



## Millions Makers Terms and Conditions

### Background and Definitions

- (A) The King's Trust ("KT") is running a fundraising competition called Million Makers (the "**Competition**").
- (B) The Competition enables groups of employees (the "**Groups**") of a participating company (the "**Company**") to organise one project per Group composed of a number of fundraising activities set out in detail in the Group's Business Plan (as defined below) (each a "**Project**") in order to raise the Minimum Amount (as defined below) in funding per Group for KT.
- (C) KT has agreed to provide the Groups with Seed Funding (as defined below) to assist them in carrying out their Projects and the Company has agreed to underwrite the Seed Funding pursuant to the terms of this Agreement.

<b>"Business Plans"</b>	the business plan prepared by each Group and agreed in writing by KT which sets out the terms and methods by which that Group agrees to deliver its Project;
<b>"CAP Code"</b>	means the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing ( <a href="https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcastcode.html">https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcastcode.html</a> );
<b>"Code of Fundraising Practice"</b>	means the code set out by the Fundraising Regulator ( <a href="https://www.fundraisingregulator.org.uk/code">https://www.fundraisingregulator.org.uk/code</a> );
<b>"Company Representative"</b>	the Company's director, officer or employee with management responsibility for the oversight of the Projects as notified by the Company to KT from time to time;
<b>"Control"</b>	means as defined in section 1124 of the Corporation Tax Act 2010;
<b>"Data Controller, Data Processor, Data Protection Officer, Data Subject, Data Subject Access Request, Personal Data, Personal"</b>	has the meaning set out in the Data Protection Laws;

<b>Data Breach, Special Categories of Data"</b>	
<b>"Data Loss Event"</b>	means any event that results, or may result, in unauthorised access to Personal Data under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;
<b>"Data Protection Laws"</b>	means (a) the European Union ("EU") General Data Protection Regulation 2016/679 ("GDPR") together with all laws and regulations supplementing, amending or replacing the same in each EU Member State; (b) the GDPR as transposed into UK national law by operation of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 ('UK GDPR'), together with the Data Protection Act 2018 and all laws and regulations supplementing, amending or replacing the same in the UK; and (c) other applicable data protection or national / federal or state / provincial / emirate privacy legislation in force;
<b>"Fundraising Materials"</b>	information, resources and guidance on how to participate in the Competition provided to the Groups by KT from time to time;
<b>"Group Account"</b>	a treasurer's account set up by each Group for the purpose of its Project;
<b>"Intellectual Property Rights" or "IP Rights"</b>	any and all rights in inventions, patents, trade marks and service marks, rights in designs, moral rights, know how, rights in trade names and business names (including domain names and email addresses), copyrights (including, without limitation,, rights in computer software) and database rights (whether any of these are registered or unregistered and including applications for registrations) and all rights or

	forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world for the full permitted duration of such rights and all renewals and extensions to the same;
<b>“Insolvency Event”</b>	means the calling of any meeting of a relevant organisation’s creditors; the appointment of any receiver, administrator, or administrative receiver over all or any part of its assets or undertaking; the suspension or cessation of its business; any threat to suspend or cease its business; the presentation of a winding-up petition; the convening of a meeting to pass a winding up resolution; or entering into liquidation;
<b>“KT IP Rights”</b>	all IP Rights owned or properly licensed by KT, including the KT Mark and ‘The King’s Trust’ name;
<b>“KT Mark”</b>	means the King’s Trust logo in the format permitted and communicated by the KT Representative;
<b>“KT Representative”</b>	the KT director, officer or employee with management responsibility for the Agreement as notified to each Group from time to time;
<b>“Launch Event”</b>	an event organised by KT to introduce the Groups to the work of KT and the Competition;
<b>“Minimum Amount”</b>	means the minimum which each Group should raise for The King’s Trust, which shall be communicated to them by KT prior to the start of the Competition;
<b>“Online Registration Form”</b>	the form to be filled in by each member of a Group;
<b>“Participant Guide”</b>	means all information and/or guidance provided from time to time by KT to any Group in relation to the Competition;
<b>“Profit and Loss”</b>	the profit and loss for each Group as indicated in that Group’s Business Plan;
<b>“Protective Measures”</b>	means appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data (those measures may include, where appropriate, pseudonymising and encrypting the Personal Data, ensuring confidentiality, integrity, availability and resilience of its

