



CHANNEL FOUR TELEVISION

COMMISSIONING AGREEMENT

This Agreement consists of the following:

Programme Specific Terms

Signature

General Terms of Agreement

**Schedule 1 – Core Transmission Rights and Core Secondary Transmission Rights
and VOD Rights**

Schedule 2 – Secondary Rights

Delivery Requirements

Form of Laboratory Letter

Form of Facilities House Letter

Channel 4 Programme Running Lengths

Appendix 1 – Editorial Specification

Appendix 2 – Holdback Policy

Programme No:-

AN AGREEMENT made the _____ day of _____ 200

BETWEEN:

CHANNEL FOUR TELEVISION And
CORPORATION,
of 124 Horseferry Road,
LONDON SW1P 2TX
(hereinafter referred to as "Channel 4") (hereinafter referred to as "the Producer")

WHEREAS: [By an agreement dated _____ 200] (“the Development Agreement”) Channel 4 commissioned the Producer to carry out development work for [Channel 4 wishes to commission the Producer to produce] a proposed [programme/series of [number] programme(s)] provisionally entitled “[_____]” (hereinafter referred to as the Programme(s))

NOW IT IS AGREED

The Producer shall produce and deliver the Programme(s) in accordance with the Editorial Specification and the following Programme Specific Terms, General Terms of Agreement and Technical Requirements.

PROGRAMME SPECIFIC TERMS

1. Core Transmission Rights and Core Secondary Transmission Rights

In consideration of Channel 4’s agreement to pay the Channel 4 Licence Fee and subject always to the terms of this Agreement the Producer hereby grants to Channel 4 (and its Associate(s)) an exclusive extendable (in accordance with this Agreement) licence in the Core Channel 4 Service Rights and the Support Rights (as more specifically described in Column 1 and Column 3 of Schedule 1) (together hereinafter referred to as “Core Transmission Rights”) in the Programme(s) for the Term and any extension thereof in the Territory and undertakes and warrants not to exploit nor to authorise the exploitation of the Core Secondary Transmission Rights (as more specifically described in Column 2A of Schedule 1) in the Territory during the Term and any extension thereof otherwise than in accordance with Channel 4’s holdback policy attached as Appendix 2 and (if applicable) the provisions of Clauses 24 and 29 of the General Terms of Agreement.

2. Channel 4 Licence Fee : [Including £ already paid pursuant to the Development Agreement]
[More 4 Clearance Costs (if applicable):]
[Channel 4 Clearance Costs (if applicable):]
[More 4 Repeat Fee (if applicable): (payable, subject always to mutual signature of this Agreement and receipt of valid invoice, following the first transmission of the Programme(s) on the More4 Service) shall be 1% of the Channel 4 Licence Fee. The More 4 Repeat Fee shall purchase 8 Playdays for each of the Programme(s) over 2 years from the first transmission of the Programme(s) (or, if a Series, from the first transmission of the first episode of the Series) on the More4 Service].
3. Term: Commencing upon signature hereof and expiring 3 years from the earlier of technical acceptance or 3 months from Delivery of (all) the Programme(s) subject to the provisions of Clause 24 of the General Terms of Agreement.
4. Territory: United Kingdom and the Republic of Ireland (subject to Clause 23 of the General Terms of Agreement) SAVE THAT notwithstanding anything to the contrary contained herein, Channel 4 hereby agrees that the Producer may exploit the Core Secondary Transmission Rights in the Republic of Ireland with effect from the date:
- (a) 18 months after the first transmission of the Programme(s) on the Channel 4 Service or the More4 Service or, in the case of Programme(s) in a Series, 18 months after the date of first transmission of the last episode in such Series on the Channel 4 Service or the More4 Service; or
 - (b) if there has not been any transmission of any Programme(s) on the Channel 4 Service or the More4 Service during the 21 month period after Delivery of such Programme(s), then 21 months after Delivery of such Programme(s),
- in each case unless such rights have been released earlier pursuant to Clause 24 of the General Terms of Agreement and/or Appendix 2.
5. Clearances
Unless otherwise agreed in writing by Channel 4
- [(a) The Programme(s) shall be fully cleared for 2 transmissions by means of the Channel 4 Service Rights and]
 - (b) The Programme(s) shall be clearable for the rest of the Core Transmission Rights and the VOD Rights

Notwithstanding (b) above, if requested by Channel 4 during the course of production of the Programme(s), the Programme(s) shall be pre-cleared for 8 Playdays by means of the More4

Service Rights and provided that the Producer provides proper and accurate clearance paperwork and that the clearance costs are in accordance with agreed industry Union rates or as otherwise pre-agreed with Channel 4, Channel 4 will be responsible for the third party clearance costs of such Playdays.

6. (a). Fixed Price : Yes/No

[(b) For the purposes of this Agreement all references to “the Budgeted Cost” or “the Budgeted Cost of the Programme(s)” shall be deemed deleted and replaced with “the Fixed Price” or “the Fixed Price for the Programme(s)”.]

7. Payment Schedule for Channel 4 Licence Fee:

(a) 20% on later of signature and start of pre-production;

(b) 40% on first day of principal photography;

(c) 30% on last day of principal photography;

(d) 5% on delivery and acceptance in accordance with parts (a) and (b) of the Delivery Requirements and in accordance with Appendix 1.

(e) Provided (d) has been satisfied, 5% on delivery in accordance with the rest of the Delivery Requirements and in accordance with Appendix 1.

N.B. With the agreement of Channel 4 this payment schedule may be amended to take into account differing cashflow requirements.

8. Conditions of Channel 4 Licence Fee in relation to Programme(s) contracted on a Budgeted Cost basis. [If not applicable – add “intentionally deleted”]

It is a condition of the Channel 4 Licence Fee that if the Producer has not prior to signature hereof secured (or satisfied Channel 4 of its ability to secure immediately following Channel 4's approval in each case such approval not to be unreasonably withheld or delayed) any of the following:

[a. Channel 4's approval of the Budget and Cashflow and production schedule for the Programme(s);]

[b. the [exclusive] services of the Director for the period of production and post-production up to and including [delivery of the final cut of the Programme(s) and the Director's services on first call thereafter up to and including] delivery of the Programme(s) and also [non exclusively] during pre-production;]

- [c. the [exclusive] services of the Individual Producer for the period of pre-production and production and up to and including delivery of the Programme(s);]
- [d. the [exclusive] services of [Cast] [Contributors] [Others] for all periods for which they are required for the purposes of production as approved by Channel 4;]
- [e. the assignment to the Producer of all necessary rights for the purposes of this Agreement;]
- [f. Channel 4's approval of a comprehensive list of the Principal Cast and key production personnel to be engaged in the production of the Programme(s);]
- [g. Evidence to Channel 4's satisfaction that the Producer has secured the deficit between the Channel 4 Licence Fee and the Budgeted Cost
- [h. Evidence to Channel 4's satisfaction that the Producer has secured the insurance for the production in accordance with Clause 6 of the General Terms of Agreement;]
- [i. A copy of the Errors and Omissions Insurance Certificate showing Channel 4 and 4 Ventures Limited as named additional insured. **If deleted alternative paragraph (i) applies:**

(all upon terms satisfactory to Channel 4) then it shall forthwith upon signature or as soon as reasonably possible following signature hereof do so; (and Channel 4 will respond to details and material submitted for such purposes and raise any questions or objections relating thereto as soon as reasonably practicable in each circumstance). Channel 4 shall not be obliged to make any payment hereunder unless and until the Producer shall have satisfied such condition(s) and obtained all Channel 4's approvals but if Channel 4 shall in its discretion elect to make any payments it shall not be deemed to have waived such requirements.

- [i. It is acknowledged that the Producer will not provide the Errors & Omissions insurances as specified in Clause 6 of the General Terms of Agreement. However, in the event that the Producer or its appointed distributor intends to distribute the Programme(s) or any part thereof the Producer warrants that it will first obtain an Errors and Omissions Policy in accordance with sub-clauses 3(a)(xiii) and 6(a)(v) of the General Terms of Agreement and will upon request provide Channel 4 with evidence thereof. The indemnity provided for in sub-clause 3(b) of the General Terms of Agreement is hereby reiterated in respect of any failure by the Producer so to do **SAVE THAT** the applicable commencement of the Errors and Omissions Policy shall be from the appointment of a distributor to distribute the Programme(s)

or from the Producer first starting to distribute the Programme(s) and expiry shall be not earlier than 3 years after the first sale of the Programme(s)]

9. Conditions of Channel 4 Licence Fee in relation to Programme(s) contracted on a Fixed Price basis. [If not applicable – add “intentionally deleted”]

It is a condition of the Channel 4 Licence Fee that if the Producer has not prior to signature hereof secured (or satisfied Channel 4 of its ability to secure immediately following Channel 4's approval in each case such approval not to be unreasonably withheld or delayed) any of the following:

- [a. Channel 4's approval of the production schedule for the Programme(s);]
- [b. the [exclusive] services of the Director for the period of production and post-production up to and including [delivery of the final cut of the Programme(s) and the Director's services on first call thereafter up to and including] delivery of the Programme(s) and also [non exclusively] during pre-production;]
- [c. the [exclusive] services of the Individual Producer for the period of pre-production and production and up to and including delivery of the Programme(s);]
- [d. the exclusive services of [Cast] for all periods for which they are required for the purposes of production as approved by Channel 4;]
- [e. the assignment to the Producer of all necessary rights for the purposes of this Agreement;]
- [f. Channel 4's approval of a comprehensive list of the Principal Cast and key production personnel to be engaged in the production of the Programme(s);]
- [g. Evidence to Channel 4's satisfaction that the Producer has secured the deficit between the Channel 4 Licence Fee and the cost of the production
- [h. Evidence to Channel 4's satisfaction that the Producer has secured the insurance for the production in accordance with Clause 6 of the General Terms of Agreement;]
- [i. A copy of the Errors and Omissions Insurance Certificate showing Channel 4 and 4 Ventures Limited as named additional insured. **If deleted alternative paragraph (i) applies:**

(all upon terms satisfactory to Channel 4) then it shall forthwith upon signature or as soon as reasonably possible following signature hereof do so; (and Channel 4 will respond to details and material submitted for such purposes and raise any questions or objections relating

thereto as soon as reasonably practicable in each circumstance). Channel 4 shall not be obliged to make any payment hereunder unless and until the Producer shall have satisfied such condition(s) and obtained all Channel 4's approvals but if Channel 4 shall in its discretion elect to make any payments it shall not be deemed to have waived such requirements.

[i. It is acknowledged that the Producer will not provide the Errors & Omissions insurances as specified in Clause 6 of the General Terms of Agreement. However, in the event that the Producer or its appointed distributor intends to distribute the Programme(s) or any part thereof the Producer warrants that it will first obtain an Errors and Omissions Policy in accordance with sub-clauses 3(a)(xiii) and 6(a)(v) of the General Terms of Agreement and will upon request provide Channel 4 with evidence thereof. The indemnity provided for in sub-clause 3(b) of the General Terms of Agreement is hereby reiterated in respect of any failure by the Producer so to do SAVE THAT the applicable commencement of the Errors and Omissions Policy shall be from the appointment of a distributor to distribute the Programme(s) or from the Producer first starting to distribute the Programme(s) and expiry shall be not earlier than 3 years after the first sale of the Programme(s)]

10. [It is a condition of this Agreement that the Producer will obtain or deliver to Channel 4 on or before the first day of principal photography of the Programme(s) for the benefit of Channel 4 and the other investors co/financiers of the Programme(s) a guarantee of the completion of the Programme(s) (from completion guarantors who are approved by Channel 4 and on terms to be approved by Channel 4) failing which Channel 4 shall be entitled to cancel this Agreement by written notice to that effect and any parts of the Channel 4 Licence Fee already paid to the Producer shall then be forthwith repayable by the Producer to Channel 4 on demand.]

11. Copyright Assignment:

The Producer, by way of security, hereby assigns with full title guarantee to Channel 4 the entire copyright in the Core Transmission Rights and Core Secondary Transmission Rights and the VOD Rights in the Programme(s) in the Territory. The earlier of technical acceptance of the Programme(s) by Channel 4 and three months from final Delivery of the Programme(s) by the Producer (provided that in either case full Delivery has been made to Channel 4) shall constitute an automatic reassignment with full title guarantee of the copyright to the Producer, subject to the exclusive licence in the Programme(s) granted to Channel 4 by this Agreement.

If requested by the Producer, Channel 4 will enter into the agreed form of Assignment to confirm the automatic reassignment with full title guarantee of the copyright to the Producer (subject always to the exclusive extendable licence in accordance with this Agreement in the Programme(s) granted to Channel 4) as described herein.

Nothing in the above shall prevent a Producer prior to the date on which rights revert to the Producer from entering into distribution or other licensing arrangements with third parties for the exercise of any of the Producer's rights in accordance with this Agreement.

12.

(a) Channel 4's share of Net Receipts:

- (i) 50% of Net Receipts (or, if applicable, Net Interactive Receipts) from exploitation of such (if any) of the Support Rights as the Producer is entitled to exploit pursuant to this Agreement for the Term, including any extension thereof pursuant to Clause 24 of the General Terms of Agreement, and thereafter 15% in perpetuity.
- (ii) 50% of Net Receipts from exploitation of such (if any) of the Core Secondary Transmission Rights as the Producer is entitled to exploit pursuant to this Agreement for the Term, including any extension thereof pursuant to Clause 24 of the General Terms of Agreement, and thereafter 15% in perpetuity.
- (iii) 15% of Net Receipts from exploitation of the Secondary Rights as referred to in Schedule 2 hereof in perpetuity.

(b) Channel 4's / the Producer's share of the Net VOD Receipts (as defined in Clause 19 of the General Terms:

- (i) Channel 4 shall (except as otherwise provided in (iii) below) pay to the Producer the higher of (i) 50% of the Net VOD Receipts generated from Channel 4's exploitation of the VOD Rights in the Broadcast Programme(s) during the Term; and (ii) a share of sums agreed from time to time with PACT in respect of Channel 4's exploitation of the VOD Rights, as published in Channel 4's Terms of Trade.
- (ii) The Producer shall (except as otherwise provided in (iii) below) pay to Channel 4 50% of the Net VOD Receipts generated from the Producer's exploitation of the VOD Rights in the Broadcast Programme(s) for the Term, and thereafter 15% of the Net VOD Receipts in perpetuity.
- (iii) Where the Programme(s) form part of a Relevant Series:

- (x) Channel 4 will pay the Producer 50% of the Net VOD Receipts generated from Channel 4's exploitation of the VOD Rights in such Relevant Series in the period ending 6 months after the date of first transmission of the last episode of the Programme(s) in such Relevant Series on the Channel 4 Service or More4 Service (whichever is the earlier);
- (y) Channel 4 will pay the Producer 60% of the Net VOD Receipts generated from Channel 4's exploitation of the VOD Rights in such Relevant Series between the end of the period described in Clause 12(b)(iii)(x) above and the expiry of the Channel 4 VOD Window(s) in respect of such Relevant Series and thereafter Channel 4 will pay the Producer 85% of the Net VOD Receipts where Channel 4 is exploiting the non-exclusive VOD Rights in such Relevant Series; and
- (z) on expiry of the Channel 4 VOD Window(s), the Producer will pay Channel 4 15% of the Net VOD Receipts generated from the Producer's exploitation of the VOD Rights in such Relevant Series in perpetuity.

13. Regional: Yes/No

Signed by

Duly authorised on behalf of

[Production Company] [Date]

Signed by

Duly authorised on behalf of

Channel Four Television Corporation.

GENERAL TERMS OF AGREEMENT

1. DEFINITIONS:

- (a) For the purposes of this Agreement the following expressions shall have the following meanings respectively:

Airlines and Shipping Lines Rights

The right to authorise exhibition of the Programme(s) by means of the sale, hire, lease or licensing of physical copies of the Programme(s) for direct exhibition to audiences who are not required to make a specific payment for viewing, on aeroplanes in-flight, cruise and cargo ships registered in, flying the flag or customarily serviced from within the Territory in which the rights are held.

Associate(s)

In relation to either party shall mean any person, firm or company connected within the meaning of s839 Income and Corporation Taxes Act 1988 with either party or with any of its directors including, for the avoidance of doubt, (in relation to Channel 4) 4 Ventures Limited.

Basic Charges

- (a) fees, payment or other consideration directly relating to the provision of access to any Distribution System(s) (including without limitation any such fees, payment or other consideration in respect of reception equipment required to access any Distribution System(s)) but excluding any fees, payment or other consideration to receive any audio and/or audio-visual content via such Distribution System(s); and/or
- (b) government licence fees and/or taxes which are payable by owners of reception equipment in order to receive audio and/or audio-visual content via such reception equipment.

British Armed Forces and Community Channel Rights

The right to deliver the Broadcast Programme(s) as part of the Channel 4 Service and/or More 4 Service to the British Armed Forces and Community Channel without further payment to the Producer.

Broadcast Programme(s)

Shall mean the version of the Programme(s) as delivered to and accepted by Channel 4 for first transmission on the Channel 4 Service or More4 Service (and for the avoidance of doubt shall exclude any and all other elements of the Programme(s) but shall include any revisions made to the Programme(s) in respect of any further exploitation in accordance with the terms of this Agreement for legal and/or compliance reasons or any other reason as agreed with the Producer).

Budget and Editorial Specification

The documents in the form annexed and if no documents are so annexed then the relevant expression shall mean the relevant documents which Channel 4 has previously approved in writing or (if none) which it may subsequently so approve.

Catch Up TV Rights

The right for Channel 4 to communicate the Broadcast Programme(s) to the public in the Territory where there is no direct payment by the consumer via any Distribution System(s) within 72 hours of the transmission of such Programme(s) on the Channel 4 Service and/or More4 Service, as part of any linear television programme service which consists of all or a substantial part of the programmes included in the Channel 4 Service and/or More4 Service (including without limitation any such television programme service which is a "+1" or other time-shifted version of the Channel 4 Service and/or More4 Service and/or which contains a "remix" of the programming schedule of the Channel 4 Service and/or More4 Service). A "substantial part" shall mean the Channel 4 Service and/or More4 Service excluding programme(s) which are unavailable for commercial or legal reasons and any consequential changes made as a result of such exclusions. "Remix" shall mean the insertion of alternative programming where needed to fill gaps left by such changes and/or reordering of programmes and/or reordering or changing advertisements as a result of such changes.

