arrangements**”)

2. INTERPRETATION

2.1 Where this Agreement requires a Licensee Party to "do everything it can" to ensure a specified outcome is achieved, that Licensee Party shall be in breach of that obligation if that outcome is not achieved unless it is able to satisfy the Commission that it has taken all reasonable steps, and exercised all due diligence, to achieve that specific outcome and for this purpose it shall not necessarily be sufficient for the relevant Licensee Party to have done things which this Agreement states it must do.

2.2 Unless otherwise specified, in this Agreement references to "the other" shall:

- (a) in the case of the Outgoing Licensee, mean the Incoming Licensee; and
- (b) in the case of the Incoming Licensee, mean the Outgoing Licensee.

3. In this Agreement:

- (a) a reference to a clause, paragraph, schedule, appendix or annex is, unless stated otherwise, a reference to a clause or paragraph of, or schedule, appendix or annex to, this Agreement;
- (b) a reference in a clause, schedule, appendix or annex to a paragraph is, unless otherwise stated, a reference to a paragraph in that clause, schedule, appendix or annex or, where that schedule, appendix or annex is split into parts, a reference to a paragraph in that part of that schedule;
- (c) a reference to a statute or statutory provision includes a reference to any subordinate legislation and is a reference to:
 - (i) that statute, statutory provision or subordinate legislation as modified, consolidated, superseded, re-enacted, re-numbered, or replaced (whether with or without modification) from time to time after the date of this Agreement); and
 - (ii) any statute, statutory provision or subordinate legislation which it consolidates, supersedes, re-enacts or replaces (whether with or without modification);
- (d) a reference to a "**person**" includes any individual, company, corporation, firm, partnership, joint venture, association, state, state agency, institution, foundation or trust (whether or not having a separate legal personality);
- (e) a reference to one gender is a reference to all or any genders, and references to the singular include the plural and vice versa;
- (f) a reference to a legal term for a legal document, court, judicial process, action, remedy, legal status, official or any other legal concept or thing which is specific to a particular jurisdiction shall, in respect of any other jurisdiction, be deemed to be a reference to whatever most closely equates to that legal term in the relevant jurisdiction;
- (g) a reference to a particular date, unless stated otherwise, is to a date in the Gregorian calendar and to a time of day is a reference to that time in London,

England and a reference to a particular time of day is, unless stated otherwise, a reference to that time in London, England; and

- (h) a reference to "**including**" or "**includes**" does not limit the scope of the meaning of the words preceding it.

3.2 A reference to:

- (a) the running of the National Lottery by the Outgoing Licensee or any activity undertaken pursuant to that activity shall be to the running of the National Lottery pursuant to the Third Licence; and
- (b) the running of the National Lottery by the Incoming Licensee or any activity undertaken pursuant to that activity shall be to the running of the National Lottery pursuant to the New Licence.

3.3 A reference to "the Commission" includes any person engaged or appointed by the Commission to assist the Commission in performing any of its functions as contemplated by this Agreement.

3.4 The schedules form part of this Agreement and a reference to "**this Agreement**" includes its schedules.

3.5 The recitals and headings in this Agreement do not affect its interpretation.

SCHEDULE 2**Key Dates**

In this Schedule 2:

"**Cooperation Request**" means a request made by a Licensee Party under clause 10.2 for a Cooperation Direction.

"**EA**" means the Enabling Agreement

"**GC**" means the Commission

"**IL**" means Incoming Licensee

"**OL**" means Outgoing Licensee

Prior to the First Confirmation Date:

- The scope of the Asset Survey has been confirmed by the Commission.
- Forms of each of the Initial Transition Plan, Coordinated Action Plan, Initial Continuing Obligations Plan, Initial Transfer Plan, Initial Statement and Transition Assistance Services have been provided to the Commission by the Incoming Licensee and Outgoing Licensee.

1. Key Date	2. When it Occurs	3. What Occurs on that Date			
		Transition Plan Activities	Transfer Activities	Transition Assistance Services Activities	Other Cooperation Activities
Last Scope Date	22 August 2023	<ul style="list-style-type: none"> • n/a 	<ul style="list-style-type: none"> • IL provides Final List • GC notifies OL and IL of any new Continuing Obligations 	<ul style="list-style-type: none"> • n/a 	<ul style="list-style-type: none"> • n/a
First Confirmation Date	25 September 2023	<ul style="list-style-type: none"> • GC approves or imposes Initial Transition Plans (including Coordinated Action Plan and Arrangements for Protected Continuing Obligations) 	<ul style="list-style-type: none"> • GC approves or imposes Initial Continuing Obligations Plan • GC approves or imposes Initial Transfer Plan 	<ul style="list-style-type: none"> • GC approves or imposes Initial Statement of Transition Assistance Services 	<ul style="list-style-type: none"> • GC may issue Cooperation Directions

1. Key Date	2. When it Occurs	3. What Occurs on that Date			
		Transition Plan Activities	Transfer Activities	Transition Assistance Services Activities	Other Cooperation Activities
Ongoing (Subject to Governance Process)	From First Confirmation Date to Second Final Checkpoint	<ul style="list-style-type: none"> OL and IL must provide any information potentially relevant to updating Transition Plans, which then go through the Change Control Process OL and IL must cooperate with view to updating Transition Plans (including Coordinated Action Plan) 	<ul style="list-style-type: none"> OL must provide any update to Initial List/Required Information Initial List can be updated by the IL following results of Asset Survey IL can identify any missing or incorrect items or actions OL and IL implement and regularly update Initial Continuing Obligations Plan OL and IL regularly update and prepare for the implementation of the Initial Transfer Plan 	<ul style="list-style-type: none"> OL and IL must provide any information potentially relevant to updating the Initial Statement of Transition Assistance Services which then go through the Change Control Process 	<ul style="list-style-type: none"> OL and IL can make Cooperation Requests as a Change Proposal GC may impose changes to, or additional, Cooperation Directions as required
Second Final Checkpoint	27 October 2023 (15 BD before FCD)	<ul style="list-style-type: none"> Deadline for OL and IL to confirm Final Transition Plans IL and OL deliverables captured within Transition Plans therefore negates requirement for the Coordinated Action Plan 	<ul style="list-style-type: none"> Deadline for OL and IL to confirm Final Continuing Obligations Plan Deadline for OL and IL to confirm Final Transfer Plan 	<ul style="list-style-type: none"> Deadline for OL and IL to confirm Final Statement of Transition Assistance Services 	n/a
Final Confirmation Date (FCD)	17 November 2023	<ul style="list-style-type: none"> GC approves or imposes Final Transition Plans 	<ul style="list-style-type: none"> GC approves or imposes Final Continuing Obligations Plan GC approves or imposes Final Transfer Plan 	<ul style="list-style-type: none"> GC approves or imposes Final Statement of Transition Assistance Services 	n/a
First Readiness Date	1 December 2023 (40 BD before Expiry Date)	<ul style="list-style-type: none"> Cut-over Status Report and Business Readiness Status Report 	n/a	n/a	n/a

1. Key Date	2. When it Occurs	3. What Occurs on that Date			
		Transition Plan Activities	Transfer Activities	Transition Assistance Services Activities	Other Cooperation Activities
Second Readiness Date	15 December 2023 (30 BD before Expiry Date)	<ul style="list-style-type: none"> Cut-over Status Report and Business Readiness Status Report 	n/a	n/a	n/a
Third Readiness Date	3 January 2024 (20 BD before Expiry Date)	<ul style="list-style-type: none"> Cut-over Status Report and Business Readiness Status Report 	n/a	n/a	n/a
Final Readiness Date	17 January 2024 (10 BD before Expiry Date)	<ul style="list-style-type: none"> Cut-over Status Report and Business Readiness Report 	n/a	n/a	n/a

SCHEDULE 3

The Categories

Items which may become Transferring Items

1. Licensee Subcontracts (including Licensee Subcontracts relating to the broadcasting of the National Lottery)
2. Property Interests
3. Lottery IP (including any Lottery IP which relates to broadcasting of the National Lottery) and Operator Goodwill
4. Licensee Staff and Transferring Subcontractor Staff
5. Lottery Data (including Lottery Databases and data relating to Player Subscriptions and online accounts)
6. Scratchcard Lottery Tickets
7. Other Licensee Assets being any Licensee Asset (including plant and equipment and consumables, shares and other intangible rights and instruments and Reletting Materials) in each case where that asset is not included within paragraphs 1 to 6 above

Other Items

8. Continuing Obligations
9. Ongoing Disputes.

SCHEDULE 4**Transferring Items**

Category <small>(including only those items in the category which are Transferring Items)</small>	Required Information Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline	Operational Actions Non-exhaustive list of actions which must be determined with respect to the transfer of each item in the relevant category by the relevant Commitment Deadline
1. Licensee Subcontracts	<p>(a) a complete and up-to-date copy of each Transferring Licensee Subcontract (including any Transferring Licensee Subcontract which relates to broadcasting rights), including all ancillary and associated documents, purchase orders, change control documentation etc. (by indicating where such information is available in the Competition Data Room, if applicable);</p> <p>(b) in respect of each Transferring Licensee Subcontract, full details of any prepayments which have been made, or are due to be made, by the Outgoing Licensee which relate to the operation of the Transferring Licensee Subcontract on and following the Start Date;</p> <p>(c) in respect of each Transferring Licensee Subcontract, full details of any:</p> <ul style="list-style-type: none"> (i) accrued but unperformed obligations of the Outgoing Licensee; (ii) breaches by either the Outgoing Licensee or the contract counterparty which are, the subject of any actual or impending litigation or arbitration; and (iii) liability in respect of any act or omission of the Outgoing Licensee under or in relation to the Transferring Licensee Subcontract. 	<p>(a) strategy for engaging with each contract counterparty to a Transferring Licensee Subcontract;</p> <p>(b) the form of communication to be sent to each contract counterparty to a Transferring Licensee Subcontract to formally novate that contract from the Outgoing Licensee to the Incoming Licensee (which must be in accordance with each party's obligations in Appendix 1) including dealing with any related information requests or questions;</p> <p>(c) tracking the responses to the communications dispatched in accordance with (b) above, including ensuring that the relevant documentation has been properly executed by the contract counterparty;</p> <p>(d) allocation between the Outgoing Licensee and the Incoming Licensee of any prepayments made, or due to be made, to the contract counterparty to a Transferring Licensee Subcontract by the Outgoing Licensee which relate to the operation of the Transferring Licensee Subcontract on and following the Start Date; and</p> <p>(e) the transfer to the Incoming Licensee of any original hard copy Transferring Licensee Subcontracts which are in the possession of the Outgoing Licensee or its Group Companies.</p>
2. Property Interests	(a) copies of all deeds and documents relevant to each Transferring Property Interest (by indicating where such information is available in the	(a) in respect of any Transferring Property Interest which is not owned by the Outgoing Licensee, the process for engaging with the owner or other relevant title holder;

Category (including only those items in the category which are Transferring Items)	Required Information Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline	Operational Actions Non-exhaustive list of actions which must be determined with respect to the transfer of each item in the relevant category by the relevant Commitment Deadline
	<p>Competition Data Room, if applicable), including title numbers where applicable;</p> <p>(b) in respect of any Transferring Property Interest which is not owned:</p> <p>(i) full details of the chain of ownership, identifying the true owner and any other person holding any title to the Transferring Property Interest;</p> <p>(ii) a complete copy of the terms of the lease, hire-purchase or other agreement which sets out the terms of occupation and/or use;</p> <p>(c) in respect of each Transferring Property Interest, full details of:</p> <p>(i) the location of the Transferring Property Interest;</p> <p>(ii) how the Transferring Property Interest is used and who occupies it/operates it;</p> <p>(iii) the value of the Transferring Property Interest at the time of purchase by the Outgoing Licensee;</p> <p>(iv) details of any charge, mortgage or other encumbrance affecting the Transferring Property Interest, other than a charge in favour of the 3NL Trustee in connection with the 3NL Trust;</p> <p>(v) details of any guarantee or indemnity arrangement in place in connection with the Outgoing Licensee's obligations in connection with the Transferring Property Interest;</p> <p>(vi) any registrations made on any relevant register of title; and</p> <p>(vii) any restrictions which may prevent, frustrate or delay the transfer of the Transferring Property Interest to the Incoming Licensee;</p> <p>(d) full details of any:</p>	<p>(b) the form of communication to be sent to each owner or title holder identified in (a) above in relation to the transfer of that Transferring Property Interest from the Outgoing Licensee to the Incoming Licensee (which must be in accordance with each party's obligations in Appendix 1) including dealing with any related information requests or questions;</p> <p>(c) the process for tracking the responses to the communications dispatched in accordance with (b) above, including ensuring that the relevant documentation has been properly executed by any relevant title holder;</p> <p>(d) updates to be provided by the Outgoing Licensee to the Incoming Licensee and the Commission at regular intervals prior to the Start Date in respect of any matter described in 2(d) of the "Required Information" column;</p> <p>(e) agreeing, and the process for arranging for the execution of, any ancillary documentation required in order to support the transfer of the Transferring Property Interests;</p> <p>(f) the Outgoing Licensee delivering/vacating and the Incoming Licensee receiving or occupying any Transferring Property Interest;</p> <p>(g) the transfer to the Incoming Licensee of any original hard copy documents relating to the Transferring Property Interests which are in the possession of the Outgoing Licensee or its Group Companies;</p> <p>(h) the process for de-registering or otherwise removing any charge, mortgage or other encumbrance affecting the Transferring Property Interest, other than a charge in favour of the 3NL Trustee in connection with the 3NL Trust;</p> <p>(i) the process for the removal or replacement of any guarantee or indemnity arrangement in place in connection with the Outgoing</p>

