

PROGRAMMING PARTNER

TERMS AND CONDITIONS

  Newshub. 

Table of Contents

1	PROGRAMME RIGHTS.....	3
2	PRODUCTION SERVICES	3
3	CREATIVE ELEMENTS	3
4	PROGRAMME PRODUCTION.....	4
5	INTEGRATION MATERIALS	4
6	DIGITAL DELIVERABLES	5
7	SOCIAL MEDIA DELIVERABLES	6
8	YOUR USE OF PROGRAMME IP	6
9	LOCAL PRODUCTION	7
10	LICENCE AND INTELLECTUAL PROPERTY RIGHTS	8
11	PAYMENT TERMS.....	8
12	WARRANTIES AND REPRESENTATIONS.....	8
13	INDEMNITIES.....	9
14	LIABILITY	9
15	TERMINATION.....	10
16	CONFIDENTIALITY AND PUBLIC ANNOUNCEMENTS	11
17	DISPUTE RESOLUTION.....	11
18	MISCELLANEOUS.....	12

These Programme Partner Terms and Conditions, as updated from time to time, apply to all Deal Memos and Programme Partnership Agreements between you and us. They will remain in force for the duration of the Term. Words which are capitalised but not defined herein are to be given the meaning given to them in the Deal Memo or Programme Partnership Agreement to which these Programme Partner Terms and Conditions apply.

1 PROGRAMME RIGHTS

- 1.1 We can reschedule dates and times of the Programme or otherwise modify the Programme (including changing the name of the Programme), and/or change the length and dates of any Campaign Period, if in our opinion it is commercially reasonable to do so. If we agree with you that such a change would result in a material reduction in the value of the Programme Partnership, we will remedy this by providing a Make-Good.
- 1.2 This Agreement does not limit our right to advertise or promote any businesses or products which compete with you, on any of our platforms, unless otherwise agreed in writing with you.

2 PRODUCTION SERVICES

If we are providing you with digital, creative, and or production services as part of the partnership (outside of production of the Programme itself, which is set out in clause 4 below), you agree that:

- (a) you need to tell us if the production requirement changes, is wrong, or is incomplete, as a portion of our Fees will have been set according to the production description;
- (b) if you change the production brief requirements or if they were wrong or incomplete and you don't tell us, we may change that portion of the Fee to take into account the change or correction. We'll tell you in advance unless:
 - (i) the change to the portion of the Fee which is allocated to production is 10% or lower; and
 - (ii) due to the urgency of the circumstances, it would be impractical or detrimental to you to wait for your approval; and
- (c) any agreed licence terms need to be strictly complied with, as unexpected costs can arise if they aren't (for instance, music licence fees and talent fees), and a portion of our Fees will have been set according to the agreed licence terms. If you breach those licence terms we may change that portion of the Fee and invoice you for it.

3 CREATIVE ELEMENTS

- 3.1 We will keep you updated about deadlines, delivery method, and any technical specifications you will need to meet regarding your Creative Elements. If you do not meet these requirements, the Deliverables may be delayed or not Broadcast with no reduction in the Fee.
- 3.2 If we consider that incorporating your Creative Elements into the Deliverables would be off-brand for us or the Programme, commercially inappropriate, or Unlawful, we will notify you as soon as reasonably practicable (providing reasons where possible), and you can submit alternative Creative Elements, at your own cost, for our approval. If we do not approve the resubmitted Creative Elements, or if we do approve them but the resubmission has caused or will cause delays, we will provide a Make-Good if, in our reasonable opinion, it is fair and reasonable to do so.
- 3.3 Unless otherwise instructed, we may dispose of any Creative Elements you have provided to us 30 calendar days after the relevant Campaign Period finishes.

