

This is the Execution Version of the Enabling Agreement dated 12 December 2023 ("EA"). The EA was executed as a PDF, and therefore this version is not signed or dated.

EXECUTION VERSION  
STRICTLY CONFIDENTIAL  
2023

AMENDED AND RESTATED ON

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**THE GAMBLING COMMISSION**

**- and -**

**ALLWYN ENTERTAINMENT LTD**

**ENABLING AGREEMENT FOR THE AWARD OF THE 4<sup>TH</sup> LICENCE ISSUED PURSUANT  
TO S5 OF THE NATIONAL LOTTERY ETC. ACT 1993**



Ref: C1/PW/WEEKSCAI

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

## CONTENTS

| <b>CLAUSE</b>   | <b>PAGE</b> |
|---|-------------|
| 1. DEFINITIONS AND INTERPRETATION                       | 6           |
| 2. GRANT OF NEW LICENCE                                 | 6           |
| 3. IMPLEMENTATION AND COOPERATION                       | 7           |
| 4. IMPLEMENTATION OF THE APPLICATION                    | 8           |
| 5. INCOMING TRANSITION PLAN                             | 13          |
| 6. DEVELOPMENT OF INCOMING TRANSITION PLAN              | 13          |
| 7. CHANGE PROPOSALS                                     | 14          |
| 8. CONTINUING OBLIGATIONS                               | 15          |
| 9. FIT AND PROPER CHECKS                                | 15          |
| 10. PROTECTION FOR PARTICIPANT FUNDS                    | 18          |
| 11. S6 LICENCES   | 20          |
| 12. ANCILLARY ACTIVITIES                                | 22          |
| 13. CONTRACTS   | 23          |
| 14. CO-BRANDING APPLICATIONS                            | 27          |
| 15. THIRD PARTY APPROVALS                               | 27          |
| 16. COMMISSION APPROVALS                                | 27          |
| 17. AVAILABILITY OF RESOURCES                           | 28          |
| 18. MONITORING IMPLEMENTATION AND IMPLEMENTATION ISSUES | 31          |
| 19. GOVERNANCE  | 32          |
| 20. ASSURANCE OF IMPLEMENTATION PROGRESS                | 34          |
| 21. FINAL CONFIRMATION DATE                             | 35          |
| 22. SECOND INITIAL CHECKPOINT                           | 36          |
| 23. FIRST FINAL CHECKPOINT                              | 36          |
| 24. SECOND FINAL CHECKPOINT                             | 36          |
| 25. FIRST READINESS DATE                                | 37          |
| 26. SECOND READINESS DATE                               | 37          |
| 27. THIRD READINESS DATE                                | 39          |
| 28. LICENCE GRANT CONFIRMATION DATE                     | 39          |
| 29. READINESS TO OPERATE THE NATIONAL LOTTERY           | 40          |
| 30. RECEIPT MECHANICS                                   | 41          |
| 31. RECOVERABLE IMPLEMENTATION COSTS                    | 41          |
| 32. REMEDIES AND TERMINATION                            | 44          |
| 33. EXPIRY  | 45          |

|     |   |    |
|-----|---|----|
| 34. | RELATIONSHIP WITH THE COOPERATION AGREEMENT | 46 |
| 35. | DISPUTES                                    | 46 |
| 36. | COMMISSION'S DUTIES                         | 47 |
| 37. | ASSIGNMENT                                  | 47 |
| 38. | CONFIDENTIALITY                             | 47 |
| 39. | NOTICES                                     | 47 |
| 40. | COSTS AND REIMBURSING THE COMMISSION        | 49 |
| 41. | SURVIVAL                                    | 49 |
| 42. | THIRD PARTY RIGHTS                          | 49 |
| 43. | MISCELLANEOUS TERMS                         | 50 |
| 44. | ENTIRE AGREEMENT                            | 50 |
| 45. | GOVERNING LAW AND JURISDICTION              | 50 |

#### SCHEDULES

|     |  |     |
|-----|--|-----|
| 1.  | DEFINITIONS AND INTERPRETATION   | 52  |
| 2.  | KEY DATES  | 65  |
| 3.  | INCOMING TRANSITION PLAN OBLIGATIONS   | 76  |
| 4.  | ARRANGEMENTS AT START DATE   | 78  |
|     | Part A – Documents to be in Approved Form before First Readiness Date        | 78  |
|     | Part B – Template Reports to be in Approved Form before First Readiness Date | 79  |
|     | Part C – Strategies, Policies, Processes and Procedures                      | 80  |
| 5.  | REQUIRED THIRD PARTY APPROVALS   | 81  |
| 6.  | IMPLEMENTATION FINANCIAL COVENANTS   | 83  |
|     | Appendix 1 - The Draft Licence   | 85  |
| 7.  | GLOSSARY OF WORDS AND PHRASES USED IN THIS LICENCE                           | 179 |
| 8.  | INTERPRETATION   | 203 |
| 9.  | ANCILLARY ACTIVITIES   | 205 |
| 10. | CONTROL ARRANGEMENTS   | 206 |
| 11. | GOOD CAUSES CONTRIBUTION   | 207 |
|     | Part A – Methodology   | 207 |
|     | Part B - Calculation of Good Causes Contribution                             | 208 |
|     | Part C – Payment Mechanics   | 215 |
| 12. | FINANCIAL COVENANTS  | 226 |
|     | Appendix 2 - Documents in the Approved Form at date of this Agreement        | 240 |
|     | Appendix 3 - Cooperation Agreement   | 241 |
| 13. | INTERPRETATION   | 40  |
| 14. | KEY DATES  | 57  |
| 15. | THE CATEGORIES   | 60  |

|            |  |            |
|------------|--|------------|
| <b>16.</b> | <b>TRANSFERRING ITEMS</b>  | <b>61</b>  |
| <b>17.</b> | <b>EXPERT DETERMINATION</b>  | <b>68</b>  |
| <b>18.</b> | <b>DEEDS OF ADHERENCE</b>  | <b>69</b>  |
|            | <b>Part A - Deed of Adherence</b>  | <b>69</b>  |
|            | <b>Part B – Reserve Applicant Deed of Adherence</b>                              | <b>71</b>  |
| <b>19.</b> | <b>TRANSITION PLAN REQUIREMENTS</b>  | <b>73</b>  |
| <b>20.</b> | <b>TRANSFER AND RECEIPT MECHANICS</b>  | <b>75</b>  |
|            | <b>Part A – 3NL Transfer Mechanics</b>   | <b>75</b>  |
|            | <b>Part B – Cooperation Agreement Transfer Mechanics</b>                         | <b>81</b>  |
| <b>21.</b> | <b>FORMS OF TRANSFER</b>   | <b>82</b>  |
|            | <b>Part A : Form of Licensee Subcontract Deed of Novation</b>                    | <b>82</b>  |
|            | <b>Part B : Form of Deed of Transfer for Transferring Assets</b>                 | <b>88</b>  |
|            | <b>Part C : Form of Deed of Transfer for Databases</b>                           | <b>96</b>  |
|            | <b>Part D : Form of Deed of Transfer of Goodwill and Transferring Lottery IP</b> | <b>103</b> |
|            | <b>Appendix 4 - Receipt Mechanics</b>  | <b>cxi</b> |

THIS AMENDED AND RESTATED AGREEMENT is dated \_\_\_\_\_ 2023

**BETWEEN:**

- (1) The Gambling Commission of Victoria Square House, Victoria Square, Birmingham, B2 4BP (the "**Commission**"); and
- (2) Allwyn Entertainment Ltd, a company registered in England and Wales with registered number 13157556 whose registered office is at 5<sup>th</sup> Floor, One Connaught Place, London W2 2ET (the "**Incoming Licensee**").

**BACKGROUND:**

- (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.
- (B) The Successful Applicant submitted an application for the Incoming Licensee to be awarded that licence (together with all attachments and documents referred to in it, and in such final and/or amended form as may be approved by the Commission, the "**Application**"). The Application:
  - (i) included proposals to implement the Application and to prepare for, and establish the Incoming Licensee's operations for, the Purpose of Implementation; and
  - (ii) also included proposals to implement aspects of the Application which it was intended should be implemented after the Start Date. Activities to be undertaken after the Start Date to implement those aspects of the Application which are not Outstanding Implementation Steps (as defined below) will be subject to the New Licence and are not dealt with in this Agreement.
- (C) Pursuant to the Deed of Commitment, the Successful Applicant committed that, if the Successful Applicant received an Award Notification, the Incoming Licensee would enter into this Agreement, along with a deed of adherence to the Cooperation Agreement, which regulates how the requirements of the Third Licence and this Enabling Agreement will apply in practice to achieve the orderly handover of the operation of the National Lottery from the Outgoing Licensee to the Incoming Licensee on the Start Date.
- (D) Pursuant to legal challenges to the Commission's selection of the Successful Applicant the Commission was unable to issue an Award Notification to the Successful Applicant until that challenge was concluded to the Commission's satisfaction. As that has now occurred, the Commission issued an Award Notification to the Successful Applicant. The delay to the issue of the Award Notification as a result of the legal challenges caused a delay to the execution of this Agreement by the parties and, therefore, to the start of the Initial Implementation Period (the "**Implementation Delay**").
- (E) As a result of the Implementation Delay, this Agreement was signed less than 18 months before the expiry of the Third Licence. The terms of this Agreement were amended as envisaged by the Deed of Commitment with effect from 16 September 2022. On 25 September 2023, the Commission and the Incoming Licensee executed a further amendment to this Agreement and the Draft Licence to take account of the Commission's assessment that:
  - (i) for various reasons (including factors consequent on the Implementation Delay and/or other factors outside of the parties' control) the Incoming Licensee will no

longer be able to complete Implementation by the Start Date ("**FIC Being Delayed**");

- (ii) FIC Being Delayed is likely to have an adverse impact on the Surplus (as defined in the Draft Licence) and so on Good Causes Contributions as compared with that envisaged in the Application;
- (iii) the Incoming Licensee's Delayed Functionality Plan (as defined in clause 4.1) is a reasonable response to address FIC Being Delayed; and
- (iv) an extension of the New Licence may have the potential to mitigate the adverse impact of FIC Being Delayed and, to that end, the New Licence should provide for a review contemplating the possibility of an extension of two years or such lesser period as the Commission may determine, in addition to the contingency extension already included in the Draft Licence,

and that amendments to this Agreement and the Draft Licence should therefore be made for the purposes of preserving anticipated benefits of the New Licence with respect to the Surplus and Good Causes without changing the economic balance of those arrangements.

- (F) This Agreement sets out the terms upon which the Incoming Licensee commits to implement the Application and the timing and process by which the Commission will assess the Incoming Licensee's compliance with its obligations in and under this Agreement and, if satisfied, will grant a licence to the Incoming Licensee pursuant to section 5 of the Act.
- (G) This Agreement also requires the Incoming Licensee to cooperate with the Outgoing Licensee and the Commission for the Purpose of Cooperation, and to do certain things with respect to the:
  - (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 by the Incoming Licensee with the Outgoing Licensee 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 on, subject to clause 29 below, the Start Date (the "**Operator Transfer**").

- (H) The Incoming Licensee has also executed a deed of adherence to the Cooperation Agreement.

- (l) 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 this Agreement. 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 the Cooperation Agreement.

**OPERATIVE TERMS:**

**1. DEFINITIONS AND INTERPRETATION**

This Agreement will be interpreted in accordance with Schedule 1.

**2. GRANT OF NEW LICENCE**

2.1 Where clause 29.5(a) requires it to do so, and subject to clauses 2.5 and 2.6, the Commission will:

- (a) on Completion, grant the New Licence to the Incoming Licensee, and the Incoming Licensee will accept the New Licence, and run the National Lottery in accordance with its terms, on and with effect from the Start Date; and
- (b) confirm on the Licence Grant Confirmation Date that:
  - (i) as at the time of that confirmation it is not aware of any matter which it considers would prevent it granting the New Licence to the Incoming Licensee on the basis set out in paragraph 2.1(a); and
  - (ii) subject to clauses 2.5 and 2.6, the New Licence will be granted to the Incoming Licensee on the basis set out in paragraph 2.1(a).

2.2 Subject to clause 2.3, the New Licence will be in the form of the Draft Licence.

2.3 The Commission may:

- (a) amend Condition 3.1 of the Draft Licence (and make any consequential amendments to other Conditions or Schedules of the Draft Licence) to reflect any change to the Start Date which is determined in accordance with clause 24.3(a) or clause 29.5(b);
- (b) vary any other condition of the Draft Licence prior to the Start Date in the same manner as if section 8 of the Act applied to such variation; and
- (c) consider, as if section 8 of the Act applied, any request or proposal from the Incoming Licensee to the effect that the Draft Licence should be varied.

2.4 The Incoming Licensee:

- (a) acknowledges the contents of the Commission's Regulatory Handbook and all other guidance and codes of practice published by the Commission from time to time which are or may be applicable to the operation of the National Lottery on and from the Start Date; and
- (b) as part of Implementation, as required by clause 3.1, must adopt and implement all strategies, processes, policies and procedures in sufficient time to ensure that it will run the National Lottery on and from the Start Date in compliance with the New Licence (subject to any waivers or dispensations which may be granted by the

Commission), including, where required by the New Licence, by reference to the Commission's Regulatory Handbook and any applicable guidance or codes of practice published by the Commission. The Incoming Licensee will consult with the Commission and provide to the Commission all information it requires, and will take account of any comments or recommendations of the Commission, in order to ensure that its strategies, processes, policies and procedures will comply with the New Licence on and from the Start Date; and

- (c) where the Commission's Regulatory Handbook indicates that Regular Reporting is required at certain intervals or milestones during a Licence Year, prior to the Start Date the Commission will consult with, and take reasonable account of, any representations from the Incoming Licensee as to the dates on which such Regular Reporting will take place during Licence Year 1.

2.5 The Commission will grant the New Licence to the Incoming Licensee:

- (a) subject to the terms of this Agreement and the Act, at such location and time as the Commission may determine; and
- (b) subject to the Commission being satisfied, at the time of grant, that the Incoming Licensee is a fit and proper person to run the National Lottery.

2.6 Clause 2.1 shall be subject to any law, direction or legal proceeding which prevents or delays the Commission granting the New Licence to the Incoming Licensee.

### 3. **IMPLEMENTATION AND COOPERATION**

3.1 The Incoming Licensee must implement and comply with each of:

- (a) the Application;
- (b) the Cooperation Agreement;
- (c) the Incoming Transition Plan;
- (d) the Transfer Plan;
- (e) the Continuing Obligations Plan; and
- (f) the Statement of Transition Assistance Services,

in each case subject to clause 4, and prepare to run the National Lottery so it will comply with the New Licence with effect from the Start Date (subject to any waivers or dispensations which may be granted by the Commission). Schedule 2 sets out actions that the Incoming Licensee must take in this regard, and timescales associated with those actions by reference to the Key Dates, but in each case subject to clause 4.

3.2 The Incoming Licensee must:

- (a) comply with all Implementation Directions and Cooperation Directions given by the Commission; and
- (b) agree to and implement any amendments to the Cooperation Agreement specified by the Commission.



- 3.3 To the extent that any Implementation Direction given by the Commission requires the Incoming Licensee to do any thing prior to the Start Date which is materially different from any thing which it would be required by this Agreement to do in the absence of such Implementation Direction, all costs which are reasonably, properly and efficiently incurred by the Incoming Licensee prior to the Start Date in complying with such requirement shall be Recoverable Implementation Costs if these costs meet the criteria set out in clause 31.1(a).
- 3.4 The Incoming Licensee must:
- (a) co-operate with the Outgoing Licensee 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 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.
- 3.5 The Incoming Licensee must make appropriately skilled, qualified and experienced employees available to attend such meetings with the Commission and the Outgoing Licensee and/or any other relevant parties as are reasonably necessary to achieve the Purpose of Implementation and/or the Purpose of Cooperation (as applicable).

#### 4. IMPLEMENTATION OF THE APPLICATION

##### Requirement to implement the Application

- 4.1 The Incoming Licensee must:
- (a) prepare to run, and run, the National Lottery with effect from the Start Date on the same basis (in all material respects) as operated by the Outgoing Licensee in the 12 months prior to the Start Date, with those enhancements specified in the submission made by the Incoming Licensee to the Commission on 28 April 2023 (together with any further enhancements as may be agreed, no later than 1 October 2023, between the Incoming Licensee and the Commission) ("**Initial Functionality**"); and
  - (b) subject to clause 4.2:
    - (i) prepare to implement, and implement, with effect from the "**Delayed Date**" (being the date determined as such in accordance with clause 4.2) those elements of Full Functionality which are not Initial Functionality (the "**Delayed Functionality**") in line with the outline plan entitled "Plan Gemini" provided to the Commission on 16 June 2023, as may be updated from time to time in accordance with clause 7 (the "**Delayed Functionality Plan**"), so as to have implemented Full Functionality with effect from the Delayed Date ("**Delayed FIC**"); and
    - (ii) as soon as possible after the Delayed Date, and in any event no later than 31 December 2025, complete the roll-out of in-store terminals and other associated technology described in its Application.

##### System Delays

4.2 The Delayed Date will be 29 September 2024 (the “**Current Delayed Date**”) unless, not later than 18 October 2023, the Incoming Licensee demonstrates to the reasonable satisfaction of the Commission that it is no longer reasonably practicable to achieve Delayed FIC by the Current Delayed Date, in which event:

(a) subject to paragraph (b) below, the Delayed Date shall be a date specified by the Incoming Licensee which shall:

(i) be the earliest date on which the Incoming Licensee can reasonably achieve Delayed FIC; and

(ii) in any event, be no later than 28 February 2025

(the “**Fall Back Delayed Date**”) as demonstrated by the Incoming Licensee (including by providing the Commission with an updated version of the Delayed Functionality Plan, including any proposed changes to the Estimated Implementation Costs associated with the implementation of that updated plan, which demonstrates how the Incoming Licensee will achieve Delayed FIC by the Fall Back Delayed Date);

(b) if the Incoming Licensee becomes aware that, for an Objective External Cause, it will be unable to implement those elements of Delayed Functionality which are dependent on the replacement of the National Lottery core gaming system and in-store terminals (“**System Dependent Functionality**”) by the Fall Back Delayed Date (a “**System Delay**”) it must:

(i) comply with the requirements of clause 4.5;

(ii) do everything it can to implement the System Dependent Functionality as soon as possible after the Fall Back Delayed Date (acknowledging that technology freezes imposed by certain retailers may prevent implementation during certain periods); and

(iii) in any event implement all Delayed Functionality which is not:

(1) System Dependent Functionality; or

(2) a specific element of Delayed Functionality which the Commission and the Incoming Licensee agree is inextricably linked to System Dependent Functionality, the implementation of which it would therefore be beneficial to delay,

(“**Remaining Independent Functionality**”) by the Fall Back Delayed Date.

4.3 If a System Delay occurs and the Incoming Licensee complies with clause 4.2, but without prejudice to clauses 4.4 and 4.5, the Incoming Licensee will not be in breach of this Agreement solely by reason of a failure to implement the System Dependent Functionality by the Fall Back Delayed Date.

### **The Backstop**

4.4 Notwithstanding any other provision of this Agreement, the Incoming Licensee must prepare to run, and must run, the National Lottery from a date no later than 1 February 2026 (the “**Backstop Date**”) with:

- (a) either:
  - (i) System Dependent Functionality; or
  - (ii) in accordance with clause 4.5, functionality serving substantially the same purpose as, and which is Equivalent to, the System Dependent Functionality (“**Equivalent Functionality**”); and
- (b) a full array of in-store terminals and other associated technology which is either:
  - (i) as described in the Application; or
  - (ii) Equivalent to that described in the Application,

such that, in either case, unless the Commission agrees otherwise, the National Lottery is no longer dependent on the Historic Technology Provider (except to the extent that the Incoming Licensee may agree, in accordance with this Agreement or the New Licence (as applicable), with the Historic Technology Provider in any new, forward-looking arrangement) (“**Terminal Roll-out**”),

(together, and together with, Initial Functionality and Delayed Functionality, “**Full Implementation**”).

#### **System Delay Notifications and Contingency Planning**

4.5 Without prejudice to its obligations to provide information to, and comply with Implementation Directions from, the Commission, the Incoming Licensee must:

- (a) within 5 (five) Business Days of the Incoming Licensee becoming aware that a System Delay is likely to occur, provide to the Commission a written notice (a “**System Delay Notice**”):
  - (i) providing details of the Objective External Cause of the System Delay, together with copies of all relevant correspondence with the Historic Technology Provider; and
  - (ii) specifying all System Dependent Functionality, together with details of why that functionality cannot be introduced in the absence of agreement with the Historic Technology Provider;
- (b) provide to the Commission on request, and in any event on the last Business Day of each month, a written statement detailing all engagement undertaken with the Historic Technology Provider with a view to resolving the System Delay;
- (c) immediately upon the Incoming Licensee becoming aware that a System Delay is likely to occur, start to prepare (in consultation with the Outgoing Licensee) contingency plans for Equivalent Functionality so that it will be able, in all circumstances, to achieve Full Implementation by the Backstop Date;
- (d) if at any time the Incoming Licensee considers that there has been System Delay Resolution, immediately notify the Commission providing details of the circumstances which it considers constitute a System Delay Resolution;
- (e) unless there is a System Delay Resolution by 31 December 2023 (or if a System Delay arises after that date), the Incoming Licensee must provide to the

Commission a high level plan, which has been agreed with the Outgoing Licensee, for the provision of Equivalent Functionality which demonstrates to the Commission's satisfaction that the Incoming Licensee will achieve Full Implementation on or before the Backstop Date (the "**Outline Contingency Plan**"). The Incoming Licensee must provide the Outline Contingency Plan on the earlier of:

- (i) 31 December 2023 (or, if the System Delay arises after that date, 40 Business Days from the date on which the System Delay arises, unless there has been a System Delay Resolution before that); and
  - (ii) 10 Business Days from the date on which there ceases to be a realistic prospect that the Incoming Licensee will be able to reach agreement with the Historic Technology Provider and so implement the System Dependent Functionality such that it will achieve Full Implementation by the Backstop Date;
- (f) the Outline Contingency Plan must:
- (i) describe the Equivalent Functionality and the associated Terminal Roll-out which will achieve Full Implementation and provide such high level details (including as to technical, commercial and operational issues and as to associated costs) as are necessary to satisfy the Commission that such proposals are equivalent to, or better than, those described in the Delayed Functionality Plan with respect to each of the Matters to be Protected and, subject to those matters, the amount of Good Causes Contributions;
  - (ii) include dates by which each of the following would need to be achieved in order to ensure Full Implementation on or before the Backstop Date (in each case explaining why the proposed date is appropriate):
    - (1) submission of a Detailed Contingency Plan, which date shall be no later than 29 September 2024;
    - (2) finalisation of the Contingency Assurance Artefacts, which date shall be no later than 1 February 2025;
    - (3) the Incoming Licensee beginning to implement its Detailed Contingency Plan, which date shall be no later than 1 February 2025 (the "**Contingency Decision Deadline**");
- and shall be subject to the approval of the Commission;
- (g) if:
- (i) at any time there ceases to be a realistic prospect that the Incoming Licensee will; or
  - (ii) as at the Contingency Decision Deadline, there is any realistic prospect that the Incoming Licensee will not,

be able to achieve Full Implementation, the Incoming Licensee must immediately notify the Commission and, subject to the approval of the Commission, must implement its Detailed Contingency Plan to ensure that it achieves Full Implementation by the Backstop Date.

### **Process Changes**

- 4.6 The Incoming Licensee will cooperate with the Outgoing Licensee and the Commission, in accordance with any process specified by the Commission, with a view to agreeing any changes which may be necessary or appropriate to:
- (a) the Key Dates (in each of this Agreement and the Cooperation Agreement);
  - (b) the form or substance of any document, plan or other form of notification, remedial activity or assurance (including any board assurance) required to be agreed by the Incoming Licensee and the Outgoing Licensee and/or to be provided to the Commission; and/or
  - (c) any dates by which decisions need to be made or actions need to be taken,
- in each case to reflect the obligations of the Incoming Licensee under this clause 4 (“**Process Changes**”). This will include Process Changes required to establish milestones and assurance documentation to be provided by the Incoming Licensee in connection with the implementation of Delayed Functionality by the Delayed Date and the further development and tracking of the Delayed Functionality Plan. The Commission intends that Process Changes to reflect the Current Delayed Date shall be agreed (or, in accordance with clause 4.7, directed by the Commission) no later than 29 September 2023
- 4.7 If Process Changes are not agreed to the Commission’s satisfaction within a timeframe specified by the Commission, the Commission may issue an Implementation Direction or a Cooperation Direction specifying such Process Changes as it may determine are necessary or appropriate.
- 4.8 The Incoming Licensee must execute amendments to this Agreement and the Cooperation Agreement which reflect Process Changes which either:
- (a) have been agreed between the Incoming Licensee and the Commission and, if necessary, the Outgoing Licensee; or
  - (b) have been determined by the Commission in accordance with clause 4.7 above.
- 4.9 Save to the extent a Process Change has been agreed or directed by the Commission in accordance with this clause 4, before implementing any material element of Delayed Functionality (whether Remaining Independent Functionality or System Dependent Functionality) or of Equivalent Functionality, provide to the Commission a written statement, approved by the board of Directors of the Incoming Licensee, confirming that, to the best of the board of Directors’ knowledge and belief and based on the information that is available to the Incoming Licensee at the time, doing so will not damage any Matter to Protected, explaining the factors the board of Directors have considered in reaching its conclusions.

### **Ancillary Provisions**

- 4.10 For the purposes of this Agreement and, to the extent relevant, the New Licence:
- (a) Implementation will include all steps required to be taken pursuant to this clause 4 and references to the Application and the Purpose of Implementation shall be construed accordingly;

- (b) any steps required to be taken by the Incoming Licensee with respect to Implementation after the Start Date but before Fully Implemented Commencement will be “**Outstanding Implementation Steps**”; and
- (c) references to discussions, correspondence or agreements between the Incoming Licensee and the Historic Technology Provider shall include discussions, correspondence or agreements between the Outgoing Licensee and the Historic Technology Provider.

## 5. **INCOMING TRANSITION PLAN**

The Incoming Licensee must:

- (a) ensure that the Incoming Transition Plan is, save for any changes to dates to reflect the Delayed Functionality Plan and the Process Changes, at all times consistent with the Purpose of Implementation and (unless approved by the Commission in accordance with clause 7) the Application;
- (b) develop and, in accordance with clause 7, update the Incoming Transition Plan on an ongoing basis in consultation with the Commission and the Outgoing Licensee, to ensure that it accurately reflects the Application (save for any changes to dates to reflect the application of clause 4) and that the Incoming Licensee can continue to meet its obligations under this Agreement;
- (c) comply with the Incoming Transition Plan Obligations set out in Schedule 3 to achieve the Purpose of Implementation;
- (d) set out in its Incoming Transition Plan actions that the Incoming Licensee must take in relation to Implementation and timescales associated with those actions by reference to the Key Dates;
- (e) ensure that each version of the Incoming Transition Plan includes the Coordinated Action Plan; and
- (f) comply with its obligations under the Cooperation Agreement.

## 6. **DEVELOPMENT OF INCOMING TRANSITION PLAN**

- 6.1 The Successful Applicant submitted a Proposed Incoming Transition Plan to the Commission as part of the Application.
- 6.2 No later than the First Information Date, the Incoming Licensee must provide to the Outgoing Licensee (with a copy to the Commission) the Proposed Incoming Transition Plan, along with any proposed updates to the Proposed Incoming Transition Plan to reflect the Implementation Delay, which the Incoming Licensee has identified prior to the date of this Agreement.
- 6.3 The Incoming Licensee must cooperate with the Outgoing Licensee in accordance with the terms of the Cooperation Agreement in respect of the development and alignment of the Incoming Transition Plan, the Outgoing Transition Plan and the Coordinated Action Plan.
- 6.4 Once the Incoming Transition Plan has been agreed in accordance with the Cooperation Agreement, the Incoming Licensee must take all steps and actions set out in the Incoming Transition Plan (including the Coordinated Action Plan and the FIC Plan), as updated from time to time in accordance with the process set out in the Cooperation Agreement and

clause 6.5 below, within the timeframes envisaged by the Incoming Transition Plan, so as to achieve:

- (a) Initial Functionality on the Start Date; and
- (b) Delayed FIC by the Delayed Date.

6.5 Following agreement between the Commission and the Incoming Licensee, in accordance with clause 4.2, that the Delayed Date will be 28 February 2025, the Incoming Licensee must:

- (a) update its Incoming Transition Plan to reflect the version of the Delayed Functionality Plan provided to the Commission in accordance with clause 4.2, such that the Incoming Transition Plan includes a plan setting out the steps and actions to be taken by the Incoming Licensee to achieve Fully Implemented Commencement by the Delayed Date; and
- (b) develop and further update the Incoming Transition Plan (including the FIC Plan), in each case in accordance with the Key Dates.

6.6 If the Incoming Licensee proposes to make any changes to the Incoming Transition Plan, it must submit a Change Proposal in accordance with clause 7. The Incoming Licensee may not propose or agree any changes to the Incoming Transition Plan which shall have the effect of materially changing the Application.

## 7. CHANGE PROPOSALS

7.1 Subject to clause 7.2, if the Incoming Licensee considers that it is necessary to:

- (a) deviate from the Application (including any document included in, or appended to, the Application);
- (b) change the Incoming Transition Plan; or
- (c) change or vary this Agreement or any other document or matter approved or agreed under this Agreement (including any Approved Form Document),

it must submit a Change Proposal to:

- (i) any relevant Operational Committee for review in accordance with the relevant Terms of Reference; and
- (ii) the Incoming 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 Incoming Transition Governance Board.

7.2 No Change Proposal submitted by the Incoming Licensee may, either alone or together with any previously approved changes, represent any material deviation from the Application save to the extent that such change will, on and from the Start Date and/or the date on which Full Functionality is implemented, enable the Incoming Licensee better to fulfil the requirements of the New Licence.

7.3 Any proposed change to the Incoming Transition Plan which relates to the Purpose of Cooperation, or to the Coordinated Action Plan included in the Incoming Transition Plan,

will be considered (and, where appropriate, approved) by the Joint Transition Governance Board in accordance with clause 4 of the Cooperation Agreement.

**8. CONTINUING OBLIGATIONS**

The Commission may specify Continuing Obligations which the Incoming Licensee must, on and from the Start Date, discharge in an orderly and timely manner in accordance with the Continuing Obligations Plan and the New Licence.

**9. FIT AND PROPER CHECKS**

9.1 On or before the First Information Date, and at least once in every six month period thereafter, the Incoming Licensee must provide to the Commission an up to date chart accurately setting out the legal and beneficial ownership, the organisation and management of the Incoming Licensee.

9.2 On or before the First Confirmation Date, the Incoming Licensee must provide to the Commission:

(a) full details (as set out in the Information for Applicants on Fit and Proper Checks) of any Critical Function Employee or member of Transition Staff who has been identified by the Incoming Licensee in the Application as a person who falls within such a category but has not been confirmed as being Fit and Proper by the Commission prior to the date of this Agreement; and

(b) all such other information as the Commission may require in relation to such persons.

9.3 On or before the First Confirmation Date, the Incoming Licensee must confirm to the Commission and the Outgoing Licensee which of the persons it has identified as:

(a) a member of Transferring Licensee Staff;

(b) a member of Transferring Subcontractor Staff (to the extent such persons will transfer to the Incoming Licensee on or before the Start Date pursuant to the Transfer Regulations and are not made redundant by the Incoming Licensee);

(c) any individual employed by any person who has entered into a contract with the Outgoing Licensee who will transfer to a Lottery Subcontractor pursuant to the Transfer Regulations on or before the Start Date,

in each case where it intends that any such person will, on or following the Start Date, be a Lottery Supervisor or a Critical Function Employee.

9.4 From the First Confirmation Date to the Start Date, the Incoming Licensee must notify the Commission as soon as possible if it identifies:

(a) any additional person who is proposed to be, or will be at the Start Date, a Lottery Beneficiary, Lottery Supervisor or Critical Function Employee;

(b) any additional person who is proposed to be a member of Transition Staff;

(c) any:

(i) new or changed information; or



- (ii) information which, when originally provided to the Commission, was not accurate or complete,

about any person who is, or is proposed to be, a Lottery Beneficiary, Lottery Supervisor, Critical Function Employee or member of Transition Staff, where that information might be relevant to an assessment of whether that person meets the Fit and Proper Requirements,

in which case the Incoming Licensee must promptly provide to the Commission the full details of such person, and all such other information as the Commission may require in relation to such person.

9.5 Where:

- (a) information is provided to the Commission in relation to any person in accordance with clause 9.4(c)(ii); and
- (b) the Commission undertakes a further Fit and Proper Check in relation to that person, based on the information provided in accordance with clause 9.4(c)(ii),

the Incoming Licensee shall promptly reimburse the costs incurred by the Commission in carrying out that additional Fit and Proper Check in relation to such person.

9.6 If, during the Initial Implementation Period, it is necessary for a person to start work as a member of Transition Staff before the Commission has confirmed that such person is Fit and Proper, the Incoming Licensee may, provided that it has no reason to consider that such person does not meet the Fit and Proper Requirements, appoint that person as a member of Transition Staff on a provisional basis pending completion of those requirements, but must:

- (a) promptly notify the Commission that the member of Transition Staff has started work prior to the completion of the necessary Fit and Proper Checks; and
- (b) ensure that such member of Transition Staff is:
  - (i) adequately supervised by a person who the Commission has confirmed meets the Fit and Proper Requirements; and
  - (ii) prevented from accessing sensitive information, the disclosure of which might damage the interests of Participants, returns to Good Causes or the National Lottery more generally.

9.7 On or before the Third Readiness Date, the Commission will notify the Incoming Licensee of the names of any person who it is proposed will be a Lottery Beneficiary, Lottery Supervisor or Critical Function Employee who has been identified to the Commission by the Incoming Licensee but in respect of whom the Commission has not, at the Third Readiness Date, completed its Fit and Proper Checks.

9.8 In respect of each proposed Lottery Beneficiary or Lottery Supervisor notified to the Incoming Licensee in accordance with clause 9.7:

- (a) the Commission will continue to assess the fitness and propriety of that person and will notify the Incoming Licensee once its Fit and Proper Checks have been successfully completed; and

- (b) the Incoming Licensee may not permit such person to become a Lottery Beneficiary or a Lottery Supervisor until the Commission has confirmed that its Fit and Proper Checks have been successfully completed in accordance with clause 9.8(a).

9.9 In respect of each proposed Critical Function Employee notified to the Incoming Licensee in accordance with clause 9.7:

- (a) the Commission will continue to assess the fitness and propriety of that Critical Function Employee and will notify the Incoming Licensee once its Fit and Proper Checks have been successfully completed; and
- (b) on and from the Start Date until the date on which the Incoming Licensee receives notice from the Commission in accordance with clause 9.9(a) that the Commission has completed its Fit and Proper Checks in respect of that proposed Critical Function Employee, the Incoming Licensee must implement the policies, processes and procedures envisaged by Condition 7.6(b)(i) to (iii) of the New Licence in respect of that proposed Critical Function Employee.

9.10 The Incoming Licensee must:

- (a) not itself have or enter into, and must do everything it can to ensure that no Lottery Beneficiary has or enters into, any Arrangement which is at any time prohibited by or in breach of Sanctions;
- (b) unless the Commission agrees otherwise in accordance with clause 9.11, implement appropriate processes, policies and procedures to enable the Incoming Licensee to:
  - (i) monitor Sanctions developments and promptly identify any existing Arrangements entered into by the Licensee or a Lottery Beneficiary which, due to the introduction of any new Sanction or the amendment of an existing Sanction, becomes or will become prohibited by or in breach of Sanctions; and
  - (ii) assure itself that no person who is directly or indirectly connected with the Incoming Licensee or a Lottery Beneficiary has or enters into an Arrangement which is prohibited by or in breach of Sanctions;
- (c) if the Incoming Licensee identifies any Arrangement of the nature described in paragraph 9.10(b) above, it must:
  - (i) promptly (and in any event, within two (2) Business Days) notify the Commission of this, providing full details of the Arrangement and the manner in which Sanctions apply or will apply to it, and will promptly on request provide any further information or evidence required by the Commission;
  - (ii) take (or, as applicable, do everything it can to ensure that the relevant Lottery Beneficiary or other relevant person takes) prompt action to terminate the Arrangement in a manner which complies with the relevant Sanctions, including taking any steps specified by the Commission in connection with the Arrangement or its termination; and

- (iii) confirm to the Commission when the relevant Arrangement has been terminated, and provide any further information or evidence requested by the Commission.

9.11 The Incoming Licensee may, in its communications with the Commission pursuant to clause 9.10, identify any Sanctions which the Incoming Licensee considers, because of either or both of:

- (a) the nature of the Sanctions themselves; or
- (b) the nature of the governmental or other competent authority who has imposed those Sanctions,

should be an exception to the requirements of clause 9.10. The Commission may, but is not required to, agree that such Sanctions should be an exception to those requirements.

9.12 A failure by the Incoming Licensee to comply with its obligations under clause 9.10 will be a material breach of this Agreement.

## 10. PROTECTION FOR PARTICIPANT FUNDS

10.1 No later than the First Information Date, the Incoming Licensee must provide to the Commission a copy of the Trust Implementation Agreement in the Approved Form executed by the Incoming Licensee and the National Lottery Trustee.

10.2 Following its execution in accordance with clause 10.1, the Trust Implementation Agreement will be a Designated Lottery Subcontract and any proposed amendments to that agreement must be notified to the Commission in accordance with clause 13.10.

10.3 The Incoming Licensee must include details of its progress in meeting the milestones set out in the Trust Implementation Agreement, including:

- (a) finalising and executing each of the Trust Documents, in each case in the Approved Form;
- (b) establishment of the Accounts;
- (c) adoption and implementation of the Funds Protection Policies in the Approved Form, including the establishment of the Funds Protection Criteria;
- (d) in respect of the development and implementation of Trust and Reserve Arrangements; and
- (e) any other matter relating to the establishment of the Trust Arrangements or the Trust and Reserve Arrangements set out in the Trust Implementation Agreement,

in the reports it submits to the Commission in accordance with clause 18.1. Where any such details include any issue, fact, matter or circumstance which is, or which creates, a material risk that the Trust Arrangements or the Trust and Reserve Arrangements will not be fully and adequately implemented by the Start Date, this will be an Implementation Issue.

10.4 During the Initial Implementation Period, the Incoming Licensee may submit a Change Proposal in connection with any amendments to the Approved Form Trust Deed which it has agreed with the National Lottery Trustee and considers are necessary or appropriate:

- (a) in connection with the grant of a s6 licence for a Game;
- (b) in connection with, or to facilitate the implementation of, the Trust Arrangements and/or the Trust and Reserve Arrangements; or
- (c) to align the Approved Form Trust Deed and the other Trust Documents (in particular with the Scottish Security Documents and the Approved Form Final Reserve Documentation),

provided that in each case the Incoming Licensee must satisfy the Commission that such changes:

- (i) will achieve the Funds Protection Outcome; and
- (ii) comply with Condition 16 of the New Licence.

10.5 During the Initial Implementation Period, the Incoming Licensee may submit a Change Proposal in connection with any amendments to the Approved Form Final Reserve Documentation which it considers are necessary or appropriate to ensure that the Final Reserve Documentation aligns and works mechanically with the Approved Form Trust Deed (as that deed may be amended in accordance with this Agreement).

10.6 During the Initial Implementation Period, the Incoming Licensee must notify the Commission promptly upon becoming aware of any:

- (a) new or changed information; or
- (b) information which, when originally provided to the Commission, was not accurate or complete,

about the National Lottery Trustee or the Account Bank, where that information might be relevant to an assessment of whether that person meets the Trustee Requirements or the Account Bank Requirements, in which case the Incoming Licensee must provide to the Commission the full details of that information, and all such other additional information as the Commission may require.

10.7 If at any time during the Initial Implementation Period the Commission is no longer satisfied that either or both of the National Lottery Trustee or the Account Bank meet (or will on the Start Date meet) the Trustee Requirements or the Account Bank Requirements (as applicable), the Incoming Licensee shall on direction from the Commission, take any of the following steps as may be specified by the Commission:

- (a) do everything it can to ensure that the National Lottery Trustee or Account Bank (taking account of any requirements of the Commission) take such remedial steps as may be necessary to ensure that they continue (and will continue on the Start Date) to meet the Trustee Requirements or the Account Bank Requirements (as applicable);
- (b) implement additional safeguards or other protections (taking account of any requirements of the Commission) to ensure that no Matter to be Protected is, or will be, harmed by the failure of the National Lottery Trustee to meet the Trustee Requirements or the Account Bank to meet the Account Bank Requirements (as applicable);

- (c) identify alternative providers of trustee services or account banking services which would meet the Trustee Requirements or the Account Bank Requirements (as applicable); and/or
  - (d) terminate the appointment of the National Lottery Trustee or the Account Bank (as applicable) and appoint a Replacement Trustee or a Replacement Account Bank who has been approved by the Commission by serving a Trustee Replacement Notice or an Account Bank Replacement Notice.
- 10.8 The Incoming Licensee must ensure that neither the National Lottery Trustee nor the Account Bank resigns from its position or ceases to provide the services required to be provided by it under the relevant Trust Documents until a Replacement Trustee or Replacement Account Bank (as applicable) has been appointed and the relevant arrangements have been transferred to it.
- 10.9 If a Trustee Replacement Notice or an Account Bank Replacement Notice has been served by the Incoming Licensee during the Initial Implementation Period:
- (a) if the Trust Arrangements (or any relevant part of them) are being transferred to a Replacement Trustee, the Incoming Licensee must itself cooperate, and must do everything it can to ensure the National Lottery Trustee and the Replacement Trustee cooperates with each other (including by taking all steps and entering into any documents required by the Incoming Licensee or the Commission to ensure such transfer);
  - (b) if the Trust Arrangements (or any relevant part of them) are being transferred to a Replacement Account Bank, the Incoming Licensee must itself cooperate, and must do everything it can to ensure that each of the National Lottery Trustee, the Account Bank and the Replacement Account Bank cooperates with each other (including by taking all steps and entering into any documents required by the Incoming Licensee or the Commission to ensure such transfer),

in each case to ensure that the Trust Arrangements can be transferred with the minimum of disruption and that there is no damage to any of the Matters to be Protected.

- 10.10 If the Incoming Licensee intends to promote and operate the EuroMillions Game(s) (and is not already promoting or operating those Games as Outgoing Licensee), prior to the Start Date but after the Incoming Licensee has been granted a licence under section 6 of the Act in relation to such EuroMillions Game(s), the Incoming Licensee must:
- (a) enter into the EuroMillions Trust Documents;
  - (b) establish any accounts and take any other steps in such manner and at such time as is necessary to enable the promotion and operation of the EuroMillions Game(s), as required by the Trust Documents and the EuroMillions Trust Documents,

in accordance with the Trust Implementation Agreement and any timetable to be agreed between the Incoming Licensee, the National Lottery Trustee and the EuroMillions Trustee.

## 11. **S6 LICENCES**

- 11.1 The Incoming Licensee has specified details of the Games it proposes to make available to Participants:

- (a) on and from the Start Date, including any Continuing Game (the “**Start Date Committed Games**”); and
  - (b) during the first two Licence Years of the Term (the “**Initial Committed Games**”),  
together with, in the case of each such Game, its best estimate of the period of time following the award of a licence under section 6 of the Act in respect of such Game which would be necessary for the Incoming Licensee to successfully launch that Game (the “**CG Implementation Timetable**”).
- 11.2 On or before the First Information Date, the Commission shall, in respect of each Committed Game, provide to the Incoming Licensee a proposed timetable for:
- (a) the submission by the Incoming Licensee to the Commission of an application under section 6 of the Act in respect of that Committed Game; and
  - (b) the consideration and, if the relevant criteria are met, approval of such application by the Commission,  
(the “**CG S6 Application Timetable**”).
- 11.3 Following consultation with the Incoming Licensee, on or before the First Initial Checkpoint, the Commission shall provide to the Incoming Licensee a revised version of the CG S6 Application Timetable. Changes to the CG S6 Application Timetable may be made at the direction of, or with the consent of, the Commission.
- 11.4 In respect of each Committed Game, the Incoming Licensee must submit to the Commission an application under section 6 of the Act (in a form prescribed by the Commission):
- (a) no later than the Start Date and, if earlier, by a date which provides sufficient time for that application to be processed and approved and for the Game to be implemented in accordance with the CG S6 Application Timetable and the CG Implementation Timetable respectively, by no later than:
    - (i) in the case of a Start Date Committed Game, the Start Date; and
    - (ii) in the case of an Initial Committed Game, the end of Licence Year 2; and
  - (b) in accordance with any other processes and procedures specified by the Commission.
- 11.5 Each application submitted by the Incoming Licensee in accordance with clause 11.4 must be accompanied by an assurance statement, certified as approved by the board of Directors of the Incoming Licensee, confirming that the Game which is the subject of such application will comply with, and is consistent with the outcomes set out in, the New Licence.
- 11.6 The Commission will review all applications received under clause 11.4 in light of its statutory duties. The Commission will use reasonable endeavours to complete that review in accordance with the CG S6 Application Timetable.
- 11.7 For the avoidance of doubt, any review of any Committed Game undertaken by the Commission during the Competition will not in any way fetter or affect the Commission's

determination of any application made by the Incoming Licensee in accordance with section 6 of the Act.

11.8 Any proposal by the Incoming Licensee to change any of the Committed Games for the purposes of this Agreement will be a Change Proposal.

12. **ANCILLARY ACTIVITIES**

12.1 If, in its Application, the Successful Applicant has set out the details of the proposed Ancillary Activities which are material to the Application (the "**Application Ancillary Activities**"), this clause 12 shall apply.

12.2 On or before the First Initial Checkpoint, the Commission shall, in respect of each Application Ancillary Activity, provide to the Incoming Licensee a proposed timetable for:

(a) the submission by the Incoming Licensee to the Commission of applications for approval by the Commission in respect of each proposed Application Ancillary Activity; and

(b) the consideration of such applications by the Commission,

(the "**Ancillary Activity Timetable**").

12.3 Following consultation with the Incoming Licensee, on or before the First Scope Date, the Commission shall provide to the Incoming Licensee an updated version of the Ancillary Activity Timetable. Changes to the Ancillary Activity Timetable may be made at the direction of, or with the consent of, the Commission.

12.4 The Incoming Licensee must submit to the Commission an application, which must include any and all details or information required by the Commission, in respect of any such Ancillary Activity in accordance with the Ancillary Activity Timetable.

12.5 The Commission will review any application which it receives pursuant to clause 12.4 in light of its statutory duties. If the Incoming Licensee proposes to undertake an Ancillary Activity from the Start Date, the Commission will use reasonable endeavours to complete that review in accordance with the Ancillary Activity Timetable and in sufficient time to enable the Incoming Licensee to undertake the Application Ancillary Activities (if approved by the Commission) from the Start Date.

12.6 For the avoidance of doubt, any review or evaluation of any proposed Application Ancillary Activity undertaken by the Commission during the Competition will not in any way fetter or affect the Commission's determination of any application made by the Incoming Licensee in accordance with this clause 12.

12.7 Upon request from the Incoming Licensee, the Commission may (but shall not be obliged to) consider any proposal for an Ancillary Activity which is not an Application Ancillary Activity.

12.8 The Commission may from time to time specify a process which the Incoming Licensee must follow if the Incoming Licensee requests that the Commission consider approving any Ancillary Activities in accordance with clause 12.7.

12.9 If the Commission approves any Ancillary Activity pursuant to this Agreement, Schedule 3 of the Draft Licence shall be amended to include the details of that activity.

12.10 If the Commission gives conditional approval for any Ancillary Activity pursuant to this Agreement:

- (a) the Incoming Licensee must notify the Commission promptly upon the satisfaction of each condition, providing any such evidence and information as the Commission may request; and
- (b) once the Commission has confirmed that any and all conditions to approval have been satisfied, Schedule 3 of the Draft Licence shall be amended to include the details of the relevant Ancillary Activity.

### 13. **CONTRACTS**

13.1 In the Application, and otherwise as part of the Competition, the Commission has been provided with the details of certain Key Subcontracts (including the identity of relevant Key Subcontractors) which the Incoming Licensee has entered into, or intends to enter into, in connection with its operation of the National Lottery during the Term. On or before the First Initial Checkpoint (and after the First Initial Checkpoint, at all times prior to the Start Date and on a continuing basis) the Incoming Licensee must:

- (a) promptly notify the Commission of the details of any other Key Subcontracts it proposes to enter into in advance of, or during, the Term; and
- (b) otherwise, promptly provide any information the Commission may require in relation to any Lottery Subcontract, or category of Lottery Subcontracts,

in each case providing sufficient detail to allow the Commission to determine whether to designate that Lottery Subcontract as a Designated Lottery Subcontract.

13.2 The Incoming Licensee will not enter into any Lottery Subcontract unless:

- (a) the Commission has expressly confirmed (in this document, the New Licence or otherwise) whether or not that Lottery Subcontract will be a Designated Lottery Subcontract; or
- (b) the Incoming Licensee has provided the details and information with respect to that Lottery Subcontract in accordance with clause 13.1 and:
  - (i) where such information is provided on or before the First Initial Checkpoint, the Commission has not notified the Incoming Licensee that such Lottery Subcontract is a Designated Lottery Subcontract on or before the First Confirmation Date; or
  - (ii) otherwise, the Commission has not notified the Incoming Licensee that such Lottery Subcontract is a Designated Lottery Subcontract within 20 Business Days of receiving that information.

Once a Lottery Subcontract has been confirmed as a Designated Lottery Subcontract, the provisions of clause 13.6(c) and 13.9 apply.

13.3 On or before the date which is 30 Business Days from the date of this Agreement, the Incoming Licensee must provide to the Commission its Proposed Required Standard Terms.



- 13.4 On or before the First Initial Checkpoint the Commission will notify the Incoming Licensee of any amendments which are required to be made to the Proposed Required Standard Terms in order to ensure that such terms fulfil the outcomes set out in Condition 21.4 of the Draft Licence.
- 13.5 If the Incoming Licensee:
- (a) accepts the amendments notified to it in accordance with clause 13.4, the Proposed Required Standard Terms shall be updated to include such amendments and such terms shall be in the Approved Form; or
  - (b) does not agree with any amendment notified to it in accordance with clause 13.4, the matter shall be referred to the Incoming Transition Governance Board. The Incoming Transition Governance Board shall determine the Approved Form of the Proposed Required Standard Terms.
- 13.6 Other than Lottery Subcontracts which have been entered into prior to the date of this Agreement (to which clause 13.11 below applies), in respect of each Lottery Subcontract which is required to be in place prior to, or with effect from, the Start Date in order for the Incoming Licensee to implement the Application, the Incoming Licensee must:
- (a) ensure that each Lottery Subcontract (including those Lottery Subcontracts to which the Incoming Licensee is not a party) protects the Matters to be Protected;
  - (b) subject to clause 13.8, do everything it can to ensure that each Lottery Subcontract includes the Required Standard Terms;
  - (c) where such Lottery Subcontract is a Designated Lottery Subcontract, ensure that such contract has been provided to the Commission in accordance with clause 13.9, and that it contains any amendments specified by the Commission in accordance with clause 13.9(b) (and no other changes) before it is executed by the Incoming Licensee and the relevant contract counterparty; and
  - (d) ensure that before the Second Readiness Date each Lottery Subcontract is executed by the Incoming Licensee and any relevant contract counterparties and either is in effect, or will be in effect on and from the Start Date.
- 13.7 The Incoming Licensee may identify to the Commission any Lottery Subcontracts which it proposes to be categorised as Minor Lottery Subcontracts, being a Lottery Subcontract which:
- (a) is:
    - (i) not important for the continuous operation of the National Lottery;
    - (ii) capable of being easily and promptly replaced, if necessary, by the Incoming Licensee entering into a replacement Lottery Subcontract with another provider; or
  - (b) the Lottery Subcontract does not otherwise have to include some or all of the Approved Form Required Standard Terms.

The Incoming Licensee must provide any information or supporting documentation the Commission may require in order to allow it to consider whether any Lottery Subcontract meets the criteria described in (a) and (b) above.

- 13.8 Any Lottery Subcontract which the Commission confirms in writing to the Incoming Licensee may be categorised as a Minor Lottery Subcontract in accordance with clause 13.7 does not need to include the Approved Form Required Standard Terms.
- 13.9 In respect of each Designated Lottery Subcontract or Related Party Arrangement, the Incoming Licensee must:
- (a) notify the Commission at least 20 Business Days before it intends to finalise or enter into a Designated Lottery Subcontract or Related Party Arrangement (as the case may be), providing the Commission with a copy of such contract and any further details the Commission may require;
  - (b) where the Commission specifies any amendments which must be made to that Designated Lottery Subcontract or Related Party Arrangement (as the case may be) during the 20 Business Day period referred to in clause 13.9(a), only enter into that Designated Lottery Subcontract or Related Party Arrangement (as the case may be) if it contains the amendments specified by the Commission (and no other changes); and
  - (c) not enter into such Designated Lottery Subcontract or Related Party Arrangement (as the case may be) if the Commission directs that it should not do so.
- 13.10 After a Designated Lottery Subcontract or Related Party Arrangement (as the case may be) has been entered into by the Incoming Licensee in accordance with clause 13.9, the Incoming Licensee must notify the Commission if it, any Licensee Subsidiary or (where the Incoming Licensee or any Licensee Subsidiary is not a party to the Designated Lottery Subcontract or Related Party Arrangement) a Lottery Subcontractor, intends to amend a Designated Lottery Subcontract or Related Party Arrangement (as the case may be), the Incoming Licensee must:
- (a) notify the Commission at least 20 Business Days before the amendment; and
  - (b) not agree, and must procure that no Licensee Subsidiary or Lottery Subcontractor (if applicable) agrees, to the amendment of the Designated Lottery Subcontract or Related Party Arrangement (as the case may be) unless the amendment is in the form notified to the Commission, subject only to any changes specified by the Commission during the 20 Business Day period referred to above (and no other changes).
- 13.11 Where the Incoming Licensee has entered into a Lottery Subcontract or Related Party Arrangement prior to the date of this Agreement, the Incoming Licensee must:
- (a) ensure that any such contract is in all material respects consistent with the information provided to the Commission in the Application;
  - (b) provide copies of such contracts, and any additional information about the relevant Lottery Subcontracts or Related Party Arrangements, to the Commission on or before the First Information Date;
  - (c) unless the contract is a Minor Lottery Subcontract:
    - (i) do everything it can to agree with the relevant Lottery Subcontractor that the Lottery Subcontract should be amended to include the Approved Form Required Standard Terms, promptly once those have been finalised in accordance with clause 13.5; and

- (ii) must promptly notify the Commission within three months of the date on which the Required Standard Terms are confirmed as being in Approved Form, if the Lottery Subcontract cannot be amended to include those Approved Form Required Standard Terms;
- (d) if the Commission confirms to the Incoming Licensee prior to the First Confirmation Date that a Lottery Subcontract which has been entered into by the Incoming Licensee prior to the date of this Agreement is a Designated Lottery Subcontract:
  - (i) the Commission may, at the same time, specify amendments which are required to be made to such Lottery Subcontract;
  - (ii) the Incoming Licensee must do everything it can to agree with the relevant Lottery Subcontractor that the Designated Lottery Subcontract is varied to reflect the amendments specified by the Commission (with no other amendments); and
  - (iii) the Incoming Licensee must promptly notify the Commission if, within three months from the notification described in 13.11(d)(i) above, the Designated Lottery Subcontract cannot be amended to reflect the Commission's requirements; and
- (e) in respect of any Related Party Arrangement entered into prior to the date of this Agreement by the Incoming Licensee:
  - (i) the Commission may:
    - (1) confirm such arrangement is in the Approved Form; or
    - (2) prior to the First Confirmation Date, specify amendments which are required to be made to such Related Party Arrangement;
  - (ii) the Incoming Licensee must agree with the counterparty to such Related Party Arrangement that such arrangement is varied to reflect the amendments specified by the Commission in accordance with 13.11(e)(i)(2) above (with no other amendments); and
  - (iii) the Incoming Licensee must promptly notify the Commission if, within 20 Business Days from the notification described in 13.11(e)(i)(2) above, the Designated Lottery Subcontract cannot be amended to reflect the Commission's requirements;
- (f) If the Incoming Licensee notifies the Commission in accordance with clauses 13.11(c), 13.11(d)(iii) or 13.11(e)(iii) that a variation to the relevant contract cannot be made:
  - (i) the Commission may direct the Incoming Licensee to exercise any rights it may have under the relevant Lottery Subcontract or Related Party Arrangement to terminate that contract prior to the Start Date;
  - (ii) any costs associated with such termination prior to the Start Date will not be Recoverable Implementation Costs; and

- (iii) any costs incurred by the Incoming Licensee in relation to that Lottery Subcontract or Related Party Arrangement during the Term will be Excluded Costs.

**14. CO-BRANDING APPLICATIONS**

- 14.1 If, after the Start Date, the Incoming Licensee proposes to use the National Lottery Brand together with another brand, company, business name or identity, in a way which would, without the Commission's prior approval, be a breach of Condition 13.2 of the New Licence, the Incoming Licensee must apply to the Commission requesting approval for such use, providing full details of the brand, company, or business name which it is proposed would be associated with the National Lottery Brand, and details of how the Incoming Licensee intends to use such co-branding (a "**Co-Branding Application**").
- 14.2 The Incoming Licensee must provide such further information as the Commission may require in relation to its Co-Branding Application.
- 14.3 Where the Incoming Licensee proposes that the use or association described in any Co-Branding Application will be used with effect from the Start Date, the Incoming Licensee must submit its Co-Branding Application to the Commission for consideration no later than the Second Final Checkpoint.
- 14.4 If the Commission approves a Co-Branding Application, such approval will constitute the advance approval of the Commission for the use of the National Lottery Brand as described in the Co-Branding Application, in accordance with Condition 13.2(b) of the New Licence. If the Commission's approval is subject to certain conditions, the Incoming Licensee must comply with those conditions when using the National Lottery Brand as described in the Co-Branding Application.

**15. THIRD PARTY APPROVALS**

- 15.1 The Incoming Licensee warrants and undertakes that the only approvals, consents, licences or authorisations required by it from any person other than Commission in order to run the National Lottery in accordance with the Application are the Required Third Party Approvals.
- 15.2 Unless otherwise agreed with the Commission, the Incoming Licensee must obtain all Required Third Party Approvals on or before the Second Final Checkpoint.

**16. COMMISSION APPROVALS**

- 16.1 The documents attached in Appendix 2 were submitted to the Commission by the Successful Applicant as part of its Application and are in the Approved Form. Save as specifically provided in this Agreement, those documents may not be varied except in accordance with clause 7.
- 16.2 The Incoming Licensee must obtain the Commission's approval, prior to the First Readiness Date, that each of the documents listed in Part A and Part B of Schedule 4 is in the Approved Form (other than the Trust Documents, to which the provisions of clause 26.2 will apply). For this purpose, the Incoming Licensee must provide copies of all such documents and full written details of all such matters to the Commission on or before the Second Final Checkpoint.

16.3 Any proposal by the Incoming Licensee to change any document or matter which has been approved by the Commission as referred to in clause 16.1 or 16.2 will be a Change Proposal.

17. **AVAILABILITY OF RESOURCES**

17.1 The Application included copies of the Initial Finance Agreements along with a description of any conditions contained in those Initial Finance Agreements, including by reference to the Key Dates at which, assuming the relevant conditions are satisfied, each Initial Finance Agreement would become unconditional and funds would be advanced to the Incoming Licensee.