	Category <small>(including only those items in the category which are Transferring Items)</small>	Required Information Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline	Operational Actions Non-exhaustive list of actions which must be determined with respect to the transfer of each item in the relevant category by the relevant Commitment Deadline
		<ul style="list-style-type: none"> (i) accrued but unperformed obligations of the Outgoing Licensee; (ii) breaches which are the subject of any actual or impending litigation or arbitration; and (iii) liability arising as a result of any act or omission of the Outgoing Licensee. 	<p>Licensee's obligations in connection with the Transferring Property Interest;</p> <ul style="list-style-type: none"> (j) the making of any filings or registrations and the payment of any associated filing fees or transfer taxes in connection with the transfer of the Transferring Property Interests; and (k) the process for registering the Incoming Licensee's title to any Transferring Property Interest on any relevant register of title.
3.	Lottery IP and Operator Goodwill	<ul style="list-style-type: none"> (a) in respect of any Transferring Lottery IP which is owned by a third party, a complete copy of the terms of the licence or other agreement which provides for the Outgoing Licensee's use of such Transferring Lottery IP (by indicating where such information is available in the Competition Data Room, if applicable); (b) full details of any registrations made on any relevant register of intellectual property rights; (c) in respect of any Lottery IP which has been licenced or sub-licenced by the Outgoing Licensee to a Group Company or third party, a complete copy of the terms of the licence or sub-licence; (d) full details of how each item of Transferring Lottery IP is used; (e) full details of any restrictions which may prevent, frustrate or delay the transfer of the Transferring Lottery IP to the Incoming Licensee; (f) details of any actual or impending litigation or arbitration in connection with the use by either the Outgoing Licensee, or by a third party, of any Transferring Lottery IP. 	<ul style="list-style-type: none"> (a) in respect of any Transferring Lottery IP which is owned by a third party, the process for engaging with the relevant third party; (b) the form of communication to be sent to each relevant third party identified in (a) above in relation to the transfer of that Transferring Lottery IP from the Outgoing Licensee to the Incoming Licensee (which must be in accordance with each party's obligations in Appendix 1) including dealing with any related information requests or questions; (c) tracking the responses to the communications dispatched in accordance with (b) above, including ensuring that the relevant documentation has been properly executed by any third party; (d) de-registering any intellectual property rights of the Outgoing Licensee over any Transferring Lottery IP and the process for registering the Incoming Licensee's intellectual property rights to any Transferring Lottery IP on any relevant register of intellectual property rights.
4.	Licensee Staff and Transferring Subcontractor Staff	<ul style="list-style-type: none"> (a) a copy of the terms and conditions of employment of each Transferring Licensee Staff member (by indicating where such information is available in the Competition Data Room, if applicable); 	<ul style="list-style-type: none"> (a) informing and consulting with the Transferring Licensee Staff (and any relevant recognised trade unions or elected employee representatives) in connection with the transfer of the Transferring

	Category <small>(including only those items in the category which are Transferring Items)</small>	Required Information Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline	Operational Actions Non-exhaustive list of actions which must be determined with respect to the transfer of each item in the relevant category by the relevant Commitment Deadline
		<ul style="list-style-type: none"> (b) details of, and copies of documentation in relation to, the benefits package enjoyed by each Transferring Licensee Staff member, including pensions arrangements, health insurance etc.; (c) details of any outstanding disciplinary or grievance matters in relation to each Transferring Licensee Staff member; (d) details of any applicable recognised trade unions or elected employee representatives; (e) any other information required to be provided to the Incoming Licensee in accordance with Regulation 11 of the Transfer Regulations. 	<ul style="list-style-type: none"> Licensee Staff and any redundancies proposed by the Incoming Licensee (if applicable/required by the Incoming Licensee); (b) cooperation between the Incoming Licensee and the Outgoing Licensee to identify any employees of subcontractors of the Outgoing Licensee who will or may become Transferring Subcontractor Staff, and enabling the Incoming Licensee to obtain the Required Information in respect of such persons from the relevant subcontractor; and (c) the transfer of information in relation to the Transferring Licensee Staff and Transferring Subcontractor Staff to the Incoming Licensee (including, in relation to personal data, in compliance with Data Protection Legislation) in accordance with the Transfer Regulations.
5.	Lottery Data and Databases	<ul style="list-style-type: none"> (a) full details of <ul style="list-style-type: none"> (i) the process or programme that records the Transferring Data; (ii) where the Transferring Data is stored; (iii) what format the Transferring Data is stored in; (iv) how much Transferring Data is stored in each location and format; (v) how the Transferring Data is utilised in the operation of the National Lottery; (b) full details of any confidentiality obligations or restrictions that attach to the Transferring Data; (c) details of the lawful basis of processing Transferring Data that is Personal Data; (d) a copy of all of the Outgoing Licensee's information security and data protection procedures; 	<ul style="list-style-type: none"> (a) Process and procedure for physically transferring data which is Transferring Data (b) Agreement and issue of any notification or consent documentation in relation to Transferring Data which is Personal Data (c) Arrangements for the sharing of data in advance of or following data transfer (d) Arrangements to respond to subject access requests and other notifications and enquiries from data subjects (e) Arrangements for dealing with regulatory compliance (including regulatory queries and complaints).

Category (including only those items in the category which are Transferring Items)	Required Information Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline	Operational Actions Non-exhaustive list of actions which must be determined with respect to the transfer of each item in the relevant category by the relevant Commitment Deadline
	<ul style="list-style-type: none"> (e) a copy of any contract which provides for, or is relevant to, the storage by any person other than the Outgoing Licensee of Transferring Data; (f) full details of any information security or data protection breaches; (g) full details of any restrictions which may prevent, frustrate or delay the transfer of the Transferring Data to the Incoming Licensee; (h) full details (including the categories of data contained and organisational methodology, structure and function) of any Lottery Databases; (i) any other information specified by the Commission in relation to Lottery Data and Lottery Databases 	
6. Scratchcard Lottery Tickets	<ul style="list-style-type: none"> (a) full details of: <ul style="list-style-type: none"> (i) the average volume of Scratchcard Lottery tickets of each relevant type printed by or on behalf of the Outgoing Licensee each month (ii) where and by whom the Scratchcard Lottery tickets are stored; (iii) the quantity of Scratchcard Lottery tickets held by the Outgoing Licensee; (b) a complete and up-to-date copy of any contract or agreement between the Outgoing Licensee and a third party which relates to the printing or other production of any Scratchcard Lottery Ticket (by indicating where such information is available in the Competition Data Room, if applicable); (c) full details of the physical appearance of the Scratchcard Lottery tickets, including the provision of samples or copies of samples; (d) full details of any restrictions which may prevent, frustrate or delay the transfer of the inventory of Scratchcard Lottery tickets to the Incoming Licensee; 	<ul style="list-style-type: none"> (a) if required by the Incoming Licensee, the reduction in manufacturing volume of Scratchcard Lottery tickets in the period immediately prior to the Start Date, in order to run down the stock of Scratchcard Lottery tickets held by the Outgoing Licensee; (b) the procedure for a stock take to be carried out prior to the transfer of the Scratchcard Lottery Tickets to the Incoming Licensee, including: <ul style="list-style-type: none"> (i) a physical check of the quantities, quality and condition of the Scratchcard Lottery Tickets in the possession of the Outgoing Licensee, (ii) an inspection of the books and records and contractual documentation in respect of the Scratchcard Lottery Tickets, <p>in order to facilitate agreement between the Outgoing Licensee and the Incoming Licensee in relation to the consideration to be paid by the Incoming Licensee in connection with the transfer of the Scratchcard Lottery Tickets;</p> (c) the process by which the Outgoing Licensee and the Incoming Licensee will agree the consideration to be paid by the Incoming Licensee in connection with the transfer of the Scratchcard Lottery

Category <small>(including only those items in the category which are Transferring Items)</small>	Required Information Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline	Operational Actions Non-exhaustive list of actions which must be determined with respect to the transfer of each item in the relevant category by the relevant Commitment Deadline
	(e) full details of all security arrangements applicable to Scratchcard Lottery Tickets and any software or other system necessary for the management, operation or maintenance of security in respect of Scratchcard Lottery Tickets and the payment of prizes.	Tickets (noting that if this cannot be agreed, it shall be determined by an Expert in accordance with Schedule 5); and (d) if the Scratchcard Lottery tickets are to be transferred to the possession of the Incoming Licensee, the approach to transporting the Scratchcard Lottery tickets to the Incoming Licensee or premises of the Incoming Licensee, including the transfer of any security or validation codes.
7. Other Licensee Assets	(a) full details of: <ul style="list-style-type: none"> (i) the Outgoing Licensee's title to, or other interest in, the asset including evidence (if available); (ii) how the asset is used in connection with the operation of the National Lottery; (iii) details of any charge, lien or other encumbrance affecting the Transferring Asset, other than a charge in favour of the 3NL Trustee in connection with the 3NL Trust; (iv) any restrictions which may prevent, frustrate or delay the transfer of the Transferring Licensee Asset to the Incoming Licensee on the Start Date; (b) the terms on which each Transferring Asset was acquired, including: <ul style="list-style-type: none"> (i) any warranty protection in relation to the Transferring Asset; (ii) whether the Outgoing Licensee has any outstanding liabilities to pay any person in connection with the acquisition of the Transferring Asset; and (iii) any service or supply contracts in place in connection with the Transferring Asset, 	(a) de-registering or otherwise removing any charge, restriction or other encumbrance on any Transferring Items other than a charge in favour of the 3NL Trustee in connection with the 3NL Trust to the extent necessary to transfer the Transferring Licensee Asset; (b) registering the Incoming Licensee's title to any Transferring Licensee Asset on any relevant register of title with effect from the Start Date; (c) the making of any filings or registrations and the payment of any associated filing fees or transfer taxes in connection with the transfer of the Transferring Licensee Assets; (d) transferring possession of the Transferring Licensee Assets to the Incoming Licensee (where applicable); (e) exchanging any documentation or supporting materials that relate to the installation or operation of any Transferring Licensee Asset; (f) engaging with insurers and reviewing insurance policies to agree coverage before, at and after delivery of the Transferring Licensee Assets; (g) any installation or testing assistance that may be required by the Incoming Licensee from the Outgoing Licensee; and (h) the process for the transfer of such Reletting Materials.

	Category (including only those items in the category which are Transferring Items)	Required Information Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline	Operational Actions Non-exhaustive list of actions which must be determined with respect to the transfer of each item in the relevant category by the relevant Commitment Deadline
		(c) in respect of any Transferring Asset of a particular type, any additional information the Commission may specify in relation to assets of that type; and (d) in respect of any Reletting Materials which do not form part of categories (1) to (6) above, full details for the format in which such Reletting Materials are held and is capable of being transferred to the Incoming Licensee	

SCHEDULE 5

Expert Determination

1. Any dispute in this agreement which is agreed will be referred to, or determined by, an Expert, shall be referred to an independent person (the "**Expert**") who shall act as an expert and not as an arbitrator and whose decision shall be final and binding upon the Licensee Parties.
2. The Expert shall be appointed jointly by the Licensee Parties, or, in default of agreement by the President or the Deputy President, for the time being of the Chartered Institute of Arbitrators, or any successor body.
3. The Licensee Parties shall agree the scope of the matter to be determined by the Expert and the instructions to the Expert with respect to such determination. If the Licensee Parties cannot agree within a reasonable period of time, the scope of such matter and the relevant instructions will be determined by the Commission.
4. The Licensee Parties shall agree the procedure for the reference to the Expert. In default of agreement the Commission, in consultation with the Expert, shall give directions as to the conduct of the reference giving both Licensee Parties the opportunity to make such representations in writing and orally as they may reasonably require.
5. The Licensee Parties shall bear their own costs in connection with the reference and the costs of the Expert shall be paid by the Licensee Parties in equal proportions.
6. The Expert shall not be required to give reasons for its determination.