	systems and services, ensuring that availability of and access to the Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
<b>“Seed Funding”</b>	means the amount to be allotted to each Group, which shall be communicated by KT and shall be up to £1,500, which the Company shall repay to KT should any Group drop out of the Competition;
<b>“Subcontractor”</b>	means each organisation engaged by the Company in accordance with clause 18 to deliver any of its obligations under this Agreement or any part of the Competition and/or Project;
<b>“Term”</b>	the time period for which the Company is participating in the Competition;
<b>“Third Party Processor”</b>	means any third party appointed to process Personal Data on behalf of the Processor;
<b>“Timescale”</b>	the timescale agreed by the Parties for the Groups to carry out their respective Projects as set out in the Business Plan;
<b>“Unreasonable Behaviour”</b>	has the meaning given to it under s59 (8) of the Charities Act 1992 (examples of such behaviour may be found on the Fundraising Regulator’s website);

## **1 Project Delivery**

- 1.1 The Company shall be solely responsible for the composition of the Groups. For the avoidance of doubt, the Company shall be entitled to seek advice from the KT Representative in relation to composition of the Groups.
- 1.2 The Company shall ensure that:
  - 1.2.1 all members of each Group have completed the Online Registration Form for the Initiative as soon as possible following their appointment to the relevant Group, and in any event no later than two weeks prior to the Launch Event;
  - 1.2.2 a Company Representative is appointed to oversee each Group's delivery of its Project and to provide support to the Groups throughout the Term;
  - 1.2.3 throughout the Term the Groups shall collectively:
    - 1.2.3.1 use the Seed Funding provided to each Group for the sole purpose of delivering the Project as defined in the Business Plan; and
    - 1.2.3.2 carry out the Project within the agreed Timescale in accordance with the terms of the Business Plan.
  - 1.2.4 the Groups shall promote and deliver their respective Projects with reasonable care, skill and diligence, in accordance with:
    - 1.2.4.1 all applicable legal requirements whether statute or common law based; and
    - 1.2.4.2 any instructions or directions given by KT from time to time;
  - 1.2.5 the Groups shall respect and uphold the charitable purposes of KT at all times;
  - 1.2.6 the Groups shall promote and deliver their respective Projects on a non-profit distributing basis and in a manner which:
    - 1.2.6.1 in the reasonable opinion of KT does not and is not likely to damage KT's and/or HM The King's good name, image, reputation, standing or Intellectual Property Rights;
    - 1.2.6.2 does not and will not give rise to reasonable objection by KT;
    - 1.2.6.3 promotes the charitable/public benefit purposes of both KT and the Company; and
    - 1.2.6.4 does not impose upon or create any liability for KT.

## **2 Resignation of a member of any Group**

- 2.1 The Company shall ensure that any member of any Group who decides to terminate their involvement in the Project must first inform the KT Representative and the Company Representative in writing as soon as is reasonably practicable. The Company shall use its best endeavours to find replacement employees to join the Groups.
- 2.2 If members of any Group reduces to below eight (or such other minimum number as notified by KT to the Company) the Company Representative shall notify the KT Representative. The Parties' Representatives shall meet as soon as possible to discuss the reasons for the reduction and why it has not been possible to recruit additional members to the Group.