4 PROGRAMME PRODUCTION

If we are producing or commissioning the production of the Programme:

- (a) we retain absolute and final rights in respect of all editing, scripting, production, and casting for the Programme, its content, and the portrayal of Partnership Materials in and during it;
- (b) we do not grant any rights to preview or approve the Programme or any Partnership Materials, to access Programme talent, or to attend filming of the Programme (and your attendance at any filming location is at our discretion); and
- (c) you accept that live broadcasting, timing limitations, location difficulties, health and safety considerations, regulatory compliance, site restrictions, unscripted dialogue and events, weather, participant and contestant discretion and conduct, and other practical considerations may impact the portrayal of the Partnership Materials. If we agree with you that this impact has resulted in a material reduction in the value of the Programme Partnership, we will remedy this by providing a Make-Good.

5 INTEGRATION MATERIALS

If you are providing us with Integration Materials as part of this Agreement, you agree that:

- (a) all Integration Materials must be of merchantable quality and meet all retail and consumer warranties implied at law, meet any specifications or have any characteristics as agreed with us, and must be available for purchase in New Zealand during the relevant Campaign Period. If in our reasonable opinion any Integration Materials do not meet any of these standards, we will notify you and you will promptly remedy or replace the affected items at no cost. Integration of the Integration Materials into the Programme will be subject to the Programme Executive Producer's approval which will be final;
- (b) if applicable, and unless we agree otherwise, you will provide, arrange, be responsible for, and have one of your representatives present during, delivery, installation, maintenance and repair, replacement (if necessary), and training (**Work**) if such work is reasonably required in respect of those Integration Materials. We will provide reasonable access to our sites and personnel for this purpose;
- (c) if clause 4(b) is applicable, all Work must be completed by the date, in the form, at the place, and to any minimum standards or with such characteristics, as agreed, at no cost to us unless otherwise specified. You agree that as a minimum, all Work you perform must be in accordance with standards expected of professionals in your industry, and in a lawful manner and to a lawful standard;
- (d) due to the nature of production, we may have to change earlier agreed production deadlines and requirements at short notice and without consultation with you. In doing so, we agree to act reasonably in the circumstances, and we will provide you with as much notice as we reasonably can. We will each use our reasonable endeavours to avoid surprises for the other, and to use reasonable cooperation to allow the other to meet their obligations under this Agreement;
- (e) you will ensure that all Integration Materials are insured for their full value for the duration of each Campaign Period, at least in respect of theft, damage, fire, flood, or other Act of God, including when they are in transit, in your possession, or in our (or our representatives') possession. You also agree that if any loss or damage occurs which is recoverable under your insurance (unless we caused the loss or damage by fraud, wilful default, or through conduct which in the circumstances would constitute gross negligence), you will promptly replace the affected Integration Materials at your own cost, and if you elect to make an insurance claim, pay the excess;

- (f) if any agreed Work is not completed, is performed otherwise than as agreed, or is completed after the agreed date, or if in our reasonable opinion any Integration Materials do not meet any agreed standards or standards specified in clause 5(a), we will in good faith endeavour to feature the Integration Materials in the Programme in the manner originally anticipated, but if in our reasonable opinion this would delay or negatively impact the Programme, would place us in breach of other contracts, would be impractical, or could be Unlawful, we may without any liability to you or reduction in the Fee elect to not feature, or feature with any changes we reasonably consider appropriate, the Integration Materials into the affected episode or episodes of the Programme;
- (g) we will use our reasonable endeavours to accommodate any reasonable requests relating to the portrayal of Integration Materials which are consistent with our Deliverables commitments, but you acknowledge that our final editorial approval is absolute. You also accept that live broadcasting, timing limitations, location difficulties, health and safety considerations, regulatory compliance, site restrictions, unscripted dialogue and events, weather, participant and contestant discretion and conduct, and other practical considerations may also impact on the portrayal of the Integration Materials;
- (h) if this Agreement is terminated under clause 15, and:
 - (i) the Integration Materials are being provided on a loan (or similar) basis only, we may portray those Integration Materials in the Programme on an incidental or ancillary basis only; and
 - (ii) the Integration Materials have been provided not on a loan (or similar) basis, we are entitled to purchase those Integration Materials at 'cost' price less any reasonable amount taking into account depreciation, wear-and-tear, or damage to the Integration Materials, and may portray those Integration Materials in the Programme on an incidental or ancillary basis only, and you agree to do all things reasonably necessary (including executing any documentation) required to give effect to this provision;
- (i) unless otherwise instructed, we may dispose of any Integration Materials which are left in our possession and which remain uncollected 30 calendar days after the Term of this Agreement.