CDPA

The Copyright, Designs and Patents Act 1988, or any statutory amendment, re-enactment or modification thereof from time to time in force or regulations made under such Act.

Changed Format Rights

The right to license third parties outside the Territory to adapt the Format whereby key elements of the Programme(s) such as but not in limitation the character(s), location(s), setting(s), and situation(s) are changed from the original version of the

Format.

Channel 4's Format Rights

Such of the Format Rights as are necessary to enable Channel 4 to exercise the rights granted to it hereunder in accordance with this Agreement including without limitation recommissioning in respect of Further Programmes in accordance with Clause 25.

Channel 4 Service

As the context requires, either or both of the linear television programme service(s) known as "Channel 4" and "S4C"

Channel 4 Service Rights

The right to communicate the Programme(s) to the public within the Territory on the Channel 4 Service where there is no direct payment by the consumer by means of any Distribution System(s), including without limitation any simulcast or substantial simulcast (where Programme(s)/advertisements/sponsorship are unavailable for commercial or legal reasons and/or slight delay in re-transmission) of the Channel 4 Service but excluding the DTO Right(s).

"Channel 4 Video On Demand Service"

Shall mean any Channel 4-branded VOD Service provided by Channel 4 and/or its authorised distributor(s) (but excluding the Producer) and offering a range of programmes without limitation (i) via the Internet (intended primarily for viewing on personal computers) and (ii) via cable and DSL Distribution Systems (intended primarily for viewing on televisions) to the public in the Territory in accordance with 23(b).

Clip Sales Rights

The right to sell or license for use (subject to any third party rights in any material incorporated in such extract(s)) extract(s) from the Broadcast Programme(s) (excluding always for the avoidance of doubt unused takes and outtakes) in any format including without limitation audio only for commercial purposes in all media (now known or hereafter devised) but excluding by way of the Consumer Product Rights.

Closed Circuit Television Rights

The right to include the Broadcast Programme(s) within individually wired and/or wireless systems in which programmes are relayed to an audience confined to a limited area.

Consumer Product Rights

The rights listed in Schedule 2, Column 2: Home Videogram Rights, Interactive Videogram Rights, Merchandising Rights (including Ringtone(s) and Wallpaper(s)), Music Publishing Rights, Publishing Rights, Radio Rights (subject to the additional holdback in Clause 28 of the General Terms of Agreement), Record Rights, Stage Rights and DTO Right(s) (subject to the additional holdback in Clause 20 of the General Terms of Agreement).

Contributors

Any person(s) appearing in or taking part in the Programme(s) and any other person(s) whose contributions are intended to be incorporated in the Programme(s).

Delivery

The delivery to Channel 4 of all of the items listed in its Delivery Requirements as set out in Appendix 1.

Distribution System(s)

Any and all forms of distribution of audio-visual content (or audio content in the exercise of Promotional Extract Rights, Clip Rights and Radio Rights), whether now existing or hereafter developed, whether analogue, digital or otherwise, and whether point to multipoint or point to point including, without limitation, over the air terrestrial systems, cable television systems, digital subscriber line systems and other telecommunications systems, master antennae systems, satellite master antennae systems, multichannel directional points systems, satellite direct to home systems, any other electronic communications networks, and further including, for the avoidance of doubt (and without limitation), distribution via the Internet and/or by means of any Mobile Telecommunications Service and/or Mobile TV Technologies.

DTO Right(s)

The right to make available (or to authorise third parties to make available) electronic copies of the Programme(s) (in their entirety) to the public by means of download via Distribution System(s) for subsequent viewing by the viewer, where:

a charge (in addition to Basic Charges) is made to the viewer on a per-download (rather than per-exhibition) basis for the

privilege of downloading such Programme(s);

such downloaded Programme(s) (or any copies or exported version thereof as described in Clause 20(ii)) may be retained by the viewer on a permanent basis or for an indefinite period, without any maximum viewing period applying to limit the duration of the viewer's right to view such downloaded Programme(s) (or any such copy or exported version thereof).

Format Rights

The right to control, reproduce, transmit and exploit key elements of the Programme(s) in whole and/or in part, existing now or in the future including (but not in limitation) the Editorial Specification, the Programme Proposal, the Script, catch phrases, individual visual elements and the outline, scheme, structure, title sequences, title and any visual representation thereof, plan, character(s), character relationships, setting(s) designs and situation(s) for and other distinctive elements of the Programme(s) together with any variations thereto or adaptations thereof, including without limitation, logos, trademarks and designs used in connection with the Programme(s) for the purposes of the production of further programmes, films and/or sound recordings including (but not in limitation) prequels and sequels (and "Format" shall be construed accordingly).

Free Cable Television Rights

The right to communicate the Broadcast Programme(s) to the public as part of a linear television programme service by means of a coaxial, fibre-optic or other cable network, without any charge (other than Basic Charges) being made to the viewer for the right to receive such television programme service by means of such network.

Free Satellite Broadcast Rights

The right to communicate the Broadcast Programme(s) to the public as part of a linear television programme service by means of a direct to home satellite (for the avoidance of doubt specifically excluding any satellite-based Internet distribution) whose signal is intended for direct reception by members of the public in the home within the territory in respect of which such right is held, without any charge (other than Basic Charges) being made to the viewer for the right to receive such television programme service by means of such satellite.

Free Video On Demand Rights

The right to make available the Programme(s) on a temporary basis only to the public and/or to issue non-physical temporary electronic copies of the Programme(s) to the public (on a "per Programme" basis) by means of any Distribution System(s), where the exhibition of such Programme(s) is at a time chosen by the viewer (i.e. the viewer can independently, and in the viewer's entire discretion, select his/her desired viewing time without reference to a list of possible viewing times pre-established by the exhibitor of the applicable service, and can start, stop, pause, fast-forward and/or rewind the exhibition of such Programme(s)), where no charge (other than Basic Charges) is made to a viewer for the privilege of viewing the particular Programme(s) at a time chosen by the viewer, whether or not any such temporary copies of such Programme(s) are required to be downloaded to the viewer's individual authorised reception equipment prior to the viewer's exhibition of such Programme(s), including PVR Push, but excluding (for the avoidance of doubt) the Near Video On Demand Rights and the DTO Right(s) and any right to retain a permanent copy of the Programme(s).

Home Videogram Rights

The right to exploit the Programme(s) (in their entirety) in the form of pre-recorded Videograms when the same are produced for sale, lease or rental to the public for linear non-interactive private home and/or portable use only

"Videogram" shall mean any form of standalone physical disc or magnetic tape, in formats now known or hereinafter invented or discovered (including but not in limitation Videocassettes, Digital Versatile Discs (DVDs), Universal Media Discs (UMDs) and Laserdiscs, but for the avoidance of doubt excluding hard disk drives) and used for reproducing a sequence of visual images, with or without sound, capable of being shown as text and/or still and/or moving visual images but only when used in conjunction with a separate physical playback device which is directly connected to or which forms an integral part of an audio-visual monitor.

Independent Producers' Handbook and Channel 4 Compliance Manual

The Independent Producer's Handbook gives helpful and practical guidance to all producers on the Ofcom Broadcasting Code, the main areas of law, best practice and compliance procedures and the Viewers Trust Guidelines that apply to the making and broadcast of programmes on Channel 4 and/or More4. The Independent Producers' Handbook is available on the 4Producers website <http://www.channel4.com/corporate/4producers/>.

Interactive Television Rights

The right to, and to authorise others to, design, create, control and exploit enhanced and/or interactive television applications and associated functionalities (whether accessible during and/or viewable in conjunction with the transmission of the Programme(s) and/or "free standing") which include content relating to the Programme(s), the Channel 4 Format Rights and/or Support Site Rights (including without limitation Programme-specific or channel-specific editorial, alternative camera angles and/or audio/video feeds, polling and voting services and/or the Streaming Rights of any part or parts of the Programme(s) and any audio/video feeds in respect thereof; communication and/or messaging services and betting, gaming and "t-commerce" services and/or other services which make use of the return path) in connection with the exploitation of the Programme(s) or any part or parts thereof on any Distribution System(s).

Interactive Videogram Rights

The right to exploit the Programme(s) (in their entirety) in the form of pre-recorded Videograms when the same are produced for sale, lease or rental to the public for interactive private home and/or portable use only and which can, when used in conjunction with a separate physical playback device which is directly connected to or which forms an integral part of an audio-visual monitor allow the Programme(s) or elements thereof to be manipulated or adjusted by the user of such device during the viewing thereof, thereby altering or determining the narrative structure of the Programme(s) or elements thereof as viewed by the user of such device.

Internet

The worldwide, publicly accessible network of interconnected computer networks including without limitation the world wide web.

Limited Rights Material

Any literary, dramatic, artistic or musical material and any library or other film or sound recording material incorporated into or synchronised with or otherwise forming part of a Programme(s) which has neither been commissioned for the Programme(s) nor been produced at the expense of the Producer out of the Budgeted Cost/Fixed Price but has been created by third parties or by the Producer for purposes other than the Programme(s).

Linear Loop Rights

The right in the Territory only to communicate the Broadcast Programme(s) to the public as part of a Channel 4-branded linear television programme service solely by means of a Mobile Telecommunications Service to a Portable Terminal in the Territory or via the Internet consisting of a block of programming which is regularly repeated until refreshed, but for the avoidance of doubt excluding the VOD Rights, the Catch Up TV Rights, the Channel 4 Service Rights, Consumer Product Rights the DTO Right(s) and the More4 Service Rights.

Merchandising Rights

The right (a) to manufacture and sell and/or license the manufacture and sale of all kinds of goods and services (including without limitation Ringtone(s) and Wallpaper(s)) and/or to organise and/or stage an event reproducing, depicting or decorated with or associated with the characters, character names, title, designs, scenes or incidents from the Programme(s), or articles appearing in the Programme(s) or logos, trade marks and designs used in connection with the Programme(s) and/or the advertising, promotion and/or publicity of the Programme(s) (but excluding for the avoidance of doubt any such exploitation as part of the Core Transmission Rights, the Core Secondary Transmission Rights and/or the VOD Rights); and (b) to apply for and register the title, or any other elements of the Programme(s) as trade marks or designs or for such other protection as may be available in any country of the world subject to Channel 4's use of the same as included in the Format Rights and otherwise in accordance with this Agreement.

Mobile Telecommunications Service

any telecommunications service employing any of the following wireless telecommunications technologies: GSM, GPRS, HSCSD, WAP, EDGE, CDMA, UMTS, HSDPA and any similar, related or derivative technology created now or in the future which uses radio frequency spectrum and which is intended to permit the transmission to and reception by a wireless handheld device of textual material, data, voice, video or multimedia services for use by means of that device, but excluding any Mobile TV Technologies.

Mobile TV Technologies

DVB-H, DMB and DAB technologies, MediaFLO and any similar, related or derivative technology created now or in the future which is developed from traditional broadcast technologies and is intended to permit the communication to the public (at a time scheduled by the exhibitor) of a television programme service for viewing on (and/or recording to) a wireless handheld device.

More4 Service

The linear television programme service known as "More4".

More4 Service Rights

The right to communicate the Programme(s) (including without limitation any Streams) to the public within the Territory on the More4 Service by means of any Distribution System(s), including without limitation any simulcast (or substantial (unless Programme(s)/advertisements are unavailable for commercial or legal reasons and/or slight delay in retransmission) simulcast) of the More4 Service via the Internet and/or any Mobile Telecommunications Service and/or Mobile TV Technologies (whether or not such simulcast features any blanked out programmes and/or different advertising and/or sponsorship) and any consequential changes arising therefrom but excluding the DTO Right(s).

Music Publishing Rights

The right to exercise in respect of any musical compositions and lyrics which are specially commissioned or created for the

Programme(s) any and all rights therein acquired from the composer (subject always to the rights of any applicable collecting societies such as the Performing Right Society) to the extent that such are not relevant to exploitation of the Programme(s) itself.

Near Video On Demand Rights

The right to make available the Broadcast Programme(s) on a temporary basis only to the public on a "per Programme" basis by any Distribution System(s), which Programme(s) is transmitted sufficiently frequently at times scheduled by the exhibitor on a number of channels to offer viewers a number of alternative commencement times to view such Programme(s), whether or not a supplemental charge (over and above any Basic Charges) is made to the viewer for the privilege of viewing such Programme(s), and whether or not such Programme(s) as so transmitted are required and/or permitted to be recorded to the viewer's individual authorised reception equipment prior to their exhibition, but excluding the VOD Rights, the Linear Loop Rights and the Catch Up TV Rights.

Non-Commercial Use

Shall mean distribution on a "free to use" basis where (save for any Basic Charges) there is no direct payment by the consumer for access to the relevant content and where no advertising and/or sponsorship opportunities are exploited in connection with the distribution of such content to the consumer.

Non-Theatrical Rights

The right to authorise exhibition of the Broadcast Programme(s) by means of the sale, hire, lease or licensing of copies of the Broadcast Programme(s) for direct exhibition to audiences who are not required to make a specific payment for viewing, or by the following institutions or at the following places where the exhibition of programmes on a regular basis is not the primary purpose – educational institutions and churches, educational classes, gatherings held by corporate entities and other bodies not being educational institutions; clubs or other organisations of an educational, cultural, charitable or social nature, including recognised film societies, and hotels, motels, prisons, convents, orphanages, oil fields and rigs, military and armed forces installations, and other similar facilities but excluding Closed Circuit Television Rights.

Ofcom

The Office of Communications (or any successor or similar body carrying out supervisory functions in relation to the communications industry).

Off Air Recording Rights (ERA Scheme)

The right to authorise copying and reproduction under a Licensing Scheme certified for the purposes of Section 35 of the CDPA, whereby licences are granted to enable the Programme(s) to be recorded by or on behalf of educational establishments (as defined in the CDPA) from any broadcast including the Programme when such recording is for the educational purposes of such establishments ("Off-Air Educational Recording Scheme").

Other Linear Rights

The right to communicate the Broadcast Programme(s) to the public as part of a linear television programme service by means of any Distribution System(s), whether or not a specific subscription or charge (over and above any applicable Basic Charges) is payable for the right to receive such television programme service, but excluding the Closed Circuit Television Rights, the Free Cable Television Rights, the Free Satellite Broadcast Rights, the Pay Cable Television Rights, the Pay Satellite Broadcast Rights, the Terrestrial Free Broadcast Rights – Analogue, the Terrestrial Free Broadcast Rights – Digital, the Terrestrial Pay Broadcast Rights and the DTO Right(s).

Pay Cable Television Rights

The right to communicate the Broadcast Programme(s) to the public as part of a linear television programme service by means of a coaxial, fibre-optic or other cable network, where a specific subscription or charge (over and above Basic Charges) is payable for the right to receive such television programme service by means of such network.

Payment Schedule

As defined in the Programme Specific Terms.

Pay Satellite Broadcast Rights

The right to communicate the Broadcast Programme(s) to the public as part of a linear television programme service by means of a direct to home satellite (for the avoidance of doubt specifically excluding any satellite-based Internet distribution) whose signal is intended for direct reception by members of the public in the home within the territory in respect of which such right is held, where a specific subscription or charge (over and above Basic Charges) is payable for the right to receive such television programme service by means of such satellite.

Playday

Up to two transmissions on the More4 Service within a continuous 24 hour period with one transmission between 11 p.m. and 6 a.m.

Podcast(s)

An audio only media file that is distributed by subscription (free or pay) over the Internet using syndication feeds for audio playback via a portable device and/or a personal computer.

Portable Terminal

Means any wireless handheld device created now or in the future which is intended for use in connection with a Mobile Telecommunications Service.

PPV Video On Demand Rights

The right to make available the Programme(s) on a temporary basis only to the public and/or to issue non-physical temporary electronic copies of the Programmes to the public (on a "per exhibition" basis) by means of any Distribution System(s), where the exhibition of such Programme(s) is at a time chosen by the viewer and/or (as the case may be) within a viewing period which commences at a time chosen by the viewer (i.e. the viewer can independently, and in the viewer's entire discretion, select his/her desired viewing time without reference to a list of possible viewing times pre-established by the exhibitor of the applicable service, and can start, stop, pause, fast-forward and/or rewind the exhibition of such Programme(s)), where (save as provided in Clause 19(e)) a supplemental charge (over and above any Basic Charges) on a per-exhibition (rather than subscription) basis is made to a viewer for the privilege of viewing the particular Programme(s) at a time chosen by the viewer, whether or not any such temporary copies of such Programme(s) are required to be downloaded to the viewer's individual authorised reception equipment prior to the viewer's exhibition of such Programme(s), including PVR Push, but excluding (for the avoidance of doubt) the Near Video On Demand Rights and the DTO Right(s) and any right to retain a permanent copy of the Programme(s).

Premium Rate Telephone Line Rights

The right to run telephony services including premium rate telephone lines (whether fixed or wireless) in connection with the Programme(s) and/or linked to any communication to the public on the Channel 4 Service and/or the More4 Service.

Programme(s)

The expression "Programme(s)" as described in the Programme Specific Terms shall include all literary dramatic artistic and musical material (and any dialogue commentary) and all film and sound recording(s) of any nature which are either commissioned for the Programme(s) or produced at the expense of the Producer for potential use in the Programme(s) or the exploitation thereof (regardless of whether the Producer actually undertakes the arrangements necessary for making the film or sound recording(s)) which is/are either incorporated into or synchronised with or otherwise form part of the Programme(s) or produced for the purposes thereof including without limitation the Stream (if appropriate) and all negative positive and tape material (including unused takes, clips trims and outtakes) produced in connection with such Programme(s) and shall include the Limited Rights Material (if any) to the extent actually incorporated in the Broadcast Programme only.

Promotional Extract Rights

The right to communicate to the public extract(s) from the Broadcast Programme(s) (excluding always for the avoidance of doubt unused takes and outtakes) of up to 4 minutes aggregate duration in any one use to service programme advertisement, trailing and pre and post broadcast comment and review requirements and for the purposes of promotion of Channel 4, its services and the exploitation of the rights granted to Channel 4 hereunder by any audio and/or visual means in any manner and in all media (whether now known or hereafter devised) and to reproduce and distribute extract(s) from and trailers for the Programme(s) within showreels, electronic press kits, compact discs and other electronic products and in other electronic media produced for Programme and/or Channel 4 promotional purposes and including without limitation for use with Interactive Rights as defined in Clause 18 but excluding the Clip Rights.