### **3 Publicity and Intellectual Property Rights**

- 3.1 All publicity including promotional activity, public statements or announcements and press releases in relation to this Agreement and its content must be approved in writing by KT and the Company before publication.
- 3.2 All Intellectual Property Rights belonging to or created by KT at any time on, prior to or after the Agreement Date shall remain the property of KT unless otherwise expressly agreed by KT in writing.
- 3.3 The KT Mark and name "The King's Trust" is owned by The King's Trust Group Company, a company limited by guarantee (14142157) and registered as a charity in England and Wales (1200643) ("KTGC"). KTGC has granted to the KT the right to use and sub-license the KT Mark and name. The Company shall only use the KT Mark, The King's Trust name and any other KT IP Rights in accordance with the express provisions of this Agreement and any reasonable instructions of KT, including any brand guidelines, and nothing in relation to this Agreement shall imply any transfer or further licensing of any other KT IP Rights.

- 3.4 The Company shall on reasonable request of the other from time to time provide, at the Company's expense, samples of any product or other material bearing any KT IP Rights. If any such products or materials are, in the reasonable opinion of KT, not of the quality required by clause 3.3 above, then such products or materials shall be promptly removed from supply and/or publication so far as reasonably possible, until such time that the materials are corrected.
- 3.5 The Company shall not, and shall procure and ensure that the Groups shall not, save to the extent provided by this Agreement, use the name "The King's Trust", the name or likeness of HM The King, any state emblem or any other Intellectual Property Rights belonging to KT (including, without limitation, copyright in any materials and any trade names or logos) in any form or in any media (now in existence or hereafter created) or any goodwill associated with the same and the Company acknowledges that, except as expressly provided in this Agreement, it shall not, and none of the Groups shall, acquire any right or interest in respect thereof and all such rights and goodwill are and shall remain vested with KT.
- 3.6 The Company shall not do, omit or permit to be done or omitted anything which could or might reasonably be expected to bring HM The King or any other member(s) or employee(s) of the Royal Household or KT into disrepute.
- 3.7 The words "raising funds for The King's Trust" may be used in appropriate publications in relation to the Projects.
- 3.8 Neither the Company nor the Groups shall re-use any materials or branding created for the Competition to raise funds for other charitable entities in future. This includes photographs relating to the Competition and names and branding relating to the Groups, Competition fundraising activities and/or products created for the Competition. In the event that the Groups raise funds for other charitable entities in future, all communications shall make explicitly clear which charitable entity is benefitting from the fundraising. KT reserves the right to require that certain materials are removed from use if it reasonably believes that use of such materials could cause confusion as to which charity is benefitting from the fundraising.
- 3.9 The Company shall make explicitly clear in all publicity and marketing which charitable entity shall benefit from the funds raised and, in the event that funds are being raised for more than one charitable entity, precisely what proportion of the funding shall be donated to each entity.
- 3.10 If the Company becomes aware of any products or materials that do not confirm to this clause 3 it shall promptly inform the KT Representative.

#### **4 Security**

The Company shall ensure that none of the Groups takes out any loan, mortgage or acquires any other funding in relation to the Projects or uses any part of the Seed Funding for any form of security.

## **5 Health and Safety**

- 5.1 The Company shall be responsible for and shall ensure that:
  - 5.1.1 the highest standards are applied in protecting the health and safety of the Groups and all those involved, connected with or affected by their Projects;
  - 5.1.2 each of the Projects is carried out safely and that all laws and regulations applicable to health and safety are complied with; and
  - 5.1.3 where required by the Reporting of Injuries, Diseases and Dangerous Occurrence Regulations 2013, the Company will ensure they report any cases to the relevant enforcing authority and forward a copy of the report to KT.
- 5.2 The Company shall be liable for and shall indemnify and keep indemnified KT and hold KT harmless against all liabilities, costs, claims, demands, actions, losses, damages and expenses (including legal costs) incurred by KT relating to or in connection with the Company's health and safety responsibilities pursuant to and under this Agreement.