6 DIGITAL DELIVERABLES

If the Deliverables includes Digital Engagement, you agree that:

- (a) additional fees will apply for ad formats which do not comply with our interactive technical specifications (we will provide you a copy of these);
- (b) the Fee excludes any third-party ad-serving or production charges;
- (c) any material changes to the Digital Engagement that you request may incur additional fees. We will provide you with fee estimates in advance and will, wherever possible, seek prior approval from you before commencing any work that would incur additional fees;
- (d) digital Creative Elements must adhere to our Digital Technical Advertising Specifications (available at www.tv3.co.nz or on request), as updated from time to time. We reserve the right to require replacement if the Creative Element supplied does not comply with those specifications; and
- (e) portrayal of any Creative Elements on any digital platforms we control is subject to our final approval.

7 SOCIAL MEDIA DELIVERABLES

If the Deliverables include promoting your brands on social media platforms, you agree that:

- (a) we create or have approval rights over all commercial social media for the Programme;
- (b) any material changes to social media Deliverables that you request may incur additional fees. We will provide you with fee estimates in advance and will, wherever possible, seek prior approval from you before commencing any work that would incur additional fees;
- (c) we can change the number of, and amend any, social media Deliverables or activities;
- (d) if you share any of our social media posts about the Programme: (i) you must not add to or change its content; (ii) you must not add comments or commercial messages to it without our prior written approval; (iii) you must delete the shared post if we ask you to do so; and (iv) the post must not receive any paid support of any kind without our approval; and
- (e) use of social media is subject to compliance with the platform's terms and conditions.

8 YOUR USE OF PROGRAMME IP

If we are granting you Programme IP rights:

- (a) you may use Programme IP only as specified in Schedule 1, and we may charge additional fees (without limiting any other right or remedy) if you use Programme IP in any other way;
- (b) we will provide you with a Programme IP style guide, and you must ensure that any promotion or advertising that features Programme IP complies with it;
- (c) you must not start production work (whether tangible or intangible) in relation to your Programme IP rights without our prior written approval to the concept (which we will not unreasonably withhold). If we approve the concept, but another party is the ultimate rights holder of the Programme, their approval will also be required (and we will seek their approval on your behalf). Once you have approval, you can start your production work, but must continue to consult with us throughout the production process and keep us updated of any changes to the concept. Our prior written approval (and the approval of the ultimate rights holder of the Programme, if it is not us) will also be required prior to final publication of each item which incorporates any Programme IP. If we (or the ultimate rights holder if there is one) do not approve the concept, we will notify you, providing reasons;
- (d) we do not grant you any rights to use Programme IP on your merchandise or its packaging, on any earned media, paid media, or owned media (as those terms are used in the industry) unless we have agreed this in writing in advance;
- (e) if you will be giving away prizes: (i) the prizes need to be approved in writing by us prior to any public announcements about the competition or prize giveaway. If we do not provide approval, we will notify you, providing reasons; (ii) all costs associated with the prizes (including delivery and other fulfilment costs) are your responsibility; and (iii) you must ensure that, prior to any public announcements, all prizes are either in your possession or will be readily available for purchase with adequate time to meet prize giveaway deadlines;
- (f) any website use of the Programme IP must include a hyperlink click-through to the official fanzone webpage at threenow.co.nz (where possible); and
- (g) any social media activity or activation is subject to our prior written approvals.