Publishing Rights

The right to publish in volume form, and to distribute and sell or otherwise exploit for reproduction in the form of text and in any language, any story or article or series of stories or articles and/or illustrations based upon or derived from the Programme(s) or any element of it/them and/or any novelised version adaptation, dramatization, transcript or summary of or expansion of narrative based upon the Programme(s), or any part(s) of the Programme(s) but for the avoidance of doubt excluding any publication as part of the Core Transmission Rights, the Core Secondary Transmission Rights and/or the VOD Rights.

PVR Push

The right to communicate the Programme(s) to the public by means of any Distribution System(s) where such communication to the public occurs at a time scheduled by the exhibitor of such Programme(s) and is automatically recorded on a time restricted temporary basis only to a viewer's reception equipment at the instigation of such exhibitor (or

at the instigation of the operator of such Distribution System(s) for subsequent playback by the viewer for a limited time period.

Radio Rights

The right to communicate to the public via any Distribution System(s) (including by way of Podcasts) in audio-only format the entire sound recording of the Programme(s) and to issue copies of any such entire sound recording to the public in electronic and audio-only format.

Record Rights

The right to manufacture whether for sale or hire to the public or other form of exploitation for linear non-interactive home use only copies in the form of records, tapes and discs (including without limitation compact discs) or any other device, contrivance or appliance whatever bearing or emitting sounds (unaccompanied by visual images) of sound recordings made for the Programme(s) but excluding, for the avoidance of doubt, the Radio Rights.

Relevant Series

Shall mean each Series of Programme(s) within a Returning Series and shall incorporate the original programme(s) commissioned including any initial one off or transmittable pilot programme which shall be deemed to be part of the first Relevant Series commissioned.

Returning Series

Shall mean such Series of Programme(s) which Channel 4 re-commissions pursuant to Clause 25 of the General Terms of Agreement;

Ringtone(s)

Shall mean the sound made by a Portable Terminal to indicate an incoming call which has been customised to reproduce and use an extract from the soundtrack of the Programme(s) PROVIDED THAT such extract shall be a maximum length of 15 seconds (it being agreed that such extract can be repeated an unlimited number of times in any such ringtone).

Scheduled Services

Shall mean the communication to the public of any linear television programme service (but excluding any such communication to the public by means of Mobile TV Technologies, and further excluding the Linear Loop Rights, the Near Video On Demand Rights and any exploitation by means of PVR Push) where, for the avoidance of doubt, the programmes included in such television programme service are communicated to the public at times scheduled by the operator of such service and not by any end user/recipient of such service.

Series

Shall mean two or more episode(s) of the Programme(s) commissioned simultaneously.

Stage Rights

The right to adapt and perform the Programme(s) or key elements of the Programme(s) (including the Script and/or the Format) by live performers where the performance occurs before a live audience.

Stream

All material that is produced whilst recording the Programme(s) by positioning the camera(s) so that all events in a studio or at a location are recorded with or without sound.

Streaming Rights

The right to transmit or distribute or disseminate or cause or authorise the transmission or distribution or dissemination of the Stream whether live or delayed or edited or unedited.

Subscription Video On Demand Rights

The right to make available the Programme(s) to the public on a temporary basis and/or to issue non-physical temporary copies of the Programme(s) to the public (on a "per Programme" basis) by means of any Distribution System(s), where the exhibition of such Programme(s) is at a time chosen by the viewer (i.e. the viewer can independently, and in the viewer's entire discretion, select his/her desired viewing time without reference to a list of possible viewing times pre-established by the exhibitor of the applicable service, and can start, stop, pause, fast-forward and/or rewind the exhibition of such Programme(s)), where the viewer is required to pay a fee (over and above any Basic Charges) in respect of access to a package of television programmes, including such Programme(s) (rather than a separate fee in respect of each individual programme which is available on the relevant service), whether or not any such non-physical temporary copies of such Programme(s) are required to be temporarily downloaded to the viewer's reception equipment prior to the viewer's

authorised exhibition of such Programme(s), including PVR Push, but excluding (for the avoidance of doubt) the Near Video On Demand Rights and the DTO Right(s) and any right to allow the public to retain a permanent copy of the Programme(s).

Support Site Rights

The right to use (directly and indirectly) or license the use of the Broadcast Programme(s) (and any part(s) thereof) (excluding for the avoidance of doubt the VOD Rights and the DTO Right(s)) and/or the Format Rights (including without limitation the title(s) of the Programme(s)), transcripts of the Broadcast Programme(s), scenes depicted in and/or other excerpts from the Broadcast Programme(s)) in websites, WAP sites or other electronic resource material provided by means of a Distribution System(s), for non-commercial or promotional purposes (or any combination thereof) and for such purposes to re-format, re-produce, make available, manipulate and/or adjust any such materials for use in connection therewith, but which rights exclude the Interactive Television Rights and the Consumer Product Rights (save to the extent that commerce in respect of the Consumer Product Rights may be carried out via the Support Site Rights). For the avoidance of doubt any such Support Site (and any content included thereon as set out above) may carry commercial advertising and/or sponsorship.

Synopsis Rights

The right to print and publish or cause or authorise to be printed and published synopses and resumes of any script material written for or used in the Programme(s) for promotional and advertising purposes relating to the Programme(s) up to 1,500 words in length and booklets, fact sheets, diagrams, charts and other printed publication produced by Channel 4 as literary support material made available primarily for educational use or reference by viewers who have viewed the Programme(s) provided that not more than 10,000 words from the script or material from the Programme(s) shall be reproduced in any such support material.

Technical Requirements

As set out on Channel 4's producer's website <http://www.channel4.com/corporate/4producers/>.

Teletext Rights

The right to communicate teletext services to the public in conjunction with any communication to the public of the Programme(s) as part of a linear television programme service, but excluding the Interactive Television Rights.

Terrestrial Free Broadcast Rights – Analogue

The right to broadcast the Broadcast Programme(s) in analogue form as part of a linear television programme service by wireless telegraphy from and by terrestrial television transmitters (including any broadcast by means of Mobile TV Technologies) where such broadcast is intended for reception by members of the public without any charge (other than Basic Charges) being made to the viewer for the right to receive such television programme service.

Terrestrial Free Broadcast Rights – Digital

The right to broadcast the Broadcast Programme(s) in digital form as part of a linear television programme service by wireless telegraphy from and by terrestrial television transmitters (including any broadcast by means of Mobile TV Technologies) where such broadcast is intended for reception by members of the public without any charge (other than Basic Charges) being made to the viewer for the right to receive such television programme service.

Terrestrial Pay Broadcast Rights

The right to broadcast the Broadcast Programme(s) in digital form as part of a linear television programme service by wireless telegraphy from and by terrestrial television transmitters (including any broadcast by means of Mobile TV Technologies) where such broadcast is intended for reception by members of the public where a specific subscription or charge (over and above Basic Charges) is payable for the right to receive such television programme service by means of such transmitters.

Theatric Rights

The right to release and exhibit (or authorise others to release and exhibit) the Programme(s) in cinemas open to the general public on a regularly scheduled basis that charge a specific payment for viewing the Programme(s) (or that charge a payment for the right to view the Programme(s) and other programmes as part of a "cinema pass" or similar offer).

United Kingdom and UK

The expressions "United Kingdom" and "UK" shall mean the United Kingdom of Great Britain and Northern Ireland, the Channel Islands, the Isle of Man and the United Kingdom Continental Shelf.

Viewer Trust Guidelines

The Viewer Trust Guidelines (dated 1st August 2007 and to be updated from time to time) sets out the rules and procedures designed to promote best practice in ensuring that viewer trust is maintained. The Viewer Trust Guidelines form part of the

Independent Producers' Handbook and are available on the 4producers website <http://www.channel4.com/corporate/4producers/>.

VOD Rights

The Free Video On Demand Rights, the PPV Video On Demand Rights and the Subscription Video On Demand Rights.

VOD Service

Shall mean any service via which any or all of the VOD Rights in the Broadcast Programme(s) are exploited.

Wallpaper(s)

Shall mean a picture that reproduces and uses an image from the Programme(s) as a background on a Portable Terminal.

2. CONSIDERATION:

(a) Payment:

Channel 4 shall pay the Channel 4 Licence Fee to the Producer in accordance with the payment schedule set out in the Programme Specific Terms (subject always to mutual signature of this Agreement and receipt of valid invoice for the relevant sum) PROVIDED THAT Channel 4's obligation to pay the Channel 4 Licence Fee shall be subject to the due performance by the Producer of its obligations hereunder but if Channel 4 shall in its discretion elect to make any payments it shall not be deemed to have waived any of its rights hereunder.

(b) Costs of Production:

Subject to payment by Channel 4 of the Channel 4 Licence Fee in accordance with the terms of this Agreement the Producer shall bear and pay all costs liabilities incurred in connection with the production and delivery of the Programme(s).

3. PRODUCER'S WARRANTIES:

(a) Subject to Clause 3 (c) below, the Producer hereby warrants, represents and undertakes in respect of the Programme(s) and all rights granted to Channel 4 hereunder that:

- (i)** it will pay all sums due to any person who is entitled to any payment in respect of services or facilities rendered or goods supplied or rights granted in connection with the Programme(s) and for the avoidance of doubt the Producer will be liable to all Contributors and third parties in respect of any repeat and/or residual payments or other payments of any kind that may be due to such persons in the exercise of the Producer's rights in the Programme(s);
- (ii)** other than in respect of the performing rights in any music vested in the Performing Right Society Limited and except as otherwise herein agreed it will secure irrevocable assignable licences entitling it and any person deriving title through it without further payment to record broadcast transmit perform and exploit by sale hire or otherwise all copyright material incorporated in the Programme(s) for all rights licensed to Channel 4 and any associated companies hereunder and including but without limitation synchronisation licences in respect of any musical recording or musical composition recorded in the Programme(s) and licenses in respect of library and other film material incorporated in the Programme(s) PROVIDED ALWAYS the rights granted by the licences secured pursuant to this sub-clause may be limited to the use of such material as part of the Programme(s);
- (iii)** the exercise by Channel 4 its assignees and/or its Associate(s) of its rights in the Programme(s) or any part thereof in accordance with the terms of this Agreement will not infringe any personal proprietary rights (including copyright and other intellectual property rights) or other right of any third party or be in breach of any provisions of or rights under Part II of the CDPA;
- (iv)** nothing will be included in the Programme(s) (and/or arising from the Producer's production of the Programme(s) and/or editing of footage for the Programme(s)) in breach of any contract nor will anything in the Programme(s) or any materials in connection therewith provided by the Producer hereunder breach any duty of confidence constitute contempt of court or constitute an unwarranted infringement of the privacy of any person or breach any applicable laws including without limitation any provision of the Broadcasting Acts 1990 and 1996, the Communications Act 2003, or any statutory amendment, re-enactment or modification thereof from time to time in force or regulations made under such Acts;
- (v)** the Programme(s) and the material on which the Programme(s) is/are based on are and will be original in the persons notified to Channel 4 prior to the date hereof as the author(s) and originator(s) thereof;
- (vi)** nothing in the Programme(s) or in the Delivery Requirements as set out in Appendix 1 shall be defamatory of, any person;
- (vii)** nothing in the Programme(s) (and/or arising from the Producer's production of the Programme(s) and/or editing

of footage for the Programme(s)) or in the Delivery Requirements as set out in Appendix 1 or arising from any activities by the Producer pursuant to Clause 8 shall in respect of factual programmes or matters, or portrayal of factual matters in other programme genres, (a) mislead the audience so as to cause harm or offence and/or (b) materially mislead Channel 4

- (viii) there are and will on delivery of the Programme(s) be no claims liens or encumbrances of any nature affecting the Programme(s) or any part thereof other than those agreed contributor or Limited Rights Material clearance costs, repeat fees and residuals which are not included in the Budget/Fixed Price and in particular all necessary waivers of any moral rights in the Programme(s) or in contributions to or material included in the Programme(s) insofar as the same are inconsistent with or conflict with the rights licensed to Channel 4 have been secured by the Producer;
 - (ix) unless otherwise agreed by Channel 4 in writing the Producer will secure consents before the delivery of the Programme(s) to Channel 4 enabling Channel 4 and its Associates to take publicity stills and to issue publicity concerning all persons appearing in or rendering services in connection with Channel 4's rights in the Programme(s) and to use their names photographs biographies likenesses and voices and that all photographs delivered to Channel 4 may be used for such purposes with or without supporting caption information in connection with all forms of advertising publicising promotion and exploitation of the Programme(s) in accordance with the rights licensed to Channel 4 hereunder without any further obligation on the part of Channel 4 (but Channel 4 shall not use any such publicity material to suggest that the person concerned approves of any consumer product or service other than the Programme(s) unless the persons involved have expressly consented to this);
 - (x) the Programme(s) will comply with all applicable regulations, including without limitation all requirements of the current (at the time of Delivery) Ofcom Broadcasting Code and accompanying Ofcom guidance on the Code and the Viewer Trust Guidelines, and with all applicable requirements of Channel 4's Independent Producers' Handbook as amended from time to time (<http://www.channel4.com/corporate/4producers/>); and where appropriate the current Phone Pay Plus Code of Practice.
 - (xi) it will ensure that all personnel engaged for the Programme(s) have read and comply with all requirements of the current Ofcom Broadcasting Code (<http://www.ofcom.org.uk/tv/ifi/codes/bcode/ofcom-broadcasting-code.pdf>) and accompanying Ofcom guidance on the Code (<http://www.ofcom.org.uk/tv/ifi/guidance/bguidance/>) and the Viewer Trust Guidelines and The Independent Producers' Handbook as amended from time to time (<http://www.channel4.com/corporate/4producers/>) concerning the compliance obligations of Channel 4 under the terms of its licence from Ofcom and where appropriate the current Phone Pay Plus Code of Practice;
 - (xii) Channel 4 and its Associate(s) shall have the right to include details of such Programme(s) in catalogues produced by Channel 4 for the purpose of publicising Channel 4 and/or the programmes included in the Channel 4 Service and/or the More4 Service;
 - (xiii) it has not entered and will not enter into any contract with any person which will impinge upon the rights granted to Channel 4 hereunder;
 - (xiv) it will comply with all requirements of the insurances referred to in Clause 6 of these General Terms, including, without limitation the Errors and Omissions Insurance, and shall where requested provide evidence to Channel 4 that it has taken such steps that a reasonably prudent producer should take to avoid any such policy being voided;
 - (xv) in the event that the Programme(s) is designated a regional programme in the Programme Specific Terms the Programme(s) will comply with the regionality criteria published from time to time by Ofcom applicable at the time of commission and shall where Ofcom requires evidence from Channel 4 that the Programme(s) meets such criteria afford Channel 4 the right to audit the production of the Programme(s) on reasonable notice during normal office hours;
 - (xvi) in the exercise of any of the rights retained or granted to it hereunder the Producer shall not bring Channel 4 or the Programme(s) into disrepute and the Producer will seek Channel 4's prior written approval of any use of the Channel 4 logo in connection with any exercise of the Producer's rights in the Programme(s) and the Producer will seek Channel 4's prior written approval to the use of the Channel 4 name and/or brand in connection with any exercise of the Producer's rights in the Programme(s) which may suggest that Channel 4 endorses or recommends any product or service;
 - (xvii) during Channel 4's exclusive licence period the Producer shall fully consult in good time with Channel 4 over the identity of any sponsor it may appoint with respect to the rights retained by or granted to the Producer hereunder in the Territory and agrees that it will first offer Channel 4's on screen sponsor the opportunity to sponsor the Producer's exploitation of any such rights.
- (b) The Producer hereby indemnifies Channel 4 and its Associate(s) and agrees to hold it and its Associate(s) indemnified against all claims costs proceedings demands losses damages expenses or liabilities whatsoever arising directly or reasonably foreseeably as a result of any breach by the Producer of any representations warranties undertakings or other terms herein contained or implied by law. In the event Channel 4 or any of its Associate(s) undertakes distribution of the Programme(s) any sum recovered by Channel 4 or any of its Associate(s) from the Producer pursuant to any such indemnity claim (and for the avoidance of doubt, any costs or expenses incurred by or on behalf of Channel 4 in relation thereto) shall not be brought into account in computing the Net Receipts of the Programme(s) or Net Interactive Receipts or Net VOD Receipts.

Channel 4's and its Associates' right to claim an indemnity under this Clause 3(b) is not limited by any act or omission, whether by negligence or otherwise, of Channel 4 and/or its Associates which has contributed to the Losses for which Channel 4 and/or its Associates is claiming an indemnity.

- (c) Channel 4 acknowledges and agrees that the Producer shall not be in breach of any of its warranties and undertakings contained in Clause 3 (a) above by virtue of having recorded or filmed material for potential inclusion in Programme(s) but which is not then included in either the Broadcast Programme(s), or in any other part of the Programme specifically agreed to be delivered to Channel 4 by the Producer for the purpose of Channel 4's exploitation as provided hereunder. PROVIDED ALWAYS THAT if any claims, costs, proceedings, demands, losses damages expenses or liabilities arise as a result of the recording or filming of such material then the Producer hereby indemnifies Channel 4 and its Associate(s) and agrees to hold it and its Associate(s) indemnified against all such claims, costs, proceedings, demands, losses, damages, expenses or liabilities whatsoever arising directly or reasonably foreseeably as a result of the commission or production of such material.

4. UNDERSPEND:

- (a) For Programme(s) contracted on a Budgeted Cost basis
- (i) If the Producer shall have duly delivered the Programme(s) in accordance with the terms of this Agreement and Channel 4 shall be satisfied that the production and delivery of the Programme(s) below Budgeted Cost has not been achieved by unjustified reduction in the cost of any Budget item and has been delivered in accordance with the Editorial Specification and as envisaged prior to the production then the Producer shall be entitled to retain or be paid 100% of any excess of the Budgeted Cost over the aggregate cost of production of the Programme(s) as shown by the statement of the cost of production or accountant's certificate to be delivered hereunder .
- (ii) Notwithstanding the foregoing the proportion of the provision for contingencies provided by the Channel 4 Licence Fee included in the Budgeted Cost and any provision included in the approved Budget which as a result of a change in Channel 4's editorial requirements (any change to have been confirmed in writing by the parties) is not required during production or prior to delivery shall not form part of the Budgeted Cost and accordingly any underspend falling within this provision shall be returned to Channel 4.
- (iii) For the avoidance of doubt the first call to fund any overspend is an underspend in another Budget area and any call on the contingency will (unless Channel 4 otherwise then in writing agrees) be made only if there are no available underspends in other Budget areas.
- (b) For Programme(s) contracted on a Fixed Price basis (as set out in the Programme Specific Terms):
- (i) Provided the Producer complies with the material terms of this Agreement the Producer shall be entitled to retain or be paid 100% of the Fixed Price.
- (ii) Notwithstanding the foregoing the proportion of the provision for specific and/or general contingencies as specified and as provided by the Channel 4 Licence Fee and any provision included in the Fixed Price which as a result of a change in Channel 4's editorial requirements is not required during production or prior to delivery shall not form part of the Fixed Price and accordingly any underspend falling within this provision shall be returned to Channel 4.