17.2 Immediately prior to entering into this Agreement, the Incoming Licensee submitted a Resource Availability Assurance Statement (as defined in clause 17.5 below) to the Commission, and confirmed that the Initial Finance Agreements submitted to the Commission with the Application were:

- (a) to the extent the same were stated in the Application to become unconditional following receipt of the Award Notification, unconditional;
- (b) to the extent the same were stated in the Application to be subject to a condition as to receipt of the Award Notification but also subject to certain other conditions relating to the process of Implementation, unconditional as to the Award Notification and otherwise conditional only to the extent specified in the Application (such remaining conditions and any conditions under any Supplemental Finance Agreement or New Finance Agreement being "**Continuing Implementation Conditions**").

17.3 The Incoming Licensee must:

- (a) promptly confirm to the Commission, by reference to the information provided in the Application as described in clause 17.1 or to the Commission in connection with any application for consent under paragraph (b) below, when a Continuing Implementation Condition has been fulfilled;
- (b) prior to the Start Date, not make or enter into, or permit to be made or entered into, any amendment to the terms of any Initial Finance Agreement or any Supplemental Finance Agreement or New Finance Agreement without the prior written consent of the Commission unless the Board of Directors of the Incoming Licensee first delivers to the Commission a Resource Availability Assurance Statement together with evidence that the entry into or amendment of any such Finance Agreement will have no material impact on the availability of financial or operational resources of the Incoming Licensee; and
- (c) promptly notify the Commission if:
  - (i) it is reasonably likely that a Continuing Implementation Condition will not be met within the timeframe described in the Application;
  - (ii) it receives notice from any lender under a Finance Agreement that there has been an event of default (or a potential event of default) under that Finance Agreement; and/or
  - (iii) notice has been served by a party to the Finance Agreement terminating, or purporting to terminate, that agreement.

The Finance Agreements to which the Incoming Licensee or any Licensee Subsidiary is party as at the Start Date will be the Approved Form Finance Agreements for the purposes of Condition 5.4 of the New Licence.

17.4 The Incoming Licensee must ensure that:

- (a) each of the Resource Availability Commitments remain true at all times throughout the Initial Implementation Period; and
- (b) paragraph (a) of the Resource Availability Commitments remain true at all times until Full Implementation has been achieved.

17.5 The Incoming Licensee must submit to the Commission an assurance statement, certified as approved by the board of Directors of the Incoming Licensee, confirming that the Resource Availability Commitments are true as at the date of the statement (a “**Resource Availability Assurance Statement**”):

- (a) no more than ten<sup>1</sup> Business Days following the end of each month, or at less frequent intervals if directed by the Commission;
- (b) five Business Days before each of:
  - (i) the First Confirmation Date; and
  - (ii) the Final Confirmation Date; and
- (c) as otherwise requested by the Commission,

unless at that time there is an Actual Resource Shortfall and the Incoming Licensee is complying with clause 17.7. Each Resource Availability Assurance Statement must be accompanied by such supporting evidence or other material as the Commission may require provided such requirement is provided to the Incoming Licensee no less than five Business Days before the date upon which the relevant Resource Availability Assurance Statement is to be provided.

17.6 The “**Resource Availability Commitments**” are that:

- (a) the Incoming Licensee has and (to the best of its knowledge and belief) will have, sufficient financial and operational resources to implement the Application and the Incoming Transition Plan and prepare to run the National Lottery (including to pay all costs actually incurred or accrued by the Incoming Licensee in connection with Implementation as they fall due) so it will comply with the New Licence and run the National Lottery:
  - (i) with Initial Functionality from the Start Date; and
  - (ii) in accordance with clause 4, with Full Functionality from the Delayed Date, or otherwise implement as required in accordance with clause 4 in the event of any System Delay;
- (b) each of the Implementation Financial Covenants are complied with; and

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<sup>1</sup> Amended by consent 08.12.2022

- (c) the Implementation Contingency Protections are in place in accordance with the Implementation Contingency Protection Documents.
- 17.7 The Incoming Licensee must promptly notify the Commission if any fact, matter or circumstance means that any of the Resource Availability Commitments are untrue (an **“Actual Resource Shortfall”**), providing all relevant details (an **“Actual Resource Shortfall Notice”**) and:
- (a) within 10 Business Days of the date of an Actual Resource Shortfall Notice, the Incoming Licensee must provide to the Commission a detailed plan setting out the steps the Incoming Licensee will take to promptly remedy the Actual Resource Shortfall (an **“Actual Resource Shortfall Remediation Plan”**);
  - (b) the Incoming Licensee must implement any Actual Resource Shortfall Remediation Plan, and must provide weekly updates to the Commission on its progress in remedying the Actual Resource Shortfall;
  - (c) the Commission may, from time to time, provide comments to the Incoming Licensee on the Actual Resource Shortfall Remediation Plan and the steps being taken to implement it, and the Incoming Licensee must take account of such comments;
  - (d) if, following implementation of the Actual Resource Shortfall Remediation Plan, the Actual Resource Shortfall ceases to exist and as a result the Resource Availability Commitments cease to be untrue:
    - (i) the Incoming Licensee must notify the Commission (including a Resource Availability Assurance Statement); and
    - (ii) the provisions of (a) to (c) above will cease to apply with respect to the Actual Resource Shortfall.
- 17.8 The Incoming Licensee must promptly notify the Commission if it becomes aware of any fact, matter or circumstance which creates a material risk that any of the Resource Availability Commitments may become untrue (a **“Potential Resource Shortfall”**), providing all relevant details of the Potential Resource Shortfall, including the reasons why there is a material risk that the Resource Availability Commitments may become untrue (**“Potential Resource Shortfall Notice”**) and:
- (a) within 10 Business Days of the date of a Potential Resource Shortfall Notice, the Incoming Licensee must provide to the Commission a detailed plan setting out the steps the Incoming Licensee will take to promptly address the Potential Resource Shortfall to ensure that it does not become an Actual Resource Shortfall (a **“Potential Resource Shortfall Remediation Plan”**);
  - (b) the Incoming Licensee must implement the Potential Resource Shortfall Remediation Plan, and must provide weekly updates to the Commission on its progress in addressing the Potential Resource Shortfall to ensure that it does not become an Actual Resource Shortfall;
  - (c) the Commission may, from time to time, provide comments to the Incoming Licensee on the Potential Resource Shortfall Remediation Plan and the steps being taken to implement it, and the Incoming Licensee must take account of such comments;

- (d) if, notwithstanding compliance with (a) to (c) above, the Potential Resource Shortfall becomes an Actual Resource Shortfall, clause 17.7 above will apply; and
- (e) if, following implementation of the Potential Resource Shortfall Remediation Plan, there ceases to be a Potential Resource Shortfall such that there is no longer a material risk that the Resource Availability Commitments may become untrue:
  - (i) the Incoming Licensee must notify the Commission (including a Resource Availability Assurance Statement); and
  - (ii) the provisions of (a) to (d) above will cease to apply with respect to the Potential Resource Shortfall in question.

17.9 Upon occurrence of an Actual Resource Shortfall or a Potential Resource Shortfall (or such later date as the Commission will direct), if directed by the Commission, the Incoming Licensee:

- (a) must not pay any dividends or make any other distribution to its shareholders, including the distribution of any tax losses;
- (b) must (if directed by the Commission) ensure that any Licensee Subsidiary does not, make any payments under a Related Party Arrangement, other than payments owed under arrangements which are necessary for the Purpose of Implementation and are on arm's length terms; and/or
- (c) must not make any payment to repay any debt, or interest on any debt, owed by the Incoming Licensee under any Finance Agreement between the Incoming Licensee and a Connected Party of the Incoming Licensee.

17.10 Where the restrictions set out in clause 17.9 above apply, the Incoming Licensee must comply with them until the Commission notifies the Incoming Licensee in writing that those restrictions cease to apply.

17.11 Where the Incoming Licensee has identified an Arrangement of the nature described in clause 9.10(b), any Resource Availability Assurance Statement provided by the Incoming Licensee after the date of the notice given to the Commission pursuant to clause 9.10(c)(i) must include confirmation that the existence of the Arrangement and/or its termination in accordance with this Agreement:

- (a) will not cause any of the Resource Availability Commitments to be untrue; or
- (b) will cause a Potential Resource Shortfall, in which case the provisions of clauses 17.9 and 17.10 will apply.

17.12 A failure by the Incoming Licensee to comply with its obligations under clauses 17.5, 17.7, 17.8, 17.9 or 17.11 will be a material breach of this agreement.

## 18. **MONITORING IMPLEMENTATION AND IMPLEMENTATION ISSUES**

18.1 Until Full Implementation is achieved, the Incoming Licensee must:

- (a) provide reports to the Commission weekly (or at such other frequency as the Commission may specify in writing) containing sufficient detail (including such detail as the Commission may specify) regarding progress in Implementation in



accordance with the timetable specified in the Incoming Transition Plan as may be necessary for the Commission to assess such progress;

- (b) notify an Operational Committee (where applicable) and the Incoming Transition Governance Board of any:
    - (i) Implementation Issue which may arise; or
    - (ii) any fact, matter or circumstance which creates a material risk that any Implementation Issue may arise,
- in accordance with clause 19.5;
- (c) do everything necessary to enable the Commission to conduct Implementation Reviews when required by the Commission;
  - (d) on reasonable prior notice, provide the Commission with access to:
    - (i) all premises of the Incoming Licensee;
    - (ii) such books, records, reports or other documents or information and such employees of the Incoming Licensee,

in each case as may be required from time to time by the Commission for the purposes of assessing Implementation.

18.2 If, following any Implementation Review, the Commission makes any recommendations to the Incoming Licensee regarding Implementation, the Incoming Licensee will consider those recommendations in good faith and provide promptly a written response setting out the steps it will take (if any) to address those recommendations.

18.3 If:

- (a) the Incoming Licensee notifies the Commission of any Implementation Issue, or fact, matter or circumstance which creates a material risk that any Implementation Issue may arise in accordance with clause 18.1(b); and
- (b)
  - (i) an Implementation Review:
    - (1) determines that such issue, fact, matter or circumstance creates a material risk that the Incoming Licensee will commit a material breach of this Agreement;
    - (2) makes any recommendations as to steps the Incoming Licensee should take in order to avoid such material breach occurring; and
  - (ii) the Incoming Licensee fails promptly to implement such recommendations,

the Incoming Licensee shall be in material breach of this Agreement.

## 19. **GOVERNANCE**

19.1 The Incoming Transition Governance Board will:

- (a) oversee and review Implementation and the operation of this Agreement; and

- (b) review and confirm all significant milestones (including achievement against agreed service and delivery acceptance criteria and anticipated performance against those milestones) under the Incoming Transition Plan.
- 19.2 The Incoming Licensee will ensure that it fully participates in the Incoming 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.
- 19.3 Where this Agreement refers to a decision or approval by the Incoming Transition Governance Board:
  - (a) the parties shall ensure that the members of the Incoming Transition Governance Board 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 Incoming Transition Governance Board have not reached unanimous agreement on the relevant matter, the members of the Incoming Transition Governance Board appointed by the Commission may determine the decision of the Incoming Transition Governance Board.
- 19.4 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 frequency,as the Commission may specify.
- 19.5 If the Incoming Licensee identifies any Implementation Issue which may arise, or any fact, matter or circumstance which creates a material risk that any Implementation Issue may arise, the Incoming Licensee will ensure that:
  - (a) where that 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 Incoming 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 Incoming 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, is escalated to the Incoming Transition Governance Board which will discuss it at its next scheduled meeting (or earlier, if required by the Commission);

- (c) in all cases, promptly takes all steps open to it to rectify the Implementation Issue; and
- (d) information in relation to the rectification of any Implementation Issue must be included in the weekly update reports provided to the Commission in accordance with clause 18.1(a).

20. **ASSURANCE OF IMPLEMENTATION PROGRESS**

20.1 On each of the Second Final Checkpoint and Second Readiness Date, the Incoming Licensee must provide to the Commission a resolution of the board of Directors of the Incoming Licensee confirming that the board of Directors, to the best of its knowledge and belief and based on the information that is available to it at the time, considers that since 25 September 2023 either (A) the Incoming Licensee has complied with the terms of this Agreement (as amended) (a “**Compliant Confirmation**”), or (B) the Incoming Licensee has not complied with the terms of this Agreement (as amended), in which event the confirmation shall also set out the basis on which the Incoming Licensee has failed so to comply (a “**Non-Compliant Confirmation**”) and that:

- (a) prior to the Start Date, either:
  - (i) Implementation is proceeding in accordance with the milestones set out in the Key Dates Schedule and any other milestones or timelines agreed by the Implementation Transition Governance Board; or
  - (ii) to the extent that is not the case, the Incoming Licensee has in place all necessary arrangements to ensure that any deviation is rectified such that the Incoming Licensee will be able to Start from the Start Date and run the National Lottery with Initial Functionality from that date (in which case the resolution shall identify the relevant deviations and the arrangements made to rectify them); and
- (b) prior to the Start Date, either:
  - (i) the Incoming Licensee will have all legal, commercial and operational arrangements in place to Start on the Start Date with Initial Functionality and it is not aware of any Implementation Issues which would jeopardise this; or
  - (ii) the Incoming Licensee will not have the legal, commercial and operational arrangements in place to Start on the Start Date with Initial Functionality; and
- (c) such form of equivalent assurance as may be determined in accordance with clause 4.6 as appropriate with respect to the obligations of the Incoming Licensee to achieve Full Implementation following the Start Date,

and in each case explaining the factors it has considered in reaching its conclusions in relation to (a) and (b) and/or (c) above (in each case a “**Progress Assurance Board Resolution**”) PROVIDED THAT if the Incoming Licensee presents a Non-Compliant Confirmation and the Commission permits the Incoming Licensee to proceed notwithstanding that fact, doing so shall not prejudice any right or remedy of the Commission (whether pursuant to this Agreement or the New Licence) in respect of any breach of, or non-compliance with, this Agreement.

20.2 On each Key Date on which the Incoming Licensee is required, under Schedule 2, to provide a "**FIC Progress Assurance Resolution**", the Incoming Licensee must provide to the Commission a resolution of the board of Directors of the Incoming Licensee confirming that the board of Directors, to the best of its knowledge and belief and based on the information that is available to it at the time, considers that:

(a) either:

(i) Implementation and preparation for achieving Delayed FIC by the Delayed Date is proceeding in accordance with the milestones set out in Schedule 2 and any other milestones or timelines agreed by the Implementation Transition Governance Board; or

(ii) to the extent that is not the case, the Incoming Licensee has in place all necessary arrangements to ensure that any deviation is rectified such that the Incoming Licensee will be able to achieve Delayed FIC by the Delayed Date and run the National Lottery with Full Functionality from that date (in which case the resolution shall identify the relevant deviations and the arrangements made to rectify them); and

(b) either:

(i) the Incoming Licensee will have all legal, commercial and operational arrangements in place to achieve Delayed FIC on the Delayed Date and it is not aware of any Implementation Issues which would jeopardise this; or

(ii) the Incoming Licensee will not have the legal, commercial and operational arrangements in place to achieve Delayed FIC on the Delayed Date,

and in each case explaining the factors it has considered in reaching its conclusions in relation to (a) and (b) above.

20.3 The Incoming Licensee must provide to the Commission such information, data and supporting evidence as the Commission may request in connection with a Progress Assurance Board Resolution or a FIC Progress Assurance Resolution.

## 21. **FINAL CONFIRMATION DATE**

21.1 The Incoming Licensee must ensure that each of the:

(a) Estimation Methodology; and

(a) Scheduling Methodology,

are in Approved Form no later than 20 Business Days prior to the Final Confirmation Date.

21.2 On or before the Final Confirmation Date the Incoming Licensee must provide to the Commission the details of:

(a) the Estimated Annual Payment for Licence Year 1; and

(b) a Weekly Payment Schedule for Licence Year 1,

in each case calculated in accordance with the Approved Form Estimation Methodology and the Approved Form Scheduling Methodology.

- 21.3 On or before the Final Confirmation Date, the Incoming Licensee must provide to the Commission:
- (a) its Forecasting Methodology;
  - (b) a Forecasting Methodology Assurance Report; and
  - (c) a Good Causes Contribution Forecast in respect of the period from the start of Licence Year 1 to the end of Licence Year 5,

in each case which complies with the requirements set out in the Commission's Regulatory Handbook.

- 21.4 The Good Causes Contribution Forecast submitted in accordance with clause 21.3 must be consistent with the forecasts submitted as part of the Application, save to the extent that the Incoming Licensee can demonstrate to the Commission's satisfaction that any variances:
- (a) are not a result of any failure by the Incoming Licensee to comply with its obligations under this Agreement; and
  - (b) are as a result of extraneous factors.

**22. SECOND INITIAL CHECKPOINT**

[No longer used]

**23. FIRST FINAL CHECKPOINT**

23.1 [No longer used]

**24. SECOND FINAL CHECKPOINT**

- 24.1 On or before the Second Final Checkpoint, the Incoming Licensee must:
- (a) demonstrate to the Commission that the Licence Contingency Protections have been established in accordance with the Licence Contingency Protection Documents;
  - (b) confirm to the Commission that the Required Third Party Approvals have been obtained;
  - (c) provide to the Commission a Progress Assurance Board Resolution.
- 24.2 Provided that the CG S6 Application Timetable has been complied with, it is intended that any approvals to be given by the Commission (in the Commission's sole discretion) in relation to a section 6 licence for any Start Date Committed Game will be communicated to the Incoming Licensee on or before the Second Final Checkpoint.
- 24.3 If, having considered the information provided to the Commission in accordance with this Agreement and the Cooperation Agreement and the Progress Assurance Board Resolution provided in accordance with clause 24.1(c), the Commission concludes that the Incoming Licensee will not be able to Start on the Start Date or comply with its other obligations under clause 4:

- (a) without prejudice to its other remedies under this Agreement, the Commission may, in its absolute discretion, defer the Start Date; and
- (b) the Incoming Licensee must provide all information and cooperation required by the Commission, in order to enable the Commission to take such action as is necessary to fulfil its statutory duties and to ensure that there is no damage to any Matter to be Protected.

**25. FIRST READINESS DATE**

25.1 On or before the First Readiness Date, the Incoming Licensee must provide to the Commission:

- (a) a resolution of the board of Directors of the Incoming Licensee confirming that all policies, processes, procedures and other documents, arrangements, or organisational or operational matters specified in Part C of Schedule 4 are in place in such manner as will ensure that the Incoming Licensee complies with the New Licence and the Approved Trust Arrangements on and from the Start Date;
- (b) details (including scope and timing) of the work proposed to be completed by its internal audit function during Licence Year 1;
- (c) a written confirmation from the Account Bank confirming that the bank accounts of the Incoming Licensee and the National Lottery Trustee have been established in accordance with the Approved Form Trust Documents and the New Licence; and
- (d) an up to date chart accurately setting out the legal and beneficial ownership, the organisation and management of the Incoming Licensee.

25.2 On or prior to the First Readiness Date, the Incoming Licensee must provide to the Commission an updated Good Causes Contribution Forecast (prepared in accordance with the Commission's Regulatory Handbook) or confirm that there are no changes to the Good Causes Contribution Forecast submitted to the Commission in accordance with clause 21.3.

25.3 If a new Good Causes Contribution Forecast is submitted in accordance with clause 25.2, such forecast must be consistent with the forecasts submitted as part of the Application, save to the extent that the Incoming Licensee can demonstrate to the Commission's satisfaction that any variances:

- (a) are not a result of any failure by the Incoming Licensee to comply with its obligations under this Agreement; and
- (b) are as a result of extraneous factors.

**26. SECOND READINESS DATE**

26.1 On or before the Second Readiness Date, the Incoming Licensee must demonstrate to the Commission that:

- (a) each Approved Form Document (other than the Trust Documents) has been adopted or, as the case may be, executed by the Incoming Licensee and any relevant contract counterparties and either is in effect, or will be in effect on and from the Start Date;

- (b) each Lottery Subcontract (other than a Designated Lottery Subcontract) identified in the Application or during the Initial Implementation Period as a Lottery Subcontract intended to be in force from the Start Date has been executed by the Incoming Licensee and any relevant contract counterparties and either is in effect, or will be in effect, on and from the Start Date; and
- (c) each Designated Lottery Subcontract which is a Lottery Subcontract and is identified in the Application or during the Initial Implementation Period as a Lottery Subcontract intended to be in force from the Start Date has:
  - (i) been notified to the Commission and, where relevant, includes the amendments required by the Commission in each case in accordance with clause 13.9; and
  - (ii) been executed by the Incoming Licensee and any relevant contract counterparties and either is in effect, or will be in effect on and from the Start Date; and
- (d) the Incoming Licensee is registered for Lottery Duty in accordance with applicable law and regulation.

26.2 On 22 December 2023, or such other date as is agreed between the Incoming Licensee and the Commission as part of the Trust and Reserve Arrangements, the Incoming Licensee must provide to the Commission:

- (a) a written confirmation from the National Lottery Trustee confirming that other than to the extent conditional upon Start:
  - (i) the Trust Arrangements have been established in accordance with the Trust Documents and the New Licence;
  - (ii) the National Lottery Trustee is satisfied that appropriate Trust and Reserve Arrangements are in place; and
  - (iii) copies of all Critical Access Contracts have been provided to the National Lottery Trustee and the National Lottery Trustee is satisfied that each such contract complies with the requirements of clause 19 (*Discharge of Obligations to Beneficiaries*) of the Trust Deed; and
- (b) each Trust Document:
  - (i) has been approved by the Commission as being in the Approved Form. For this purpose, the Incoming Licensee must provide copies of all such documents and full written details of all such matters to the Commission on or before that date, including details of how each Trust Document will enable the Incoming Licensee to comply with the requirements of Condition 16.7 of the New Licence; and
  - (ii) has been executed by the Incoming Licensee and any relevant contract counterparties and either is in effect, or will be in effect on and from the Start Date.

**27. THIRD READINESS DATE**

27.1 On or before the Third Readiness Date, the Incoming Licensee must demonstrate to the Commission that, in respect of any Core Lottery IP which is owned by the Incoming Licensee or its Connected Parties and, on the Start Date, will become Core Lottery IP:

- (a) all rights in respect of that Core Lottery IP:
  - (i) have been registered (or the Incoming Licensee has applied for the registration of such rights) in the name of the Commission; and/or
  - (ii) transferred to the Commission; and
- (b) the Commission has been provided with full details of how (if at all) that Core Lottery IP is associated with each applicable Committed Game.

27.2 On the Third Readiness Date, the Incoming Licensee must provide to the Commission an assurance statement, certified as approved by the board of Directors of the Incoming Licensee, confirming that, having made all due enquiries, the Incoming Licensee has not identified any information which:

- (a) might be relevant to any assessment of whether any person who is, or is proposed to be, a Lottery Beneficiary, Lottery Supervisor, Critical Function Employee or member of Transition Staff, meets the Fit and Proper Requirements; and
- (b) has not already been notified to the Commission in accordance with this Agreement.

**28. LICENCE GRANT CONFIRMATION DATE**

28.1 On the Licence Grant Confirmation Date, the Incoming Licensee must provide to the Commission:

- (a) an assurance statement, certified as approved by the board of Directors of the Incoming Licensee, confirming that the Incoming Licensee is not aware of any material information which:
  - (i) might be relevant to any assessment of whether any person who is, or is proposed to be, a Lottery Beneficiary, Lottery Supervisor, Critical Function Employee or member of Transition Staff, meets the Fit and Proper Requirements; and
  - (ii) has not already been notified to the Commission in accordance with this Agreement;
- (b) a certified copy of a resolution of the board of Directors of the Incoming Licensee confirming that the Incoming Licensee can enter into the New Licence and execute any documentation necessary for the Incoming Licensee to enter into the New Licence; and

28.2 In connection with the grant of the New Licence, the Incoming Licensee must provide any other document or confirmation required by the Commission on the Licence Grant Confirmation Date or during the period between the Licence Grant Confirmation Date and the Start Date.



**29. READINESS TO OPERATE THE NATIONAL LOTTERY**

29.1 If, at any time, the Incoming Licensee becomes aware that it may not be able to:

- (a) Start with Initial Functionality on the Start Date; or
- (b) comply with its other obligations under clause 4,

it must immediately notify the Commission in writing, providing details of the manner in which that is the case.

29.2 Any notice served under clause 29.1 will be discussed by the Incoming Transition Governance Board.

29.3 On or before the Second Readiness Date, the Incoming Licensee must provide the Commission with:

- (a) all evidence and confirmations required by the Commission to demonstrate that the Incoming Licensee has implemented those elements of its Application which relate to Initial Functionality and is otherwise ready to Start running the National Lottery on and from the Start Date in a manner which will ensure that there will be no damage to any Matter to be Protected; and
- (b) a Progress Assurance Board Resolution.

29.4 If, on the Final Readiness Date, the Commission is satisfied that the requirements of clause 29.3 are met and that:

- (a) the Incoming Licensee has, save to any extent the Commission is satisfied is de minimis, fully implemented those elements of its Incoming Transition Plan which are required to have been implemented prior to the Start Date;
- (b) since 25 September 2023 all obligations under this Agreement (as amended and including, without limitation, its obligations under clause 4) which are required to be fulfilled or complied with by the Incoming Licensee before the Start Date have been fulfilled or complied with, save to any extent the Commission is satisfied is de minimis;
- (c) the Incoming Licensee is otherwise ready to Start and run the National Lottery with Initial Functionality on and from the Start Date; and
- (d) allowing the Incoming Licensee to Start on and from the Start Date will not damage any Matter to be Protected,

the Commission will confirm in writing that it intends that, subject to clauses 2.5 and 2.6, the New Licence shall Start on the Start Date.

29.5 If:

- (a) pursuant to clause 29.4, the Commission confirms that it intends that the New Licence shall Start on the Start Date, the Commission shall, subject to clauses 2.5 and 2.6 grant the New Licence to the Incoming Licensee on the Start Date; or
- (b) clause 29.4 does not require the Commission to confirm that the New Licence shall Start:

- (i) the Commission may determine that the Start Date shall, subject to such conditions as the Commission may specify and with which the Incoming Licensee must comply, be amended to a date specified by the Commission which is after the Expiry Date; and
- (ii) references in the Key Dates table to the "Expiry Date" shall be deemed to be replaced by references to the Start Date (as so amended).

29.6 The Incoming Licensee undertakes to pay, via an addition to the Good Causes Contribution in accordance with Part B of Schedule 5 of the New Licence, an amount equal to all costs reasonably incurred by the Commission:

- (a) in connection with monitoring, assessing and taking all other actions in connection with the Outstanding Implementation Steps; and
- (b) otherwise as a result of the fact that the Incoming Licensee has proceeded to Start, notwithstanding the existence of the Outstanding Implementation Steps,

such costs to be treated as Excluded Costs under the New Licence ("**Commission OIS Costs**") which shall be determined in accordance with the following:

- (i) if the Incoming Licensee achieves Fully Implemented Commencement by the Current Delayed Date, subject to (iii) below, Commission OIS Costs will not exceed £4.8million;
- (ii) if the Incoming Licensee achieves Fully Implemented Commencement on or before the Backstop Date, subject to (iii) below, Commission OIS Costs will not exceed £9.6 million; and
- (iii) in addition to the amounts specified in (i) and (ii) above, Commission OIS Costs will also include any amounts in excess of the amounts so specified as are reasonably incurred by the Commission in assessing any Outline Contingency Plan or Detailed Contingency Plan or in connection with the implementation of any Detailed Contingency Plan.

29.7 The Incoming Licensee must enter into any document or take any other action required in order to complete the Outstanding Implementation Steps promptly following the Start Date and, in any event, in accordance with its obligations under clause 4 of this Agreement.

### 30. **RECEIPT MECHANICS**

In connection with the Operator Transfer the Incoming Licensee must undertake and implement the Receipt Mechanics, including without limitation, executing the relevant Form of Transfer Document with respect to all Transferring Items as set out in the Final Transfer Plan.

### 31. **RECOVERABLE IMPLEMENTATION COSTS**

31.1 "**Implementation Costs**" will be costs which are:

- (a) actually incurred, or accrued with respect to activities undertaken by the Incoming Licensee during:
  - (i) the period from the date of the Outcome Notification to the date of this Agreement; and

- (ii) the Initial Implementation Period; or
- (b) actually incurred after the Start Date which are:
  - (i) Implementation Redundancy Costs; or
  - (ii) costs of undertaking any Outstanding Implementation Step.

31.2 **“Recoverable Implementation Costs”** are Implementation Costs which the Commission determines, in accordance with the process set out in clause 31.8:

- (a) are reasonably, properly and efficiently incurred or accrued (as applicable) in connection with Implementation (taking account of the position acknowledged in Recital (E)(iii)) as are reasonably required in accordance with clause 4; and
- (b) fall within an Implementation Cost Category provided that no additional cost will be recoverable to the extent that the aggregate cost in any Implementation Cost Category exceeds the relevant Estimated Implementation Cost, unless:
  - (i) notified to the Commission by the Incoming Licensee as part of an updated version of the Delayed Functionality Plan reflecting the Fall Back Delayed Date in accordance with clause 4.2(a), provided that such additional Implementation Costs do not reflect a materially different run rate for the period between the Delayed Date and the Fall Back Delayed Date when compared to that set out in Schedule 6 (which reflects the Delayed Functionality Plan as provided to the Commission on 16 June 2023); or
  - (ii) otherwise determined by the Incoming Transition Governance Board following a Change Proposal made by the Incoming Licensee pursuant to clause 31.5.

31.3 Schedule 6 of this Agreement sets out the Incoming Licensee’s best estimates, as at 16 June 2023, of Implementation Costs (other than Transition Assistance Services Costs, Implementation Redundancy Costs) which would be:

- (a) actually incurred, or accrued with respect to activities undertaken, by the Incoming Licensee during each of:
  - (i) the Initial Implementation Period (on the assumption that the Implementation Period started immediately following the Outcome Notification); and
  - (ii) from the Start Date to the date on which Fully Implemented Commencement is achieved; and
- (b) reasonably, properly and efficiently incurred or accrued (as applicable) in connection with Implementation,

in each case allocated according to the Implementation Cost Categories (**“Estimated Implementation Costs”**).

31.4 Until Fully Implemented Commencement is achieved, the Incoming Licensee must provide a report no less than monthly to the Incoming Transition Governance Board setting out details of:

- (a) all costs which it considers will be Recoverable Implementation Costs;

- (b) an updated forecast of all costs which it anticipates it will incur, and will become, Recoverable Implementation Costs;
- (c) all deviations from previously provided forecasts in actual costs; and
- (d) a reconciliation of (a) to (c) above against the Estimated Implementation Costs.

31.5 If the Incoming Licensee incurs or accrues, or proposes to incur or accrue, a cost which:

- (a) does not fall within an Implementation Cost Category; and/or
- (b) when considered together with other costs incurred or accrued, and forecasted to be incurred or accrued, within an Implementation Cost Category, would exceed the Estimated Implementation Cost for that Implementation Cost Category,

the Incoming Licensee must make a Change Proposal (in accordance with clause 7) to amend Schedule 6.

31.6 Any indication, or lack of indication, from the Commission (including via the Incoming Transition Governance Board) that it may consider that any cost may or may not be a Recoverable Implementation Cost is of a provisional nature only, and in all cases shall be subject to determination in accordance with clause 31.8.

31.7 Where Transition Assistance Services are provided by the Outgoing Licensee to the Incoming Licensee in accordance with the Initial Statement of Transition Services or the Final Statement of Transition Services (as the case may be), all costs in respect of such services which:

- (a) are paid to the Outgoing Licensee by the Incoming Licensee; and
- (b) reflect the equitable apportionment of costs set out in the Initial Statement of Transition Services or the Final Statement of Transition Services (as applicable),

shall be Recoverable Implementation Costs provided such costs are reasonably, properly and efficiently incurred by the Incoming Licensee.

31.8 Within 120 days of the date on which the Commission confirms that Fully Implemented Commencement has occurred, the Incoming Licensee must provide to the Commission a final statement setting out all Implementation Costs which it proposes to be treated as Recoverable Implementation Costs and:

- (a) the Incoming Licensee must provide any additional information and evidence regarding those costs as the Commission may require; and
- (b) subject to the Incoming Licensee complying with clause 31.8(a), the Commission will, not later than 210 days following receipt of that statement, determine and confirm the final amount of the Recoverable Implementation Costs for the purposes of Schedule 5 of the New Licence.

31.9 For the purposes of clause 31.1 "**Implementation Redundancy Costs**" means the amount of any redundancy payments which the Incoming Licensee reasonably and properly incurs in connection with the redundancy of any member of Transferring Licensee Staff or Transferring Subcontractor Staff, where:

- (a) the Incoming Licensee identifies to the Commission prior to the date on which the Commission confirms that Fully Implemented Commencement has occurred that it proposes (subject to all necessary consultation and other legal requirements) to

make such members of Transferring Licensee Staff or members of Transferring Subcontractor Staff redundant; and

- (b) such payment is incurred or accrued by the Incoming Licensee no later than 120 days after the date on which the Commission confirms that Fully Implemented Commencement has occurred.

31.10 Promptly, and in any event within 10 Business Days, following each date on which:

- (a) the Incoming Licensee has identified to the Commission that it proposes to make members of Transferring Licensee Staff or members of Transferring Subcontractor Staff redundant in accordance with clause 31.9(a); or
- (b) any Outstanding Implementation Step to be implemented by the Incoming Licensee has been confirmed by the Commission in accordance with this Agreement,

the Incoming Licensee must provide to the Commission its best estimate of the Implementation Redundancy Costs or the costs of undertaking that Outstanding Implementation Step which will be reasonably, properly and efficiently incurred, which shall be the Estimated Implementation Costs associated with such activities.

## 32. REMEDIES AND TERMINATION

32.1 Without prejudice to the Commission's other remedies at law, if the Incoming Licensee breaches this Agreement, the Commission may require the Incoming Licensee to:

- (a) remedy the breach; and / or
- (b) take such other steps as the Commission may consider necessary and specifies to the Incoming Licensee,

in each case by such dates as the Commission may specify.

32.2 Without prejudice to the Commission's other remedies at law, if:

- (a) the Commission determines that the Incoming Licensee no longer is, or never was, a fit and proper person to run the National Lottery;
- (b) the Incoming Licensee commits a persistent or material breach of any of its obligations under this Agreement and does not promptly do such things as the Commission may require in accordance with clause 32.1 with respect to such breach;
- (c) the Commission determines that any information given to it by the Incoming Licensee was false in a material particular;
- (d) one of the grounds of insolvency specified in paragraph 3 of Schedule 3 to the Act applies to the Incoming Licensee;
- (e) the Commission determines that any Lottery Beneficiary or any Lottery Supervisor no longer is, or never was, a fit and proper person to run the National Lottery; or
- (f) the Start Date does not occur within 12 months of the Expiry Date, and the Commission considers that there is no realistic prospect of the Incoming Licensee being able to successfully implement the Application and Incoming Transition Plan

such that it can run the National Lottery in accordance with the terms of the New Licence,

the Commission may terminate this Agreement (and the Incoming Licensee's right to be granted the New Licence) by issuing an EA Termination Notice to the Incoming Licensee.

- 32.3 The Incoming Licensee will have no rights whatsoever to terminate this Agreement.
- 32.4 If any circumstances arise in which the Incoming Licensee cannot Start with Initial Functionality on the Start Date resulting in an extension to the Start Date in accordance with clause 29.5; and
- (a) the Commission makes any arrangements for the operation of the National Lottery pending the Start Date; and/or
  - (b) the Commission terminates this Agreement pursuant to clause 32.2,

the Incoming Licensee must pay to the Commission an amount equivalent to the aggregate of all Transitional Arrangement Costs.

- 32.5 Without prejudice to clauses 32.1 to 32.4, if the Incoming Licensee is, or appears to be, in breach of this Agreement, the Commission may, in its absolute discretion take any or all of the following steps where it considers that to be appropriate:
- (a) grant the Incoming Licensee relief from any or all of its obligations under this Agreement, including by extending deadlines provided under this Agreement or the Incoming Transition Plan; and
  - (b) make an adjustment to the Estimated Implementation Costs in order to enable the Incoming Licensee to recover additional costs under Schedule 5 of the New Licence.

- 32.6 In considering how to enforce its remedies under this Agreement, or whether to take any steps pursuant to clause 32.5, the Commission shall:
- (a) wherever reasonably practicable and appropriate ensure that the matter at issue is considered by the Incoming Transition Governance Board, which shall be required to consider whether any alternative resolution of the issue may be appropriate, before the Commission enforces any remedies;
  - (b) consider any representations or evidence provided by the Incoming Licensee to the Commission regarding the cause, materiality and effect of any breach or apparent breach of this Agreement; and
  - (c) take account of the cause of any actual or apparent breach by the Incoming Licensee of this Agreement and, in particular, whether that breach has been caused or contributed to by the Outgoing Licensee or a matter, fact or circumstance outside the control of the Incoming Licensee.

### 33. EXPIRY

- 33.1 This Agreement will start immediately when it is signed by both parties and will continue until the later of:

- (a) the date on which the Commission has confirmed the final amount of the Recoverable Implementation Costs for the purposes of Schedule 5 of the New Licence in accordance with clause 31.8(b); and
- (b) the date on which the Incoming Licensee has complied in full with its obligations under clause 4,

unless it is terminated before that by the Commission in accordance with clause 32.2.

33.2 Without prejudice to any pre-existing rights of either party to claim for any loss arising out of this Agreement, the expiration of this Agreement or the termination of this Agreement by the Commission in accordance with its terms shall not give rise to any liability on the part of the Commission in respect of any loss incurred by the Incoming Licensee or any third party.

#### 34. **RELATIONSHIP WITH THE COOPERATION AGREEMENT**

If, and to the extent, that there is any conflict between this Agreement and the Cooperation Agreement with respect to any matter:

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

#### 35. **DISPUTES**

35.1 The parties acknowledge and agree that this Agreement is entered into pursuant to the Commission's statutory functions with respect to the grant of licences pursuant to section 5 of the Act.

35.2 If any dispute arises between the Commission and the Incoming Licensee regarding any matter relating to or arising out of this Agreement either party may notify the other of such dispute (the first such notice in respect of any matter being a "**Dispute Notice**") and:

- (a) the matter shall be discussed at the Incoming Transition Governance Board;
- (b) if the matter is not resolved by the Incoming Transition Governance Board within 10 Business Days of the Dispute Notice (or earlier, if required by the Commission) and the parties agree that escalation to the Chief Executives of each party would resolve the dispute, the matter shall be escalated to the Chief Executives of each party;
- (c) if the matter is:
  - (i) not referred to the Chief Executives of the parties by agreement in accordance with clause 35.2(b) within 20 Business Days of the Dispute Notice (or earlier, if required by the Commission); or
  - (ii) referred to the Chief Executives of the 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 Incoming Licensee) and shall cooperate in a mediation process determined by that mediator with a view to resolving the dispute. The 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 including:

(i) as to whether there has been a breach of this Agreement by the Incoming Licensee;

(ii) any remedy with respect to any such breach,

and, subject to clause 35.3, such decision shall be final and binding on the parties.

35.3 Nothing in this Agreement shall restrict, exclude or limit:

(a) the jurisdiction of the court under section 31 of the Senior Courts Act 1981 or section 7 of the Human Rights Act 1998; or

(b) the ability of the Commission to apply to the Courts of England and Wales for the enforcement of any remedy determined by the Commission in accordance with clause 35.2.

35.4 Any remedy of the Commission specifically set out in this Agreement is without prejudice to any other remedies of the Commission arising at law or in equity with respect to any breach of this Agreement by the Incoming Licensee.

## 36. **COMMISSION'S DUTIES**

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

## 37. **ASSIGNMENT**

Neither party may assign, transfer, charge or deal in any other manner with any of its rights or obligations under this Agreement.

## 38. **CONFIDENTIALITY**

38.1 Without prejudice to the parties' common law duties of confidentiality, the Incoming Licensee will continue for the duration of this Agreement to be bound by, and must comply in all respects with the terms of, the Application Process Agreement signed by it in connection with the Competition.

38.2 The Commission may use, publish or disclose information provided to it pursuant to this Agreement and it may also be accessed by the NAO or other public authority.

## 39. **NOTICES**

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

39.2 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 39.3 (or any new address notified in accordance with clause 39.4).

39.3 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 Incoming Licensee as follows:

Address: Allwyn Entertainment Ltd, 5<sup>th</sup> 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, 5<sup>th</sup> 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

39.4 A party must give the other party reasonable advance notice of any change to the notice details set out in clause 39.3.

39.5 A notice is deemed to have been received (provided that all other requirements in this clause 39 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 39.5 would occur outside Usual Business Hours, the notice shall be deemed to have been received when Usual Business Hours next recommence. For the purposes of this clause 39.5, Usual Business Hours means 9.00 am to 5.30 pm on a Business Day.

#### 40. **COSTS AND REIMBURSING THE COMMISSION**

- 40.1 Each party must bear its own costs and expenses 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.
- 40.2 The provisions of clause 31 will govern the treatment of all costs incurred by the Incoming Licensee in connection with the implementation of this Agreement.
- 40.3 Where this Agreement requires the Incoming Licensee to promptly reimburse the Commission in respect of any costs incurred by the Commission, the Incoming Licensee must pay to the Commission an amount equivalent to those costs within 10 Business Days from receipt of the Commission's confirmation of the amount of those costs.

#### 41. **SURVIVAL**

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

- (a) clause 34 (*Relationship with the Cooperation Agreement*);
- (b) clause 35 (*Disputes*);
- (c) clause 36 (*Commission's Duties*);
- (d) clause 38 (*Confidentiality*);
- (e) clause 39 (*Notices*);
- (f) clause 40 (*Costs and Reimbursing the Commission*);
- (g) clause 42 (*Third Party Rights*);
- (h) clause 43 (*Miscellaneous Terms*);
- (i) clause 44 (*Entire Agreement*); and
- (j) clause 45 (*Governing Law and Jurisdiction*).

#### 42. **THIRD PARTY RIGHTS**

- 42.1 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.
- 42.2 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.

**43. MISCELLANEOUS TERMS**

- 43.1 A variation of this Agreement is valid only if it is in writing and signed by the parties or their duly authorised representatives.
- 43.2 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.
- 43.3 The rights and remedies provided by this Agreement are cumulative and, subject to clause 35.2(d), do not exclude any rights and remedies provided by law.
- 43.4 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.
- 43.5 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.
- 43.6 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.

**44. ENTIRE AGREEMENT**

- 44.1 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.
- 44.2 Nothing in this clause limits or excludes liability arising as a result of fraud or wilful misconduct.

**45. GOVERNING LAW AND JURISDICTION**

- 45.1 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.
- 45.2 Subject to clause 35.2(d), 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.

**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** )

Signed by Robert Chvátal and Justin )  
King for and on behalf of **Allwyn** )  
**Entertainment Ltd** )

## SCHEDULE 1

### Definitions and Interpretation

#### 1. DEFINITIONS

In this Agreement terms defined in the New Licence shall have the meaning given to them in the New Licence and the following words and expressions shall have the following meanings:

|   |  |
|---|--|
| <b>3NL Trust</b>                                  | the players' trust arrangements in place between the Outgoing Licensee and the 3NL Trustee in accordance with the Third Licence  |
| <b>3NL Trustee</b>                                | Law Debenture Trust Corporation plc, the trustee of the 3NL Trust  |
| <b>Account Bank</b>                               | that person named in the Application as the Account Bank in respect of the Trust Arrangements or such other person appointed as the Account Bank in accordance with clause 10  |
| <b>Account Bank Agreement</b>                     | the agreement to be entered into between the Incoming Licensee, the Account Bank and the National Lottery Trustee in relation to the provision of banking services by the Account Bank as part of the Trust Arrangements   |
| <b>Actual Resource Shortfall</b>                  | has the meaning given to it in clause 17.7   |
| <b>Actual Resource Shortfall Remediation Plan</b> | has the meaning given to it in clause 17.7(a)  |
| <b>Ancillary Activity Timetable</b>               | has the meaning given to it in clause 12.2   |
| <b>Application</b>                                | has the meaning given to it in Recital (B)   |
| <b>Application Ancillary Activities</b>           | has the meaning given to it in clause 12.1   |
| <b>Application Process Agreement</b>              | the application process agreement entered into in connection with the Competition between the Commission and the Successful Applicant dated on or around 17 March 2020   |
| <b>Approved Form Documents</b>                    | each document listed in Appendix 2 and Part A and Part B of Schedule 4, in each case following approval by the Commission, in the form so approved (and subject to any changes approved in accordance with clause 7) and " <b>Approved Form</b> " shall be construed accordingly |
| <b>Approved Form Trust Deed</b>                   | the form of trust deed included in the Incoming Licensee's Application, including any changes approved in accordance with clause 7   |
| <b>Arrangement</b>                                | an agreement, relationship, transaction or other arrangement   |
| <b>Award Notification</b>                         | the meaning given to it in the Deed of Commitment;   |
| <b>Backstop Date</b>                              | has the meaning given to it in clause 4.4  |
| <b>Business Day</b>                               | any day which is not a Saturday, a Sunday or a bank or public holiday in England   |

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| <b>Category</b>                            | has the meaning given to it in the Cooperation Agreement  |
| <b>CG Implementation Timetable</b>         | has the meaning given to it in clause 11.1  |
| <b>CG S6 Application Timetable</b>         | has the meaning given to it in clause 11.2  |
| <b>Change Control Process</b>              | the process for the consideration and, if appropriate, approval of a Change Proposal set out in clause 7.1  |
| <b>Change Proposal</b>                     | any proposal from the Incoming Licensee to deviate from the Application (including any document included in, or appended to, the Application), to change the Incoming Transition Plan, or to change or vary any other document or matter approved or agreed under this Agreement, in accordance with clause 7.1 and 7.2 |
| <b>Committed Game</b>                      | each Start Date Committed Game and each Initial Committed Game  |
| <b>Competition</b>                         | the competition organised by the Commission for the award of the New Licence  |
| <b>Competition Data Room</b>               | has the meaning given to it in the Cooperation Agreement  |
| <b>Completion</b>                          | midnight at the commencement of the Start Date  |
| <b>Contingency Assurance Artefacts</b>     | those documents, plans and other materials to be provided by the Incoming Licensee, as proposed by the Incoming Licensee in the Outline Contingency Plan and as further specified by the Commission   |
| <b>Continuing Implementation Condition</b> | has the meaning given to it in clause 17.2  |
| <b>Continuing Game</b>                     | each Game operated by the Outgoing Licensee under the Third Licence (and the relevant licence granted to the Outgoing Licensee under s6 of the Act) which the Incoming Licensee intends to become a Start Date Committed Game   |
| <b>Continuing Obligations</b>              | has the meaning given to it in the Cooperation Agreement  |
| <b>Continuing Obligations Plan</b>         | has the meaning given to it in the Cooperation Agreement  |
| <b>Cooperation Agreement</b>               | the Cooperation Agreement in the form attached as Appendix 3 (subject to such amendments or modifications as the Commission, in its absolute discretion, may determine from time to time)   |
| <b>Cooperation Direction</b>               | has the meaning given to that term in the Cooperation Agreement   |
| <b>Coordinated Action Plan</b>             | a plan describing steps within the scope of the Transition Plans which require directly cooperative action on the part of the Incoming Licensee and the Outgoing Licensee   |
| <b>Deed of Commitment</b>                  | the Deed of Commitment executed by the Successful Applicant and submitted to the Commission with the Application  |

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| <b>Delayed Date</b>                            | has the meaning given to it in clause 4.1  |
| <b>Delayed Functionality</b>                   | has the meaning given to it in clause 4.1  |
| <b>Detailed Contingency Plan</b>               | a detailed contingency plan which demonstrates, to the Commission's satisfaction, that Equivalent Functionality and Full Implementation will be implemented by the Backstop Date (and which, to the extent such plan would involve any action on the part of the Outgoing Licensee, but not otherwise, has been agreed with the Outgoing Licensee)   |
| <b>Draft Licence</b>                           | the form of New Licence attached as Appendix 1 as the same may be amended from time to time in accordance with clause 2.3  |
| <b>EA Termination Notice</b>                   | a termination notice issued to the Incoming Licensee by the Commission terminating this Agreement in accordance with clause 32.2   |
| <b>Equivalent</b>                              | having characteristics which are equivalent to, or better than, those of a specified item described in the Application with respect to each of the Matters to be Protected and, subject to those matters, the amount of Good Causes Contributions (in each case with effect from the date of implementation of the applicable item or functionality) |
| <b>Equivalent Functionality</b>                | has the meaning given to it in clause 4.4(a)(ii)   |
| <b>Estimated Implementation Costs</b>          | has the meaning given to it in clause 31.3   |
| <b>EuroMillions Shares</b>                     | has the meaning given to it in the Cooperation Agreement   |
| <b>Expert</b>                                  | has the meaning given to it in the Cooperation Agreement   |
| <b>Expiry Date</b>                             | the date on which the Third Licence expires  |
| <b>FIC Implementation Period</b>               | the period from the date of this Agreement to the date on which the Commission confirms that Fully Implemented Commencement has occurred   |
| <b>FIC Plan</b>                                | those elements of the Incoming Transition Plan which set out the steps and actions to be taken by the Incoming Licensee to achieve Delayed FIC no later than 28 February 2025, as developed in accordance with this Agreement  |
| <b>FIC Progress Assurance Board Resolution</b> | has the meaning given to it in clause 20.2   |
| <b>Final Confirmation Date</b>                 | has the meaning given in Schedule 2  |
| <b>Final Detailed FIC Plan</b>                 | the full, detailed and final FIC Plan addressing all elements of FIC, in an appropriate format containing necessary information and which the Commission is satisfied is sufficiently detailed given the stage in the FIC Implementation Period in which it is generated   |
| <b>Final Readiness Date</b>                    | has the meaning given in Schedule 2  |

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| <b>Final Statement of Transition Assistance Services</b> | has the meaning given to it in the Cooperation Agreement  |
| <b>Final Transfer Plan</b>                               | has the meaning given in the Cooperation Agreement  |
| <b>Finance Agreement</b>                                 | any agreement which: <ul style="list-style-type: none"><li>(a) is for the provision to any person of any form of finance or funding, including without limitation:<ul style="list-style-type: none"><li>(i) any loan or other finance or funding in any form whatsoever (including, without limitation, any asset or receivable based finance and any hedging or derivative arrangement);</li><li>(ii) in connection with the subscription, or right to subscribe, for equity;</li><li>(iii) any credit or advance arrangement;</li><li>(iv) any guarantee or indemnity arrangement or a similar undertaking to incur a financial or other obligation arising by reference to the obligation or liability of such other person; or</li><li>(v) the issue of debt securities; and</li></ul></li><li>(b) is:<ul style="list-style-type: none"><li>(i) a "Finance Agreement" for the purposes of the Deed of Commitment as at the date of this Agreement (an "<b>Initial Finance Agreement</b>"); or</li><li>(ii) replaces, amends or supplements an Initial Finance Agreement ("<b>Supplemental Finance Agreement</b>"); or</li><li>(iii) is entered into in connection with the provision to the Incoming Licensee during the Initial Implementation Period of any form of debt, equity or other finance other than under an Initial Finance Agreement or a Supplemental Finance Agreement ("<b>New Finance Agreement</b>");</li></ul></li></ul> |
| <b>First Confirmation Date</b>                           | has the meaning given in Schedule 2   |
| <b>First Information Date</b>                            | 3 October 2022  |
| <b>First Initial Checkpoint</b>                          | 21 November 2022  |
| <b>First Readiness Date</b>                              | has the meaning given in Schedule 2   |
| <b>First Scope Date</b>                                  | 12 December 2022  |
| <b>Form of Transfer Document</b>                         | has the meaning given to it in the Cooperation Agreement  |



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| <b>Full Functionality</b>             | all elements which the Application contemplated would be implemented as at the Start Date   |
| <b>Full Implementation</b>            | has the meaning given to it in clause 4.4   |
| <b>Fully Implemented Commencement</b> | <p>in its sole discretion, the Commission is satisfied that:</p> <ul style="list-style-type: none"><li>(a) either:<ul style="list-style-type: none"><li>(i) the Incoming Licensee has, save to any extent the Commission is satisfied is de minimis, implemented Full Functionality in a manner which ensures that Full Implementation will occur by the Backstop Date; or</li><li>(ii) save to any extent the Commission is satisfied is de minimis, Full Implementation has occurred;</li></ul></li><li>(b) the Incoming Licensee has, save to any extent the Commission is satisfied is de minimis, fully implemented all Outstanding Implementation Steps; and</li><li>(c) as at that date, since 25 September 2023, all obligations under this Agreement (as amended and including, without limitation, its obligations under clause 4) which are required to be fulfilled or complied with by the Incoming Licensee have been fulfilled or complied with, save to any extent the Commission is satisfied is de minimis;</li></ul> |
| <b>Game</b>                           | has the meaning given to it in the Cooperation Agreement  |
| <b>Group Company</b>                  | has the meaning given to it in the Cooperation Agreement  |
| <b>Handover Period</b>                | the period beginning on the date on which the Cooperation Agreement is entered into between the Commission and the Outgoing Licensee and ending on the Long Stop Date   |
| <b>Historic Technology Provider</b>   | the primary third party provider of technology to the Outgoing Licensee   |
| <b>Implementation</b>                 | the process by which the Incoming Licensee implements the Application and Incoming Transition Plan in accordance with this Agreement  |
| <b>Implementation Cost Category</b>   | each category of cost set out in Schedule 6, as varied from time to time in accordance with the Change Control Process  |
| <b>Implementation Protections</b>     | <b>Contingency</b> bank guarantees (referred to in the Application as the “Guarantees”) and a revolving credit facility (referred to in the Application as the “RCF”), described in the Application, on the terms provided for in the Initial Finance Agreements  |

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| <b>Implementation Contingency Protection Documents</b> | the documents which give effect to, or otherwise implement and maintain, the Implementation Contingency Protections  |
| <b>Implementation Direction</b>                        | a direction from the Commission requiring the Incoming Licensee to take (or omit to take) any step in connection with the subject matter of this Agreement (which may, to the extent necessary to give effect to the Purpose of Implementation, include requiring that a change be made to any plan, process, procedure or document created pursuant to this Agreement)                              |
| <b>Implementation Financial Covenants</b>              | the financial covenants set out in Schedule 7  |
| <b>Implementation Issue</b>                            | any issue, fact, matter or circumstance which is, or which creates a material risk that the Incoming Licensee will be unable to, or will not:<br><br>(a) Start with Initial Functionality from the Start Date;<br><br>(b) comply with its obligations under this Agreement, as amended (including in respect of Implementation under clause 4) or otherwise comply with the Incoming Transition Plan |
| <b>Initial Detailed FIC Plan</b>                       | an initial FIC Plan addressing all elements of FIC, in an appropriate format in an appropriate format containing necessary information and which the Commission is satisfied is sufficiently detailed given the stage in the FIC Implementation Period in which it is generated  |
| <b>Initial Implementation Period</b>                   | the period from (and including) the date of this Agreement to (but excluding) the Start Date   |
| <b>Initial Committed Game</b>                          | has the meaning given to it in clause 11.1(b)  |
| <b>Implementation Costs Redundancy</b>                 | has the meaning given to it in clause 31.9   |
| <b>Implementation Review</b>                           | a review carried out as the Commission may specify from time to time by or for the Commission of the Incoming Licensee's compliance with this Agreement and the Incoming Transition Plan   |
| <b>Incoming Transition Governance Board</b>            | 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  |
| <b>Incoming Transition Plan</b>                        | the incoming transition plan to be implemented by the Incoming Licensee which is agreed or specified, as the case may be, pursuant to clause 5 the Cooperation Agreement and amended or varied from time to time pursuant to clause 5 of the Cooperation Agreement or clause 5 of this Agreement   |
| <b>Incoming Transition Obligations Plan</b>            | the obligations of the Incoming Licensee with respect to the   |

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|  | Incoming Transition Plan, as described in Schedule 3   |
| <b>Information for Applicants on Fit and Proper Checks</b> | the document entitled "Information for Applicants on Fit and Proper Checks" issued to the Successful Applicant by the Commission as part of the Competition, as may be updated by the Commission from time to time   |
| <b>Initial Functionality</b>                               | has the meaning given to it in clause 4.1  |
| <b>Initial Statement of Transition Assistance Services</b> | has the meaning given to it in the Cooperation Agreement   |
| <b>Joint Transition Governance Board</b>                   | 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, Cooperation in accordance with the Cooperation Agreement  |
| <b>Key Dates</b>   | each of the dates so specified in column 2 of the table Schedule 2, by which the actions and deliverables described in column 3 of that table must be taken and/or provided (as applicable)  |
| <b>Licence Contingency Protections</b>                     | the arrangements described in Condition 18.2 of the New Licence  |
| <b>Licence Contingency Protection Documents</b>            | the documents which give effect to, or otherwise implement and maintain, the Licence Contingency Protections   |
| <b>Licence Grant Confirmation Date</b>                     | 29 January 2024  |
| <b>Licensee Subcontract</b>                                | has the meaning given to it in the Cooperation Agreement   |
| <b>Long Stop Date</b>                                      | the date which is 18 months from the Expiry Date   |
| <b>Lottery Accounts</b>                                    | has the meaning given in the Approved Form Trust Deed  |
| <b>New Licence</b>   | a licence (including all of its schedules and appendices) in the form of the Draft Licence (as the same may be amended in accordance with clause 2.3 of this Agreement) to be awarded under s5 of the Act to come into effect on the Start Date  |
| <b>Objective External Cause</b>                            | the Historic Technology Provider refuses to enter into an agreement with the Incoming Licensee which is necessary for the implementation of System Dependent Functionality (or offers to do so only on terms which the Incoming Licensee demonstrates to the Commission are unacceptable in the circumstances) |
| <b>Operational Committee</b>                               | any committee or group formed pursuant to this Agreement by representatives of the Commission and of the Incoming Licensee for the purposes of overseeing, reviewing or discussing specific operational aspects of Implementation  |
| <b>Operator Goodwill</b>                                   | has the meaning given to it in the Cooperation Agreement   |

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| <b>Outcome Notification</b>                          |  |  | means the notification issued by the Commission to the Successful Applicant on 15 March 2022 confirming that it had won the Competition                                    |
| <b>Outgoing Licensee</b>                             |  |  | the holder of the Third Licence  |
| <b>Outgoing Transition Plan</b>                      |  |  | has the meaning given to it in the Cooperation Agreement   |
| <b>Outline Contingency Plan</b>                      |  |  | has the meaning given to it in clause 4.5(e)   |
| <b>Outstanding Implementation Step</b>               |  |  | has the meaning given in clause 4.10(b)  |
| <b>Potential Resource Shortfall</b>                  |  |  | has the meaning given in clause 17.8   |
| <b>Potential Resource Shortfall Notice</b>           |  |  | has the meaning given in clause 17.8   |
| <b>Potential Resource Shortfall Remediation Plan</b> |  |  | has the meaning given in clause 17.8(a)  |
| <b>Process Changes</b>                               |  |  | has the meaning given in clause 4.6  |
| <b>Progress Assurance Board Resolution</b>           |  |  | has the meaning given in clause 20.1   |
| <b>Proposed Required Standard Terms</b>              |  |  | the Incoming Licensee's draft Required Standard Terms submitted to the Commission for approval in accordance with clause 13.3  |
| <b>Proposed Final Incoming Transition Plan</b>       |  |  | has the meaning given to it in the Cooperation Agreement   |
| <b>Proposed Incoming Transition Plan</b>             |  |  | has the meaning given to it in the Cooperation Agreement   |
| <b>Purpose of Cooperation</b>                        |  |  | has the meaning given to that term in the Cooperation Agreement  |
| <b>Purpose of Implementation</b>                     |  |  | 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  |
| <b>Receipt Mechanic</b>                              |  |  | in respect of each asset or liability in any Category, those steps as stated in the column headed ' <i>Receipt Mechanics</i> ' of Appendix 4 with respect to that Category |
| <b>Recoverable Implementation Cost</b>               |  |  | has the meaning given to it in clause 31.1   |
| <b>Remaining Independent Functionality</b>           |  |  | has the meaning given to it in clause 4.2  |
| <b>Required Third Party Approvals</b>                |  |  | those approvals, consents, licences or authorisations specified in Schedule 5  |
| <b>Reserve Applicant</b>                             |  |  | has the meaning given to it in the Cooperation Agreement   |
| <b>Reserve Applicant Notice</b>                      |  |  | has the meaning given to it in the Cooperation Agreement   |

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| <b>Resource Availability Assurance Statement</b>   | has the meaning given to it in clause 17.5   |
| <b>Resource Availability Commitments</b>           | has the meaning given to it in clause 17.6   |
| <b>Sanction</b>                                    | means any economic, trade, investment or other sanctions or embargoes imposed on any person by any governmental or other competent authority (whether national or multi-national) including, for the avoidance of doubt, sanction imposed by the United Kingdom, the United States or the European Union or any of its member states |
| <b>Scratchcard Lottery Tickets</b>                 | has the meaning given to it in the Cooperation Agreement   |
| <b>Second Final Checkpoint</b>                     | has the meaning given to it in Schedule 2  |
| <b>Second Readiness Date</b>                       | has the meaning given to it in Schedule 2  |
| <b>Security Documents</b>                          | the agreement or agreements to be entered into between the Incoming Licensee and the National Lottery Trustee in relation to the security to be granted in favour of the National Lottery Trustee pursuant to the Trust Deed   |
| <b>Start Date</b>                                  | (a) the date immediately following the Expiry Date; or<br><br>(b) such later date as the Commission may specify in accordance with clause 24.3(a) or 29.5(b)   |
| <b>Start Date Committed Game</b>                   | has the meaning given to it in clause 11.1(a)  |
| <b>Statement of Transition Assistance Services</b> | has the meaning given to it in the Cooperation Agreement   |
| <b>Successful Applicant</b>                        | SAZKA Group a.s.   |
| <b>System Delay</b>                                | has the meaning given to it in clause 4.2  |
| <b>System Delay Notice</b>                         | has the meaning given to it in clause 4.5(a)   |
| <b>System Dependent Functionality</b>              | has the meaning given to it in clause 4.2  |
| <b>System Delay Resolution</b>                     | following a System Delay, the Incoming Licensee can demonstrate to the satisfaction of the Commission that it will be able to implement the System Dependent Functionality and achieve Full Implementation on or before the Backstop Date  |
| <b>Terminal Roll-out</b>                           | has the meaning given to it in clause 4.4(b)   |
| <b>Terms of Reference</b>                          | the terms of reference for the operation of the relevant Operational Committee or the Incoming Transition Governance Board (as the case may be), in each case proposed by the Commission and approved by that committee or the Incoming Transition Governance Board (as applicable)  |

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| <b>Third Licence</b>                            | the licence awarded under s5 of the Act in effect at the date of this Agreement   |
| <b>Third Readiness Date</b>                     | has the meaning given to it in Schedule 2   |
| <b>Transfer Plan</b>                            | has the meaning given to it in the Cooperation Agreement  |
| <b>Transfer Regulations</b>                     | the Transfer of Undertakings (Protection of Employment) Regulations 2006  |
| <b>Transferring Items</b>                       | has the meaning given to it in the Cooperation Agreement  |
| <b>Transferring Licensee Assets</b>             | has the meaning given to it in the Cooperation Agreement  |
| <b>Transferring Licensee Staff</b>              | has the meaning given to it in the Cooperation Agreement  |
| <b>Transferring Licensee Subcontract</b>        | has the meaning given to it in the Cooperation Agreement  |
| <b>Transferring Lottery IP</b>                  | has the meaning given to it in the Cooperation Agreement  |
| <b>Transferring Subcontractor Staff</b>         | 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 (i) Start Date, or (ii) Fully Implemented Commencement pursuant to the Transfer Regulations   |
| <b>Transferring Property Interests</b>          | has the meaning given to it in the Cooperation Agreement  |
| <b>Transferring Scratchcard Lottery Tickets</b> | has the meaning given to it in the Cooperation Agreement  |
| <b>Transition Assistance Services</b>           | has the meaning given to it in the Cooperation Agreement  |
| <b>Transition Assistance Services Costs</b>     | costs payable by the Incoming Licensee to the Outgoing Licensee in respect of Transition Assistance Services provided by the Outgoing Licensee to the Incoming Licensee   |
| <b>Transition Plan</b>                          | has the meaning given to it in the Cooperation Agreement  |
| <b>Transition Staff</b>                         | those persons employed or engaged by the Incoming Licensee who, in order for the Purpose of Implementation or the Purpose of Cooperation to be achieved, are required to (i) have access to, or (ii) supervise or manage any person who has access to: <ul style="list-style-type: none"><li>(a) the information disclosed in the folder in the Competition Data Room named "VDR 3";</li><li>(b) information in relation to the security of the National Lottery, including in relation to the verification of tickets and prizes;</li><li>(c) information or data which:<ul style="list-style-type: none"><li>(i) is sensitive;</li><li>(ii) is personal data of players or prize winners;</li></ul></li></ul> |

(iii) is held by the Outgoing Licensee in a Secure Area (as defined in the Third Licence)

(d) the Outgoing Licensee's Technology Operation

in each case before the Start Date

**Transitional Arrangement Costs**

any costs

(a) incurred by the Commission; or

(b) otherwise provided for under any arrangement made for the operation of the National Lottery pending a delayed Start Date,

in each case to the extent they arise as a result of an arrangement made by the Commission for the operation of the National Lottery pending a delayed Start Date as contemplated by clause 32.4

**Trust Arrangements**

the security trust arrangements for the protection of participant funds, to be established by the Incoming Licensee pursuant to the Trust Documents

**Trust and Reserve Arrangements**

has the meaning given to it in the Cooperation Agreement

**Trust Implementation Agreement**

the agreement between the Incoming Licensee and the National Lottery Trustee in relation to the implementation of the Trust Arrangements, to be entered into in accordance with clause 10

**Trust Deed**

the security trust deed to be entered into between the Incoming Licensee and the National Lottery Trustee in respect of the trust to be established in accordance with the New Licence

**Updated Detailed FIC Plan**

a full, detailed FIC Plan addressing all elements of FIC, in an appropriate format containing necessary information and which the Commission is satisfied is sufficiently detailed given the stage in the FIC Implementation Period in which it is generated

## 2. INTERPRETATION

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 and a reference to "this Agreement" means this Agreement as amended from time to time;
  - (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 its 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.
- 2.2 The schedules form part of this Agreement and a reference to "**this Agreement**" includes its schedules.
- 2.3 The recitals and headings in this Agreement do not affect its interpretation.
- 2.4 A reference to a document being in the "**Approved Form**" means that the relevant document has been approved by the Commission prior to the Start Date in accordance with this Agreement.