8.2 If we are not granting you Programme IP Rights, you are not entitled to use Programme IP in any manner.

9 LOCAL PRODUCTION

- 9.1 If any employees, contractors, or personnel (**Personnel**) of yours are involved in the filming of the Programme or any components of the Deliverables, this section will apply.
- 9.2 If your Personnel attend a site or set we control or are filming at, or are present at a site or set you control while our Personnel are in attendance, you agree to, and warrant that your Personnel will:
- (a) follow all reasonable health and safety rules and instructions. We may give these verbally or in writing, and if we send you these in advance, you must ensure all relevant Personnel are given a copy and are required to read it;
 - (b) take reasonable care that your Personnel's actions or inactions do not put the health or safety of any person at risk;
 - (c) keep us updated of any relevant health and safety considerations as they become aware of them;
 - (d) provide reasonable assistance and cooperation to us at no cost to allow us to fulfil our own obligations under the Health and Safety at Work Act 2015;
 - (e) not be under the influence of any alcohol or drugs that impair their performance or judgment;
 - (f) on receipt of reasonable notice from us, permit a health and safety representative to attend your site and cooperate with any safety review or audit he or she undertakes;
 - (g) notify us immediately if you or they become aware of any breach of this section by you or any of your Personnel; and
 - (h) meet all of your and their duty of care requirements and obligations under the Health and Safety at Work Act 2015, including: (i) to eliminate risks to health and safety, so far as is reasonably practicable and, if it is not reasonably practicable to eliminate risks, minimise those risks so far as reasonably practicable; and (ii) to ensure that carrying out any activities work are without risk to others so far as is reasonably practicable.
- 9.3 Where any of our Personnel are at your site or set or a site or set at your request, you must provide or procure a safety assessment for them, and must comply with or procure compliance with clause 9.2 to the benefit of our Personnel.
- 9.4 Where any of your Personnel are on a site or set we control or are filming at, we may require them to leave the site immediately if we believe that they have breached or are in breach of clause 9.2. There will be no penalty to us if we exercise this right and it is later determined that no such breach occurred.
- 9.5 If we agree to film at, or otherwise access any of your sites or sets:
- (a) you agree to provide our Personnel and any participants, contestants, or similar with access to your sites or sets and staff, and to obtain all necessary filming permits (if applicable) for these locations, in accordance with any agreed timeframes or schedules, at no additional cost to us;
 - (b) due to the nature of production, we may have to change earlier agreed deadlines and requirements at short notice and without consultation with you. In doing so, we agree to act reasonably in the circumstances, and we will provide you with as much notice as we reasonably can. Each party agrees to use their reasonable endeavours to avoid surprises for the other, and to use reasonable cooperation to allow the other to meet their obligations under this Agreement.
- 9.6 Unless otherwise agreed in writing by us, if we provide you with footage and/or audio of your sponsored segment on the Programme, this is provided to you for internal use only and cannot be used on any earned media, paid media or shared media (as those terms are used in the industry). If we do give you our written permission to use the footage and/or audio on any earned media, paid media or shared media, we will charge you an additional fee. You cannot use footage and/or audio of your sponsored segment on the Programme that we have not expressly provided to you in accordance with this clause.

10 LICENCE AND INTELLECTUAL PROPERTY RIGHTS

- 10.1 You grant us all rights, and a non-exclusive, royalty free, perpetual, transferable, irrevocable licence, to use all Creative Elements and Integration Materials you provide to us pursuant to this Agreement so that the Programme, stills of the Programme, and audio, visual, and audio/visual excerpts of the Programme can be Broadcast worldwide without having to remove or otherwise edit any elements which feature any of your Creative Elements, Integration Materials, or Intellectual Property.
- 10.2 We grant you a licence to use Programme IP only as expressly provided in this Agreement. Any other use of Programme IP is strictly prohibited.
- 10.3 We own all Intellectual Property rights which are created under, leading up to, or in anticipation of this Agreement. All Intellectual Property rights owned by each of us immediately prior to signing this Agreement (or any agreement contemplating this Programme Partnership, if there is an earlier one) continue to be owned by that owner. If for any reason any Intellectual Property rights created under this Agreement vest in you instead of us, you assign automatically all these rights and future rights to us absolutely.