5. OVERSPEND/INCREASE IN LICENCE FEE:

- (a) With respect to Programme(s) contracted on a Budgeted Cost basis

In any case of either party becoming aware of any circumstances which lead it to believe that the cost of production of all or any of the Programme(s) is likely to exceed the sum or sums allocated in the Budget thereof that party shall forthwith notify the other party hereto and the Producer shall thereafter:

- (i) prepare and submit to Channel 4:
- (aa) a statement of costs incurred to date, of notification of overcost and of expenses to be met;
- (bb) detailed revisions to the Budget and production schedule and to Editorial Specification (if applicable);
- (ii) comply with all reasonable instructions of Channel 4 with regard to the reduction of expenses;
- (iii) not make any further payments out of the production account or incur any further financial obligations without the specific consent of Channel 4 except payments which the Producer is contractually bound to make pursuant to agreements entered into by the Producer for the production of the Programme(s) in accordance with the Editorial Specification the Budget and this Agreement;
- (iv) apply an underspend in another budgeted area, bank interest earned on the production account, any general contingency (if appropriate), and finally the production fee in reduction of the excess Budgeted Cost of production. The production fee shall abate by the amount of such excess provided that the Producer will not be expected to meet overspends from the production fee if such overcosts are occasioned by changes made by the Commissioning Editor to the Editorial Specification which have been pre-agreed in writing as an amendment to

this Agreement.

- (v) These provisions shall be without prejudice to the rights of Channel 4 if such overcost arises out of any breach by the Producer of this Agreement including without limitation failure to comply with the Editorial Specification, Technical Requirements and Legal and Compliance.

- (b) With respect to Programme(s) contracted on a Fixed Price basis

Channel 4 would not expect to increase the Licence Fee save in circumstances where the relevant Commissioning Editor has made changes to the Editorial Specification in the course of production. In these circumstances, such changes must be agreed in advance in writing by both parties as an amendment to this Agreement prior to any costs being incurred and Channel 4 will expect such overcosts to be met in first position from any savings made as a result of such changes to the Editorial Specification by the relevant Channel 4 Commissioning Editor. Channel 4 may ask to review a statement of the applicable costs that relate to the editorial content of the Programme(s) to assess such costs.

6. INSURANCE:

- (a) The Producer shall effect and maintain with reputable insurance underwriters or companies production insurances against all normal insurable risks calculated upon the direct costs of production and as more specifically set out on the Channel 4 producers web site <http://www.channel4.com/corporate/4producers/> which may include (but shall not be limited to) the following:-
 - (i) third party and public liability for the duration of production of the Programme(s);
 - (ii) indemnity against damage to or loss of negative stock, the negative the videotape and soundtrack and other property to be used in connection with the production of the Programme(s);
 - (iii) indemnity against the risks of accident to or illness or death of the Director/the Individual Producer/the Executive Producer/Cast and any other Contributors as may be specified by Channel 4;
 - (iv) employer's liability for the duration of production of the Programme(s);
 - (v) errors and omissions insurance in the sum of \$1 million (one million US dollars) in respect of any one claim. \$3 million (three million US dollars) in aggregate for a period commencing upon first day of principal photography and expiring no earlier than expiry of the Term hereof and, in the event of a sale, 3 years from the date of such sale ; and
 - (vi) such other insurances as may be reasonably required by Channel 4 or by law;

and the Producer shall ensure that Channel 4 shall be named as an insured party in all such insurances. The Producer shall observe and perform all the warranties and conditions in such policy or policies and shall ensure that all premiums are paid when due and the policies maintained in full force and effect for such period as Channel 4 may agree.

- (b) The Producer shall notify Channel 4 on the happening of any event which in its opinion may give rise to a claim under one or more of the insurances referred to above. The Producer shall consult with and obtain the approval of Channel 4 in regard to the settlement of any insured losses (any such approval not to be unreasonably withheld or delayed). The Producer shall indemnify Channel 4 from all claims costs proceedings demands losses damages expenses or liability whatsoever arising directly or reasonably foreseeably as a result of any negligence or other wrongful act or omission of any employee, agent or invitee of the Producer or any Producer's Associate(s) including but without limitation claims by any Principal Personnel Artist(s) Contributor(s) or other personnel engaged by the Producer for or in connection with the production or delivery of the Programme(s). The Producer shall hold on trust for Channel 4 its rights to claim under such policies of insurance to the extent of the rights of Channel 4 under the aforesaid indemnity and subject thereto shall apply the monies received in defraying or in reduction of the costs of the production and delivery of the Programme(s) and/or in reimbursing either party for advances made by it in respect of costs of production pending receipt of such monies.
- (c) The Producer shall not do or authorise a third party to do any act or thing whereby any of the foregoing policies may lapse or become in whole or in part void or voidable.
- (d) If the Producer shall fail to effect or maintain any of such insurances, Channel 4 may without prejudice to any other remedy in respect of such failure take out such insurances as Channel 4 thinks necessary and recover from the Producer the amount of the premiums or (at the option of Channel 4) treat the same as part of the Budgeted Cost or Fixed Price.
- (e) The cost of the insurances described in Sub-Clause 6(a) shall appear as a line item in the Budget or be included in the Fixed Price for the Programme(s).

7. HEALTH AND SAFETY:

In providing equipment and systems of work, or procuring the use of equipment and systems of work for the production of the Programme(s) the Producer acknowledges its responsibility for health and safety in the working environment in accordance with current legislation. The Producer shall appoint a properly trained person to be responsible for health and safety issues on the production of the Programme(s) and shall notify Channel 4 of the name of such person prior to commencement of pre-production.

In effecting and maintaining production insurance as required by this Agreement the Producer shall ensure that appropriate risk assessment to ensure compliance with relevant health and safety legislation is undertaken, and implemented, during the period in which the Programme(s) are produced and delivered to Channel 4 under this Agreement.

The Producer shall supply Channel 4 with any information it may from time to time require in order for Channel 4 to meet its own health and safety responsibilities.

8. PUBLICITY:

- (a) The Producer shall not arrange or authorise any press conference launch or screening or the issue of any publicity in respect of the Programme(s) in the Territory without Channel 4's prior approval. Channel 4 will consult with the Producer regarding any publicity that the Producer may wish to issue but (without limitation) will not give the Producer permission to issue such publicity if it would jeopardise Channel 4's ability to get timely publicity for the first transmission of the Programme (s) on the Channel 4 Service/More4 Service and/or if, in Channel 4's reasonable opinion, (formed after allowing the Producer reasonable opportunity (having regard to the exigencies of production) to present its view of the matter) any such activities may cause the Producer to be in breach of any of its warranties, representations and undertakings set out in Clause 3(a). The provisions of this Clause shall not apply after first transmission of the last of the Programme(s) by Channel 4 SAVE THAT during the remainder of the term of Channel 4's licence the Producer shall consult with Channel 4's publicity and marketing department prior to conducting any such activities in order to (i) ensure that publicity issued by the Producer will not be detrimental to the ongoing rights of Channel 4 in the Programme(s) in the Territory licensed to it hereunder; and (ii) demonstrate to Channel 4 that such activities will not cause the Producer to be in breach of any of its warranties, representations and undertakings set out in Clause 3(a). Channel 4 acknowledges that time shall be of the essence in any consultation under this provision.
- (b) Without prejudice to other rights licensed to Channel 4 by this Agreement and in particular to the number of transmissions on the Channel 4 Service cleared and paid for by the Budget/Fixed Price the Producer acknowledges that Channel 4 may exploit the Promotional Extract Rights. The Producer shall notify Channel 4 in writing when delivering the Programme(s) to Channel 4 of any part or parts of the Programme(s) involving Limited Rights Material which may not comprise part of an extract for use as anticipated by this Clause.
- (c) If so requested by Channel 4 the Producer will use its reasonable endeavours to participate in any programme item transmitted by Channel 4 or More4 concerning the Programme(s) subject to reasonable notice, the prior commitments of the Producer and the reimbursement by Channel 4 of pre approved Producer's costs.

9. PUBLICITY STILLS:

The Producer will consult with Channel 4's Picture Publicity Department to arrange access for Channel 4's photographer to take stills on suitable dates during the production schedule. The Producer will be liable for any cancellation/rebooking costs incurred if:

- (i) the Producer fails to allow such photographer adequate opportunity to take stills on the agreed date(s); and/or
- (ii) the Producer fails to give the Picture Publicity Department sufficient notice of a change in shooting/recording schedules.

or where stills provision is included in Budget/Fixed Price the Producer will arrange for the taking and provision of publicity stills relating to the Programme(s) and acknowledges that the cost of the provision and the taking of such stills is included within the Budgeted Cost or Fixed Price of the Programme(s).

10. CREDIT/SPONSORSHIP:

- (a) Subject to the terms hereof Channel 4 and the Producer shall each be entitled to credit on all copies of the Programme(s) in accordance with Channel 4's Credit and Branding Guidelines. Unless otherwise expressly agreed in the Editorial Specification such credit shall appear only in the end titles and in any event in context and position consistent with Channel 4's guidelines as to credit. No material other than the Producer's logo and the copyright notices shall appear on the same card as such credit and Channel 4 shall honour all contractual obligations of the Producer to accord screen credit to any person PROVIDED ALWAYS THAT such credits are agreed in advance by Channel 4, incorporated in the Programme(s) delivered to it and comply with the requirements of Ofcom and Channel 4's credit guidelines.
- (b) Channel 4 shall be under no obligation to accord any credits on paid advertising issued by or on behalf of Channel 4.
- (c) If any distribution or exploitation rights in the Programme(s) are at any time being exercised by or on behalf of the Producer:-
 - (i) subject to sub-clause (c) (ii) below the Producer shall itself accord and shall include in any grant or assignment of such rights a provision requiring the grantee/assignee to accord the agreed credit to Channel 4 and when appropriate the copyright notice of the copyright holder but the Producer shall be under no obligation to enforce any such provision against such grantee/assignee;
 - (ii) notwithstanding the foregoing the Producer shall where the Producer is the distributor of the Programme(s) give Channel 4 sufficient advance notice of any proposed exploitation of the Programme(s) and shall also inform Channel 4 if the proposed exploitation of the Programme(s) is in a form which is different (other than changes made to comply with territorial, legal and/or advertising break requirement(s)) from the Programme(s) as

delivered to Channel 4 for broadcast within the Territory to enable Channel 4 (if it so desires) to require the Producer to ensure that the Channel 4 credit is removed from the Programme(s) and/or such different version(s) and the Producer will on receipt of notice from Channel 4 of such requirement remove such credit and require its licensees, agents and assigns so to do;

- (iii) any inadvertent failure of the Producer or such grantee/assignee to accord such credit shall be deemed not to constitute a breach by the Producer of its obligations under this Agreement but not further or otherwise but failure to remove Channel 4's credit if requested pursuant to sub-clause (ii) shall constitute a breach of this Agreement.
- (d) Without prejudice to the foregoing any acknowledgements of any kind which may be required by any programme or event sponsor or any organisation in any way connected with any aspect of the exploitation of the Programme(s) within the Territory during the Term and any extension thereof shall be subject to the prior approval of Channel 4 having regard to compliance with the current Ofcom Broadcasting Code and Channel 4's interpretation of the same.
- (e) In exercising its rights in the Programme(s) under this Agreement but not otherwise Channel 4 may authorise third party sponsors to receive aural and/or visual credits within any broadcasts on the Channel 4 Service and/or More4 Service and in connection with any other exploitation of any of its rights in and to the Programme(s) but only to the extent permitted by the current Ofcom Broadcasting Code (to the extent applicable) and Channel 4's interpretation of the same.

11. RUSHES; RE-TAKES:

- (a) At any time during production and until the end of 18 months after Delivery the Producer shall allow Channel 4's representative to examine and view in London (or as otherwise agreed for regional productions) all rushes and cut sequences including the most recent and up to date roughcut (if any) of such portion(s) of the Programme(s) as shall have been photographed together with the original sound recording pertaining to such portion(s) of the Programme(s) and any dubbed or re-recorded soundtracks then completed ("Rushes"). Such examinations and viewings shall be conducted in a reasonable manner so as not to interfere with the completion of the Programme(s) by the Producer.
- (b) If Channel 4 shall request retakes or added material
 - (i) in consequence of non-compliance by the Producer with any warranty, undertaking or representation by the Producer or contractual term relating to the Programme(s) (including without limitation the Editorial Specification) the Producer shall make such arrangements as are necessary to comply with such requests and the cost thereof shall be borne by the Producer;
 - (ii) in all other cases the agreed costs of such retakes or added material shall be paid or reimbursed by Channel 4 and shall be deemed to be an addition to the Budgeted Cost.
- (c) The Producer shall retain all Rushes securely for a period of 18 months from Delivery.
- (d) The Producer shall not, during the Term and any extension thereof, be entitled to use the Rushes in any way that derogates from the grant of the Core Transmission Rights and VOD Rights and the holdback granted in the Core Secondary Transmission Rights, Secondary Rights, DTO Right(s) and VOD Rights.

12. EDITING:

- (a) The Producer shall show the first rough cut and any subsequent rough cuts of the Programme(s) to Channel 4 in London (or as otherwise agreed) and will further (unless Channel 4 agrees that viewing of the Producer's final version is not required) notify Channel 4 in writing when the Producer's final version of the Programme(s) is available for viewing and as soon as possible thereafter the Producer shall screen the Producer's final version for viewing by Channel 4 at such reasonable time and at such venue in London (or as otherwise agreed) as Channel 4 may require so that such screening will not interfere with the agreed production schedule.
- (b) The Producer will give full consideration in good faith to all suggestions made by Channel 4 for the final cutting of the Programme(s) and if Channel 4 notifies the Producer of any comments on the rough cut and/or on the Producer's final version:-
 - (i) the Producer shall carry out all changes to or edit such rough/ final version as Channel 4 may require to meet the requirements of the current Ofcom Broadcasting Code and accompanying Ofcom Guidance, on the Code the Viewer Trust Guidelines, Channel 4's Compliance Manual and its successor the Independent Producers' Handbook (when published) as amended from time to time or where appropriate the current PhonePay Plus Code of Practice to comply with any representation, warranty or undertaking by the Producer or other contractual specification in respect of the Programme(s) herein contained (including without limitation the Editorial Specification) or to conform to legal advice provided by Channel 4 and the cost of such changes or editing shall be borne by the Producer;
 - (ii) the Producer shall carry out any other changes requested by Channel 4 PROVIDED THAT all costs and expenses as approved in writing by Channel 4 in connection therewith are governed by Clause 5 hereof.
- (c) As soon as the final cut of the Programme(s) is completed the Producer shall deliver the Programme(s) to Channel 4 in London and the Producer shall carry out (or shall reimburse Channel 4 the costs incurred by Channel 4 in carrying out) all changes to or editing of the Programme(s) as may be necessary to meet the requirements of the current Ofcom

Broadcasting Code, accompanying Ofcom Guidance on the Code, the Viewer Trust Guidelines, Channel 4's Compliance Manual and its successor The Independent Producers' Handbook (when published) as amended from time to time or where appropriate the current PhonePay Plus Code of Practice to comply with any representation, warranty or undertaking by the Producer or other contractual specification in respect of the Programme(s) or to conform to legal and/or compliance advice provided by Channel 4.

- (d) Channel 4 shall notify the Producer as soon as reasonably possible if and when it shall have accepted the final version of a Programme as being in a form satisfactory to Channel 4; in case of editing on film until such acceptance by Channel 4 all cutting shall be done on positive copies of the Programme(s) and the negative shall not be cut.
- (e) Neither the Producer nor Channel 4 shall be entitled in the exercise of their respective rights under this Agreement to change the titles of the Programme(s) for the purpose of broadcast or other use of the Programme(s) in the Territory during the Term or any extension thereof.
- (f) Save as expressly provided herein Channel 4 shall not cut or edit the Programme(s) for any transmission on the Channel 4 Service or More4 Service except to meet time segment requirements and to interpolate advertising, public service announcements and similar material at intervals during any transmission on the Channel 4 Service or More4 Service PROVIDED ALWAYS THAT to enable the exercise of its rights in the Programme(s) Channel 4 shall be entitled:
 - (i) to commission and include or relay with any communication to the public of the Programme(s) subtitles or surtitles either as translation of narrative or dialogue included in the Programme(s) or for the hard of hearing;
 - (ii) to arrange for the Programme(s) to be broadcast, transmitted or exhibited with audio description to promote the understanding and enjoyment of the Programme(s) by sensory impaired people including those who are blind and partially sighted;
 - (iii) to arrange for the Programme(s) to be broadcast, transmitted or exhibited with signing in open or electronic form for the deaf or hard of hearing;
 - (iv) to exercise with any broadcast, transmission or exhibition of the Programme(s) Teletext Rights and Interactive Television Rights.
 - (v) (without prejudice to its other rights and remedies pursuant to this Agreement) to cut or edit the Programme(s) to ensure compliance with the current Ofcom Broadcasting Code, accompanying Ofcom Guidance on the Code, the Viewer Trust Guidelines, the Channel 4 Compliance Manual or its successor, The Independent Producers' Handbook (when published), as amended from time to time where appropriate the current PhonePay Plus Code of Practice or to the extent necessary as a result of any failure of the Producer to comply with any representation, warranty or undertaking by the Producer or other contractual specification in respect of the Programme(s);
 - (vi) (without prejudice to its other rights and remedies pursuant to this Agreement) to cut or edit the Programme(s) to avoid any legal claim or to comply with any legal advice .
- (g) For the avoidance of doubt and only insofar as and to the extent that any such acts relate to enabling Channel 4 (and its Associate(s) and licensees) to properly exercise any of Channel 4's rights hereunder in any and all media (now known or hereafter devised), the Producer hereby acknowledges and agrees that Channel 4 shall be entitled to (and to authorise others to) do in respect of the Programme(s) and the Format any and all "acts restricted by copyright" (as that expression is used in section 16 of the CDPA) including without limitation to cut, edit, adapt, store, reproduce, copy, transmit, download, stream, re-format, adjust, manipulate and/or modify the Programme(s) (and any part(s) thereof) in sound and/or vision and to permit access thereto, viewing thereof and storage of the same in any manner and/or media.