- 2.5 Where the consent or approval of the Commission is required to be obtained by the Incoming Licensee under this Agreement, such consent or approval must be obtained in writing (including by email).
- 2.6 Where any consent or approval is given by the Commission pursuant to this Agreement , and that consent or approval is subject to any conditions or requirements specified by the Commission, the Incoming Licensee is acting without the consent or approval of the Commission if it does not act in compliance with those conditions or requirements.
- 2.7 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.
- 2.8 Where this Agreement requires the Incoming Licensee to “do everything it can” to ensure a specified outcome is achieved, the Incoming Licensee shall be in breach of that obligation if that outcome is not achieved unless the Incoming Licensee 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 Incoming Licensee to have done things which this Agreement states it must do.
- 2.9 Where this Agreement refers to the Incoming Licensee taking any action, or being subject to any obligation, after the Start Date and during the term of the New Licence, that reference shall be to Allwyn Entertainment Limited in its capacity as “Licensee” under the New Licence.

## SCHEDULE 2

### Key Dates

In this Schedule 2:

**"Cooperation Request"** means a request made for a Cooperation Direction accordance with the terms of the Cooperation Agreement.

**"EA"** means this Agreement

**"IL"** means Incoming Licensee

**"GC"** means the Commission

**"OL"** means Outgoing Licensee

Capitalised terms used in this Schedule 2 and not defined in this Agreement shall have the meaning given to that term in the Cooperation Agreement.

Prior to the First Confirmation Date:

- The Approved Form Trust Implementation Agreement has been executed by the Incoming Licensee and the Trustee and provided to the Commission.
- The Statement of Continuing Obligations has been provided by the Commission.
- The scope of the Asset Survey has been confirmed by the Commission.
- The proposed Required Standard Terms have been provided to the Commission by the Incoming Licensee.
- The Commission has provided a S6 Application Timetable and Ancillary Activity Timetable to the Incoming Licensee.
- 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  | Enabling Agreement Readiness   |
| <b>First Confirmation Date</b>              | 25 September 2023                                       | <ul style="list-style-type: none"> <li>GC approves or imposes Initial Transition Plans (including the Coordinated Action Plan)</li> </ul>   | <ul style="list-style-type: none"> <li>GC approves or imposes Initial Continuing Obligations Plan</li> <li>GC approves or imposes Initial Transfer Plan</li> </ul>  | <ul style="list-style-type: none"> <li>GC approves or imposes Initial Statement of Transition Assistance Services</li> </ul>   | <ul style="list-style-type: none"> <li>GC may issue Cooperation Directions</li> </ul>   | <ul style="list-style-type: none"> <li>GC notifies IL of any Lottery Subcontracts, or categories of Lottery Subcontract, which are Designated Lottery Subcontracts</li> </ul>  |
| <b>Ongoing (Subject Governance Process)</b> | From First Confirmation Date to Second Final Checkpoint | <ul style="list-style-type: none"> <li>OL and IL must provide any information potentially relevant to updating Transition Plans, which then go through the Change Control Process</li> <li>OL and IL must cooperate with view to updating Transition Plans (including the Coordinated Action Plan)</li> </ul> | <ul style="list-style-type: none"> <li>OL must provide any update to Initial List/Required Information</li> <li>Initial List can be updated by the IL following results of Asset Survey</li> <li>IL can identify any missing or incorrect items or actions</li> <li>OL and IL implement and regularly update Initial Continuing Obligations Plan</li> <li>OL and IL regularly update and prepare for the implementation of the Initial Transfer Plan</li> </ul> | <ul style="list-style-type: none"> <li>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</li> </ul> | <ul style="list-style-type: none"> <li>OL and IL can make Cooperation Requests as a Change Proposal</li> <li>GC may impose changes to, or additional, Cooperation Directions as required</li> </ul> | <ul style="list-style-type: none"> <li>IL notifies GC of any information which may be relevant to an assessment of whether the National Lottery Trustee meets the Trustee Requirements and the Account Bank meets the Account Bank Requirements</li> <li>IL keeps GC updated as to any newly identified Lottery Beneficiaries, Lottery Supervisors or Critical Function Employees, any additional members of Transition Staff, or any changes to information in relation to those categories of people, for the purposes of Fit and Proper Checks</li> <li>IL identifies any Lottery Subcontracts which it proposes to categorise as Minor Lottery Subcontracts for the Commission to confirm such status</li> <li>IL provides to the GC information in respect of Lottery Subcontracts in order that GC can identify Designated Lottery Subcontracts</li> <li>IL informs GC of any changes which are required to be made to the Approved Form Documents or</li> </ul> |

| 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 | Enabling Agreement Readiness   |
|                                |                                    |   |  |   |                              | any matter or document listed in Schedule 4 <ul style="list-style-type: none"> <li>At least once every six months, the Incoming Licensee provides to the Commission a chart setting out its legal and beneficial ownership, organisation and management</li> </ul>   |
| <b>Last Scope Date</b>         | 22 August 2023                     | n/a   | <ul style="list-style-type: none"> <li>IL provides Final List</li> <li>GC notifies OL and IL of any new Continuing Obligations</li> </ul>  | n/a   | n/a                          | n/a  |
| <b>Second Final Checkpoint</b> | 27 October 2023 (15 BD before FCD) | <ul style="list-style-type: none"> <li>Deadline for OL and IL to confirm Final Transition Plans</li> <li>IL and OL deliverables are captured within Transition Plans therefore negates requirement for the Coordinated Action Plan</li> </ul> | <ul style="list-style-type: none"> <li>Deadline for OL and IL to confirm Final Continuing Obligations Plan</li> <li>Deadline for OL and IL to confirm Final Transfer Plan</li> </ul> | <ul style="list-style-type: none"> <li>Deadline for OL and IL to confirm Final Statement of Transition Assistance Services</li> </ul> | n/a                          | <ul style="list-style-type: none"> <li>Copies of all documents and the description of all matters in Part A and Part B of Schedule 4 to be provided to the Commission for approval</li> <li>IL must demonstrate that the Licence Contingency Protections have been established in accordance with the Licence Contingency Protection Documents</li> <li>It is intended that S6 approval process for Start Date Committed Games concludes by this date in accordance with timetables</li> <li>It is intended that approval process for Application Ancillary Activities concludes by this date in accordance with the Ancillary Activity Timetable</li> <li>Co-Branding Applications in respect of any proposed use or association of the National Lottery Brand with any other brand on</li> </ul> |

| 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 | Enabling Agreement Readiness  |
|                                      |                   |   |  |  |                              | <p>and from the Start Date must be submitted on or before this date</p> <ul style="list-style-type: none"> <li>• IL confirms that all Required Third Party Approvals have been obtained</li> <li>• IL board determines whether it is ready to Start on and from the Start Date and provides a Progress Assurance Board Resolution to GC</li> <li>• If Commission concludes that the IL will not be able to Start on the Start Date, it may defer the Start Date</li> <li>• IL confirms to GC and OL which members of Transferring Licensee Staff or Transferring Subcontractor Staff it intends will be Lottery Supervisors or Critical Function Employees for the purposes of Fit and Proper Checks</li> </ul> |
| <b>Final Confirmation Date (FCD)</b> | 17 November 2023  | <ul style="list-style-type: none"> <li>• GC approves or imposes Final Transition Plans</li> </ul> | <ul style="list-style-type: none"> <li>• GC approves or imposes Final Continuing Obligations Plan</li> <li>• GC approves or imposes Final Transfer Plan</li> </ul> | <ul style="list-style-type: none"> <li>• GC approves or imposes Final Statement of Transition Assistance Services</li> </ul> | n/a                          | <ul style="list-style-type: none"> <li>• 5 Business Days prior to this date, IL must provide a Resource Availability Assurance Statement</li> <li>• IL to provide details of Estimated Annual Payment and Weekly Payment Schedule for Licence Year 1</li> <li>• IL to provide its Forecasting Methodology, a Forecasting Methodology Assurance Report and a Good Causes Contribution Forecast in respect of the period from the start of Licence Year 1 to the end of Licence Year 5</li> </ul>   |

| 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 | Enabling Agreement Readiness  |
| <b>First FIC Plan Date</b>  | 29 November 2023                           | <ul style="list-style-type: none"> <li>Deadline for IL to provide Incoming Transition Plan including Initial Detailed FIC Plan</li> </ul> | <ul style="list-style-type: none"> <li></li> </ul> | <ul style="list-style-type: none"> <li></li> </ul> |                              | <ul style="list-style-type: none"> <li>IL to provide a FIC Progress Assurance Board Resolution within 10 days of First FIC Plan Date</li> </ul>   |
| <b>First Readiness Date</b> | 1 December 2023 (40 BD before Expiry Date) | <ul style="list-style-type: none"> <li>Cut-over Status Report and Business Readiness Status Report</li> </ul>                             | n/a  | n/a  | n/a                          | <ul style="list-style-type: none"> <li>Date by which the IL must obtain confirmation from the Commission that each of the documents listed in Part A and Part B of Schedule 4 (other than the Trust Documents) is in the Approved Form</li> <li>IL board confirms to the Commission that all policies, procedures etc. in Part C of Schedule 4 is in place</li> <li>IL provides details of internal audit work to be completed in Licence Year 1</li> <li>IL provides written confirmation from the Account Bank confirming that the bank accounts of the IL and the National Lottery Trustee have been established</li> <li>IL provides an up to date chart setting out its legal and beneficial ownership, organisation and management</li> <li>IL provides an updated Good Causes Contribution Forecast or confirmation that there is no change to the forecast submitted</li> </ul> |

| 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 | Enabling Agreement Readiness   |
|                              |   |   |                     |   |                              | on or before the Final Confirmation Date<br><ul style="list-style-type: none"> <li>IL provides board assurance confirming requirements of any S6 approvals for Start Date Committed Games have been addressed</li> </ul>   |
| <b>Second Readiness Date</b> | 15 December 2023 (30 BD before Expiry Date) | <ul style="list-style-type: none"> <li>Cut-over Status Report and Business Readiness Status Report</li> </ul> | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>Each Approved Form Document other than the Trust Documents has been adopted or executed and is in effect or will come into effect on the Start Date</li> <li>All Lottery Subcontracts which are required to be in place at the Start have been executed by the parties and is in effect or will come into effect on the Start Date</li> <li>All Designated Lottery Subcontracts which are required to be in place at the Start Date have been notified to the Commission and executed by the parties and is in effect or will come into effect on the Start Date</li> <li>IL Board provides evidence to the Commission to demonstrate that the IL (a) has implemented the Incoming Transition Plan and is ready to Start from the Start Date, or (b) has complied in all material respects with its obligations under the EA but has not fulfilled all of the requirements</li> </ul> |

| 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 | Enabling Agreement Readiness  |
|  |                   |   |                     |   |                              | <ul style="list-style-type: none"> <li>• Date by which IL must be registered for Lottery Duty</li> <li>• IL to provide a Progress Assurance Board Resolution</li> </ul>   |
| <b>First FIC Confirmation Date</b>     | 20 December 2023  | <ul style="list-style-type: none"> <li>• GC approves or requires amendment to Incoming Transition Plan including Initial Detailed FIC Plan</li> </ul> | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>• n/a</li> </ul>   |
| <b>Finalisation of Trust Documents</b> | 22 December 2023  | <ul style="list-style-type: none"> <li>• n/a</li> </ul>   | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>• IL provides written confirmation from National Lottery Trustee in relation to establishment of Trust Arrangements etc. unless the Commission and the Incoming Licensee agree that it is appropriate for this confirmation to be provided at a later date as part of the Trust and Reserve Arrangements</li> <li>• Each Trust Document is in the Approved Form and has been executed and is in effect or will come into effect on the Start Date, unless the Commission and the Incoming Licensee agree that it is appropriate for any Trust Document to be executed at a later date as part of the Trust and Reserve Arrangements</li> </ul> |
| <b>Third Readiness Date</b>            | 3 January 2024    | <ul style="list-style-type: none"> <li>• Cut-over Status Report and Business</li> </ul>   | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>• GC provides details of any Lottery Beneficiary, Lottery Supervisor or Critical Function Employee who has been identified but where a Fit</li> </ul>  |



| 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 | Enabling Agreement Readiness   |
|  |                   | Readiness Status Report   |                     |   |                              | and Proper check has not been completed <ul style="list-style-type: none"> <li>• Core Lottery IP owned by the IL is registered in the name of the Commission</li> <li>• IL provides an assurance statement confirming they have not identified any information about any Lottery Beneficiary, Lottery Supervisor or Critical Function Employee which might be relevant to an assessment of whether that person is Fit and Proper which has not been notified to the Commission</li> </ul>                              |
| <b>Final Readiness Date</b>            | 17 January 2024   | <ul style="list-style-type: none"> <li>• Cut-over Status Report and Business Readiness Status Report</li> </ul> | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>• GC confirms whether, subject to clause 2.1 and clause 28, Start can take place on the Start Date</li> <li>• Outstanding Implementation Steps (if any) notified to IL by GC</li> </ul>   |
| <b>Licence Grant Confirmation Date</b> | 29 January 2024   | n/a   | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>• IL provides an assurance statement confirming that there is no material information about any Lottery Beneficiary, Lottery Supervisor or Critical Function Employee which might be relevant to an assessment of whether that person is Fit and Proper which has not been notified to the Commission</li> <li>• IL provides a copy of a resolution of its Directors confirming the equity and debt profile of the IL and that the IL can enter into the New Licence</li> </ul> |

| 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 | Enabling Agreement Readiness   |
| <b>Second FIC Plan Date</b>         | 29 February 2024            | <ul style="list-style-type: none"> <li>Deadline for IL to provide Incoming Transition Plan including Updated Detailed FIC Plan</li> </ul>           | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>IL to provide a FIC Progress Assurance Board Resolution within 10 days of the Second FIC Plan Date</li> </ul> |
| <b>Second FIC Confirmation Date</b> | 21 March 2024               | <ul style="list-style-type: none"> <li>GC approves or requires amendment to Incoming Transition Plan including Updated Detailed FIC Plan</li> </ul> | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>n/a</li> </ul>  |
| <b>Third FIC Plan Date</b>          | 26 April 2024               | <ul style="list-style-type: none"> <li>Deadline for IL to provide Incoming Transition Plan including Final Detailed FIC Plan</li> </ul>             | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>IL to provide a FIC Progress Assurance Board Resolution within 10 days of the Third FIC Plan Date</li> </ul>  |
| <b>Third FIC Confirmation Date</b>  | 17 May 2024                 | <ul style="list-style-type: none"> <li>GC approves or requires amendment to Incoming Transition Plan including Final Detailed FIC Plan</li> </ul>   | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>n/a</li> </ul>  |
| <b>Ongoing FIC Period</b>           | From Third FIC Confirmation | IL must provide any information potentially relevant  | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>IL to provide a FIC Progress Assurance Board Resolution within 10 days from the end of</li> </ul>             |

| 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 | Enabling Agreement Readiness   |
|  | Date to the Delayed Date | to Delayed FIC. Any updates to the Incoming Transition Plan including Final FIC Detailed Plan must be submitted as a Change Proposal |                     |   |                              | each month during the Ongoing FIC Period   |
| <b>First FIC Readiness Date (-40 Business Days from Delayed FIC)</b> | 3 January 2025           | <ul style="list-style-type: none"> <li>• Cut-over Status Report</li> <li>• Business Readiness Status Report</li> </ul>               | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>• Additional assurance and/or artefacts (if any) which may be required to support the implementation of the Final FIC Detailed Plan to be notified to the Incoming Licensee by the Commission reasonably in advance of this milestone</li> </ul>  |
| <b>Second FIC Readiness Date (-30 Business Days from FIC)</b>        | 17 January 2025          | <ul style="list-style-type: none"> <li>• Cut-over Status Report</li> <li>• Business Readiness Status Report</li> </ul>               | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>• IL to provide a FIC Progress Assurance Board Resolution</li> <li>• Additional assurance and/or artefacts (if any) which may be required to support the implementation of the Final FIC Detailed Plan to be notified to the Incoming Licensee by the Commission reasonably in advance of this milestone</li> </ul> |
| <b>Third FIC Readiness Date (-20 Business Days from FIC)</b>         | 31 January 2025          | <ul style="list-style-type: none"> <li>• Cut-over Status Report</li> <li>• Business Readiness Status Report</li> </ul>               | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>• Additional assurance and/or artefacts (if any) which may be required to support the implementation of the Final FIC Detailed Plan to be notified to the Incoming Licensee by the Commission reasonably in advance of this milestone</li> </ul>  |
| <b>Final FIC Readiness Date (-14 Business Days from FIC)</b>         | 14 February 2025         | <ul style="list-style-type: none"> <li>• Cut-over Status Report</li> </ul>   | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>• IL to provide a FIC Progress Assurance Board Resolution</li> </ul>  |

| 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 | Enabling Agreement Readiness  |
| 10 Business Days from FIC) |                   | <ul style="list-style-type: none"> <li>Business Readiness Status Report</li> </ul> |                     |   |                              | <ul style="list-style-type: none"> <li>Additional assurance and/or artefacts (if any) which may be required to support the implementation of the Final FIC Detailed Plan to be notified to the Incoming Licensee by the Commission reasonably in advance of this milestone</li> </ul> |
| FIC Completion             | 28 February 2025  | <ul style="list-style-type: none"> <li>FIC Completion Report</li> </ul>            | n/a                 | n/a                                       | n/a                          | <ul style="list-style-type: none"> <li>GC confirms whether Delayed FIC has been achieved</li> </ul>   |

**SCHEDULE 3****Incoming Transition Plan Obligations**

1. The Incoming Licensee shall develop, maintain and update the Incoming Transition Plan in accordance with paragraph 3 below in order to:
  - (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 this Agreement;
  - (b) minimise any disruption or deterioration of the National Lottery during and after the Handover Period;
  - (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; and
  - (d) enable the Incoming Licensee to achieve Delayed FIC by the Delayed Date.
2. The Incoming Transition Plan shall, as a minimum:
  - (a) detail how the Incoming Licensee proposes to comply operationally with its obligations in this Agreement;
  - (b) detail how the Incoming Licensee proposes to receive the Reletting Materials (as defined in the Third Licence) (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;
  - (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;
  - (d) set out a timetable, process, critical deliverables and critical controls for performing the transition assistance services;
  - (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;
  - (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;

- (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;
- (h) include a FIC Plan as updated from time to time in accordance with this Agreement;  
and
- (i) otherwise be consistent with, and address the issues referred to in this Agreement.

**SCHEDULE 4**

**Arrangements at Start Date**

**Part A – Documents to be in Approved Form before First Readiness Date**

The following documents must be in the Approved Form before the First Readiness Date:

1. The articles of association of any Licensee Subsidiary (if applicable)
2. Each Related Party Arrangement (as defined in the Draft Licence) which is not a Finance Agreement and is to be entered into on or prior to the Start Date
3. Each Trust Document other than the Approved Form Trust Deed
4. The EuroMillions Trust Documents<sup>2</sup>

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<sup>2</sup> Note: This provision will apply if the Incoming Licensee intends to continue to operate the EuroMillions game.

**Part B – Template Reports to be in Approved Form before First Readiness Date**

Templates of the following reports (each as described in the Commission's Regulatory Handbook) must be in the Approved Form before the First Readiness Date:

1. Participant Behaviour and Protection Report
2. Enquiries and Complaints Report
3. Overview of Availability Report
4. Brand KPIs
5. Sales and Good Causes Contribution and Other NLDF Components Report
6. Cost Expenditure Report
7. Performance Standards Report



### **Part C – Strategies, Policies, Processes and Procedures**

Before the First Readiness Date, the board of Directors of the Incoming Licensee must have approved all strategies, policies, processes, procedures which will be required to ensure that the Incoming Licensee complies with the New Licence on and from the Start Date, including (but not limited to) each of the following:

1. Participant Protection Strategy
2. Retailer Charter
3. Distribution and Portfolio Strategy
4. Technology and Data Architecture Strategy
5. Security Strategy
6. Core Lottery IP Guidelines
7. Code of Corporate Social Responsibility
8. Framework for Ethical Business Decision Making
9. Funds Protection Policies
10. Funds Protection Criteria
11. Brand Management Plan

**SCHEDULE 5**

**Required Third Party Approvals**

None

**SCHEDULE 6**

**Redacted – Confidential Information**

## SCHEDULE 7

### Implementation Financial Covenants

On each Calculation Date, the Liquidity Ratio should be above 1.0x

#### Interpretation

In this Schedule 7:

- (a) unless defined in this Schedule 7 below, any capitalised terms herein shall have the meaning given to them in this Agreement;
- (b) unless a contrary indication appears, any reference to an accounting term shall be construed in accordance with the Accounting Principles; and
- (c) no item may be credited or deducted more than once in any calculation.

#### Definitions

In this Schedule 7 the following terms will have the meanings given to them below:

**Acceptable Bank** means any bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of BBB- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency.

**Affiliate** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**Available Debt Financing** means the amounts which from time to time are available to be drawn for the benefit of the Incoming Licensee under a debt financing provided by an Acceptable Bank.

**Available Equity** means the amounts of funding which from time to time are available to be requested by the Incoming Licensee under documents establishing equity commitments by any of its Affiliates to the extent that (i) such equity commitments are backed by guarantees or any similar support ensuring certainty of funds provided to the Incoming Licensee by an Acceptable Bank or (ii) the amounts under such equity commitments have been paid to an escrow or other designated account maintained by an Acceptable Bank and are available to the Incoming Licensee.

**Business Plan** means the most recent business plan of the Incoming Licensee prepared by the Incoming Licensee in good faith and based on assumptions that the Incoming Licensee believes are reasonable and approved by the Incoming Licensee's board of directors.

**Calculation Date** means the final day of each Financial Quarter on and from the date of this Agreement until the Start Date.

**Expected Costs** means cash costs expected to be incurred by the Incoming Licensee based on a Business Plan (to the extent not included in Operating Cash Flow) that include among others operating expenses, capital expenditures, lease expenses, working capital, and financing costs.

**Financial Quarter** means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

**Holding Company** means, in relation to a person, any other person in respect of which it is a Subsidiary.

**Liquidity Ratio** means, as of any Calculation Date, the ratio of:

- (a) the Available Debt Financing *plus* the Available Equity *plus* available cash in hand or on deposit on balance sheet of the Incoming Licensee based on the latest available interim or annual (as applicable) financial statements *plus* the Operating Cash Flow generated until the Net Cash Flow turns positive; to
- (b) the Expected Costs remaining to be incurred before the Net Cash Flow turns positive.

**Net Cash Flow** means sum of the Incoming Licensee's (i) cash flow from operating activities, (ii) cash flow used for investing activities, and (iii) cash flow from financing activities as shown on the Incoming Licensee's cash flow statement contained in a Business Plan.

**Operating Cash Flow** means cash flow from operating activities as shown on the Incoming Licensee's cash flow statement contained in a Business Plan.

**Quarter Date** means each of 31 January, 30 April, 30 July and 31 October.

**Subsidiary** means, in relation to any company, corporation or other legal entity (a **holding company**), a company, corporation or other legal entity:

- (a) which is controlled, directly or indirectly, by the holding company;
- (b) in which a majority of the voting rights are held by the holding company, either alone or pursuant to an agreement with others;
- (c) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the holding company; or
- (d) which is a subsidiary of another Subsidiary of the holding company,

and, for this purpose, a company, corporation or other legal entity shall be treated as being controlled by another if that other company, corporation or other legal entity is able to determine the composition of the majority of its board of directors or equivalent body.

**Appendix 1 - The Draft Licence**

**PROPOSED FORM OF  
THE FOURTH NATIONAL LOTTERY LICENCE  
February 2024**

**CONTENTS**

| <b>CLAUSE</b>   | <b>PAGE</b> |
|---|-------------|
| <b>2. GRANT OF THE LICENCE</b>  | <b>89</b>   |
| <b>3. TERM OF THE LICENCE</b>   | <b>91</b>   |
| <b>4. COMPLIANCE OBLIGATIONS</b>  | <b>92</b>   |
| <b>5. FITNESS AND PROPRIETY OF THE LICENSEE</b>                         | <b>94</b>   |
| <b>6. LOTTERY BENEFICIARIES AND LOTTERY SUPERVISORS</b>                 | <b>97</b>   |
| <b>7. FITNESS AND PROPRIETY OF CRITICAL FUNCTION EMPLOYEES</b>          | <b>101</b>  |
| <b>8. PROTECTING PARTICIPANTS' INTERESTS</b>                            | <b>104</b>  |
| <b>9. ENSURING ACCESS TO THE NATIONAL LOTTERY</b>                       | <b>108</b>  |
| <b>10. DISTRIBUTING NATIONAL LOTTERY PRODUCTS IN AN APPROPRIATE WAY</b> | <b>109</b>  |
| <b>11. HAVING AN APPEALING BUT SAFE PORTFOLIO OF GAMES</b>              | <b>111</b>  |
| <b>12. USE OF LOTTERY DATA</b>  | <b>112</b>  |
| <b>13. THE NATIONAL LOTTERY BRAND AND REPUTATION</b>                    | <b>114</b>  |
| <b>14. ACTIVITIES OTHER THAN RUNNING THE NATIONAL LOTTERY</b>           | <b>115</b>  |
| <b>15. PAYMENTS TO GOOD CAUSES</b>                                      | <b>117</b>  |
| <b>16. PROTECTING PARTICIPANT FUNDS</b>                                 | <b>119</b>  |
| <b>17. LICENSEE AND ITS OPERATIONS TO BE FIT FOR PURPOSE</b>            | <b>129</b>  |
| <b>18. FINANCIAL AND OPERATIONAL RESILIENCE</b>                         | <b>132</b>  |
| <b>19. NATIONAL LOTTERY IP</b>  | <b>137</b>  |
| <b>20. EMPLOYEES</b>  | <b>142</b>  |
| <b>21. CONTRACTORS</b>  | <b>144</b>  |
| <b>22. ENSURING GOOD GOVERNANCE</b>                                     | <b>149</b>  |
| <b>23. PROVIDING INFORMATION AND ASSURANCE TO THE COMMISSION</b>        | <b>152</b>  |
| <b>24. REGULATORY OVERSIGHT AND PERFORMANCE MANAGEMENT</b>              | <b>156</b>  |
| <b>25. INDEPENDENT PERFORMANCE REVIEW</b>                               | <b>159</b>  |
| <b>26. STARTING TO RUN THE NATIONAL LOTTERY UNDER THIS LICENCE</b>      | <b>161</b>  |
| <b>27. EXIT</b>   | <b>162</b>  |
| <b>28. OUTSTANDING LIABILITY FUND</b>                                   | <b>170</b>  |
| <b>29. ENSURING CONFIDENTIAL INFORMATION IS PROTECTED</b>               | <b>173</b>  |
| <b>30. FREEDOM OF INFORMATION</b>                                       | <b>175</b>  |
| <b>31. NOTICES</b>  | <b>176</b>  |
| <b>32. MISCELLANEOUS PROVISIONS</b>                                     | <b>177</b>  |

**SCHEDULES**

## 1. PURPOSES AND OUTCOMES

### Purposes

1.1 The purposes of this Licence are:

- (a) to authorise and require the Licensee to run the National Lottery; and
- (b) that certain outcomes regarding that operation are secured.

### Outcomes

1.2 The outcomes referred to in Condition 1.1(b) are that the National Lottery be carried on:

- (a) with all due propriety;
- (b) in a way which protects the interests of Participants; and
- (c) subject to (a) and (b), so as to maximise the amount being paid out of the net proceeds of the National Lottery to Good Causes, which, for the avoidance of doubt, will be assessed taking account both of:
  - (i) the amount paid and to be paid to Good Causes under this Licence; and
  - (ii) to the extent the operation of the National Lottery under this Licence might affect them, potential amounts to be paid to Good Causes out of the net proceeds of the National Lottery under subsequent licences awarded under section 5 of the Act,

and the Licensee must interpret and perform its obligations under this Licence in the manner best calculated to achieve those outcomes.

### Absolute obligations under this Licence

1.3 Where a Condition of this Licence provides that the Licensee must do (or refrain from doing) a thing or must ensure an outcome, the Licensee is in breach of that Condition if it fails to do (or refrain from doing) that thing or fails to ensure that outcome.

### Other obligations as to outcomes under this Licence

1.4 Where a Condition of this Licence provides that the Licensee must do everything it can to ensure a specified outcome is achieved, the Licensee is in breach of that Condition if that outcome is not achieved unless the Licensee can satisfy the Commission that it has taken all reasonable steps and exercised all due diligence to achieve that specific outcome and, in doing so, to secure the outcomes set out in Condition 1.2.

1.5 In order to demonstrate that it has taken all reasonable steps and exercised all due diligence in accordance with Condition 1.4, it shall not necessarily be sufficient for the Licensee to have done those specific things which this Licence states it must do.



Cost of compliance with this Licence

- 1.6 The Licensee shall not under any circumstances be entitled to reimbursement from the Commission of its costs of compliance with the Conditions of this Licence or any directions from the Commission.

Non-Frustration

- 1.7 The Licensee must not do, and must do everything it can to ensure that no other person does, any thing which has the effect of avoiding, frustrating or circumventing any Condition of this Licence.

Definitions and Interpretation

- 1.8 Unless defined elsewhere in this Licence, capitalised terms used in this Licence are defined in Schedule 1 (*Glossary*) and the provisions of this Licence shall be interpreted in accordance with Schedule 2 (*Interpretation*).

## 2. GRANT OF THE LICENCE

### Grant

2.1 The Commission grants this Licence to run the National Lottery to the Licensee.

2.2 This Licence is granted under section 5 of the Act.

### Requirement to run the National Lottery

2.3 The Licensee must run the National Lottery in accordance with this Licence.

### Variation of certain Conditions only with consent

2.4 In accordance with section 8(3)(b) of the Act, the following Conditions and Schedules may only be varied with the consent of the Licensee:

- (a) Condition 1.1;
- (b) Condition 1.4;
- (c) Conditions 2.4 to 2.6 (inclusive);
- (d) Condition 3;
- (e) Condition 9.2;
- (f) Condition 13.6;
- (g) Conditions 14.4;
- (h) Condition 14.5(b);
- (i) Condition 14.9;
- (j) Condition 15.1;
- (k) Condition 18.20;
- (l) Condition 20.2;
- (m) Condition 21.2;
- (n) Condition 21.9;
- (o) Condition 21.13;
- (p) Condition 22.15;
- (q) Condition 22.16;
- (r) Condition 27.1;
- (s) Condition 28.1;
- (t) Condition 28.4;

- (u) Conditions 28.6 to 28.11 (inclusive);
- (v) Condition 32.4; and
- (w) Schedule 6.

2.5 In accordance with section 8(3)(b) of the Act, the following defined terms in Schedule 1 may only be varied with the prior consent of the Licensee:

- (a) "Core Lottery IP";
- (b) "Developed IP";
- (c) "Gambling Law";
- (d) "Lottery IP";
- (e) "Material Impact on Profitability"; and
- (f) "Other Lottery IP".

2.6 Subject to Condition 2.7, in accordance with section 8(3)(b) of the Act, the provisions of Schedule 5 and Appendix 1 of Schedule 5 of this Licence, with the exception of the following defined terms in paragraph 12 of Part B of Schedule 5:

- (a) "Promotional Prize";
- (b) "Recoverable Implementation Costs"; and
- (c) "SONIA",

may not be varied by the Commission without the prior consent of the Licensee.

2.7 The Commission may vary the provisions referred to in Condition 2.6 if it determines it to be appropriate to do so if:

- (a) in accordance with Condition 18.20, the Licensee requests that the Commission considers whether it is appropriate to exercise its powers under section 8 of the Act; or
- (b) there is:
  - (i) a change in Gambling Law; or
  - (ii) a Fundamental Geographic Scope Change,

which in either case results or is reasonably likely to result in a positive Material Impact on Profitability.

### 3. TERM OF THE LICENCE

#### Start and End

- 3.1 This Licence starts on 1 February 2024. Subject to Condition 3.2, it will end on 31 January 2034.
- 3.2 This Licence can only be terminated early in accordance with the Act or extended in accordance with a Condition of this Licence.

#### Contingency Extension

- 3.3 The Commission may extend the Term:
- (a) once following an Extension Review in accordance with Conditions 3.7 and 3.8; and
  - (b) on no more than two occasions if, in each case, the Commission considers it appropriate for the purposes of the Next Competition.
- 3.4 Each extension of the Term shall, subject to Condition 3.5, be for a period determined by the Commission.
- 3.5 The total period by which the Term may be extended under Condition 3.3(b) shall not exceed 24 months.
- 3.6 The Commission must tell the Licensee about any extension under Condition 3.3(b) no less than six months before this Licence is due to expire.

#### Extension Review

- 3.7 The Commission will consider whether to extend the Term (an “**Extension Review**”):
- (a) in the six months prior to the end of Licence Year 6; or
  - (b) earlier during Licence Year 5 or Licence Year 6, if requested to do so by the Licensee.
- 3.8 Following the Extension Review, provided that the Commission is satisfied that the existence and period of such an extension would not be inconsistent with the Commission’s statutory duties and legal obligations, having taken into account all relevant factors including the extent to which:
- (a) the Licensee has complied with the Enabling Agreement from 25 September 2023 and Full Implementation has been achieved in accordance with the Enabling Agreement on or before 1 February 2026;
  - (b) the Licensee’s obligations under this Licence are being met, and the Licensee is, and has been, in compliance with this Licence; and
  - (c) in running the National Lottery under this Licence, the Licensee has done everything it can to maximise Good Causes Contributions,

the Term of the Licence shall be extended by a period of two years or such lesser period as the Commission may determine.

#### 4. COMPLIANCE OBLIGATIONS

##### Legal Requirements

- 4.1 The Licensee must ensure that the running of the National Lottery operation and any Ancillary Activity complies with all laws, regulations and licences applicable to the National Lottery or that activity as the case may be. The Licensee must comply, and must ensure that any Licensee Subsidiary complies, with all laws and regulations applicable to the Licensee, any Licensee Subsidiary and all of its and their activities.
- 4.2 For the avoidance of doubt where, as part of the running of the National Lottery operation or any Ancillary Activity by the Licensee or any Licensee Subsidiary, any activity is undertaken in any location outside the UK, the laws and regulations referred to in Condition 4.1 include those applicable to that location but the Licensee must also comply with the relevant UK laws and regulations in respect of that activity.

##### Best Practice

- 4.3 In addition to complying with law and regulation, the Licensee must comply, and must ensure that any Licensee Subsidiary complies, with Best Practice, being the standard to be expected of an experienced and professional person doing a particular thing and seeking to secure the outcomes in Condition 1.2.
- 4.4 This means (among other things) that where the Commission or any other Relevant Government or Public Authority or any Recognised Industry Body:
- (a) issues a code of practice or guidelines containing requirements which must be followed with regard to the undertaking of an activity, the Licensee and any Licensee Subsidiary must comply with those requirements if it undertakes that activity;
  - (b) issues a code of practice or guidelines containing recommendations with regard to the undertaking of an activity, the Licensee and any Licensee Subsidiary must have regard to those recommendations if it undertakes that activity; and
  - (c) publishes generally accepted standards for the undertaking of an activity or performance of any asset (**Recognised Standards**), the Licensee and any Licensee Subsidiary must do everything it can to achieve those Recognised Standards and to obtain any certifications or approvals necessary in order to demonstrate that the Recognised Standards have been achieved

and for this purpose a “**Relevant Government or Public Authority or any Recognised Industry Body**” means

- (i) any UK government, public authority or recognised industry body; and
  - (ii) any other government, public authority or recognised industry body but only to the extent a requirement, recommendation or standard applies to the undertaking of an activity by the Licensee.
- 4.5 The Licensee must adopt and implement strategies, policies, processes and procedures to ensure that it, and any Licensee Subsidiary, complies with Best Practice. All such strategies, policies, processes and procedures must be approved by the Compliance and Risk Management Committee. In order to approve those strategies, policies, processes

and procedures, that Committee must be satisfied that they will ensure that the Licensee complies with Best Practice.

## 5. FITNESS AND PROPRIETY OF THE LICENSEE

### Overriding Duty

- 5.1 The Licensee must do everything it can to ensure that, at all times during the Term:
- (a) each of the Licensee and any Licensee Subsidiary is a fit and proper person to run the National Lottery;
  - (b) each person who manages the business, or any part of the business, of running the National Lottery is a fit and proper person to do so; and
  - (c) each person for whose benefit the business of running the National Lottery is carried on is a fit and proper person to benefit from it,
- (together the **Fit and Proper Requirements**).
- 5.2 This Condition sets out certain steps which the Licensee must take in order to ensure that its governing documents, and certain categories of arrangements to which the Licensee is a party, are consistent with the Fit and Proper Requirements.

### Documents to be in force on the Start Date

- 5.3 On the Start Date, the Licensee must ensure that each of the documents and matters listed in:
- (a) Schedule 4 of the Enabling Agreement; and
  - (b) Appendix 2 to the Enabling Agreement,
- each being in the Approved Form, has been adopted and/or entered into (as applicable) by the Licensee and is in force.

### Changes to documents

- 5.4 Unless the Commission has given its prior consent, the Licensee:
- (a) must not, make any changes to any of its or any Licensee Subsidiary's:
    - (i) Approved Form articles of association; or
    - (ii) Approved Form Finance Agreements; and
  - (b) must ensure that no changes are made to any Approved Form Shareholders' Agreements.

### Related Party Arrangements

- 5.5 Each Related Party Arrangement, including those in the Approved Form, must:
- (a) be in writing;
  - (b) be on arm's length terms;
  - (c) itself, and be operated in the manner best calculated to, achieve the outcomes in Condition 1.2; and

- (d) provide Good Value for Good Causes.

#### Designated Lottery Subcontracts

- 5.6 The Commission may, by notice to the Licensee, specify that the following are Designated Lottery Subcontracts:
  - (a) any individual Lottery Subcontract; and
  - (b) all Lottery Subcontracts within a category specified by the Commission.

#### New or amended Related Party Arrangements and Designated Lottery Subcontracts

- 5.7 If the Licensee, any Licensee Subsidiary or (where the Licensee or any Licensee Subsidiary is not a party to a Lottery Subcontract) a Lottery Subcontractor intends to enter into or amend a Designated Lottery Subcontract or a Related Party Arrangement, the Licensee must notify the Commission at least 20 Business Days before entering into the contract or arrangement or making the amendment.
- 5.8 The Licensee must, and must ensure that each Licensee Subsidiary and Lottery Subcontractor shall:
  - (a) not enter into a new Designated Lottery Subcontract or Related Party Arrangement if directed not to do so by the Commission during the 20 Business Day period referred to in Condition 5.7;
  - (b) where the Commission specifies any amendments which must be made to a new Designated Lottery Subcontract or Related Party Arrangement during the 20 Business Day period referred to in Condition 5.7, only enter into such Designated Lottery Subcontract or Related Party Arrangement if it contains the amendments specified by the Commission (and no other changes); and
  - (c) not agree to the amendment of the Designated Lottery Subcontract or Related Party Arrangement unless the amendment is in the form notified to the Commission, subject only to any changes specified by the Commission during the 20 Business Day period referred to in Condition 5.7 (and no other changes).
- 5.9 For the avoidance of doubt, neither of the following shall constitute any indication as to whether the Commission considers that a Related Party Arrangement complies with the requirements of Condition 5.5:
  - (a) that Related Party Arrangement being in the Approved Form; or
  - (b) the Commission not making any direction to the Licensee under condition 5.8(a) in connection with that Related Party Arrangement (regardless of whether the Commission has entered into correspondence with the Licensee regarding that Related Party Arrangement).

#### Subsidiaries of the Licensee

- 5.10 None of the following persons may own (legally or beneficially and directly or indirectly) shares or any other ownership interest in any other person without the prior consent of the Commission:
  - (a) the Licensee; and



(b) any Licensee Subsidiary.

## 6. LOTTERY BENEFICIARIES AND LOTTERY SUPERVISORS

### Overriding Duty

6.1 The Licensee must:

- (a) ensure that no person is able to exercise control or material influence over the Licensee, or the way in which the Licensee runs the National Lottery, without the prior consent of the Commission;
- (b) ensure that the business or any part of the business of running the National Lottery is not carried on for the benefit of any person unless that person meets the Fit and Proper Requirements; and
- (c) do everything it can to ensure that every person who is able to exercise control or material influence over the Licensee, or the way in which the Licensee runs the National Lottery, meets the Fit and Proper Requirements.

6.2 This Condition sets out certain steps which the Licensee must take in order to do this.

### Lottery Beneficiaries

6.3 Lottery Beneficiaries are any of the following persons:

- (a) a Qualifying Direct Shareholder of the Licensee;
- (b) a Connected Party of a Qualifying Direct Shareholder of the Licensee;
- (c) a Key Subcontractor;
- (d) a Connected Party of a Key Subcontractor; and
- (e) any Senior Executive of any person listed in (a) to (d) above.

6.4 Certain agreements, arrangements or understandings between two or more persons may mean that each of those persons is a Lottery Beneficiary. Details of these Control Arrangements are set out in Schedule 4.

### Lottery Supervisors

6.5 Lottery Supervisors are any of the following persons:

- (a) any Senior Executive of the Licensee or of any Licensee Subsidiary; or
- (b) any person employed by the Licensee, by any Licensee Subsidiary or by a Key Subcontractor who has overall responsibility for:
  - (i) the strategy of the Licensee or the Licensee's strategy for the National Lottery;
  - (ii) any strategy, process, policy or procedure which relates to the operation of the National Lottery;
  - (iii) National Lottery operations;
  - (iv) management of National Lottery operations;

- (v) financial planning, control and budgeting of the Licensee or in relation to the National Lottery operation;
- (vi) marketing and commercial development of the Licensee or in relation to the National Lottery operation;
- (vii) regulatory compliance, including in relation to money laundering, of the Licensee or in relation to the National Lottery operation;
- (viii) IT provision and security (including the hosting or storage of Lottery Data) of the Licensee or in relation to the National Lottery operation;
- (ix) contact centre operations of the Licensee or in relation to the National Lottery operation; or
- (x) a Critical Function.

#### Fit and Proper Checks undertaken before the Start Date

##### 6.6 Before the Start Date:

- (a) the Licensee identified to the Commission each person who was proposed to be, prior to or with effect from the Start Date, a Lottery Beneficiary or a Lottery Supervisor; and
- (b) the Commission has undertaken Fit and Proper Checks on such persons.

Those checks have been undertaken on the basis of information provided to the Commission for that purpose.

##### 6.7 If the information provided to the Commission in connection with those checks:

- (a) was not complete and accurate when provided; or
- (b) does not remain complete and accurate on or after the Start Date,

the Licensee is in breach of this Condition unless it promptly notifies the Commission of the new, updated or correct information and the Commission confirms that the relevant person meets the Fit and Proper Requirements.

#### Changes to Lottery Supervisors and Lottery Beneficiaries

##### 6.8 The Licensee must tell the Commission promptly upon the earlier of:

- (a) it becoming aware of any proposal to change a Lottery Supervisor or a Lottery Beneficiary; or
- (b) any change to a Lottery Supervisor or a Lottery Beneficiary taking effect.

##### 6.9 The Licensee must ensure that no person becomes a Lottery Supervisor or a Lottery Beneficiary without the prior consent of the Commission.

#### Further Checks – Lottery Supervisor and Lottery Beneficiaries

- 6.10 The Commission may do Fit and Proper Checks on any Lottery Supervisor or any Lottery Beneficiary whenever it wants.
- 6.11 The Licensee must:
- (a) ensure that each Lottery Supervisor and each Lottery Beneficiary promptly notifies the Licensee if any facts or circumstances arise which might be relevant to an assessment of whether that person meets the Fit and Proper Requirements;
  - (b) have policies, processes and procedures in place to identify proactively any such facts or circumstances; and
  - (c) require that each Lottery Beneficiary (where such person is a company, partnership or other body corporate) has policies, processes and procedures in place to identify proactively any such facts or circumstances.
- 6.12 If at any time the Licensee becomes aware of any information which might be relevant to an assessment undertaken at that time of whether:
- (a) a Lottery Supervisor or a Lottery Beneficiary meets the Fit and Proper Requirements; or
  - (b) the Licensee meets the Fit and Proper Requirements,
- the Licensee will promptly notify the Commission and will cooperate with any Fit and Proper Checks the Commission undertakes.
- 6.13 If the Commission notifies the Licensee at any time that any Lottery Supervisor is not a fit and proper person to perform that role, the Licensee must ensure that such person promptly ceases to be a Lottery Supervisor.
- 6.14 If the Commission concludes at any time that any Lottery Beneficiary is not a fit and proper person, the Licensee must ensure that such person ceases to be a Lottery Beneficiary within 20 Business Days of notification by the Commission (or such other period as is approved by the Commission).

#### Provision of Information

- 6.15 The Licensee must provide, and must ensure that every Lottery Supervisor and Lottery Beneficiary provides, to the Commission any information the Commission requests in order to:
- (a) perform any Fit and Proper Check; or
  - (b) enable the Commission to assess whether any Fit and Proper Checks carried out by the Licensee in relation to any Critical Function Employee, and the Licensee's policies, processes and procedures for undertaking such Fit and Proper Checks, are each Fit for Purpose.

This shall include the provision, not less than once in every six month period, of charts accurately setting out the legal and beneficial ownership, the organisation and management of the Licensee.

Costs of Fit and Proper Checks

- 6.16 Where, under this Condition 6, the Commission undertakes a Fit and Proper Check:
- (a) in connection with the consideration of a proposed Lottery Beneficiary who will become:
    - (i) a Qualifying Direct Shareholder of the Licensee; or
    - (ii) a Connected Party of a Qualifying Direct Shareholder of the Licensee,  
in accordance with Condition 6.9;
  - (b) in relation to a change to any facts or circumstances which arise in relation to a person referred to in 6.16(a); or
  - (c) in connection with any Lottery Beneficiary or Lottery Supervisor whom the Commission considers may fail to meet the Fit and Proper Requirements and subsequently the Commission confirms that such person does not meet the Fit and Proper Requirements,

the Licensee must promptly reimburse the Commission's cost of undertaking that Fit and Proper Check.

## 7. FITNESS AND PROPRIETY OF CRITICAL FUNCTION EMPLOYEES

### Overriding Duty

- 7.1 The Licensee must ensure that each person who manages the business, or any part of the business, of running the National Lottery meets the Fit and Proper Requirements. This Condition sets out certain steps which the Licensee must take in order to do this.
- 7.2 One of those steps is that the Licensee itself must undertake, and enable the Commission to undertake, Fit and Proper Checks on each Critical Function Employee.
- 7.3 This Condition sets out specific requirements regarding those Fit and Proper Checks.

### Critical Function Employees

- 7.4 A Critical Function Employee is any person who is not a Lottery Supervisor and who:
  - (a) works within a Critical Function; or
  - (b) manages or oversees any person who works within a Critical Function, whether employed or engaged by the Licensee, by any Licensee Subsidiary or by a Key Subcontractor.

### Changes to Critical Function Employees

- 7.5 The Licensee must not appoint (and must ensure that no person is appointed) as a Critical Function Employee unless, before that appointment takes effect, the Licensee has undertaken a Fit and Proper Check and is satisfied that such person meets the Fit and Proper Requirements. The only exception to this requirement will be the circumstances set out in Condition 7.6.
- 7.6 This Condition applies if exceptional circumstances arise in which the operation of the National Lottery can only be maintained if a person is appointed to start work as a Critical Function Employee before the requirements of Condition 7.5 can be fulfilled. In those circumstances, provided the Licensee has no reason to consider that the relevant person does not meet the Fit and Proper Requirements, they may appoint that person (or allow that person to be appointed) as a Critical Function Employee on a provisional basis pending completion of the necessary Fit and Proper Checks, but must:
  - (a) promptly notify the Commission that the Critical Function Employee has started work prior to the completion of the necessary Fit and Proper Checks; and
  - (b) implement policies, processes and procedures to ensure that:
    - (i) such Critical Function Employee is:
      - (1) adequately supervised by a person who has successfully completed the Fit and Proper Checks;
      - (2) prevented from accessing sensitive information (including Lottery Data), the disclosure or misuse of which might damage any Matter to be Protected; and

- (ii) all other necessary controls and restrictions are in place to ensure that the Licensee complies with its obligations under this Licence and that there is no damage to any Matter to be Protected,

until the necessary Fit and Proper Checks have been completed. If the Commission notifies the Licensee that such Critical Function Employee is not a fit and proper person, the Licensee must ensure that such person promptly ceases to be a Critical Function Employee.

#### Fit and Proper Checks done in connection with Implementation

7.7 Before the Start Date, the Licensee identified to the Commission each person who was proposed to be, prior to or with effect from the Start Date, a Critical Function Employee. With respect to each such person:

- (a) subject to paragraph (b), the Commission has done Fit and Proper Checks on those persons before the Start Date; or
- (b) with respect to those persons whom the Commission has notified to the Licensee in accordance with clause 9.7 of the Enabling Agreement, as at the Start Date the Commission will continue to undertake Fit and Proper Checks and will notify the Licensee when those checks have been completed. Pending completion of those checks, Condition 7.6(b) will apply to those persons.

7.8 The Fit and Proper Checks referred to in Condition 7.7 have been, and (where applicable) are being, undertaken on the basis of information provided to the Commission for that purpose.

7.9 If any information provided to the Commission in connection with those Fit and Proper Checks:

- (a) was or, as the case may be, is not complete and accurate when provided; or
- (b) does not remain complete and accurate on or after the Start Date,

the Licensee is in breach of this Condition unless it promptly notifies the Commission of the difference and the Commission confirms that the relevant person meets the Fit and Proper Requirements.

#### Further Checks – Critical Function Employees

7.10 The Commission may do a Fit and Proper Check on any Critical Function Employee whenever it wants.

7.11 The Licensee must ensure that all Critical Function Employees promptly notify the Licensee if any facts or circumstances arise which may be relevant to an assessment of whether that person meets the Fit and Proper Requirements.

7.12 If the Licensee becomes aware of any fact or circumstance which may be relevant to an assessment of whether a person meets the Fit and Proper Requirements, the Licensee must:

- (a) promptly notify the Commission of such fact or circumstance;

- (b) promptly do Fit and Proper Checks on that Critical Function Employee; and
- (c) cooperate with any Fit and Proper Checks undertaken by the Commission on that Critical Function Employee.

- 7.13 If the Licensee or the Commission concludes at any time that any Critical Function Employee does not meet the Fit and Proper Requirements, the Licensee must ensure that such person promptly ceases to be a Critical Function Employee.
- 7.14 Where the Licensee has the responsibility to do a Fit and Proper Check with respect to any Critical Function Employee, the Licensee must do a Fit and Proper Check no more than five years after the last Fit and Proper Check done on that person.

#### Quality of Licensee Fit and Proper Checks

- 7.15 The Licensee must ensure that all Fit and Proper Checks which it does are Fit for Purpose and comply with Best Practice, including any requirements set out in the Commission's Regulatory Handbook.
- 7.16 If the Commission considers that a Fit and Proper Check done by the Licensee in respect of any Critical Function Employee is not Fit for Purpose and the Commission then does such Fit and Proper Check itself, the Licensee must promptly reimburse the Commission's costs of doing that Fit and Proper Check.

#### Retention of Records

- 7.17 The Licensee must ensure that all information and documentation in relation to, and the results of, all Fit and Proper Checks done by it will be available to the Commission until the expiry of five years after the End Date. The Licensee must provide such records to the Next Licensee or the Commission (or its nominee) in such form and as otherwise directed by the Commission, and must obtain any necessary consents to enable it to comply with this Condition 7.17.



## 8. PROTECTING PARTICIPANTS' INTERESTS

### Overriding Duty

- 8.1 The Licensee must do everything it can to ensure that the interests of every Participant in respect of playing, engaging with or being exposed to, the National Lottery and every Game are protected.
- 8.2 Some of the interests of Participants referred to in Condition 8.1 include prevention of play by persons under the Legal Age Limit, that excessive play is not encouraged, provision of adequate information about Games, provision of an adequate complaints and redress system, payment of Prizes and provision of protection and support for Prize Winners. The remainder of this Condition describes some of the ways in which the Licensee must protect those interests.

### Preventing underage play

- 8.3 The Licensee must do everything it can to prevent people who are under the Legal Age Limit from participating in the National Lottery. The Licensee must ensure that sufficient controls are in place to prevent underage play.