11 PAYMENT TERMS

- 11.1 The Fee excludes GST and any other applicable taxes (if any). Payment must be made by you without set-off, counter-claim or other deduction except as required by law, and you are responsible for the payment of all tax. If you are required by law to make any deduction, you will gross-up that same amount so that we receive the full amount of the Fees. The Fee excludes any sponsor benefits, agency commissions, and any of your planned advertising spend.
- 11.2 If you do not pay any amount of the Fees by their due date:
- (a) we can charge compounding interest of 5% per annum above Westpac's retail interest rate, calculated monthly, from the due date until the date payment is received in full; and
 - (b) we can: (i) charge you for all reasonable expenses (including reasonable legal fees) incurred in collecting the amounts due; (ii) suspend provision of any Deliverables until the relevant amount is paid; and (iii) charge you for all reasonable expenses incurred removing the portrayal of any Partnership Materials on any platform,
- in addition to any other rights and remedies we have at law or under this Agreement.
- 11.3 If you are represented by an agency, you and the agency will be liable for the Fee and any outstanding parts of it jointly and severally.

12 WARRANTIES AND REPRESENTATIONS

You warrant and represent to us for the duration of the Term that:

- (a) you have all Intellectual Property rights and third-party rights in respect of all Creative Elements and Integration Materials to allow you and us to fulfil and keep fulfilled all of our respective obligations under this Agreement, and that our use of those Creative Elements and Integration Materials and the Broadcast of the Partnership Materials, including as described in clause 10, will not infringe any Intellectual Property rights or other third-party rights;
- (b) you have all other rights and authorities needed for you to fulfil your obligations under this Agreement;

- (c) no Creative Elements or Integration Materials, if incorporated into any Deliverables, are false or misleading, obscene, offensive, libellous, or Unlawful;
- (d) any risk assessments or similar documents provided to us pursuant to clause 9 are accurate, comprehensive, up-to-date, not misleading, and compliant with the Health and Safety at Work Act 2015; and
- (e) you have and will retain authority to enter into this Agreement and are not bound by any other agreement or arrangement that adversely affects your ability to fulfil your obligations under this Agreement.

13 INDEMNITIES

- 13.1 We agree to indemnify and keep indemnified and hold you harmless from and against any and all liabilities, costs, expenses, damages and losses of any kind (including reasonable legal fees and costs) you incur or suffer directly out of any claim by a third-party unrelated to you that the Programme (excluding any Creative Elements, Integration Materials, Partnership Materials, and Deliverables) infringes any third-party Intellectual Property rights. You must reimburse us any amounts which you can, or can make another person, lawfully or contractually recover from that or any other third party.
- 13.2 You agree to indemnify and keep indemnified and hold us harmless from and against any and all liabilities, costs, expenses, damages and losses of any kind (including reasonable legal fees and costs) we incur or suffer directly or indirectly from: (i) a breach by you of any of your obligations under this Agreement; and/or (ii) any claim by a third party that use of the Creative Elements or Integration Materials, or Broadcast of any Partnership Materials, infringes rights held or allegedly held by anyone except you.

14 LIABILITY

- 14.1 If we do not provide the Deliverables for any reason (or if we do not Broadcast the Partnership Materials as agreed in our Deliverables commitments), our liability under this Agreement is limited to providing you a Make-Good, except in respect of clauses 3.2 and 5(f), where we will have no liability.
- 14.2 In no event will we be liable for:
 - (a) any direct or indirect economic loss of any kind including without limitation loss of profits, revenues, or goodwill;
 - (b) any special damages;
 - (c) any loss or damage to any Integration Materials, unless we caused the loss or damage by fraud, wilful default, or through conduct which in the circumstances would constitute gross negligence;
 - (d) any loss or damage you suffer as a result of the content of any Programme; or
 - (e) any claims relating to any audience statistics or metrics which we have provided to you (and you acknowledge that these are an estimate and provided as a courtesy only).
- 14.3 Without prejudice to clauses 14.1 and 14.2, in the event that we are held liable for any damages or losses contemplated by clause 14.2, or any other damages or losses and clause 14.1 is held to not apply, our maximum liability to you will be limited to an amount equal to the amount of the Fee we have received under this Agreement.

- 14.4 Each of us must co-operate fully with the other and provide free of charge all assistance reasonably required as a result of any challenge by the Broadcasting Standards Authority or the Advertising Standards Authority in connection with this Programme Partnership.