13. DELIVERY & ACCEPTANCE:

- (a) The Producer shall as soon as possible after completion of production of the Programme(s) and in any event before the Delivery Date deliver to the Programme Manager at Channel 4 at the address at the head of this Agreement the material listed in the Delivery Requirements.
- (b) Delivery of the Programme(s) shall have been completed when the Producer shall have delivered all such items (other than any such items which Channel 4 shall have confirmed in writing that it does not require). If Channel 4 does not respond within 21 days of receipt of a written notice from the Producer notifying Channel 4 that it has made full Delivery, full Delivery shall be deemed to have taken place.
- (c) Technical acceptance shall occur upon notification to that effect by Channel 4's Programme Manager. If Channel 4 has not notified the Producer within 3 months of Delivery then the Programme(s) will be considered to have been technically accepted.
- (d) Channel 4 may, notwithstanding the acceptance of the Programme(s), in its absolute discretion decide not to communicate the Programme(s) to the public in whole or in part on the Channel 4 Service or the More4 Service or otherwise exploit any of its other rights granted hereunder and shall not be liable to the Producer in respect of any loss or damage occasioned by a change in the transmission schedule or by not transmitting the Programme(s). In the event that Channel 4 decides not to transmit the Programme(s) or has not done so within one year from Delivery then Channel 4 and the Producer shall discuss in good faith the possibility of Channel 4 releasing the Programme and/or Channel 4's holdbacks in relation to the Programme(s) on terms to be agreed in good faith.

14. PRODUCTION INFORMATION & RECORDS:

- (a) The Producer shall promptly supply Channel 4 with such facilities information progress reports and cost statements in relation to the Programme(s) as is specified in the Editorial Specification and the Delivery Requirements and with such other information concerning the Producer's conduct of the production of the Programme(s) as Channel 4 may from time to time reasonably require as a result of any claim, threatened claim, proceedings, demands or regulatory or statutory requirements and/or in order for Channel 4 to verify the Producer's compliance with its warranties, representations and undertakings pursuant to Clause 3(a) where Channel 4 has reasonable ground to question the Producers' compliance with the foregoing.
- (b) Without limiting the foregoing the Producer shall keep true and accurate books of account (and retain all vouchers receipts, contracts and records) relating to expenditure made in connection with the production of the Programme(s) and Channel 4 shall be entitled (by appointment during normal business hours) by its duly authorised agents to enter on the Producer's premises and to inspect such books of account and records at all reasonable times during business hours.

15. CHANNEL 4'S TAKE OVER RIGHTS AND TERMINATION RIGHTS:

- (a) If
 - (i) the Producer shall commit a material breach of its obligations under this Agreement which shall not be capable of remedy; or
 - (ii) the Producer shall commit any breach of this Agreement which shall be capable of remedy and shall fail to remedy the same within 7 (seven) days of written notice (or such other period as specified in the notice) specifying the breach and requiring its remedy; or
 - (iii) at any time it shall appear to Channel 4 that the aggregate costs of production of the Programme(s) are likely to exceed the Budgeted Cost or Fixed Price and the Producer is unable to finance the excess without recourse to Channel 4; or
 - (iv) the Individual Producer shall die or be unable or unwilling fully and properly to render his services as Individual Producer and the Producer shall be unable to procure the engagement within 14 (fourteen) days thereof of a substitute Individual Producer approved by Channel 4; or
 - (v) the Producer shall go into liquidation (other than for the purpose of solvent amalgamation or reconstruction) or become insolvent or have a receiver appointed over any of its assets or fail to satisfy any final judgement within 7 (seven) days thereof;

then Channel 4 shall have the immediate right, such right not to be exercised unreasonably, and after due consultation with the Producer taking into account the exigencies of production without prejudice to any other remedy in respect of the breach by written notice to the Producer either to take over and complete or to abandon the production of the Programme(s).

- (b) The Producer agrees that if Channel 4 shall give notice to take over production under Clause 15(a):
 - (i) Channel 4 shall thereupon be and it is hereby irrevocably appointed the agent of the Producer for all purposes related to the production of the Programme(s) with power on behalf of the Producer to exercise any rights of the Producer under any contract or otherwise to assign or transfer the benefit of any contract or other property and/or to act or refrain from acting in any other way on behalf of the Producer and with power to subsequently abandon production of the Programme(s) and to assign or delegate any of its rights to a third party to act as agent of the Producer. In such circumstances the Producer shall forthwith repay all monies paid to it by Channel 4 not then applied in payment of items set out in the Budget. Channel 4 shall not be liable to the Producer and the Producer shall indemnify Channel 4 against liability to any other party as a result of any act or omission occurring prior to Channel 4 exercising all or any of its rights under this Clause;
 - (ii) without prejudice to Channel 4's remedies in respect of any breaches, the Producer's entitlement to a Production Fee or to a share in Net Receipts from the Programme(s) due on exploitation of the rights hereunder and to further payments shall in the event of takeover hereunder each be reduced in such proportion as is equitable in all the circumstances having regard to the extent to which the Producer has theretofore discharged its obligations hereunder;
 - (iii) any re-assignment of rights and/or material in the Programme(s) by Channel 4 to the Producer under the Programme Specific Terms shall be of no effect and unless the parties otherwise in writing then agree all such rights and material shall remain and be vested in Channel 4 or as Channel 4 shall decide.
- (c) Without prejudice to Channel 4's other rights and remedies pursuant to this Agreement (including without limitation pursuant to Clauses 15(a) and 15(b)), Channel 4 may terminate this Agreement with immediate effect by written notice to the Producer if:
 - (i) the Producer commits a material breach of its obligations under this Agreement and, if the breach is capable of remedy, fails to remedy it during the period of 30 days starting on the date of receipt of notice from Channel 4 specifying the breach and requiring it to be remedied; or

- (ii) the Producer becomes insolvent (including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities taking into account its contingent and prospective liabilities), proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction agreed to in writing in advance by Channel 4), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them, if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium, or if the Producer suffers or there occurs in relation to the Producer any event which, in the reasonable opinion of Channel 4, is analogous to any of the events referred to in this Clause 15(c)(ii).

16. FORCE MAJEURE:

- (a) If either party hereto is unable to observe or perform its obligations in relation to the Programme(s) and such inability results solely from industrial action (other than industrial action taken only against the Producer or its servants or agents or taken only in relation to the Programme(s)) then either party shall be entitled by notice in writing to the other to suspend performance of its obligations hereunder in relation to the Programme(s) from the date of such notice until the cause of such inability is removed and during such suspension the parties shall take all practicable and appropriate steps to minimise and mitigate all costs and expenses in connection with the Programme(s). If such suspension continues for more than 6 (six) weeks then Channel 4 shall be entitled forthwith by notice in writing to terminate this Agreement and upon and from such termination the Producer shall have no further obligation to produce and deliver the Programme(s) and Channel 4 shall have no further obligation to pay any monies save in respect of legitimate contractual commitments entered into by the Producer prior to the force majeure incident which have not been cashflowed.
- (b) Subject as aforesaid if either party hereto is unable to observe or perform any obligation under this Agreement and such inability results solely from an event or circumstance outside that party's control and is not due to any lack of reasonable prudence or foresight and if that party notifies the other party or parties as soon as practicable of the nature of the event or circumstance the parties shall meet at the request of any party hereto and (without prejudice to their rights and obligations) seek to resolve in good faith any problems encountered by either party.

17. DISTRIBUTION OF RECEIPTS FROM THE PRODUCER'S EXPLOITATION OF FORMAT RIGHTS, SUPPORT RIGHTS, CORE SECONDARY TRANSMISSION RIGHTS AND SECONDARY RIGHTS:

- (a) **Definitions:** For the purpose of this Clause 17 the following expressions shall have the following meanings respectively:-
 - (i) "**Relevant Rights**" means such (if any) of the Format Rights, Support Rights, Core Secondary Transmission Rights and/or Secondary Rights as the Producer is from time to time entitled to exploit in accordance with the terms of this Agreement, but excluding the Interactive Rights;
 - (ii) "**Distributor**": the party exploiting the Relevant Rights in the Programme(s) including without limitation the Producer and/or an Associate(s) of the Producer when acting as the Distributor but excluding always Channel 4 and its Associate(s) unless the Producer appoints an Associate(s) of Channel 4 to act as its distributor;
 - (iii) "**Gross Receipts**": all sums actually received (including without limitation advances) from the exploitation of the Relevant Rights in the Programme(s) and all material therein acquired by the Distributor in relation to the Programme(s);
 - (iv) "**Distribution Expenses**": shall mean commission and/or fees expended by or charged by the Distributor (inclusive of any sub-distributors/sub-agents' commission and/or fees) all to be agreed by the Producer in line with current industry standards ("Distribution Commission") in connection with the exploitation of the Relevant Rights in the Programme(s) and all proper and reasonable sums expended with a view to exploitation of the Relevant Rights in the Programme(s) (including but without limitation clearance costs residuals and the cost of prints) and any sums expended in connection with the Relevant Rights in editing the Programme(s) (save as provided for in the Budget/Fixed Price) or to meet the requirements applicable to any territory including but without limitation those of any broadcasting authority and any legal fees incurred after delivery of the Programme(s) in relation to the exploitation of the Relevant Rights in the Programme(s) (save as incurred in the negotiation of distribution agreement(s)) all to be agreed by the Producer in line with current industry standards; and
 - (v) "**Net Receipts**": the balance of the Gross Receipts after the payment thereof or the recoupment by the Distributor of the following in the following order:
 - (a) Distribution Commission
 - (b) Distribution Expenses (excluding Distribution Commission);
 - (c) Any advance paid by the Distributor may be recouped by the Distributor but shall be treated as an advance of Net Receipts in the hands of the Producer insofar as it is not applied to (d) and (e) below;
 - (d) Any approved deficit funding provided by a third party or the Producer;
 - (e) Any approved costs paid by the Producer over and above the Budgeted Cost.

- (f) Any approved costs paid by Channel 4 over and above the Budgeted Cost save where agreed to be funded by Channel 4 as a result of Channel 4's revision to the Editorial Specification
- (b) The Producer shall pay Channel 4 the share of Net Receipts set out in Clause 12 of the Programme Specific Terms derived from its exploitation of the Relevant Rights in the manner set out in Clause 22 of the General Terms of Agreement below.

18. DISTRIBUTION OF RECEIPTS FROM EXPLOITATION OF INTERACTIVE RIGHTS (AS DEFINED BELOW):

- (a) **Definitions:** In this Clause 18 in addition to the definitions in Clause 1, the following expressions shall have the following meanings:

- (i) **"Gross Interactive Receipts"** means all sums actually received by or on behalf of Channel 4 in respect of the exploitation of the Interactive Rights (save for any advertising and/or sponsorship fees in respect of the exploitation of Interactive Rights or parts thereof which, for the avoidance of doubt, shall be the sole and exclusive property of Channel 4). In addition, for the avoidance of doubt, the Gross Interactive Receipts shall not include any revenues derived from the exploitation of software and/or hardware utilised in connection with the exploitation of any Interactive Rights used in connection with any other programme or programmes;
- (ii) **"Interactive Rights"** means each and all of the following Support Rights in respect of the Programme(s): Interactive Television Rights; Premium Rate Telephone Line Rights; Support Site Rights; and Teletext Rights, but for the avoidance of doubt excluding (without limitation) the Core Transmission Rights, the Core Secondary Transmission Rights and the VOD Rights and the DTO Right(s);
- (iii) **"Net Interactive Receipts"** means the balance of all Gross Interactive Receipts after the payment or the recoupment by Channel 4 and its Associate(s) of the Recoupable Interactive Costs; and
- (iv) **"Recoupable Interactive Costs"** means the following proper, actual and reasonable direct sums expended by or charged to Channel 4 (and its Associate(s)) in connection with and to the extent applicable to any and all exploitation of the Interactive Rights in the Programme(s) or with a view to such exploitation but excluding any internal costs and overheads of Channel 4 (and its Associate(s)): actual editorial costs in the creation, re-formatting and/or other manipulation or adjustment of materials in respect of the Programme(s) including costs of commissioning new content used in connection with the Interactive Rights; any actual and direct third party costs incurred in connection with the exploitation of the Interactive Rights charged by third party application providers (and where a generic application, an equitable pro-rata share of such cost), third party platform operators (including without limitation application signing services charges and/or authentication services charges in connection with Interactive Television Rights), telecommunication operators and/or third party aggregators; third party costs of clearances and permissions actually and necessarily incurred including without limitation sums charged by or payable to owners of Limited Rights Materials; prizes or other actual sums payable to customer-users of the Interactive Rights; taxes and statutory levies; and any other costs pre-agreed by the parties; and in respect of Interactive Television Rights, the following additional heads of cost shall also be recoupable: authentication service charges. For the avoidance of doubt, where such costs relate to expenditure arising from the exploitation of other rights and services (other than in connection with the Programme(s)), only an equitable pro-rata share of such costs as relate to the exploitation of Interactive Rights shall be recoupable.

- (b) **Licence**

- (i) Subject to Clause 18(c) below pursuant to Clause 1 of the Programme Specific Terms, Channel 4 (and its Associate(s)) is granted an exclusive extendable licence to exploit the Interactive Rights and the Format Rights as part of the Support Rights during the Term and any extension thereof pursuant to Clause 24.
- (ii) Subject to the consultation process set out in Clause 18(b) (iii) below Channel 4 (and/or its Associates) may exploit or authorise the exploitation of any of the Interactive Rights in such manner as it may in good faith think fit and may authorise and/or sub-license and/or appoint such third parties as it may think fit to undertake such exploitation on its behalf.
- (iii) Where Channel 4 intends to exploit the Interactive Rights other than by the exercise of Support Site Rights for marketing and promotion of the Programme(s) and/or the Teletext Rights, Channel 4 shall consult the Producer (and, where the Producer intends to exploit the Interactive Rights pursuant to Sub-Clause 18(c), the Producer shall consult with Channel 4 and the below shall apply to the Producer as if it was Channel 4 and references to the Producer shall be replaced by references to Channel 4) as follows:
 - (aa) Channel 4 shall submit to the Producer a description (and where possible an outline business plan and/or editorial specification) in writing for the exploitation it wishes to undertake together with an indication of the time frame of the exploitation and consultation process where different to the time frame set out below. (For the purposes of the sub-clause the consultation process may be conducted by email between the parties).
 - (bb) The Producer shall respond to Channel 4 in writing within a period of 2 working days or the period indicated in the communication pursuant to (aa) above with any comments or suggestions to which Channel 4 shall give good faith consideration.

- (cc) In the event that there is an area of significant difference between Channel 4 and the Producer, and providing time frame of the intended exploitation permits, a meeting shall be arranged to take place within 5 business days between Head of Interactive or his/her designated representative at Channel 4 and a representative of the Producer in which to discuss these areas.
- (dd) In the event that the issues of difference remain unresolved it shall remain at Channel 4's sole discretion whether to proceed with such exploitation and the terms of such exploitation.

The periods mentioned are for the convenience of the parties and may be lengthened or shortened by mutual agreement and may be accelerated at the request of Channel 4 where the proposed exploitation is time sensitive.

(c) **Non-exploitation of Interactive Rights**

In the event that Channel 4 (or any of its Associate(s)) does not undertake any exploitation of any one of the Interactive Rights (the "**Non-Exploited Interactive Right**") provided the Producer has not withheld its reasonable assistance (if so requested by Channel 4 or any of its Associate(s)) the Producer shall have the right by serving written notice on Channel 4 (in accordance with the Agreement) after the first transmission of the Programme(s) (or first episode if the Programme(s) is a Series) on the Channel 4 Service or More4 Service, , to request whether Channel 4 (or any of its Associate(s)) intends to exploit the Non-Exploited Interactive Right. Channel 4 shall notify the Producer within 15 days of receipt of such notice whether it intends to exploit such Non-Exploited Interactive Right. In the event Channel 4 determines it will not undertake such exploitation, at the Producer's further request, the licence granted to Channel 4 pursuant to Clause 1 of the Programme Specific Terms in respect of such Non-Exploited Interactive Right(s) shall become non-exclusive and the Producer shall have the right to exploit such Non-Exploited Interactive Right, subject to the Producer providing details of the manner in which it intends to exploit such Non-Exploited Interactive Right and consulting with Channel 4 in accordance with Sub-Clause 18(b)(iii). For the avoidance of doubt, the Producer shall account and be liable to Channel 4 for 50% (fifty per cent) of all Net Interactive Receipts generated from its exploitation of the Non-Exploited Interactive Right(s) during the Term (and any extension thereof) and 15% thereafter in accordance with the terms of this Agreement and the definitions set out in Clause 18(a), each of which shall apply to the Producer mutatis mutandis with all references to Channel 4 being replaced by references to the Producer and all references to the Producer being replaced by references to Channel 4.

(d) **General**

In the event of any inconsistency between the terms of this Clause 18 and the other terms of this Agreement, the terms of this Clause 18 shall prevail in respect of the Interactive Rights.