SCHEDULE 6

Deeds of Adherence

Part A - Deed of Adherence

This Deed is dated ●

PARTIES

- (1) The Gambling Commission of Victoria Square House, Victoria Square, Birmingham, B2 4BP (the "**Commission**"); and
- (2) [] (the "**Incoming Licensee**").

PREAMBLE

- (A) The Commission is responsible for the award of licences pursuant to section 5 of the Act and has organised a competition for the next holder of such a licence (the "**Competition**"). The Successful Applicant submitted an Application to that Competition and the Commission has issued an Award Notification (as defined in the Deed of Commitment) to the Successful Applicant.
- (B) Pursuant to the commitment made by the Successful Applicant in the Deed of Commitment, the Incoming Licensee is required to execute the Deed of Adherence to this Agreement.

OPERATIVE TERMS

1. IN THIS DEED:

1.1 In this Deed:

- (a) "**Adherence Date**" means the date of this Deed;
- (b) "**Cooperation Agreement**" means the cooperation agreement between the Commission and the Outgoing Licensee dated [●];
- (c) "**Deed of Commitment**" means the Deed of Commitment executed by the Successful Applicant and submitted to the Commission with the Application;
- (d) "Successful Applicant" means [●].

1.2 Capitalised terms not defined in this Deed shall have the meanings given to those terms in the Cooperation Agreement.

2. The Incoming Licensee confirms that it has been supplied with a copy of the Cooperation Agreement and undertakes to, and covenants with, all of the parties to the Cooperation Agreement that it will:

- (a) have the benefit of; and
- (b) comply with the provisions of; and
- (c) perform all obligations in,

the Cooperation Agreement so far as they accrue or become due to be observed and performed (as applicable) on or after the Adherence Date by the Incoming Licensee, as if the Incoming Licensee had been an original party to the Cooperation Agreement, and the Cooperation Agreement shall be construed and apply accordingly.

3. This Deed, the jurisdiction clause contained in it, and all non-contractual obligations arising in any way whatsoever out of or in connection with this deed are governed by, construed and take effect in accordance with English law.
4. The courts of England have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way whatsoever out of or in connection with this deed or the legal relationships established by this Deed.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

[Insert valid signature blocks]

Part B – Reserve Applicant Deed of Adherence

This Deed is dated

PARTIES

- (1) [●] (the "**Reserve Applicant**"); and
- (2) The Gambling Commission of Victoria Square House, Victoria Square, Birmingham, B2 4BP (the "**Commission**")

PREAMBLE

- (A) The Commission entered into the Cooperation Agreement with the Outgoing Licensee.
- (B) [] entered into a Deed of Adherence to the Cooperation Agreement.
- (C) The Commission has terminated its Enabling Agreement with [] in accordance with its terms, and has served a Reserve Applicant Notice in accordance with the terms of the Cooperation Agreement.
- (D) From the date of the Reserve Applicant Notice [] shall no longer be the Incoming Licensee for the purposes of the Cooperation Agreement, shall cease to be a party to the Cooperation Agreement and will be the Removed Incoming Licensee.
- (E) The Reserve Applicant is executing this Deed of Adherence in order to become the Incoming Licensee and a party to the Cooperation Agreement from the Effective Date.

OPERATIVE TERMS

1. In this Deed:
 - (a) "**Cooperation Agreement**" means the cooperation agreement between the Commission and the Outgoing Licensee dated [●]; and
 - (b) "**Effective Date**" means the date of this Deed;
- 1.2 Capitalised terms not defined in this Deed shall have the meanings given to those terms in the Cooperation Agreement.
2. The Reserve Applicant confirms that it has been supplied with a copy of the Cooperation Agreement and undertakes to, and covenants with, all of the parties to the Cooperation Agreement that it will:
 - (a) have the benefit of; and
 - (b) comply with the provisions of; and
 - (c) perform all obligations in,the Cooperation Agreement so far as they accrue or become due to be observed and performed (as applicable) by the Incoming Licensee on or after the Effective Date and the Cooperation Agreement shall be construed and apply accordingly.
3. For the avoidance doubt, the Reserve Applicant is not entitled to any rights or benefits which have accrued to the Removed Incoming Licensee before the Effective Date and is not liable for any breach or non-performance of the obligations of the Removed Incoming Licensee under the Cooperation Agreement before the Effective Date.

4. This Deed, the jurisdiction clause contained in it, and all non-contractual obligations arising in any way whatsoever out of or in connection with this deed are governed by, construed and take effect in accordance with English law.
5. The courts of England have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way whatsoever out of or in connection with this deed or the legal relationships established by this Deed.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

[Insert valid signature blocks]

APPENDIX 1

Transition Plan Requirements

	Outgoing Transition Plan Obligations	Incoming Transition Plan Obligations
1.	<p>The Outgoing Licensee shall develop, maintain and update the Outgoing Transition Plan in accordance with paragraph 2 below in order to:</p> <p>(a) enable the Outgoing Licensee to cease running the National Lottery at the Expiry Date and the Incoming Licensee to commence running the National Lottery in a manner consistent with the Outgoing Licensee's obligations under Condition 18 of the Third Licence;</p> <p>(b) minimise any disruption or deterioration of the National Lottery during and after the Handover Period; and</p> <p>(c) detail the transition assistance services that the Outgoing Licensee will perform to ensure a successful transfer to the Incoming Licensee with no or minimal disruption or deterioration to service delivery quality to the Commission or members of the public.</p>	<p>The Incoming Licensee shall develop, maintain and update the Incoming Transition Plan in accordance with paragraph 2 below in order to:</p> <p>(a) enable the Outgoing Licensee to cease running the National Lottery at the Expiry Date and the Incoming Licensee to commence running the National Lottery in a manner consistent with the Incoming Licensee's obligations under the Enabling Agreement;</p> <p>(b) minimise any disruption or deterioration of the National Lottery during and after the Handover Period; and</p> <p>(c) detail the transition assistance services that the Outgoing Licensee will perform to ensure a successful transfer to the Incoming Licensee with no or minimal disruption or deterioration to service delivery quality to the Commission or members of the public.</p>
2.	<p>The Outgoing Transition Plan shall, as a minimum:</p> <p>(a) detail how the Outgoing Licensee proposes to comply operationally with its obligations in Condition 18 of the Third Licence;</p> <p>(b) detail how the Outgoing Licensee proposes to transfer the Reletting Materials (and the updates or amendments referred to in Condition 18.10(b) of the Third Licence), databases, information or data referred to in Condition 18.2 of the Third Licence to the Incoming Licensee during and (where appropriate) after the Handover Period;</p> <p>(c) detail the scope of the transition assistance services (including the provision of suitable training or know-how) to be provided by the Outgoing Licensee, and the manner in which they will be provided, during and (where appropriate) after the Handover Period;</p> <p>(d) set out a timetable, process, critical deliverables and critical controls for performing the transition assistance services;</p>	<p>The Incoming Transition Plan shall, as a minimum:</p> <p>(a) detail how the Incoming Licensee proposes to comply operationally with its obligations in this Agreement;</p> <p>(b) detail how the Incoming Licensee proposes to receive the Reletting Materials (and the updates or amendments referred to in Condition 18.10(b) of the Third Licence), databases, information or data referred to in Condition 18.2 of the Third Licence from the Outgoing Licensee during and (where appropriate) after the Handover Period;</p> <p>(c) detail the scope of the transition assistance services (including the provision of suitable training or know-how) to be provided by the Outgoing Licensee to the Incoming Licensee, and the manner in which they will be provided, during and (where appropriate) after the Handover Period;</p> <p>(d) set out a timetable, process, critical deliverables and critical controls for performing the transition assistance services;</p>

	Outgoing Transition Plan Obligations	Incoming Transition Plan Obligations
	<p>(e) describe how the Outgoing Licensee will guarantee continuity of the National Lottery during the transition to the Incoming Licensee, including a description of potential risks and a contingency and risk management plan;</p> <p>(f) for work or projects likely to be in progress as at the Expiry Date, detail the process for documenting the current status of the work or projects, stabilising for their continuity during transition, and providing any required training to achieve transfer of responsibility for the work or projects to the Incoming Licensee and any third parties who may enter into an agreement for the provision of supplies or services in connection with the National Lottery or the provision or operation of any asset in connection with the National Lottery without loss of momentum or adverse impact on project timetables;</p> <p>(g) require the Outgoing Licensee to provide contact details of the Licensee Staff who will liaise with the Commission in relation to the Outgoing Licensee's compliance with the Outgoing Transition Plan;</p> <p>(h) address the removal (if any) of Licensee Assets; and</p> <p>(i) otherwise be consistent with, and address the issues referred to in Condition 18 of the Third Licence.</p>	<p>(e) describe how the Incoming Licensee will guarantee continuity of the National Lottery during the transition from the Outgoing Licensee, including a description of potential risks and a contingency and risk management plan;</p> <p>(f) for work or projects likely to be in progress as at the Expiry Date, detail the process for the Outgoing Licensee to document the current status of the work or projects, stabilising for their continuity during transition, and provide any required training to achieve transfer of responsibility for the work or projects to the Incoming Licensee and any third parties who may enter into an agreement for the provision of supplies or services in connection with the National Lottery or the provision or operation of any asset in connection with the National Lottery without loss of momentum or adverse impact on project timetables;</p> <p>(g) require the Incoming Licensee to provide contact details of its employees who will liaise with the Commission in relation to the Incoming Licensee's compliance with the Incoming Transition Plan; and</p> <p>(h) otherwise be consistent with, and address the issues referred to in this Agreement.</p>

APPENDIX 2

Transfer and Receipt Mechanics

Part A – 3NL Transfer Mechanics

Transferring Item (including only those items in the category which are Transferring Items)	Transfer Mechanics	Receipt Mechanics
1. Licensee Subcontracts	<p>1.1 In relation to each Transferring Licensee Subcontract, the Outgoing Licensee's Transfer Mechanics are as follows.</p> <p>(a) In accordance with (b) to (d) below, the Outgoing Licensee shall novate its interest under each Transferring Licensee Subcontract to the Incoming Licensee as directed by the Commission.</p> <p>(b) The novation of each Transferring Licensee Subcontract shall be substantially in the form of the Licensee Subcontract Deed of Novation attached in Part A of Appendix 3. Each Licensee Subcontract Deed of Novation shall be duly executed by the Outgoing Licensee and delivered to the Incoming Licensee by no later than the First Readiness Date (or such other date as may be reasonably agreed between the Outgoing Licensee and the Incoming Licensee). The novation shall take effect on the Start Date.</p> <p>(c) No novation of a Transferring Licensee Subcontract shall have the effect that the Outgoing Licensee is released from any of the following in respect of that Transferring Licensee Subcontract:</p> <ul style="list-style-type: none"> (i) accrued but unperformed obligations of the Outgoing Licensee; (ii) the consequence of any breach which is the subject of arbitration or litigation between the parties to the Transferring Licensee Subcontract by the Outgoing Licensee; or 	<p>1.2 In relation to each Transferring Licensee Subcontract, the Incoming Licensee's Receipt Mechanics are as follows.</p> <p>(a) In accordance with (b) to (d) below, the Incoming Licensee shall consent to the novation of the Outgoing Licensee's interest under each Transferring Licensee Subcontract to the Incoming Licensee as directed by the Commission.</p> <p>(b) The novation of each Transferring Licensee Subcontract shall be substantially in the form of the Licensee Subcontract Deed of Novation attached in Part A of Appendix 3. Each Licensee Subcontract Deed of Novation shall be duly executed by the Incoming Licensee and delivered to the Outgoing Licensee by no later than the First Readiness Date (or such other date as may be reasonably agreed between the Outgoing Licensee and the Incoming Licensee). The novation shall take effect on the Start Date.</p> <p>(c) No novation of a Transferring Licensee Subcontract shall have the effect that the Outgoing Licensee is released from any of the following in respect of that Transferring Licensee Subcontract:</p> <ul style="list-style-type: none"> (i) accrued but unperformed obligations of the Outgoing Licensee; (ii) the consequence of any breach which is the subject of arbitration or litigation between the