### Not encouraging excessive play

- 8.4 The Licensee must not encourage anyone to play the National Lottery excessively and must:
- (a) provide Participants with information about responsible gambling and a broad suite of self-control and self-exclusion tools, including multi-operator national self-exclusion schemes, that are easily accessible, usable and reasonably adaptable;
  - (b) put in place policies, processes and procedures for self-exclusion and do everything it can:
    - (i) to refuse, and to ensure that Retailers refuse, to sell tickets to a Game to individuals who have self-excluded; or
    - (ii) to otherwise prevent an individual who has entered a self-exclusion agreement from participating in the National Lottery; and
  - (c) do everything it can to identify, offer and provide support to Participants who engage, or are likely to engage, in excessive play in the National Lottery,
- and must have policies, processes and procedures to prevent excessive play in the National Lottery.

### Restricting use of credit

- 8.5 With respect to credit cards, the Licensee must not:
- (a) allow Participants to enter Games through an application or website operated by or on behalf of the Licensee (including by a Related Party) using a credit card;

- (b) enter into any agreement or arrangement with any person with respect to the issue or promotion of any credit card; or
- (c) directly or indirectly permit any person to use any Core Lottery IP or Lottery Data with respect to the issue or promotion of any credit card.

8.6 With respect to any form of credit other than a credit card, the Licensee must not provide, or enter into any agreement or arrangement which permits or requires any third party to provide, credit facilities to Participants in respect of participating in the National Lottery.

#### Price of tickets

8.7 Unless the Commission agrees otherwise, the Licensee must ensure that no tickets in a Game are given away for free or sold for less than the full price applicable in accordance with the rules of that Game (including by way of the exchange of a Ticket Entitlement which has been given away for free, or for less than the applicable full price for a ticket) unless:

- (a) the Licensee or another person has paid full price for the ticket; or
- (b) for the purposes of calculating the Gross Value of Ticket Sales and Licensee Revenue, a payment equivalent to the full price of the ticket shall be deemed to have been made.

8.8 The Licensee must ensure that no Game is made available unless the Commission has confirmed that it does not regard the price of tickets to be unreasonably high.

#### Information about Games

8.9 The Licensee must do everything it can to ensure that full, accurate and up to date information relating to the National Lottery is made easily available, in a variety of formats, to any Participant. This must include a telephone line or other method through which a Participant can ask questions about the National Lottery without being charged (whether by way of a premium rate attaching to that telephone line or otherwise) by the Licensee. Information which is provided in Wales must be made available in Welsh as well as English.

#### Complaints and Redress

8.10 The Licensee must ensure that Participants have an easy way to pursue complaints with the Licensee. The Licensee must not charge Participants for making complaints (whether by attaching a premium rate to a telephone line or otherwise). The Licensee must deal with any complaints quickly and openly.

8.11 Where the Licensee's complaints procedure does not deal with a complaint to the satisfaction of a Participant within eight weeks of the complaint being made, the Licensee shall provide access to an independent dispute resolution mechanism which:

- (a) accords with Best Practice;
- (b) is available to Participants free of charge; and
- (c) for complaints with a value of £10,000 or less, the Participant may choose to be binding on the Licensee and the Participant.

### Games

- 8.12 Unless the terms of a Section 6 Licence provide for a shorter period, the Licensee must ensure that no Game is made available unless the Commission has confirmed that, under the rules of that Game, Participants can claim Prizes within a period of 180 days.

### Prizes

- 8.13 The Licensee must:
- (a) do everything it can to ensure that Participants can easily find out, free of charge, whether they have won a Prize and, if so, how they should claim it;
  - (b) ensure that Prize payments are made promptly, accurately and in accordance with the rules of the relevant Game, to the correct Participant; and
  - (c) compensate, to the correct Prize amount, any Participant who does not receive their Prize in full in accordance with the rules of the relevant Game.

### Prize Winners

- 8.14 The Licensee must ensure that the identity of Prize Winners is not disclosed to, or accessible by, any third party other than the Commission or any relevant Lottery Subcontractor, unless the Prize Winner consents in writing to their identity being made public or the Licensee is legally required to disclose the identity of the Prize Winner.
- 8.15 The Licensee must offer and, on request provide, support and assistance to any Prize Winner who wins a Prize which to them is potentially life-changing. Such support and assistance should reflect the personal circumstances of the individual.
- 8.16 The Licensee must do everything it can proactively to identify winners of Unclaimed Prizes that would generally be regarded as potentially being life-changing.

### Participant Protection Strategy

- 8.17 The Licensee must adopt and implement a Participant Protection Strategy setting out policies, processes and procedures to ensure that it complies with the obligations set out in Conditions 8.1 to 8.16. That strategy must contain objectively measurable criteria by which the Licensee can evaluate the success of that strategy in enabling the Licensee to comply with those obligations.
- 8.18 The Licensee must do everything it can to ensure that the Participant Protection Strategy takes account of any:
- (a) instances of the interests of Participants in connection with the National Lottery being harmed;
  - (b) past, present or future market, legal or technological developments relevant to the National Lottery; and
  - (c) past, present or future developments in regulatory policy, including developments relating to the National Lottery notified by the Commission to the Licensee.

- 8.19 To support the Participant Protection Strategy, the Licensee must provide the Research, Prevention and Treatment Support.

Prohibition of Game Cross-Subsidies

- 8.20 Save as specifically provided for in the Funds Protection Policies, the Licensee shall calculate and pay prizes in any Game solely by reference to amounts received by way of sales of Tickets in that Game and not by reference to sales of Tickets in any other Game.

Free Games

- 8.21 The Participant Protection Strategy must ensure that:
- (a) the Licensee applies to each Free Game the same standards regarding the protection of the interests of Participants and each other Matter to be Protected as it applies to Games; and
  - (b) sufficient provision is made, whether by way of a financial reserve, an insurance policy or otherwise, to ensure that all prizes in Free Games are paid.

Promotional Prizes

- 8.22 The Licensee must ensure that:
- (a) all Promotional Prizes are determined according to a methodology which ensures that they fulfil the requirements of Condition 8.23;
  - (b) each Section 6 Licence for a Game in which Promotional Prizes are offered or awarded identifies that methodology; and
  - (c) Promotional Prizes are specifically identified in the financial records of the Licensee.
- 8.23 Promotional Prizes shall be Prizes which are awarded according to a specific feature of a Game which is designed for the purposes of promoting the National Lottery or any other goods or services in a manner which distinguishes them from the Prizes available in the ordinary course of operating that Game.

## 9. ENSURING ACCESS TO THE NATIONAL LOTTERY

### Overriding Duty

- 9.1 The Licensee must do everything it can to ensure that, throughout the Term, any person who is over the Legal Age Limit and any person who has not self-excluded can easily enter Games through a range of Sales Outlets throughout the UK, so as to maximise the appeal and reach of the National Lottery. This Condition sets out some of the ways the Licensee must do this.

### Access to Physical Sales Locations

- 9.2 The Licensee must do everything it can (taking account of normal business opening hours, reasonable maintenance downtimes and unavoidable businesses interruptions) to ensure that tickets in at least one Draw-based Game operated by the Licensee in accordance with Condition 11.2 are available to be purchased from a Physical Sales Location in every postcode district which has more than 2,000 residents.
- 9.3 If at any time it is not possible to ensure that tickets in at least one Draw-based Game operated by the Licensee in accordance with Condition 11.2 are available to be purchased from a Physical Sales Location in any postcode district which has more than 2,000 residents, the Licensee must:
- (a) explain the reason to the Commission; and
  - (b) at least once a year, review that postcode district with the aim of ensuring that tickets in any such Draw-based Game are made available from a Physical Sales Location in that district.

### Overseas access

- 9.4 The Licensee must do everything it can (including through the rules of each Game) to ensure that persons located outside of the UK cannot participate in the National Lottery or any Game unless the Commission has approved in writing specific circumstances in which such access may be permitted.

### Protection of Participants and the National Lottery to take precedence

- 9.5 The provisions of this Condition 9 are subject to Condition 8 (*Protecting Participants' Interests*), Condition 10 (*Distributing National Lottery products in an appropriate way*) and Condition 22 (*Ensuring Good Governance*).

### Distribution and Portfolio Strategy

- 9.6 The Licensee must at all times adopt and implement a strategy setting out its policies, processes and procedures to ensure that it complies with the obligations set out in this Condition 9, Condition 10 (*Distributing National Lottery products in an appropriate way*) and Condition 11 (*Having an appealing but safe portfolio of Games*) (the **Distribution and Portfolio Strategy**).

## 10. DISTRIBUTING NATIONAL LOTTERY PRODUCTS IN AN APPROPRIATE WAY

### Overriding Duty

- 10.1 The Licensee must do everything it can to ensure that the way in which National Lottery products are promoted, sold and made available does not damage any of the Matters to be Protected, being:
- (a) the interests of Participants in the National Lottery referred to in Condition 8 (*Protecting Participants' Interests*);
  - (b) that the National Lottery is run with integrity and that Games are, and are perceived as being, honestly and fairly run and that Prizes are accurately awarded and paid in accordance with the rules of each Game;
  - (c) the National Lottery Brand;
  - (d) the reputation of the National Lottery; and
  - (e) the ability of the Licensee to otherwise comply with this Licence.

This Condition sets out some of the ways the Licensee must do this.

### Managing the risk of change

- 10.2 The Licensee must conduct a risk assessment to identify any risk that any damage to any Matter to be Protected might, or will, arise from a material change to any of the following:
- (a) the number, mix and nature of Sales Outlets through which Games and tickets for any Game are promoted, sold and made available;
  - (b) the Licensee's financial arrangements with Retailers regarding the promotion of the National Lottery and the promotion and sale of tickets in any Game; and
  - (c) the manner in which Participants buy tickets in any Game and interact with the National Lottery.
- 10.3 If there is such a risk, as soon as it becomes aware of, or implements, that material change (whichever is earlier) the Licensee must:
- (a) before the change takes effect, promptly prepare a plan to prevent that damage;
  - (b) implement that plan; and
  - (c) provide an Ad Hoc Assurance Statement, certified as approved by the Licensee's board of Directors, confirming to the Commission that it has prepared and implemented its plan.
- 10.4 After any such change, the Licensee must:
- (a) once the change has been in place long enough to assess, evaluate any resulting damage to any Matter to be Protected;
  - (b) do everything it can to ensure any damage does not continue; and

- (c) provide to the Commission an Ad Hoc Assurance Statement certified as approved by the board of Directors of the Licensee confirming that it has conducted an evaluation and it has done, and continues to do, everything it can to ensure that the damage does not continue.

Retailer Charter

- 10.5 The Licensee must establish, communicate and operate a charter for its communication and engagement with Retailers.

**11. HAVING AN APPEALING BUT SAFE PORTFOLIO OF GAMES**

Overriding Duty

11.1 The Licensee must do everything it can to ensure that the portfolio of Games maximises the appeal and accessibility of the National Lottery to persons who are over the Legal Age Limit and persons who have not self-excluded, but does not damage any Matter to be Protected. This Condition sets out some of the ways in which the Licensee must do this.

Requirement for a Draw-based Game

11.2 The Licensee must ensure that at all times the National Lottery includes at least one Draw-based Game which:

- (a) has a national profile across, and is only available in, the UK;
- (b) involves a Draw which occurs at least once a week; and
- (c) offers life-changing Prizes.

Portfolio to be safe

11.3 The Licensee must do everything it can to ensure that no Game, when considered individually or as part of a portfolio of Games, damages any Matter to be Protected.



## 12. USE OF LOTTERY DATA

### Restrictions on the use of Lottery Data

- 12.1 Unless otherwise approved by the Commission, the Licensee must not use, and must do everything it can to prevent any other person from using, Lottery Data for any purpose other than the operation of the National Lottery or (if approved by the Commission) in connection with any Ancillary Activity.
- 12.2 The Licensee must not, and must not permit any person (including any Licensee Subsidiary) to, use Lottery Data in a manner which might cause damage to a Matter to be Protected.

### Proactively preventing harm

- 12.3 The Licensee must use Lottery Data to do everything it can proactively to identify and prevent harm to Participants arising in connection with the National Lottery.
- 12.4 In particular, the Licensee must do everything it can to use Participant Data to identify and prevent National Lottery related harm to the individual Participants to whom it relates.

### Gambling related harms

- 12.5 The Licensee must make anonymised and up-to-date Lottery Data (including Lottery Data gathered by Lottery Subcontractors) available to the Commission (or to any third party nominated by the Commission) in order to facilitate research into harm to Participants which might arise in connection with the National Lottery and gambling related harms.

### Access by the Commission

- 12.6 The Licensee must ensure that the Commission (or any person nominated by the Commission) at all times is able and entitled to access and use, for the purposes of fulfilling its functions with respect to the National Lottery and gambling, Lottery Data held or controlled by the Licensee, any Licensee Subsidiary or any Lottery Subcontractor.

### Transfer of Lottery Data

- 12.7 The Licensee must ensure that it, each Licensee Subsidiary and each Lottery Subcontractor, is at all times legally entitled to transfer Lottery Data (and any databases containing that data) to the Commission (or to any person the Commission nominates) if the Licensee is directed by the Commission to do so.
- 12.8 If the Commission directs the Licensee to transfer any Lottery Data (or any databases containing that data) to the Commission or its nominee, the Licensee must promptly complete that transfer, and must ensure that each Licensee Subsidiary and each Lottery Subcontractor promptly completes that transfer.

### Compliance by Licensee Subsidiaries and Lottery Subcontractors

- 12.9 The Licensee must:

- (a) ensure that each Licensee Subsidiary and Related Party; and
- (b) do everything it can to ensure that each Lottery Subcontractor which is not a Related Party,

complies with the requirements of this Condition 12.

### 13. THE NATIONAL LOTTERY BRAND AND REPUTATION

#### Overriding Duty

- 13.1 The Licensee must do everything it can to safeguard and promote the reputation of the National Lottery and the value, integrity and strength of the National Lottery Brand, both throughout the Term and as at the end of the Term. This Condition sets out some of the ways the Licensee must do this.

#### Ensuring the National Lottery Brand is independent

- 13.2 Other than:

- (a) instances where the Licensee's company name is required to be stated for legal reasons; or
- (b) where otherwise approved in advance by the Commission,

the Licensee must ensure that the National Lottery Brand is always used independently from, and is not associated with, any other brand, company, business name or identity other than use by any Good Causes Distributor.

#### Good Causes

- 13.3 The Licensee must ensure that Participants can easily access information that the National Lottery Distribution Fund makes available in relation to the percentages of the National Lottery Distribution Fund which are allocated to expenditure on each of the arts, sport, communities and national heritage (or such other areas of expenditure as are required by the Act from time to time).

#### Cooperation with Good Causes

- 13.4 The Licensee must actively engage and cooperate with the Good Causes Distributors and the NLPU with a view to enabling Participants to understand how the Good Causes Contribution will be used.

#### Brand Management Plan

- 13.5 The Licensee must notify the Commission if it intends to deviate from the Approved Form Brand Management Plan.

#### National Lottery Promotions Unit

- 13.6 The Licensee shall be liable to fund one third (33.33%) of the NLPU actual spend in respect of each Licence Year, to the extent that such NLPU actual spend does not exceed £5 million (including VAT) in any Licence Year.

#### 14. ACTIVITIES OTHER THAN RUNNING THE NATIONAL LOTTERY

##### Requirement for Commission approval

- 14.1 The Licensee must not, and must procure that each Licensee Subsidiary shall not:
- (a) do any thing other than run the National Lottery and its operation; or
  - (b) use (or allow any other person to use) any Core Lottery IP, Licensee Assets or the benefit of any Lottery Subcontract for any other purpose,
- (an **Ancillary Activity**) unless it first seeks and obtains the Commission's approval under this Condition 14.
- 14.2 Any activity or use approved by the Commission under this Condition 14 will be an Ancillary Activity.
- 14.3 Prior to the Start Date, the Commission has approved the list of Ancillary Activities set out in Schedule 3. That list will be updated to reflect any additional Ancillary Activities approved by the Commission from time to time during the Term.

##### Approval Process

- 14.4 If the Licensee wishes to undertake an Ancillary Activity, it must satisfy the Commission that this will not result in any breach of Condition 14.7 and must tell the Commission:
- (a) about any person who will have an interest in the Ancillary Activity (including their standing and reputation);
  - (b) how the Ancillary Activity is likely to impact the Licensee's financial position and resources
- 14.5 If the Commission decides to approve any Ancillary Activity, it may do so subject to:
- (a) any conditions specified in that approval. Any breach of such a condition will be a breach of Condition 14.1; and/or
  - (b) any amendments to Schedule 5 to be agreed with respect to that Ancillary Activity if:
    - (i) the Licensee proposes that the treatment of the costs and revenues associated with such Ancillary Activity should be other than that set out in Schedule 5; and
    - (ii) the Commission is satisfied that such treatment would be in the interests of maximising returns to Good Causes.

##### Operation of Ancillary Activities

- 14.6 Where this Licence imposes an obligation on the Licensee with respect to its operation of the National Lottery, that obligation shall also apply with respect to the Licensee's operation of an Ancillary Activity unless otherwise agreed between the Licensee and the Commission.

- 14.7 The Licensee must ensure that, in undertaking any Ancillary Activity, it does not result in:
- (a) any reduction to the Good Causes Contribution;
  - (b) any damage to any of the Matters to be Protected; or
  - (c) the Commission or any Commission Staff or representatives of the Commission incurring any liability.
- 14.8 The Licensee must tell the Commission as early as it can (and before the event if possible) if:
- (a) it is starting any Ancillary Activity which has been approved by the Commission; and
  - (b) an Ancillary Activity is being suspended or terminated (explaining the reasons).

Agreements related to Ancillary Activities

- 14.9 Any agreement which the Licensee has with any person in relation to an Ancillary Activity must, in addition to complying with any applicable requirements set out in Condition 5 (*Fitness and Propriety of the Licensee*), Condition 12 (*Use of Lottery Data*), Condition 19 (*National Lottery IP*) and Condition 21 (*Contractors*):
- (a) be documented and on an arm's length, commercial, basis; and
  - (b) ensure compliance with Condition 14.7.

## 15. PAYMENTS TO GOOD CAUSES

### Incentive Mechanism to calculate the Good Causes Contribution

- 15.1 The Good Causes Contribution will be calculated, and the Licensee must pay the Good Causes Contribution to Good Causes, in accordance with Schedule 5.

### Forecasted Good Causes Contributions

- 15.2 The Licensee must provide to the Commission a Good Causes Contribution Forecast, in each case on such dates and in respect of such periods as the Commission may specify in the Commission's Regulatory Handbook from time to time.
- 15.3 Each Good Causes Contribution Forecast must set out forecast calculations for Good Causes Contributions calculated by reference to the Forecasting Methodology and broken down by reference to such matters, and containing any such detail and explanation, as the Commission may specify in the Commission's Regulatory Handbook from time to time.
- 15.4 The Licensee must provide to the Commission a Forecasting Methodology Assurance Report at least every two years and otherwise as directed by the Commission.
- 15.5 The Licensee must actively engage with Good Causes Distributors in order to enable them to understand how Good Causes Contribution Forecasts are developed.

### Unclaimed Prizes

- 15.6 The Licensee must pay:
- (a) any Unclaimed Prize Payment; and
  - (b) any Unused Ticket Entitlements,
- to Good Causes.

### Lost and stolen Scratchcard Lottery tickets

- 15.7 If any Scratchcard Lottery tickets are lost or stolen whilst in the custody or control of any person who distributes or sells Scratchcard Lottery tickets, the Licensee must require such person to pay to the Licensee:
- (a) the retail face value of the Scratchcard Lottery tickets which are lost or stolen; or
  - (b) if the Licensee can demonstrate to the Commission's satisfaction that the theft or loss of such Scratchcard Lottery tickets are nominal only (in that they do not include any losses calculated by reference to the face retail face value of such tickets or any Prizes), an amount directed by the Commission which is less than the retail face value of such tickets.

All amounts received by the Licensee in accordance with this Condition 15.7 must be paid to Good Causes.

### Additional Weekly Good Causes Payments

- 15.8 Any amount which the Licensee is required by this Licence to pay to Good Causes which is not included in a Scheduled Weekly Payment (including any amount which the Licensee is required to pay under Condition 15.6 or Condition 15.7) must be paid together with the

Scheduled Weekly Payment which immediately follows the date upon which the obligation to make such payment arises.

Payment Arrangements

15.9 The Licensee must make all payments required to be made to Good Causes by CHAPS transfer or other direct transfer (as determined by the Commission) to a bank and for the credit of such account as is specified by the Secretary of State from time to time.

15.10 All Payments made by the Licensee in accordance with this Condition 15 must be made net of any withholding or other taxes.

Advance Ticket Sales Reserve

15.11 The Licensee must ensure that any Lottery Monies representing gross ticket sales on which, at any time, revenue has not been recognised, are held in an Account.

## 16. PROTECTING PARTICIPANT FUNDS

### Overriding Duty

- 16.1 The Licensee must do everything it can to ensure that at all times, the Funds Protection Outcome is achieved. The “**Funds Protection Outcome**” is that at all times, and notwithstanding any insolvency or dissolution of the Licensee, or any revocation of this Licence:
- (a) funds are available to enable Protected Obligations to be promptly discharged;
  - (b) all Protected Obligations are promptly discharged; and
  - (c) Lottery Monies are received, held and applied in accordance with this Licence.

This Condition sets out some of the ways in which the Licensee must do this.

### Arrangements to Protect Participant Funds

- 16.2 The Licensee must ensure that arrangements required by Conditions 16.3 to 16.23 are in place at all times.
- 16.3 The Licensee must at all times comply with the requirements of the Trust Documents and in particular must implement and maintain at all times the Trust Arrangements.
- 16.4 Each Trust Document and each EuroMillions Trust Document is a Designated Lottery Subcontract.
- 16.5 If, in accordance with Condition 5.6, the Commission specifies that any Lottery Subcontract is a Designated Lottery Subcontract, it may also specify that such Lottery Subcontract is a Trust Document or a EuroMillions Trust Document.
- 16.6 If:
- (a) the Licensee intends to amend any Trust Document, the Licensee must:
    - (i) ensure that, following any such amendment, the requirements of Condition 16.7 continue to be met; and
    - (ii) deliver to the Commission, together with the notification provided to the Commission pursuant to Condition 5.7, an Ad Hoc Assurance Statement certified as approved by the board of Directors of the Licensee confirming that, notwithstanding such change, the requirements of Condition 16.7 shall be met; and
  - (b) a variation to this Licence has the effect of varying any defined term which is also used in a Trust Document, the Licensee must ensure that the relevant Trust Document is also varied to similar effect, in accordance with the process set out in Condition 5.

### Minimum Protection Requirements

- 16.7 The Licensee must ensure that:
- (a) subject to Condition 16.8, all Lottery Monies:



- (i) are received by the Licensee into an Account;
- (ii) are held only in an Account or in the form of an Investment,  
in each case in accordance with requirements of this Condition;
- (b) any amendment proposed by the Licensee in accordance with Condition 16.6 does not reduce the scope or nature of the security granted to the National Lottery Trustee in accordance with the Trust Documents;
- (c) monies in any Trust Account and all Permitted Trust Investments are held in the name of the National Lottery Trustee;
- (d) the terms of the Trust Deed require National Lottery Trustee, upon taking Enforcement Action, to discharge obligations in accordance with the Priority of Protection which shall be as follows:
  - (i) to pay any PPA Amounts:
    - (1) to the relevant PPA Beneficiaries; and
    - (2) to the extent that the Commission confirms to the National Lottery Trustee that the National Lottery Trustee has taken such steps as are appropriate with a view to paying PPA Amounts to the relevant PPA Beneficiaries, any remaining PPA Amounts which have not been so paid shall be applied in accordance with paragraph (ii);
  - (ii) subject to (i), to apply all amounts in any Account and all other amounts available to the National Lottery Trustee (including any amount to be so applied in accordance with paragraph (i)(2) above) in accordance with the Trust Documents:
    - (1) first, to discharge, with equal priority, all other Protected Obligations;
    - (2) second, to discharge any obligations of the Licensee pursuant to any Critical Access Contract to the extent necessary to enable the National Lottery Trustee (or any receiver appointed by it) to discharge Protected Obligations;
  - (iii) otherwise such that no amount in any Account or otherwise available to the National Lottery Trustee in accordance with the Trust Documents shall be paid to the Licensee from any Account before any amount which should have been paid to Good Causes by the Licensee (but is outstanding) has been paid,  
  
provided that the Licensee may agree that the discharge of obligations to pay properly incurred Trust Costs shall take priority over all Protected Obligations other than obligations to repay PPA Amounts;
- (e) no amendment to the Trust Documents re-designates any Trust Account as a Lottery Account;
- (f) any amendment to the Trust Documents which supplements any Account (the "**Original Account**") with a new Account ensures that such additional Account is

subject to equivalent Intra-Account Arrangements as the arrangements which apply to the Original Account;

- (g) no amendment to the Trust Documents reduces the protection provided to a Protected Category of Person;
- (h) no amendment to the Trust Documents reduces the Final Reserve Balance;
- (i) no amendment to the Trust Documents prejudices the ability of the National Lottery Trustee to utilise the Final Reserve Balance, to discharge the Protected Fund Obligations if it takes Trust Enforcement Action;
- (j) arrangements (including through Critical Access Contracts) are in place to ensure that, if Trust Enforcement Action is taken, the National Lottery Trustee (or any receiver appointed by it) can promptly access and use the assets, premises and systems of the Licensee as might reasonably be expected to be required in order to identify beneficiaries under the Trust Deed and make payments to them;
- (k) except to the extent necessary to ensure operation of the National Lottery and the prompt payment of Prizes, Protected Obligation Reserves are:
  - (i) held in one or more Trust Accounts or as an Investment; and
  - (ii) from time to time, sufficient to ensure that there is no realistic prospect that the Protected Obligations cannot be met without recourse to the Final Reserve Balance;
- (l) no amendment to the Trust Documents adversely affects the ability of the Licensee or the National Lottery Trustee (as the case may be) to:
  - (i) discharge Protected Obligations; or
  - (ii) pay amounts to Good Causes,in each case in accordance with the Intra-Account Arrangements and the Trust Enforcement Provisions;
- (m) any Trust Income must first be applied to pay Trust Costs;
- (n) no amendment to the Trust Documents:
  - (i) increases the Licensee's entitlement to benefit from any Trust Income which exceeds Trust Costs; or
  - (ii) provides, or purports to provide, that Good Causes (through a reduction in the Good Causes Contribution or otherwise) bears the sole cost of any Trusts Costs;
- (o) no amendment to any Trust Document may limit, decrease or compromise the nature or scope of the security granted, or purported to be granted, to the Trustee pursuant to those documents;
- (p) no security interest (or any other agreement or arrangement having a similar effect, or any quasi-security, other than, in each case, arising by operation of law and not as a result of a breach of default (howsoever defined) of the Licensee) is granted to any person other than the Trustee or the EuroMillions Trustee;

- (i) in respect of any of the following:
    - (1) all or any part of National Lottery Receipts;
    - (2) any Assigned Document;
    - (3) all sums of money from time to time standing to the credit of any Lottery Account or Trust Account together with all interest accruing from time to time thereon and the debts represented by such accounts;
    - (4) Investments in respect of any Trust Accounts or Lottery Accounts; or
    - (5) the Outstanding Liability Fund or the Good Causes Underpayment Fund;
  - (ii) in respect of any other Charged Asset, unless any such security and related debt is fully subordinated to the security and other rights granted to the National Lottery Trustee pursuant to the Trust Documents on terms satisfactory to the National Lottery Trustee;
  - (iii) in respect of the shares in the Licensee, unless the Licensee ensures that the enforcement of any such security (and the transfer of beneficial or legal ownership of such shares following the enforcement of any such security) is subject to the prior consent of the Commission, in its absolute discretion;
- (q) prior to the grant of any security interest referred to in (p)(ii) or (iii) above, it first satisfies the Commission that the granting of such security will not damage, or have a material adverse effect on the Licensee's ongoing achievement of, the Funds Protection Outcome;
- (r) the Trust Documents other than the Scottish Security Documents are governed by English law and subject to the jurisdiction of English courts;
- (s) the Trust Documents and the Trust Arrangements comply with, and are operated in accordance with, Applicable Law; and

the Licensee must:

- (i) do everything it can to ensure that Lottery Monies held in the Accounts are subject to a first ranking fixed charge in favour of the National Lottery Trustee, save to the extent reasonably necessary to enable the practical operation of the National Lottery by the Licensee in accordance with this Licence, the achievement of the Funds Protection Outcome and the protection of the Matters to be Protected; and
- (ii) subject only to (i) above, ensure that each and every part of the undertaking of the Licensee and the property, assets and rights of the Licensee are subject to a first ranking floating charge in favour of the National Lottery Trustee save, in respect of monies in the Outstanding Liability Fund or monies or assets held pursuant to the Good Causes Underpayment Arrangements, to the extent agreed between the Commission and the Licensee in connection with the implementation of those arrangements; and

- (iii) ensure that any Scottish Security Documents provide substantively the same protection as the other Trust Documents and apply Scots law accordingly.
- 16.8 The Licensee must ensure that Lottery Monies are subject to policies, processes and procedures which in each case and collectively ensure that the Funds Protection Outcome is at all times fulfilled (the **Funds Protection Policies**).
- 16.9 The Licensee may, and may direct or agree with the National Lottery Trustee and the Account Bank, that Lottery Monies may be applied as Investments if (but not otherwise):
  - (a) the relevant Investments may only be utilised in the manner in which money in the relevant Account may be utilised;
  - (b) arrangements are in place to ensure that:
    - (i) in the case of Permitted Lottery Investments, the Licensee; and
    - (ii) in the case of Permitted Trust Investments, the National Lottery Trustee, holds the relevant Investment subject only to the interests and security created by the Trust Arrangements;
  - (c) the Investment is not a security issued by a Connected Party of the Licensee; and
  - (d) it complies with the Funds Protection Policies.
- 16.10 The Licensee must ensure that the Funds Protection Policies shall address:
  - (a) the making of provisions and reserves (including reserves in respect of Prizes and all other relevant matters) including assessing and addressing volatility in Licensee Revenue and in Prize payments in individual Games and the Licensee's portfolio of Games;
  - (b) the treasury, administration and investment of those monies, including:
    - (i) governance policies, authorities and procedures;
    - (ii) liquidity and interest rate management;
    - (iii) managing the nature, tenor and maturity of investments and the policy for use of and management of derivatives or complex financial instruments;
    - (iv) defining maximum maturity date for investment of funds;
    - (v) counterparty management and concentration or investment limits for individual institutions;
    - (vi) an environmental, social and corporate governance policy; and
    - (vii) reporting, monitoring and measurement of the financial exposures of the trust including breaches of any of the above;

which in each case shall take account of volatility in Licensee Revenue and in Prize payments in individual Games and the Licensee's portfolio of Games

- (c) where applicable, the Funds Protection Policies comply, and ensure compliance with, the Accounting Standards; and
- (d) the Funds Protection Policies in force from time to time are:
  - (i) in the Approved Form; or
  - (ii) otherwise approved by the Commission.

16.11 The Licensee must:

- (a) establish, and at all times maintain, specific criteria and thresholds for the application of Funds Protection Policies to Lottery Monies (the **Funds Protection Criteria**);
- (b) ensure that the Funds Protection Criteria are consistent with the Funds Protection Policies; and
- (c) notify the Commission of the Funds Protection Criteria.

16.12 The Licensee must ensure that, in ensuring that the Funds Protection Outcome is fulfilled, as well as taking account of the Licensee's overall portfolio of Games, the Funds Protection Policies and the Funds Protection Criteria also take appropriate account of, and where relevant apply appropriately to, each Game prior to it being and, throughout the period for which it is, promoted as part of the National Lottery.

16.13 The Licensee may, with the prior approval of the Commission, include a policy in the Funds Protection Policies which entitles the Licensee to apply any Prize Rounding Amount from any Game towards:

- (a) Prizes; or
- (b) in each case with the Commission's specific consent, Promotional Prizes,

in respect of that or another Game, but must demonstrate that this will not jeopardise the Funds Protection Outcome.

16.14 The Licensee may, with the prior approval of the Commission, include a policy in the Funds Protection Policies which entitles the Licensee to apply Lottery Monies held with respect to any Game (**Game A**) to pay Prizes in another Game (**Game B**) where and to the extent this is necessary to address fluctuations in the payment of Prizes in Game B which have arisen in circumstances which were not anticipated by, or to a degree greater than was anticipated in, the Funds Protection Policies, but must demonstrate that the policy will:

- (a) ensure this is temporary and so does not result in any cross-subsidy between Game A and Game B by requiring an equivalent amount of Lottery Monies arising from Game B to be applied to pay Prizes in Game A after a short period of time; and
- (b) not jeopardise the Funds Protection Outcome.

16.15 The Licensee must do everything it can to ensure that:

- (a) the National Lottery Trustee meets, and continues to meet, the Trustee Requirements; and

- (b) the Account Bank meets, and continues to meet, the Account Bank Requirements.

16.16 The Licensee must ensure that:

- (a) its Retailer Agreements will not terminate, or be capable of being terminated or cancelled by the Retailer upon:
  - (i) the insolvency, dissolution or change of control of the Licensee;
  - (ii) the occurrence of any event, matter, fact or circumstance which:
    - (1) constitutes a breach of any Trust Document; or
    - (2) gives rise to any right to enforce any security granted pursuant to the Trust Documents;
  - (iii) the National Lottery Trustee taking Enforcement Action; and
- (b) the National Lottery Trustee (or any person appointed by it in accordance with the Trust Documents), is able to enforce all Retailer Agreements for the purposes of discharging the Protected Obligations.

#### Treasury Requirements

16.17 The Licensee must ensure that, unless otherwise approved by the Commission:

- (a) [other than where funds are required to be held in Euros for the purposes of the Licensee's operation of EuroMillions Games,]<sup>3</sup> funds held in each Account pursuant to the Trust Arrangements are held in sterling; and
- (b) each Account is operated by the Account Bank in the UK.

#### Trustee Requirements

16.18 If the Licensee becomes aware that the National Lottery Trustee no longer meets the Trustee Requirements, or that circumstances exist which mean that it is reasonably likely that the National Lottery Trustee will cease to meet the Trustee Requirements, it must promptly notify the Commission.

16.19 If at any time the Commission is no longer satisfied that the National Lottery Trustee both meets, and will continue to meet, the Trustee Requirements, the Licensee shall, upon direction from the Commission, take any of the following steps as may be specified by the Commission:

- (a) do everything it can to ensure that the National Lottery Trustee (taking account of any requirements of the Commission) takes such remedial steps as may be necessary in order to ensure that the National Lottery Trustee continues to meet or (as the case may be) returns to meeting the Trustee Requirements;
- (b) implement additional safeguards or other protections (taking account of any requirements of the Commission) to ensure that no Matter to be Protected is

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<sup>3</sup> EuroMillions provisions to be included in form of Licence granted on the Start Date if a EuroMillions Section 6 Licence has been granted to the Licensee with effect from the Start Date.

harmful by the failure of the National Lottery Trustee to meet the Trustee Requirements;

- (c) identify alternative providers of trustee services who would meet the Trustee Requirements; and/or
- (d) terminate the appointment of the National Lottery Trustee and appoint a Replacement Trustee which has been approved by the Commission by serving a Trustee Replacement Notice on the National Lottery Trustee.

16.20 The Licensee must:

- (a) ensure that the National Lottery Trustee does not resign from its position, or cease to provide the services outlined in the Trust Documents, until a Replacement Trustee has been appointed and the Trust Arrangements have been transferred to it; and
- (b) do everything it can to ensure that if there is any change to the National Lottery Trustee for any reason, this does not damage any of the Matters to be Protected.

#### Account Bank Requirements

16.21 If the Licensee becomes aware that the Account Bank no longer meets the Account Bank Requirements, or that circumstances exist which mean that it is reasonably likely that the Account Bank will not continue to meet the Account Bank Requirements, it must promptly notify the Commission.

16.22 If at any time the Commission is no longer satisfied that the Account Bank both meets, and will continue to meet, the Account Bank Requirements, the Licensee shall, upon direction from the Commission, take any of the following steps as may be specified by the Commission:

- (a) do everything it can to ensure that the Account Bank (taking account of any requirements of the Commission) takes such remedial steps as may be necessary in order to ensure that it continues to meet or (as the case may be) returns to meeting the Account Bank Requirements;
- (b) implement additional safeguards or other protections (taking account of any requirements of the Commission) to ensure that no Matter to be Protected is harmed by the failure of the Account Bank to meet the Account Bank Requirements;
- (c) identify alternative providers of banking services who would meet the Account Bank Requirements; and/or
- (d) terminate the appointment of the Account Bank and appoint a Replacement Account Bank which has been approved by the Commission by serving an Account Bank Replacement Notice on the Account Bank (with a copy being provided to the National Lottery Trustee).

16.23 The Licensee must:

- (a) ensure that the Account Bank does not resign from its position, or cease to provide the services outlined in the Trust Documents, until a Replacement Account Bank has been appointed and the relevant arrangements have been transferred to it; and

- (b) do everything it can to ensure that if there is any change to the Account Bank for any reason, this does not damage any of the Matters to be Protected.

Reporting and Assurance that the Funds Protection Outcome is fulfilled

16.24 The Licensee must provide to the Commission, on a regular basis, information and analysis sufficient to demonstrate to the Commission that the Funds Protection Policies and Funds Protection Criteria do and will ensure that it will fulfil the Funds Protection Outcome and that the Licensee is operating the Trust Arrangements in compliance with this Licence and the Trust Documents. This will include, as a minimum, providing to the Commission:

- (a) the Regular Reporting described in the Commission's Regulatory Handbook;
- (b) a copy of a certificate issued by the Licensee's auditors, containing such information and confirmation as the Commission may require in relation to payment of Lottery Monies, within 10 Business Days from the end of the month to which that certificate relates; and
- (c) any Ad Hoc Assurance Statement as required by the Commission from time to time which demonstrates the manner in which the Trust Arrangements fulfil the Funds Protection Outcome.

16.25 If the National Lottery Trustee takes Enforcement Action, the Licensee must promptly prepare and provide to the Commission a full statement reconciling:

- (a) all funds standing to the credit of any Account;
- (b) the amount of all Protected Obligations; and
- (c) any amounts outstanding in respect of the Good Causes Contribution.

16.26 If requested by the Commission at any time, within the timeframe specified by the Commission, the Licensee must appoint an appropriately qualified independent expert or, if agreed with the Commission, experts to produce a report confirming that the Funds Protection Criteria fulfil the requirements of this Condition 16 .

16.27 If at any time the Commission is not satisfied that the Funds Protection Criteria fulfil the requirements of this Condition 16 (including as a result of a report produced in accordance with Condition 16.26) the Licensee must promptly implement changes to the Funds Protection Criteria to ensure that such requirements are met, including by taking into account any requirements of the Commission.

16.28 If at any time the Commission is not satisfied that:

- (a) the Funds Protection Policies will ensure that the Funds Protection Outcome is fulfilled or will continue to be fulfilled;
- (b) the Trustee Requirements or the Account Bank Requirements are and will continue to be sufficient to:
  - (i) enable the Commission to demonstrate to Participants that the Funds Protection Outcome is being, or will be, fulfilled; and
  - (ii) protect the Matters to be Protected;

the provisions of Condition 16.29 will apply.



16.29 Where this Condition 16.29 applies:

- (a) the Commission will notify the Licensee requiring it to provide such information as the Commission requires with respect to the Funds Protection Policies, Trustee Requirements and/or Account Bank Requirements (as applicable);
- (b) save where (c) below applies, the Commission will:
  - (i) discuss with the Licensee for a period of not less than 90 Business Days whether any changes to the Funds Protection Policies, Trustee Requirements and/or Account Bank Requirements (as applicable) are appropriate; and
  - (ii) where, following such consultation, the Commission considers that such changes are appropriate, will give not less than 12 months' notice of any required change to any of the Funds Protection Policies, Trustee Requirements and/or Account Bank Requirements (as applicable);
- (c) if the Commission considers that there is an imminent risk of material damage to the Funds Protection Outcome or any Matter to be Protected (as the case may be) it may require changes to be made to the Funds Protection Policies, Trustee Requirements and/or Account Bank Requirements (as applicable) on not less than 10 Business Days' notice.

#### Transfer of Trust Arrangements

16.30 If at any time during the Term, a Trustee Replacement Notice or an Account Bank Replacement Notice has been served by the Licensee:

- (a) if the Trust Arrangements (or any relevant part of them) are being transferred to a Replacement Trustee, the Licensee must itself cooperate, and must do everything it can to ensure the National Lottery Trustee and the Replacement Trustee cooperates with each other (including by taking all steps and entering into any documents required by the Licensee or the Commission to ensure such transfer); and
- (b) if the Trust Arrangements (or any relevant part of them) are being transferred to a Replacement Account Bank, the Licensee must itself cooperate, and must do everything it can to ensure that each of the National Lottery Trustee, the Account Bank and the Replacement Account Bank cooperates with each other (including by taking all steps and entering into any documents required by the Licensee or the Commission to ensure such transfer),

in each case to ensure that the Trust Arrangements can be transferred with the minimum of disruption and that there is no damage to any Matter to be Protected and in each case in the period prior to the transfer contemplated by (a) or (b) above (as the case may be) implement such safeguards as the Commission determines are necessary to ensure that there is no damage to any Matter to be Protected.

## 17. LICENSEE AND ITS OPERATIONS TO BE FIT FOR PURPOSE

### Overriding Duty

17.1 The Licensee must do everything it can to ensure that the operation of the National Lottery, the performance of any Ancillary Activity and all Lottery Assets are Fit for Purpose. This Condition specifies some of the ways the Licensee must do this.

### Licensee Assets and consumables

17.2 Except where the Commission agrees otherwise in writing, the Licensee must ensure that at all times:

- (a) all Licensee Assets are at all times in good condition suitable for their purpose in the operation of the National Lottery (and in the case of Licensee Assets comprising Other Lottery IP, are protected, maintained and enforced by the Licensee in accordance with Best Practice);
- (b) appropriate security and, where applicable, support is maintained for all Licensee Assets and Lottery Data;
- (c) subject to Condition 17.2(d), the condition of all Licensee Assets (other than consumables) is such that, if routine maintenance is carried out in the ordinary course, they will remain Fit for Purpose for a further two years (assuming, for the purposes of making this assessment, in all cases the continuation of the Licence for a further two year period but provided that this shall not, unless the Commission otherwise determines in writing, require assets to be Fit For Purpose for any period beyond 31 January 2036);
- (d) Condition 17.2(c) will not apply to any Licensee Asset (**Asset being Replaced**) if the Licensee has in place arrangements to replace the Asset being Replaced with another asset (the **Replacement Asset**) and such arrangements must be adequate to ensure that such Replacement Asset:
  - (i) will be in operation before the first to occur of:
    - (1) the expiry of the period referred to in Condition 17.2(c); and
    - (2) the Asset being Replaced ceasing to be Fit for Purpose; and
  - (ii) when in operation will fulfil the requirements of Condition 17.2(c); and
- (e) in the case of Lottery Assets which are consumables, ensure that the levels of stock are Fit for Purpose.

17.3 The Licensee may not Dispose, and must ensure that no Licensee Subsidiary Disposes, of any Licensee Asset other than a Disposal on arm's length terms in the ordinary course of business, where such Disposal is consistent with the outcomes set out in Condition 1.2.

### Technology Operation

17.4 The Licensee must do everything it can to ensure that:

- (a) the Technology Operation has the necessary capacity, performance, availability, scalability, resilience, flexibility, interoperability, security and integrity to enable it to run the National Lottery and its operation, and Participants to participate in the National Lottery, in each case throughout the Term, in compliance with this Licence; and
- (b) the capacity, performance, availability, scalability, resilience, flexibility, interoperability, security and integrity of the Technology Operation accord with Best Practice and are Fit for Purpose.

17.5 The Licensee must adopt, implement and continuously update:

- (a) a Technology and Data Architecture Strategy to ensure that the Technology Operation complies, throughout the Term, with Condition 17.4; and
- (b) a security strategy in relation to the security of the National Lottery operation, the Technology Operation and Lottery Data, which is aligned with Best Practice (in this case including guidance from the National Cybersecurity Centre or its successor or replacement from time to time).

17.6 The Licensee must notify the Commission promptly upon, and in any event within 24 hours of, becoming aware of any fault, interruption or security breach in connection with the Technology Operation which could indirectly or directly:

- (a) have an adverse impact on the operation of the National Lottery; or
- (b) damage any Matter to be Protected,

unless:

- (i) the Compliance and Risk Management Committee (or a person authorised by the Compliance and Risk Management Committee in accordance with Condition 22.13) has determined that the fault, interruption or security breach will not have such an impact; or
- (ii) the fault, interruption or security breach falls within a category of exception which the Compliance and Risk Management Committee and the Commission have agreed in accordance with Condition 24.3 do not need to be promptly reported to the Commission.

#### Independent Verification System

17.7 The Licensee must ensure the establishment, maintenance and operation of an Independent Verification System.

17.8 The Independent Verification System:

- (a) may consist of technology, personnel and policies, processes and procedures;
- (b) must be operated either:
  - (i) by a third party which is independent from the Licensee and its Related Parties, provided that the agreement or arrangement with such third party in connection with the operation of the Independent Verification System

must include any terms directed by the Commission for the purposes of ensuring the independence of the third party; or

(ii) under governance controls approved by the Commission which ensure its independence, and

(c) must be Fit for Purpose.

17.9 The Licensee must make such enhancements or other changes to the Independent Verification System as the Commission may specify from time to time.

17.10 Any contract which relates to the operation of the Independent Verification System will be a Designated Lottery Subcontract.

17.11 The Licensee must, and must ensure that any third party which operates the Independent Verification System must, allow the Commission or its nominee to access the Independent Verification System upon request.

17.12 Further to 17.8, the Independent Verification System may also utilise secure and modern technology concepts achieving the objectives as defined under Condition 17 through automated operation, subject to approval by the Commission.

## 18. FINANCIAL AND OPERATIONAL RESILIENCE

### Overriding duty

18.1 The Licensee must do everything it can to ensure that:

- (a) it has sufficient financial and operational resources to run the National Lottery in accordance with this Licence throughout the Term; and
- (b) its board of Directors can give an Unqualified Resilience Assurance Statement, at any time, when directed to do so by the Commission.

### Contingency Protections

18.2 On and from the Start Date the Licensee must:

- (a) establish and maintain:
  - (i) bank guarantees issued for the benefit of the Licensee securing the equity commitment under the equity commitment letter entered into on 12 October 2021 between the Licensee and certain of its direct and indirect shareholders in connection with the Application (the “**ECL**”), provided that this undertaking of the Licensee is without prejudice to any cancellation, replacement or reduction of such bank guarantees in accordance with the terms of the ECL or the expiry of such bank guarantees on 12 October 2025; and
  - (ii) a revolving credit facility pursuant to the revolving credit facility agreement entered into by the Licensee as borrower on 13 October 2021 (the “**RCF Agreement**”), provided that the availability and other terms and conditions of such revolving credit facility are subject to the RCF Agreement, including the termination of the revolving credit facility on 13 October 2026,

(the “**Licence Contingency Protections**”); and
- (b) shall maintain and comply with the Approved Form Licence Contingency Protection Documents.

18.3 The Licensee must adopt and implement strategies, policies, processes and procedures to ensure that business continuity of the National Lottery operation is maintained in all foreseeable circumstances.

### Definitions

18.4 In this Condition:

- (a) an **Unqualified Resilience Assurance Statement** means an Assurance Statement certified as approved by the board of Directors of the Licensee confirming, without qualification, that they have a reasonable expectation that the Licensee will have, or will have available to it, sufficient financial and operational resources to run the National Lottery in compliance with this Licence for a period of two years from the date of such statement; and
- (b) a **Qualified Resilience Assurance Statement** means an assurance statement certified as approved by the board of Directors of the Licensee indicating that they

do not have an unqualified reasonable expectation that the Licensee will have, or will have available to it, sufficient financial and operational resources to run the National Lottery in compliance with this Licence for a period of two years from the date of such statement, and describing the reasons why it is unable to provide an Unqualified Resilience Assurance Statement.

#### Annual Resilience Assurance Statements

18.5 No later than 30 April in each Licence Year, the Licensee must provide to the Commission either:

- (a) an Unqualified Resilience Assurance Statement; or
- (b) a Qualified Resilience Assurance Statement.

#### Significant Business Events

18.6 A **Significant Business Event** is any business event proposed to be initiated in relation to the Licensee or a Licensee Subsidiary which, as at the proposed date of that event or during the period of two years after the implementation of that event, could reasonably be anticipated to have a material impact on:

- (a) the operational and financial resources of the Licensee or any Licensee Subsidiary; and/or
- (b) the Licensee's ability to run the National Lottery and its operations in accordance with this Licence,

which may include each of the following:

- (i) the payment by the Licensee of a dividend or any other form of distribution to the Licensee's shareholders;
- (ii) a refinancing undertaken by the Licensee, a Licensee Subsidiary or a parent company of the Licensee; or
- (iii) the Licensee proposing to make any material change to the Technology Operation.

18.7 Unless otherwise approved by the Commission, before implementing a Significant Business Event, the Licensee must provide to the Commission an Unqualified Resilience Assurance Statement which includes a description of the Significant Business Event and its impact on the Licensee's operational and financial resources and its running of the National Lottery and its operation.

18.8 If:

- (a) within 20 Business Days of the issue of an Unqualified Resilience Assurance Statement in accordance with Condition 18.7, the Licensee receives a request from the Commission for further information regarding the Significant Business Event, it shall promptly provide that information and will not proceed to implement that Significant Business Event until it has received confirmation from the Commission that it may implement that Significant Business Event;

- (b) otherwise, the Licensee may implement the Significant Business Event in accordance with that statement.

#### Financial Distress Events

18.9 A **Financial Distress Event** is the occurrence of any event which, as at the date of that event or during the period of two years after that event, is reasonably likely to:

- (a) cause material damage to the operation of the National Lottery in accordance with this Licence; and/or
- (b) materially impact upon the financial and operational resources of the Licensee which may affect the Licensee's ability to meet its obligations under this Licence,

including (notwithstanding (a) or (b) above) each of the following:

- (i) a failure by the Licensee to provide an Unqualified Resilience Assurance Statement in accordance with this Condition 18;
- (ii) breach of any financial covenant specified in Schedule 6;
- (iii) any interruption, failure or performance issue with respect to the Technology Operation which is reasonably likely to materially impact on the Licensee's ability to meet its obligations under the Licence;
- (iv) the Licensee's statutory auditors providing, or confirming to the board of Directors that they will provide, a qualified audit report in connection with the Licensee's annual audited accounts;
- (v) a breach of covenant by the Licensee or a Licensee Subsidiary under any Finance Agreement;
- (vi) any Key Subcontractor notifying the Commission that the Licensee or a Licensee Subsidiary has failed to pay any invoice or invoices with a total value which is equal to or greater than £100,000 (in aggregate) by their payment due date, in circumstances where the relevant invoice or invoices are not subject to any bona fide dispute between the Licensee and the Key Subcontractor; and
- (vii) the financial or operational condition of any Key Subcontractor is such that there is a risk that it may not be able to perform its obligations under any Key Subcontract for the full duration of that contract.

18.10 The Licensee must promptly notify the Commission:

- (a) upon the occurrence of a Financial Distress Event;
- (b) if the Licensee expects or anticipates that a Financial Distress Event is likely to occur; and
- (c) where the Licensee has previously given an Assurance Statement, of any actual or expected incident or change which would impact adversely upon the ability of the Licensee, taking account of such incident or change, to give an Assurance Statement in that form.

#### Approval of a Financial Distress Remediation Plan

18.11 Where a Financial Distress Event has occurred, upon request from the Commission, the Licensee must promptly prepare a draft Financial Distress Remediation Plan for review by the Commission which includes the steps that the Licensee will take to resolve:

- (a) the Financial Distress Event; and
- (b) any adverse consequences to:
  - (i) the Licensee and its financial and operational resources; and/or
  - (ii) the National Lottery operation,

which have arisen, or may arise, as a consequence of the Financial Distress Event (the **Remediation Purposes**). The Licensee must engage an appropriately qualified independent expert to assist with the preparation of the Financial Distress Remediation Plan if directed to do so by the Commission.

18.12 The Licensee's preparation and implementation of any Financial Distress Remediation Plan must be undertaken in the manner best calculated to secure the outcomes in Condition 1.2. Any proposed action to be taken in accordance with any Financial Distress Remediation Plan must not damage any of the Matters to be Protected.

18.13 A Financial Distress Remediation Plan must include milestones which facilitate the Commission's monitoring of the Licensee's progress.

18.14 If:

- (a) the Commission approves a draft Financial Distress Remediation Plan, it shall become final and Condition 18.15 will apply; or
- (b) a draft Financial Distress Remediation Plan has been provided to the Commission but the Commission has not approved that plan, the Licensee must, within five Business Days after being notified by the Commission (or such other period as the Commission may specify), produce a revised plan for the Commission's approval, taking account of any reasons given by the Commission as to why it did not approve the Licensee's previous draft plan. The process shall be repeated until the Commission has approved the Financial Distress Remediation Plan, following which Condition 18.15 will apply.

#### Implementation of a Financial Distress Remediation Plan

18.15 Following approval of a Financial Distress Remediation Plan by the Commission, the Licensee must:

- (a) implement and comply with that Financial Distress Remediation Plan to ensure that it achieves the financial and performance requirements set out in the plan; and
- (b) on a regular basis, which must be at least fortnightly (or more frequently if the Commission requires):
  - (i) review and keep up-to-date the Financial Distress Remediation Plan such that it at all times addresses the Remediation Purposes; and
  - (ii) provide a written report to the Commission setting out its progress against the Financial Distress Remediation Plan. The Licensee must also provide



the Commission with a copy of an updated plan, if updates have been made in accordance with (i) above, and explain the reasons for any changes made to the plan and/or why no changes have been made.

#### Lock Up

18.16 Upon and from occurrence of a Financial Distress Event (or with effect from a later date if specified by the Commission), if directed by the Commission, the Licensee must not, and must (if directed by the Commission) ensure that any Licensee Subsidiary does not:

- (a) pay any dividends or make any other distribution to its shareholders, including the distribution of any tax losses;
- (b) make any payments under a Related Party Arrangement (including any Related Party Arrangement approved by the Commission in accordance with Condition 5), other than payments owed under arrangements which are on arm's length terms and represent Good Value for Good Causes; and/or
- (c) make any payment to repay any debt, or interest on any debt, owed under any Finance Agreement with a Related Party of the Licensee.

18.17 If the Commission has given a direction to the Licensee in accordance with Condition 18.16, the Licensee must also prepare and submit management accounts (or such other information as may be required by the Commission) to the Commission on a monthly basis, or at such other frequency as the Commission may direct.

#### Remedy of Financial Distress Event

18.18 Where Condition 18.16 applies, the Licensee must notify the Commission when it considers that the relevant Financial Distress Event has been remedied in full or no longer exists.

18.19 Where the restrictions set out in Condition 18.16 above apply, the Licensee must comply with them until the Commission notifies the Licensee in writing that those restrictions cease to apply.

#### Change in Gambling Law or Fundamental Geographic Scope Change

18.20 If there is a:

- (a) change in Gambling Law; or
- (b) Fundamental Geographic Scope Change,

which in either case results, or is reasonably likely to result, in a Material Impact on Profitability, the Licensee may request the Commission to consider whether it is appropriate to exercise its powers under section 8 of the Act.

## 19. NATIONAL LOTTERY IP

### Overriding Duty

19.1 The Licensee must:

- (a) ensure that Core Lottery IP in the UK is solely owned by the Commission and is protected against unauthorised use by any third party;
- (b) unless expressly permitted by the terms of a Section 6 Licence, not use, or permit the use, of any Core Lottery IP outside the UK;
- (c) without limiting paragraph (a) and (b) above, do everything it can to ensure that there is no use of:
  - (i) Core Lottery IP; or
  - (ii) Other Lottery IP which is created by or for the Licensee, whether inside or outside the UK, which could damage any of the Matters to be Protected or result in any Participant believing that such use is connected with the National Lottery; and
- (d) ensure that Other Lottery IP is available to be used for the purposes of the running of the National Lottery operation and any Ancillary Activity, pursuant to a Lottery Subcontract or as a Licensee Asset, as the case may be.

This Condition sets out some of the ways in which the Licensee must do this.

### Use of Core Lottery IP

19.2 The Licensee must:

- (a) comply with any specifications, standards and directions relating to Core Lottery IP as notified in writing by the Commission to the Licensee from time to time;
- (b) ensure that Core Lottery IP is not used for any purpose other than the running of the National Lottery operation and any Ancillary Activity unless such use:
  - (i) has no adverse effect on the National Lottery (whether during the Term of this Licence or subsequently);
  - (ii) is approved in writing by the Commission; and
  - (iii) is on arms-length commercial terms which reflect and recompense the contribution of the Licensee to the development of the relevant Core Lottery IP and the value of that Core Lottery IP to the National Lottery.

### Other Lottery IP

19.3 In respect of Other Lottery IP:

- (a) if it is either:
  - (i) used by, or made available to, the Licensee pursuant to a Lottery Subcontract; or

- (ii) used by a Lottery Subcontractor in connection with a Lottery Subcontract, the provisions of this Licence applicable to Lottery Subcontracts will apply,
- (b) otherwise:
  - (i) subject to (ii) below, the provisions of this Licence applicable to Licensee Assets will apply; and
  - (ii) notwithstanding (i) above, the provisions of Condition 27 shall not apply to any Other Lottery IP owned by the Licensee but, if requested by the Next Licensee, the Licensee shall grant to the Next Licensee a royalty-free, non-exclusive, transferable and sub-licensable licence of any such Other Lottery IP for a period of two years following the End Date, for use solely in connection with the operation of the National Lottery.

#### Core Lottery IP Guidelines

- 19.4 On and from the Start Date, the Licensee must adopt and implement **Core Lottery IP Guidelines** for the use and mode of display of Core Lottery IP, its level of prominence and relationship to other logos and products. The guidelines must:
- (a) reflect any specifications, standards and directions notified by the Commission in accordance with Condition 19.2;
  - (b) be Fit for Purpose;
  - (c) reflect Best Practice; and
  - (d) be continuously improved and updated to reflect the use of any new Core Lottery IP.
- 19.5 The Licensee must promptly provide a copy of the Core Lottery IP Guidelines to the Commission on request and must make any changes to the Core Lottery IP Guidelines as may be directed by the Commission.
- 19.6 The Licensee must comply with the Core Lottery IP Guidelines and must do everything it can to ensure that any person to whom it grants a sub-licence of Core Lottery IP, in accordance with Condition 19.9, complies with the Core Lottery IP Guidelines.

#### IP Register

- 19.7 The Licensee must keep a register which shall, subject to Condition 19.8, identify all Lottery IP and shall specify all:
- (a) Core Lottery IP and Other Lottery IP (including whether the Other Lottery IP is used or made available under a particular Lottery Subcontract or as a Licensee Asset); and
  - (b) licences and sub-licences of Lottery IP which the Licensee grants to third parties.
- 19.8 If the Licensee identifies any Other Lottery IP (either specifically or by reference to a defined category) which is not, and is not used in a manner which is, material to the National Lottery or any Game:

- (a) the Licensee may notify the Commission of that fact, providing such details as the Commission may require; and
- (b) if the Commission is satisfied that such Other Lottery IP is not, and is not used in a manner which is, material to the National Lottery or any Game, it may confirm to the Licensee that such Other Lottery IP is not required to be included within the register described in Condition 19.7.

#### Licence of Core Lottery IP

19.9 The Commission grants to the Licensee, for the Term of this Licence, the royalty-free, payment-free, exclusive and non-transferable right to:

- (a) copy, publish and otherwise use; and
- (b) sub-license (on a royalty-free, payment-free, non-exclusive and non-transferable basis) or permit others to copy, publish and use, substantially in the form of the Sub-Licence set out in Appendix 2 to this Licence,

all Core Lottery IP owned by the Commission, in each case only to the extent necessary for the running of the National Lottery and its operation or any approved Ancillary Activity. This grant is subject to the Conditions of this Licence.