19. EXPLOITATION OF VOD RIGHTS

Exercise of VOD Rights

- (a) In further consideration of Channel 4's agreement to pay the Channel 4 Licence Fee and subject always to the terms of this Agreement the Producer hereby grants to Channel 4 (and its Associate(s)) an exclusive extendable (in accordance with this Agreement) licence in the Territory of the VOD Rights in the Broadcast Programme(s) for exploitation on Channel 4 Video on Demand Services from the start of the Term until the expiry of the period(s) set out below (hereinafter referred to individually and collectively as the "Channel 4 VOD Window(s)"), and both parties agree neither to exploit nor to authorise the exploitation of the VOD Rights in the Territory otherwise than as set out below and elsewhere in this Agreement. For the avoidance of doubt Channel 4 shall not exploit (subject to Clause 23) or authorise exploitation outside the Territory.
- (b) (i) Either in the event that:
 - (x) Channel 4 has not started to exploit any of the VOD Rights in any of the Broadcast Programme(s) for any Programme(s) which is first transmitted on the Channel 4 Service by 24:00 of the next calendar day following first transmission of the Programme(s) (or following first transmission of the first episode of the Programme(s) if a Series) on the Channel 4 Service; or
 - (y) Channel 4 has not started to exploit any of the VOD Rights in any of the Broadcast Programme(s) for any Programme(s) which is first transmitted on the More4 Service within 30 days after 24:00 of the date of first transmission of the Programme(s) (or within 30 days after 24:00 of the date of the first transmission of the last episode of the Programme(s) if a Series) or by 24:00 of the next calendar day following the first transmission on the Channel 4 Service (whichever is sooner); or
 - (z) Channel 4 has no intention of exercising the VOD Rights and has notified the Producer that it has no such intention at least 5 days prior to transmission;

then the exclusive licence granted to Channel 4 in the VOD Rights will terminate and the Producer will be free to exploit the VOD Rights (without prejudice to Channel 4's ongoing right to a share of Net VOD Receipts and subject to Clauses 19 (f) (g) and (h) below.). The VOD Rights will not revert if the delay in the commencement of Channel 4's exploitation of the VOD Rights is caused by technical and/or clearance difficulties and/or late delivery and/or due to the Programme(s) being live or "as live" programme(s), in which case (for the purposes of Channel 4's exclusive licence in the VOD Rights in the Programme(s)) the Channel 4 VOD Window(s) will be extended by a reasonable cure period or the period that is required to digitise, encode, load or otherwise prepare the Programme(s) in respect of late delivery of live or "as live" programme(s). Channel 4 will notify the Producer in writing of such occurrence.

- (ii) Subject to Clause 19(b)(i) above, in respect of Programme(s) which do not form part of a Series, the Channel 4 VOD Window(s) will expire 30 days after 24:00 of the date of the first transmission of the Programme(s) on the Channel 4 Service or the More4 Service.
- (iii) Save as provided in Clause 19(b)(iv) below, in respect of Programme(s) which form part of a Series, the Channel 4 VOD Window(s) will expire 30 days after 24:00 of the date of the first transmission of the final episode of the Programme(s) on the Channel 4 Service or More4 Service PROVIDED THAT Channel 4 will not be entitled to exploit the exclusive VOD Rights in any individual episode of the Programme(s) for a period that exceeds thirteen weeks after 24:00 of the date of the first transmission of such episode of the Programme(s) on the Channel 4 Service or More4 Service.
- (iv) The Channel 4 VOD Window(s) in each Relevant Series shall expire 30 days after 24:00 of the date of the first transmission on the Channel 4 Service or More4 Service of the last episode of the programme(s) in the Returning Series which is two series after such Relevant Series (such window being a "**3 series rolling Channel 4 VOD Window**" which shall, for the avoidance of doubt (and save as provided in Clause 19(b) (iv) (y) and (z) below), apply to all Returning Series). Channel 4 shall be entitled to a 30 day exclusive negotiating period (to begin 30 days prior to the end of the Channel 4 VOD Window(s) for each Relevant Series) to extend the Channel 4 VOD Window(s) for each Relevant Series and during this exclusive negotiating period neither party shall be entitled to exploit the VOD Rights. If the parties cannot agree terms for the extension of the Channel 4 VOD Window(s) for any Relevant Series then Channel 4's exclusivity in the VOD Rights in the Broadcast Programme(s) of such Relevant Series shall cease (subject to Channel 4's ongoing right to a share of Net VOD Receipts as set out in the Agreement and subject to Clauses 19(e) (f) and (g) of the General Terms of Agreement). Notwithstanding the foregoing:
 - (y) if Channel 4 only commissions two Relevant Series from a Returning Series, the Channel 4 VOD Window(s) in the later of the two Relevant Series shall expire nine weeks after 24:00 of the day of first transmission of the last episode in such Relevant Series on the Channel 4 Service or More4 Service; and
 - (z) if Channel 4 does not commission any further Relevant Series following the commissioning of the first Returning Series, the Channel 4 VOD Window(s) in such Returning Series shall expire nine weeks after 24:00 of the day of first transmission of the last episode in such Returning Series on the Channel 4 Service or More4 Service,

and after the expiry of the Channel 4 VOD Window(s) in such Relevant Series or Returning Series (as the case may be) the VOD Rights in such Relevant Series or Returning Series will go into holdback and neither party shall be entitled to exploit such VOD Rights for twenty nine weeks from expiry of such Channel 4 VOD Window(s). After the expiry of such holdback, both Channel 4 and the Producer shall be entitled to exploit the VOD Rights in the Broadcast Programme(s) in such Relevant Series or Returning Series (as the case may be) in accordance with Clause 19(b)(vi) below.

- (v) Unless the parties have agreed pursuant to Clause 19(b)(vi) below to extend the Channel 4 VOD Window(s), in respect of Programme(s) which do not form part of a Series, or which form part of a Series which is not a Relevant Series or Returning Series, Channel 4 shall be entitled to negotiate exclusively at any time from the start of the Term until expiry of the Channel 4 VOD Window(s) to extend the Channel 4 VOD Window(s) in respect of such Programme(s). If the parties cannot agree terms for the extension of the Channel 4 VOD Window(s), the VOD Rights will go into holdback and neither party shall be entitled to exploit any of the VOD Rights for twenty weeks from expiry of the Channel 4 VOD Window(s) ("VOD Holdback") After the expiry of the VOD Holdback, both Channel 4 and the Producer shall be entitled to exploit the VOD Rights in the Broadcast Programme(s) in accordance with Clause 19(b)(vi) below.
- (vi) At the expiry of the holdbacks referred to in Clause 19(b)(iii)(iv) and (v) above the Producer shall be entitled to exploit the VOD Rights subject to Channel 4's ongoing right to a share of Net VOD Receipts and subject to sub-clauses 19(f)(g) and (h) below and Channel 4 shall have a non-exclusive licence to exploit the VOD Rights until the end of the Term.
- (vii) For the avoidance of doubt and without prejudice to the Producer's other rights in the Programme(s), the VOD Rights in the Territory during the Term may only ever be exercised by the Producer in respect of the Broadcast Programme(s) and subject to the clips provisions of Clause 29 of the General Terms not in respect of any other elements of the Programme(s).

(c) **Definitions**

In this Clause 19, in addition to the definitions in Clause 1, the following expressions shall have the following meanings:

- (i) "**Gross VOD Receipts**" means all sums actually received by or on behalf of Channel 4 or the Producer (as applicable) in respect of the exploitation of the VOD Rights (excluding VAT) (whether on a per Programme(s) basis or relating to a subscription period) save for any advertising and/or sponsorship fees in respect of the exploitation of the VOD Rights or any parts thereof which, for the avoidance of doubt, shall be the sole and exclusive property of Channel 4. In respect of Channel 4's exploitation of VOD Rights where a subscription charge is levied for a bundled service which includes both the Programme(s) and other programmes, the charge shall be pro-rated on a count of views basis determined by calculating the number of views of the Programme(s) as a proportion of the number of views of all Channel 4 programme(s) on the relevant VoD Service. In addition, for the avoidance of doubt, the Gross VOD Receipts shall not include any revenues derived from the exploitation

of software and/or hardware utilised in connection with the exploitation of any VOD Rights used in connection with any other programme or programmes;

- (ii) **“Net VOD Receipts”** means the balance of all Gross VOD Receipts after the payment or the recoupment by Channel 4 and its Associate(s) or the Producer (as applicable) of the Recoupable VOD Costs; and
 - (iii) **“Recoupable VOD Costs”** means the following proper, actual and reasonable direct sums expended by or charged to Channel 4 (and its Associate(s)) or the Producer (as applicable) in connection with and to the extent applicable to any and all exploitation of the VOD Rights in the Programme(s) or with a view to such exploitation but excluding any internal costs and overheads of Channel 4 (and its Associate(s)) or the Producer (as applicable): actual costs in the creation, re-formatting and/or other manipulation or adjustment of materials in respect of the exploitation of the VOD Rights in the Programme(s) including without limitation costs of commissioning additional content used in connection with the VOD Rights; any actual and direct third party costs incurred in connection with the exploitation of the VOD Rights charged by third party service providers, third party platform operators, telecommunications operators and/or third party aggregators, including without limitation any bandwidth, delivery and/or storage charges; third party costs of clearances and permissions actually and necessarily incurred including without limitation sums charged by/or payable to owners of Limited Rights Material; taxes and statutory levies; and any other costs pre-agreed by the parties.
- (d) For the avoidance of doubt, any advertising and/or sponsorship fees in respect of the Producer’s exploitation of the VOD Rights shall be the sole and exclusive property of the Producer.
- (e) In the exploitation of the PPV Video On Demand Rights and/or the Subscription Video On Demand Rights in any Programme(s) which are included in a Series, subject always to the VOD Window(s) as set out in the Programme Specific Terms, Channel 4 shall be entitled to offer the lower of:
- (i) up to 30% of the total number of episodes in that Series; or
 - (ii) the first 2 episodes in that Series,

free to the viewer (i.e. without any charge (other than Basic Charges) being made to the viewer for the privilege of viewing the applicable Programme(s)).

- (f) The Producer agrees that, notwithstanding Clause 19(b), the non-exclusive VOD Rights will not revert to the Producer and the Producer shall not be entitled to exploit the VOD Rights if there are legal and/or compliance reasons (including without limitation privacy issues) determined by Channel 4 in its absolute discretion as to why neither party should exploit such rights. If the non-exclusive VOD Rights have reverted to the Producer (in accordance with the terms of this Agreement) and/or the Producer has started to exploit the VOD Rights and a legal and/or compliance issue arises and Channel 4 wishes the Producer to stop exploiting the VOD Rights but the Producer wishes to continue exploiting the VOD Rights then at Channel 4’s request the Producer will make no aural and/or visual reference to Channel 4 in respect of its exploitation of the VOD Rights and will remove the Channel 4 credit from the Programme(s).
- (g) The Producer is not permitted to exploit the VOD Rights in Programme(s) which feature Contributors who have a key or major contribution to the Programme(s) (and in this regard contributors who make “guest” appearances are not key or major in this context) and who have entered into agreements directly with Channel 4 where such agreements directly (inter alia) impose restrictions on the appearance of Contributors in audio visual content in the Territory (“Key Contributors”) without first obtaining the written consent of Channel 4 and the Contributor, Channel 4’s consent not to be unreasonably delayed.
- (h) The Producer agrees that on any reversion of the VOD Rights to the Producer pursuant to this Agreement s and/or in connection with any exploitation of the VOD Rights by the Producer, the PVR Push rights will be deemed to be included in the definition of VOD Rights and the PVR Push rights will therefore revert to the Producer as part of the VOD Rights.

20. EXERCISE OF DTO RIGHT(S)

The Producer undertakes and warrants not to exploit nor to authorise the exploitation of the DTO Right(s) in the Territory during the Term except:

- (i) in accordance with the following holdback provisions:
 - (a) The DTO Right(s) in "box sets" or collections of more than one (or all) of the episodes of the Programme(s) in a Series may not be exploited by the Producer until after 24:00 of the date of the first transmission of the last episode of the Programme(s) in the Series on the Channel 4 Service (or until 30 days after 24:00 of the date of first transmission of the last episode of the Programme(s) in the Series on the More4 Service if a More4 Service premier).
- and in exercising such DTO Rights, the Producer shall further ensure that:
- (b) The DTO Right(s) in single episodes of the Programme(s) within a Series may not be individually exploited by the Producer until six months after 24:00 of the date of first transmission of the last episode of the Programme(s) in the Series on the Channel 4 Service or the More4 Service.

- (c) Programme(s) not forming part of a Series may not be exploited by the Producer by way of the DTO Right(s) until 30 days after 24:00 of the date of first transmission of the Programme(s) on the Channel 4 Service or More4 Service, and.
- (ii) in accordance with the restrictions contained in Channel 4's DTO Policy as agreed from time to time with PACT and found on the 4Producer's website.

21. EXERCISE OF SECONDARY RIGHTS

The Producer undertakes and warrants not to exploit the Secondary Rights (as more specifically described in Schedule 2) in the Territory during the Term until first transmission of the Programme(s) (or until first transmission of the last episode of the Programme(s) if a Series) on the Channel 4 Service or More4 Service other than:

- (i) the DTO Right(s) (the holdback provisions for which are set out in Clause 20 of the General Terms of Agreement;
- (ii) the Clip Sales Rights (the holdback provisions for which are set out in Clause 29 of the General Terms of Agreement; and
- (iii) the Radio Rights (the Channel 4 first option in relation to which is set out at Clause 28 of the General Terms of Agreement

If there has not been any transmission of any of the Programme(s) on the Channel 4 Service or the More 4 Service during the 12 month period after Delivery of such Programme(s) then the Producer may exploit the Secondary Rights in such Programme(s) outside the Territory 12 months after Delivery of such Programme(s) or after first transmission of the Programme(s) in the Territory (after transmission of the last episode of the Programme(s) if a Series) whichever is sooner. Channel 4 shall aim to assist the Producer with co-ordination of book publication or release of the soundtrack album in connection with the Producer's exploitation of the Secondary Rights. The Producer shall not be in breach of its undertaking hereunder if and to the extent that it unknowingly breaches the foregoing holdback provision relating to first exploitation of book publication or the soundtrack album because of a change in Channel 4's transmission plans which results in first transmission of the Programme(s) on the Channel 4 Service or More 4 Service being delayed or cancelled.

22. PAYMENT ACCOUNTING AND AUDIT

All payment and accounting provisions shall apply to each party or its distributor, Associate(s) or agents as applicable.

- (a) In respect of Channel 4's share of Net Receipts as set out in the Programme Specific Terms and Clause 17 hereof the Producer and/or Distributor shall in respect of each of the first eight consecutive periods of three months commencing on the first day of the month in which the Producer and/or Distributor receives the first sum constituting Gross Receipts (and any subsequent three month period in which the Producer and/or Distributor receives sum(s) constituting Gross Receipt(s)) prepare a statement of account specifying by category all receipts forming part of the Gross Receipts and specifying the total amounts of Distribution Expenses and the amount (if any) of Net Receipts. Each such statement shall be delivered to Channel 4 within 60 days after the end of the period to which it refers and shall be accompanied by a remittance for the amount if any thereby shown to be due and in the event that no remittance is due to Channel 4, the Producer and/or Distributor shall remain under a duty to submit a statement
- (b) Channel 4 shall pay to the Producer at the times and in the manner hereinafter described sums equal to 50% (fifty per cent) of the Net Interactive Receipts and the Producer's share of Net VOD Receipts pursuant to Clause 12(b) of the Programme Specific Terms.

Channel 4 shall commence on the first day of the month in which Channel 4 (and/or any of its Associates) receives the first sum constituting Gross Interactive Receipts or Gross VOD Receipts and any subsequent three month period in which it receives sums constituting either prepare a statement of account specifying by category all receipts forming part of the Gross Interactive Receipts or Gross VOD Receipts (as applicable) and specifying the total amounts of Recoupable Interactive Costs or Recoupable VOD Costs (as applicable) and the amount (if any) making up the Net Interactive Receipts or Net VOD Receipts. Each such statement shall be delivered to the Producer as soon after the end of the period to which it refers as the relevant accounts can reasonably be prepared and in the event any remittance is due to the Producer, the Producer shall send Channel 4 an appropriate VAT invoice for the sums due as set out in the statement. Channel 4 shall pay such invoice within thirty days of receipt of invoice.

- (c) Both the Producer and Channel 4 shall keep at their principal place of business in the UK during the Term and thereafter for as long as sums may be due to the Producer or Channel 4 pursuant to this Agreement, separate, complete and accurate records and books of account in respect of all Net Receipts received by them and all transactions which relate or affect such Net Receipts ("Records"). Each of the Producer and Channel 4 shall procure that the other (and their representatives) have reasonable access to such principal place of business to inspect and audit the Records (with the right to make copies and take excerpts) upon reasonable notice during normal business hours during the Term and thereafter for as long as sums are due to either party pursuant to this Agreement in accordance with the following:
 - (i) Either party may by notice to the other require either (i) that any statement be certified as correct by an officer of the other or (ii) that such statement be audited by its auditors but in the latter case the party requesting such audit shall, except as provided below, be responsible for the auditors' fees and shall on request pay to the other such sum or sums as shall be estimated by the auditors to be held on account of their fee inclusive of VAT.
 - (ii) If the audit pursuant to Clause 22 (c) (i) above shall disclose that the statement contained an error resulting in an

underpayment in excess of ten per cent (10%) of the amount shown as due to such party in such statement then the auditors' fee shall be borne by the accounting party which shall repay any sum paid on account of the auditors' fee.

(iii) In the absence of any notice requiring an audit of a statement pursuant to Clause 22 or otherwise notifying the accounting party within twenty four (24) months of the receipt of a statement of any dispute relating thereto it shall be deemed to have been agreed and any claim relating to the statement of account or any item covered thereby shall be deemed to have been waived.

(d) For the avoidance of doubt, it is accepted and agreed by the Producer that any and all sponsorship and/or advertising revenue generated via Channel 4's exploitation of any of its right(s) in the Programme(s) will be retained in full by Channel 4 and, accordingly, any such revenue generated via Channel 4's exploitation of the Interactive Rights will not form part of Gross Interactive Receipts and/or Net Interactive Receipts and will be retained in full by Channel 4.

23. OVERSPILL

(a) The Producer and Channel 4 acknowledge and agree that broadcasts intended for direct reception by members of the public within a country in which the right to broadcast is held are naturally receivable in other countries and that such unintentional overspilling of broadcast signals does not constitute an infringement of any rights held by either party in or for a country in which such overspilling signals are receivable.

(b) The Parties further agree that, in respect of Channel 4's exploitation of the Support Site Rights, the VOD Rights and any of Channel 4's other rights hereunder Channel 4 shall not be in breach of its territorial licence provided that Channel 4 shall use all reasonable endeavours to target the exploitation of such rights to the residents of the UK and Republic of Ireland. For the purposes of clarification (and without limitation), Channel 4 and the Producer acknowledge that exploitation of such rights on the websites operated and maintained by broadcasters (including Channel 4) shall be deemed to be targeted to the residents of the broadcaster's own territory (being UK and Republic of Ireland in respect of Channel 4) for the purposes of this Sub-Clause 23(b). Channel 4 and the Producer additionally agree that (where entitled to do so) in exploiting all of Producer's rights in the Programme(s) outside of the Territory, the Producer shall not be in breach of Channel 4's territorial licence provided the Producer shall similarly use reasonable endeavours to so target any such exploitation by means of the Internet and/or any Mobile Telecommunications Service and/or any Mobile TV Technologies to the specific territory of such licence (being a territory outside the Territory). For the avoidance of doubt content based sites such as Youtube.com and Google.com are targeted at the world and therefore neither party can exploit the Programme(s) on such sites without the consent of the other.