Transferring Item (including only those items in the category which are Transferring Items)	Transfer Mechanics	Receipt Mechanics
	<p>(iii) any liability in respect of any act or omission under or in relation to the Transferring Licensee Subcontract,</p> <p>in each case whether before, or as at the date of, any such novation.</p> <p>(d) No novation of a Transferring Licensee Subcontract shall oblige the Incoming Licensee, in connection with the novation, to agree to assume responsibility for any unperformed obligation, liability or the consequences of a breach referred to in (c) above.</p> <p>(e) No novation of a Transferring Licensee Subcontract shall, unless the Outgoing Licensee otherwise agrees, be on terms which release any counterparty to that Transferring Licensee Subcontract from any liability to the Outgoing Licensee arising before the date of such novation.</p> <p>(f) Where the novation of any Transferring Licensee Subcontract requires the consent of any Licensee Subcontractor and such consent is not received by the Start Date, the Outgoing Licensee will cooperate with the Incoming Licensee with a view to maintaining the benefit of that Transferring Licensee Subcontract for the operation of the National Lottery including by arrangements for the management of benefits and obligations, rights and liabilities under that Transferring Licensee Subcontract.</p>	<p>parties to the Transferring Licensee Subcontract by the Outgoing Licensee; or</p> <p>(iii) any liability in respect of any act or omission under or in relation to the Transferring Licensee Subcontract,</p> <p>in each case whether before, or as at the date of, any such novation.</p> <p>(d) No novation of a Transferring Licensee Subcontract shall oblige the Incoming Licensee, in connection with the novation, to agree to assume responsibility for any unperformed obligation, liability or the consequences of a breach referred to in (c) above.</p> <p>(e) No novation of a Transferring Licensee Subcontract shall, unless the Outgoing Licensee otherwise agrees, be on terms which release any counterparty to that Transferring Licensee Subcontract from any liability to the Outgoing Licensee arising before the date of such novation.</p> <p>(f) Where the novation of any Transferring Licensee Subcontract requires the consent of any Licensee Subcontractor and such consent is not received by the Start Date, the Incoming Licensee will cooperate with the Outgoing Licensee with a view to maintaining the benefit of that Transferring Licensee Subcontract for the operation of the National Lottery including by arrangements for the management of benefits and obligations, rights and liabilities under that Transferring Licensee Subcontract.</p>
2. Property Interests	<p>2.1 In relation to each Transferring Property Interest, the Outgoing Licensee's Transfer Mechanics are as follows.</p> <p>(a) The Outgoing Licensee shall assign its interest under the Transferring Property Interest to the Incoming Licensee or as the Commission may direct.</p>	<p>2.2 In relation to each Transferring Property Interest, the Incoming Licensee's Receipt Mechanics are as follows.</p> <p>(a) The Outgoing Licensee shall consent to the assignment of the Outgoing Licensee's interest under the Transferring Property Interest to the Incoming Licensee.</p>

Transferring Item (including only those items in the category which are Transferring Items)	Transfer Mechanics	Receipt Mechanics
	<p>(b) The assignment of the Transferring Property Interest shall be on such terms as the Commission may require.</p> <p>(c) The assignment directed by the Commission in accordance with (b) above shall be duly executed by the Outgoing Licensee and delivered to the Incoming Licensee on or before the First Readiness Date (or such other date as may be specified by the Commission). The assignment shall take effect on the Start Date.</p> <p>(d) The assignment of the Transferring Property Interest shall not release the Outgoing Licensee from:</p> <ul style="list-style-type: none"> (i) any accrued but unperformed obligation; (ii) the consequences of any antecedent breach of a covenant or obligation relating to the Transferring Property Interest; or (iii) any liability in respect of any act or omission under or in relation to the Transferring Property Interest before, or as at the date of assignment to the Incoming Licensee (subject to any continuing liability under the relevant leasehold property and/or any authorised guarantee agreement which the Outgoing Licensee may be required to enter into upon the assignment of the relevant leasehold property); <p>(e) The assignment of the Transferring Property Interests shall oblige the Incoming Licensee to agree to assume, as at the date of assignment:</p> <ul style="list-style-type: none"> (i) responsibility for any covenants, obligations and liabilities (whether accrued and unperformed or current); (ii) the consequences of a breach referred to in (d) above; and (iii) in each case attaching to the relevant Transferring Property Interest but excluding any covenants, obligations and liabilities which are personal to the Outgoing Licensee which (for the 	<p>(b) The assignment of the Transferring Property Interest shall be on such terms as the Commission may require.</p> <p>(c) The assignment directed by the Commission in accordance with (b) above shall be duly executed by the Incoming Licensee and delivered to the Outgoing Licensee on or before the First Readiness Date (or such other date as may be specified by the Commission). The assignment shall take effect on the Start Date.</p> <p>(d) The assignment of the Transferring Property Interest shall not release the Outgoing Licensee from:</p> <ul style="list-style-type: none"> (i) any accrued but unperformed obligation; (ii) the consequences of any antecedent breach of a covenant or obligation relating to the Transferring Property Interest; or (iii) any liability in respect of any act or omission under or in relation to the Transferring Property Interest before, or as at the date of assignment to the Incoming Licensee (subject to any continuing liability under the relevant leasehold property and/or any authorised guarantee agreement which the Outgoing Licensee may be required to enter into upon the assignment of the relevant leasehold property); <p>(e) The assignment of the Transferring Property Interests shall oblige the Incoming Licensee to agree to assume, as at the date of assignment:</p> <ul style="list-style-type: none"> (i) responsibility for any covenants, obligations and liabilities (whether accrued and unperformed or current); (ii) the consequences of a breach referred to in (d) above; and (iii) in each case attaching to the relevant Transferring Property Interest but excluding any covenants, obligations and liabilities which are personal to the Outgoing Licensee which (for the

Transferring Item <small>(including only those items in the category which are Transferring Items)</small>	Transfer Mechanics	Receipt Mechanics
	<p>avoidance of doubt) shall remain with the Outgoing Licensee and shall not pass to the Incoming Licensee.</p> <p>(f) The Outgoing Licensee shall indemnify the Incoming Licensee against all claims, demands, losses and liabilities arising as a result of non-observance or non-performance by the Outgoing Licensee prior to the date of the assignment of any of the covenants and obligations referred to in (d) or (e) above. Claims by the Incoming Licensee under this indemnity shall be made in accordance with clause 16 of this Agreement.</p>	<p>avoidance of doubt) shall remain with the Outgoing Licensee and shall not pass to the Incoming Licensee.</p> <p>(f) The Outgoing Licensee shall indemnify the Incoming Licensee against all claims, demands, losses and liabilities arising as a result of non-observance or non-performance by the Outgoing Licensee prior to the date of the assignment of any of the covenants and obligations referred to in (d) or (e) above. Claims by the Incoming Licensee under this indemnity shall be made in accordance with clause 16 of this Agreement.</p>
<p>3. Operator Goodwill and Transferring Lottery IP</p>	<p>3.1 In relation to each item of Transferring Lottery IP and the Operator Goodwill of the Outgoing Licensee, the Outgoing Licensee's Transfer Mechanics are as follows.</p> <p>(a) By no later than the Expiry Date the Outgoing Licensee shall execute and deliver (and procure that any relevant Group Companies shall execute and deliver) an assignment in the form of the Deed of Transfer of Goodwill and Transferring Lottery IP attached in Part D of Appendix 3:</p> <p>(i) to the Incoming Licensee, the goodwill, interest and connection of the Outgoing Licensee or its relevant Group Companies in the business of acting as the licensees under section 5 of the Act, the promoter of any Constituent Lotteries and the operator of any Ancillary Activities; and</p> <p>(ii) to the Commission, the Transferring Lottery IP</p> <p>(b) The assignment directed by the Commission in accordance with (a) above shall take effect on the Start Date.</p>	<p>3.2 In relation to each item of Transferring Lottery IP and the Operator Goodwill of the Outgoing Licensee, the Incoming Licensee's Receipt Mechanics are as follows.</p> <p>(a) By no later than the Expiry Date the Outgoing Licensee shall execute and deliver (and procure that any relevant Group Companies shall execute and deliver) a countersignature to an assignment in the form of the Deed of Transfer of Goodwill and Transferring Lottery IP attached in Part D of Appendix 3:</p> <p>(i) to the Incoming Licensee, the goodwill, interest and connection of the Outgoing Licensee or its relevant Group Companies in the business of acting as the licensees under section 5 of the Act, the promoter of any Constituent Lotteries and the operator of any Ancillary Activities; and</p> <p>(ii) to the Commission, the Transferring Lottery IP</p> <p>(b) The assignment directed by the Commission in accordance with (a) above shall take effect on the Start Date.</p>
<p>4. Licensee Staff</p>	<p>See clause 12</p>	<p>See clause 12</p>

	Transferring Item <small>(including only those items in the category which are Transferring Items)</small>	Transfer Mechanics	Receipt Mechanics
5.	Lottery Data and Databases	(a) Delivery of the data and all supporting information (including details of relevant correspondence with and from data subjects) (b) Execution of the Deed of Transfer of Databases attached as Part D of Appendix 3	(a) Receipt of the data and all supporting information (including details of relevant correspondence with and from data subjects) (b) Execution of the Deed of Transfer of Databases attached as Part D of Appendix 3
6.	Inventory of Scratchcard Lottery Tickets	6.1 In relation to Transferring Scratchcard Lottery Tickets, the Outgoing Licensee's Transfer Mechanics are as follows. (a) Title to the Transferring Scratchcard Lottery Tickets will be transferred to the Incoming Licensee on the Start Date by the Outgoing Licensee pursuant to the Deed of Transfer executed by the Outgoing Licensee and the Incoming Licensee in accordance with paragraphs 6.1 and 6.2 of Part A of Appendix 2. (b) Possession of the Transferring Scratchcard Lottery Tickets will be transferred to the Incoming Licensee by the Outgoing Licensee on the Start Date. (c) The amount payable by the Incoming Licensee to the Outgoing Licensee shall be agreed between the Outgoing Licensee and the Incoming Licensee. If this cannot be agreed within 15 Business Days from the Start Date, the price payable by the Incoming Licensee to the Outgoing Licensee shall be determined by an Expert in accordance with Schedule 5.	6.2 In relation to Transferring Scratchcard Lottery Tickets, the Incoming Licensee's Transfer Mechanics are as follows. (a) Title to the Transferring Scratchcard Lottery Tickets will be transferred to the Incoming Licensee on the Start Date by the Outgoing Licensee pursuant to the Deed of Transfer executed by the Outgoing Licensee and the Incoming Licensee in accordance with paragraphs 6.1 and 6.2 of Part A of Appendix 2. (b) Possession of the Transferring Scratchcard Lottery Tickets will be transferred to the Incoming Licensee by the Outgoing Licensee on the Start Date . (c) The amount payable by the Incoming Licensee to the Outgoing Licensee shall be agreed between the Outgoing Licensee and the Incoming Licensee. If this cannot be agreed within 15 Business Days from the Start Date, the price payable by the Incoming Licensee to the Outgoing Licensee shall be determined by an Expert in accordance with Schedule 5.
7.	Other Licensee Assets	7.1 In relation to each Transferring Licensee Asset, the Outgoing Licensee's Transfer Mechanics are as follows. (a) The Outgoing Licensee shall enter into an agreement with the Incoming Licensee which shall be in the form of the Deed of Transfer for Transferring Assets attached in Part B of Appendix 3. (b) The Deed of Transfer for Transferring Assets shall be duly executed by the Outgoing Licensee and delivered to the Incoming Licensee with a copy to the Commission by no later than the First Readiness Date	7.2 In relation to each Transferring Licensee Asset, the Incoming Licensee's Receipt Mechanics are as follows. (a) The Incoming Licensee shall enter into an agreement with the Outgoing Licensee which shall be in the form of the Deed of Transfer for Transferring Assets attached in Part B of Appendix 3. (b) The Deed of Transfer for Transferring Assets shall be duly executed by the Incoming Licensee and delivered to the Outgoing Licensee with a copy to the Commission by no later than the First Readiness Date