#### Transfer or sub-licence of Core Lottery IP

19.10 If and as the Commission so directs, the Licensee must:

- (a) transfer, or procure the transfer of, on a payment-free basis; or
- (b) if it is not possible to transfer in accordance with (a) above, grant, or procure the grant of, a royalty-free, payment-free, transferable, perpetual and exclusive licence or sub-licence,

in favour of the Commission or its nominee of all Core Lottery IP and/or where any item contains Core Lottery IP, the aspects of that item which are Core Lottery IP, in each case which is owned or used by the Licensee and is not Developed IP. The Commission can give a direction under this Condition at any time and on multiple occasions.

#### Developed IP

19.11 The Licensee must do everything it can to ensure that:

- (a) it owns all Developed IP free of any third party rights; and
- (b) the Commission has the unqualified right to receive a payment-free transfer of all Developed IP, if it so directs.

#### Registration and protection of Core Lottery IP

19.12 The Licensee must maintain the registration of, and where relevant apply to register, in the name of the Commission:

- (a) in the UK; and

- (b) outside the UK, to the extent registration of the same is reasonably required to ensure that there is no damage to any of the Matters to be Protected and that no Participant believes that any use outside the UK is connected with the National Lottery,

all Core Lottery IP which is capable of registration and must in each case do everything it can to ensure that such registration is promptly accepted.

- 19.13 The Licensee must not do (and must do everything it can to procure that no other person does) anything to prevent the registration of any Core Lottery IP in accordance with Condition 19.12.

#### Infringement of Core Lottery IP

- 19.14 The Licensee must promptly notify the Commission if it becomes aware of any use of IP by a third party which may amount to infringement of the rights of the Licensee or the Commission in any Core Lottery IP.

- 19.15 On confirmation from the Commission that it has not authorised such use or infringement, the Licensee must promptly:

- (a) issue written warnings and do everything it can to obtain undertakings from the third party against such use or infringement;
- (b) notify the Commission if it is unable to stop such use without issuing proceedings and propose enforcement measures to the Commission for approval; and
- (c) implement the approved enforcement measures, taking into account any direction made by the Commission.

- 19.16 The Licensee must, as so directed by the Commission, commence legal proceedings in the Licensee's own name (unless the Commission specifies otherwise) in connection with any alleged infringement of any Core Lottery IP. The Commission is not obliged to bring, defend or become a party to the proceedings.

- 19.17 The Licensee may, with the prior approval of the Commission, determine the basis on which proceedings or claims are brought, and the legal and other advisers it engages.

- 19.18 The Licensee must, and must ensure that its advisers will, take any steps that the Commission directs in relation to any proceedings or claims whatsoever:

- (a) in relation to Core Lottery IP; or
- (b) which arise in connection with any IP as a result of, or in relation to, the operation of the National Lottery.

- 19.19 If there is a material change to the claims or proceedings, the Licensee must promptly notify the Commission and take any action directed by the Commission.

- 19.20 All damages (including payment of costs recovered from third parties) in respect of any infringement or other breach of any rights in respect of any Core Lottery IP shall:

- (a) firstly, be paid to the Commission to reimburse its properly incurred costs;
- (b) secondly, be paid to the Licensee to reimburse its properly incurred costs; and

(c) the remainder (if any), to Good Causes.

19.21 The Licensee must indemnify the Commission against any costs and expenses (including legal expenses) incurred by the Commission as a result of or in connection with any claim or proceeding brought by or against the Licensee or the Commission:

(a) in relation to Core Lottery IP; or

(b) which arise in connection with any IP as a result of, or in relation to, the operation of the National Lottery.

## 20. EMPLOYEES

### Overriding Duty

- 20.1 The Licensee must do everything it can, in accordance with Best Practice, to ensure that each member of Lottery Staff is honest, acts with integrity and is competent to undertake their role.
- 20.2 In relation to Exit, the Licensee must do everything it can to ensure that any costs and liabilities incurred by the Next Licensee as a result of, or in connection with, the transfer of Lottery Staff in accordance with Condition 27 are the appropriate, proper and ordinary course costs of employing or engaging those members of Lottery Staff.

### Redundancy of Lottery Staff after Start

- 20.3 Where, following Start, a redundancy process is being undertaken in connection with Lottery Staff, the Licensee must ensure that:
- (a) the redundancy process undertaken by it complies with Best Practice;
  - (b) it does not:
    - (i) do any thing, where doing that thing has the effect; or
    - (ii) fail to do any thing, where failing to do that thing has the effect,in either case, of increasing the amount to be paid to a member of Lottery Staff as a redundancy payment; and
  - (c) it provides any information to the Commission as may be requested by the Commission from time to time in connection with the redundancy process and/or the costs incurred by the Licensee in connection with this process.

### Exceptional payments to Lottery Staff

- 20.4 The Licensee must not, and must procure that no Licensee Subsidiary shall, without the prior consent of the Commission, make or agree to provide any payment or benefit, whether contractual or discretionary, to any member of Lottery Staff which:
- (a) is outside of the ordinary course of business of the Licensee; and/or
  - (b) does not form part of the payments or benefits ordinarily payable to, or arising from, the employment of any member of Lottery Staff including (but not limited to) basic salary, holiday pay, pension contributions, national insurance contributions and any other benefits, allowances or payments arising from their standard terms of employment,

in each case where:

- (i) such payment or benefit is expressly connected to, or becomes payable in connection with, revocation, expiry of this Licence or Exit;
- (ii) the Licensee is or becomes liable to pay or provide such payment or benefit on the revocation or expiry of this Licence; or

- (iii) the Next Licensee is or becomes liable to pay or provide such payment or benefit on or immediately following the revocation or expiry of this Licence.

#### Restricting changes to Lottery Staff

- 20.5 During the two years before the End Date (the **Freeze Period**), the Licensee must not, and must procure that no Licensee Subsidiary shall, without the prior consent of the Commission:
- (a) second, redeploy or otherwise transfer the employment or engagement of any member of Lottery Staff to a person other than the Licensee (or the Licensee Subsidiary if applicable);
  - (b) permit any member of Lottery Staff to undertake activities which do not relate to the National Lottery or any Ancillary Activity;
  - (c) vary or agree to vary any terms and conditions on which Lottery Staff are employed or engaged by the Licensee or a Licensee Subsidiary (including pension terms) other than annual salary/fee increases of no more than 3% per annum unless the Commission is satisfied by evidence provided to it by the Licensee that an increase in excess of 3% is necessary and appropriate;
  - (d) employ or engage any person on materially different terms from the terms of employment or engagement of equivalent members of Lottery Staff; or
  - (e) increase or allow to decrease the number of members of Lottery Staff at any time during the Freeze Period in a way which would:
    - (i) damage any Matter to be Protected; and/or
    - (ii) jeopardise any of the outcomes in Condition 27.1.

#### Staff playing the National Lottery

- 20.6 The Licensee must put in place policies, processes and procedures to prevent any member of Lottery Staff from playing any Game.
- 20.7 The Licensee must do everything it can to ensure that each Lottery Subcontractor prevents any Lottery Supervisor or Critical Function Employee employed or engaged by it from purchasing a ticket in any Game.

#### Commission Staff

- 20.8 The Licensee must not, and must ensure that no Licensee Subsidiary shall, without the prior consent of the Commission, at any time during the Term, engage or make any offer of employment to any member of the Commission Staff who has been designated in writing by the Commission to the Licensee.



## 21. CONTRACTORS

### Overriding duty

21.1 The Licensee must do everything it can to ensure that no Lottery Subcontract, or action taken by the Licensee, a Licensee Subsidiary or a Lottery Subcontractor in connection with a Lottery Subcontract, gives rise to any risk or harm to:

- (a) any Matter to be Protected; or
- (b) the uninterrupted operation of the National Lottery both during and at the end of the Term.

This Condition sets out some of the ways in which the Licensee must do this.

21.2 All Lottery Subcontracts except Minor Lottery Subcontracts will be subject to the requirements of Conditions 21.4 to 21.9 and Conditions 21.11 to 21.13. Additional requirements specified in this Licence apply to Designated Lottery Subcontracts and to Key Subcontracts.

### Informing the Commission of Key Subcontractors

21.3 The Licensee must inform the Commission if:

- (a) it or a Licensee Subsidiary enters into a new Lottery Subcontract with a Key Subcontractor; or
- (b) any amendment is made to a Lottery Subcontract with a Key Subcontractor which might:
  - (i) have any adverse effect upon the compliance by the Licensee with this Licence; or
  - (ii) have a material effect on that Lottery Subcontract.

### Terms to be included in Lottery Subcontracts

21.4 Subject to Conditions 21.6 and 21.10, the Licensee must ensure that:

- (a) in negotiating, agreeing and entering into any Lottery Subcontract to which the Licensee is a party, it complies with Best Practice; and
- (b) each Lottery Subcontract contains terms which ensure that the relevant Lottery Subcontract reflects Best Practice and does not damage any of the Matters to be Protected.

21.5 In addition, subject to Condition 21.6, the Licensee must do everything it can to ensure that each Lottery Subcontract, including those to which it is not a party, include terms (the **Required Standard Terms**) which ensure that:

- (a) the Lottery Subcontract can be terminated at any time on direction from the Commission and that no break fee or termination charge will be payable in connection with such termination;

- (b) the Lottery Subcontract can be transferred (by way of assignment or novation) on direction from the Commission to any Next Licensee or a person nominated by the Commission, and that no break fee or termination charge will be payable in connection with such transfer;
- (c) the Lottery Subcontractor must promptly provide to the Commission, or a person nominated by the Commission, on request any such information as may be specified in that request, in the form and in such timeframe as the Commission directs;
- (d) the Lottery Subcontractor promptly notifies the Licensee of:
  - (i) any matter relating to the Lottery Subcontractor or the operation of the Lottery Subcontract which might have any adverse effect upon the compliance by the Licensee with its obligations under this Licence; and
  - (ii) any irregularity, fraud or material misconduct by the Lottery Subcontractor or any of its employees where such irregularity, fraud or material misconduct might relate or be connected with, whether directly or indirectly, the National Lottery operation or an Ancillary Activity;
- (e) the Lottery Subcontractor shall take all steps necessary to ensure that the Licensee is able to comply with Condition 5.7 of this Licence;
- (f) the Lottery Subcontractor shall take, and shall ensure that any person engaged by it takes, all steps necessary to ensure that the Licensee is able to comply with Conditions 6 and 7 of this Licence;
- (g) the Lottery Subcontractor provides all such consents as are necessary to ensure that the Licensee is able to comply with Condition 27.23 of the Licence;
- (h) the Lottery Subcontractor must comply with all applicable laws and regulations when discharging its obligations under the Lottery Subcontract;
- (i) any Lottery Subcontractor who has one or more employees who work predominantly in connection with the National Lottery operation or any Ancillary Activity must act in accordance with, and manage their employees so as to give effect to, Conditions 20.1 and 20.2 as if references to the "Licensee" and "Lottery Staff" in those Conditions were references to the Lottery Subcontractor and its employees;
- (j) the Lottery Subcontractor:
  - (i) must take, and must ensure that any person engaged by it takes, all steps necessary to ensure that the Licensee is able to comply with Condition 12 of this Licence; and
  - (ii) must ensure that it is legally entitled to transfer Lottery Data (and any databases containing that data) to the Commission, or to any person the Commission nominates, if the Lottery Subcontractor is directed by the Commission or the Licensee to do so. The Lottery Subcontractor must obtain any consents necessary to do this;
- (k) the Lottery Subcontractor must permit the Commission, or any person nominated by the Commission, on request, to access any premises used by the Lottery

Subcontractor for the purposes of the Lottery Subcontract and/or to interview any of the employees of the Lottery Subcontractor who perform any role in connection with the Lottery Subcontract and to inspect and take copies of any information required by the Commission;

- (l) the Lottery Subcontractor must perform its obligations under the Lottery Subcontract to a standard which is, and using personnel and assets which are, in each case, Fit for Purpose;
- (m) the Lottery Subcontractor must ensure that any Lottery IP which is used for, or provided pursuant to, the Lottery Subcontract is protected, maintained and enforced in accordance with Best Practice;
- (n) the Lottery Subcontractor must ensure that appropriate security and, where applicable, support is maintained for all Lottery Assets and Lottery Data, and in particular (and without limitation), if the Lottery Subcontract is a Key IT Subcontract, the Key IT Subcontractor must ensure that its arrangements, systems and security (including any hardware, software, firmware and arrangements for storage and processing of data and arrangements and procedures for business continuity and disaster recovery) are Fit for Purpose and must notify the Licensee promptly upon becoming aware of any faults, interruptions or security breaches which could, directly or indirectly:
  - (i) affect the operation of the National Lottery; or
  - (ii) damage any Matter to be Protected;
- (o) the Lottery Subcontract will continue, or be capable of continuing, for at least two years after the End Date, provided that this shall not:
  - (i) require any party to enter into any contract, the ordinary course term of which exceeds five years; or
  - (ii) subject to compliance with Condition 21.4 or 21.5(s) (as the case may be), restrict the inclusion of a break clause which may be exercised by a Lottery Subcontractor who is not a Related Party no less than 12 months prior to the End Date (but, not for the avoidance of doubt, less than 12 months prior to the End Date);
- (p) the Lottery Subcontractor must keep any information they receive in relation to the National Lottery operation confidential, to at least the standard set out in Condition 29;
- (q) the Lottery Subcontractor must comply with performance standards (including where necessary, service levels defined by the Licensee) which ensure that no Matter to be Protected is being damaged and that the Licensee is able to assess the steps being taken by the Lottery Subcontractor to ensure that is the case;
- (r) the Lottery Subcontractor is required to take any steps, sign any documents or do any things necessary to give effect to the terms described in Condition 21.5(a) to Condition 21.5(q) (inclusive) above;
- (s) if the relevant Lottery Subcontractor enters into a Lottery Subcontract with a person other than the Licensee or a Licensee Subsidiary, in negotiating, agreeing and

entering into that Lottery Subcontract (including provisions contemplated by Conditions 21.5(a) to 21.5(r) (inclusive) above), it complies with Best Practice; and

- (t) all rights and interests in relation to Conditions 21.5(a) to 21.5(s) (inclusive) above shall be exercisable by the Licensee and by the Commission,

and must do everything it can to ensure that such terms are enforced in the manner best calculated to further the outcomes set out in Condition 1.2 and so as to ensure that there is no damage to any of the Matters to be Protected.

21.6 If, in connection with the Start, the Licensee enters into a Lottery Subcontract by way of novation of a contract entered into by the Third Licensee:

- (a) Conditions 21.4 and 21.5 do not require the Licensee to request that upon such novation the Lottery Subcontractor agree to vary the terms of the relevant contract to be more favourable to the Licensee than the predecessor contract was to the Third Licensee;
- (b) if such Lottery Subcontract is subsequently renewed, revised or renegotiated, the provisions of Conditions 21.4 and 21.5 will apply without qualification to that Lottery Subcontract.

21.7 Where Condition 21.4 and 21.5 refer to Best Practice in connection with any Lottery Subcontract, reference to any such Lottery Subcontract shall be deemed to be to that Lottery Subcontract together with any and all other Lottery Subcontracts directly and indirectly connected with it.

21.8 Unless the Commission otherwise agrees in writing, the Required Standard Terms referred to in Condition 21.5 shall be those in the Approved Form.<sup>4</sup>

21.9 Subject to Condition 21.10, the Licensee must do everything it can to make any changes to its implementation of Required Standard Terms, or include any additional Required Standard Terms in all Lottery Subcontracts, as the Commission may direct from time to time, provided that any changes will not have retroactive effect.

#### Minor Lottery Subcontracts

21.10 The Licensee does not have to include the Required Standard Terms in a Lottery Subcontract if the Commission confirms in writing that the Lottery Subcontract is a **Minor Lottery Subcontract**, being a Lottery Subcontract which is:

- (a) not important for the continuous operation of the National Lottery; and
- (b) capable of being easily and promptly replaced, if necessary, by the Licensee entering into a replacement Lottery Subcontract with another provider.

unless the Commission specifically requires the Licensee to include one or more of the Required Standard Terms in such Minor Lottery Subcontract.

#### Termination, novation or assignment of a Lottery Subcontract

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<sup>4</sup> Note to Applicants: Prior to the Start Date, the Licensee will be expected to propose standard terms which will satisfy the requirements of Condition 21.5. These standard terms will be approved by the Commission in accordance with the Enabling Agreement.

- 21.11 The Licensee must, and must ensure a Licensee Subsidiary or a Lottery Subcontractor (as the case may be) shall, promptly terminate any Lottery Subcontract, or novate or assign a Lottery Subcontract to a nominated person, if directed to do so by the Commission.
- 21.12 The Licensee must not, and must ensure no Licensee Subsidiary or Lottery Subcontractor shall, novate or assign the rights or obligations of the Licensee or the Licensee Subsidiary or Lottery Subcontractor (as applicable) under any Lottery Subcontract to any other person without the prior consent of the Commission.
- 21.13 In the twelve month period prior to the End Date:
- (a) the Licensee must not, and must ensure that a Licensee Subsidiary does not, terminate any Lottery Subcontract; and
  - (b) the Licensee must ensure that any Lottery Subcontractor with whom the Licensee has a Lottery Subcontract does not terminate any other Lottery Subcontract to which that Lottery Subcontractor is a party,
- in each case without the prior consent of the Commission.

## 22. ENSURING GOOD GOVERNANCE

### Overriding Duty

22.1 The Licensee must, and must ensure that each Licensee Subsidiary must, always maintain and operate a system of corporate governance, internal control and risk management which is Fit for Purpose. This Condition sets out some ways in which the Licensee must achieve this.

### Corporate Governance Code

22.2 Other than in circumstances where:

- (a) the Licensee has obtained written consent from the Commission that a certain provision is not required to be implemented by the Licensee; or
- (b) the Licensee is required to comply with an alternative standard by a Condition of this Licence,

the Licensee and each Licensee Subsidiary must comply with the provisions of the UK Corporate Governance Code.

22.3 For these purposes, the Licensee does not comply with Condition 22.2 by explaining its reasons for departing from the provisions of the UK Corporate Governance Code, unless it has obtained the prior written consent of the Commission to do so.

### Board of Directors of the Licensee

22.4 The board of Directors of the Licensee and of each Licensee Subsidiary, and their operation, must be Fit for Purpose and operate in accordance with Best Practice.

22.5 The Commission may initiate an Independent Performance Review of the effectiveness and operation of the board of Directors of the Licensee or a Licensee Subsidiary in accordance with Condition 25 to ensure that the constitution and operation of that board of Directors complies with Condition 22.4.

### Audit Committee

22.6 The Licensee must establish an Audit Committee. The Audit Committee will comprise representatives of each of the board of Directors of the Licensee and at least one independent non-executive Director of the Licensee and, subject to any consent required under Condition 22.2, one non-executive Director of the Licensee who is an employee of an immediate, intermediate or ultimate parent company of any Material Shareholder of the Licensee, one of which must have recent and relevant financial experience.

### External audit

22.7 The Licensee must:

- (a) ensure that its external auditor has an appropriate level of resources, expertise and experience;
- (b) not appoint an external auditor for a period which exceeds six years; and

- (c) do everything it can to ensure that the audit engagement partner is in place for a minimum of four full financial years from engagement, but for no longer than six years.

#### Internal audit

22.8 The Licensee's internal audit function must be Fit for Purpose and must provide assurance to:

- (a) each of the Audit Committee and the board of Directors of the Licensee that:
  - (i) appropriate financial and other controls are in place within the Licensee's business; and
  - (ii) the Licensee's business is being properly governed; and
- (b) each of the Compliance and Risk Management Committee and the board of Directors of the Licensee that risks are being managed effectively by the Licensee and any Licensee Subsidiary.

The Licensee must ensure that the matters to be considered by its internal audit function include any risks or concerns raised by the Commission.

22.9 No later than 45 Business Days prior to the start of each Licence Year, the Licensee must provide to the Commission details (including scope and timing) of the work proposed to be completed by its internal audit function during that Licence Year (an **Internal Audit Plan**). The Licensee must promptly notify the Commission if there is a material change to its Internal Audit Plan during the Licence Year.

#### Compliance and Risk Management Committee

22.10 The board of Directors of the Licensee must establish a Compliance and Risk Management Committee, which will comprise representatives of the board of Directors of the Licensee (including at least one non-executive director) and at least one independent non-executive Director of the Licensee and one non-executive Director of the Licensee who is an employee of an immediate, intermediate or ultimate parent company of any Material Shareholder of the Licensee.

22.11 The Compliance and Risk Management Committee must adopt and implement risk management arrangements which are Fit for Purpose and reflect Best Practice.

22.12 The Compliance and Risk Management Committee must monitor and consider:

- (a) the compliance of the Licensee and any Licensee Subsidiary with the Conditions of this Licence;
- (b) the compliance of the Licensee, any Licensee Subsidiary, members of Lottery Staff and Lottery Subcontractors with the Licensee's strategies, policies, processes and procedures;
- (c) any irregularity, fraud or material misconduct by any member of Lottery Staff, a Lottery Subcontractor or any person employed or engaged by a Lottery Subcontractor; and
- (d) the adequacy of the Licensee's risk management arrangements.

- 22.13 If the Compliance and Risk Management Committee determines that a strategy, policy, process or procedure of the Licensee is not material, it may delegate the consideration and approval of that strategy, policy, process or procedure in accordance with Condition 4.5 to an appropriately qualified and experienced member of Lottery Staff (a **CRMC Representative**) who may provide such approval on behalf of the Compliance and Risk Management Committee.
- 22.14 Any approval given by the CRMC Representative in accordance with Condition 22.13 must be notified to the Compliance and Risk Management Committee. The Compliance and Risk Management Committee will be responsible for any approval given by any CRMC Representative.

#### Annual report

- 22.15 On or before 31 July in each Licence Year (or such later date as the Commission may direct) the Licensee must publish on its website:
- (a) its audited annual accounts for the previous Licence Year, prepared and filed in accordance with Schedule 5; and
  - (b) an annual report describing the performance of the National Lottery operation in the previous Licence Year and summarising how the Licensee has complied with its obligations under this Licence.

#### Remuneration of Senior Executives

- 22.16 The Licensee must ensure that any compensation or benefits package offered to a Senior Executive of the Licensee or a Licensee Subsidiary is predominantly linked to the Licensee's compliance with the Conditions of this Licence, including the Good Causes Contribution.

#### Framework for Ethical Business Decision Making

- 22.17 The Licensee must adopt and implement:
- (a) a Code of Corporate Social Responsibility; and
  - (b) a Framework for Ethical Business Decision Making,
- copies of which must be provided to the Commission on request.
- 22.18 The Licensee must require members of Lottery Staff to observe the Framework for Ethical Business Decision Making.



## 23. PROVIDING INFORMATION AND ASSURANCE TO THE COMMISSION

### Overriding Duty

23.1 The Licensee must do everything it can to:

- (a) assure the Commission, in accordance with any requirements of the Commission, that it has performed its functions in the manner best calculated to achieve the outcomes set out in Condition 1.2; and
- (b) assure its board of Directors that its strategies, policies, processes and procedures and its business plans and forecasts are adequate to ensure that it complies, and demonstrate that it will comply, with the Conditions of this Licence throughout the Term in the manner best calculated to achieve the outcomes set out in Condition 1.2.

This Condition sets out some of the ways in which the Licensee must do this.

### Strategies, policies, processes and procedures

23.2 The Licensee must ensure that any strategy and/or any policies, processes and procedures which a Condition of this Licence requires the Licensee to maintain for the purpose of achieving the objective specified in that Condition is:

- (a) at all times Fit for Purpose; and
- (b) effectively implemented, maintained and complied with, and is reviewed and improved by the Compliance and Risk Management Committee at least once each year.

23.3 The Licensee must:

- (a) ensure that all relevant people involved in running the National Lottery are properly trained to take action and make decisions in accordance with any strategy, policy, process or procedure established in connection with this Licence; and
- (b) provide a copy of any strategy, policy, process or procedure established in connection with this Licence to the Commission promptly upon request.

### Maintenance of records and registers

23.4 During the Term, the Licensee must:

- (a) maintain all records required in order to comply with this Licence; and
- (b) centrally record the production, activation and validation of tickets,

and shall ensure that all such records are complete, accurate and up-to-date and are kept for a minimum of six years.

23.5 The Licensee must establish, and keep up to date on a monthly basis, accurate registers, documentation and associated records of information regarding its operation of the National Lottery (including raw data) in accordance with this Licence. The registers, documents and records kept in accordance with this Condition 23.5 will include those

reasonably necessary to enable preparation for the Next Competition and Exit. Each such register, document and record will constitute Lottery Information.

- 23.6 The registers, documentation and associated records of information referred to in Condition 23.5 must be held on an electronic database operated by the Licensee (the **Lottery Records Database**).
- 23.7 The Lottery Records Database must be accessible to Commission Staff (and any other person nominated by the Commission) at such times, and in such a manner, as the Commission may direct. The Licensee must also provide training in the use of the Lottery Records Database to Commission Staff, if so required by the Commission.

#### Provision of information to the Commission

- 23.8 Any document or information which the Licensee provides to the Commission must be:
- (a) complete and accurate;
  - (b) in a format, and in the level of detail, specified by the Commission; and
  - (c) provided within the timeframe set out by the Commission.
- 23.9 The Commission may use and disclose to any third party any Lottery Information for any purpose connected with the performance of its statutory duties. The Licensee must at all times have all consents from any Lottery Subcontractor or any other person which are necessary to allow for such use and disclosure by the Commission.
- 23.10 Any information directed to be provided to the Commission in accordance with a Condition of this Licence must be provided even if the Licensee (or any third party) regards such information as confidential or commercially sensitive.

#### Access by the Commission

- 23.11 If so directed by the Commission, the Licensee must promptly ensure that the Commission or any person nominated by the Commission can access the Technology Operation, or any other systems whatsoever used for the storage of Lottery Data (whether or not operated by the Licensee), in order to directly access and extract Lottery Data as required by the Commission, including operational, financial management and systems data.
- 23.12 The Licensee must promptly, on direction from the Commission, provide the Commission and its representatives and advisers with access to:
- (a) any Lottery Information or, if directed by the Commission, copies of that Lottery Information;
  - (b) members of Lottery Staff;
  - (c) any Licensee Asset;
  - (d) any Lottery Subcontractor; or
  - (e) any premises occupied by the Licensee, a Licensee Subsidiary or Lottery Staff.

### Compliance and Risk Management Audit

- 23.13 No later than 30 April in each Licence Year, the Licensee must review its operation of the National Lottery during the previous Licence Year (the **Compliance and Risk Management Audit**). As part of this review, the Licensee must produce a Compliance and Risk Management Audit report which identifies all:
- (a) failures or inadequacies in the Licensee's risk management arrangements;
  - (b) breaches of this Licence;
  - (c) breaches of any Key Performance Standard;
  - (d) information which might reasonably be expected to affect an assessment of whether the National Lottery Trustee or the Account Bank meets the Trustee Requirements or Account Bank Requirements (as applicable); and
  - (e) instances where the Licensee, Licensee Subsidiary, Lottery Staff, Retailers or Lottery Subcontractors have not acted in accordance with the Licensee's strategies, policies, processes and procedures.
- 23.14 The Compliance and Risk Management Audit must also detail the changes the Licensee determines are necessary to address any issues which it identifies.
- 23.15 The board of Directors of the Licensee must consider and approve the Compliance and Risk Management Audit.
- 23.16 If the Commission requests it, the Licensee must provide a copy of the Compliance and Risk Management Audit to the Commission.

### Annual Assurance Statement

- 23.17 No later than 15 May in each Licence Year, the Licensee must provide to the Commission a written Annual Assurance Statement certified as approved by the board of Directors of the Licensee.
- 23.18 The Annual Assurance Statement must confirm that:
- (a) the Licensee has completed the Compliance and Risk Management Audit;
  - (b) either the Licensee's board of Directors is satisfied that the Licensee has complied with this Licence during the previous Licence Year or, if it is not so satisfied, specify the breaches which have been identified and the steps which have been taken to address any matters giving rise to any breach; and
  - (c) in the previous Licence Year, the Licensee has undertaken and implemented a review of all of its strategies, policies, processes and procedures as required by Condition 23.2.

### Ad Hoc Assurance Statements

- 23.19 In addition to those Ad Hoc Assurance Statements required to be provided by the Licensee in accordance with any other Condition of this Licence, the Licensee must provide to the Commission an Ad Hoc Assurance Statement in the circumstances, and at such times, as directed by the Commission.

Form of Assurance Statement

23.20 Each Assurance Statement must be provided in the form required by the Commission, and must contain sufficient detail for the Commission to make an assessment of that statement.

## 24. REGULATORY OVERSIGHT AND PERFORMANCE MANAGEMENT

### Exception reporting

- 24.1 The Licensee must promptly tell the Commission if it learns of a breach of a Condition of this Licence, unless the breach falls within a category agreed with the Commission in accordance with Condition 24.3.
- 24.2 The Licensee must also promptly tell the Commission if it learns of any exception, being:
- (a) any irregularity, fraud or material misconduct by:
    - (i) any member of Lottery Staff; or
    - (ii) a Lottery Subcontractor or any person employed or engaged by a Lottery Subcontractor, where such irregularity, fraud or material misconduct might relate or be connected with, whether directly or indirectly, the National Lottery operation or an Ancillary Activity;
  - (b) where any of the following matters do not fall within paragraph (a) above:
    - (i) any instance where the Licensee, a Licensee Subsidiary, a member of Lottery Staff or a Lottery Subcontractor has not acted in accordance with the Licensee's strategies, processes, policies and procedures; or
    - (ii) any incident or change which alters a previous assessment of risk or performance reported to the Commission as part of an Assurance Statement; or
    - (iii) any other matter which might have any adverse effect upon the compliance by the Licensee with its obligations under this Licence or the continuing operation of the National Lottery,

in each case unless such exception falls within a category agreed with the Commission in accordance with Condition 24.3 or the Compliance and Risk Management Committee has determined that the matter will not have an adverse impact on the running of the National Lottery operation by the Licensee in accordance with this Licence or any of the outcomes set out in Condition 1.2.

- 24.3 The Compliance and Risk Management Committee may agree with the Commission certain categories of breach or exception which do not need to be promptly reported to the Commission in accordance with Condition 24.1 or Condition 24.2.

### Register of breaches and exceptions

- 24.4 The Licensee must establish and maintain an accurate and up-to-date register setting out, in detail, any matter described in Conditions 24.1 and 24.2 above (including those breaches or exceptions which are not required to be promptly reported to the Commission). This register must be provided to the Compliance and Risk Management Committee on a fortnightly basis.

### Reporting disclosures to other regulators

24.5 To the extent permitted by law, the Licensee must promptly notify the Commission if it is required to make a disclosure to, or is being investigated by, a legal, governmental or regulatory body other than the Commission.

Actual and potential Licence breaches

24.6 If the Commission considers that the Licensee may be in breach of a Condition of this Licence it may notify the Licensee of the relevant Condition and the reasons why the Commission considers that the Licensee may be in breach, and:

- (a) the Licensee shall provide to the Commission, within the Relevant Period, any evidence and representations that it may have:
  - (i) in the case of any actual or potential breach, that the Licensee has achieved all specific outcomes required by the relevant Condition;
  - (ii) where the Condition requires the Licensee to do everything it can to achieve a specific outcome, that the Licensee has taken all reasonable steps and exercised all due diligence to achieve that specific outcome; and
  - (iii) in each case that it has done so in the manner best calculated to further the outcomes set out in Condition 1.2; and
- (b) the Commission shall have regard to that evidence and those representations in determining whether or not the Condition has been breached.

24.7 In Condition 24.6 the **Relevant Period** means:

- (a) in cases where the Commission suspects a breach may be material and considers that immediate corrective action is required, 24 hours; or
- (b) otherwise, a period of 10 Business Days, or such longer period as the Commission may specify.

24.8 Nothing in Condition 24.6 shall fetter or restrict the exercise by the Commission of any of its powers under the Act.

Commission's Regulatory Handbook

24.9 The Licensee shall have regard to the Commission's Regulatory Handbook, as updated from time to time by the Commission following a period of at least 20 Business Days of consultation with the Licensee. The Commission's Regulatory Handbook may include certain standards or targets for performance which the Commission will consider when monitoring the Licensee's compliance with this Licence.

Regular Reporting

24.10 The Licensee must provide such reports, data and/or information to the Commission, in such form and within such time periods as the Commission may specify from time to time in the Commission's Regulatory Handbook (**Regular Reporting**).

24.11 Where the Commission's Regulatory Handbook indicates that Regular Reporting is required at certain intervals or milestones during a Licence Year, prior to the start of each Licence Year, the Commission will consult with, and take reasonable account of any

representations from the Licensee as to the dates on which such Regular Reporting will take place during that Licence Year.

**25. INDEPENDENT PERFORMANCE REVIEW**

25.1 Where the Commission, in its absolute discretion, considers that the Licensee may, in any way, be failing:

- (a) to comply with the Conditions of this Licence in the manner best calculated to achieve the outcomes set out in Condition 1.2;
- (b) to comply with Best Practice;
- (c) to protect the Matters to be Protected; or
- (d) to comply with any Condition of this Licence,

the Commission may require the Licensee to procure that an independent third party (an **Independent Reviewer**) undertakes an Independent Performance Review of the Licensee's performance (including the performance of any Licensee Subsidiary). The Commission will determine the scope of the review and the timetable within which it is to be completed.

25.2 An Independent Performance Review must assess whether the Licensee or a Licensee Subsidiary is failing to achieve any of the outcomes set out in Condition 25.1(a) to (d). If any failures are identified, the Independent Performance Review must recommend how the Licensee's performance could be improved in such area.

25.3 The Independent Performance Review may also recommend certain Key Performance Standards for the Licensee's performance, or the Commission may establish such Key Performance Standards on the basis of the recommendations made as part of the Independent Performance Review.

25.4 In connection with an Independent Performance Review:

- (a) the Licensee must ensure that the Independent Reviewer is appropriately qualified and experienced;
- (b) the Independent Reviewer must either:
  - (i) be a third party which is independent from the Licensee and its Connected Parties; or
  - (ii) operate under governance controls approved by the Commission which ensure its independence;
- (c) the Licensee must notify the Commission in advance of the proposed identity and terms of appointment of the Independent Reviewer. The Licensee must include any additional terms of appointment specified by the Commission for the purposes of ensuring the independence of the Independent Reviewer or the effectiveness of the Independent Performance Review;
- (d) the Licensee must not appoint an Independent Reviewer without the prior written agreement of the Commission;
- (e) the Licensee must do everything it can to ensure that no disruption is caused to the running of the National Lottery by the Independent Performance Review;



- (f) when the Independent Performance Review is completed, the Licensee must provide a copy of the Independent Performance Review to the Commission promptly following receipt of it by the Licensee;
- (g) the Commission may, in its absolute discretion, publish the whole or any part of the Independent Performance Review;
- (h) if the Independent Performance Review identifies any failures by the Licensee and recommends certain actions for the improvement of the Licensee's performance (**Recommendations**) or proposes, or the Commission identifies based on the Recommendations, any Key Performance Standards with which the Licensee should comply, the Commission may:
  - (i) notify the Licensee of any Recommendations and Key Performance Standards that it considers should be adopted by the Licensee; and
  - (ii) specify a reasonable period within which the Licensee shall implement those Recommendations and comply with those Key Performance Standards;
- (i) if the Commission notifies the Licensee of any Recommendations or Key Performance Standards to be implemented or complied with by the Licensee in accordance with Condition 25.4(h), the Licensee must implement those Recommendations to the Commission's satisfaction and must comply with those Key Performance Standards in the running of the National Lottery operation; and
- (j) if the Licensee fails to implement those Recommendations or Key Performance Standards to the Commission's satisfaction within the specified period, the Licensee will be in breach of this Condition 25 unless the Licensee is able to provide the Commission with reasons for failure that the Commission determines, in its absolute discretion, to be satisfactory.

#### Key Performance Standards

25.5 The Licensee must comply with any Key Performance Standard which is notified to it in accordance with Condition 25.4(h). Each such Key Performance Standard may be amended by the Commission from time to time on no less than 20 Business Days' notice to the Licensee.

## 26. STARTING TO RUN THE NATIONAL LOTTERY UNDER THIS LICENCE

### Start

26.1 The Licensee must Start on and from the Start Date.

### Initial Game Portfolio

26.2 The Licensee must ensure that:

- (a) on the Start Date, the National Lottery includes the Start Date Committed Games; and
- (b) before the start of Licence Year 3, the National Lottery includes the Initial Committed Games, provided that the Licensee shall not be in breach of this Condition in respect of any Initial Committed Game if:
  - (i) it has submitted an application for a Section 6 licence in respect of that Initial Committed Game in accordance with clause 11 of the Enabling Agreement; and
  - (ii) the Commission has not granted the Licensee a licence, under section 6 of the Act, to promote that Game in sufficient time for the Licensee to launch that Game in accordance with the CG Implementation Timetable.

### 3NL Continuing Obligations and 3NL Ongoing Disputes

26.3 The Licensee must implement any arrangements established under the Incoming Cooperation Agreement in connection with:

- (a) the discharge of 3NL Continuing Obligations; and
- (b) the conduct of 3NL Ongoing Disputes.

### Implementation

26.4 The Licensee must:

- (a) promptly complete any Outstanding Implementation Steps; and
- (b) comply with the terms of the Enabling Agreement until its expiry in accordance with its terms.

### Implementation Manager

26.5 The Licensee must ensure that a suitably experienced and qualified Senior Executive of the Licensee is responsible for Implementation and, in particular, the prompt and proper completion of any Outstanding Implementation Steps (an **Implementation Manager**) until the Commission notifies the Licensee that it is no longer necessary for it to retain an Implementation Manager.

27. EXIT

Overriding duty

27.1 The Licensee must do everything it can to ensure that Exit takes place such that the Next Licensee is able to commence operation of the National Lottery immediately following the end of the Term and to ensure that:

- (a) Exit does not damage any of the Matters to be Protected;
- (b) all Licensee Assets, Lottery Subcontracts and Licensee Staff which the Next Licensee requires to run the National Lottery are transferred to the Next Licensee;
- (c) the quality of the operation of the National Lottery is not reduced during the Term including in connection with Exit, or the preparations for Exit, or otherwise in contemplation of the end of the Term;
- (d) the operation of the National Lottery is handed over to the Next Licensee on an orderly basis such that the National Lottery is continued with the minimum of disruption or inconvenience to Participants; and
- (e) any costs which it is necessary for the Next Licensee to incur in connection with the Transfer of any Licensee Assets, Lottery Subcontracts and Licensee Staff are minimised,

and must cooperate with the Next Licensee and the Commission in order to ensure such things.

27.2 The Licensee must ensure that:

- (a) Exit does not require or necessitate the Next Licensee to:
  - (i) incur any costs in connection with the operation of the National Lottery by the Licensee during the Term; or
  - (ii) pay any amount to the Licensee in connection with the Transfer, pursuant to the requirements of this Licence, of any Licensee Assets, Lottery Subcontracts or Licensee Staff; and
- (b) to the extent that it is necessary for the Next Licensee to pay any amount to any person other than the Licensee in connection with the Transfer of any Licensee Assets, Lottery Subcontracts or Licensee Staff:
  - (i) the Licensee takes all reasonable steps to minimise any such amount;
  - (ii) subject to (iii) below, the cost of any such amount is apportioned between the Licensee and the Next Licensee having regard to the Equitable Apportionment Principles:
  - (iii) to the extent any such amount is payable to a member of Lottery Staff pursuant to, or in connection with, the termination of their employment, that cost shall be borne by the Licensee unless:
    - (1) the employment of such person transfers to the Next Licensee or a subcontractor of the Next Licensee; and

- (2) the Licensee has complied with its other obligations under this Condition 27.

27.3 The Licensee must:

- (a) take all actions (including executing all documents and doing all things) and cooperate with any person the Commission may specify, from time to time, in connection with the Next Competition and Exit; and
- (b) not do, or fail to do, anything which might reasonably be expected to have the effect (directly or indirectly) of preventing, delaying or frustrating:
  - (i) the Next Competition; and
  - (ii) Exit, including the Transfers required by Condition 27.8.

27.4 The Licensee must:

- (a) do everything it can to ensure that, with effect from the Expiry Date, Participants understand that the Next Licensee, and not the Licensee, is the operator of the National Lottery; and
- (b) ensure that:
  - (i) neither it, nor any person who has been authorised by the Licensee during the Term to use Core Lottery IP, uses Core Lottery IP after the End Date; and
  - (ii) no Senior Executive or member of Licensee Staff uses any Lottery IP or otherwise represents itself as being connected with the National Lottery after the End Date,

in each case save to the extent expressly authorised by the Commission for the purposes of Exit; and
- (c) do everything it can to ensure that it is not registered as an owner or licensee of Core Lottery IP after the End Date.

27.5 If the Licensee or any of its Related Parties (a **Next Licence Bid Entity**) participates in the Next Competition, the Licensee must:

- (a) do everything it can to ensure that the Next Licence Bid Entity does not derive any unfair advantage solely as a result of the fact that the Licensee has operated the National Lottery pursuant to this Licence; and
- (b) ensure that:
  - (i) the basis upon which the Commission is able to make available Lottery Information to any party who is interested in, or does, participate in the Next Competition; and
  - (ii) the basis on which the Next Licence Bid Entity uses or accesses Lottery Information for the purposes of the Next Competition (which shall, for the avoidance of doubt, be subject to any directions which the Commission may make and with which the Licensee must comply),

ensures that the Next Licence Bid Entity is only able to use Lottery Information for the purposes of the Next Competition in the same manner as any other participant in that competition.

#### Independent Asset Survey

27.6 If requested by the Commission in connection with preparation for the Exit, the Licensee must engage an independent surveyor to complete a survey of the Licensee Assets (an **Asset Survey**) to:

- (a) assess whether the Licensee Assets have been, and are being, maintained by the Licensee in accordance with its obligations under Condition 17; and
- (b) identify any rectification and/or maintenance work which is required to bring the condition of the Licensee Assets to the standard they would have been in if the Licensee had complied, or was complying, with its obligations under Condition 17.

27.7 In connection with an Asset Survey:

- (a) the appointment of an independent surveyor by the Licensee shall be subject to the Commission's prior written approval as to the identity of the independent surveyor and the terms of its appointment;
- (b) when carrying out the Asset Survey, the Licensee must ensure that no disruption is caused to the National Lottery and its operation;
- (c) the Asset Survey must be completed within 60 Business Days of the appointment of the independent surveyor in accordance with 27.7(a), or such other period as may be agreed by the Licensee and the Commission;
- (d) when the Asset Survey is completed, the Licensee must provide a copy of the Asset Survey to the Commission promptly following receipt by the Licensee;
- (e) if the Asset Survey shows that the Licensee has not complied with, or is not complying with, its obligations under Condition 17, the Commission may:
  - (i) direct the Licensee to undertake any rectification and/or maintenance work specified in the Asset Survey; and
  - (ii) specify a reasonable period within which the Licensee shall carry out such work;
- (f) the Licensee must carry out such rectification and/or maintenance work to the Commission's satisfaction within the period specified; and
- (g) if the Licensee fails to carry out the necessary rectification and/or maintenance work to the Commission's satisfaction within the specified period, the Commission shall be entitled to carry out itself, or procure, such rectification and/or maintenance work and the Licensee must promptly reimburse any costs incurred by the Commission in connection with such rectification and/or maintenance work.

#### Transfer of Licensee Assets

27.8 Immediately following the End Date:

- (a) the Licensee must Transfer:

- (i) any and all Lottery Goodwill, Lottery Data, the Lottery Records Database and Lottery Information; and
  - (ii) any and all Licensee Assets, Lottery Staff (to the extent that such members of staff do not refuse to transfer) and Lottery Subcontracts determined in accordance with Condition 27.9 to be Items to Transfer; and
- (b) to the extent that any Item to Transfer is wholly or partially in the possession, ownership or control of a Related Party or a Lottery Subcontractor, the Licensee must procure that, to that extent, such person Transfers such Item to Transfer,

in each case by executing, as directed by the Commission, an Instrument of Transfer.

27.9 If, before the End Date, and in accordance with the Exit Cooperation Agreement, the Next Licensee or the Commission informs the Licensee of any Licensee Assets, Lottery Staff or Lottery Subcontracts which the Next Licensee will require for the operation of the National Lottery following the end of the Term, those items (other than Lottery Staff who refuse to transfer) will be **Items to Transfer**. Any Licensee Assets, Lottery Staff or Lottery Subcontracts which are not Items to Transfer will be **Residual Items**.

#### Continuing Obligations and On-going Disputes

27.10 If, before the End Date, the Commission identifies obligations in connection with the operation of the National Lottery which:

- (a) are obligations of the Licensee which should transfer to the Next Licensee (**Transferring Continuing Obligation**);
- (b) are obligations of the Licensee in respect of which arrangements between the Licensee and the Next Licensee would be appropriate in order to ensure those obligations are discharged by the Licensee following the End Date; or
- (c) are obligations of the Next Licensee in respect of which arrangements between the Licensee and the Next Licensee would be appropriate in order to ensure those obligations are discharged by the Next Licensee following the End Date,

each such obligation shall be a **Continuing Obligation**.

27.11 The Licensee shall cooperate with the Commission and the Next Licensee, and give effect to any arrangements specified by the Commission (which may include a requirement that the Next Licensee assume the conduct of an On-going Dispute, subject to any requirements as to the conduct of the Next Licensee as may be specified by the Commission), in order to:

- (a) ensure that Continuing Obligations are discharged following the End Date; and
- (b) ensure that the conduct of On-going Disputes is undertaken in the manner best calculated to achieve the outcomes specified in Condition 1.2 and which does not damage any Matter to be Protected including, where appropriate, doing everything it can to enable the Next Licensee to assume conduct of an On-going Dispute.

27.12 Each Transferring Continuing Obligation shall be an Item to Transfer and the Licensee must do everything it can to transfer the Transferring Continuing Obligations to the Next Licensee immediately following the End Date.

- 27.13 Where, in accordance with Condition 27.11, the Next Licensee has assumed the conduct of any On-going Dispute, the Licensee must, if directed by the Commission (and subject always to any requirements specified by the Commission regarding the manner in which the Next Licensee acts in relation to that dispute), indemnify the Next Licensee, on a continuing basis, against any liability, claim, cost, judgment, damage or expense (including reasonable advisory fees) that the Next Licensee incurs or suffers as a result of having assumed the conduct of that On-going Dispute.
- 27.14 If directed by the Commission, the Licensee must provide security in connection with the performance of its obligations in respect of any specified On-going Dispute under Condition 27.13, to such value, in such form, and on such terms, as the Commission may specify.

#### Trust Transition

- 27.15 The Licensee must cooperate, and must ensure that the National Lottery Trustee and the Account Bank cooperate, with each of the Next Licensee, the Next Trustee, the Next Account Bank, the Commission and any person identified by the Commission, to ensure that, the Trust Arrangements can be transferred to the Next Licensee, Next Trustee and Next Account Bank on Exit. This includes, but is not limited to:
- (a) the provision of up-to-date information in relation to:
    - (i) the Protected Obligations;
    - (ii) any person to whom the Licensee owes a Protected Obligation;
    - (iii) all Lottery Monies;
    - (iv) the Accounts;
    - (v) Funds Protection Policies;
  - (b) doing everything that the Next Licensee or the Commission requires in relation to the payment of monies to the Next Trustee and Next Account Bank which, according to generally accepted accounting standards, will be required by the Next Licensee in order to enable it to discharge any Protected Obligations which the Next Licensee will have an obligation to discharge.

#### Game continuity

- 27.16 Without prejudice to any Continuing Obligations which are assumed by the Next Licensee, the Licensee must do everything it can to ensure that:
- (a) tickets purchased before the end of the Term are honoured; and
  - (b) Participants who have won Prizes can claim them,
- in each case, whether before or after the end of the Term, in accordance with the rules of the relevant Game.

#### Financial Apportionment

- 27.17 The Licensee must agree with the Next Licensee:
- (a) a process to allocate or apportion (as the case may be) any and all costs and liabilities and, if applicable, revenues and other benefits, associated with the

operation of the National Lottery between the Licensee and the Next Licensee in accordance with the requirements of this Condition 27 in a form acceptable to the Commission; and

- (b) a process to ensure that any amounts received or paid in connection with the operation of the National Lottery are received or paid by the Licensee or the Next Licensee, as the case may be, in such manner as to reflect the allocation or apportionment of costs determined in accordance with paragraph (a),

(the **Financial Apportionment Process**) within such period as the Commission may specify.

27.18 If the Licensee does not prepare the Financial Apportionment Process, or does not agree this with the Next Licensee within the period specified by the Commission in accordance with Condition 27.17, the Commission may specify the Financial Apportionment Process.

27.19 The Licensee must implement the Financial Apportionment Process.

#### Disposal of Residual Items

27.20 Subject to Condition 27.2(b)(iii), the cost of:

- (a) the disposal of any Licensee Assets; and
- (b) the termination of any Lottery Subcontracts,

in each case which are Residual Items, shall be borne by the Licensee and the Licensee must indemnify and keep indemnified the Next Licensee and the Commission in respect of such costs. The terms of that indemnity will be those specified by the Commission in the Exit Cooperation Agreement.

#### Availability of Records

27.21 The Licensee must ensure that, in addition to providing for access by the Commission to the records specified in Condition 7.17 in accordance with the requirements of that Condition, any other information or records of the Licensee (including those kept by the Licensee in accordance with Condition 23.4) will be available to the Commission for a period of at least two years following the End Date.

#### Assistance with Exit and the Next Competition

27.22 In connection with Exit and the Next Competition, the Licensee shall provide the Commission and its representatives and advisers with:

- (a) any Lottery Information;
- (b) access to any of the Licensee Assets, Lottery Subcontractors or Lottery Staff; and
- (c) any support and cooperation,

in each case as specified by the Commission, in such form, and within such timeframes, the Commission may direct.

27.23 The Licensee:



- (a) must do everything it can to ensure that the Commission is entitled to disclose to such third parties as the Commission may determine in connection with the Next Competition any and all Lottery Information which is proprietary information of a Lottery Subcontractor which is not a Related Party; and
- (b) must ensure that the Commission is entitled to disclose to such third parties as the Commission may determine in connection with the Next Competition any and all other Lottery Information.

#### Cooperation with the Commission and the Next Licensee

27.24 The Licensee must:

- (a) when directed by the Commission, enter into and comply with the Exit Cooperation Agreement; and
- (b) give effect to any amendments to the Exit Cooperation Agreement specified by the Commission.

27.25 The Exit Cooperation Agreement will deal with such matters as the Commission may specify to ensure that Exit fulfils the outcomes specified in Condition 1.2 and this Condition 27.

27.26 Subject to Condition 27.2(a), costs incurred by the Licensee and by the Next Licensee in cooperating to achieve the outcomes set out in Condition 27.1 shall be apportioned between them according to the Equitable Apportionment Principle (**Cooperation Costs**) as set out in Condition 27.27.

27.27 The **Equitable Apportionment Principle** is that where either the Licensee or the Next Licensee incurs a Cooperation Cost, the other shall make a contribution to that cost proportionate to any benefit it derives from that cost, or any fault on its part that has necessitated the incurring of that cost. The Exit Cooperation Agreement will include a mechanism for the apportionment of Cooperation Costs in accordance with the Equitable Apportionment Principle.

27.28 If the Licensee:

- (a) agrees to provide to the Next Licensee any services which it is not required by this Condition 27 to provide; and
- (b) has complied, and does comply, with its obligations under this Condition 27 and the Exit Cooperation Agreement,

it may agree to levy a charge for the provision of such services to the Next Licensee provided such charge must be determined on an arm's length basis.

#### Exit Plan

27.29 The Licensee must maintain an Exit Plan at all times during the Term and shall:

- (a) provide it to the Commission;
- (b) update and amend the Exit Plan;
- (c) ensure that, at all times, the Exit Plan:

- (i) sets out how the Licensee will comply with its obligations under this Condition 27 both:
  - (1) on expiry of this Licence; and
  - (2) if this Licence were revoked,
- (ii) provides for such matters as the Commission may specify; and
- (iii) includes any provision that the Commission may specify,

in each case as required by the Commission's Regulatory Handbook from time to time.

27.30 The Licensee must implement the Exit Plan upon direction by the Commission.

#### Exit Manager

27.31 During the Term, and for three months after the Expiry Date, the Licensee must ensure that a suitably experienced and qualified Senior Executive of the Licensee or a Lottery Supervisor who is a member of Lottery Staff (the **Exit Manager**) is responsible for:

- (a) maintaining and continuously improving the Exit Plan, including consulting with the Implementation Manager to provide an updated Exit Plan to the Commission within six months of the Start Date (or, if later, promptly following confirmation of Fully Implemented Commencement);
- (b) the Licensee's compliance with its obligations under the Exit Cooperation Agreement; and
- (c) Exit.

## 28. OUTSTANDING LIABILITY FUND

### Establishment and operation of Outstanding Liability Fund

- 28.1 On or before the start of Licence Year 6, the Licensee must provide to the Commission a proposal setting out the details of its proposed form of the Outstanding Liability Fund and the associated OLF Documents which must comply with the provisions of this Condition 28.
- 28.2 The Outstanding Liability Fund must be in a form and substance approved by the Commission which ensures that:
- (a) each OLF Monthly Payment is paid into the Outstanding Liability Fund in accordance with Condition 28.9; and
  - (b) those amounts are at all Relevant Times reserved, in cash, for the purposes set out in Condition 28.10(a).
- 28.3 The Outstanding Liability Fund and the OLF Documents shall be:
- (a) if approved by the Commission, those proposed by the Licensee in accordance with paragraph 28.1, including any amendments directed by the Commission as a condition of such approval; or
  - (b) otherwise, as the Commission may direct.
- 28.4 The Licensee must ensure that, from the start of Licence Year 7 and until the second anniversary of the End Date:
- (a) the Outstanding Liability Fund is in operation; and
  - (b) the OLF Documents are in force,
- in each case in accordance with the requirements of this Condition 28.
- 28.5 The Outstanding Liability Fund must be administered by the Approved OLF Administrator.

### Maximum OLF Amount

- 28.6 Subject to Conditions 28.7 and 28.8, the Maximum OLF Amount is £10 million.
- 28.7 If the Commission notifies the Licensee not later than the end of Licence Year 6 that it has determined, in light of the Licensee's conduct and any fines or penalties levied on the Licensee pursuant to the Act or this Licence, that the Maximum OLF Amount should be greater than £10 million, the Maximum OLF Amount shall be such greater sum (not exceeding £20 million) as the Commission may specify.
- 28.8 If the Commission notifies the Licensee not later than the end of Licence Year 9 that it has determined, in light of the Licensee's conduct and any fines or penalties levied on the Licensee pursuant to the Act or this Licence during the period from the beginning of Licence Year 7 to the date of such notification, that the Maximum OLF Amount should be greater than the amount specified in accordance with Condition 28.7, the Maximum OLF Amount shall be such greater sum (not exceeding £20 million) as the Commission may specify.

### OLF Monthly Payments

28.9 Starting in the first month of Licence Year 7 and ending in the final month of Licence Year 10 (or, if later, the final month of the Term), the Licensee must pay an amount into the Outstanding Liability Fund each month (an **OLF Monthly Payment**). Each OLF Monthly Payment shall be:

- (a) subject to paragraph (b) an amount equal to 1/48 of the Maximum OLF Amount; or
- (b) if:
  - (i) the Term is extended in accordance with Condition 3; and/or
  - (ii) the Maximum OLF Amount is increased pursuant to Condition 28.8,

the OLF Monthly Payments in subsequent months shall be adjusted by an amount determined by the Commission as necessary to reflect such extension or increase (as the case may be) in order that the Maximum OLF Amount is paid into the Outstanding Liability Fund by the end of the Term.

#### Payments out of the Outstanding Liability Fund

28.10 The Licensee must ensure that monies shall be paid out of the Outstanding Liability Fund, but only:

- (a) by way of payment, after the End Date, of the amount of any fine or penalty levied upon the Licensee in respect of a breach of this Licence or any obligation arising under it; and
- (b) subject to Condition 28.11, by way of payment, after the second anniversary of the End Date, of any remaining amount of the Outstanding Liability Fund to the Licensee.

28.11 No amount may be paid to the Licensee pursuant to Condition 28.10(b) unless and until the Commission has certified, on or before the date which is three months after the second anniversary of the End Date, that there is no outstanding fine or penalty levied or to be levied on the Licensee in respect of a breach of this Licence or any obligation arising under it.

#### OLF Documents

28.12 The Licensee must ensure that:

- (a) once approved in accordance with Condition 28.3, the OLF Documents are not amended, varied or terminated in any way without the prior consent of the Commission;
- (b) the Licensee and each Other OLF Party complies with the OLF Documents.

#### No limitation on fines or penalties

28.13 The existence of the Outstanding Liability Fund and the calculation of the Maximum OLF Amount shall not in any way fetter or limit the amount of any fine or penalty which may be levied on the Licensee for breach of this Licence or any obligation arising under it.

#### OLF Costs

28.14 The amount of any OLF Costs shall be paid by the Licensee.

Information in relation to the Outstanding Liability Fund

28.15 The Licensee shall provide to the Commission, in such form, and with such frequency, as:

- (a) are specified in the OLF Documents; and
- (b) otherwise specified by the Commission,

such documentation and information as the Commission may require regarding the Outstanding Liability Fund

Approved OLF Administrator

28.16 If at any time the Licensee becomes aware of any fact, matter or circumstance which may indicate that either:

- (a) the Approved OLF Administrator may not be an appropriate person to administer the Outstanding Liability Fund; or
- (b) the Outstanding Liability Fund, or any OLF Document may not operate in a manner necessary to fulfil the requirements of this Condition,

the Licensee must promptly notify the Commission and must take such steps and execute such documents as the Commission may require to ensure that the outcomes set out in this Condition are achieved.

28.17 In determining whether the Approved OLF Administrator is an appropriate person to administer the Outstanding Liability Fund, regard shall be had to:

- (a) any risk that the Approved OLF Administrator may, be reason of insolvency or otherwise, cease to be able to discharge its obligations under the OLF Documents; or
- (b) any fact, matter or circumstance with respect to the Approved OLF Administrator which might damage any of the Matters to be Protected.

## 29. ENSURING CONFIDENTIAL INFORMATION IS PROTECTED

### Use of Confidential Information

29.1 The Licensee must not, without the prior written consent of the Commission, use Confidential Information for any purpose other than the operation of the National Lottery or any Ancillary Activity in accordance with the Conditions of this Licence.

### Disclosure of Confidential Information

29.2 The Licensee shall not disclose any Confidential Information to any third party unless such disclosure is:

- (a) made to:
  - (i) a Licensee Subsidiary;
  - (ii) the Senior Executives of the Licensee (or any Licensee Subsidiary) and members of Lottery Staff that need to know the Confidential Information in connection with the performance of their role;
  - (iii) any Qualifying Direct Shareholder of the Licensee or a Connected Party of a Qualifying Direct Shareholder, to the extent necessary for that person to monitor their investment in the Licensee and confirm the Licensee's compliance with this Licence;
  - (iv) Lottery Subcontractors and the Senior Executives and employees of Lottery Subcontractors, to the extent necessary for the performance of the relevant Lottery Subcontract; and
  - (v) Professional Advisers;

each an **Authorised Person**, on the basis that each Authorised Person must owe a duty of confidentiality to the Licensee in respect of such Confidential Information which is no less onerous than the confidentiality obligations set out in this Condition 29; or

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

29.3 The Licensee must promptly notify the Commission if it becomes aware that any Confidential Information has been disclosed in breach of Condition 29.1.