24. TERM OF RETURNING SERIES

(a) In respect of a Programme(s) which forms part of a Relevant Series, Channel 4's exclusive rights in respect of the Format Rights in the Territory shall be extended until the Producer becomes entitled to exploit new programmes based on the Format in the Territory pursuant to Clause 25 (e) of the General Terms of Agreement, and Channel 4 shall be entitled to continue exclusively exploiting the Core Transmission Rights in the Programme(s) in the Relevant Series (subject to payment of the repeat fee referred to in Clause 26 of the General Terms of Agreement where relevant) during the Holdback Window (as defined below)

(b) The holdback on the Producer's exploitation of the Core Secondary Transmission Rights in the Relevant Series in the Territory will continue until after 24:00 of the day of the first transmission of the last episode in the Series two series after such Relevant Series ("Holdback Window"). If the Holdback Window continues after the expiry of the initial 3 year term of the Relevant Series then Channel 4 shall pay the Producer a sum equal to 1.5% of the Channel 4 Licence Fee for the Relevant Series for each 12 month period (or a sum equal to 0.75% of the Channel 4 Licence Fee for each 6 month or shorter period) that the Holdback Window subsists beyond the initial 3 year term of the Relevant Series and then so on for each successive Relevant Series. Channel 4 shall be entitled to negotiate exclusively with the Producer for a period starting 30 days prior to the end of the Holdback Window to re-purchase from the Producer those rights coming out of holdback. If the parties cannot agree terms for Channel 4 to re-purchase such rights during this period then (subject to Clause 25 (c) below) the Producer shall be entitled to exploit the Eligible Rights (as defined in Appendix 2) on Scheduled Services only in the Broadcast Programme(s) in the Relevant Series (subject to Channel 4's on going right to a share of Net Receipts from such exploitation in accordance with Clause 12 (a) (ii) of the Programme Specific Terms and Clause 17 of the General Terms of Agreement). In addition, for the avoidance of doubt, the terms relating to insurance (including without limitation to errors and omission insurance) set out in this Agreement shall apply to the Producer's exploitation of the Eligible Rights in the Broadcast Programme(s) in the Relevant Series hereunder.

(c) Channel 4's holdback on the exploitation of the Core Secondary Transmission Rights in the Relevant Series in the Territory will continue until the expiry of the Term of the final Returning Series commissioned by Channel 4 where (i) the Programme(s) are based on and feature Key Contributors who have entered into agreements directly with Channel 4 where such agreements have the effect that the Producer is not permitted to exploit the Programme(s); and/or (ii) the Programme(s) cannot, even if edited, be transmitted again for legal and/or compliance reasons (such holdback to be released in the event that the Programme is edited by the Producer to the reasonable satisfaction of Channel 4 so as to resolve any such issues); and/or (iii) the Producer's exploitation of the Eligible Rights in the Relevant Series does not comply with the Release Criteria (excluding 3 A (viii)) in Paragraph 3 A of Appendix 2.

25. FURTHER PROGRAMMES

(a) Channel 4 will notify the Producer in writing ("Recommission Notice") within 2 months of first transmission of the Programme(s) on the Channel 4 Service or More4 Service (whichever is first) or, in the case of a Series, of the first transmission of the last episode in such Series on the Channel 4 Service or More4 Service (whichever is first) whether or

not it wishes to recommission the Producer to produce further episode(s) of the Programme(s) (“the Further Programme(s)”).

- (b) If Channel 4 wishes to commission the Further Programme(s), and both parties agree to do so on a fixed price, non budgeted basis, the parties shall have a 30 day period from receipt of the Recommission Notice in which to agree the Channel 4 Licence Fee and the parties shall thereafter agree a mutually acceptable production schedule for the Further Programme(s).
- (c) If either party hereto does not agree that the Further Programme(s) should be contracted on a fixed price, non budgeted basis or the parties have agreed to contract on a fixed price, non budgeted basis but failed to agree what the Channel 4 Licence Fee should be then the Producer shall then have a period of 2 months from receipt of the Recommission Notice to prepare and submit a full budget for such Further Programme(s). The Channel 4 Licence Fee for such Further Programme(s) shall thereafter be negotiated in good faith for up to three months commencing on the date a full budget is received by Channel 4 (“the Negotiating Period”). The Channel 4 Licence Fee negotiations shall take into account the price paid for the preceding Programme(s), the number of programmes being commissioned in comparison to the previous series, cast breakages (Channel 4 will expect ongoing options to be negotiated with cast/talent as appropriate), union rates, increases in national insurance and RPI. If, on expiry of the Negotiating Period, a price has not been agreed it may be extended by either side in writing in exceptional circumstances to allow for a further 3 months bona fide negotiations. Finally, on expiry of the Negotiating Period or extension, taking into account the factors above and provided that both parties have acted reasonably and have negotiated in good faith the Producer shall then be entitled to exploit new programmes based on the Format in the Territory 12 months after expiry of the Negotiating Period or extension.
- (d) All such periods referred to above may be extended by mutual agreement between Channel 4 and the Producer if it is necessary to wait for the availability of talent.
- (e) In the event that Channel 4 does not wish to commission Further Programme(s) based upon the Format, the Producer shall then be at liberty to exploit new programmes based on the Format in the Territory following expiry of a 12 month period from first transmission of the Programme(s) or, in the case of a Series, of the last episode or last Programme(s) in such Series on the Channel 4 Service or More4 Service.
- (f) In the event Channel 4 does not wish to commission Further Programme(s) based upon the Format Channel 4 shall be entitled, in perpetuity, to receive a 15 per cent share of net receipts (“net receipts” for the purpose of this clause shall either be the Format licence fee paid by the relevant production company, or, in the event the production is made by the Producer, or an affiliated company, the net receipts shall be deemed to be 3% of the Production Budget) derived from exploitation of the Format in the Territory.
- (g) The Producer undertakes that it will not whilst Channel 4 has a recommissioning right dispose of any sets, props, costumes, equipment or the like or relinquish any on-going right to use a location without the prior written approval of Channel 4. Channel 4 shall, unless the costs are already included in the Budgeted Cost, meet the costs of storage provided these are agreed in advance in writing.

26. REPEAT FEES

Channel 4 shall pay repeat fees to the Producer for third and subsequent transmissions on the Channel 4 Service in accordance with its current published tariff of repeat fees for the Channel 4 Service. Channel 4 shall pay repeat fees for ninth and subsequent Playdays on the More4 Service in accordance with the current published tariff of repeat fees for the More4 Service unless pre-cleared in accordance with the Programme Specific Terms. Provided that the Producer supplies proper and accurate clearance paperwork and provided that clearances are in accordance with agreed Union rates or have been agreed by Channel 4, Channel 4 undertakes to make such clearance payments to third party contributors in respect of such subsequent transmissions on the Channel 4 Service and in respect of all transmissions on the More4 Service (if the Programme(s) do not premier on the More 4 Service) unless pre-cleared in accordance with the Programme Specific Terms. No repeat fees shall be payable to the Producer in respect of Channel 4’s exercise of any of the Catch Up TV Rights.

27. IPTF LEVY:

Both Channel 4 and Pact expect independent producers to contribute towards the training of the industry’s production work force. Accordingly, all independent production companies commissioned, including those who are not members of Pact, are required, unless they specifically opt out in writing to IPTF, to make an annual contribution to the Independent Production Training Fund, a training charity administered by Pact on behalf of the independent production sector.

Channel 4 and Pact recommend that an annual sum equivalent to approximately 0.25% of the independent production company’s production turnover, up to a ceiling of one hundred thousand pounds (£100,000) per annum, should be contributed to IPTF by standing order.

28. RADIO RIGHTS OPTION

- (a) Channel 4 shall have an exclusive period commencing from the start of the Term and expiring 30 days from the calendar day following first transmission of the Programme(s) (if not part of a Series or Relevant Series or Returning Series) on the Channel 4 Service or More4 Service, or 30 days from the calendar day following the first transmission of the last episode of the Programme(s) if part of a Series (which is not a Relevant Series or a Returning Series), or 30 days from the calendar day following the first transmission of the last episode of the series two series later if part of a Relevant Series, to negotiate with the Producer to acquire the Radio Rights (“Radio Negotiating Window(s)”).

- (b) In the event that the parties are unable to reach agreement in the Radio Negotiating Window(s), the Producer shall be entitled to exploit the Radio Rights as part of the Consumer Product Rights after the expiry of the Radio Negotiating Window(s) PROVIDED THAT the Producer shall not be entitled to exploit the Radio Rights with any third party on terms which are less favourable than those last offered to the Producer by Channel 4.

29. CLIP SALES RIGHTS

- (a) Channel 4 shall have
- (i) the sole and exclusive right to use and exploit or license the use and exploitation of the Clip Sales Rights in the Territory for a period commencing from the start of the Term and expiring 30 days after 24:00 of the date of the first transmission of the Programme(s) (if not part of a Series or Relevant Series or Returning Series) on the Channel 4 Service or More4 Service, or 30 days after 24:00 of the date of the first transmission of the last episode of the Programme(s) if part of a Series (which is not a Relevant Series or a Returning Series) on the Channel 4 Service or More 4 Service;
- or
- (ii) in respect of a Relevant Series or a Returning Series, the sole and exclusive right to use and exploit or licence the use and exploitation of the Clip Sales Rights in the Territory for a period commencing from the start of the Term and expiring 30 days after 24:00 of the date of the first transmission of the last episode of the Programme(s) in such Relevant Series and thereafter Channel 4 shall have the non-exclusive right to use and exploit or license the use and exploitation of the Clip Sales Rights in the Territory until 24:00 of the date of the first transmission on the Channel 4 Service or More 4 Service of the last episode of the Programme(s) in the Returning Series which is two series after such Relevant Series (which shall apply to all Returning Series).

On expiry of Channel 4's exclusive exploitation period(s) as set out above, without prejudice to Channel 4's non-exclusive right to exploit the Clip Sales Rights pursuant to Clause 29(a)(ii) above the Clip Sales Rights in the Territory shall revert to the Producer, provided that exploiting the Clip Sales Rights both the Producer and Channel 4 shall ensure that

- (a) each individual extract from the Broadcast Programme(s) shall not exceed 4 minutes duration; and
- (b) any aggregated extract from the Broadcast Programme(s) shall not exceed 4 minutes duration; and
- (c) no more than one individual extract shall be taken from each 30 minutes of running time of the Broadcast Programme(s); and (d) the maximum aggregate duration of extract(s) from the Broadcast Programme(s) shall be 30% or 10 minutes (whichever is the lesser duration) of another 30 minutes running length television programme or 20 minutes of another 1 hour running length television programme.

For the avoidance of doubt, neither the Producer (in the Territory during the Term) nor Channel 4 shall exercise the Clip Sales Rights to create any form of re-purposed programming.

- (b) With respect to clips comprising audio and/or visual material created as part of the Programme(s) but not included in the Broadcast Programme(s) (including without limitation unused takes, clips trims and outtakes) ("Unseen Clip(s)"), subject to Clause 29(c) below neither party shall exploit the Unseen Clip(s) in the Territory independently from the Broadcast Programme(s) as a whole in any manner and in all media for the Term unless the parties reach agreement in good faith for their commercial exploitation in the Territory.
- (c) Channel 4 may consider releasing the holdback referred to in Clause 29(b) above on a case by case basis in its absolute discretion but in good faith PROVIDED THAT the use contemplated by the Producer does not derogate from the exercise by Channel 4 of any of its rights pursuant to this Agreement.
- (d) Notwithstanding the provisions of 29 (a) (b) and (c) above the Producer shall be entitled to exploit the Unseen Clips as part of the DTO Rights and the Home Videogram Rights.
- (e) Channel 4 will account to the Producer for its 50% share of any Net Receipts generated via its exploitation of the Clip Sales Rights in accordance with the provisions of Clauses 17 and 22.

30. VAT & OTHER TAX CREDITS:

- (a) All items shown in the Budget are exclusive of any Value Added Tax thereon and that the Producer is and shall continue to be a registered person pursuant to the provisions of The Value Added Tax Act 1994. VAT shall be paid on presentation of an approved invoice.
- (b) In respect of production outside the Territory (if appropriate) and where the production is not fixed price, the Producer shall endeavour to secure such credits forwards and refunds of taxes (including but not limited to Value Added Tax or its equivalent) as are available to the Producer in the relevant territories outside the Territory and the Producer shall apply all sums so secured in reducing or defraying the costs of production of the Programme(s). The Producer shall ensure wherever possible that invoices supplied to the Producer from a person or company whose place of business is outside the Territory indicate any Value Added Tax number of the supplier (with a country prefix) as well as that of the Producer.

31. INTERPRETATION & MISCELLANEOUS PROVISIONS:

- (a) Neither Channel 4 nor the Producer shall make public reference to any of the commercial terms of this Agreement without the express permission of the other party hereto.
- (b) **Conflict**
The provisions of this Agreement shall prevail in case of any conflict between such provisions and the Budget and in the case of any conflict between the General Terms of Agreement and the Programme Specific Terms the latter shall prevail save for Clause 18 (Interactive Rights).
- (c) **No Partnership**
Nothing in this Agreement shall be deemed to constitute a partnership between the parties and neither party shall hold itself out as the agent for the other except as expressly provided herein.
- (d) **No Waiver**
No Waiver by a party hereto of any breach of any provision hereof shall be construed as a waiver of any preceding or succeeding breach of the same or any other provision.
- (e) **Headings**
The headings in this Agreement shall not limit govern or otherwise affect the construction of any provision of this Agreement.
- (f) **Assigns**
This Agreement shall be personal to the Producer who shall prior to the precondition of the re-assignment of rights by Channel 4 to the Producer contained in the Programme Specific Terms being satisfied neither assign the benefit hereof nor grant any right herein or in the Programme(s) or any rights or material relating thereto in whole or in part which conflict with rights granted to Channel 4 hereunder nor sub-contract any of its obligations without the prior written consent of Channel 4 unless as part of any internal restructuring of the Producer in respect of an assignment to any wholly owned sister or parent company of the Producer. In the event that the said precondition is satisfied and the said re-assignment takes effect the Producer shall in respect of its then rights in the Programme(s) (but not otherwise) be entitled to sub-contract the distribution of the Programme(s) or otherwise deal with the Programme(s) throughout the world in such manner as the Producer may see fit subject always to the provisos and restraints and personal rights of Channel 4 relating thereto set out in the Agreement PROVIDED ALWAYS THAT the Producer shall remain liable to Channel 4 for its obligations hereunder notwithstanding any such assignment. Nothing herein contained shall be construed so as to prevent Channel 4 from assigning this Agreement or exercising its takeover rights and/or any other rights under or relating to this Agreement or (in the event that the said precondition is not satisfied) subcontracting the distribution of the Programme(s) or otherwise dealing with the Programme(s) throughout the Territory as Channel 4 may see fit PROVIDED ALWAYS THAT Channel 4 shall remain liable to the Producer for its obligations hereunder notwithstanding any such assignment.
- (g) **Entire Agreement**
This Agreement sets out the entire agreement between the Producer and Channel 4 with respect to the production of the Programme(s) and supersedes any prior arrangements or agreements (whether oral or written) between the Producer and Channel 4 relating thereto. This Agreement can only be modified by written agreement signed by both Parties.
- (h) **Third Parties**
Nothing in this Agreement is intended to confer any benefit on any third party (whether referred to herein by name, class, description or otherwise) or any right to enforce a term contained in this Agreement.
- (i) **Severability**
If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.
- (j) **Notices**
All notices or other documents which may be required to be given or delivered by either party to the other party shall be sufficiently given if delivered personally or sent by facsimile or by first class or registered post or by recorded delivery to the address of the company to be served set out at the head of this Agreement (or such subsequent address of which one party shall have notified the other). Any notice sent by post shall be deemed to have been received 7 days (excluding the hours of Sunday or Public and Bank holidays) after the time of posting if sent from one country to another and 48 hours (excluding the hours of Sunday or Public and Bank holidays) after the time of posting if sent and received within a single country or at the time of actual receipt if earlier. Any notice sent by facsimile to which valid answerback is received shall be deemed to have been received at the time of dispatch.
- (k) **Proper Law**
This Agreement shall be governed by and construed in accordance with the laws of England [Scotland] and subject to the exclusive jurisdiction of the English and Welsh [Scottish] courts.