Transferring Item (including only those items in the category which are Transferring Items)	Transfer Mechanics	Receipt Mechanics
	<p>(or such other date as may be reasonably agreed between the Outgoing Licensee and the Incoming Licensee).</p> <p>(c) Subject to the execution of the Deed of Transfer for Transferring Assets by the Incoming Licensee in accordance with 2.2(b), the Incoming Licensee shall take possession of the Transferring Licensee Asset on the Start Date.</p> <p>(d) Save as prohibited by Law, no amounts shall be payable to the Outgoing Licensee for the transfer of the Transferring Assets (as defined in the Deed of Transfer for Transferring Assets), other than in respect of Scratchcard Lottery Tickets, in respect of which the amounts payable shall be determined in accordance with 6(c) above.</p>	<p>(or such other date as may be reasonably agreed between the Outgoing Licensee and the Incoming Licensee). .</p> <p>(c) Subject to the execution of the Deed of Transfer, the Incoming Licensee shall take possession of the Transferring Licensee Asset on the Start Date.</p> <p>(d) Save as prohibited by Law, no amounts shall be payable to the Outgoing Licensee for the transfer of the Transferring Assets (as defined in the Deed of Transfer for Transferring Assets), other than in respect of Scratchcard Lottery Tickets, in respect of which the amounts payable shall be determined in accordance with 6(c) above.</p>

Part B – Cooperation Agreement Transfer Mechanics

	Transferring Item	Transfer Mechanics	Receipt Mechanics
1.	EuroMillions Shares	<p>1.1 In relation to the EuroMillions Shares, the Outgoing Licensee's Transfer Mechanics are as follows.</p> <p>(a) No later than the First Readiness Date (or such other date as may be reasonably agreed between the Outgoing Licensee and the Incoming Licensee), the Outgoing Licensee shall submit a duly executed Permitted Transfer Notice (as defined in, and required by, the Articles of Association of SLE) to the board of directors of SLE, including:</p> <p>(i) details of the terms and conditions of the transfer; and</p> <p>(ii) evidence sufficient to satisfy the board of SLE that the Incoming Licensee will, on and from the Start Date, meet the membership criteria set out in the Articles of Association of SLE.</p> <p>(b) By no later than the First Readiness Date (or such other date as may be reasonably agreed between the Outgoing Licensee and the Incoming Licensee), the Outgoing Licensee shall execute and deliver to the Incoming Licensee:</p> <p>(i) a duly executed form of transfer in respect of the EuroMillions Shares; and</p> <p>(ii) any share certificates held by the Outgoing Licensee in respect of the EuroMillions Shares or an indemnity in respect of the same, in a form reasonably satisfactory to the Incoming Licensee.</p>	<p>1.2 In relation to the EuroMillions Shares, the Incoming Licensee's Transfer Mechanics are as follows.</p> <p>(a) No later than the First Readiness Date (or such other date as may be reasonably agreed between the Outgoing Licensee and the Incoming Licensee), the Incoming Licensee shall provide to the Outgoing Licensee evidence sufficient to satisfy the board of SLE that the Incoming Licensee will, on and from the Start Date, meet the membership criteria set out in the Articles of Association of SLE, in order that such evidence can be submitted to SLE by the Outgoing Licensee in accordance with paragraph 1.1(a).</p> <p>(b) No later than the First Readiness Date (or such other date as may be reasonably agreed between the Outgoing Licensee and the Incoming Licensee), the Incoming Licensee shall deliver to SLE:</p> <p>(i) a duly executed copy of a Deed of Adherence to the Lottery Operators' Agreement;</p> <p>(ii) a duly executed copy of a Deed of Adherence to the Cost Reimbursement Agreement(s),</p> <p>in each case conditional upon Start and to take effect from the Start Date.</p>

APPENDIX 3

Forms of Transfer

Part A : Form of Licensee Subcontract Deed of Novation

THIS DEED is made on [●]

BETWEEN:

[Licensee Subcontractor] (company no.) whose registered office is at [●] ("A");

[Licensee] (company no.) whose registered office is at [●] ("B"); and

[Successor Licensee] (company no.) whose registered office is at [●] ("C").

WHEREAS:

B runs the National Lottery under a licence dated [●] ("**Section 5 Licence**") granted to it by the Gambling Commission ("**Commission**") under section 5 of the National Lottery etc. Act 1993 ("**Act**").

[A and B] entered into an agreement on [] whereby [] [as amended by [],] ("**Contract**").

Following the [expiry or revocation] of the Section 5 Licence, the Commission has appointed [C] to run the National Lottery as the Successor Licensee pursuant to a licence dated [●] ("**Successor Licence**").

[B] wishes to be released and discharged from the Contract and the parties have agreed to the novation of the Contract and to the substitution of [C] as a party to the Contract in place of [B].

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Terms defined in the Section 5 Licence and not otherwise defined in this Deed shall have the same meaning as set out in the Section 5 Licence.

1.2 The clause headings are for ease of reference only and shall not affect the interpretation or construction of this Deed.

1.3 In this Deed, unless the context otherwise requires:

- (a) references to Clauses, Schedules and paragraphs in this Deed shall be construed as references to the Clauses, Schedules and paragraphs of this Deed;
- (b) references to persons includes individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships;
- (c) the headings are inserted for convenience only and do not affect the construction of this Deed;
- (d) references to one gender includes all genders;
- (e) words importing the plural include the singular and vice versa;

- (f) any reference to an enactment or statutory provision is a reference to it as it may have been, or may from time to time be amended, modified, consolidated or re-enacted;
- (g) any reference to a document in the agreed form is to the form of the relevant document agreed between the parties and for the purpose of identification initialled by each of them or on their behalf (in each case with such amendments as may be agreed by or on behalf of the parties);
- (h) references to any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court official or any other legal concept is, in respect of any jurisdiction other than England, deemed to include the legal concept or term which most nearly approximates in that jurisdiction to the English legal term; and
- (i) reference to the words "includes" or "including" are to be construed without limitation.

2. **NOVATION**

2.1 In consideration of the mutual undertakings contained in this Deed, and with effect from [the date of this Deed] [insert alternative date] ("**Effective Date**"):

- (a) [B] shall cease to be a party to the Contract and [C] shall become a party to it in place of [B];
- (b) subject to Clause 3, [C] undertakes with [A] to accept, observe, perform and discharge all the liabilities and obligations of [B] under the Contract in substitution for [B];
- (c) subject to Clause 3, [A] agrees to the substitution of [C] in place of [B] and that [C] may exercise and enjoy all the rights of [B] arising under the Contract in substitution for [B] as if [C] had at all times been a party to the Contract; and
- (d) subject to Clause 3, [A] hereby releases and discharges [B] from all claims, demands, liabilities and obligations under the Contract (howsoever arising and whether arising on, before or after the Effective Date) and accepts the liabilities and obligations to it of [C] in place of [B].

3. **RETAINED LIABILITIES AND OBLIGATIONS**

3.1 Nothing in this Deed shall have the effect of:

- (a) releasing [B] from any accrued but unperformed obligation, from the consequences of any breach of the Contract which is the subject of arbitration or litigation between [A] and [B], or from any liability in respect of any act or omission under or in relation to the Contract before, or as at the Effective Date; or
- (b) obliging [C] to assume responsibility for any unperformed obligation, liability or consequence of a breach referred to in 3(a).

4. **FURTHER ASSURANCE**

4.1 Each of the parties agrees to perform (or procure the performance of) all further acts and things, and execute and deliver (or procure the execution and delivery of) such further documents, as may be required by Law or as may be necessary or reasonably desirable to implement and/or give effect to this Deed.

5. COUNTERPARTS

This Deed may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which is an original but all of which together constitute one and the same instrument.

6. FORCE MAJEURE

Neither party shall be liable for any failure or delay in performing any of its obligations under this Deed if the failure or delay is due to any cause outside its reasonable control, and it shall be entitled to a reasonable extension of the time for performing the obligations as a result of the cause.

7. SUPREMACY OF SUCCESSOR LICENCE

Each of [B] and [C] agrees with the other that, in the event of any inconsistency between any of the terms of this Deed and any of the terms of the Successor Licence, the terms of the Successor Licence shall prevail as between them, but without prejudice to [A]'s rights under this Deed and the Contract.

8. CONFIDENTIAL INFORMATION

8.1 Each of the parties shall both during and after the arrangements contemplated by this Deed have terminated:

- (a) keep confidential the terms of this Deed and all information, whether in written or any other form, which has been disclosed to it by or on behalf of the other party pursuant to its respective obligations under this Deed which by its nature ought to be regarded as confidential (including any business information in respect of the other party which is not directly applicable or relevant to the transactions contemplated by this Deed); and
- (b) procure that its officers, employees and representatives and those of any group companies keep secret and treat as confidential all such documents and information.

8.2 Clause 8.1 does not apply to information:

- (a) which shall after the date of this Deed become published or otherwise generally available to the public, except in consequence of a wilful or negligent act or omission by the other party to this Deed in contravention of the obligations in Clause 8.1;
- (b) to the extent made available to the recipient party by a third party who is entitled to divulge such information and who is not under any obligation of confidentiality in respect of such information to the other party or which has been disclosed under an express statement that it is not confidential;
- (c) to the extent required to be disclosed by any applicable Law or by any recognised stock exchange or governmental or other regulatory or supervisory body or authority of competent jurisdiction to whose rules the party making the disclosure is subject, whether or not having the force of Law, provided that the party disclosing the information shall notify the other party of the information to be disclosed (and of the circumstances in which the disclosure is alleged to be required) as early as reasonably possible before the disclosure shall be made and shall take all reasonable action to avoid and limit the disclosure;

- (d) which has been independently developed by the recipient party otherwise than in the course of the exercise of that party's rights under this Deed or the implementation of this Deed;
- (e) which, in order to perform its obligations under or pursuant to this Deed, either party is required to disclose to a third party;
- (f) which, in order to perform its obligations under the Section 5 Licence and the Successor Licence either party is required to disclose to the Commission or to a third party approved in advance by the Commission; and
- (g) which the recipient party can prove was already known to it before its receipt from the disclosing party.

8.3 The provisions of this Clause shall survive any termination of this Deed.

9. NOTICES

9.1 The parties shall give any notice under, or in connection with, this Deed in writing. Notice shall be served by delivering it by hand, or sending it by prepaid recorded delivery, special delivery or registered post, to the address set out in Clause 9.3, or by sending it by electronic mail to the address set out in Clause 9.3, and in each case marked for the attention of the relevant party (or as otherwise notified from time to time in accordance with the provisions of this Clause 9). Any notice so served by hand, post or electronic mail shall be deemed to have been duly given:

- (a) in the case of delivery by hand, when delivered;
- (b) in the case of prepaid recorded delivery, special delivery or registered post, at 10:00 hours on the second Business Day following the date of posting; and
- (c) in the case of electronic mail, when the email leaves the email gateway of the sender where it leaves such gateway before 17:00 hours on any Business Day or in any other case at 08:00 hours on the next Business Day after it leaves such gateway and the onus shall be on the party giving notice to prove the time that the email left its gateway,

provided that in each case where delivery by hand occurs after 18:00 hours on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 09:00 hours on the next following Business Day.

9.2 References to time in this Clause 9 are to local time in the country of the addressee.

9.3 The addresses and electronic mail addresses of the parties for the purpose of this Clause 9 are as follows:

The Licensee Subcontractor

Address: [•]

For the attention of: [•]

Electronic mail address: [•]

The Licensee

Address: [•]

For the attention of: [•]
Electronic mail address: [•]

The Successor Licensee

Address: [•]

For the attention of: [•]
Electronic mail address: [•]

9.4 A party may notify the other party to this Deed of a change to its name, relevant addressee, address or electronic mail address for the purposes of this Clause 9, provided that, such notice shall only be effective on:

- (a) the date specified in the notice as the date on which the change is to take place; or
- (b) if no date is specified or the date specified is less than five Business Days after the date on which notice is given, the date following five Business Days after notice of any change has been given.

9.5 All notices under or in connection with this Deed shall be in the English language or, if in any other language, accompanied by a translation into English. In the event of any conflict between the English text and the text in any other language, the English text shall prevail.

10. ENTIRE AGREEMENT

10.1 This Deed and the Section 5 Licence set out the entire agreement and understanding between the parties in respect of the subject matter of this Deed. This Clause shall not exclude any liability for, or remedy in respect of, fraudulent misrepresentation.