29.4 If the Licensee becomes aware that it, or one of its Authorised Persons, may be required to disclose any Confidential Information in accordance with Conditions 29.2(b)(ii) to (iii), to the extent permitted by law, the Licensee must:

- (a) promptly notify the Commission with full details of the required disclosure. The 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 the 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.

Confidential Information on expiry or revocation

- 29.5 Subject to Condition 29.6, on expiry or revocation of this Licence, the Licensee must (at the Commission's option) destroy or return to the Commission (or its nominee) all Confidential Information held by it, and must procure that its Authorised Persons do the same. The Licensee shall provide written confirmation of compliance with this Condition 29.5 if required by the Commission.
- 29.6 The Licensee and its Authorised Persons may retain Confidential Information if and to the extent that they are legally required to do so, provided that such information continues to be held pursuant to the duty of confidentiality set out in this Condition 29.

## 30. FREEDOM OF INFORMATION

### Compliance with FOIA and EIR

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

### Requests for Information

30.2 If the Commission receives a Request for Information in relation to information held by the 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 Licensee 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.

30.3 The Licensee 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 End Date; or
- (b) retained for disclosure for at least two years after the End Date.

### Disclosure by the Commission

30.4 The 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 Licensee, any Authorised Person, or the National Lottery without consulting with the Licensee or any Authorised Person.



## 31. NOTICES

### Address for notices

- 31.1 A notice or communication given to the Licensee or the Commission as required by, or in connection with, this Licence, must be in writing (including by email) and in English and sent to the following address:

#### **The Gambling Commission**

Address Victoria Square House, Victoria Square, Birmingham, B2 4BP

Email **Redacted - Confidential Information**

For the attention of: John Tanner, 4NLC Executive Director and SRO

#### **The Licensee**

Address 5<sup>th</sup> Floor, One Connaught Place, London W2 2ET

Email **Redacted - Confidential Information**

For the attention of: Harry Willits, General Counsel, Allwyn Entertainment Ltd

- 31.2 The Commission and the Licensee must give the other party reasonable advance notice of any change to the notice details set out in Condition 31.1.

### Service of Notices

- 31.3 A notice or communication that complies with Condition 31.1 is deemed to have been given:

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

provided that if deemed receipt under paragraphs (a) to (c) of this Condition 31.3 would occur outside the Usual Business Hours, the notice or communication shall be deemed to have been received when Usual Business Hours next recommence. For the purposes of this Condition 31.3, **Usual Business Hours** means 9.00 am to 5.30 pm on a Business Day.

## 32. MISCELLANEOUS PROVISIONS

### No waiver

- 32.1 If the Commission fails or delays to exercise (in full or in part) any right or remedy provided under this Licence or by law, that will not constitute a waiver of, prevent or restrict that or any other right or remedy.
- 32.2 A waiver of a breach of a Condition of this Licence does not constitute a waiver of a subsequent or prior breach by the Licensee.

### Severability

- 32.3 If and to the extent that a Condition (in full or in part) is found to be illegal, invalid or unenforceable, that Condition will be given no effect and will be treated as though it were not included in this Licence, but the validity or enforceability of the remaining Conditions will not be affected.

### Survival

- 32.4 The following Conditions shall survive the expiry or revocation of this Licence:
- (a) Condition 1 (*Purposes and Outcomes*)
  - (b) Condition 15 (*Payments to Good Causes*);
  - (c) Condition 16 (*Protecting Participant Funds*)
  - (d) Conditions 19.1 to 19.3, 19.10, 19.11 and 19.18 to 19.21 (*National Lottery IP*) provided the provided that the Commission may notify the Licensee, in connection with Exit, that any part of that Condition specified by the Commission, either wholly or in respect of certain specified matters, shall cease to apply from a date specified by the Commission;
  - (e) Condition 20 (*Employees*);
  - (f) Condition 27 (*Exit*);
  - (g) Condition 28 (*Outstanding Liability Fund*);
  - (h) Condition 29 (*Ensuring Confidential Information is protected*);
  - (i) Condition 30 (*Freedom of Information*);
  - (j) Condition 31 (*Notices*);
  - (k) Condition 32 (*Miscellaneous Provisions*);
  - (l) Schedule 1 (*Glossary of words and phrases used in this Licence*);
  - (m) Schedule 2 (*Interpretation*); and
  - (n) Schedule 5 (*Good Causes Contribution*).

### Third party rights

32.5 No person other than the Commission and the Licensee has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any Condition of this Licence.

Governing law and jurisdiction

32.6 This Licence shall be governed by and construed in accordance with English law.

32.7 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 Licence.

## SCHEDULE 1

### Glossary of words and phrases used in this Licence

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| <b>3NL Continuing Obligations</b>      | means a “Continuing Obligation” as defined in the Incoming Cooperation Agreement   |
| <b>3NL Ongoing Disputes</b>            | any 3NL Continuing Obligation in connection with a Lottery Dispute (as defined in the Incoming Cooperation Agreement)  |
| <b>Account</b>                         | each Lottery Account or Trust Account established pursuant to the Trust Deed and “ <b>Accounts</b> ” means all of those  |
| <b>Account Bank</b>                    | HSBC UK Bank plc or a Replacement Account Bank (once appointed)  |
| <b>Account Bank Agreement</b>          | the agreement between the Licensee and the Account Bank dated [●] in relation to the operation of certain bank accounts held by the Licensee and the National Lottery Trustee from time to time by the Account Bank  |
| <b>Account Bank Replacement Notice</b> | a notice issued to the Account Bank by the Licensee in accordance with Condition 16.22(d) specifying a Replacement Account Bank and requiring that the Trust Arrangements (or the relevant parts of those arrangements) are transferred to the Replacement Account Bank  |
| <b>Account Bank Requirements</b>       | the following requirements (unless varied in accordance with Condition 16.29): <ul style="list-style-type: none"><li>(a) as a Lottery Beneficiary, the Account Bank must meet the Fit and Proper Requirements;</li><li>(b) no person who is a Material Shareholder, intermediate holding company or ultimate holding company of the Account Bank may also be a Material Shareholder, intermediate holding company or ultimate holding company of either:<ul style="list-style-type: none"><li>(i) the Licensee; or</li><li>(ii) the National Lottery Trustee;</li></ul></li><li>(c) the Account Bank must not be a Connected Party of the Licensee or the National Lottery Trustee;</li><li>(d) the Account Bank must be regulated by the Prudential Regulation Authority (or any successor to it from time to time); and</li><li>(e) that Account Bank must have an Investment Grade credit rating from at least two Recognised Rating Agencies</li></ul> |

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| <b>Accounting Standards</b>                 | the generally accepted accounting standards properly applied by the Licensee for the purposes of the preparation of its statutory accounts   |
| <b>the Act</b>                              | the National Lottery etc. Act 1993, as amended from time to time   |
| <b>Ad Hoc Assurance Statement</b>           | an Assurance Statement required to be provided by the Licensee on direction by the Commission  |
| <b>Ancillary Activity</b>                   | has the meaning given in Condition 14.1  |
| <b>Ancillary Activity Revenue</b>           | any revenue or income of the Licensee arising from any Ancillary Activity  |
| <b>Annual Assurance Statement</b>           | an Assurance Statement required to be provided by the Licensee in accordance with Conditions 23.17 and 23.18   |
| <b>the Application</b>                      | the final application to the competition for the award of this Licence submitted to the Commission by the Licensee   |
| <b>Approved OLF Administrator</b>           | the person who has been approved by the Commission to administer the Outstanding Liability Fund in accordance with the OLF Documents   |
| <b>Asset Survey</b>                         | has the meaning given in Condition 27.6  |
| <b>Assurance Statement</b>                  | an assurance statement certified as approved by the board of Directors of the Licensee which the Commission requires the Licensee to provide, including any Annual Assurance Statement and any Ad Hoc Assurance Statement  |
| <b>Audit Committee</b>                      | the audit committee of the board of Directors of the Licensee  |
| <b>Authorised Person</b>                    | has the meaning given in Condition 29.2  |
| <b>Best Practice</b>                        | has the meaning given in Condition 4.3   |
| <b>Brand Management Plan</b>                | the Licensee's plan in relation to the management of the National Lottery Brand  |
| <b>Business Day</b>                         | any day (other than a Saturday or Sunday) on which banks are open for general business in London   |
| <b>CG Implementation Timetable</b>          | has the meaning given to it in the Enabling Agreement  |
| <b>Commission Staff</b>                     | any employee of the Commission or any other person engaged by the Commission to perform a function in connection with this Licence or the regulation or supervision of the National Lottery  |
| <b>Commission's Regulatory Handbook</b>     | any guidance, statement of policy, procedure or approach published by the Commission from time to time regarding the monitoring or assessing the performance of the Licensee in accordance with this Licence or enforcing the Conditions of this Licence which the Commission notifies the Licensee from time to time to be part of the Commission's Regulatory Handbook |
| <b>Compliance and Risk Management Audit</b> | has the meaning given in Condition 23.13   |

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| <b>Compliance and Risk Management Committee</b> | has the meaning given in Condition 22.10   |
| <b>Confidential Information</b>                 | all information relating to the National Lottery operation, any Ancillary Activity, the Licensee, the Next Competition, the Next Licensee or the Commission which is not in the public domain  |
| <b>Connected Party</b>                          | any person (Person A) who, in relation to any other person (Person B), is: <ul style="list-style-type: none"><li>(b) a Senior Executive of Person B;</li><li>(c) a Material Shareholder of Person B;</li><li>(d) the immediate, intermediate or ultimate parent company of any Material Shareholder of Person B; or</li><li>(e) any Senior Executive of any person identified in (b) or (c) above</li></ul>  |
| <b>Continuing Obligations</b>                   | has the meaning given in Condition 27.10   |
| <b>Control Arrangements</b>                     | has the meaning given in Schedule 4  |
| <b>Coordinated Lottery</b>                      | an arrangement, approved by the Commission, under which the Licensee organises a Game in coordination with the organisers of other lotteries in a manner which enables the prize pools from all of the lotteries involved to be consolidated such as to generate bigger prizes and includes EuroMillions Games   |
| <b>Coordinated Lottery Obligation</b>           | any obligation of the Licensee which arises pursuant to a Coordinated Lottery and has been approved by the Commission to make any payment or contribution to a Coordinated Lottery Trustee for the purposes of the Coordinated Lottery   |
| <b>Coordinated Lottery Trustee</b>              | any person appointed by the Licensee and other lottery operators who participate in a Coordinated Lottery for the purposes of holding monies on their behalf for the purposes of the Coordinated Lottery   |
| <b>Core Lottery IP</b>                          | all IP and rights in IP: <ul style="list-style-type: none"><li>(a) in the name "the National Lottery", the National Lottery Logos, or any and all characteristic get-up, styling or copy used in connection with the National Lottery;</li><li>(b) in the name of each Game or any and all characteristic get-up, styling or copy used in connection with any Game (but excluding the same to the extent that it is licensed to the Licensee by any person who is not a Related Party, was not originally created or revised for the purpose of the National Lottery or any Game and the Section 6 Licence granted with respect to that Game specifies that it shall not be Core Lottery IP); and/or</li></ul> |

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|                                       | (c) which is IP owned by the Commission at the Start   |
| <b>Core Lottery IP Guidelines</b>     | the guidelines adopted and implemented by the Licensee in relation to the use of Core Lottery IP, in accordance with Condition 19.4  |
| <b>Critical Access Contract</b>       | each Lottery Subcontract which relates to any Critical Item  |
| <b>Critical Function</b>              | any function which constitutes a material part of the business of running the National Lottery including any function which: <ul style="list-style-type: none"><li>(a) could influence the outcome of any Game; and/or</li><li>(b) is material to the continuing operation of the National Lottery in circumstances in which the Licensee could not readily engage an alternative person to undertake that function without any interruption to, or adverse impact on, the National Lottery</li></ul>  |
| <b>Critical Function Employee</b>     | has the meaning given in Condition 7.4   |
| <b>Critical Item</b>                  | each of: <ul style="list-style-type: none"><li>(a) the Independent Verification System;</li><li>(b) the Entry and Prize System;</li><li>(c) any software, system, asset, function or service which is necessary for the operation of the Independent Verification System, the Entry and Prize System or a Critical Function; and</li><li>(d) any other:<ul style="list-style-type: none"><li>(i) Licensee Asset;</li><li>(ii) the benefit of any Lottery Subcontract;</li><li>(iii) Lottery IP;</li><li>(iv) Lottery Data; or</li><li>(v) Lottery Information;</li></ul></li></ul> <p>as might reasonably be expected to be required by the National Lottery Trustee (or a receiver appointed by it) in order to identify beneficiaries (as defined in the Trust Deed) and make payments to them in accordance with the Trust Deed</p> |
| <b>Data Protection Laws</b>           | the Data Protection Act 2018 and all other applicable data protection and privacy legislation in force from time to time in the UK   |
| <b>Designated Lottery Subcontract</b> | a Lottery Subcontract designated as a "Designated Lottery Subcontract" by the Commission:  |

- (a) before the Start Date, in accordance with the terms of the Enabling Agreement; or
- (b) during the Term, in accordance with Condition 5.6

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| <b>Developed IP</b>                    | any Core Lottery IP developed or created by or on behalf of the Licensee, whether by the Licensee itself or by (or in conjunction with) any third party   |
| <b>Director</b>                        | means any executive or non-executive director   |
| <b>Disposal</b>                        | includes any sale, gift, lease, licence, loan, mortgage, charge or the grant of any other encumbrance or the permitting of any encumbrance to subsist or any other disposition to a third party, and "Dispose" shall be construed accordingly   |
| <b>Distribution Portfolio Strategy</b> | <b>and</b> has the meaning given in Condition 9.6   |
| <b>Distribution Fund</b>               | the National Lottery Distribution Fund, or any other person to whom the Act specifies that sums out of the proceeds of the National Lottery should be paid  |
| <b>Dormant Account</b>                 | an Online Participant Account in respect of which the Participant has not at any time undertaken any transaction or otherwise contacted the Licensee for a period (which shall, where appropriate, be calculated by reference to a notice given by the Licensee to the Participant) where such period is the minimum necessary for the protection of the Participant, determined in accordance with Best Practice   |
| <b>Dormant PPA Amount</b>              | any PPA which is not an amount stranding to the credit of an Online Participant Account and in respect of which the Participant has not at any time undertaken any transaction or otherwise contacted the Licensee for a period (which shall, where appropriate, be calculated by reference to a notice given by the Licensee to the Participant) where such period is the minimum necessary for the protection of the Participant, determined in accordance with Best Practice |
| <b>Draw</b>                            | a process which culminates in the selection of a set of winning numbers for a National Lottery game on a random basis and includes any similar arrangement for determining a person who has won a Prize in a Game   |
| <b>Draw-based Game</b>                 | any National Lottery game, the result of which is determined by a Draw and in which a Participant's selection is recorded on the Entry and Prize System   |
| <b>EIR</b>                             | Environmental Information Regulations 2004  |
| <b>Enabling Agreement</b>              | the agreement between the Commission and the Licensee which was entered into in anticipation of this Licence being granted to the Licensee and governed the implementation of the Application and Incoming Transition Plan and the Licensee's preparation to run the National Lottery in accordance with this Licence   |
| <b>End Date</b>                        | the date on which this Licence ends (being the expiry of ten years from the Start Date, unless this Licence is revoked in accordance  |



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|   | with the Act or extended in accordance with the Conditions of this Licence)   |
| <b>Entry and Prize System</b>                     | the integrated system used to record and store entries into Games, determine winners and validate Prizes  |
| <b>Equitable Apportionment Principle</b>          | has the meaning given in Condition 27.27  |
| <b>[EuroMillions<sup>5</sup> Deed of Priority</b> | the deed of consent and postponement entered into between the National Lottery Trustee, the EuroMillions Trustee, the Account Bank and the Licensee   |
| <b>EuroMillions Game(s)</b>                       | each co-ordinated lottery (as defined in the EuroMillions Lottery Operators' Agreement) established and promoted by the Licensee in the UK pursuant to the EuroMillions Lottery Operators' Agreement and a relevant EuroMillions Section 6 Licence  |
| <b>EuroMillions Lottery Operators' Agreement</b>  | the operators' agreement dated 30 January 2004 between the operators of EuroMillions in a number of jurisdictions and Services aux Loteries en Europe SCRL, to which the Licensee has executed a deed of adherence (as amended from time to time)   |
| <b>EuroMillions Section 6 Licence(s)</b>          | any s6 Licence in respect of the promotion of the EuroMillions Game(s) by the Licensee  |
| <b>EuroMillions Trust Deed</b>                    | the security trust deed dated 29 January 2004 (as amended from time to time) originally between, inter alia, the EuroMillions Trustee, the Original Participants (as defined in that trust deed) and Services aux Loteries en Europe SCRL   |
| <b>EuroMillions Trust Deed DOA</b>                | the deed of adherence to the EuroMillions Trust Deed entered into by the Licensee on or around the Start Date   |
| <b>EuroMillions Trust Documents</b>               | the EuroMillions Trust Deed DOA, the EuroMillions Trust Deed, the EuroMillions Deed of Priority, and any other document designated by the Commission as a EuroMillions Trust Document in accordance with Condition 16.5   |
| <b>EuroMillions Trustee</b>                       | the trustee under the EuroMillions Trust Deed]  |
| <b>Exit</b>                                       | the process by which, during, at the end of and after the Term: <ul style="list-style-type: none"><li>(e) the Licensee prepares for the end of the Term and to cease operating the National Lottery;</li><li>(f) the Licensee ceases to run the National Lottery and the Next Licensee commences operation of the National Lottery; and</li><li>(g) Licensee Assets, Lottery Subcontracts, Lottery Staff (to the extent that such members of staff do not refuse to transfer) and Continuing Obligations Transfer in accordance with Condition 27.8</li></ul> |

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<sup>5</sup> EuroMillions provisions to be included in form of Licence granted on the Start Date if a EuroMillions Section 6 Licence has been granted to the Licensee with effect from the Start Date.

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| <b>Exit Agreement</b>                      | <b>Cooperation</b> | the agreement between the Licensee and the Commission and, as the Commission may specify, the Next Licensee in relation to Exit, in the form specified by the Commission and including any amendments specified by the Commission from time to time  |
| <b>Exit Manager</b>                        |                    | has the meaning given to it in Condition 27.31   |
| <b>Exit Plan</b>                           |                    | the Licensee's written plan for Exit   |
| <b>Final Reserve</b>                       |                    | has the meaning given to that term in the Trust Deed   |
| <b>Final Reserve Balance</b>               |                    | has the meaning given to that term in the Trust Deed   |
| <b>Final Reserve Documentation</b>         |                    | any documentation entered into by the Licensee in connection with the establishment and/or maintenance of the Final Reserve  |
| <b>Finance Agreement</b>                   |                    | each agreement or arrangement pursuant to which any person: <ul style="list-style-type: none"><li>(a) provides or will provide any loan or other finance or funding in any form whatsoever (including, without limitation, any asset or receivable based finance and any hedging or derivative arrangement) to the Licensee, other than any such agreement or arrangement which is:<ul style="list-style-type: none"><li>(i) on arm's length and market standard commercial terms; and</li><li>(ii) is immaterial to the funding of the Licensee;</li></ul></li><li>(b) subscribes, will subscribe, or acquires the right to subscribe, for equity in the Licensee which would result in such person becoming a Qualifying Direct Shareholder of the Licensee;</li><li>(c) provides or will provide any credit or advance arrangement which benefits or will benefit the Licensee, other than trade credit to be provided to the Licensee by Lottery Subcontractors in the ordinary course of business;</li><li>(d) provides or will provide any guarantee or indemnity arrangement or a similar undertaking to incur a financial or other obligation arising by reference to an obligation or liability of the Licensee; or</li><li>(e) issues or will issue any debt securities to the Licensee or grants to the Licensee a right to acquire debt securities</li></ul> |
| <b>Financial Apportionment Process</b>     |                    | has the meaning given in Condition 27.17   |
| <b>Financial Distress Event</b>            |                    | has the meaning given in Condition 18.9  |
| <b>Financial Distress Remediation Plan</b> |                    | a plan produced by the Licensee in accordance with Condition 18.11 setting out the steps it will take to remedy a Financial Distress Event to the satisfaction of the Commission   |

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| <b>Fit and Proper Checks</b>                    | checks by the Commission or the Licensee for the purpose described in Conditions 6 and 7, to confirm that a particular person meets the Fit and Proper Requirements  |
| <b>Fit and Proper Requirements</b>              | has the meaning given in Condition 5.1   |
| <b>Fit for Purpose</b>                          | of a standard which is suitable to ensure that the National Lottery and its operation is run in a manner which fulfils the outcomes set out in Condition 1.2 and in compliance with this Licence   |
| <b>FOIA</b>                                     | Freedom of Information Act 2000  |
| <b>Forecasting Methodology</b>                  | a robust methodology for forecasting Good Causes Contributions in respect of each period to which a Good Causes Contribution Forecast relates  |
| <b>Forecasting Methodology Assurance Report</b> | a report prepared by the Licensee's statutory auditor or a suitably qualified and experienced third party confirming that the preparation of the Good Causes Contribution Forecast on the basis of the Forecasting Methodology would align with Best Practice  |
| <b>Free Game</b>                                | any form of activity carried on by the Licensee which is not a Game and:<br><br>(a) offers, or results in, the award of a prize; and<br><br>(b) does not require any payment to enter  |
| <b>Freeze Period</b>                            | has the meaning given in Condition 20.5  |
| <b>Fully Implemented Commencement</b>           | has the meaning given to that term in the Enabling Agreement   |
| <b>Fundamental Geographic Change</b>            | <b>Scope</b> a significant change to the geographical area within which the Licensee is authorised to operate and promote Games, resulting in fundamental structural change in the market for the National Lottery   |
| <b>Funds Outcome</b>                            | <b>Protection</b> has the meaning given to that term in Condition 16.1   |
| <b>Funds Protection Criteria</b>                | has the meaning given to that term in Condition 16.11  |
| <b>Gambling Law</b>                             | any Law to the extent it applies to any form of gaming, betting, gambling or lottery (including, without limitation, the National Lottery) but not to any other activity but excludes:<br><br>(a) any matter relating to any tax or duty; and<br><br>(b) any other matter for which an adjustment is included in the calculation of the Good Causes Contribution under Schedule 5; |
| <b>Game</b>                                     | any constituent lottery or game of the National Lottery authorised by a Section 6 Licence and including any Ancillary Activity specifically related to that lottery or game  |

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| <b>Good Causes</b>                       | the Distribution Fund  |
| <b>Good Causes Contribution</b>          | the amount, determined in accordance with the provisions of Schedule 5, to be paid to Good Causes by the Licensee in respect of each Licence Year  |
| <b>Good Causes Contribution Forecast</b> | a forecast of the Good Causes Contribution which fulfils the requirements of Condition 15.3  |
| <b>Good Causes Distributor</b>           | any person from time to time responsible for the distribution of monies from the Distribution Fund   |
| <b>Good Value for Good Causes</b>        | <p>in respect of any Related Party Arrangement, an arrangement that:</p> <ul style="list-style-type: none"><li>(a) in the case of a Related Party Cost:<ul style="list-style-type: none"><li>(i) enables the National Lottery to benefit from goods or services which contribute to its successful operation in accordance with this Licence; and</li><li>(ii) is on terms which, in respect both of the benefits received by the Licensee and the costs incurred by the Licensee are no less favourable than those which could reasonably be obtained by way of a competitive procurement process including the market leading provider of those goods or services (as the case may be) in the UK market;</li></ul></li><li>(b) in the case of Related Party Revenue, represents revenue generated, and applicable terms, which in each case are no less favourable than that which could reasonably be generated, and which would reasonably apply, in each case through a normal commercial arm's length process for the provision of the relevant goods, services or other benefits to persons who are not Related Parties</li></ul> |
| <b>Gross Value of Ticket Sales</b>       | in respect of any period, gross ticket sales (including any amount calculated in accordance with Condition 8.7(b)) on which revenue will be recognised in that period, to be apportioned in line with the proportion of revenue recognised in that period relating to those ticket sales   |
| <b>Group Company</b>                     | <p>in relation to a person (Person A), any other person (Person B) who is from time to time:</p> <ul style="list-style-type: none"><li>(a) a subsidiary of Person A;</li><li>(b) a parent company of Person A; or</li><li>(c) any other subsidiary of such parent company</li></ul>  |
| <b>Implementation</b>                    | the process by which the Licensee implements its Application and Incoming Transition Plan as described in the Enabling Agreement   |

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| <b>Implementation Manager</b>          | has the meaning given to it in Condition 26.5  |
| <b>Incoming Cooperation Agreement</b>  | the cooperation agreement entered into between the Licensee, Camelot UK Lotteries Limited and the Commission in connection with the handover of the National Lottery operation on and from the Start Date  |
| <b>Incoming Transition Plan</b>        | has the meaning given to that term in the Enabling Agreement   |
| <b>Independent Performance Review</b>  | means a review of the Licensee's performance undertaken by an Independent Reviewer in accordance with Condition 25   |
| <b>Independent Verification System</b> | a system to enable the Licensee and the Commission to verify that: <ul style="list-style-type: none"><li>(a) Games are honestly and fairly run and that Prizes are accurately awarded in accordance with the rules of each Game; and</li><li>(b) any technology or other system used to run or determine the result of any Game is operated with integrity and such as to ensure that the Licensee complies with paragraph (a) above</li></ul>   |
| <b>Initial Committed Games</b>         | has the meaning given to that term in the Enabling Agreement   |
| <b>Instrument of Transfer</b>          | a form of document to give effect to the Transfer of any Item to Transfer or any category of Items to Transfer which either: <ul style="list-style-type: none"><li>(a) is prepared by the Licensee (where directed by the Commission, in consultation with the Next Licensee) and approved by the Commission; or</li><li>(b) if the Licensee does not prepare such document in a form acceptable to the Commission within a reasonable time of being requested to do so by the Commission, is specified by the Commission</li></ul>  |
| <b>Internal Audit Plan</b>             | has the meaning given to that term in Condition 22.9   |
| <b>Intra-Account Arrangements</b>      | the mechanisms for the calculation and making of payments between different Accounts, as set out in the Trust Documents  |
| <b>IP</b>                              | patents, trade marks, service marks, logos, get-up, trade names, internet domain names, rights in designs, copyright (including rights in computer software) and moral rights, database rights, semi-conductor topography rights, utility models, codes of practice, descriptions, specifications, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for and rights to apply for the same, and all rights or forms of protection having equivalent or similar effect anywhere in the world |
| <b>Investment</b>                      | any form of investment of Lottery Monies which is undertaken in accordance with Condition 16.9   |
| <b>Items to Transfer</b>               | any: <ul style="list-style-type: none"><li>(h) Licensee Asset, Lottery Subcontract or member of Licensee Staff (save to the extent that such</li></ul>   |

members of staff refuse to transfer) the Next Licensee has determined it will require for the operation of the National Lottery following the end of the Term, in accordance with Condition 27.9; and

- (i) any Continuing Obligation identified by the Commission in accordance with Condition 27.10

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| <b>Key IT Subcontract</b>              | any Key Subcontract which relates to the Technology Operation  |
| <b>Key IT Subcontractor</b>            | any person who enters into a Key IT Subcontract with the Licensee or who operates, or provides goods, services or facilities in connection with any Key IT Subcontract   |
| <b>Key Performance Standard</b>        | any performance standards set by the Commission following an Independent Performance Review in accordance with Condition 25  |
| <b>Key Subcontract</b>                 | any Lottery Subcontract: <ul style="list-style-type: none"><li>(a) which relates to any Critical Function;</li><li>(b) is with a party with whom the Commission specifies any Lottery Subcontract will be a Key Subcontract; or</li><li>(c) is otherwise specified by the Commission to be a Key Subcontract</li></ul> |
| <b>Key Subcontractor</b>               | any person who enters into a Key Subcontract with: <ul style="list-style-type: none"><li>(a) the Licensee or a Licensee Subsidiary; or</li><li>(b) in the case of a Key Subcontract to which the Licensee or a Licensee Subsidiary is not a party, a Lottery Subcontractor</li></ul>                                   |
| <b>Law</b>                             | any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Licensee is bound to comply |
| <b>Legal Age Limit</b>                 | the age below which no ticket in any Game may by law be sold to any person   |
| <b>Licence Contingency Protections</b> | the documents which give effect to, or otherwise implement and maintain, the Licence Contingency Protections   |
| <b>Licence Year</b>                    | each period of 1 February to 31 January during the Term  |
| <b>Licensee</b>                        | Allwyn Entertainment Ltd   |
| <b>Licensee Asset</b>                  | any Lottery Asset which is: <ul style="list-style-type: none"><li>(a) owned by the Licensee or any Licensee Subsidiary; or</li></ul>   |

- (b) other than pursuant to a Lottery Subcontract, controlled or in the possession of the Licensee or any Licensee Subsidiary,

but in each case excludes any Core Lottery IP

**Licensee Platform** means the platform established by the Licensee where Participants may play certain Games via the internet

**Licensee Revenue** in relation to each Licence Year (or other period specified in or pursuant to this Licence), all income accrued to the Licensee from all activities (including all Ancillary Activities), after deduction of VAT (if any), the deduction of the amount of any Lottery Duty levied on any tickets sold by the Licensee, and excluding:

- (a) Licensee Finance Income; and
- (b) Trust Income

**Licensee Subsidiary** any subsidiary of the Licensee which has been incorporated or acquired following approval from the Commission in accordance with Condition 5.10(a)

**Lottery Account** each bank account held by the Licensee and designated as a "Lottery Account" in accordance with the Trust Documents

**Lottery Asset** any asset used wholly or mainly in the running of the National Lottery operation or an Ancillary Activity, which includes:

- (a) all physical assets;
- (b) all land or interests in land;
- (c) all Lottery IP;
- (d) all Lottery Information;
- (e) all Lottery Data;
- (f) the Technology Operation; and
- (g) any shareholdings (excluding, for the avoidance of doubt, direct or indirect shareholdings in the Licensee itself),

in each case whether owned, controlled or in the possession of the Licensee, a Related Party of the Licensee, any Lottery Subcontractor or any other person

**Lottery Beneficiary** any person specified by Condition 6.3 or any other person who, by virtue of the existence of a Control Arrangement described in Schedule 4, is a Lottery Beneficiary

**Lottery Data** any data processed by or on behalf of the Licensee, or by any Lottery Subcontractor under any Lottery Subcontract, in either case in connection with the operation of the National Lottery (including the operation or promotion of any Game) or any Ancillary Activity, including Participant Data

**Lottery Goodwill** any and all goodwill of the Licensee or its Related Parties in the business of acting as the licensee under section 5 of the Act, the promoter of any Game and the operator of any Ancillary Activity

**Lottery IP** all IP (and rights therein) which is used, or necessary, for the operation or promotion of the National Lottery, any Game, or any Ancillary Activity, in each case, for the avoidance of doubt, irrespective of the identity of any person who owns or holds rights to such IP

**Lottery Information** any information in any form whatsoever which relates to:

- (a) the National Lottery, the operation of the National Lottery or of any Game, or any Ancillary Activity, whether such information is in the possession or control of, or is the property of, the Licensee, a Licensee Subsidiary or of any Lottery Subcontractor;
- (b) the Licensee, a Licensee Subsidiary or their business, affairs and sources of funds; or
- (c) any other information the Commission may require concerning the Licensee or its business or affairs, in each case whether in the possession of the Licensee or a Lottery Subcontractor

**Lottery Monies** all monies which are:

- (a) Licensee Revenue;
- (b) to the extent the same are not Licensee Revenue, Pre-Participation Amounts;
- (c) Trust Income; or
- (d) any other amounts received by the Licensee in connection with the operation of the National Lottery or any Ancillary Activity,

provided that the following shall not be Lottery Monies:

- (i) monies which have been paid by the Licensee into the Outstanding Liability Fund or the Good Causes Underpayment Arrangements;
- (ii) monies which have been paid to Good Causes;
- (iii) monies which, in accordance with the Intra-Account Arrangements, are no longer held within a Lottery Account or a Trust Account
- (iv) any other monies to the extent the Commission confirms in writing that they are not Lottery Monies



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| <b>Lottery Records Database</b>         | has the meaning given in Condition 23.6   |
| <b>Lottery Staff</b>                    | any and all of the following: <ul style="list-style-type: none"><li>(a) employees (temporary and permanent) of the Licensee or a Licensee Subsidiary;</li><li>(b) agency workers engaged in providing services to the Licensee or a Licensee Subsidiary;</li><li>(c) any employees seconded to the Licensee or a Licensee Subsidiary from any other entity; and/or</li><li>(d) any other worker (as defined in s230 of the Employment Rights Act 1996) engaged in providing services to the Licensee or a Licensee Subsidiary</li></ul>   |
| <b>Lottery Subcontract</b>              | any agreement, arrangement or understanding (including a licence of software or other IP), whether formal or informal: <ul style="list-style-type: none"><li>(a) by which any person other than the Licensee or a Licensee Subsidiary operates, or provides assets, goods, services or facilities for the purposes of, or in connection with, any part of running the National Lottery or any Ancillary Activity; or</li><li>(b) entered into by the Licensee, a Licensee Subsidiary or any Lottery Subcontractor with any third party where such agreement or arrangement directly or indirectly contributes or forms part of running the National Lottery or the operation of any Ancillary Activity.</li></ul> <p>Any agreement, arrangement or understanding to subcontract some or all obligations under a Lottery Subcontract is itself a Lottery Subcontract</p> |
| <b>Lottery Subcontractor</b>            | any person other than the Licensee or a Licensee Subsidiary who is a party to a Lottery Subcontract   |
| <b>Lottery Supervisor</b>               | any person specified by Condition 6.5   |
| <b>Material Impact on Profitability</b> | the actual or anticipated profitability of the Licensee generated from the operation of the National Lottery is, as a direct result of (i) a specific individual change in Gambling Law, or (ii) a Fundamental Geographic Scope Change, demonstrably and materially: <ul style="list-style-type: none"><li>(c) lower than the level it would have been had that change not occurred, such as is reasonably likely to result in a Financial Distress Event in the foreseeable future; or</li><li>(d) higher than the level it would have been had that change not occurred</li></ul>   |

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| <b>Material Shareholder</b>            | any person who has a Participation in any other person which is equal to, or greater than, 15%   |
| <b>Matter to be Protected</b>          | those matters referred to in paragraphs (a) to (e) of Condition 10.1   |
| <b>Maximum OLF Amount</b>              | means the amount determined in accordance with Condition 28.6 and Condition 28.7   |
| <b>Minor Lottery Subcontract</b>       | has the meaning given to it in Condition 21.10   |
| <b>National Lottery Brand</b>          | the National Lottery Logos, the name "the National Lottery", the name of each Game and any and all characteristic get-up or styling used in connection with the National Lottery or any Game   |
| <b>National Lottery Logos</b>          | the logos from time to time approved by the Commission for use generally in connection with the National Lottery or any Game   |
| <b>National Lottery Trustee</b>        | The Law Debenture Trust Corporation plc, or a Replacement Trustee (once appointed)   |
| <b>Next Account Bank</b>               | the account bank appointed by the Next Licensee  |
| <b>Next Competition</b>                | the exercise by the Commission of its functions under the Act to secure the continued provision of the National Lottery by identifying a person to be the Next Licensee  |
| <b>Next Licensee</b>                   | the person awarded the fifth National Lottery licence under s5 of the Act (being the licence which next starts after the end of this Licence)  |
| <b>Next Trustee</b>                    | the trustee appointed by the Next Licensee   |
| <b>NLPU</b>                            | the National Lottery Promotions Unit being a unit maintained jointly by the Licensee, the Department for Digital, Culture, Media and Sport and the Good Causes Distributors for the raising of public awareness of, and support for, the benefits of the distribution of funding from the proceeds of the National Lottery, or any successor organisation from time to time  |
| <b>Non-Cash Prize</b>                  | any Prize which is not satisfied in cash   |
| <b>Non-Cash Prize Supplier</b>         | any person with whom the Licensee has entered into a Non-Cash Prize Supply Agreement   |
| <b>Non-Cash Prize Supplier Payment</b> | an amount which is payable by the Licensee to a Non-Cash Prize Supplier in accordance with a Non-Cash Prize Supply Agreement for the purpose of purchasing a Non-Cash Prize for supply to a Non-Cash Prize Winner where such Non-Cash Prize has been determined as, and is actually due to, a Non-Cash Prize Winner or a part of any such Non-Cash Prize to the extent not represented in any previous Non-Cash Prize Supplier Payment |
| <b>Non-Cash Prize Supply Agreement</b> | any agreement between the Licensee and any person whereby the Licensee agrees to purchase and that person agrees to sell or provide goods or services or any financial or other product which are to be used as Non-Cash Prizes in respect of any Game   |
| <b>Non-Cash Prize Winner</b>           | a Prize Winner who has won a Non-Cash Prize  |

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| <b>OLF Costs</b>                       | has the meaning given to it in Table 3 of Appendix 1 of Schedule 5  |
| <b>OLF Documents</b>                   | any document necessary for, or consequential on, the establishment or operation of the Outstanding Liability Fund   |
| <b>OLF Monthly Payment</b>             | has the meaning given in Condition 28.9   |
| <b>Other Lottery IP</b>                | all Lottery IP which is not Core Lottery IP   |
| <b>On-going Dispute</b>                | any dispute, claim or proceedings (whether actual, contingent or threatened) between the Licensee and any third party in connection with the National Lottery, any Game or any Ancillary Activity and which is continuing, or is expected to be continuing, on the End Date   |
| <b>Other OLF Party</b>                 | any party to the OLF Documents other than the Licensee and the Commission   |
| <b>Outstanding Liability Fund</b>      | a fund, together with all associated arrangements, established in connection with possible fines or penalties which may be levied on the Licensee and be payable after the End Date   |
| <b>Participant</b>                     | every person who plays, engages with or is exposed to the National Lottery  |
| <b>Online Participant Account</b>      | means an account registered by a Participant via the Licensee Platform or any website or other interactive platform operated by (or on behalf of) the Licensee or a Related Party for the purpose of participating in any Game or Games   |
| <b>Participant Data</b>                | personal data (as defined in the Data Protection Laws) of any Participant   |
| <b>Participant Fund Beneficiary</b>    | any person to whom the Licensee owes a Participant Fund Obligation  |
| <b>Participant Fund Obligation</b>     | any obligation of the Licensee to pay or repay to any person any Participant any amount in respect of their participation in any Game or Games  |
| <b>Participant Protection Strategy</b> | the strategy to be adopted by the Licensee in accordance with Condition 8.17  |
| <b>Participation</b>                   | in relation to a person (Person A), Person B holds a "Participation" in Person A if it has any of: <ul style="list-style-type: none"><li>(a) a right to exercise, or control the exercise of, voting rights attaching to issued shares of any class in the capital of Person A;</li><li>(b) a right to exercise, or control the exercise of, voting rights which may be exercised by the members of Person A;</li></ul> |

- (c) a right to receive (beneficially or otherwise) a dividend or other distribution in respect of any class of shares in the capital of Person A;
- (d) a right to receive (beneficially or otherwise) a share of, or any other amount calculated by reference to, the profits of Person A; or
- (e) a beneficial or other interest in the shares of any class in the capital of Person A

**Physical Sales Location** a terminal, till or other item of physical equipment:

- (a) at or from which tickets in Draw-based Games can be purchased; and
- (b) which is branded, promoted or presented as a permanent physical location from which tickets in Draw-based Games can be purchased

**PPA or Pre-Participation Amount** any amount which is not Ancillary Activity Revenue and which is either:

- (a) paid by a Participant to the Licensee or any Retailer:
  - (i) in order to facilitate the purchase of a Ticket or Tickets;
  - (ii) for the purposes of purchasing a Ticket or Tickets; or
  - (iii) to create a store of value which may be used for the purchase of a Ticket or Tickets, by that or any other Participant but which has not at the relevant time been utilised to purchase a Ticket (and therefore is not at the relevant time a Ticket Purchase Amount) and includes, without limitation, any amount held in any account or wallet of a participant or any amount paid for any Ticket Entitlement which in each case has not been so utilised; and/or
- (b) is payable to a Participant by way of a Prize but which the Participant directs (specifically or by way of a standing instruction) should be held by way of a PPA,

in each case to the extent that the relevant Participant has the right to withdraw the amount from the account or wallet, or otherwise to receive payment of that amount in cash or kind, or to require that amount is paid to an account which they hold with any other person

**PPA Beneficiary** each Participant who holds a PPA Entitlement from time to time

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| <b>PPA Entitlement</b>              | any entitlement of any Participant to be paid or repaid any PPA (including, without limitation, by withdrawing that amount from any account or wallet or cancelling any Ticket Entitlement)   |
| <b>Priority of Protection</b>       | the priority with which, in accordance with Condition 16.7(d), the National Lottery Trustee is required to discharge Protected Obligations (and any other obligations determined in accordance with Condition 16.7(d))  |
| <b>Prize</b>                        | a prize in any Game   |
| <b>Prize Rounding Amount</b>        | <p>in respect of any Game the Prizes of which are, in accordance with the rules of that Game, rounded down, the amount by which:</p> <ul style="list-style-type: none"><li>(a) the aggregate value of Prizes determined for that Game prior to such rounding;</li></ul> <p>exceeds</p> <ul style="list-style-type: none"><li>(b) the aggregate value of Prizes determined for that Game following such rounding,</li></ul> <p>irrespective in each case of whether such Prizes are paid to Prize Winners</p>  |
| <b>Prize Winner</b>                 | a Participant who is entitled to any Prize  |
| <b>Professional Adviser</b>         | any auditor, legal, financial or other professional adviser or consultant engaged by the Licensee in connection with the National Lottery, an Ancillary Activity or this Licence  |
| <b>Protected Category of Person</b> | <p>each of the following categories of person:</p> <ul style="list-style-type: none"><li>(a) persons who have any PPA Entitlements in respect of those entitlements;</li><li>(b) Prize Winners in respect of Prizes;</li><li>(c) persons who have purchased Tickets in respect of any right to have Ticket Purchase Amounts repaid to them in any circumstances;</li><li>(d) any Coordinated Lottery Trustee in respect of any amounts which the Licensee is required to pay to that person pursuant to the relevant Coordinated Lottery,</li></ul> <p>and any other category of person specified from time to time in accordance with Condition 16.7</p> |
| <b>Protected Obligations</b>        | <p>any:</p> <ul style="list-style-type: none"><li>(a) obligation of the Licensee to pay or repay any amount to a Participant in respect of:<ul style="list-style-type: none"><li>i. any obligation to pay, repay or return any Pre-Participation Amount;</li><li>ii. any obligation to pay or provide any Prize;</li></ul></li></ul>  |

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|   | <p>iii. any obligation to repay or return any Ticket Purchase Amount;</p> <p>in each case to the relevant Participant;</p> <p>(b) Coordinated Lottery Obligation;</p>   |
| <b>Protected Obligation Reserves</b>              | reserves with respect to the payment of Protected Obligations   |
| <b>Qualified Resilience Assurance Statement</b>   | has the meaning given in Condition 18.4   |
| <b>Qualifying Direct Shareholder</b>              | any person who, in relation to the Licensee, has a Participation which is equal to, or greater than, 5%   |
| <b>Quarter</b>                                    | the period from 1 February to 30 April, 1 May to 31 July, 1 August to 31 October and 1 November to 31 January or such other period as the Commission may specify from time to time  |
| <b>Recognised Rating Agency</b>                   | each of Standard & Poor's, Moody's, Fitch Ratings or DBRS Morningstar or such other ratings agency as the Commission may approve for this purpose   |
| <b>Recognised Standards</b>                       | has the meaning given in Condition 4.4  |
| <b>Regular Reporting</b>                          | has the meaning given in Condition 24.10  |
| <b>Related Party</b>                              | in relation to the Licensee, each of the following and each of their Group Companies:<br><p>(a) the Licensee</p> <p>(b) a Qualifying Direct Shareholder of the Licensee; or</p> <p>(c) a Connected Party of a Qualifying Direct Shareholder of the Licensee</p> |
| <b>Related Party Arrangement</b>                  | any agreement, arrangement or understanding between the Licensee and any person who is a Related Party  |
| <b>Related Party Costs</b>                        | costs incurred under Related Party Arrangements   |
| <b>Related Party Revenue</b>                      | revenue of the Licensee under Related Party Arrangements  |
| <b>Remediation Purposes</b>                       | has the meaning given in Condition 18.11  |
| <b>Replacement Account Bank</b>                   | an Account Bank approved by the Commission who is identified in an Account Bank Replacement Notice as the "Replacement Account Bank"  |
| <b>Replacement Trustee</b>                        | a Trustee approved by the Commission who is identified in a Trustee Replacement Notice as the "Replacement Trustee"   |
| <b>Required Standard Terms</b>                    | the standard contractual terms referred to in Condition 21.5  |
| <b>Research, Prevention and Treatment Support</b> | a financial contribution by the Licensee in each Licence Year to one or more organisation(s) which are approved by the Commission, or equivalent measures, and which deliver or support research into the prevention and treatment of gambling-related          |

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|  | harms, harm prevention approaches and treatment for those harmed by gambling attributable in whole or in part to play on the National Lottery   |
| <b>Residual Items</b>                            | has the meaning given in Condition 27.9   |
| <b>Retailer</b>                                  | a person other than the Licensee who operates a Sales Outlet  |
| <b>Sales Outlet</b>                              | any distribution channel at or through which Participants can purchase tickets or otherwise participate in a Game   |
| <b>Scratchcard Lottery</b>                       | a Game which does not involve utilisation of any technology or other system used to determine the result of a Draw 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 |
| <b>Scottish Security Document</b>                | each document entered into or issued by the Licensee in relation to the security to be granted in favour of the National Lottery Trustee over the Licensee's assets located in Scotland   |
| <b>Secretary of State</b>                        | the Secretary of State for Digital, Culture, Media and Sport or such other person to whom payments to Good Causes are required to be made under the Act   |
| <b>Section 6 Licence</b>                         | a licence granted under s6 of the Act   |
| <b>Security Document(s)</b>                      | the documents entered into or issued by the Licensee in relation to the security to be granted in favour of the National Lottery Trustee or other documents to be executed by the Incoming Licensee or any other party pursuant to the Trust Deed, including each Scottish Security Document  |
| <b>Senior Executive</b>                          | a Director or senior executive (being a person other than a Director who has direct responsibility to the board of Directors for a substantial activity or function)  |
| <b>Shareholders' Agreement</b>                   | a shareholders' or consortium agreement which directly or indirectly regulates the exercise of any right, power or interest in or concerning the Licensee or any Licensee Subsidiary  |
| <b>Significant Business Event</b>                | has the meaning given in Condition 18.6   |
| <b>Start</b>                                     | this Licence coming into effect and the Licensee commencing operation of the National Lottery in accordance with this Licence   |
| <b>Start Date</b>                                | the date on which Condition 3.1 specifies this Licence will Start   |
| <b>Start Date Committed Games</b>                | means those Games specified as such in the Licensee's Application in respect of which the Licensee is granted a licence, under section 6 of the Act, with effect from the Start Date  |
| <b>Technology and Data Architecture Strategy</b> | a strategy adopted and implemented by the Licensee in accordance with Condition 17.5(a)   |
| <b>Technology Operation</b>                      | any aspect of the running of the National Lottery (including any Ancillary Activity) associated with the provision, operation and/or  |

use of technology and/or the processing, storage and use of Lottery Data, including the Entry and Prize System and the Independent Verification System, whether carried on by the Licensee, any Related Party or any Lottery Subcontractor

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| <b>Term</b>                   | the term of this Licence, being the period from (and including) the Start Date to (and including) the End Date   |
| <b>Third Licensee</b>         | the licensee under the Third National Lottery Licence  |
| <b>Ticket</b>                 | a ticket in any Game   |
| <b>Ticket Entitlement</b>     | any voucher, token or other entitlement or right to acquire a Ticket   |
| <b>Ticket Purchase Amount</b> | means any amount paid by a Participant as consideration for the purchase of a Ticket   |
| <b>Transfer</b>               | means: <ul style="list-style-type: none"><li>(a) in connection with any Lottery Subcontract, the novation of that contract;</li><li>(b) in connection with any Lottery Staff, the transfer of the employment or engagement of those individuals;</li><li>(c) in connection with Lottery Information, the transfer of that information; and</li><li>(d) in connection with Lottery Monies, the transfer of those amounts which, according to generally accepted accounting standards, will be required by the Next Licensee in order to enable it to discharge obligations to the Participant Fund Beneficiaries which the Next Licensee will have an obligation to discharge;</li><li>(e) in connection with any Lottery Data or any other Licensee Asset, the passing of ownership, control and/or possession (as the case may be) of those assets or that data,</li></ul> <p>in each case to the New Licensee or its nominee</p> |
| <b>Trust Account</b>          | each bank account held by the National Lottery Trustee and designated as a "Trust Account" in accordance with the Trust Documents  |
| <b>Trust Arrangements</b>     | the arrangements required to be established and maintained by the Trust Documents  |
| <b>Trust Costs</b>            | the fees and other charges of: <ul style="list-style-type: none"><li>(a) the National Lottery Trustee and the Account Bank; and</li></ul>  |



- (b) any other third party (other than the Licensee or any Connected Party of the Licensee) approved by the Commission,

arising from the operation of the Trust Arrangements, in respect of any period

**Trust Deed**

the security trust deed between the Licensee and the National Lottery Trustee dated [●], as amended from time to time in accordance with its terms and the terms of this Licence

**Trust Documents**

each of:

- (a) the Trust Deed;
- (b) the Account Bank Agreement;
- (c) the Security Documents;
- (d) the Final Reserve Documents;
- (e) any other agreement which is entered into by the Licensee with the National Lottery Trustee or the Account Bank;
- (f) any other agreement which relates to the investment of Lottery Monies or any account in which Lottery Monies are held,

and any other document designated as a Trust Document in accordance with Condition 16.5, in each case as updated from time to time in accordance with this Licence

**Trust Enforcement Action**

the enforcement by the National Lottery Trustee of its security in accordance with the terms of the Trust Documents

**Trust Enforcement Provisions**

the provisions of the Trust Documents providing for Trust Enforcement Action to be taken by the National Lottery Trustee

**Trust Implementation Agreement**

has the meaning given to that term in the Enabling Agreement

**Trust Income**

any interest or other return on monies held in any Account or arising from any Investment, in respect of any period

**Trustee Replacement Notice**

a notice issued to the National Lottery Trustee by the Licensee in accordance with Condition 16.19(d), specifying a Replacement Trustee and requiring that the Trust Arrangements (or the relevant parts of those arrangements) are transferred to the Replacement Trustee

**Trustee Requirements**

the following requirements (unless varied in accordance with Condition 16.29):

- (a) as a Lottery Beneficiary, the National Lottery Trustee must meet the Fit and Proper Requirements;

- (b) the National Lottery Trustee is an entity incorporated in the UK and subject to:
  - (i) the regulation of the Financial Conduct Authority (or any successor to it from time to time); and
  - (ii) UK tax rules and requirements;
- (c) no person who is a Material Shareholder, intermediate holding company or ultimate holding company of the National Lottery Trustee may also be a Material Shareholder, intermediate holding company or ultimate holding company of either:
  - (i) the Licensee; or
  - (ii) the Account Bank;
- (d) the National Lottery Trustee has sufficient financial and operational resources to operate the Trust Arrangements in accordance with the Trust Documents;
- (e) the National Lottery Trustee has the experience and capability to operate the Trust Arrangements in accordance with the Trust Documents; and
- (f) with effect from the date upon which the Trust Implementation Agreement comes into effect, the National Lottery Trustee has complied in all material respects with the Trust Implementation Agreement and, once in force, the Trust Documents to which it is a party

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| <b>TUPE</b>                    | Transfer of Undertakings (Protection of Employment) Regulations 1981 or its equivalent  |
| <b>Unclaimed Prize</b>         | any Prize which is not claimed in accordance with the rules of the relevant Game  |
| <b>Unclaimed Prize Payment</b> | at any time: <ul style="list-style-type: none"><li>(a) the amounts of the Unclaimed Prizes relating to Games, and</li><li>(b) amounts which would have been Non-Cash Prize Supplier Payments had the relevant Non-Cash Prize not been an Unclaimed Prize,</li></ul> in respect of which the last day of the Unclaimed Prize Period has passed |
| <b>Unclaimed Prize Period</b>  | the period during which a Prize Winner is entitled to claim their Prize in accordance with the rules of the relevant Game   |

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| <b>Unqualified Resilience Assurance Statement</b> | has the meaning given in Condition 18.4   |
| <b>Unused Ticket Entitlement</b>                  | <ul style="list-style-type: none"><li>(a) any amount standing to the credit of a Dormant Account;</li><li>(b) any Dormant PPA Amount; and</li><li>(c) any amount paid by a Participant for a Ticket Entitlement where such Ticket Entitlement is not:<ul style="list-style-type: none"><li>(i) used to purchase a Ticket prior to the expiry of the period permitted for such purchase in the applicable terms and conditions; or</li><li>(ii) refunded or repaid to the relevant Participant in accordance with those terms and conditions</li></ul></li></ul> |
| <b>UK</b>   | the UK and the Isle of Man, or such other jurisdiction as is notified to the Licensee by the Commission from time to time   |
| <b>UK Governance Code</b>                         | the UK Corporate Governance Code and any ancillary guidance or requirements published by the Financial Reporting Council (as the same may be amended or replaced from time to time)   |
| <b>VAT</b>  | value added tax   |

## SCHEDULE 2

### Interpretation

1. In this Licence:
  - 1.1 reference to a Condition or Schedule is, unless stated otherwise, a reference to a Condition of or Schedule to this Licence;
  - 1.2 the Schedules form part of this Licence and a reference to “**this Licence**” includes its Schedules;
  - 1.3 the headings in this Licence do not affect its interpretation;
  - 1.4 a reference to a statute or statutory provision includes a reference to any subordinate legislation and is a reference to:
    - (a) that statute, statutory provision or subordinate legislation as modified, consolidated, superseded, re-enacted or replaced (whether with or without modification) from time to time after the date of this Licence; and
    - (b) any statute, statutory provision or subordinate legislation which it consolidates, supersedes, re-enacts or replaces (whether with or without modification);
  - 1.5 a reference to a “**person**” includes any individual, company, corporation, firm, partnership, joint venture, association, state, state agency, institution or trust (whether or not having a separate legal personality);
  - 1.6 a reference to one gender is a reference to all or any genders and the singular includes the plural (and vice versa);
  - 1.7 a reference to a particular time of day is, unless stated otherwise, a reference to that time in London, England;
  - 1.8 a reference to “**including**”, “**includes**” or “**in particular**” or any similar expression does not limit the scope of the meaning of the words preceding those terms;
  - 1.9 a reference to a
    - (a) “**parent company**” means a “parent undertaking”; and
    - (b) “**subsidiary**” means a “subsidiary undertaking”,each as defined in section 1162 of the Companies Act 2006;
  - 1.10 a reference to the “**operation of the National Lottery**” shall include any activities undertaken by the Licensee in promoting or in connection with the promotion of any Game;
  - 1.11 a reference to a document being in the “**Approved Form**” means that the relevant document was approved by the Commission prior to the Start Date in accordance with the process set out in the Enabling Agreement;

- 1.12 a requirement for the Licensee to do any thing “**promptly**”, means that it must do that thing as quickly as is necessary to avoid any adverse consequences for any of the Matters to be Protected or the Commission and, in any event, as soon as reasonably practicable;
- 1.13 where the consent or approval of the Commission is required to be obtained by the Licensee under this Licence, such consent or approval must be obtained in writing (including by email); and
- 1.14 where any consent or approval is given by the Commission pursuant to this Licence or a Licence under section 6 of the Act, and that consent or approval is subject to any conditions or requirements specified by the Commission, the Licensee is acting without the consent or approval of the Commission if it does not act in compliance with those conditions or requirements.

**SCHEDULE 3**

**Ancillary Activities<sup>6</sup>**

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<sup>6</sup> Note to Applicants: Ancillary Activities approved prior to the Start Date will be included in this Schedule. This Schedule will be updated to reflect any additional Ancillary Activities approved by the Commission during the Term.

## SCHEDULE 4

### Control Arrangements

1. This Schedule 4 details a number of agreements, arrangements or understandings, whether formal or informal and whether in writing or not (a **Control Arrangement**) which, if made between two or more persons in the circumstances set out below, may result in each such person being a Lottery Beneficiary.
2. Where any person is party to a Control Arrangement:
  - (a) the Participations of each party to that Control Arrangement are aggregated; and
  - (b) each party to the Control Arrangement is deemed to hold Participations equivalent to that aggregated amount.

#### Control Arrangements between each who holds Participation

3. Any person who holds a Participation in the Licensee (Person A) has a Control Arrangement with another person or persons who also hold a Participation in the Licensee (Person B) if that agreement, arrangement or understanding concerns or relates to:
  - (a) the Licensee or the business or affairs of the Licensee;
  - (b) the Participation in the Licensee held by Person A or Person B; or
  - (c) any Qualifying Direct Shareholder of the Licensee or a Connected Party of a Qualifying Direct Shareholder.

#### Control Arrangements between Connected Parties

4. It is presumed that any person who holds a Participation in the Licensee has a Control Arrangement with its Connected Parties, unless the Commission determines that there is no such Control Arrangement in place.

#### Control Arrangements with family members

5. It is presumed that any person who holds a Participation in the Licensee has a Control Arrangement with every person who is that person's:
  - (a) parent or step-parent;
  - (b) child, grandchild or step-child;
  - (c) partner (being such person's spouse or any other person with whom they are living as a couple);
  - (d) brother or sister;
  - (e) aunt or uncle; and
  - (f) nephew or niece.

**SCHEDULE 5**

**Good Causes Contribution**

**Part A – Methodology**

1. The Good Causes Contribution will be calculated annually. For each Licence Year the Good Causes Contribution will be calculated in accordance with Part B of this Schedule 5 and will be made up of:
  - (a) a fixed contribution determined in accordance with Appendix 1 to this Schedule 5; and
  - (b) a proportion of the Surplus (being the revenue generated by the Licensee after deduction of the Licensee's costs, subject to specified adjustments).
2. The Licensee will pay to Good Causes an estimated weekly amount on account of the Good Causes Contribution in accordance with Part C of this Schedule 5.
3. Following the end of each Licence Year, the estimated amounts paid weekly will be reconciled against the actual Good Causes Contribution for that Licence Year and a reconciliation adjustment (including interest) will be made.