15 TERMINATION

- 15.1 Either party can terminate this Agreement immediately if:

- (a) the other materially breaches any of its obligations and (if the breach can be remedied) does not remedy the breach within five Business Days (time being of the essence) after being asked to do so; or
- (b) the other becomes insolvent, or an arrangement is made with its creditors.

- 15.2 We can terminate this Agreement immediately if:

- (a) we lose, or are unable to secure, rights to Broadcast the Programme on terms we consider commercially appropriate;
- (b) circumstances arise which, in our reasonable opinion, prohibit us from lawfully Broadcasting the Programme;
- (c) a company which is not a Related Company of ours gains effective control over us;
- (d) in our reasonable opinion, your activities or conduct (or the activities or conduct of any of your Related Companies) are such that continued partnership may materially damage our reputation and/or the Programme's reputation;
- (e) a company which is not a Related Company of yours gains effective control over you.

- 15.3 If we terminate this Agreement under clauses 15.1, 15.2(d), or 15.2(e), then without prejudice to any other rights and remedies:

- (a) we are not required to refund any Fees or other amounts paid; and/or
- (b) we can charge you our reasonable costs incurred removing Partnership Materials from the Programme on any platform; and/or
- (c) our rights set out in clause 10 and Schedule 1 will not be affected; and/or
- (d) we will not be liable to you in any respect.

- 15.4 If we terminate this Agreement under sub-clauses 15.2(a), 15.2(b), or 15.2(c):

- (a) we will engage with you in good faith to discuss whether we provide you a Make-good, or a refund to you (within 30 calendar days) of all amounts of the Fee we have received, less: (i) an amount which is proportional to any Deliverables we were able to meet prior to termination; and (ii) any costs which we can demonstrate we have incurred in connection with the Deliverables;
- (b) you will be entitled to collect any Integration Materials delivered to us, and we will provide you with reasonable access during ordinary business hours for this purpose; and
- (c) we will not be liable to you in any respect.

- 15.5 If an Agency is a party to this Agreement, the Agency has no rights to terminate this Agreement in its own right.

16 CONFIDENTIALITY AND PUBLIC ANNOUNCEMENTS

- 16.1 You must not make any public or press announcement, or any other form of public comment or statement, about this Agreement or your association with the Programme without our prior written consent. Breach of this clause will constitute a material breach of this Agreement.
- 16.2 You must not, and must not permit or encourage any person to, disparage, bring into disrepute, or publicly criticise us, the Programme, the ultimate rights holder of the Programme (if it is not us), any Programme talent or participants, or any of our intellectual property or brands.
- 16.3 Neither of us can disclose the terms of this Agreement, any information disclosed leading up to the execution of the Agreement, or any information we give to each other so we can fulfil our respective obligations, to any person (except to our respective professional advisers on a need-to-know basis) or to the media, and neither of us can use such information other than for the purposes of this Agreement. Additionally, you must keep any information about the Programme which is not publicly known, or has not yet been Broadcast, strictly confidential.
- 16.4 The confidentiality provisions contained in this Agreement supersede in all respects any non-disclosure agreement previously entered into between us relating to discussions about the matters set out in this Agreement.
- 16.5 Clause 16.3 does not apply to any information which:
- (a) the recipient can demonstrate was independently generated by or already known to it;
 - (b) is publicly known, other than by breach of clause 16.3;
 - (c) is provided by a third-party with no duty to keep the information confidential;
 - (d) we disclose for undertaking credit and risk management; or
 - (e) is required to be disclosed by law. The recipient must notify the disclosing party promptly and, if possible (prior to making any such disclosure) and use all reasonable endeavours to challenge the mandatory disclosure.