SCHEDULE 1

COLUMN 1	COLUMN 2A	COLUMN 2B	COLUMN 3
CORE CHANNEL 4 SERVICE RIGHTS	CORE SECONDARY TRANSMISSION RIGHTS IN THE UK AND REPUBLIC OF IRELAND	VOD RIGHTS	SUPPORT RIGHTS
Channel 4 Service Rights (including Streaming Rights)	Clip Sales Rights (subject to Clause 29 of the General Terms of Agreement)	Free Video on Demand Rights (subject to Clauses 19 (e) (f) and (g) of the General Terms of Agreement)	British Armed Forces and Community Channel Rights
More4 Service Rights	Closed Circuit Television Rights	Subscription Video On Demand Rights (subject to Clauses 19 (e) (f) and (g) of the General Terms of Agreement)	Clip Sales Rights (subject to Clause 29 of the General Terms of Agreement)
Catch Up TV Rights	Free Cable Television Rights	PPV Video on Demand Rights (subject to Clauses 19 (e) (f) and (g) of the General Terms of Agreement)	Interactive Television Rights (including Streaming Rights)
Channel 4's Format Rights (subject to Clause 25 of the General Terms of Agreement)	Free Satellite Broadcast Rights		Off-Air Recording Rights (ERA Scheme)
	Near Video on Demand Rights		Linear Loop Rights
	Other Linear Rights		Non-Theatric Rights (non-exclusive)
	Pay Cable Television Rights		Premium Rate Telephone Line Rights
	Pay Satellite Broadcast Rights		Promotional Extract Rights (non-exclusive)
	Promotional Extract Rights (non-exclusive) (subject to Clause 26 of the General Terms of Agreement)		Support Site Rights
	Streaming Rights (other than on the Channel 4 Service the More4 Service and/or as exploited as part of the Interactive Television Rights)		Synopsis Rights
	Terrestrial Free Broadcast Rights - Analogue		Teletext Rights
	Terrestrial Free Broadcast Rights – Digital		
	Terrestrial Pay Broadcast Rights		

SCHEDULE 2

SECONDARY RIGHTS (EACH SUBJECT TO HOLDBACK IN CLAUSE 21 OF THE GENERAL TERMS)		
COLUMN 1	COLUMN 2	COLUMN 3
SECONDARY TRANSMISSION RIGHTS OUTSIDE THE UK AND REPUBLIC OF IRELAND	CONSUMER PRODUCTS RIGHTS WORLDWIDE	SECONDARY TRANSMISSION RIGHTS WORLDWIDE
Changed Format Rights	DTO Right(s) (subject to additional holdback in Clause 20 of General Terms)	Airlines and Shipping Lines Rights
Clip Sales Rights	Home Videogram Rights	Non-Theatric Rights (non exclusive within the Territory)
Closed Circuit Television Rights	Interactive Videogram Rights	Theatric Rights
Free Cable Television Rights	Merchandising Rights (including Ringtone(s) and Wallpaper(s))	
Free Satellite Broadcast Rights	Music Publishing Rights	
Interactive Television Rights	Publishing Rights	
Near Video on Demand Rights	Radio Rights (subject to additional holdback in Clause 28 of the General Terms of Agreement)	
Other Linear Rights	Record Rights	
Pay Cable Television Rights	Stage Rights	
Pay Satellite Broadcast Rights		
Promotional Extract Rights		
Streaming Rights		
Support Site Rights		
Terrestrial Free Broadcast Rights – Analogue		
Terrestrial Free Broadcast Rights – Digital		
Terrestrial Pay Broadcast Rights		
VOD Rights		

DELIVERY REQUIREMENTS

In relation to the Programme(s) delivery shall be deemed to mean delivery to Channel 4 Programme Management or as it may direct of the following:

- (a) (i) One Digital Betacam¹ videotape of the Programme(s) recorded in colour fully edited and assembled main and end titled with an integral synchronised stereo soundtrack of first class quality and fit and ready for exhibition and distribution [and in addition if either provided for in the Budget or requested by Channel 4 prior to delivery (in which latter case at Channel 4's cost and expense to be treated as a Distribution Expense for the purposes of Clause 17 of the General Terms of Agreement) one Digital Betacam tape of the Programme(s) incorporating separate stereo music and effects track]. All to the standard and in accordance with the Technical Requirements; and
- (ii) If required by Channel 4 One Digital Betacam videotape of the Programme(s) recorded in colour fully edited and assembled main and end titled with an integral synchronised stereo soundtrack of first class quality and fit and ready for exhibition and distribution with all time limited references deleted (including without limitation references to any telephone numbers, services, programmes, events, solicits for contributors) to the standard and in accordance with the Technical Requirements.

The Programme(s) must be suitable for transmission during separate slot lengths as detailed in Programme Running Times. Any variations to the running time as detailed in the Editorial Specification must have the express prior approval of Channel 4.

- (b) The original master negative, master prints and master tape (as applicable) of the Programme(s).
- (c) Laboratory/Facilities House Letter (as appropriate) in the form attached.
- (d) Channel 4's Programme As Completed Form and a completed music cue sheet submitted on Soundmouse for the Programme(s). In addition, if the Programme(s) include(s) any music specifically commissioned by the Producer from third parties for inclusion in the Programme(s) the Producer shall provide to such third party a copy of the final music cue sheet prepared for the Programme(s) in the same form as that supplied to Channel 4 in order that such third party is aware of the duration of music composed by the third party included in the final Programme(s).
- (e) (i) A typed transcript of the soundtrack of the finished Programme(s) in the form of a normal post-production release script delivered by email and a copy of the transcript on cd in any common word processor format as detailed in the Technical Requirements.
- (ii) For all Programme(s) which include any dialogue in a language other than English - an English language translation script of the Programme(s) delivered by email.
- (iii) For all Programme(s) where a typed transcript of the soundtrack of the finished film is not available at the time of delivery of physical materials for the Programme(s) to Channel 4 - two copies of the running order of the Programme(s) including full details of all credits. A typed transcript of the soundtrack of the finished Programme(s) in the form of a normal post-production release script must then be delivered by email as soon as possible thereafter.

The Producer acknowledges that script material required to be delivered to Channel 4 under this clause must be submitted marked for the attention of Channel 4's Programme Manager in the first instance. The Producer further acknowledges that the Channel 4 Commercial Affairs Department must be notified of the date and individual at Channel 4 for whose attention script material is submitted.

- (f) A suggested billing of between 50 and 100 words for distribution to listing magazines. If the Programme(s) is/are to be delivered to Channel 4 at any time after six weeks before the first date on which the Programme(s) is/are expected to be transmitted this billings information should be delivered to the Commissioning Editor of the Programme(s) and the Press Department of Channel 4 in advance of this six week period.
- (g) A statement of the final cost of production of the Programme(s) or if requested by Channel 4 and at its expense a certificate prepared by a firm of qualified accountants approved by Channel 4.
- (h) Copies of all so called blood chits contributors release forms principal production personnel contracts performers consents library and film clip and stills licences.

¹ For all commissions, the delivered videotape must be in accordance with the Channel 4 Delivery Document. If the commission is in High Definition then delivery should be on HDCam SR and in accordance with the HD section of the Channel 4 Delivery Document which can be found at: <http://www.channel4.com/corporate/4producers/resources/documents/FullTechnicalRequirements.pdf>

- (i) Full caption information for press and on-air promotional use of stills taken by Channel 4's approved photographer.
- (j) If requested by Channel 4 for legal or compliance reasons all unused takes and other film or tape (whether negative or magnetic) produced for or used in the process of preparing the Programme(s), whether or not actually included in the Programme(s).
- [k) If the Producer wishes to deliver on 525 line NTSC videotape, the Producer should follow the advice set out in the Channel 4 Engineering Guide to Standards Conversion from 525 line NTSC a copy of which can be obtained from Programme Management or Business Affairs.]
- (l) Where the Programme is designated as regional evidence to the effect that the Producer has complied with the Ofcom requirements for regionality.

[FORM OF LABORATORY LETTER]

TO: CHANNEL FOUR TELEVISION CORPORATION

Dear Sirs,

(Name of Programme) (No.) ("the Programme(s)")

In consideration of your agreeing that the production laboratory work on the Programme(s) will be done by us, we hereby undertake with the consent and concurrence of [Producer] (hereinafter called "the Producer"):

1. To retain possession of the picture and sound negative (or any part or parts thereof) of the Programme(s) from the time it reaches our possession and to hold it/them to your and the Producer's order.
2. Not to part with the same except in accordance with your and the Producer's written instructions.
3. Not to accept orders from the Producer for any material in connection with the Programme(s) other than those relating to production and distribution requirements and for the answer print except in accordance with your and the Producer's written instructions.
4. Not to assert any claims against the negative of the Programme(s) other than our charges for work done in relation to the Programme(s).

Yours faithfully

for and on behalf of
(laboratory)

Approved for and on behalf of
(Producer)

.....

.....

Director.

[FORM OF FACILITIES HOUSE LETTER]

TO: CHANNEL FOUR TELEVISION CORPORATION

FROM: FACILITIES HOUSE

Dear Sirs,

(Name of Programme) (No.) ("the Programme(s)")

In consideration of your agreeing that the post-production video facilities work on the Programme(s) will be done by us, we hereby undertake:

1. To retain possession of a [Digital Betacam] or [HDCam SR] copy of the edited Master [of each of the Programme(s)] and to hold it to your and the Producer's order.
2. Not to part with the same except in accordance with your and the Producer's written instructions.
3. Not to accept any orders for any material in connection with the Programme(s) other than from the Producer for material relating to production and distribution requirements.
4. Not to assert any claims against the Copy Master other than charges for work done in relation to the Programme(s).

Yours faithfully,

for and on behalf of
(Facilities House)

Approved for and on behalf of
(Producer)

.....

.....

Director

CHANNEL 4 PROGRAMME RUNNING LENGTHS

Slot	Running Time	Beginning and end parts cannot be shorter than 5 mins. It is preferable to have all parts as even as possible. See below for rules on minimum durations for parts 2, 3 and 4	Centre Breaks	Maximum Credit Durations
30'	23'30	2 parts, 1 break	1	25 secs
40'	30'30	2 parts, 1 break	1	25 secs
45'	36'00	3 parts, 2 breaks Part 2 have to be a minimum of 16mins	2	As above
60'	48'00 (49'00 for SPORT Commissions)	4 parts, 3 breaks Parts 2 and 3 have to be a minimum of 16mins (Excl SPORT and DISPATCHES which should be 3 parts, 2 breaks. Part 2 to be a minimum of 16 mins)	3	30 secs (Factual) 40 secs (non-factual)
75'	62'00	4 parts, 3 breaks Parts 2 and 3 have to be a minimum of 16mins	3	40 secs
90'	75'40	5 parts, 4 breaks Parts 2, 3 and 4 have to be a minimum of 16mins	4	40 secs
105'	87'00	5 parts, 4 breaks Parts 2, 3 and 4 have to be a minimum of 16mins	4	40 secs
120'	101'15	6 parts, 5 breaks Parts 2,3,4 and 5 have to be a minimum of 16mins	5	40 secs
150'	Approx 129'00	7 parts, 6 breaks 5 have to be a minimum of 16mins	6	40 secs

THESE RUNNING TIMES AND BREAK PATTERNS SHOULD BE SPECIFIED IN THE EDITORIAL SPECIFICATION. IF THEY ARE NOT OR IF THE PRODUCER IS IN ANY DOUBT THEY MUST BE CONFIRMED WITH THE COMMISSIONING EDITOR.

The running time of sponsored programmes may be reduced to allow for the sponsor's credits. Geoff Riding/Media Planning to advise if a reduction is required.

NOTES:

1. It is important to ascertain from the outset how many breaks a programme should carry because this affects its overall running time. If in any doubt, the Producer should contact the Commissioning Editor.
2. Educational programmes that are accompanied by 'follow up' material (eg, booklet, cassette, etc) intended for promotion immediately following transmission of the programme should allow time for this by subtracting the duration of such announcements from their Programme Running Time, (normally calculated on a 20 seconds per item basis). Announcements will then be made by Channel 4.
3. Similarly, where programmes are preceded by a generic title sequence and/or a title sequence included to reflect agreed sponsorship of the Programme(s) the length of the titles needs to be deducted from the overall Programme Running Time. Geoff Riding/Media Planning to advise if a reduction is required. If in doubt, the Producer should check with the Commissioning Editor.
4. From time to time Channel 4 may agree to changes from the above pattern, both in terms of running times and number of commercial breaks. This is particularly true of 'live' events or programmes with unusual slot duration.
5. If the programme to be delivered to Channel 4 involves the relay of live coverage which may have a direct effect on the running time, particularly if the event to be covered is itself of a 'flexible' duration, it is important that this flexibility (and the extent to which this can be approved by Channel 4) is both agreed with the Commissioning Editor and correctly reflected in either the Commissioning Agreement or the Editorial Specification.
6. Break Bumpers:
The end of a programme part, prior to a commercial break should be indicated with a 3 second break bumper.

This should consist of the programme title only (not series or strand titles.). Part numbers e.g. End of part 1 should NOT be used.
This can be over action, black or still.
The bumper should remain on screen for 3 seconds and audio must be faded to silence before the out point.
The vision should be held for a further 5 seconds.

The beginning of a part should also be indicated by a 3 second break bumper.
Audio to start + 12 frames. This should consist of the title only (not series or strand title). Part numbers again should NOT be used.
Bumpers should be included in overall running time of the Programme.
Generic series titles should be included in overall running time as should any sponsorship bumpers and titles.

7. Programmes for the More4 Service Premier

Programmes under 60' slot length

Programmes that are commissioned with the intention of premiering on More 4 should be 30 seconds shorter than the Channel 4 durations above

Programmes 60' and over slot length

Programmes that are commissioned with the intention of premiering on More 4 should be 1 minute shorter than the Channel 4 durations above.

If you have problems please contact:

Scheduled Programmes: Media Planning (x8576)/Unscheduled Programmes: Ad Sales (x8258)

APPENDIX 1
EDITORIAL SPECIFICATION

APPENDIX 2

CHANNEL 4 – HOLDBACK POLICY

TERMS RELATING TO WAIVER OF HOLDBACK ON EXPLOITATION OF ELIGIBLE RIGHTS IN ELIGIBLE PROGRAMME(S)

1. ELIGIBLE PROGRAMME(S)

The undertakings and warranties given by the Producer in respect of the Core Secondary Transmission Rights pursuant to Clause 1(a) of the Programme Specific Terms will be interpreted in accordance with the following in respect of Eligible Programme(s).

Eligible Programme(s) shall mean all Channel 4 originated programming in the form of the Broadcast Programme(s) only, but excluding the following Programme(s) in respect of which the Channel 4 holdback on exploitation of the Core Secondary Transmission Rights in the Territory shall continue to apply for the full Term (and any extension thereof) (as set out in clause 24 of the General Terms of Agreement):-

- Returning Series and Relevant Series.
- Unless otherwise agreed programme(s) with Key Contributors (and in this regard contributors who make “guest” appearances are not key in this context) who have entered into agreements directly with Channel 4 with the effect that the Producer is not able to exploit the Core Secondary Transmission Rights.
- Programme(s) that cannot be transmitted again for legal and/or compliance reasons.

2. RELEASE PROCESS (Subject to Release Criteria)

A. Eligible Programme(s) (excluding Non Returning Series as defined below)

- a) If Eligible Programme(s) is transmitted on the More4 Service as a premier or, if not a premier, transmitted on the More4 Service within 6 months of first transmission of all of the Programme(s) on the Channel 4 Service, or
- b) In the event the Producer refuses Channel 4 the right to repeat on the More4 Service Eligible Programme(s) commissioned for initial transmission on the Channel 4 Service, or
- c) If E4 has made a good faith offer in line with market rates paid by E4 within 6 months of first transmission of all of the Programme(s) on the Channel 4 Service to licence transmissions of the Eligible Programme(s) on E4 (whether accepted or not)

then Channel 4's holdback with respect to exploitation of the Eligible Rights (as set out below) will expire 24 months from first transmission of the last of the Eligible Programme(s) on the More4 Service or the Channel 4 Service whichever is the first.

B. Eligible Programme(s) which form(s) part of a Relevant Series which Channel 4 does not wish to re-commission as described in Clause 25 ("Non Returning Series")

- a) If Eligible Programme(s) is transmitted on the More4 Service as a premier or, if not a premier, transmitted on the More4 Service within 9 months of first transmission of the last episode of the Non Returning Series, or
- b) In the event the Producer refuses Channel 4 the right to repeat on the More4 Service Eligible Programme(s) commissioned for initial transmission on the Channel 4 Service; or
- c) If E4 has made a good faith offer in line with market rates paid by E4 within 9 months of the first transmission of the last episode of the Non Returning Series on the Channel 4 Service, to licence transmissions of the Non Returning Series on E4 (whether accepted or not)

then Channel 4's holdback with respect to exploitation of the Eligible Rights will expire 24 months from first transmission of the last episode of the Non Returning Series on the More4 Service or the Channel 4 Service whichever is the first.

- C. a) If, for Eligible Programme(s) (excluding Non Returning Series), A. is not applicable, Channel 4's holdback on exploitation of the Eligible Rights in such Programme(s) will expire 6 months from first transmission of all of the Programme(s) on the Channel 4 Service, or
- b) If, for Eligible Programme(s) which form(s) part of a Non Returning Series, B. is not applicable, Channel 4's holdback on exploitation of the Eligible Rights in such Non Returning Series will expire 9 months from the first transmission of the last episode of the Non-Returning Series on the Channel 4 Service.

For the avoidance of doubt, the exclusive extendable licence in the Core Transmission Rights in the Programme(s) granted to Channel 4 pursuant to 1(a) of the Programme Specific Terms remains in full force and effect for the Term and any extension thereof.

3. RELEASE CRITERIA

- A. Channel 4 will release its holdback on exploitation of the Eligible Rights in respect of Eligible Programme(s) as described in 1 and 2 above in the

Territory PROVIDED THAT a sale of the Eligible Rights in respect of the Eligible Programme(s) can only be made if :-

- i) the purchaser is not a public service broadcaster and the Programme(s) will not be transmitted on a service which is branded and/or wholly owned by the BBC, ITV or Channel 5.
- ii) the sale will not bring the Programme(s) and/or Channel 4 into disrepute.
- iii) the Programme(s) retains (at Channel 4's discretion) the Channel 4 logo/ credit as they appear on the Programme(s) for the Channel 4/More4 transmission and Channel 4 shall approve any other credit changes in accordance with the General Terms of Agreement.
- iv) the Programme(s) is not exploited by the purchaser to promote the secondary channel and/or the purchaser but not so as to prevent customary publicity for the Programme(s).
- v) an Eligible Programme(s) remains eligible and does not at anytime become unbroadcastable for legal and/or compliance reasons.
- vi) the Programme(s) is not edited, so as to change the meaning of the Programme(s) and no material (including URL) will be added, without Channel 4's prior written consent save to interpolate advertising, public service announcements and similar material.
- vii) Channel 4 has approval of any promotional, marketing or publicity activity using the Channel 4 name/brand/logo.
- viii) The exploitation of Eligible Rights in each Eligible Programme shall be a maximum of 10 exhibition days in total across all television programme services (unless otherwise agreed).

B. "Eligible Rights" shall be limited to exploitation on Scheduled Services only, by means only of:

- Closed Circuit Television Rights
- Free Cable Television Rights
- Free Satellite Broadcast Rights
- Pay Cable Television Rights
- Pay Satellite Broadcast Rights
- Streaming Rights
- Terrestrial Free Broadcast Rights - Analogue
- Terrestrial Free Broadcast Rights – Digital
- Terrestrial Pay Broadcast Rights
- Other Linear Rights

all as defined in the General Terms of Agreement.

- C. The Producer may also exploit the non-exclusive Promotional Extract Rights and the Teletext Rights (each as defined in the General Terms of Agreement) on Scheduled Services in conjunction with the exercise of the rights set out in Paragraph 3 B above.

All other terms relating to distribution shall remain as per Clauses 17, 18 and 22 of the General Terms of Agreement. In addition for the avoidance of doubt terms relating to the E&O policy in the Programme Specific Terms and the General Terms of Agreement shall apply to any distribution hereunder.

4. GENERAL

All capitalised terms unless defined in this Appendix 2 shall bear the same meaning as ascribed to them in the Programme Specific Terms and General Terms of Agreement.