## **6 Compliance with the Charities Act and Preventing Unreasonable Behaviour**

- 6.1 The Company shall comply with the terms of the Code of Fundraising Practice in connection with the Competition during the Term.
- 6.2 The Company undertakes not to carry out any Unreasonable Behaviour during the Competition and shall use its reasonable endeavours to protect vulnerable people and other members of the public from such behaviour in connection with the marketing and promotion of the Competition.
- 6.3 The Company undertakes that:
  - 6.3.1 Any marketing will be aimed at the public generally, and not targeted at specific individuals;
  - 6.3.2 No unsolicited phone calls will be made while promoting the Competition;
  - 6.3.3 No materials will be sent without permissions required under all relevant laws, regulations and applicable industry or Fundraising Regulator codes, policies and standards;
  - 6.3.4 The Company will not make any further attempts to direct fundraising activities at an individual who has previously expressly asked not to receive marketing of this kind (unless that individual later expressly requests to receive marketing of this kind);
  - 6.3.5 the Company and/or Groups will not attempt to imply that any person has a moral obligation to contribute to the fundraising; and
  - 6.3.6 the Company and Groups will comply with the CAP Code when fundraising.
- 6.4 The Company shall provide, as and when required, any information KT reasonably requires in order to assess that the Company has complied with this clause, within 14 days of such a request.

## **7 Purchases, Business Plan and Profit and Loss**



- 7.1 Any items purchased for or in relation to a Project before the date of this Agreement will not be included in the Profit and Loss and will not be paid for out of the Seed Funding or by KT.
- 7.2 The Project shall not commence until the Business Plans and Profit and Loss have been approved by both KT and the Company in writing.
- 7.3 In the event that any Group's Business Plan is not approved by either KT or the Company, the Group concerned shall have the opportunity to redraft and resubmit their Business Plan.
- 7.4 The Company shall ensure that each Group keeps appropriate records in writing of all purchases of items that it is going to make or has made throughout the Term. The Company shall make these records available to KT upon written request.
- 7.5 The Company shall ensure that each Group informs the KT Representative immediately if it wishes to alter its Business Plan and/or the Profit and Loss.
- 7.6 The Business Plans and/or the Profit and Loss will only be altered with the prior written consent of the KT Representative.
- 7.7 The Company shall ensure that the Groups follow the KT guidelines contained within the Fundraising Materials regarding keeping the necessary financial records.

## **8 Funding**

- 8.1 Seed Funding
  - 8.1.1 Upon approval of a Group's Business Plan, providing the Company is not in breach of any obligations under this Agreement, KT will determine at its sole discretion the amount of Seed Funding the Groups should receive, and notify the Company Representative of such Seed Funding amount.
  - 8.1.2 Once notified of the amount of Seed Funding to be granted by KT to a Group, the Company Representative may request such Seed Funding to enable that Group to carry out its Project in accordance with its Business Plan and the terms of this Agreement.
  - 8.1.3 Once requested by the Company Representative, KT will deliver the Seed Funding to each Group by a cheque made payable to the Group Account of that Group.
  - 8.1.4 The KT Representative reserves the right to refuse payment of the Seed Funding if he or she reasonably believe such Group or the Company is or has been in breach of the terms of this Agreement and/or the Fundraising Materials.
  - 8.1.5 Each Group will apply the Seed Funding and use best endeavours to raise the Minimum Amount plus the value of the Seed Funding or more for KT by completing its Project. If any Group fails to raise over the Minimum Amount, the Company agrees to refund KT the Seed Funding for that Group within 30 Working Days of the end of the Term of this Agreement or as otherwise agreed by both Parties in writing.
  - 8.1.6 The Company shall ensure that the Groups pay all monies raised to KT in accordance with the Participant Guide within 30 Working Days of the end of the Term.
  - 8.1.7 KT will not pay any further monies to the Company other than the Seed Funding.
- 8.2 Other funding



The Company shall ensure that the Groups obtain the written approval of the KT Representative and the Company Representative before seeking other funding.

## **9 Insurance**

During this Agreement, the Company shall maintain in force insurance policies with reputable insurance companies, against all risks that would typically be insured against by a prudent business in connection with the risks associated with this Agreement and any activities undertaken in the course of the Projects. The Company shall produce to KT on demand full particulars of such insurance policies.