11. SEVERABILITY

11.1 If, and to the extent that, any provision of this Deed is held to be illegal, void or unenforceable, such provision shall be given no effect and shall be deemed not to be included in this Deed but without invalidating any of the remaining provisions of this Deed provided that the parties shall meet to negotiate in good faith to agree a valid, binding and enforceable substitute provision or provisions, (if necessary with reconsideration of other terms of this Deed not so affected) so as to re-establish an appropriate balance of the interests of the parties.

12. THIRD PARTY RIGHTS

12.1 With the exception of the Commission's rights under Clause 12.2 and unless otherwise stated, a person who is not a party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

12.2 All rights and interests exercisable by the Successor Licensee under this Deed shall be exercisable by the Commission.

13. GOVERNING LAW AND JURISDICTION

13.1 This Deed shall be governed by and construed in accordance with English law.

13.2 The parties irrevocably agree that the English courts shall have exclusive jurisdiction in relation to any legal action or proceedings arising out of or in connection with the Section 5 Licence (Proceedings) and waive any objection to Proceedings in such courts on the grounds of venue or on the grounds that Proceedings have been brought in an inappropriate forum.

AS WITNESS this Deed has been signed by the duly authorised representatives of the parties the day and year first before written.

Signed by [] for and on behalf)
of **[A]**)
)
)

Signed by [] for and on behalf)
of **[B]**)
)
)

Signed by [] for and on behalf)
of **[C]**)
)
)

Part B : Form of Deed of Transfer for Transferring Assets

THIS DEED is made on

200[●]

BETWEEN

[] (company no.) whose registered office is at [] ("**Transferor**"); and

[] (company no.) whose registered office is at [] ("**Transferee**").

WHEREAS

- (A) The Transferor runs the National Lottery under a licence dated [●] ("**Section 5 Licence**") granted to it by the Gambling Commission (the "**Commission**") under section 5 of the National Lottery etc. Act 1993 (the "**Act**").
- (B) Pursuant to Condition 18.11 of the Section 5 Licence, the Transferor, the Transferee and the Commission entered into an agreement dated [] ("the **Cooperation Agreement**").
- (C) Pursuant to Condition 18.20 of the Section 5 Licence and clause [] of the Cooperation Agreement, the Transferee has notified the Transferor that the Licensee Assets set out in Schedule 1 shall be "**Transferring Assets**".
- (D) Under the Section 5 Licence, the Transferee has been designated as the Successor Licensee to whom the Transferring Assets are to be assigned or transferred.
- (E) The Transferor has agreed to assign the Transferring Assets to the Transferee, on the terms and conditions set out in this Deed.
- (F) The Transferee desires to acquire, and the Transferor desires to transfer, all right, title and interest of the Transferor in and to the Transferring Assets.

IT IS AGREED as follows:

1. Definitions and interpretation

- 1.1 Terms defined in the Section 5 Licence and not otherwise defined in this Deed shall have the same meaning as set out in the Section 5 Licence.
- 1.2 In this Deed, unless the context otherwise requires:
 - (a) references to Clauses, Schedules and paragraphs in this Deed shall be construed as references to the Clauses, Schedules and paragraphs of this Deed;
 - (b) references to persons includes individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships;
 - (c) the headings are inserted for convenience only and do not affect the construction of this Deed;
 - (d) references to one gender includes all genders;
 - (e) words importing the plural include the singular and vice versa;
 - (f) any reference to an enactment or statutory provision is a reference to it as it may have been, or may from time to time be amended, modified, consolidated or re-enacted;

- (g) any reference to a document in the agreed form is to the form of the relevant document agreed between the parties and for the purpose of identification initialled by each of them or on their behalf (in each case with such amendments as may be agreed by or on behalf of the parties);
- (h) references to any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court official or any other legal concept is, in respect of any jurisdiction other than England, deemed to include the legal concept or term which most nearly approximates in that jurisdiction to the English legal term; and
- (i) reference to the word "includes" or "including" are to be construed without limitation.

2. **COMMENCEMENT**

2.1 This Deed shall come into force on [day] [month] [year] ("**Commencement Date**").

3. **TRANSFER OF THE TRANSFERRING ASSETS**

- 3.1 [In consideration of the payment of [] [On a payment-free basis], the Transferor transfers, or shall procure the transfer of, the Transferring Assets to the Transferee on [date] and its successors and assigns, subject to the terms and conditions of any licences granted to third parties, all its right, title and interest in and to the Transferring Assets.
- 3.2 The obligation of the Transferor to transfer the Transferring Assets, and of the Transferee to accept the transfer, contained in Clause 3.1, shall be subject to the condition that the Transferring Assets are transferred with such title as the Transferor enjoyed immediately prior to the transfer and the Transferee shall acquire the Transferring Assets subject to such encumbrances, restrictions, covenants, licences, agreements and arrangements as may have affected the Transferring Assets prior to the transfer.
- 3.3 Subject to Clause 3.2, title to all Transferring Assets which can be transferred on delivery shall pass on delivery [and such delivery shall take place on [insert date].]

4. **WARRANTIES**

- 4.1 Each party warrants that it has full authority, power and capacity to enter into and carry out its obligations under this agreement.
- 4.2 The Transferor warrants that it has the right to transfer the Transferring Assets to the Transferee.

5. **INFRINGEMENT**

In the event of any claim against any of the Transferring Assets the Transferor shall upon the reasonable request of the Transferee and at the Transferor's expense co-operate with and assist the Transferee in any of the aforesaid actions by, for example, providing information and documents and executing all papers and performing such other acts as reasonably may be required.

6. **INDEMNITY**

The Transferor shall indemnify the Transferee against each and any loss, liability and cost (including legal expenses) which the Transferee suffers or incurs as a result of or in connection with any claim against the Transferee that the use of the Transferring Assets in connection with the Transferee's obligations under the Successor Licence, the National

Lottery or any Ancillary Activity infringes the intellectual property or other rights of a third party.

7. FURTHER ASSURANCE

The Transferor shall, at its own cost, sign all documents and do all things which may be required by Law or which the Transferee may request from time to time (including executing as soon as reasonably practicable after the date of this Deed all documents which the Transferee may require to effect the registration or recording of the assignment of the Transferring Assets to the Transferee in any relevant jurisdiction) to implement and/or give effect to this Deed and for the purpose of granting the Transferee the full benefit of and title to the assets, rights and benefits to be transferred under this Deed.

8. SEVERABILITY

If, and to the extent that, any provision of this Deed is held to be illegal, void or unenforceable, such provision shall be given no effect and shall be deemed not to be included in this Deed but without invalidating any of the remaining provisions of this Deed provided that the parties shall meet to negotiate in good faith to agree a valid, binding and enforceable substitute provision or provisions, (if necessary with reconsideration of other terms of this Deed not so affected) so as to re-establish an appropriate balance of the interests of the parties.

9. ENTIRE AGREEMENT

This Deed, the Cooperation Agreement and the Section 5 Licence set out the entire agreement and understanding between the parties in respect of the subject matter of this Deed. This Clause shall not exclude any liability for, or remedy in respect of, fraudulent misrepresentation.

10. WAIVERS AND AMENDMENTS

10.1 No failure or delay by either party in exercising any right or remedy provided by Law under or pursuant to this Deed shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.

10.2 The rights and remedies provided for are cumulative and not exclusive of any rights and remedies provided by Law.

10.3 No provision of this Deed may be amended, modified, waived, discharged or terminated otherwise than by the express written agreement of the parties to this Deed nor may any breach of any provision of this Deed be waived or discharged except with the express written consent of the party not in breach.

11. CONFIDENTIAL INFORMATION

11.1 Each of the parties shall both during and after the arrangements contemplated by this Deed have terminated:

- (a) keep confidential the terms of this Deed and all information, whether in written or any other form, which has been disclosed to it by or on behalf of the other party pursuant to its respective obligations under this Deed which by its nature ought to be regarded as confidential (including any business information in respect of the other party which is not directly applicable or relevant to the transactions contemplated by this Deed); and

- (b) procure that its officers, employees and representatives and those of any group companies keep secret and treat as confidential all such documents and information.

11.2 Clause 11.1 does not apply to information:

- (a) which shall after the date of this Deed become published or otherwise generally available to the public, except in consequence of a wilful or negligent act or omission by the other party to this Deed in contravention of the obligations in Clause 11.1;
- (b) to the extent made available to the recipient party by a third party who is entitled to divulge such information and who is not under any obligation of confidentiality in respect of such information to the other party or which has been disclosed under an express statement that it is not confidential;
- (c) to the extent required to be disclosed by any applicable Law or by any recognised stock exchange or governmental or other regulatory or supervisory body or authority of competent jurisdiction to whose rules the party making the disclosure is subject, whether or not having the force of Law, provided that the party disclosing the information shall notify the other party of the information to be disclosed (and of the circumstances in which the disclosure is alleged to be required) as early as reasonably possible before the disclosure shall be made and shall take all reasonable action to avoid and limit the disclosure;
- (d) which has been independently developed by the recipient party otherwise than in the course of the exercise of that party's rights under this Deed or the implementation of this Deed;
- (e) which, in order to perform its obligations under or pursuant to this Deed, either party is required to disclose to a third party;
- (f) which, in order to perform its obligations under the Section 5 Licence and the Successor Licence either party is required to disclose to the Commission or to a third party approved in advance by the Commission; and
- (g) which the recipient party can prove was already known to it before its receipt from the disclosing party.

11.3 The provisions of this Clause shall survive any termination of this Deed.

12. NOTICES

12.1 The parties shall give any notice under, or in connection with, this Deed in writing. Notice shall be served by delivering it by hand, or sending it by prepaid recorded delivery, special delivery or registered post, to the address set out in Clause 12.3, or by sending it by electronic mail to the address set out in Clause 12.3, and in each case marked for the attention of the relevant party (or as otherwise notified from time to time in accordance with the provisions of this Clause 12). Any notice so served by hand, post or electronic mail shall be deemed to have been duly given:

- (a) in the case of delivery by hand, when delivered;
- (b) in the case of prepaid recorded delivery, special delivery or registered post, at 10:00 hours on the second Business Day following the date of posting; and
- (c) in the case of electronic mail, when the email leaves the email gateway of the sender where it leaves such gateway before 17:00 hours on any Business Day or

in any other case at 08:00 hours on the next Business Day after it leaves such gateway and the onus shall be on the party giving notice to prove the time that the email left its gateway,

provided that in each case where delivery by hand occurs after 18:00 hours on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 09:00 hours on the next following Business Day.

12.2 References to time in this Clause 12 are to local time in the country of the addressee.

12.3 The addresses and electronic mail addresses of the parties for the purpose of this Clause 12 are as follows:

The Transferor

Address: [•]

For the attention of: [•]

Electronic mail address: [•]

The Transferee

Address: [•]

For the attention of: [•]

Electronic mail address: [•]

12.4 A party may notify the other party to this Deed of a change to its name, relevant addressee, address or electronic mail address for the purposes of this Clause 12, provided that, such notice shall only be effective on:

- (a) the date specified in the notice as the date on which the change is to take place; or
- (b) if no date is specified or the date specified is less than five Business Days after the date on which notice is given, the date following five Business Days after notice of any change has been given.

12.5 All notices under or in connection with this Deed shall be in the English language or, if in any other language, accompanied by a translation into English. In the event of any conflict between the English text and the text in any other language, the English text shall prevail.

13. THIRD PARTY RIGHTS

13.1 With the exception of the Commission's rights under Clause 13.2 and unless otherwise stated, a person who is not a party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

13.2 All rights and interests exercisable by the Transferee under this Deed shall be exercisable by the Commission.

14. FORCE MAJEURE

14.1 Neither party shall be liable for any failure or delay in performing any of its obligations under this Deed if the failure or delay is due to any cause outside its reasonable control, and it

shall be entitled to a reasonable extension of the time for performing the obligations as a result of the cause.

15. **GOVERNING LAW AND JURISDICTION**

15.1 This Deed shall be governed by and construed in accordance with English law.

15.2 The parties irrevocably agree that the English courts shall have exclusive jurisdiction in relation to any legal action or proceedings arising out of or in connection with the Section 5 Licence (Proceedings) and waive any objection to Proceedings in such courts on the grounds of venue or on the grounds that Proceedings have been brought in an inappropriate forum.

16. **COUNTERPARTS**

16.1 This Deed may be entered into in any number of counterparts and by the parties to it on separate counterparts, each of which is an original but all of which together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have executed this document as a Deed as of the day and year first written above.