## Part B - Calculation of Good Causes Contribution

### 1. Calculation

The amount of the Good Causes Contribution in respect of Licence Year t ( $P_t$ ) is calculated as follows:

*In respect of any Licence Year in which  $(F * S_t) - A_t$  is less than  $(X_t * I_t)$*

$$P_t = S_t$$

*In respect of any other Licence Year*

$$P_t = X_t * I_t + (1 - F) * S_t + A_t$$

*together with the Commission OIS Costs calculated in respect of that Licence Year*

where:

$X_t$  means a Fixed Contribution for that year determined in accordance with paragraph 2

$I_t$  means the Inflation Factor for that year determined in accordance with paragraph 3

$F$  means the Licensee's Proportion of Surplus specified in Table 4 of Appendix 1 of this Licence

$A_t$  means the Payment Adjustment for that year determined in accordance with paragraph 4

$S_t$  means the Surplus for that year determined in accordance with paragraph 7

### 2. FIXED CONTRIBUTION

The Fixed Contribution ( $X_t$ ) for each Licence Year is specified in Table 1

### 3. INFLATION FACTOR

The Inflation Factor for Licence Year t ( $I_t$ ) is calculated to five decimal figures as

$$I_t = CPI_t / CPI_b$$

where:

$CPI_t$  means the average absolute value of the monthly Consumer Price Index calculated for the 12 months to the end of Licence Year t

$CPI_b$  means the average absolute value of the monthly Consumer Price Index calculated for the 12 months ending on the Base Date

### 4. PAYMENT ADJUSTMENT

The Payment Adjustment for Licence Year t ( $A_t$ ) is calculated as

$$A_t = ADuty_t + AVAT_t$$

where

$ADuty_t$  is the Lottery Duty Adjustment for Licence Year t determined in accordance with paragraph 5

$AVAT_t$  is the VAT Adjustment for Licence Year t determined in accordance with paragraph 6

5. **LOTTERY DUTY ADJUSTMENT**

The Lottery Duty Adjustment ( $ADuty_t$ ) in Licence Year t will be zero unless, in respect of all or part of Licence Year t, the Lottery Duty regime is different from that existing on the Base Date, in which case:

$$ADuty_t = F * (DutyHat_t - Duty_t)$$

where

$DutyHat_t$  is the Lottery Duty that would have been due in respect of Licence Year t if the Lottery Duty regime throughout that Licence Year was that existing on the Base Date and taking as given the Licensee's sales and costs (besides Lottery Duty) in Licence Year t

$Duty_t$  is the Lottery Duty due in respect of Licence Year t

F is the Licensee's Proportion of Surplus

6. **VAT ADJUSTMENT**

The VAT Adjustment in Licence Year t will be zero unless the rate of VAT or the VAT regime in respect of all or part of that Licence Year is different to that existing on the Base Date in which event the VAT Adjustment for Licence Year t will be calculated as

$$AVAT_t = F * (VATCostHat_t - VATCost_t)$$

where

$VATCost_t$  is the Licensee's VAT cost in respect of Licence Year t

$VATCostHat_t$  is the Licensee's VAT cost that would have arisen in respect of Licence Year t if the VAT rates and VAT regime throughout that Licence Year were those existing on the Base Date and taking as given the Licensee's revenue and costs (beside VAT) in Licence Year t

7. **SURPLUS**

The Surplus for Licence Year t ( $S_t$ ) is calculated as the greater of:

$$S_t = (R_t - ER_t) - (C_t - EC_t) + ASurplus_t$$

or

$$S_t = 0$$

where:

$R_t$  is the Licensee Revenue in Licence Year t

$ER_t$  is the aggregate of all Excluded Revenues (being revenues falling in the categories specified in Table 2) accrued in Licence Year t

$C_t$  is the Licensee Costs in Licence Year t

$EC_t$  is the aggregate of all Excluded Costs (being costs specified in Table 3) accrued in Licence Year t

$ASurplus_t$  is the Surplus Adjustment calculated in accordance with paragraph 8

8. **SURPLUS ADJUSTMENT**

The Surplus Adjustment for Licence Year t ( $ASurplus_t$ ) is calculated as:

$$ASurplus_t = - AImplementation_t$$

$AImplementation_t$  is the Implementation Adjustment calculated in accordance with paragraph 9

9. **IMPLEMENTATION ADJUSTMENT**

If and when there is Fully Implemented Commencement, the Implementation Adjustment for Licence Year t ( $AImplementation_t$ ) will be an amount equal to the Recoverable Implementation Costs, provided this shall only apply with effect from the date of Fully Implemented Commencement until the end of the tenth Licence Year.

The Estimation Methodology must provide a methodology by which the Implementation Adjustment will be incorporated into the calculation of the amounts to be paid to Good Causes pursuant to this Schedule.

For the purposes of this paragraph 9:

(a) **Determination Date** means the date upon which the amount of the Recoverable Implementation Costs is determined in accordance with clause 31.8 of the Enabling Agreement

(b) **Relevant Proportion** means:

$$\frac{1}{\text{the number of Remaining Licence Years}}$$

(c) **Remaining Licence Years** means, as at the Determination Date, the Licence Year in which the Determination Date falls and each subsequent Licence Year (assuming that this Licence is not extended or revoked in accordance with Condition 3)

10. **PROMOTIONAL PRIZES**

Any amount paid by way of Promotional Prizes shall be an Excluded Cost save to the extent that the Commission consents otherwise (such amount being "**Allowable Promotional Prize Costs**") in the relevant circumstances, provided that:

(a) the amount of any Allowable Promotional Prize Costs in any Licence Year shall not exceed:

(i) in Licence Year 1, an amount specified by the Commission and calculated by reference to the amount paid by the Third Licensee to Good Causes in respect of unclaimed prizes in the final year of the Third National Lottery Licence; and

- (ii) in any other Licence Year, the aggregate amount paid under Condition 15.6 in the previous Licence Year; and
- (b) the Commission may, in that or any subsequent Licence Year, require that an amount specified by the Commission which is equivalent to the Allowable Promotional Prize Costs (or a proportion of such amount) shall be added to the calculation of the Excluded Costs.

#### 11. LICENSEE'S ACCOUNTS

The Licensee must:

- (a) calculate all amounts specified in this Schedule 5 in accordance with the Accounting Standards, unless otherwise specified;
- (b) notify the Commission of its Accounting Standards from time to time and of any changes to those Accounting Standards; and
- (c) implement any changes to its Accounting Standards which the Commission requires in order to secure the outcomes set out in Condition 1.2

#### 12. DEFINITIONS

In this Part B of Schedule 5 the following terms will have the meanings given to them below:

|                                      |  |
|--------------------------------------|--|
| <b>Accrued Prize Liability</b>       | in respect of Licence Year t, the aggregate amount of the Licensee's liability to pay Prizes in that Licence Year (irrespective of whether that payment is actually made)                  |
| <b>Actual Annual Amount</b>          | in respect of Licence Year t, the aggregate amount of the Good Causes Payment calculated in accordance with paragraph 1 of Part B of this Schedule 5                                       |
| <b>Aggregated Scheduled Payments</b> | in respect of Licence Year t, the aggregate of all Scheduled Weekly Payments for that Licence Year   |
| <b>Allowable Costs</b>               | Licensee Costs other than Excluded Costs   |
| <b>Annual Overpayment</b>            | any amount by which the Aggregated Scheduled Payments exceeds the Actual Annual Amount   |
| <b>Annual Underpayment</b>           | any amount by which the Aggregated Scheduled Payments is less than the Actual Annual Amount  |
| <b>Base Date</b>                     | 15 October 2021  |
| <b>Consumer Price Index</b>          | the Consumer Price Index published from time to time by the Office for National Statistics (which, for the avoidance of doubt, is the Index which excludes owner occupiers' housing costs) |

|  |   |
|--|---|
| <b>Estimated Annual Payment</b>              | in respect of Licence Year t, the amount determined in accordance with paragraph 1 of Part C of this Schedule and updated in accordance with paragraph 3.5 of Part C of this Schedule.  |
| <b>Excluded Costs</b>                        | in relation to each Licence Year, costs within the categories specified in Table 3  |
| <b>Excluded Revenues</b>                     | in relation to each Licence Year, revenues within the categories specified in Table 2   |
| <b>Fixed Contribution</b>                    | in relation to each Licence Year, the Fixed Contribution payable to Good Causes by the Licensee specified in Table 1  |
| <b>Good Causes Underpayment Arrangements</b> | has the meaning given in paragraph 5.8(b) of Part C of this Schedule 5  |
| <b>GCU Funding Cost</b>                      | has the meaning given to it in paragraph 5.8(c) of Part C of this Schedule 5  |
| <b>Half Year Date<sub>t-1</sub></b>          | 31 July in Licence Year t-1   |
| <b>Licence Year t</b>                        | the particular Licence Year for the purpose of which any calculation is required to be made   |
| <b>Licence Year t - 1</b>                    | the Licence Year immediately preceding Licence Year t   |
| <b>Licence Year t + 1</b>                    | save in the case of the final Licence Year, the Licence Year immediately following Licence Year t   |
| <b>Licensee Costs</b>                        | in relation to each Licence Year, the aggregate of: <ul style="list-style-type: none"><li>(a) Licensee Operating Expenses for that Licence Year; and</li><li>(b) depreciation and amortisation calculated by reference to any expenditure categorised as capital expenditure under the Accounting Standards, which has been undertaken in accordance with this Licence and any licence granted to the Licensee under section 6 of the Act, including compliance with any directions from the Commission, on an historical accounting basis for that Licence Year;</li></ul> |

For the avoidance of doubt, no amount paid or due to be paid to Good Causes (including for the avoidance of doubt any amount of Fixed Contribution or calculated by reference in any way to any Fixed Contribution) under this Licence shall be treated as a Licensee Cost

|  |  |
|--|--|
| <b>Licensee Finance Income</b>           | any income earned or accrued to the Licensee from the deposit or lending of monies by the Licensee or from other purely financial arrangements entered into by the Licensee  |
| <b>Licensee Operating Expenses</b>       | <p>in relation to each Licence Year, the Licensee's total expenditure undertaken in accordance with this Licence and any licence granted to the Licensee under section 6 of the Act, including compliance with any directions from the Commission (on an accruals basis) excluding:</p> <ul style="list-style-type: none"><li>(c) depreciation;</li><li>(d) amortisation;</li><li>(e) expenditure categorised as capital expenditure under the Accounting Standards;</li><li>(f) interest payment or other costs incurred by the Licensee in connection with the borrowing of monies or other arrangements for the financing of its activities;</li><li>(g) shareholder distributions including dividends; and</li><li>(h) Trust Costs, save to the extent payable by the Licensee in accordance with Condition 16</li></ul> <p>Licensee Operating Expenses:</p> <ul style="list-style-type: none"><li>(i) includes the Accrued Prize Liability for that Licence Year; and</li><li>(ii) shall be calculated inclusive of all costs relating to VAT paid by the Licensee in that Licence Year</li></ul> |
| <b>Lottery Duty</b>                      | the amount payable by the Licensee by way of lottery duty pursuant to the Finance Act 1993   |
| <b>Promotional Prize</b>                 | any Prize which is determined, in accordance with a methodology adopted pursuant to Condition 8.22, to fulfil the requirements of Condition 8.23   |
| <b>Recoverable Implementation Costs</b>  | shall have the meaning given to that term in the Enabling Agreement  |
| <b>Scheduled Variable Weekly Payment</b> | in respect of each week of Licence Year t, the amount determined in accordance with paragraph 2 of Part C of this Schedule 5   |
| <b>Scheduled Weekly Payment</b>          | in respect of each week of Licence Year t, the aggregate of:   |

- (a)  $\frac{1}{52}$  (or, if different, the inverse of the number of Weekly Payment Days in the relevant Licence Year) of the Fixed Contribution for Licence Year  $t$ ; and
- (b) the Scheduled Variable Weekly Payment

**SONIA** the Sterling Overnight Index Average administered by the Bank of England, or the interest rate which most closely replaces it from time to time

**Weekly Payment Day** subject to paragraphs 3.3 and 3.4 of Part C of this Schedule 5, each Wednesday, or if Wednesday is not a Business Day, the following Business Day

**Weekly Payment Schedule** a schedule setting out, for each Licence Year, the proposed Scheduled Weekly Payments for that Licence Year as determined in accordance with paragraph 3.5 of Part C of this Schedule

## Part C – Payment Mechanics

### 1. CALCULATION OF ESTIMATED ANNUAL PAYMENT

- 1.1 The Licensee must adopt and apply a robust methodology for calculating an Estimated Annual Payment for each Licence Year (the **Estimation Methodology**).
- 1.2 The Estimation Methodology must be a methodology which, not later than the end of Licence Year t-1, generates a reasonable and genuine estimation of:
  - (a) the revenues and costs of the National Lottery;
  - (b) the Surplus; and
  - (c) the Good Causes Contribution,for Licence Year t.
- 1.3 The initial Estimation Methodology shall be that in the Approved Form. The Licensee may only change the Estimation Methodology with the approval of the Commission. The Commission may direct that the Estimation Methodology must be changed if it ceases to comply with the requirements of paragraph 2.2 of this Part C of Schedule 5.

### 2. CALCULATION OF SCHEDULED VARIABLE WEEKLY PAYMENTS

- 2.1 The Licensee must adopt and apply a robust methodology for calculating Scheduled Variable Weekly Payments (the **Scheduling Methodology**) based on the Estimated Annual Payment from time to time.
- 2.2 The Scheduling Methodology and the calculation of the Estimated Annual Payment must provide for the determination of:
  - (a) a profile (by week within a Licence Year) of the Scheduled Variable Weekly Payments which aligns, in so far as is possible on an estimated basis, with the profile (on a week-by-week basis within that Licence Year) of the amount by which the Gross Value of Ticket Sales exceeds Allowable Costs; and
  - (b) the aggregate of the Scheduled Variable Weekly Payments over a Licence Year and the Fixed Contribution for that Licence Year, matching the Licensee's best estimate of the Good Causes Contribution in respect of that Licence Year, taking account of its forecasted sales and costs,and must also reflect the Licensee's best estimate of the Payment Adjustment from time to time.
- 2.3 The initial Scheduling Methodology shall be that in the Approved Form. The Licensee may only change the Scheduling Methodology with the approval of the Commission. The Commission may direct that the Scheduling Methodology must be changed if it ceases to comply with the requirements of paragraph 2.2 of this Part C of Schedule 5.
- 2.4 The Scheduled Variable Weekly Payment shall in no event be less than zero.

### 3. PAYMENTS OF SCHEDULED WEEKLY PAYMENTS

#### Weekly Payments



- 3.1 Based on the Estimated Annual Payment and the Scheduling Methodology, the Licensee will, prior to the start of each Licence Year, provide to the Commission a Weekly Payment Schedule calculated as at the start of that Licence Year.
- 3.2 On each Weekly Payment Day, the Licensee must pay to Good Causes the Scheduled Weekly Payment.

#### Weekly Payment Day

- 3.3 If a Monday or Tuesday is not a Business Day in a given week, the payment which would have otherwise been due on the Weekly Payment Day that week may be postponed until the next day which is a Business Day (and that next day shall become the Weekly Payment Day for that week).
- 3.4 If both a Monday and a Tuesday are not a Business Day in a given week, the payment which would have otherwise been due on the Weekly Payment Day that week may be postponed until the next but one day which is a Business Day (and that next but one day shall become the Weekly Payment Day for that week).

#### Revised Weekly Payment Schedule

- 3.5 Not less than monthly in each Licence Year, the Licensee will review and update:
  - (a) the Estimated Annual Payment; and
  - (b) the Scheduled Weekly Payments (taking account both of any change to the Estimated Annual Payment and of any change to the anticipated profile of the Scheduled Weekly Payments),for that Licence Year. In doing so the Licensee will apply the Estimation Methodology and the Scheduling Methodology as appropriate. The Licensee will provide to the Commission details of this calculation and of any changes to these amounts as a result.
- 3.6 The Scheduled Weekly Payments from time to time will be those reflecting the then current Estimated Annual Payment and Scheduled Weekly Payments as updated in accordance with paragraph 3.5 of this Part C of this Schedule.

#### **4. LICENSEE ANNUAL ACCOUNTS**

- 4.1 The Licensee's accounting reference date must be 31 January.
- 4.2 The Licensee must, in respect of each financial year, file annual accounts in the fullest form applicable to a company which is not publicly quoted (unless the Licensee is a publicly quoted company, in which event it must file accounts in the form required for such a company) by no later than 31 July the following year (or earlier if required by law). The Licensee shall in no event file accounts in a form applicable to a small or medium company.
- 4.3 The Licensee must ensure that draft annual accounts, together with a draft audit certificate and a certificate issued by its statutory auditors detailing:
  - (a) the calculation of the Actual Annual Amount;
  - (b) the calculation of any Annual Overpayment or Annual Underpayment; and
  - (c) the calculation of interest adjustments in accordance with paragraph 5.3 and 5.4 below,

are presented to its board of Directors by no later than 30 April in Licence Year t+1 (the **Reconciliation Certificate**).

5. **RECONCILIATION**

5.1 No later than:

- (a) 15 May in Licence Year t+1, in respect of each Licence Year from the first Licence Year to the penultimate Licence Year; and
- (b) in the final Licence Year, 15 May in the calendar year in which that Licence Year ends,

the Licensee must provide the draft Reconciliation Certificate, approved by its board of Directors, to the Commission.

5.2 If the Commission:

- (a) notifies the Licensee, within 30 Business Days from receipt of the Reconciliation Certificate that it does not accept the contents of the certificate, the board of Directors of the Licensee must consider, with its auditors, any concerns raised by the Commission and make any appropriate amendments to the Reconciliation Certificate before finalising the Reconciliation Certificate and its audited annual accounts;
- (b) otherwise, at the end of that 30 Business Day period, the Reconciliation Certificate shall be considered final and the Licensee may proceed to finalise its audited annual accounts.

5.3 If, in any Licence Year, the Reconciliation Certificate identifies an Annual Underpayment for the prior Licence Year, the Licensee must pay to Good Causes on the first Weekly Payment Day following the date of the final Reconciliation Certificate:

- (a) the amount of the Annual Underpayment; and
- (b) an interest payment calculated as  $(1+r)^{0.75}-1$  multiplied by the value of the Annual Underpayment, where r means an interest factor equivalent to SONIA +1%.

5.4 If, in any Licence Year, the Reconciliation Certificate identifies an Annual Overpayment for the prior Licence Year, an amount equal to the aggregate of:

- (a) the Annual Overpayment; and
- (b) an interest payment calculated as  $(1+r)^{0.75}-1$  multiplied by the value of the Annual Overpayment, where r means an interest factor equivalent to SONIA +1% ,

shall be set off against and deducted from the Scheduled Weekly Payment due to be paid by the Licensee to Good Causes under paragraph 3.2 of Part C of this Schedule 5 on the first Weekly Payment Day following the date of the Reconciliation Certificate, provided that if the aggregate of (a) and (b) above exceeds the Scheduled Weekly Payment to be paid on that date, any excess shall be deducted from the Scheduled Weekly Payment(s) on the following Weekly Payment Day, so as to ensure that the Scheduled Weekly Payment paid to the Good Causes by the Licensee shall never be a negative number.

- 5.5 If the Reconciliation Certificate produced following the end of the final Licence Year, in accordance with paragraph 5.1(b) above, identifies an Annual Underpayment for that final Licence Year, an amount equal to
- (a) the amount of the Annual Underpayment; and
  - (b) an interest payment calculated as  $(1+r)^{0.75}-1$  multiplied by the value of the Annual Underpayment, where r means an interest factor equivalent to SONIA +1%,
- must be paid to Good Causes by the Licensee in accordance with the Good Causes Underpayment Arrangements (as defined below).

#### Consequences of late payment

- 5.6 For the purposes of Condition 15 and this Schedule 5, if an Scheduled Weekly Payment is not received by Good Causes by 3.00 p.m. on the Weekly Payment Day, it shall be deemed to have been made on the next Business Day and payment shall be treated as made only when credited to the account specified by the Secretary of State under Condition 15.9.
- 5.7 Without prejudice to any right of the Secretary of State under sections 9(3) or 10A(14) of the Act, if the Licensee fails to make any Scheduled Weekly Payment in accordance with the terms of Condition 15 and Schedule 5, the Licensee must pay interest on any unpaid amount to Good Causes at a rate of 3% above SONIA.

#### Good Causes Underpayment Arrangements

- 5.8 The Licensee must:
- (a) do everything it can to ensure that monies are available to pay to Good Causes the amount of any Annual Underpayment for the final Licence Year of the Term and any such amount is paid to Good Causes;
  - (b) in accordance with paragraph 5.9, establish, maintain and operate arrangements to ensure that such amount is paid (**Good Causes Underpayment Arrangements**); and
  - (c) pay any such amounts (whether by way of a principal amount, any fees or otherwise) to any person as may be required to give effect to the Good Causes Underpayment Arrangements (**GCU Funding Cost**).
- 5.9 The Licensee must:
- (a) not less than 54 months before the End Date, propose arrangements and provide relevant proposed documentation to ensure that monies will available to pay to Good Causes the amount of any Annual Underpayment for the final Licence Year of the Term and any such amount is paid to Good Causes; and
  - (b) not less than 48 months before the End Date, establish Good Causes Underpayment Arrangements; and
  - (c) maintain and operate Good Causes Underpayment Arrangements for a period starting no later than the end of the Licence Year 6 and ending when the amount of any Annual Underpayment in the final Licence Year of the Term is paid to Good Causes.

- 5.10 The Good Causes Underpayment Arrangements shall be either:
- (a) if approved by the Commission, those arrangements proposed by the Licensee in accordance with paragraph 5.9(a), including any amendments directed by the Commission as a condition of such approval; or
  - (b) such other arrangements as the Commission may direct.

#### Documentation of Reconciliations

- 5.11 Where any payment calculated under this Schedule is required to take account of any additional payment or adjustment to a scheduled payment which is required to be made as part of any reconciliation, that amount shall be clearly and transparently described as a separate payment amount within any calculation or certification of any payment.

#### Treatment of Related Party Costs, Related Party Revenue and Wasteful Costs

- 5.12 Without prejudice to paragraph 5.13, when calculating any Estimated Annual Payment and any Scheduled Weekly Payment:
- (a) the fact that costs are Related Party Costs or Wasteful Costs shall not result in them being treated as Excluded Costs; and
  - (b) Related Party Revenue will be taken into account as accrued.
- 5.13 As part of the reconciliation process set out in this paragraph 5 of Part C of this Schedule 5:
- (a) all Related Party Costs which the Licensee cannot demonstrate, to the satisfaction of the Commission, a reasonable operator of the National Lottery acting on the basis of information reasonably available to it at the time the cost was incurred would have considered to be Good Value for Good Causes shall be Excluded Related Party Costs;
  - (b) if the Licensee cannot demonstrate to the satisfaction of the Commission in respect of any amount of Related Party Revenue that a reasonable operator of the National Lottery acting on the basis of information reasonably available to it at the time the revenue accrued would have considered that amount of revenue to represent Good Value for Good Causes, the Commission may, for the purposes of the Reconciliation, substitute for such amount an amount of Related Party Revenue which the Commission determines that a reasonable operator of the National Lottery acting on the basis of information reasonably available to it at the time the revenue accrued would have considered to be Good Value for Good Causes; and
  - (c) costs which fulfil the definition of Wasteful Costs in Table 3 shall be Excluded Costs.

#### Exceptions, Restatements or Revisions

- 5.14 The Commission may at any time review any calculation of any amount calculated and/or paid under this Schedule for any prior period whatsoever. The Licensee must provide to the Commission on request any and all information (including detail of all calculations and all associated workings and methodologies) relevant to any such review. If the Commission identifies that there has been any material error, misstatement or gross negligence in any such calculation for any such prior period, the relevant amount shall be recalculated and an adjusting payment (together with interest calculated at the rate set out

in accordance with paragraph 5.6 of this Part C of Schedule 5) shall be paid promptly following its determination by the Commission.

- 5.15 If the Licensee's audited financial statements restate figures reported for any previous Licence Year, or the Licensee revises the revenues or costs data that it reports to the Commission in respect of any previous Licence Year, the Licensee must promptly provide the Commission with a report setting out:
- (a) the nature of the restatement or revision;
  - (b) the reasons for the restatement or revision; and
  - (c) information on the impact such restatement or revision will have on the Actual Annual Amount paid in each Licence Year since the Start Date.
- 5.16 If the Commission determines that, as a result of a restatement or revision referred to in Condition 5.15, the Actual Annual Amount calculated prior to such restatement or revision is less than the amount calculated following such restatement or revision, the Licensee must promptly pay to Good Causes an amount equal to the relevant shortfall (together with interest calculated at the rate set out in accordance with paragraph 5.6 of this Part C of Schedule 5).

**APPENDIX 1 TO SCHEDULE 5**

**Specification Tables<sup>7</sup>**

**Table 1 Fixed Contribution**

**A: Core Licence period**

| Licence Year              | Fixed Contribution |
|---------------------------|--------------------|
| 2024/25 (Licence Year 1)  | £ 75 million       |
| 2025/26 (Licence Year 2)  | £ 75 million       |
| 2026/27 (Licence Year 3)  | £ 75 million       |
| 2027/28 (Licence Year 4)  | £ 75 million       |
| 2028/29 (Licence Year 5)  | £ 75 million       |
| 2029/30 (Licence Year 6)  | £ 75 million       |
| 2030/31 (Licence Year 7)  | £ 75 million       |
| 2031/32 (Licence Year 8)  | £ 75 million       |
| 2033/33 (Licence Year 9)  | £ 75 million       |
| 2033/34 (Licence Year 10) | £ 75 million       |

**B: Potential Extensions of the Term**

| Licence Year   | Fixed Contribution                         |
|--|--|
| Any additional Licence Year for which the Licence is extended in accordance with Condition 3 | £ 75 million per Licence Year <sup>8</sup> |

<sup>7</sup> Note to draft: The Fixed Contribution is subject to the Inflation Factor, as shown in paragraph 1 of Part B of this Schedule 5.

<sup>8</sup> To be pro-rated in respect of any additional Licence Year which is less than 12 months.

**Table 2 Excluded Revenues**

| Items   |
|---|
| All income from lost or stolen Scratchcards   |
| Any damages (including payment of costs recovered from third parties) paid to the Licensee in accordance with Condition 19.20 |

**Table 3 Excluded Costs**

| Category   | Definition  |
|--|---|
| Annual Licence Fee   | any annual licence fee payable by the Licensee to the Commission in accordance with section 7A of the Act   |
| Commission OIS Costs   | any costs to paid to Good Causes (as part of the Good Causes Contribution) by the Licensee in accordance with clause 29.6 of the Enabling Agreement   |
| Commission Reimbursement Expenditure   | any amount paid by the Licensee to the Commission by way of reimbursement in accordance with:<br><br>Condition 6.16;<br><br>Condition 7.16;<br><br>Condition 19.20(a); and<br><br>Condition 27.7(g).  |
| Compensation payments and settlements in relation to legal disputes made by Licensee | all amounts paid by the Licensee by way of any amount of damages or other payment required to be made as a result of any judgement of any court or tribunal or any settlement of any legal dispute  |
| Direct costs of carrying out an Independent Performance Review                       | any and all costs incurred by the Licensee in connection with the operation of Condition 25 ( <i>Independent Performance Review</i> )   |
| Director remuneration  | any remuneration in any form paid to any Director of the Licensee   |
| Excluded Related Party Costs   | all Related Party Costs which do not represent Good Value for Good Causes   |
| Expenses or costs incurred as a result of fraud                                      | any cost or expense incurred by the Licensee directly or indirectly as a result of fraud on the part of:<br><br>(a) the Licensee;<br><br>(b) any member of Lottery Staff;<br><br>(c) any Lottery Subcontractor; or<br><br>(d) any employee of a Lottery Subcontractor |



|   |   |
|---|---|
| Fines and penalties   | finer or penalties imposed on the Licensee by the Commission or any other legal, governmental or regulatory body  |
| GCU Funding Cost  | has the meaning given in paragraph 5.8(c) of Part C of Schedule 5   |
| Implementation Costs  | any Implementation Costs (as defined in clause 31.1 of the Enabling Agreement) incurred during the Term, until any such costs are determined to be Recoverable Implementation Costs to which the Implementation Adjustment will apply   |
| NLPU Costs  | the payments to the NLPU which the Licensee is required to make under Condition 13.6  |
| OLF Costs   | any cost associated with the establishment or operation of the Outstanding Liability Fund, including the fees of the Approved OLF Administrator   |
| OLF Monthly Payment   | has the meaning given in Condition 28.9   |
| Promotional Prizes  | <p>(a) any amount payable by the Licensee as a Promotional Prize unless approved by the Commission in accordance with paragraph 10(a) of Part B of Schedule 5; and</p> <p>(b) any amount specified by the Commission in accordance with paragraph 10(b) of Part B of Schedule 5</p> |
| Reimbursement of Commission's Costs relating to the 3NL Extension | any costs to be reimbursed to the Commission by the Licensee if clause 32.4 of the Enabling Agreement applies   |
| Research, Prevention and Treatment Support                        | any contribution made by the Licensee as referred to in Condition 8.19  |
| Wasteful Costs  | Costs which the Commission is satisfied would not have been incurred by the Licensee if it had acted as a reasonably efficient operator on the basis of information reasonably available to it at the time the cost was incurred  |

The Commission's Regulatory Handbook provides guidance on the interpretation of certain of the items deemed to be Excluded Costs.

**Table 4 Licensee's Proportion of Surplus**

|                                  | Value |
|----------------------------------|-------|
| Licensee's Proportion of Surplus | 0.058 |

## SCHEDULE 6

### Financial Covenants

1. For each Relevant Period ending on each Calculation Date, the Net Leverage Ratio should be below 3.0x
2. For each Relevant Period ending on each Calculation Date, the Interest Cover Ratio should be above 4.0x
3. On each Calculation Date, the Funding Need Coverage Ratio should be above 1.1x

### Interpretation

In this Schedule 6:

- (c) unless defined in this Schedule 6 below, any capitalised terms herein shall have the meaning given to them in this Licence;
- (d) unless a contrary indication appears, any reference to an accounting term shall be construed in accordance with the Accounting Principles; and
- (e) no item may be credited or deducted more than once in any calculation.

### Definitions

In this Schedule 6 the following terms will have the meanings given to them below:

**Acceptable Bank** means any bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of BBB- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency.

**Accounting Principles** means generally accepted accounting principles in the United Kingdom, including IFRS.

**Affiliate** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**Available Debt Financing** means the amounts which from time to time are available to be drawn for the benefit of the Licensee under a debt financing provided by an Acceptable Bank.

**Available Equity** means the amounts of funding which from time to time are available to be requested by the Licensee under documents establishing equity commitments by any of its Affiliates to the extent that (i) such equity commitments are backed by guarantees or any similar support ensuring certainty of funds provided to the Licensee by an Acceptable Bank or (ii) the amounts under such equity commitments have been paid to an escrow or other designated account maintained by an Acceptable Bank and are available to the Licensee.

**Business Plan** means the most recent business plan of the Licensee prepared by the Licensee in good faith and based on assumptions that the Licensee believes are reasonable and approved by the Licensee's board of directors.

**Calculation Date** means the final day of each Financial Quarter on and from the second Financial Quarter after the Start Date.

**Capital Stock** means:

- (e) in the case of a corporation, corporate stock or shares in the capital of such corporation;
- (f) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (g) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (h) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing person.

**Contingent Obligations** means, with respect to any person, any obligation of such person guaranteeing any leases, dividends or other obligations that do not constitute Financial Indebtedness (**primary obligations**) of any other person (the **primary obligor**) in any manner, whether directly or indirectly, including, without limitation, any obligation of such person, whether or not contingent:

- (a) to purchase any such primary obligation or any property constituting direct or indirect security therefor;
- (b) to advance or supply funds:
  - (i) for the purchase or payment of any such primary obligation; or
  - (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor;
- (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

**Eligible Cash and Cash Equivalents** means, at any time:

- (a) cash in hand or on deposit with any Acceptable Bank;
- (b) certificates of deposit, maturing within one year after the relevant date of calculation, issued by an Acceptable Bank;
- (c) any investment in marketable obligations issued or guaranteed by the government of the United States of America, the UK or any member state of the European Economic Area or any Participating Member State or by an instrumentality or agency of those governments having an equivalent credit rating which:
  - (i) matures within one year after the date of the relevant calculation; and
  - (ii) is not convertible to any other security;
- (d) open market commercial paper or debt securities not convertible to any other security:
  - (i) for which a recognised trading market exists;
  - (ii) issued in the United States of America, the UK or any member of the European Economic Area or any Participating Member State;
  - (iii) which matures within one year after the relevant date of calculation; and
  - (iv) which has a credit rating of either A-2 or higher by S&P or Fitch or P-2 or higher by Moody's, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;

- (e) sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or any dematerialised equivalent); or
- (f) investments accessible within 30 days in money market funds which:
  - (i) have a credit rating of either A-2 or higher by S&P or Fitch or P-2 or higher by Moody's; and
  - (ii) invest substantially all their assets in securities of the types described in paragraphs (b) to (e) above,

in each case, to which the Licensee is beneficially entitled at that time and which is capable of being applied against Total Borrowings.

**EBIT** means, in relation to a Relevant Period, the aggregate of the consolidated operating profits of the Licensee specified on the income statement of the Licensee (including the results from discontinued operations) before Finance Costs and tax for that Relevant Period and before taking into account any unrealised gains or losses in any derivative instrument, adjusted by taking no account of any Exceptional Items.

**EBITDA** means, in relation to a Relevant Period, EBIT for that Relevant Period after adding back any depreciation and amortisation or impairment, subject to the paragraph "Calculation" below.

**Equity Injections** means any proceeds of any investment in the share capital or the capital reserves of the Licensee.

**Equity Interests** means Capital Stock and all warrants, options or other rights to acquire Capital Stock, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock.

**Exceptional Items** means any material item of an unusual or non-recurring nature which represent gains or losses, including those arising on:

- (a) write-downs of inventories to net realisable value or of property, plant and equipment to recoverable amount, and reversals of such write-downs;
- (b) restructuring the activities of the Licensee and any reversals of any provision for the costs of restructuring; and
- (c) disposals of assets associated with discontinued operations.

**Finance Costs** means, in relation to a Relevant Period, all finance charges and similar items as showing in the financial statements of the Licensee (whether paid, payable or added to principal) in respect of Total Borrowings of the Licensee during that period calculated on a consolidated basis.

**Financial Indebtedness** means, at any time, the outstanding principal or capital amount of any indebtedness for or in respect of, without duplication (in each case, determined in accordance with IFRS):

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);

- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) which would be treated as a borrowing in accordance with the Accounting Principles;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution (other than Trade Instruments) which liability would fall within one of the other paragraphs of this definition;
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (d) to (k) above.

Notwithstanding the above provisions, in no event shall the following constitute Financial Indebtedness:

- (i) Contingent Obligations incurred in the ordinary course of business and accrued liabilities incurred in the ordinary course of business that are not more than 90 days past due;
- (ii) any amount due or outstanding in respect of any Equity Injection or any Shareholder Loan;
- (iii) unless the Licensee makes a One-Time Election (as defined in the paragraph "Calculation" below), any lease, concession or license of property (or guarantee thereof) which would be considered an operating lease under IFRS prior to the adoption of IFRS 16 (Leases);
- (iv) Financial Indebtedness arising under any hedging arrangements;
- (v) in connection with the purchase of any business, any post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; **provided, however, that**, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid within 180 days thereafter;
- (vi) for the avoidance of doubt, any arrangements constituting state grants or subsidies in the ordinary course of business;
- (vii) any prepayments or deposits received from clients or customers in the ordinary course of business;
- (viii) obligations under any licence, permit, or other approval (or guarantees given in respect of such obligations) incurred in the ordinary course of business;
- (ix) deferred or prepaid revenues;
- (x) inter-company guarantees incurred in the ordinary course of business;
- (xi) any standby letter of credit, performance bond, bid bond, surety bond or advance payment bond issued in respect of the obligations of any Subsidiary of the Licensee incurred in the ordinary course of business, trade credit on normal commercial terms or intra-day exposures;
- (xii) Financial Indebtedness incurred in connection with a transaction where a substantially concurrent Investment is made in the form of cash deposited with the lender of such

Financial Indebtedness, or a Subsidiary or Affiliate thereof, in an amount equal to such Financial Indebtedness;

- (xiii) for the avoidance of doubt, any obligations in respect of workers' compensation claims, any pension scheme operated by the Licensee from time to time, unfunded pension fund and other employee benefit plan obligations and liabilities incurred by the Licensee in the ordinary course of business, early retirement or termination obligations, pension fund obligations or contributions or similar claims, obligations or contributions or social security or wage Taxes;
- (xiv) any asset retirement obligations; or
- (xv) any liability for Taxes.

**Financial Quarter** means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

**Funding Need Coverage Ratio** means, as of any Calculation Date, the ratio of:

- (a) the Operating Cash Flow for next 12 months *plus* cash in hand or on deposit on balance sheet of the Licensee based on the latest available interim or annual (as applicable) financial statements *plus* the Available Debt Financing *plus* the Available Equity; to
- (b) the Investing Cash Flow for next 12 months *plus* the Mandatory Debt Repayments.

**Holding Company** means, in relation to a person, any other person in respect of which it is a Subsidiary.

**IFRS** means the UK adopted international accounting standards within the meaning of the section 474(1) of the Companies Act 2006 to the extent applicable to the relevant financial statements.

**Interest Cover Ratio** means, for any period, the ratio of:

- (a) EBITDA for such period; to
- (b) Net Finance Costs for such period.

**Investing Cash Flow** means cash flow used for investing activities as show on the Licensee's cash flow statement contained in a Business Plan.

**Investment** means, with respect to any person, any investment by such person in other persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, trade credit, advances to customers, commission, travel and similar advances to employees, directors, officers, managers and consultants, in each case made in the ordinary course of business), purchases or other acquisitions for consideration of Financial Indebtedness, Equity Interests or other securities issued by any other person and investments that are required by IFRS to be classified on the balance sheet (excluding the footnotes) of the Licensee in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property; provided, however, that endorsements of negotiable instruments and documents in the ordinary course of business will not be deemed to be an Investment.

**Mandatory Debt Repayments** means Licensee's contractually required and scheduled debt repayments within next 12 months.

**Net Finance Costs** means, in respect of a Relevant Period, Finance Costs less interest income for that Relevant Period but taking no account of any interest cost or expected return on plan assets in relation to any post-employment benefit scheme.

**Net Indebtedness** means:

- (a) Total Borrowings (excluding any Shareholder Loan), less
- (b) Eligible Cash and Cash Equivalents.

**Net Leverage Ratio** means, as of any Calculation Date, the ratio of Net Indebtedness to EBITDA for the period of the most recent four consecutive Financial Quarters ending prior to such Calculation Date.

**Operating Cash Flow** means cash flow from operating activities as shown on the Licensee's cash flow statement contained in a Business Plan.

**Quarter Date** means each of 31 January, 30 April, 30 July and 31 October.

**Relevant Period** means each period of four consecutive financial quarters ending on a Calculation Date.

**Shareholder Loans** means any loan made by a Holding Company of the Licensee to the Licensee.

**Subsidiary** means, in relation to any company, corporation or other legal entity (a **holding company**), a company, corporation or other legal entity:

- (a) which is controlled, directly or indirectly, by the holding company;
- (b) in which a majority of the voting rights are held by the holding company, either alone or pursuant to an agreement with others;
- (c) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the holding company; or
- (d) which is a subsidiary of another Subsidiary of the holding company,

and, for this purpose, a company, corporation or other legal entity shall be treated as being controlled by another if that other company, corporation or other legal entity is able to determine the composition of the majority of its board of directors or equivalent body.

**Tax** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

32.8 **Total Borrowings** means, in respect of the Licensee, at any time, the aggregate of the following liabilities calculated at the nominal, principal or other amount at which the liabilities would be carried in a consolidated balance sheet of the Licensee drawn up at that time (or in the case of any guarantee, indemnity or similar assurance referred to in paragraph (h) below, the maximum liability under the relevant instrument):

- (a) any moneys borrowed;
- (b) any acceptance under any acceptance credit (including any dematerialised equivalent);
- (c) any bond, note, debenture, loan stock or other similar instrument;
- (d) any indebtedness under a finance lease;
- (e) any moneys owing in connection with the sale or discounting of receivables (except to the extent that there is no recourse);
- (f) any indebtedness arising from any deferred payment agreements arranged primarily as a method of raising finance or financing the acquisition of an asset;



- (g) any indebtedness arising in connection with any other transaction (including any forward sale or purchase agreement) which would be treated as a borrowing under the Accounting Principles; and
- (h) any indebtedness of any person of a type referred to in the above paragraphs which is the subject of a guarantee, indemnity or similar assurance against financial loss given by the Licensee.

Notwithstanding the above provisions, the following shall be excluded from Total Borrowings:

- (a) Financial Indebtedness arising under any hedging arrangements;
- (b) Shareholder Loans;
- (c) contingent liabilities under a guarantee, indemnity, bond, standby or documentary letter of credit unless the underlying liability covered by such instrument has become due and payable;
- (d) Financial Indebtedness represented by shares (except for shares redeemable mandatorily or at the option of the holder);
- (e) subject to any applicable restrictions on distributions to the Licensee's shareholder(s) under this Licence, the Enabling Agreement or otherwise prescribed by the Commission (including any applicable dividend and/or distribution policy adopted from time to time by the Licensee), any amount owing by the Licensee in respect of transaction costs incurred by a Holding Company of the Licensee in connection with its bid for this Licence incurred prior to the date of the Enabling Agreement and any other costs and expenses incurred by a Holding Company of the Licensee in connection with the operation of this Licence incurred after the date of the Enabling Agreement and any amount of fees or commission payable by a Holding Company of the Licensee in connection with any guarantees or similar instruments providing credit support for the Available Equity plus a margin of 0.2 per cent., in each case to the extent such fees, costs, expenses or commission are re-charged to the Licensee by the relevant Holding Company;
- (f) any lease rental payments which are or would be treated as borrowings under the Accounting Principles; and
- (g) pensions liabilities and liabilities in respect of other provisions which are or would be treated as borrowings under the Accounting Principles.

**Trade Instruments** means any performance bonds, advance payments bonds or documentary letters of credit issued or other form of indemnity or guarantee in favour of a bank or financial institution in respect of the obligations of the Licensee arising in the ordinary course of trading of the Licensee.

### **Calculation**

For the purposes of:

- (i) calculating EBITDA on the Calculation Date falling on the first Calculation Date, EBITDA shall be calculated on the basis of EBITDA for the two consecutive Financial Quarters ending on the first Calculation Date *multiplied by two*;
- (ii) calculating EBITDA on the Calculation Date falling on the second Calculation Date, EBITDA shall be calculated on the basis of EBITDA for the nine consecutive months ending on the second Calculation Date *multiplied by 1.33*; and

- (iii) calculating the Interest Cover Ratio, Net Leverage Ratio, Total Borrowings, the financial definitions or component thereof, and/or any other financial, ratio or incurrence based permission, test or basket, the Licensee shall be permitted to treat leases in a manner consistent with IFRS before the effective date of IFRS 16 (Leases) and any successor standard thereto (or any equivalent measure under the Accounting Principles), unless the Licensee makes a one-time election (a **One-Time Election**) to account for such leases in a manner consistent with IFRS after the effective date of IFRS 16 (Leases) and any successor standard thereto.

## Appendix 2

### Form of Core Lottery IP Sub Licence

THIS SUB LICENCE is made on \_\_\_\_\_ 20[ ]

BETWEEN

(1) [ ] (**Licensor**); and

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

WHEREAS

(A) The Licensor runs the National Lottery under a licence dated [ ] (**Head-Licence**) granted to it by the Gambling Commission (**Commission**) under section 5 of the National Lottery etc. Act 1993 (Act) for the Term (as defined below).

(B) The Licensor wishes to sub-license to the Licensee the Licensed IP for the Permitted Purpose (as defined below), on the terms of this Sub-Licence.

IT IS AGREED as follows:

#### 1. DEFINITIONS

##### 1.1 In this Sub-Licence:

"**Licensed IP**" means the Core Lottery IP, details of which are set out at Appendix 1 of this Sub-Licence;

"**Permitted Purpose**" means [ ];

Terms defined in the Head-Licence and not otherwise defined in this Sub Licence shall have the same meaning as set out in the Head-Licence.

##### 1.2 In this Sub-Licence, unless otherwise stated:

- (a) references to Clauses, Schedules and paragraphs shall be construed as references to Clauses, Schedules and paragraphs of this Sub-Licence;
- (b) references to persons includes individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships;
- (c) the headings in this Sub-Licence do not affect its interpretation;
- (d) references to one gender includes all genders;
- (e) references to 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) 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

- (h) references to the word “includes” or “including” are to be construed without limitation.

## 2. **COMMENCEMENT AND TERM OF SUB-LICENCE**

This Sub-Licence shall start on [day] [month] [year] (**Commencement Date**) and shall continue for the duration of the Head-Licence (**Term**) unless and until terminated in accordance with Clause 7 (*Termination*).

## 3. **GRANT OF SUB-LICENCE**

- 3.1 To the extent permitted under the Head-Licence, the Licensor grants to the Licensee for the Term a royalty-free, payment-free, non-transferable, non-sub-licensable and non-exclusive Sub-Licence to copy, publish and otherwise use any Licensed IP for the Permitted Purpose.
- 3.2 The Licensee must comply with the Core Lottery IP Guidelines relating to the use and mode of display of any Core Lottery IP forming part of the Licensed IP (as referred to in Condition 19 of the Head-Licence).
- 3.3 [All material produced by the Licensee in accordance with this Sub-Licence that includes any Licensed IP shall be supplied to the Licensor for prior approval. The Licensor shall not unreasonably withhold or delay such approval and shall use its reasonable endeavours to grant and/or obtain approval of such material within five (5) Business Days.]

## 4. **WARRANTIES**

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

## 5. **OWNERSHIP OF RIGHTS**

The Licensee recognises that the Commission is the owner of the Licensed IP and shall not at any time do or permit to be done any act which will or may weaken, damage or be detrimental to the Licensed IP or the reputation of goodwill associated with the Licensed IP or the Commission, or that may invalidate or jeopardise any registration of any Licensed IP.

## 6. **INFRINGEMENT**

- 6.1 The Licensee shall promptly notify the Licensor in writing of any of the following matters which come to its attention during the Term (giving full particulars):
- (a) infringement or suspected or threatened infringement of the Licensed IP whether by imitation or otherwise;
  - (b) any allegation or complaint made by any third party that any of the Licensed IP is invalid, that use of the Licensed IP infringes any third party rights or that use of the Licensed IP may cause deception or confusion to the public; and
  - (c) any other form of attack on or claim to the Licensed IP.

6.2 The Licensee shall not make any admissions in respect of these matters other than to the Licensor and/or the Commission and at the request of the Licensor and/or the Commission shall furnish the Licensor and/or the Commission, at the Licensor's cost, with all information in its possession and all assistance which may be reasonably required by the Licensor and/or the Commission.

6.3 In the event that the Licensee provides such assistance as referred to in Clause 6.2, it shall not be entitled to receive any compensation payments and any award of costs or damages arising out of any such actions or proceedings.

**7. TERMINATION**

7.1 The Licensor may terminate this Sub-Licence by giving to the Licensee not less than [ ] months' prior written notice.

7.2 The Licensee agrees that this Sub-Licence shall automatically terminate on termination or expiry of the Head-Licence and/or in the event that the Commission requires it in the exercise of its functions under the Act and/or the Licensor requires it in the exercise of its obligations under the Head-Licence.

7.3 Either party may (without prejudice to any other right or remedy) by written notice to the other party terminate this agreement with immediate effect if:

- (a) the other party commits a breach of any obligation under this Sub-Licence (including a breach of any representation or warranty);
- (b) a petition is presented, or a meeting is convened for the purpose of considering a resolution or any other steps are taken by any person with a view to the appointment of an administrator (whether out of court or otherwise) against or for the winding up of the other party or an administration order or a winding up order is made against or a provisional liquidator appointed with respect to the other party;
- (c) an encumbrancer takes possession of, or a trustee or administrative receiver or similar officer is appointed in respect of, all or any part of the business or assets of the other party, or distress or any form of execution is levied or enforced upon or sued out against any such assets and is not discharged within five (5) Business Days of being levied, enforced or sued out;
- (d) the other party is unable to pay its debts as they fall due or the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, or it suspends or threatens to suspend making payments with respect to all or any class of its debts;
- (e) any voluntary arrangement is proposed under section 1 of the Insolvency Act 1986 (as amended, re-enacted or replaced from time to time) in respect of the other party;
- (f) the other party proposes or makes any composition or arrangement or composition with, or any assignment for the benefit of, its creditors; or
- (g) anything analogous to any of the events described in paragraphs (a) – (e), inclusive, occurs under the laws of any applicable jurisdiction.

7.4 The Licensor may immediately terminate this Sub-Licence by notice in writing if:

- (a) it reasonably considers that any of the events mentioned in Clause 7.3 are about to occur in relation to the Licensee; or
- (b) the Licensee does not comply with the guidelines referred to in Clause 3.2.

**8. EFFECTS OF TERMINATION**

- 8.1 On termination of this Sub-Licence for any reason, the rights and licence granted under this Sub-Licence to the Licensee shall cease and the Licensee shall without delay discontinue all use of the Licensed IP and deliver up to the Licensor all of the Licensed IP and copies thereof in its possession, power, custody or control.
- 8.2 Termination of this Sub-Licence shall not release either of the parties from any other liability which at the time of termination has already accrued to the other party, nor affect in any way the survival of any other right, duty or obligation of the parties which is expressly stated elsewhere in this Sub-Licence to survive termination.

**9. CONFIDENTIAL INFORMATION**

- 9.1 Each of the parties shall both during the term and after termination of this Sub-Licence:
  - (a) keep confidential the terms of this Sub-Licence and all documents or information, whether in written or any other form, which has been disclosed to it by or on behalf of the other party under its respective obligations under this Sub-Licence which by its nature ought to be regarded as confidential; 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.
- 9.2 Clause 9.1 does not apply to information which the recipient party is required to disclose by law or by any governmental or other regulatory authority and each party must give the other at least five (5) Business Days' advance written notice of any intended disclosures of this sort unless it is legally prohibited from doing so.
- 9.3 The provisions of this Clause 9 shall survive any termination of this Sub-Licence.

**10. SEVERABILITY**

- 10.1 If, and to the extent that, any provision of this Sub-Licence is held to be illegal, void or unenforceable, that provision shall be given no effect and will be treated as though it were not included in this Sub-Licence, but the validity and enforceability of the remaining provisions of this Sub-Licence will not be affected.

**11. WAIVERS AND AMENDMENTS**

- 11.1 No failure or delay by either party in exercising any right or remedy provided by this Sub-Licence or by law constitute 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 of any other right or remedy.
- 11.2 The rights and remedies provided for are cumulative and not exclusive of any rights and remedies provided by law.

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

## 12. NOTICES

12.1 A notice or communication given under, or in connection with, this Sub-Licence, must be in writing and in English and sent to the following address:

### **Licensor**

Address [●]

Email [●]

For the attention of: [●]

### **The Licensee**

Address [●]

Email [●]

For the attention of: [●]

12.2 Each party must give the other party reasonable advance notice of any change to the notice details set out in clause 12.1.

### Service of Notices

12.3 A notice or communication that complies with clause 12.1 is deemed to have been given:

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

## 13. GOVERNING LAW AND JURISDICTION

13.1 This Sub Licence 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 this Sub 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.

## 14. ENTIRE AGREEMENT

14.1 This Sub-Licence and the Head-Licence set out the entire agreement and understanding between the parties in respect of the subject matter of this Sub-Licence. This Clause shall not exclude any liability for, or remedy in respect of, fraudulent misrepresentation.

**15. FORCE MAJEURE**

15.1 Neither party shall be liable for any failure or delay in performing any of its obligations under this Sub-Licence 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.

**16. ASSIGNMENT**

16.1 The Licensee shall not purport to assign, transfer, charge or otherwise deal with all or any of its rights and/or obligations under this Sub-Licence nor grant, declare, create or dispose of any right or interest in it, without the prior written consent of the Licensor, such approval not to be unreasonably withheld or delayed. Save that the Licensee may arrange for the printing or design by third parties of literature relating to the Permitted Purpose which includes the Licensed IP without further reference to the Licensor.

**17. THIRD PARTY RIGHTS**

17.1 With the exception of the Commission's rights under Clause 17.2 and unless otherwise stated, a person who is not a party to this Sub-Licence shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

17.2 All rights and interests exercisable by the Licensor under this Sub-Licence shall be exercisable by the Commission.

**18. COUNTERPARTS**

18.1 This Sub-Licence 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.

IN WITNESS WHEREOF the signatures of the parties or their duly authorised representatives on the date

first written above.

Signed by .....

for and on behalf of

[Licensor]

Director/Duly Authorised Signatory

Signed by .....

for and on behalf of

[Licensee]

Director/Duly Authorised Signatory



**Appendix 2 - Documents in the Approved Form at date of this Agreement**

- The articles of association of the Incoming Licensee
- Each Shareholders' Agreement submitted with the Application
- The Initial Finance Agreements
- Licence Contingency Protection Documents
- Trust Deed
- Trust Implementation Agreement
- Final Reserve Documentation
- Funds Protection Policies
- Participant Protection Strategy
- Retailer Charter
- Distribution and Portfolio Strategy
- Brand Management Plan
- Exit Plan

**Appendix 3 - Cooperation Agreement**

AMENDED AND RESTATED ON

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

| <b>CLAUSE</b> |  | <b>PAGE</b> |
|---------------|--|-------------|
| 1.            | <b>DEFINITIONS AND INTERPRETATION</b>                      | <b>6</b>    |
| 2.            | <b>GRANT OF NEW LICENCE</b>                                | <b>6</b>    |
| 3.            | <b>IMPLEMENTATION AND COOPERATION</b>                      | <b>7</b>    |
| 4.            | <b>IMPLEMENTATION OF THE APPLICATION</b>                   | <b>8</b>    |
| 5.            | <b>INCOMING TRANSITION PLAN</b>                            | <b>13</b>   |
| 6.            | <b>DEVELOPMENT OF INCOMING TRANSITION PLAN</b>             | <b>13</b>   |
| 7.            | <b>CHANGE PROPOSALS</b>                                    | <b>14</b>   |
| 8.            | <b>CONTINUING OBLIGATIONS</b>                              | <b>15</b>   |
| 9.            | <b>FIT AND PROPER CHECKS</b>                               | <b>15</b>   |
| 10.           | <b>PROTECTION FOR PARTICIPANT FUNDS</b>                    | <b>18</b>   |
| 11.           | <b>S6 LICENCES</b>   | <b>20</b>   |
| 12.           | <b>ANCILLARY ACTIVITIES</b>                                | <b>22</b>   |
| 13.           | <b>CONTRACTS</b>   | <b>23</b>   |
| 14.           | <b>CO-BRANDING APPLICATIONS</b>                            | <b>27</b>   |
| 15.           | <b>THIRD PARTY APPROVALS</b>                               | <b>27</b>   |
| 16.           | <b>COMMISSION APPROVALS</b>                                | <b>27</b>   |
| 17.           | <b>AVAILABILITY OF RESOURCES</b>                           | <b>28</b>   |
| 18.           | <b>MONITORING IMPLEMENTATION AND IMPLEMENTATION ISSUES</b> | <b>31</b>   |
| 19.           | <b>GOVERNANCE</b>  | <b>32</b>   |
| 20.           | <b>ASSURANCE OF IMPLEMENTATION PROGRESS</b>                | <b>34</b>   |
| 21.           | <b>FINAL CONFIRMATION DATE</b>                             | <b>35</b>   |
| 22.           | <b>SECOND INITIAL CHECKPOINT</b>                           | <b>36</b>   |
| 23.           | <b>FIRST FINAL CHECKPOINT</b>                              | <b>36</b>   |
| 24.           | <b>SECOND FINAL CHECKPOINT</b>                             | <b>36</b>   |
| 25.           | <b>FIRST READINESS DATE</b>                                | <b>37</b>   |
| 26.           | <b>SECOND READINESS DATE</b>                               | <b>37</b>   |
| 27.           | <b>THIRD READINESS DATE</b>                                | <b>39</b>   |
| 28.           | <b>LICENCE GRANT CONFIRMATION DATE</b>                     | <b>39</b>   |
| 29.           | <b>READINESS TO OPERATE THE NATIONAL LOTTERY</b>           | <b>40</b>   |
| 30.           | <b>RECEIPT MECHANICS</b>                                   | <b>41</b>   |

|     |  |     |
|-----|--|-----|
| 31. | RECOVERABLE IMPLEMENTATION COSTS                     | 41  |
| 32. | REMEDIES AND TERMINATION                             | 44  |
| 33. | EXPIRY   | 45  |
| 34. | RELATIONSHIP WITH THE COOPERATION AGREEMENT          | 46  |
| 35. | DISPUTES   | 46  |
| 36. | COMMISSION'S DUTIES                                  | 47  |
| 37. | ASSIGNMENT   | 47  |
| 38. | CONFIDENTIALITY                                      | 47  |
| 39. | NOTICES  | 47  |
| 40. | COSTS AND REIMBURSING THE COMMISSION                 | 49  |
| 41. | SURVIVAL   | 49  |
| 42. | THIRD PARTY RIGHTS                                   | 49  |
| 43. | MISCELLANEOUS TERMS                                  | 50  |
| 44. | ENTIRE AGREEMENT                                     | 50  |
| 45. | GOVERNING LAW AND JURISDICTION                       | 50  |
|     | SCHEDULE 1   | 52  |
|     | Definitions and Interpretation                       | 52  |
|     | SCHEDULE 2   | 65  |
|     | Key Dates  | 65  |
|     | SCHEDULE 3   | 76  |
|     | Incoming Transition Plan Obligations                 | 76  |
|     | SCHEDULE 4   | 78  |
|     | Arrangements at Start Date                           | 78  |
|     | SCHEDULE 5   | 81  |
|     | Required Third Party Approvals                       | 81  |
|     | SCHEDULE 6   | 82  |
|     | SCHEDULE 7   | 83  |
|     | Implementation Financial Covenants                   | 83  |
| 2.  | GRANT OF THE LICENCE                                 | 89  |
| 3.  | TERM OF THE LICENCE                                  | 91  |
| 4.  | COMPLIANCE OBLIGATIONS                               | 92  |
| 5.  | FITNESS AND PROPRIETY OF THE LICENSEE                | 94  |
| 6.  | LOTTERY BENEFICIARIES AND LOTTERY SUPERVISORS        | 97  |
| 7.  | FITNESS AND PROPRIETY OF CRITICAL FUNCTION EMPLOYEES | 101 |
| 8.  | PROTECTING PARTICIPANTS' INTERESTS                   | 104 |
| 9.  | ENSURING ACCESS TO THE NATIONAL LOTTERY              | 108 |

|     |  |     |
|-----|--|-----|
| 10. | DISTRIBUTING NATIONAL LOTTERY PRODUCTS IN AN APPROPRIATE WAY | 109 |
| 11. | HAVING AN APPEALING BUT SAFE PORTFOLIO OF GAMES              | 111 |
| 12. | USE OF LOTTERY DATA  | 112 |
| 13. | THE NATIONAL LOTTERY BRAND AND REPUTATION                    | 114 |
| 14. | ACTIVITIES OTHER THAN RUNNING THE NATIONAL LOTTERY           | 115 |
| 15. | PAYMENTS TO GOOD CAUSES                                      | 117 |
| 16. | PROTECTING PARTICIPANT FUNDS                                 | 119 |
| 17. | LICENSEE AND ITS OPERATIONS TO BE FIT FOR PURPOSE            | 129 |
| 18. | FINANCIAL AND OPERATIONAL RESILIENCE                         | 132 |
| 19. | NATIONAL LOTTERY IP  | 137 |
| 20. | EMPLOYEES  | 142 |
| 21. | CONTRACTORS  | 144 |
| 22. | ENSURING GOOD GOVERNANCE                                     | 149 |
| 23. | PROVIDING INFORMATION AND ASSURANCE TO THE COMMISSION        | 152 |
| 24. | REGULATORY OVERSIGHT AND PERFORMANCE MANAGEMENT              | 156 |
| 25. | INDEPENDENT PERFORMANCE REVIEW                               | 159 |
| 26. | STARTING TO RUN THE NATIONAL LOTTERY UNDER THIS LICENCE      | 161 |
| 27. | EXIT   | 162 |
| 28. | OUTSTANDING LIABILITY FUND                                   | 170 |
| 29. | ENSURING CONFIDENTIAL INFORMATION IS PROTECTED               | 173 |
| 30. | FREEDOM OF INFORMATION                                       | 175 |
| 31. | NOTICES  | 176 |
| 32. | MISCELLANEOUS PROVISIONS                                     | 177 |
|     | SCHEDULE 1   | 179 |
|     | Glossary of words and phrases used in this Licence           | 179 |
|     | SCHEDULE 2   | 203 |
|     | Interpretation   | 203 |
|     | SCHEDULE 3   | 205 |
|     | Ancillary Activities   | 205 |
|     | SCHEDULE 4   | 206 |
|     | Control Arrangements   | 206 |
|     | SCHEDULE 5   | 207 |
|     | Good Causes Contribution                                     | 207 |
|     | SCHEDULE 6   | 226 |
|     | Financial Covenants  | 226 |
| 1.  | TERM AND EFFECT  | 2   |

|            |  |           |
|------------|--|-----------|
| <b>34.</b> | <b>OPERATION OF THIS AGREEMENT</b>                           | <b>2</b>  |
| <b>35.</b> | <b>DECISION PROCESS</b>                                      | <b>3</b>  |
| <b>36.</b> | <b>CHANGE CONTROL PROCESS</b>                                | <b>4</b>  |
| <b>37.</b> | <b>TRANSITION PLANS</b>                                      | <b>4</b>  |
| <b>38.</b> | <b>LIST OF ITEMS TO TRANSFER</b>                             | <b>6</b>  |
| <b>39.</b> | <b>CONTINUING OBLIGATIONS</b>                                | <b>8</b>  |
| <b>40.</b> | <b>TRANSFER ACTIVITIES</b>                                   | <b>11</b> |
| <b>41.</b> | <b>TRANSITION ASSISTANCE SERVICES ACTIVITIES</b>             | <b>13</b> |
| <b>42.</b> | <b>OTHER COOPERATION ACTIVITIES</b>                          | <b>15</b> |
| <b>43.</b> | <b>INFORMATION AND ACCESS</b>                                | <b>16</b> |
| <b>44.</b> | <b>TRANSFER REGULATIONS</b>                                  | <b>16</b> |
| <b>45.</b> | <b>LOTTERY IP</b>  | <b>17</b> |
| <b>46.</b> | <b>TRANSITION TO THE 4NL TRUST</b>                           | <b>19</b> |
| <b>47.</b> | <b>WRONG POCKETS AND FINANCIAL RECONCILIATION</b>            | <b>21</b> |
| <b>48.</b> | <b>INDEMNITIES</b>   | <b>23</b> |
| <b>49.</b> | <b>DATA PROTECTION</b>                                       | <b>24</b> |
| <b>50.</b> | <b>REMEDIES</b>  | <b>24</b> |
| <b>51.</b> | <b>MONITORING OF COOPERATION</b>                             | <b>25</b> |
| <b>52.</b> | <b>GOVERNANCE</b>  | <b>25</b> |
| <b>53.</b> | <b>TERMINATION</b>   | <b>27</b> |
| <b>54.</b> | <b>INTERRELATION OF AGREEMENTS</b>                           | <b>28</b> |
| <b>55.</b> | <b>DELAYS TO THE START DATE</b>                              | <b>28</b> |
| <b>56.</b> | <b>CONFIDENTIALITY</b>                                       | <b>29</b> |
| <b>57.</b> | <b>OUTGOING LICENSEE AND INCOMING LICENSEE AS AFFILIATES</b> | <b>30</b> |
| <b>58.</b> | <b>COSTS</b>   | <b>31</b> |
| <b>59.</b> | <b>DISPUTES</b>  | <b>33</b> |
| <b>60.</b> | <b>FREEDOM OF INFORMATION</b>                                | <b>34</b> |
| <b>61.</b> | <b>COMMISSION'S DUTIES</b>                                   | <b>34</b> |
| <b>62.</b> | <b>ASSIGNMENT</b>  | <b>34</b> |
| <b>63.</b> | <b>NOTICES</b>   | <b>34</b> |
| <b>64.</b> | <b>SURVIVAL</b>  | <b>36</b> |
| <b>65.</b> | <b>THIRD PARTY RIGHTS</b>                                    | <b>37</b> |
| <b>66.</b> | <b>MISCELLANEOUS TERMS</b>                                   | <b>37</b> |
| <b>67.</b> | <b>ENTIRE AGREEMENT</b>                                      | <b>37</b> |
| <b>68.</b> | <b>GOVERNING LAW AND JURISDICTION</b>                        | <b>37</b> |
|            | <b>SCHEDULE 1</b>  | <b>40</b> |

|                                       |           |
|---------------------------------------|-----------|
| <b>Interpretation</b>                 | <b>40</b> |
| <b>SCHEDULE 2</b>                     | <b>57</b> |
| <b>Key Dates</b>                      | <b>57</b> |
| <b>SCHEDULE 3</b>                     | <b>60</b> |
| <b>The Categories</b>                 | <b>60</b> |
| <b>SCHEDULE 4</b>                     | <b>61</b> |
| <b>Transferring Items</b>             | <b>61</b> |
| <b>SCHEDULE 5</b>                     | <b>68</b> |
| <b>Expert Determination</b>           | <b>68</b> |
| <b>SCHEDULE 6</b>                     | <b>69</b> |
| <b>Deeds of Adherence</b>             | <b>69</b> |
| <b>APPENDIX 1</b>                     | <b>73</b> |
| <b>Transition Plan Requirements</b>   | <b>73</b> |
| <b>APPENDIX 2</b>                     | <b>75</b> |
| <b>Transfer and Receipt Mechanics</b> | <b>75</b> |
| <b>APPENDIX 3</b>                     | <b>82</b> |
| <b>Forms of Transfer</b>              | <b>82</b> |



THIS AGREEMENT is dated

2021

**BETWEEN:**

- (3) The Gambling Commission of Victoria Square House, Victoria Square, Birmingham, B2 4BP (the "**Commission**");
- (4) 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
- (5) Allwyn Entertainment Ltd, a company registered in England and Wales with registered number 13157556 whose registered office is at 5<sup>th</sup> Floor, One Connaught Place, London W2 2ET (the "**Incoming Licensee**").