## **10 Guidance and support**

10.1 KT shall provide a KT Representative to the Groups for the Term of this Agreement who will:

- 10.1.1 provide the Fundraising Materials to the Groups;
- 10.1.2 on request, provide reasonable support and guidance to the Groups in relation to the delivery of the Project;
- 10.1.3 act as the sole KT contact for the Groups; and
- 10.1.4 co-ordinate KT resources to meet obligations under this Agreement.

10.2 The Company shall provide a Company Representative to the Groups for the Term of this Agreement who will:

- 10.2.1 provide reasonable support and guidance to the Groups; and
- 10.2.2 liaise with other Company staff members to ensure all provisions are met as laid out in the terms of this Agreement.

## **11 Confidentiality**

- 11.1 All Parties shall keep in confidence any commercially sensitive information obtained under this Agreement, or relating to this Agreement and shall not use it or divulge it to any person without the written consent of the other Parties.
- 11.2 The preceding clause does not apply to information:
- 11.2.1 in the public domain (otherwise than by breach of this Agreement);
  - 11.2.2 in the lawful possession of the receiving Party prior to the date of this Agreement (other than through liaison between the Parties prior to and in anticipation of this Agreement);
  - 11.2.3 obtained from a third party free to divulge it;
  - 11.2.4 required to be disclosed by a Court or other competent authority;
  - 11.2.5 duly disclosed on a confidential basis to staff, agents or professional representatives of the respective Parties, for the purposes of this Agreement; or
  - 11.2.6 duly disclosed to the members of the Groups for the sole purpose of delivering the Projects.
- 11.3 The Parties shall ensure that those persons to whom confidential information is disclosed are aware of the confidential nature of such information and agree to keep such information confidential in accordance with the terms of this clause.

## 12 Data Protection

- 12.1 The Parties acknowledge that for the purposes of the Data Protection Laws, both Parties are Data Controllers. Both Parties shall only process the Personal Data under this Agreement as set out in the Online Registration Form, or otherwise in order to run the Competition and any related events.
- 12.2 Each Party undertakes that it shall comply with all obligations and requirements of good practice concerning its storage, use and sharing of Personal Data as defined in the Data Protection Laws, and relevant non-statutory guidance.
- 12.3 Each Party shall ensure that they have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data for the duration and purposes of this Agreement.
- 12.4 If either Party becomes aware that there are inaccuracies in the Personal Data, they shall promptly notify the other Party. In addition, if the Parties are aware of inaccuracies in the Personal Data, both Parties will take steps to correct these.
- 12.5 Both Parties must enter into Controller to Processor data sharing agreements with any Processors.
- 12.6 The Parties agree that the responsibility for complying with any Data Subject Access Request from a Data Subject falls to the Party receiving the request in respect of the Personal Data held by that Party.
- 12.7 The Parties agree to provide reasonable assistance as is necessary to each other to enable them to comply with Data Subject Access Requests and to respond to any other queries or complaints from Data Subjects.
- 12.8 Neither Party shall retain or process Personal Data for longer than is necessary to carry out this Agreement.
- 12.9 Each Party shall ensure that, upon termination, any Personal Data is returned to the Party that disclosed the Personal Data or if requested, destroyed.
- 12.10 The Parties will ensure they have in place appropriate Protective Measures to prevent unauthorised or unlawful processing of the Personal Data and the accidental loss, theft or destruction of, or damage to, the Personal Data, which may include the following methods if appropriate, or alternative methods which provide at least the same level of security:
  - 12.10.1 both Parties agree that Personal Data may be transferred either by file-sharing methods as approved by KT (OneDrive, Teams, SharePoint), by secure email, or secure post;
  - 12.10.2 Personal Data entry on any shared database or online system will be protected by a secure password of sixteen or more characters in length and multi-factor authentication; and
  - 12.10.3 both Parties agree that they shall only keep the Personal Data on a laptop or other removable drive or device that is protected by being fully encrypted to FIPS-140-2 standard, and the use of the device or laptop is necessary for the Project. Where this is necessary, the Parties will keep an audit trail of which laptops/drives/devices the Personal Data are held on.