Executed as a deed by **[Transferor]**)
acting by two Directors or a Director)
and Company Secretary)
)

Director

Director/Secretary

Executed as a deed by)
[Transferee] acting by two)
Directors or a Director and)
Company Secretary)

Director

Director/Secretary

Schedule 1 to the Deed of Transferring Assets

Transferring Assets

Part C : Form of Deed of Transfer for Databases

THIS DEED is made on

200[●]

BETWEEN

[] (company no.) whose registered office is at [] ("**Assignor**");

and

[] (company no.) whose registered office is at [] [the Commission/Nominee] ("**Assignee**").

WHEREAS

- (A) The Assignor runs the National Lottery under a licence effective 1 February 2009 (**Section 5 Licence**) granted to it by the Gambling Commission under section 5 of the National Lottery etc. Act 1993 (**Act**).
- (B) The Assignor is the legal and beneficial owner of the copyright and/or database rights in the databases set out in Schedule 1 (**Databases**) and has the right to all information and data held in the Databases.
- (C) Pursuant to Condition 21.14 of the Section 5 Licence, the Assignor has agreed to assign the copyright and/or database rights in the Databases and the rights it has in the information or data held within the Databases (**Transferred Databases**) to the Assignee on the terms and conditions set out in this Deed.
- (D) The Assignee desires to acquire and the Assignor desires to transfer all right, title and interest of the Assignor in and to the Transferred Databases.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 Terms defined in the Section 5 Licence and not otherwise defined in this Deed shall have the same meaning as set out in the Section 5 Licence.
- 1.2 In this Deed, unless the context otherwise requires:
 - (a) references to Clauses, Schedules and paragraphs in this Deed shall be construed as references to the Clauses, Schedules and paragraphs of this Deed;
 - (b) references to persons includes individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships;
 - (c) the headings are inserted for convenience only and do not affect the construction of this Deed;
 - (d) references to one gender includes all genders;
 - (e) words importing the plural include the singular and vice versa;
 - (f) any reference to an enactment or statutory provision is a reference to it as it may have been, or may from time to time be amended, modified, consolidated or re-enacted;
 - (g) any reference to a document in the agreed form is to the form of the relevant document agreed between the parties and for the purpose of identification initialled

by each of them or on their behalf (in each case with such amendments as may be agreed by or on behalf of the parties);

- (h) references to any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court official or any other legal concept is, in respect of any jurisdiction other than England, deemed to include the legal concept or term which most nearly approximates in that jurisdiction to the English legal term; and
- (i) reference to the words "includes" or "including" are to be construed without limitation.

2. **INTERPRETATION**

The clause headings are for ease of reference only and shall not affect the interpretation or construction of this Deed.

3. **COMMENCEMENT**

This Deed shall come into force on [day] [month] [year] (**Commencement Date**).

4. **ASSIGNMENT OF WORK**

The Assignor, at its own cost, assigns to the Assignee its successors and assigns, on a payment free basis, all its right, title and interest in and to the Transferred Databases absolutely free from any third party loan, licence, restriction, covenants, charge or encumbrance including the right to sue for damages and other remedies for infringement or misuse of the Transferred Databases which may have occurred prior to the date of this Deed and to retain those damages.

5. **WAIVER OF MORAL RIGHTS**

- 5.1 The Assignor expressly waives and shall procure the assignment of all moral rights in the Transferred Databases.

6. **INFRINGEMENT**

- 6.1 In the event of any infringement action or claim made against the Assignee before, on or after the Commencement Date in respect of the Transferred Databases, the Assignor shall upon the reasonable request of the Assignee and at the Assignor's expense co-operate with and assist the Assignee in any of the aforesaid actions by, for example, providing information and documents and executing all papers and performing such other acts as reasonably may be required.

7. **INDEMNITY**

- 7.1 The Assignor shall indemnify the [Commission/Nominee] against each and any loss, liability and cost (including legal expenses) which the Assignee suffers or incurs as a result of or in connection with any claim against the Assignee that the use of the Transferred Databases in connection with the obligations of the Commission [and the Nominee] under the Section 5 Licence, the Successor Licence, the National Lottery or any Ancillary Activity infringes the Intellectual Property rights or other rights of a third party.

8. **FURTHER ASSURANCES**

- 8.1 The Assignor shall at its own cost sign all documents and do all things which may be required by Law or which the [Commission/Nominee/Assignee] may request from time to time (including executing as soon as reasonably practicable after the date of this Deed all

documents which the [Commission/Nominee/Assignee] may require to give effect to the assignment of the Transferred Databases to the [Commission/Nominee/Assignee] in any relevant jurisdiction) to implement and/or give effect to this Deed and for the purpose of granting the [Commission/Nominee/Assignee] the full benefit of and title to the assets, rights and benefits to be transferred under this Deed.

9. WAIVERS AND AMENDMENTS

9.1 No failure or delay by either party in exercising any right or remedy provided by Law under or pursuant to this Deed shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.

9.2 The rights and remedies provided for are cumulative and not exclusive of any rights and remedies provided by Law.

9.3 No provision of this Deed may be amended, modified, waived, discharged or terminated otherwise than by the express written agreement of the parties to this Deed nor may any breach of any provision of this Deed be waived or discharged except with the express written consent of the party not in breach.

10. FILES AND RECORDS

10.1 To the extent that such documents are available, the Assignor will, at its own cost, make available to the Assignee for inspection and provide copies of all official documents and all correspondence (including, but not limited to, correspondence between the Assignor and any of the Assignor's agents and legal advisers) relating to the Transferred Databases. The Assignor will notify its representatives of the change of ownership in each country where the Transferred Databases are being assigned and will provide the Commission with a list of such representatives.

11. CONFIDENTIAL INFORMATION

11.1 Each of the parties shall both during and after the arrangements contemplated by this Deed have terminated:

(a) keep confidential the terms of this Deed and all information, whether in written or any other form, which has been disclosed to it by or on behalf of the other party pursuant to its respective obligations under this Deed which by its nature ought to be regarded as confidential (including any business information in respect of the other party which is not directly applicable or relevant to the transactions contemplated by this Deed); and

(b) procure that its officers, employees and representatives and those of any group companies keep secret and treat as confidential all such documents and information.

11.2 Clause 11.1 does not apply to information:

(a) which shall after the date of this Deed become published or otherwise generally available to the public, except in consequence of a wilful or negligent act or omission by the other party to this Deed in contravention of the obligations in Clause 11.1;

(b) to the extent made available to the recipient party by a third party who is entitled to divulge such information and who is not under any obligation of confidentiality in

respect of such information to the other party or which has been disclosed under an express statement that it is not confidential;

- (c) to the extent required to be disclosed by any applicable Law or by any recognised stock exchange or governmental or other regulatory or supervisory body or authority of competent jurisdiction to whose rules the party making the disclosure is subject, whether or not having the force of Law, provided that the party disclosing the information shall notify the other party of the information to be disclosed (and of the circumstances in which the disclosure is alleged to be required) as early as reasonably possible before the disclosure shall be made and shall take all reasonable action to avoid and limit the disclosure;
- (d) which has been independently developed by the recipient party otherwise than in the course of the exercise of that party's rights under this Deed or the implementation of this Deed;
- (e) which, in order to perform its obligations under or pursuant to this Deed, either party is required to disclose to a third party;
- (f) which, in order to perform its obligations under the Section 5 Licence and the Successor Licence either party is required to disclose to the Commission or to a third party approved in advance by the Commission; and
- (g) which the recipient party can prove was already known to it before its receipt from the disclosing party.

11.3 The provisions of this Clause shall survive any termination of this Deed.

12. NOTICES

12.1 The parties shall give any notice under, or in connection with, this Deed in writing. Notice shall be served by delivering it by hand, or sending it by prepaid recorded delivery, special delivery or registered post, to the address set out in Clause 12.3, or by sending it by electronic mail to the address set out in Clause 12.3, and in each case marked for the attention of the relevant party (or as otherwise notified from time to time in accordance with the provisions of this Clause 12). Any notice so served by hand, post or electronic mail shall be deemed to have been duly given:

- (a) in the case of delivery by hand, when delivered;
- (b) in the case of prepaid recorded delivery, special delivery or registered post, at 10:00 hours on the second Business Day following the date of posting; and
- (c) in the case of electronic mail, when the email leaves the email gateway of the sender where it leaves such gateway before 17:00 hours on any Business Day or in any other case at 08:00 hours on the next Business Day after it leaves such gateway and the onus shall be on the party giving notice to prove the time that the email left its gateway,

provided that in each case where delivery by hand occurs after 18:00 hours on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 09:00 hours on the next following Business Day.

12.2 References to time in this Clause 12 are to local time in the country of the addressee.

12.3 The addresses and electronic mail addresses of the parties for the purpose of this Clause 12 are as follows:

The Transferor

Address: [•]

For the attention of: [•]
Electronic mail address: [•]

The Transferee

Address: [•]

For the attention of: [•]
Electronic mail address: [•]

12.4 A party may notify the other party to this Deed of a change to its name, relevant addressee, address or electronic mail address for the purposes of this Clause 12, provided that, such notice shall only be effective on:

- (a) the date specified in the notice as the date on which the change is to take place; or
- (b) if no date is specified or the date specified is less than five Business Days after the date on which notice is given, the date following five Business Days after notice of any change has been given.

12.5 All notices under or in connection with this Deed shall be in the English language or, if in any other language, accompanied by a translation into English. In the event of any conflict between the English text and the text in any other language, the English text shall prevail.

13. LEGAL RELATIONSHIP

Nothing in this Deed is deemed to constitute a partnership between the parties nor constitute a party the agent of the other party for any purpose.

14. FORCE MAJEURE

Neither party shall be liable for any failure or delay in performing any of its obligations under this Deed if the failure or delay is due to any cause outside its reasonable control, and it shall be entitled to a reasonable extension of the time for performing the obligations as a result of the cause.

15. PARTIES IN INTEREST

The provisions of this Deed shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

16. SEVERABILITY

If, and to the extent that, any provision of this Deed is held to be illegal, void or unenforceable, such provision shall be given no effect and shall be deemed not to be included in this Deed but without invalidating any of the remaining provisions of this Deed provided that the parties shall meet to negotiate in good faith to agree a valid, binding and enforceable substitute provision or provisions, (if necessary with reconsideration of other terms of this Deed not so affected) so as to re-establish an appropriate balance of the interests of the parties.

17. GOVERNING LAW AND JURISDICTION

17.1 This Deed shall be governed by and construed in accordance with English law.

17.2 The parties irrevocably agree that the English courts shall have exclusive jurisdiction in relation to any legal action or proceedings arising out of or in connection with the Section 5 Licence (Proceedings) and waive any objection to Proceedings in such courts on the grounds of venue or on the grounds that Proceedings have been brought in an inappropriate forum.

18. ENTIRE AGREEMENT

This Deed, the Cooperation Agreement and the Section 5 Licence set out the entire agreement and understanding between the parties in respect of the subject matter of this Deed. This Clause shall not exclude any liability for, or remedy in respect of, fraudulent misrepresentation.

19. THIRD PARTY RIGHTS

19.1 With the exception of the Commission's rights under Clause 19.2 and unless otherwise stated, a person who is not a party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

19.2 All rights and interests exercisable by the Assignee under this Deed shall be exercisable by the Commission.

20. COUNTERPARTS

This Deed may be entered into in any number of counterparts and by the parties to it on separate counterparts, each of which is an original but all of which together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have executed this document as a Deed as of the day and year first written above.

Executed as a deed by **[Assignor]**)
acting by two Directors or a Director)
and Company Secretary)
)

Director

Director/Secretary

Executed as a deed by **[Assignee]**)
acting by two Directors or a Director)
and Company Secretary)
)

Director

Director/Secretary

Part D : Form of Deed of Transfer of Goodwill and Transferring Lottery IP

THIS DEED is made on

200[●]

BETWEEN

[] (company no.) whose registered office is at [] (**Assignor**);

The Gambling Commission of Victoria Square House, Victoria Square, Birmingham, B2 4BP (the **Commission**); and

[] (company no.) whose registered office is at [] (**Successor Licensee**).

WHEREAS

(A) The Assignor runs the National Lottery under a licence effective 1 February 2009 (**Section 5 Licence**) granted to it by the Gambling Commission under section 5 of the National Lottery etc. Act 1993 (**Act**).