17 DISPUTE RESOLUTION

- 17.1 If there is a dispute about this Agreement, we will both follow the process set out below:
- (a) *Negotiation*: the affected party will promptly notify the other of the dispute, we will both then inform our respective Chief Commercial Officers or equivalent of all appropriate details, and the respective Chief Commercial Officers will use their best endeavours to resolve the dispute by negotiation in good faith (**Negotiation**). This includes attending at least one meeting (which may be by phone-call by agreement) to try to resolve the dispute.
 - (b) *Mediation*: if the dispute is unresolved 10 Business Days after commencing Negotiation, we and you will engage in mediation (**Mediation**) on the terms of the Resolution Institute Standard Mediation Agreement (NZ version). If we and you cannot agree upon a mediator, the mediator will be selected by the Chair of Resolution Institute.
 - (c) *Arbitration*: if the dispute is unresolved 10 Business Days after commencing Mediation, we and you will engage in arbitration on the terms of the Resolution Institute Arbitration Rules. If we and you cannot agree on an arbitrator, the arbitrator will be selected by the Chair of Resolution Institute.
- 17.2 Completing each step in clause 17.1 is a condition precedent to commencing any legal proceedings, except that nothing prevents us from seeking urgent injunctive relief.

- 17.3 Even if there is an ongoing dispute between us, you agree to not do anything that would restrict any rights to Broadcast the Programme.

18 MISCELLANEOUS

- 18.1 New Zealand law applies to this Agreement. Except as outlined in clause 17, New Zealand courts have exclusive jurisdiction to hear disputes.
- 18.2 All notices given under this Agreement must be in writing and will be treated as having been received:
- (a) if personally delivered (including by way of courier) to the registered address, on the date of delivery;
 - (b) if sent by tracked mail within New Zealand to the registered address, three Business Days after posting; and
 - (c) if sent to an email address usually used for correspondence under this Agreement, on the Business Day it is sent. Emails sent on non-Business Days or after 5.00pm will be deemed to have been sent and received the following Business Day. This sub-clause does not apply to email addresses which respond with an automated out-of-office message.
- 18.3 We each agree that this Agreement constitutes the entire agreement between us in respect of the Programme, and replaces all previous discussions and representations. You agree that you have not relied on any previous representations we have made in entering into this Agreement.
- 18.4 Neither party will have liability to the other for any failure or delay resulting from any events, circumstances or causes beyond its reasonable control (a lack of funds is deemed to not be beyond a party's reasonable control) (an **Event**). In such circumstances, the affected party is entitled to a reasonable extension of the time for performing the affected obligations. The unaffected party can terminate this Agreement with 10 Business Days' written notice if the Event causes delay of more than four weeks.
- 18.5 No party will be in breach of this Agreement for failure to perform its obligations or observe the provisions of this Agreement where to do so would place the party in breach of any law or regulation.
- 18.6 We may assign any of our rights and obligations under this Agreement to any third party. You cannot assign or otherwise dispose of any benefits or obligations of this Agreement without our prior written approval.
- 18.7 Our provision of the Deliverables is conditional on your ongoing compliance with the terms of this Agreement.
- 18.8 If a court determines that any provision of this Agreement is unlawful or unenforceable, we will engage with each other in good faith to negotiate and incorporate an alternative provision which reflects each of our intentions as at the date this Agreement was executed. All other provisions of this Agreement will remain in full force and effect. If the new provision has not been incorporated into this Agreement within 60 days of commencing negotiations, we may immediately terminate this Agreement by written notice to the other.
- 18.9 This Agreement is for the benefit of us and our Related Companies. Our Related Companies may take advantage of any right or benefit we have under this Agreement. However, only the signatory entities are party to this Agreement.
- 18.10 No waiver of any breach of this Agreement is effective unless in writing and signed by each of us.
- 18.11 This Agreement may be signed in counterparts (including by way of digital copies) and all such counterparts will together constitute a single agreement.

18.12 Clauses 3.3, 5(h), 8(a) 10, 11, 12, 13, 14, 15.3, 15.4, 16, and 18 any other terms of this Agreement which must survive expiry, completion, or termination of this Agreement in order to give effect to its provision, will survive expiry, completion, or termination.

18.13 Unless otherwise stated:

- (a) nothing in this Agreement creates a joint venture, partnership, or the relationship of principal and agent, between and us; and
- (b) you have no authority to bind us by any representation, declaration or admission, or to make any contract or commitment on behalf of us.