**BACKGROUND:**

- (J) The Commission is responsible for authorising persons to run the National Lottery.
- (K) The Outgoing Licensee currently runs the National Lottery pursuant to the Third Licence which expires at 23:59 on the Expiry Date.
- (L) The Incoming Licensee will run the National Lottery pursuant to the New Licence from 00:00 on the Start Date.
- (M) 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.
- (N) 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.

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

- (P) 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.
- (Q) 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 \_\_\_\_\_ to reflect certain process and timetable changes agreed between the Incoming Licensee and the Commission as amendments to the Enabling Agreement.

33. **TERM AND EFFECT**

- 33.1 This Agreement, which will be interpreted in accordance with Schedule 1, binds the Commission and the Outgoing Licensee on and from the Effective Date.
- 33.2 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.
- 33.3 Subject to earlier termination in accordance with its terms and to clause 41 (*Survival*), this Agreement will expire on the Long Stop Date.

34. **OPERATION OF THIS AGREEMENT**

34.1 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**").

34.2 This Agreement sets out, in respect of each category of Transition Activities described in clause 34.1:

- (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.

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

## 35. **DECISION PROCESS**

35.1 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 35.1(c) on or before the date specified as the “**Commission Direction Date**” and in a manner calculated to achieve the Purpose of Cooperation.

35.2 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.

### 36. **CHANGE CONTROL PROCESS**

36.1 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 36.2 and 36.3 will apply with respect to that Change Proposal (the “**Change Control Process**”).

36.2 Subject to clause 36.3, 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.

36.3 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.

### 37. **TRANSITION PLANS**

37.1 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.

- 37.2 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.
- 37.3 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.
- 37.4 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 46) 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 37.4.
- 37.5 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.
- 37.6 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.

37.7 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**”.

37.8 The Transition Plans agreed and (if applicable) further amended in accordance with this clause 37 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.

37.9 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.

## 38. LIST OF ITEMS TO TRANSFER

38.1 All:

- (a) information required to be provided by the Outgoing Licensee pursuant to this clause 38:
  - (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 38:

- (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.

- 38.2 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.
- 38.3 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"**).
- 38.4 Promptly following confirmation of the Initial List in accordance with clause 38.3 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.
- 38.5 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 38.4; 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 38.4, 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.
- 38.6 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 38.5. 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.

- 38.7 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.

- 38.8 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.

- 38.9 Following receipt of the Final List in accordance with clause 38.8, the Commission may require the Outgoing Licensee to undertake rectification and/or maintenance work in accordance with Condition 18.19 of the Third Licence.

39. **CONTINUING OBLIGATIONS**

- 39.1 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.

- 39.2 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"**)

- 39.3 Once the Statement of Continuing Obligations has been determined in accordance with clause 39.2, 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.

39.4 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.

39.5 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 47.5 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 39.6.

39.6 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 39 (“**IL Recoverable Dispute Costs**”).

39.7 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 39.6(b)), the Outgoing Licensee must promptly comply with such direction.

39.8 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 39.1; 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.

39.9 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.

39.10 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 39.9) 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.

- 39.11 The Continuing Obligations Plan agreed and (if applicable) further amended in accordance with this clause 39 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.

#### 40. **TRANSFER ACTIVITIES**

40.1 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.

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

40.3 Following confirmation of the Initial List in accordance with clause 38.3, 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**”.

40.4 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 40.5.

40.5 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 40.5(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 40.5(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.

40.6 Following the confirmation of the Final List in accordance with clause 38.8, 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**".

40.7 The Transfer Plan agreed and (if applicable) further amended in accordance with this clause 40 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.

- 40.8 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.

- 40.9 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.

#### 41. **TRANSITION ASSISTANCE SERVICES ACTIVITIES**

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

- 41.2 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.

- 41.3 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.

- 41.4 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.

- 41.5 Following the exchange of proposals in relation to the scope of the Transition Assistance Services to be provided in accordance with clause 41.4, 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**”.
- 41.6 Once the Transition Assistance Services Scope has been determined in accordance with clause 41.5, 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**”.
- 41.7 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.
- 41.8 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.
- 41.9 Following receipt of the proposals described in clause 41.8, 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**”.

41.10 The Statement of Transition Assistance Services agreed and (if applicable) further amended in accordance with this clause 41 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.

## 42. OTHER COOPERATION ACTIVITIES

42.1 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.

42.2 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 52 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.

42.3 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.

42.4 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 42 to ensure that the Purpose of Cooperation is achieved.

**43. INFORMATION AND ACCESS**

43.1 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 52 in connection with the Purpose of Cooperation.

43.2 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.

43.3 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.

**44. TRANSFER REGULATIONS**

44.1 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).

- 44.2 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.
- 44.3 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.
- 44.4 In relation to those Transferring Licensee Staff members notified to the Outgoing Licensee in accordance with clause 44.3, 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.

- 44.5 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 44.1 to 44.4 with respect to such employees as if such persons were Transferring Licensee Staff.

**45. LOTTERY IP**

- 45.1 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 45.2(b)(ii)).

45.2 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.

45.3 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 45.3(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.

45.4 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.

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

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

46.1 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.

46.2 The information to be provided in accordance with Clause 46.1 shall include details of:

- (a) the matters specified in that Clause 46.1 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 46.1 as at the Expiry Date.

46.3 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 46.4 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.

46.4 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.

46.5 Without prejudice to clause 46.3, 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.

46.6 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.

46.7 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.

46.8 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.

46.9 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.

46.10 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.

46.11 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.

#### 47. **WRONG POCKETS AND FINANCIAL RECONCILIATION**

47.1 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.

- 47.2 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.
- 47.3 The Outgoing Licensee shall bear the cost of any transfer of an asset pursuant to clause 47.1 or 47.2, 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.
- 47.4 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 58) (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.
- 47.5 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 47.4;
  - (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 39.6:
    - (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.

48. **INDEMNITIES**

- 48.1 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 48.
- 48.2 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**”).
- 48.3 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.
- 48.4 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.
- 48.5 Nothing in clause 48.4 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.
- 48.6 Except in relation to clause 48.7, any failure by Party B to comply with the terms of clause 48.3 or 48.4 shall not prejudice the rights of Party B in relation to any Indemnity Claim, except to the extent that such failure prejudices Party A.
- 48.7 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.
- 48.8 Subject to clause 48.9, 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 48.7 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),
- 48.9 If, in respect of any Indemnity Claim notified to Party A in accordance with clause 48.7, 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 59.

48.10 Nothing in this clause 48 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.

#### 49. DATA PROTECTION

49.1 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.

49.2 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.

#### 50. REMEDIES

50.1 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 50.2, 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).

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

- (a) each of clauses:
  - (i) 47.5 (*Wrong Pockets and Financial Reconciliation*); and
  - (ii) 56 (*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 50.1.

50.3 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.



**51. MONITORING OF COOPERATION**

51.1 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.

51.2 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.

**52. GOVERNANCE**

52.1 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.

52.2 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.

52.3 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.

52.4 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.
- 52.5 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.
- 52.6 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.
- 52.7 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 52.6 (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 51.1(a).

53. **TERMINATION**

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

53.2 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.

53.3 If the Commission serves a Reserve Applicant Notice in accordance with clause 53.2:

(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).

53.4 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.

**54. INTERRELATION OF AGREEMENTS**

54.1 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.

54.2 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.

**55. 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.

56. **CONFIDENTIALITY**

56.1 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.

56.2 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.
- 56.3 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 29.1.
- 56.4 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 29.2(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.
- 56.5 Within 10 Business Days of the service of a Reserve Applicant Notice in accordance with clause 53.2(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).
- 56.6 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 56.5.

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

- 57.1 If the Outgoing Licensee and the Incoming Licensee are:
- (a) Affiliates; or
  - (b) the same person,
- the provisions of this clause 57 will apply.
- 57.2 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 36.

57.3 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.

## 58. COSTS

58.1 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.

58.2 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 58.1), 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 58.3 and 58.4.

58.3 The following principles shall be taken into account in determining the equitable apportionment of any cost described in clause 58.2:

- (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 58 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.

58.4 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 58.3 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.

58.5 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 58.3 and 58.4.

58.6 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 58.5 (a "**Disputed Cost**"), the matter shall be escalated to the Transition Programme Managers for resolution.

58.7 If, within 20 Business Days of referral to the Transition Programme Managers in accordance with clause 58.6 (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.

## 59. **DISPUTES**

59.1 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.

59.2 Without prejudice to clause 50 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 59.2(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 50 and clause 59.3, such decision shall be final and binding on the parties.

59.3 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.

**60. FREEDOM OF INFORMATION**

60.1 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.

60.2 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.

60.3 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.

60.4 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.

**61. COMMISSION'S DUTIES**

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

**62. ASSIGNMENT**

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

**63. NOTICES**

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

63.2 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 39.3 (or if otherwise notified by the relevant person under clause 39.3 to such other contact address as has been so notified).

63.3 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

63.4 A party must give the other party reasonable advance notice of any change to the notice details set out in clause 39.3.

63.5 A notice is deemed to have been received (provided that all other requirements in this clause 63 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 39.5 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 39.5, Usual Business Hours means 9.00 am to 5.30 pm on a Business Day.

#### 64. **SURVIVAL**

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

- (a) clause 47 (Wrong Pockets and Financial Reconciliation);
- (b) clause 48 (*Indemnities*);
- (c) clause 50 (*Remedies*);
- (d) clause 56 (*Confidentiality*);
- (e) clause 58 (*Costs*);
- (f) clause 59 (*Disputes*);
- (g) clause 60 (*Freedom of Information*);
- (h) clause 61 (*Commission's Duties*);
- (i) clause 63 (*Notices*);
- (j) clause 65 (*Third Party Rights*);
- (k) clause 66 (*Miscellaneous Terms*);
- (l) clause 67 (*Entire Agreement*); and
- (m) clause 68 (*Governing Law and Jurisdiction*).

**65. THIRD PARTY RIGHTS**

- 65.1 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.
- 65.2 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.

**66. MISCELLANEOUS TERMS**

- 66.1 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.
- 66.2 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.
- 66.3 The rights and remedies provided by this Agreement are cumulative and, subject to clause 59.2(d), do not exclude any rights and remedies provided by law.
- 66.4 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.
- 66.5 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.
- 66.6 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.

**67. ENTIRE AGREEMENT**

- 67.1 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.
- 67.2 Nothing in this clause limits or excludes liability arising as a result of fraud or wilful misconduct.

**68. GOVERNING LAW AND JURISDICTION**

- 68.1 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.
- 68.2 Without prejudice to clause 50 and clause 59, 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 )  
)

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

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

**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:

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



|                                  |                 |   |
|----------------------------------|-----------------|---|
| <b>Business Day</b>              |                 | any day which is not a Saturday, a Sunday or a bank or public holiday in England  |
| <b>Category</b>                  |                 | in respect of assets, liabilities, rights and obligations, the categories specified in Schedule 3   |
| <b>Central System</b>            | <b>Computer</b> | the system used to record and store wagers, determine winners and validate prizes   |
| <b>Change Control Process</b>    |                 | has the meaning given in clause 36.1  |
| <b>Change Proposal</b>           |                 | 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   |
| <b>Commission Direction Date</b> |                 | has the meaning given in clause 35.1(d)   |
| <b>Competition</b>               |                 | the competition organised by the Commission for the award of the New Licence  |
| <b>Competition Room</b>          | <b>Data</b>     | <p>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:</p> <ul style="list-style-type: none"><li>(a) during the Competition, for inspection by applicants; and</li><li>(b) after the Adherence Date, for inspection by the Incoming Licensee</li></ul>  |
| <b>Completion</b>                |                 | the time at which the Expiry Date ends and the Start Date begins  |
| <b>Confidential Information</b>  |                 | 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  |
| <b>Continuing Game</b>           |                 | has the meaning given to it in clause 34.1(e)(vi)   |
| <b>Continuing Obligations</b>    |                 | <p>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:</p> <ul style="list-style-type: none"><li>(b) 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)</li></ul> |

- (c) 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);
- (d) obligations in connection with the operation of any Continuing Game by the Incoming Licensee on and from the Start Date;
- (e) 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
- (f) 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 39

**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

|                                      |   |
|--------------------------------------|---|
| <b>Data Controller</b>               | has the meaning given to that term in the Data Protection Legislation in force in the UK from time to time  |
| <b>Data Protection Legislation</b>   | 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 |
| <b>Decision and Decision Process</b> | have the meanings given in clause 35  |
| <b>Deed of Adherence</b>             | 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   |
| <b>Deed of Commitment</b>            | 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  |
| <b>Director</b>                      | any executive or non-executive director   |
| <b>Distributor</b>                   | any person authorised by the Outgoing Licensee who sells or offers for sale any National Lottery tickets, other than the Outgoing Licensee  |
| <b>Draw</b>                          | 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   |
| <b>Draw-based Facilities</b>         | facilities where tickets for a Draw-based Game may be purchased   |
| <b>Draw-based Game</b>               | 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   |
| <b>EA Termination Notice</b>         | a notice terminating the Enabling Agreement issued to the Incoming Licensee by the Commission in accordance with the terms of the Enabling Agreement  |
| <b>Effective Date</b>                | the date of this Agreement  |
| <b>EIR</b>                           | Environmental Information Regulations 2004  |
| <b>Enabling Agreement</b>            | 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   |

|   |                                |   |
|---|--------------------------------|---|
| <b>EuroMillions Shares</b>                    |                                | the shares in the capital of Services aux Loteries en Europe SCRL owned by the Outgoing Licensee immediately prior to Completion  |
| <b>Expert</b>                                 |                                | has the meaning set out in Schedule 5   |
| <b>Expiry Date</b>                            |                                | the date on which the Third Licence expires   |
| <b>Extended Company</b>                       | <b>Group</b>                   | 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 |
| <b>Final Date</b>                             | <b>Confirmation</b>            | has the meaning given in Schedule 2   |
| <b>Final Obligations Plan</b>                 | <b>Continuing</b>              | has the meaning given in clause 39.10(d)  |
| <b>Final Transition Plan</b>                  | <b>Incoming</b>                | the Incoming Transition Plan determined in accordance with clause 37.7  |
| <b>Final List</b>                             |                                | has the meaning given in clause 38.8  |
| <b>Final Transition Plan</b>                  | <b>Outgoing</b>                | the Outgoing Transition Plan determined in accordance with clause 37.7  |
| <b>Final Statement of Transition Services</b> | <b>Statement of Assistance</b> | has the meaning given in clause 41.9(d)   |
| <b>Final Transfer Plan</b>                    |                                | has the meaning given in clause 40.6(d)   |
| <b>Final Transition Plans</b>                 |                                | has the meaning given in clause 37.7(d)   |
| <b>First Confirmation Date</b>                |                                | has the meaning given in Schedule 2   |
| <b>First Information Date</b>                 |                                | 3 October 2022  |
| <b>First Initial Checkpoint</b>               |                                | 21 November 2022  |
| <b>First Reference Date</b>                   |                                | 4 August 2022   |
| <b>First Scope Date</b>                       |                                | 12 December 2022  |
| <b>Fit and Proper Check</b>                   |                                | has the meaning given to it in the New Licence  |
| <b>FOIA</b>                                   |                                | Freedom of Information Act 2000   |
| <b>Form of Document</b>                       | <b>Transfer</b>                | 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  |
| <b>Game</b>                                   |                                | 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  |

|  |   |
|--|---|
| <b>Gaming Software</b>                           | any software which is: <ul style="list-style-type: none"><li>(a) not a generally available business application software; and</li><li>(b) integral to the operation of any Game</li></ul>   |
| <b>Good Causes</b>                               | has the meaning given to it in the New Licence  |
| <b>Group Company</b>                             | 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  |
| <b>handover</b>                                  | handover from the Outgoing Licensee to the Incoming Licensee  |
| <b>Handover Period</b>                           | the period starting on the date of this Agreement and ending on the Long Stop Date  |
| <b>Homogeneous Group</b>                         | any group of assets, liabilities, rights or obligations which: <ul style="list-style-type: none"><li>(g) are all of a single Category; and</li><li>(h) are all of substantially the same nature such as contracts with a large number of parties all on substantially the same terms</li></ul>                            |
| <b>Implementation</b>                            | the process by which the Incoming Licensee implements its Application to run the National Lottery in accordance with the Enabling Agreement   |
| <b>Incoming Licensee Lottery IP Licence</b>      | the exclusive licence granted by the Commission to the Incoming Licensee to use Lottery IP  |
| <b>Incoming Licensee Lottery IP Sub-Licences</b> | 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  |
| <b>Incoming Transition Governance Board</b>      | 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   |
| <b>Incoming Transition Plan</b>                  | 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) |
| <b>Incoming Transition Plan Obligations</b>      | the obligations, pursuant to the Enabling Agreement, of the Incoming Licensee with respect to the Incoming Transition Plan as described in Appendix 1   |
| <b>Independent Surveyor</b>                      | the independent surveyor appointed to undertake the Asset Survey  |
| <b>Initial Continuing Obligations Plan</b>       | has the meaning given to it in clause 39.3(d)   |

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| <b>Initial Incoming Transition Plan</b>                    | the Incoming Transition Plan which is the Initial Transition Plan to be adopted and implemented by the Incoming Licensee in accordance with clause 37   |
| <b>Initial List</b>  | has the meaning given to it in clause 38.3  |
| <b>Initial Outgoing Transition Plan</b>                    | the Outgoing Transition Plan which is the Initial Transition Plan to be adopted and implemented by the Outgoing Licensee in accordance with clause 37   |
| <b>Initial Statement of Transition Assistance Services</b> | has the meaning given to it in clause 41.6(d)   |
| <b>Initial Transfer Plan</b>                               | has the meaning given to it in clause 40.3(d)   |
| <b>Initial Transition Assistance Services Scope</b>        | has the meaning given to it in clause 41.5(d)   |
| <b>Initial Transition Plans</b>                            | has the meaning given to it in clause 37.4(d)   |
| <b>Items to Potentially Transfer</b>                       | any item in any Category in each case that will, or is reasonably likely to, subsist as at Completion   |
| <b>Joint Transition Governance Board</b>                   | 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   |
| <b>Key Dates</b>   | each of the dates so specified in Schedule 2  |
| <b>Last Scope Date</b>                                     | has the meaning given in Schedule 2   |
| <b>Licensee Assets</b>                                     | all assets used in the operation of the National Lottery including, for the avoidance of doubt, any shareholdings   |
| <b>Licensee Parties</b>                                    | the Outgoing Licensee and the Incoming Licensee   |
| <b>Licensee Staff</b>                                      | in respect of the Outgoing Licensee, any and all of the following:<br><br>(i) employees (temporary and permanent);<br><br>(j) agency workers engaged in providing services;<br><br>(k) any employees seconded from any other entity; and/or<br><br>(l) any other worker (as defined in section 230 of the Employment Rights Act 1996) engaged in providing services |
| <b>Licensee Subcontract</b>                                | (m) any agreement including any software licence entered into by the Outgoing Licensee and any third party(ies) in connection with the National Lottery; or<br><br>(n) save where the Commission agrees otherwise, any agreement relating to an Ancillary Activity which the  |

Outgoing Licensee has agreed with an Extended Group Company

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| <b>Licensee Subcontractor</b> | a third party with whom the Outgoing Licensee has entered into a Licensee Subcontract   |
| <b>Long Stop Date</b>         | the date which is 18 months from the Expiry Date  |
| <b>Lottery Data</b>           | 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  |
| <b>Lottery Database</b>       | <p>a collection of independent works, data or other materials which</p> <ul style="list-style-type: none"><li>(o) are arranged in a systematic or methodical way;</li><li>(p) are individually accessible by electronic or other means; and</li><li>(q) 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,</li></ul> <p>including, for the avoidance of doubt, any Licensee Database (as defined in the Third Licence)</p>   |
| <b>Lottery Dispute</b>        | 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   |
| <b>Lottery IP</b>             | <ul style="list-style-type: none"><li>(r) 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;</li><li>(s) each name of a Game, including the design of the ticket or entry for that Game;</li><li>(t) 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"><li>(i) specified by the Commission as being "Lottery IP"; or</li><li>(ii) used only in connection with the promotion and running of the National Lottery, any Game or any Ancillary Activity;</li></ul></li></ul> |

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| <b>Lottery Obligations</b>                       | 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   |
| <b>Lottery Rights</b>                            | 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  |
| <b>Lottery Supervisor</b>                        | has the meaning given to it in the New Licence  |
| <b>Matters to be Protected</b>                   | has the meaning given to it in the New Licence  |
| <b>New Licence</b>                               | 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  |
| <b>Operator Goodwill</b>                         | 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                 |
| <b>Ongoing Disputes</b>                          | 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          |
| <b>Operational Actions</b>                       | in respect of each Category, the actions specified in Schedule 4  |
| <b>Operational Committee</b>                     | 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 |
| <b>Other Licensee Reserves</b>                   | monies, if any, other than 3NL Trust Monies reserved or otherwise allocated by the Outgoing Licensee for the purposes of discharging Protected Continuing Obligations   |
| <b>Outgoing Licensee Lottery IP Licence</b>      | the exclusive licence granted by the Commission to the Outgoing Licensee to use Lottery IP  |
| <b>Outgoing Licensee Lottery IP Sub-Licences</b> | 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  |
| <b>Outgoing Transition Plan</b>                  | a plan prepared, and to be implemented, by the Outgoing Licensee, to achieve Operator Transfer in a manner which fulfils the Purpose of Cooperation   |



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| <b>Outgoing Transition Plan Obligations</b>    | the obligations, pursuant to the Third Licence, of the Outgoing Licensee with respect to the Outgoing Transition Plan as described in Appendix 1  |
| <b>party</b>                                   | save where the context otherwise requires, the Commission and the Outgoing Licensee and, with effect from the Adherence Date, the Incoming Licensee   |
| <b>Personal Data</b>                           | has the meaning given to that term in the Data Protection Legislation in force in the UK from time to time  |
| <b>Player</b>                                  | in relation to a Game, a person who has bought or been given a ticket or a chance in the Game   |
| <b>Player Subscriptions</b>                    | 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 |
| <b>Prize</b>                                   | a prize in any Game   |
| <b>Prize Validation Software</b>               | software used for the purpose of verifying prize winners and the amounts of Prize payments  |
| <b>Prize Winner</b>                            | a person who has won a Prize in accordance with the rules of the relevant Game  |
| <b>Property Interests</b>                      | any property owned, leased, held under licence or otherwise operated and occupied by the Outgoing Licensee  |
| <b>Proposed Final Incoming Transition Plan</b> | means the form of Final Incoming Transition Plan proposed by the Incoming Licensee in accordance with clause 37.6(b)  |
| <b>Proposed Final Outgoing Transition Plan</b> | means the form of Final Outgoing Transition Plan proposed by the Outgoing Licensee in accordance with clause 37.6(a)  |
| <b>Proposed Incoming Transition Plan</b>       | means the form of the Initial Incoming Transition Plan proposed by the Incoming Licensee in accordance with clause 37.3   |
| <b>Proposed Outgoing Transition Plan</b>       | means the form of the Initial Outgoing Transition Plan proposed by the Outgoing Licensee in accordance with clause 37.3   |
| <b>Protected Continuing Obligation</b>         | any Continuing Obligation to pay any Prize or any other amount to any Player which is a 3NLTrust Secured Obligation   |

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| <b>Purpose of Cooperation</b>              | the purpose stated in clause 2.1  |
| <b>Purpose of Implementation</b>           | 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  |
| <b>Receipt Mechanics</b>                   | 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  |
| <b>Reletting Materials</b>                 | 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) |
| <b>Relevant 3NL Trust Transition Date</b>  | 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  |
| <b>Removed Incoming Licensee</b>           | has the meaning given in clause 53.3(a)   |
| <b>Required Decision Date</b>              | has the meaning given in clause 35.1(a)   |
| <b>Required Information</b>                | in respect of each Category, the information specified in the column headed ' <i>Required Information</i> ' of the table set out in Schedule 4  |
| <b>Reserve Applicant</b>                   | the person identified as the "Reserve Applicant" in the Reserve Applicant Notice  |
| <b>Reserve Applicant Deed of Adherence</b> | 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   |
| <b>Reserve Applicant Notice</b>            | 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

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| <b>Scratchcard Lottery</b>                         |                | 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 |
| <b>Scratchcard Lottery Tickets</b>                 | <b>Lottery</b> | a ticket for a Scratchcard Lottery  |
| <b>Second Checkpoint</b>                           | <b>Final</b>   | has the meaning given in Schedule 2   |
| <b>Second Checkpoint</b>                           | <b>Initial</b> | 16 June 2023  |
| <b>Second Reference Date</b>                       |                | has the meaning given in Schedule 2   |
| <b>Start Date</b>                                  | (a)            | the date immediately following the Expiry Date; or  |
|  | (b)            | such later date as the Commission may specify in accordance with the Enabling Agreement   |
| <b>Statement of Continuing Obligations</b>         | <b>of</b>      | has the meaning given in clause 39.2  |
| <b>Statement of Transition Assistance Services</b> |                | 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 41  |
| <b>Successful Applicant</b>                        |                | the entity the Commission issues an Award Notification to (as defined in the Deed of Commitment)  |
| <b>Terms of Reference</b>                          |                | 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)                     |
| <b>Third Licence</b>                               |                | the licence awarded under s5 of the Act in effect at the date of this Agreement   |
| <b>Transfer Mechanics</b>                          |                | 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   |
| <b>Transfer Plan</b>                               |                | a plan prepared in accordance with clause 40 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 40

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| <b>Transfer Regulations</b>                     | the Transfer of Undertakings (Protection of Employment) Regulations 2006  |
| <b>Transferring Data</b>                        | 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                 |
| <b>Transferring Licensee Assets</b>             | 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              |
| <b>Transferring Licensee Staff</b>              | 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                                   |
| <b>Transferring Items</b>                       | 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  |
| <b>Transferring Lottery IP</b>                  | 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 |
| <b>Transferring Licensee Subcontract</b>        | 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        |
| <b>Transferring Property Interests</b>          | 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           |
| <b>Transferring Scratchcard Lottery Tickets</b> | 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      |
| <b>Transferring Subcontractor Staff</b>         | 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               |

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| <b>Transition Assistance Services</b>             | transition assistance services which the Outgoing Licensee is required by the Third Licence to provide if required to do so   |
| <b>Transition Assistance Services Obligations</b> | the obligations of the Outgoing Licensee described in paragraphs 1(c) and 2(c) of Appendix 1  |
| <b>Transition Issue</b>                           | 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  |
| <b>Transition Lottery Monies</b>                  | any monies which, as at 00:01 on the Start Date are held: <ul style="list-style-type: none"><li>(a) in any account established pursuant to Condition 19 of the Third Licence;</li><li>(b) by any person subject to an obligation to pay those monies to an account established pursuant to Condition 19 of the Third Licence</li></ul>  |
| <b>Transition Plan</b>                            | each of the Outgoing Transition Plan and the Incoming Transition Plan in place from time to time  |
| <b>Transition Programme Manager</b>               | the person appointed by each Licensee Party who has the responsibilities set out in clause 52.1   |
| <b>Transition Review</b>                          | 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"><li>(a) Outgoing Licensee's compliance with the Outgoing Transition Plan; and/or</li><li>(b) Incoming Licensee's compliance with the Incoming Transition Plan</li></ul>   |
| <b>Trust and Reserve Arrangements</b>             | arrangements which: <ul style="list-style-type: none"><li>(u) provide for the discharge of all Protected Continuing Obligations using 3NL Trust Monies and Other Licensee Reserves whether any such payment is made by:<ul style="list-style-type: none"><li>(i) the Outgoing Licensee;</li><li>(ii) the 3NL Trustee;</li><li>(iii) the Incoming Licensee; or</li><li>(iv) the 4NL Trustee;</li></ul>("Continuing Player Obligation Arrangements")</li><li>(v) provide for any arrangements between the Outgoing Licensee, the Incoming Licensee, the 3NL Trustee and the 4NL Trustee in relation to discharge of any</li></ul> |

other 3NL Secured Obligation (“**Other Continuing Secured Obligation Arrangements**”); and

- (w) 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 42.2 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  |
| <b>Last Scope Date</b>         | 22 August 2023    | <ul style="list-style-type: none"> <li>• n/a</li> </ul>   | <ul style="list-style-type: none"> <li>• IL provides Final List</li> <li>• GC notifies OL and IL of any new Continuing Obligations</li> </ul>                          | <ul style="list-style-type: none"> <li>• n/a</li> </ul>  | <ul style="list-style-type: none"> <li>• n/a</li> </ul>                                 |
| <b>First Confirmation Date</b> | 25 September 2023 | <ul style="list-style-type: none"> <li>• GC approves or imposes Initial Transition Plans (including Coordinated Action Plan and Arrangements for Protected Continuing Obligations)</li> </ul> | <ul style="list-style-type: none"> <li>• GC approves or imposes Initial Continuing Obligations Plan</li> <li>• GC approves or imposes Initial Transfer Plan</li> </ul> | <ul style="list-style-type: none"> <li>• GC approves or imposes Initial Statement of Transition Assistance Services</li> </ul> | <ul style="list-style-type: none"> <li>• GC may issue Cooperation Directions</li> </ul> |

| 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  |
| <b>Ongoing (Subject to Governance Process)</b> | From First Confirmation Date to Second Final Checkpoint | <ul style="list-style-type: none"> <li>OL and IL must provide any information potentially relevant to updating Transition Plans, which then go through the Change Control Process</li> <li>OL and IL must cooperate with view to updating Transition Plans (including Coordinated Action Plan)</li> </ul> | <ul style="list-style-type: none"> <li>OL must provide any update to Initial List/Required Information</li> <li>Initial List can be updated by the IL following results of Asset Survey</li> <li>IL can identify any missing or incorrect items or actions</li> <li>OL and IL implement and regularly update Initial Continuing Obligations Plan</li> <li>OL and IL regularly update and prepare for the implementation of the Initial Transfer Plan</li> </ul> | <ul style="list-style-type: none"> <li>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</li> </ul> | <ul style="list-style-type: none"> <li>OL and IL can make Cooperation Requests as a Change Proposal</li> <li>GC may impose changes to, or additional, Cooperation Directions as required</li> </ul> |
| <b>Second Final Checkpoint</b>                 | 27 October 2023 (15 BD before FCD)                      | <ul style="list-style-type: none"> <li>Deadline for OL and IL to confirm Final Transition Plans</li> <li>IL and OL deliverables captured within Transition Plans therefore negates requirement for the Coordinated Action Plan</li> </ul>   | <ul style="list-style-type: none"> <li>Deadline for OL and IL to confirm Final Continuing Obligations Plan</li> <li>Deadline for OL and IL to confirm Final Transfer Plan</li> </ul>  | <ul style="list-style-type: none"> <li>Deadline for OL and IL to confirm Final Statement of Transition Assistance Services</li> </ul>  | n/a   |
| <b>Final Confirmation Date (FCD)</b>           | 17 November 2023  | <ul style="list-style-type: none"> <li>GC approves or imposes Final Transition Plans</li> </ul>   | <ul style="list-style-type: none"> <li>GC approves or imposes Final Continuing Obligations Plan</li> <li>GC approves or imposes Final Transfer Plan</li> </ul>  | <ul style="list-style-type: none"> <li>GC approves or imposes Final Statement of Transition Assistance Services</li> </ul>   | n/a   |
| <b>First Readiness Date</b>                    | 1 December 2023 (40 BD before Expiry Date)              | <ul style="list-style-type: none"> <li>Cut-over Status Report and Business Readiness Status Report</li> </ul>   | 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 |
| <b>Second Readiness Date</b> | 15 December 2023 (30 BD before Expiry Date) | <ul style="list-style-type: none"> <li>Cut-over Status Report and Business Readiness Status Report</li> </ul> | n/a                 | n/a                                       | n/a                          |
| <b>Third Readiness Date</b>  | 3 January 2024 (20 BD before Expiry Date)   | <ul style="list-style-type: none"> <li>Cut-over Status Report and Business Readiness Status Report</li> </ul> | n/a                 | n/a                                       | n/a                          |
| <b>Final Readiness Date</b>  | 17 January 2024 (10 BD before Expiry Date)  | <ul style="list-style-type: none"> <li>Cut-over Status Report and Business Readiness Status Report</li> </ul> | n/a                 | n/a                                       | n/a                          |

## **SCHEDULE 3**

### **The Categories**

#### **Items which may become Transferring Items**

69. Licensee Subcontracts (including Licensee Subcontracts relating to the broadcasting of the National Lottery)
70. Property Interests
71. Lottery IP (including any Lottery IP which relates to broadcasting of the National Lottery) and Operator Goodwill
72. Licensee Staff and Transferring Subcontractor Staff
73. Lottery Data (including Lottery Databases and data relating to Player Subscriptions and online accounts)
74. Scratchcard Lottery Tickets
75. 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**

76. Continuing Obligations
77. Ongoing Disputes.

## SCHEDULE 4

### Transferring Items

| Category<br><small>(including only those items in the category which are Transferring Items)</small> | Required Information<br><small>Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline</small>  | Operational Actions<br><small>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</small>  |
|--|--|---|
| 1. <b>Licensee Subcontracts</b>  | <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"> <li>(i) accrued but unperformed obligations of the Outgoing Licensee;</li> <li>(ii) breaches by either the Outgoing Licensee or the contract counterparty which are, the subject of any actual or impending litigation or arbitration; and</li> <li>(iii) liability in respect of any act or omission of the Outgoing Licensee under or in relation to the Transferring Licensee Subcontract.</li> </ul> | <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. <b>Property Interests</b>   | <p>(a) copies of all deeds and documents relevant to each Transferring Property Interest (by indicating where such information is available in the</p>   | <p>(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;</p>  |

| <b>Category</b><br>(including only those items in the category which are Transferring Items) | <b>Required Information</b><br>Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline  | <b>Operational Actions</b><br>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> <ul style="list-style-type: none"> <li>(i) full details of the chain of ownership, identifying the true owner and any other person holding any title to the Transferring Property Interest;</li> <li>(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;</li> </ul> <p>(c) in respect of each Transferring Property Interest, full details of:</p> <ul style="list-style-type: none"> <li>(i) the location of the Transferring Property Interest;</li> <li>(ii) how the Transferring Property Interest is used and who occupies it/operates it;</li> <li>(iii) the value of the Transferring Property Interest at the time of purchase by the Outgoing Licensee;</li> <li>(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;</li> <li>(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;</li> <li>(vi) any registrations made on any relevant register of title; and</li> <li>(vii) any restrictions which may prevent, frustrate or delay the transfer of the Transferring Property Interest to the Incoming Licensee;</li> </ul> <p>(d) full details of any:</p> | <ul style="list-style-type: none"> <li>(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;</li> <li>(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;</li> <li>(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;</li> <li>(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;</li> <li>(f) the Outgoing Licensee delivering/vacating and the Incoming Licensee receiving or occupying any Transferring Property Interest;</li> <li>(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;</li> <li>(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;</li> <li>(i) the process for the removal or replacement of any guarantee or indemnity arrangement in place in connection with the Outgoing</li> </ul> |

| <b>Category</b><br>(including only those items in the category which are Transferring Items) | <b>Required Information</b><br>Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline   | <b>Operational Actions</b><br>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"> <li>(i) accrued but unperformed obligations of the Outgoing Licensee;</li> <li>(ii) breaches which are the subject of any actual or impending litigation or arbitration; and</li> <li>(iii) liability arising as a result of any act or omission of the Outgoing Licensee.</li> </ul>  | <p>Licensee's obligations in connection with the Transferring Property Interest;</p> <ul style="list-style-type: none"> <li>(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</li> <li>(k) the process for registering the Incoming Licensee's title to any Transferring Property Interest on any relevant register of title.</li> </ul>   |
| 3. <b>Lottery IP and Operator Goodwill</b>   | <ul style="list-style-type: none"> <li>(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);</li> <li>(b) full details of any registrations made on any relevant register of intellectual property rights;</li> <li>(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;</li> <li>(d) full details of how each item of Transferring Lottery IP is used;</li> <li>(e) full details of any restrictions which may prevent, frustrate or delay the transfer of the Transferring Lottery IP to the Incoming Licensee;</li> <li>(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.</li> </ul> | <ul style="list-style-type: none"> <li>(a) in respect of any Transferring Lottery IP which is owned by a third party, the process for engaging with the relevant third party;</li> <li>(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;</li> <li>(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;</li> <li>(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.</li> </ul> |
| 4. <b>Licensee Staff and Transferring Subcontractor Staff</b>                                | <ul style="list-style-type: none"> <li>(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);</li> </ul>  | <ul style="list-style-type: none"> <li>(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</li> </ul>  |

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



| <b>Category</b><br>(including only those items in the category which are Transferring Items) | <b>Required Information</b><br>Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline  | <b>Operational Actions</b><br>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"> <li>(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;</li> <li>(f) full details of any information security or data protection breaches;</li> <li>(g) full details of any restrictions which may prevent, frustrate or delay the transfer of the Transferring Data to the Incoming Licensee;</li> <li>(h) full details (including the categories of data contained and organisational methodology, structure and function) of any Lottery Databases;</li> <li>(i) any other information specified by the Commission in relation to Lottery Data and Lottery Databases</li> </ul>   |   |
| 6. <b>Scratchcard Lottery Tickets</b>  | <ul style="list-style-type: none"> <li>(a) full details of: <ul style="list-style-type: none"> <li>(i) the average volume of Scratchcard Lottery tickets of each relevant type printed by or on behalf of the Outgoing Licensee each month</li> <li>(ii) where and by whom the Scratchcard Lottery tickets are stored;</li> <li>(iii) the quantity of Scratchcard Lottery tickets held by the Outgoing Licensee;</li> </ul> </li> <li>(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);</li> <li>(c) full details of the physical appearance of the Scratchcard Lottery tickets, including the provision of samples or copies of samples;</li> <li>(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;</li> </ul> | <ul style="list-style-type: none"> <li>(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;</li> <li>(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"> <li>(i) a physical check of the quantities, quality and condition of the Scratchcard Lottery Tickets in the possession of the Outgoing Licensee,</li> <li>(ii) an inspection of the books and records and contractual documentation in respect of the Scratchcard Lottery Tickets,</li> </ul> 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;</li> <li>(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</li> </ul> |

| <b>Category</b><br>(including only those items in the category which are Transferring Items) | <b>Required Information</b><br>Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline   | <b>Operational Actions</b><br>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<br><br>(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. <b>Other Licensee Assets</b>  | (a) full details of: <ul style="list-style-type: none"> <li>(i) the Outgoing Licensee's title to, or other interest in, the asset including evidence (if available);</li> <li>(ii) how the asset is used in connection with the operation of the National Lottery;</li> <li>(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;</li> <li>(iv) any restrictions which may prevent, frustrate or delay the transfer of the Transferring Licensee Asset to the Incoming Licensee on the Start Date;</li> </ul> (b) the terms on which each Transferring Asset was acquired, including: <ul style="list-style-type: none"> <li>(i) any warranty protection in relation to the Transferring Asset;</li> <li>(ii) whether the Outgoing Licensee has any outstanding liabilities to pay any person in connection with the acquisition of the Transferring Asset; and</li> <li>(iii) any service or supply contracts in place in connection with the Transferring Asset,</li> </ul> | (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; <li>(b) registering the Incoming Licensee's title to any Transferring Licensee Asset on any relevant register of title with effect from the Start Date;</li> <li>(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;</li> <li>(d) transferring possession of the Transferring Licensee Assets to the Incoming Licensee (where applicable);</li> <li>(e) exchanging any documentation or supporting materials that relate to the installation or operation of any Transferring Licensee Asset;</li> <li>(f) engaging with insurers and reviewing insurance policies to agree coverage before, at and after delivery of the Transferring Licensee Assets;</li> <li>(g) any installation or testing assistance that may be required by the Incoming Licensee from the Outgoing Licensee; and</li> <li>(h) the process for the transfer of such Reletting Materials.</li> |

|  | <b>Category</b><br>(including only those items in the category which are Transferring Items) | <b>Required Information</b><br>Minimum information with respect to each item in the relevant category which the Outgoing Licensee must provide by the relevant Information Deadline  | <b>Operational Actions</b><br>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<br><br>(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

5. 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;
- 5.2 Capitalised terms not defined in this Deed shall have the meanings given to those terms in the Cooperation Agreement.
6. 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.
7. 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.

8. 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.
9. 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  |
|-----|--|---|
| 78. | <p>The Outgoing Licensee shall develop, maintain and update the Outgoing Transition Plan in accordance with paragraph 2 below in order to:</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(b) minimise any disruption or deterioration of the National Lottery during and after the Handover Period; and</li> <li>(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.</li> </ul>  | <p>The Incoming Licensee shall develop, maintain and update the Incoming Transition Plan in accordance with paragraph 2 below in order to:</p> <ul style="list-style-type: none"> <li>(d) 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;</li> <li>(e) minimise any disruption or deterioration of the National Lottery during and after the Handover Period; and</li> <li>(f) 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.</li> </ul>  |
| 79. | <p>The Outgoing Transition Plan shall, as a minimum:</p> <ul style="list-style-type: none"> <li>(a) detail how the Outgoing Licensee proposes to comply operationally with its obligations in Condition 18 of the Third Licence;</li> <li>(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;</li> <li>(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;</li> <li>(d) set out a timetable, process, critical deliverables and critical controls for performing the transition assistance services;</li> </ul> | <p>The Incoming Transition Plan shall, as a minimum:</p> <ul style="list-style-type: none"> <li>(j) detail how the Incoming Licensee proposes to comply operationally with its obligations in this Agreement;</li> <li>(k) 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;</li> <li>(l) 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;</li> <li>(m) set out a timetable, process, critical deliverables and critical controls for performing the transition assistance services;</li> </ul> |

|  | 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>(n) 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>(o) 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>(p) 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>(q) 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<br><small>(including only those items in the category which are Transferring Items)</small> | Transfer Mechanics   | Receipt Mechanics   |
|---|--|---|
| 1. <b>Licensee Subcontracts</b>   | <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"> <li>(i) accrued but unperformed obligations of the Outgoing Licensee;</li> <li>(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</li> </ul> | <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"> <li>(i) accrued but unperformed obligations of the Outgoing Licensee;</li> <li>(ii) the consequence of any breach which is the subject of arbitration or litigation between the</li> </ul> |

| <b>Transferring Item</b><br>(including only those items in the category which are Transferring Items) | <b>Transfer Mechanics</b>  | <b>Receipt Mechanics</b>  |
|---|--|---|
|   | <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> |
| <p>2. <b>Property Interests</b></p>   | <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>  |

| <b>Transferring Item</b><br>(including only those items in the category which are Transferring Items) | <b>Transfer Mechanics</b>  | <b>Receipt Mechanics</b>   |
|---|--|--|
|   | <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"> <li>(i) any accrued but unperformed obligation;</li> <li>(ii) the consequences of any antecedent breach of a covenant or obligation relating to the Transferring Property Interest; or</li> <li>(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);</li> </ul> <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"> <li>(i) responsibility for any covenants, obligations and liabilities (whether accrued and unperformed or current);</li> <li>(ii) the consequences of a breach referred to in (d) above; and</li> <li>(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</li> </ul> | <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"> <li>(i) any accrued but unperformed obligation;</li> <li>(ii) the consequences of any antecedent breach of a covenant or obligation relating to the Transferring Property Interest; or</li> <li>(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);</li> </ul> <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"> <li>(i) responsibility for any covenants, obligations and liabilities (whether accrued and unperformed or current);</li> <li>(ii) the consequences of a breach referred to in (d) above; and</li> <li>(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</li> </ul> |

| <b>Transferring Item</b><br>(including only those items in the category which are Transferring Items) | <b>Transfer Mechanics</b>  | <b>Receipt Mechanics</b>  |
|---|--|---|
|   | <p style="text-align: center;">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 48 of this Agreement.</p>   | <p style="text-align: center;">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 48 of this Agreement.</p>  |
| <p>3. <b>Operator Goodwill and Transferring Lottery IP</b></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 style="margin-left: 40px;">(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 style="margin-left: 40px;">(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 style="margin-left: 40px;">(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 style="margin-left: 40px;">(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. <b>Licensee Staff</b></p>   | <p>See clause 44</p>   | <p>See clause 44</p>  |

| <b>Transferring Item</b><br>(including only those items in the category which are Transferring Items) | <b>Transfer Mechanics</b>  | <b>Receipt Mechanics</b>  |
|---|--|---|
| 5. <b>Lottery Data and Databases</b>  | (a) Delivery of the data and all supporting information (including details of relevant correspondence with and from data subjects)<br><br>(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)<br><br>(b) Execution of the Deed of Transfer of Databases attached as Part D of Appendix 3  |
| 6. <b>Inventory of Scratchcard Lottery Tickets</b>  | 6.1 In relation to Transferring Scratchcard Lottery Tickets, the Outgoing Licensee's Transfer Mechanics are as follows.<br><br>(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.<br><br>(b) Possession of the Transferring Scratchcard Lottery Tickets will be transferred to the Incoming Licensee by the Outgoing Licensee on the Start Date.<br><br>(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.<br><br>(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.<br><br>(b) Possession of the Transferring Scratchcard Lottery Tickets will be transferred to the Incoming Licensee by the Outgoing Licensee on the Start Date .<br><br>(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. <b>Other Licensee Assets</b>   | 7.1 In relation to each Transferring Licensee Asset, the Outgoing Licensee's Transfer Mechanics are as follows.<br><br>(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.<br><br>(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.<br><br>(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.<br><br>(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  |

| <b>Transferring Item</b><br>(including only those items in the category which are Transferring Items) | <b>Transfer Mechanics</b>  | <b>Receipt Mechanics</b>  |
|---|--|---|
|   | <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   |
|----|----------------------------|--|---|
| 8. | <b>EuroMillions Shares</b> | <p>8.1 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> <ul style="list-style-type: none"> <li>(i) details of the terms and conditions of the transfer; and</li> <li>(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.</li> </ul> <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> <ul style="list-style-type: none"> <li>(i) a duly executed form of transfer in respect of the EuroMillions Shares; and</li> <li>(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.</li> </ul> | <p>8.2 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> <ul style="list-style-type: none"> <li>(i) a duly executed copy of a Deed of Adherence to the Lottery Operators' Agreement;</li> <li>(ii) a duly executed copy of a Deed of Adherence to the Cost Reimbursement Agreement(s),</li> </ul> <p style="padding-left: 40px;">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

### Appendix 4 - Receipt Mechanics

|    | Transferring Item<br><small>(including only those items in the category which are Transferring Items)</small> | Transfer Mechanics  | Receipt Mechanics  |
|----|---|---|--|
| 19 | <b>Licensee Subcontracts</b>  | <p>19.1 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 in the form of the Licensee Subcontract Deed of Novation attached in Part A of Appendix 3 of the Cooperation Agreement. 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"> <li>(i) accrued but unperformed obligations of the Outgoing Licensee;</li> <li>(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</li> <li>(iii) any liability in respect of any act or omission under or in relation to the Transferring Licensee Subcontract,</li> </ul> <p style="text-align: center;">in each case whether before, or as at the date of, any such novation.</p> | <p>19.2 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 in the form of the Licensee Subcontract Deed of Novation attached in Part A of Appendix 3 of the Cooperation Agreement. Each Licensee Subcontract Deed of Novation shall be duly executed by the Incoming Licensee and delivered to the Outgoing Licensee 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"> <li>(i) accrued but unperformed obligations of the Outgoing Licensee;</li> <li>(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</li> <li>(iii) any liability in respect of any act or omission under or in relation to the Transferring Licensee Subcontract,</li> </ul> |

|    | <b>Transferring Item</b><br><small>(including only those items in the category which are Transferring Items)</small> | <b>Transfer Mechanics</b>   | <b>Receipt Mechanics</b>   |
|----|--|---|--|
|    |  | <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>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> |
| 20 | <b>Property Interests</b>  | <p>20.1 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>(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</p>   | <p>20.2 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> <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</p>   |



|  | <b>Transferring Item</b><br><br>(including only those items in the category which are Transferring Items) | <b>Transfer Mechanics</b>  | <b>Receipt Mechanics</b>   |
|--|---|--|--|
|  |   | <p>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"> <li>(i) any accrued but unperformed obligation</li> <li>(ii) the consequences of any antecedent breach of a covenant or obligation relating to the Transferring Property Interest; or</li> <li>(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);</li> </ul> <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"> <li>(i) responsibility for any covenants, obligations and liabilities (whether accrued and unperformed or current);</li> <li>(ii) the consequences of a breach referred to in (d) above; and</li> <li>(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 avoidance of doubt) shall remain with the Outgoing Licensee and shall not pass to the Incoming Licensee.</li> </ul> <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</p> | <p>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"> <li>(i) any accrued but unperformed obligation</li> <li>(ii) the consequences of any antecedent breach of a covenant or obligation relating to the Transferring Property Interest; or</li> <li>(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);</li> </ul> <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"> <li>(i) responsibility for any covenants, obligations and liabilities (whether accrued and unperformed or current);</li> <li>(ii) the consequences of a breach referred to in (d) above; and</li> <li>(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 avoidance of doubt) shall remain with the Outgoing Licensee and shall not pass to the Incoming Licensee.</li> </ul> <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</p> |

|    | <b>Transferring Item</b><br><br>(including only those items in the category which are Transferring Items) | <b>Transfer Mechanics</b>  | <b>Receipt Mechanics</b>  |
|----|---|--|---|
|    |   | 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 15 of the Cooperation Agreement.  | 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 15 of the Cooperation Agreement.   |
| 21 | <b>Operator Goodwill and Transferring Lottery IP</b>  | <p>21.1 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 of the Cooperation Agreement:</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>21.2 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 of the Cooperation Agreement:</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> |
| 22 | <b>Licensee Staff and Transferring Subcontractor Staff</b>  | See clause 12 of the Cooperation Agreement   | See clause 12 of the Cooperation Agreement  |

|    | <b>Transferring Item</b><br><small>(including only those items in the category which are Transferring Items)</small> | <b>Transfer Mechanics</b>   | <b>Receipt Mechanics</b>  |
|----|--|---|---|
| 23 | <b>Lottery Data and Databases</b>  | <p>(a) Delivery of the data and all supporting information (including details of relevant correspondence with and from data subjects)</p> <p>(b) Execution of the Deed of Transfer of Databases attached as Part D of Appendix 3 of the Cooperation Agreement</p>   | <p>(c) Receipt of the data and all supporting information (including details of relevant correspondence with and from data subjects)</p> <p>(d) Execution of the Deed of Transfer of Databases attached as Part D of Appendix 3 of the Cooperation Agreement</p>  |
| 24 | <b>Inventory of Scratchcard Lottery Tickets</b>  | <p>24.1 In relation to Transferring Scratchcard Lottery Tickets, the Outgoing Licensee's Transfer Mechanics are as follows.</p> <p>(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 of the Cooperation Agreement.</p> <p>(b) Possession of the Transferring Scratchcard Lottery Tickets will be transferred to the Incoming Licensee by the Outgoing Licensee on the Start Date in accordance with paragraph 12 of Schedule 4 of the Cooperation Agreement.</p> <p>(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 of the Cooperation Agreement.</p> | <p>24.2 In relation to Transferring Scratchcard Lottery Tickets, the Incoming Licensee's Transfer Mechanics are as follows.</p> <p>(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 of the Cooperation Agreement.</p> <p>(b) Possession of the Transferring Scratchcard Lottery Tickets will be transferred to the Incoming Licensee by the Outgoing Licensee on the Start Date in accordance with paragraph 12 of Schedule 4 of the Cooperation Agreement.</p> <p>(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 of the Cooperation Agreement.</p> |
| 25 | <b>Other Licensee Assets</b>   | <p>25.1 In relation to each Transferring Licensee Asset, the Outgoing Licensee's Transfer Mechanics are as follows.</p> <p>(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 A of Appendix 3 of the Cooperation Agreement.</p>   | <p>25.2 In relation to each Transferring Licensee Asset, the Incoming Licensee's Receipt Mechanics are as follows.</p> <p>(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 A of Appendix 3 of the Cooperation Agreement.</p>  |

|  | <b>Transferring Item</b><br><br>(including only those items in the category which are Transferring Items) | <b>Transfer Mechanics</b>   | <b>Receipt Mechanics</b>   |
|--|---|---|--|
|  |   | <p>(b) The Deed of Transfer for Transferring Assets shall be duly executed by the Outgoing Licensee and delivered to the the] Incoming Licensee with a copy to the Commission 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).</p> <p>(c) Subject to the execution of the Deed of Transfer for Transferring Assets by the Incoming Licensee in accordance with 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>(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 the First Readiness Date (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 Obligations

| Transferring Item                   | Transfer Mechanics  | Receipt Mechanics  |
|-------------------------------------|---|--|
| 26. <b>EuroMillions<sup>9</sup></b> | <p>26.1 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> <ul style="list-style-type: none"> <li>(i) details of the terms and conditions of the transfer; and</li> <li>(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.</li> </ul> <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> <ul style="list-style-type: none"> <li>(i) a duly executed form of transfer in respect of the EuroMillions Shares; and</li> <li>(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.</li> </ul> | <p>26.2 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> <ul style="list-style-type: none"> <li>(i) a duly executed copy of a Deed of Adherence to the Lottery Operators' Agreement;</li> <li>(ii) a duly executed copy of a Deed of Adherence to the Cost Reimbursement Agreement(s),</li> </ul> <p style="padding-left: 40px;">in each case conditional upon Start and to take effect from the Start Date.</p> |

<sup>9</sup> Note: This provision will apply if the Incoming Licensee is granted a s6 licence to operate a EuroMillions Game.