(B) Pursuant to Condition 18.27(c)(iii) of the Section 5 Licence, the Assignor has agreed to transfer:

(I) the goodwill, interest and connection of the Assignor [or its Group Companies] in the business of acting as the licensee under the Section 5 Licence, the promoter of any Constituent Lotteries and the operator of any Ancillary Activities (**Goodwill**); and

(II) any Lottery IP (as the same is defined in the Section 5 Licence) which vests in or is owned by the Assignor (**Relevant IPR**),

to the Commission or its nominee.

(C) The Commission has directed that the Assignor should transfer:

(I) the Goodwill to the Successor Licensee; and

(II) the Relevant IPR to the Commission.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Terms defined in the Section 5 Licence and not otherwise defined in this Deed shall have the same meaning as set out in the Section 5 Licence.

1.2 In this Deed, unless the context otherwise requires:

(a) references to Clauses, Schedules and paragraphs in this Deed shall be construed as references to the Clauses, Schedules and paragraphs of this Deed;

(b) references to persons includes individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships;

(c) the headings are inserted for convenience only and do not affect the construction of this Deed;

(d) references to one gender includes all genders;

- (e) words importing the plural include the singular and vice versa;
- (f) any reference to an enactment or statutory provision is a reference to it as it may have been, or may from time to time be amended, modified, consolidated or re-enacted;
- (g) any reference to a document in the agreed form is to the form of the relevant document agreed between the parties and for the purpose of identification initialled by each of them or on their behalf (in each case with such amendments as may be agreed by or on behalf of the parties);
- (h) references to any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court official or any other legal concept is, in respect of any jurisdiction other than England, deemed to include the legal concept or term which most nearly approximates in that jurisdiction to the English legal term; and
- (i) reference to the words "includes" or "including" are to be construed without limitation.

2. **COMMENCEMENT**

This Deed shall come into force on [day] [month] [year] (Commencement Date).

3. **TRANSFER OF RELEVANT IPR**

The Assignor, at its own cost, assigns or shall procure the assignment to the Commission and its successors and assigns, on a payment-free basis and subject to the terms and conditions of any licences granted to third parties, all its right, title and interest in and to all of the Relevant IPR that the Assignor has to use and exploit any of the rights comprised in the items listed in the Relevant IPR [which are currently used or exploited or capable of being used or exploited by the Assignor in connection with the National Lottery or any Ancillary Activity and which shall be specified by the Commission (whether any such rights are used or exploited or capable of being used or exploited by the Assignor or any other person for any other person or in any other connection or not)] (including, but not limited to and subject to always to Clause 4, goodwill and statutory and common law rights attaching to the Relevant IPR, including the right to sue for damages and other remedies for infringement or misuse of the Relevant IPR which may have occurred prior to the date of this Deed and to retain those damages or any account of profits.)

4. **TRANSFER OF GOODWILL**

The Assignor, at its own cost, assigns or shall procure the assignment to the Successor Licensee (and its successors and assigns), on a payment-free basis, all the right, title and interest in and to all of the Goodwill of the Assignor [and its Group Companies].

5. **INFRINGEMENT**

In the event of any infringement action or claim against any of the Relevant IPR made before, on or after the Commencement Date, including, without limitation, any challenge to the validity or subsistence of any of the Relevant IPR or any claim for infringement, opposition, cancellation, revocation or rectification in relation to the Relevant IPR. The Assignor shall, upon the request of the Commission and at Commission's expense, co-operate with and assist Commission in any of the aforesaid actions by providing information and documents and executing all papers and performing such other acts as reasonably may be required.

6. INDEMNITY

The Assignor shall indemnify:

- (a) in the case of the Goodwill, the Successor Licensee; and
- (b) in the case of the Relevant IPR, the Commission

(each, as the case may be, being the **Assignee**) against each and any loss, liability and cost (including legal expenses) which the Assignee suffers or incurs as a result of or in connection with any claim against the Assignee that the exploitation of the Goodwill or the use of the Relevant IPR in connection with the obligations of the Commission under the Act or the Successor Licensee under the licence granted to it under section 5 of the Act infringes the Intellectual Property rights or other rights of a third party.

7. FURTHER ASSURANCE

The Assignor shall at its own cost sign all documents and do all things which may be required by Law or which the relevant Assignee may request from time to time (including executing as soon as reasonably practicable after the date of this Deed all documents which the Assignee may require to effect the registration or recordal of the assignment of the Relevant IPR to the Commission in any relevant jurisdiction) to implement and/or give effect to this Deed and for the purpose of granting each Assignee the full benefit of and title to the assets, rights and benefits to be transferred under this Deed. For the avoidance of doubt, all other costs associated with the assignment or recordal of the assignment shall be borne by the Assignor.

8. WARRANTIES

8.1 Each party warrants that it has full authority, power and capacity to enter into and carry out its obligations under this agreement.

8.2 The Assignor warrants that:

- (a) it has the right to transfer the Relevant IPR to the Commission and the Goodwill to the Successor Licensee;
- (b) the Relevant IPR is valid and subsisting;
- (c) it has not given a third party permission to use any of the Relevant IPR or the Goodwill nor is it under an obligation to do so;
- (d) all application, filing, registration, renewal and other fees in respect of registrations (or applications for registration) of the Relevant IPR have been paid;
- (e) it has not acquiesced in the unauthorised use of the Relevant IPR, nor is any party infringing, or likely to infringe, any of the Relevant IPR; and
- (f) no claim has been made by a third party which disputes the right of the Assignor to use any Relevant IPR, nor is the Assignor aware of any circumstances likely to give rise to a claim.

9. FILES AND RECORDS

To the extent that such documents are available, the Assignor will, at its own cost, make available to the Assignee for inspection and provide copies of all official documents and all correspondence (including, but not limited to, correspondence between Assignor and any

of the Assignor's agents and legal advisers) relating to the Relevant IPR. The Assignor will notify its representatives of the change of ownership in each country where the Relevant IPR is being assigned and will provide the Commission with a list of such representatives.

10. SEVERABILITY

10.1 If, and to the extent that, any provision of this Deed is held to be illegal, void or unenforceable, such provision shall be given no effect and shall be deemed not to be included in this Deed but without invalidating any of the remaining provisions of this Deed provided that the parties shall meet to negotiate in good faith to agree a valid, binding and enforceable substitute provision or provisions, (if necessary with reconsideration of other terms of this Deed not so affected) so as to re-establish an appropriate balance of the interests of the parties.

11. ENTIRE AGREEMENT

11.1 This Deed, the Cooperation Agreement and the Section 5 Licence set out the entire agreement and understanding between the parties in respect of the subject matter of this Deed. This Clause shall not exclude any liability for, or remedy in respect of, fraudulent misrepresentation.

12. WAIVERS AND AMENDMENTS

12.1 No failure or delay by either party in exercising any right or remedy provided by Law under or pursuant to this Deed shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.

12.2 The rights and remedies provided for are cumulative and not exclusive of any rights and remedies provided by Law.

12.3 No provision of this Deed may be amended, modified, waived, discharged or terminated otherwise than by the express written agreement of the parties to this Deed nor may any breach of any provision of this Deed be waived or discharged except with the express written consent of the party not in breach.

13. CONFIDENTIAL INFORMATION

13.1 Each of the parties shall both during and after the arrangements contemplated by this Deed have terminated:

- (a) keep confidential the terms of this Deed and all information, whether in written or any other form, which has been disclosed to it by or on behalf of the other party pursuant to its respective obligations under this Deed which by its nature ought to be regarded as confidential (including any business information in respect of the other party which is not directly applicable or relevant to the transactions contemplated by this Deed); and
- (b) procure that its officers, employees and representatives and those of any group companies keep secret and treat as confidential all such documents and information.

13.2 Clause 13.1 does not apply to information:

- (a) which shall after the date of this Deed become published or otherwise generally available to the public, except in consequence of a wilful or negligent act or omission by the other party to this Deed in contravention of the obligations in Clause 13.1;
- (b) to the extent made available to the recipient party by a third party who is entitled to divulge such information and who is not under any obligation of confidentiality in respect of such information to the other party or which has been disclosed under an express statement that it is not confidential;
- (c) to the extent required to be disclosed by any applicable Law or by any recognised stock exchange or governmental or other regulatory or supervisory body or authority of competent jurisdiction to whose rules the party making the disclosure is subject, whether or not having the force of Law, provided that the party disclosing the information shall notify the other party of the information to be disclosed (and of the circumstances in which the disclosure is alleged to be required) as early as reasonably possible before the disclosure shall be made and shall take all reasonable action to avoid and limit the disclosure;
- (d) which has been independently developed by the recipient party otherwise than in the course of the exercise of that party's rights under this Deed or the implementation of this Deed;
- (e) which, in order to perform its obligations under or pursuant to this Deed, either party is required to disclose to a third party;
- (f) which, in order to perform its obligations under the Section 5 Licence and the Successor Licence either party is required to disclose to the Commission or to a third party approved in advance by the Commission; and
- (g) which the recipient party can prove was already known to it before its receipt from the disclosing party.

13.3 The provisions of this Clause shall survive any termination of this Deed.

14. **NOTICES**

14.1 The parties shall give any notice under, or in connection with, this Deed in writing. Notice shall be served by delivering it by hand, or sending it by prepaid recorded delivery, special delivery or registered post, to the address set out in Clause 14.3, or by sending it by electronic mail to the address set out in Clause 14.3. and in each case marked for the attention of the relevant party (or as otherwise notified from time to time in accordance with the provisions of this Clause 14). Any notice so served by hand, post or electronic mail shall be deemed to have been duly given:

- (a) in the case of delivery by hand, when delivered;
- (b) in the case of prepaid recorded delivery, special delivery or registered post, at 10:00 hours on the second Business Day following the date of posting; and
- (c) in the case of electronic mail, when the email leaves the email gateway of the sender where it leaves such gateway before 17:00 hours on any Business Day or in any other case at 08:00 hours on the next Business Day after it leaves such gateway and the onus shall be on the party giving notice to prove the time that the email left its gateway,

provided that in each case where delivery by hand occurs after 18:00 hours on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 09:00 hours on the next following Business Day.

14.2 References to time in this Clause 14 are to local time in the country of the addressee.

14.3 The addresses and electronic mail addresses of the parties for the purpose of this Clause 14 are as follows:

The Assignor

Address: [•]

For the attention of: [•]

Electronic mail address: [•]

The Commission

Address: [•]

For the attention of: [•]

Electronic mail address: [•]

The Successor Licensee

Address: [•]

For the attention of: [•]

Electronic mail address: [•]

14.4 A party may notify the other parties to this Deed of a change to its name, relevant addressee, address or electronic mail address for the purposes of this Clause 12, provided that, such notice shall only be effective on:

- (a) the date specified in the notice as the date on which the change is to take place; or
- (b) if no date is specified or the date specified is less than five Business Days after the date on which notice is given, the date following five Business Days after notice of any change has been given.

14.5 All notices under or in connection with this Deed shall be in the English language or, if in any other language, accompanied by a translation into English. In the event of any conflict between the English text and the text in any other language, the English text shall prevail.

15. THIRD PARTY RIGHTS

15.1 With the exception of the Commission's rights under Clause 15.2 and unless otherwise stated, a person who is not a party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

15.2 All rights and interests exercisable by the [Successor Licensee] under this Deed shall be exercisable by the Commission.

16. **FORCE MAJEURE**

16.1 Neither party shall be liable for any failure or delay in performing any of its obligations under this Deed if the failure or delay is due to any cause outside its reasonable control, and it shall be entitled to a reasonable extension of the time for performing the obligations as a result of the cause.

17. **GOVERNING LAW AND JURISDICTION**

17.1 This Deed shall be governed by and construed in accordance with English law.

17.2 The parties irrevocably agree that the English courts shall have exclusive jurisdiction in relation to any legal action or proceedings arising out of or in connection with the Section 5 Licence (Proceedings) and waive any objection to Proceedings in such courts on the grounds of venue or on the grounds that Proceedings have been brought in an inappropriate forum.

18. **COUNTERPARTS**

18.1 This Deed may be entered into in any number of counterparts and by the parties to it on separate counterparts, each of which is an original but all of which together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have executed this document as a Deed as of the day and year first written above.

Executed as a deed by **[the Assignor]** acting by two Directors or a Director and Company Secretary)
)
)
)

Director

Director/Secretary

Executed as a deed by **[the Commission]** acting by two Directors or a Director and Company Secretary)
)
)
)

Director

Director/Secretary

Executed as a deed by **[Successor Licensee]** acting by two Directors or a Director and Company Secretary)
)
)
)

Director

Director/Secretary