12.11 Each Party shall ensure that:

12.11.1 all persons authorised by each Party to process Personal Data are bound by appropriate confidentiality and data protection obligations; and

12.11.2 access to the Personal Data is limited to those relevant personnel who need access to the Personal Data.

12.12 The relevant Party shall notify the other immediately after becoming aware of any Personal Data Breach in relation to the Personal Data or any breach of this Agreement.

12.13 In the event of a Personal Data Breach, the relevant Party shall provide the other with full co-operation and assistance in dealing with the Personal Data Breach, in relation to:

12.13.1 resolving any data privacy or security issues involving any Personal Data; and

12.13.2 making any appropriate notifications to individuals affected by the Personal Data Breach or to the relevant authority.

12.14 The relevant Party shall investigate the Personal Data Breach in the most expedient time possible and shall then provide the other Party as soon as possible thereafter (and in any event within 72 hours) with a detailed description of the Personal Data Breach, the type of Personal Data that was the subject of the Personal Data Breach, and any other information that the other Party may request concerning the Personal Data Breach.

### **13 Modern Slavery**

13.1 The Parties agree that they are committed to the eradication of modern slavery and child exploitation (as defined in the UK Modern Slavery Act 2015) and will comply with all relevant local laws in relation to the eradication of modern slavery. The Company shall:

13.1.1 Ensure that any contracts with subcontractors or delivery partners in relation to this Agreement shall contain wording at least as onerous as those set out in this Clause 13 notify KT as soon as it becomes aware of any actual or suspected slavery or child exploitation in a supply chain which has a connection to this Agreement;

13.1.1.1 maintain appropriate records to trace the supply chain in connection with this Agreement, and to allow KT access to those records upon request; and

13.1.1.2 the Company warrants that at the date of this Agreement it has not been convicted or involved in any investigation regarding modern slavery or child exploitation.

13.2 KT may terminate this Agreement with immediate effect by giving written notice to the Company if the Company commits a breach of this clause.

### **14 Indemnity**

The Company shall indemnify and keep indemnified KT and hold KT harmless in respect of any costs, claims, losses or liabilities whatsoever suffered by KT (including reasonable legal costs and disbursements and all consequential losses) as a result of any breach by any Group or the Company of any of the terms of this Agreement or by the negligence of any Group or the Company in relation to or in connection with this Agreement.

## **15 Company's limitation of liability**

The Company does not purchase or otherwise obtain any rights from KT under this Agreement and shall remain solely responsible for delivery of the Projects. The Company shall be liable for any costs, claims, losses or liabilities arising in respect of the delivery (or non-delivery) of the Projects and any actions or inactions of the Group's in respect of the Projects under this Agreement.

Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently, or whether express or implied) that is not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

## **16 Commercial Participation**

If the Project to be undertaken by a Group fulfils the conditions set out by KT in the Fundraising Materials in relation to when a Commercial Participation Agreement is required, or if the Company is otherwise acting as a "commercial participator" under s58 Charities Act 1992, the Company agrees that the Commercial Participator Annex below will apply.

## **17 Termination**

17.1 Either Party may terminate this Agreement without notice if the other Party:

17.1.1 commits a material breach of the terms of this Agreement; or

17.1.2 commits or suffers any Insolvency Event.



- 17.2 KT may terminate this Agreement by giving the Company one (1) week's notice if membership of the Group falls below the minimum number (8) and the Company have not been able to recruit additional members to join the Group within a reasonable time.
- 17.3 If the Company is deemed to have breached this Agreement, in KT's sole determination, KT may:
  - 17.3.1 request that the Company rectifies the breach within 5 working days; and/or
  - 17.3.2 demand repayment of all previous payments of the Seed Funding and all monies raised to date to be paid by the Company to KT within 10 working days.
- 17.4 KT may terminate this Agreement at any time, without liability, by giving the Company 1 month's prior written notice.
- 17.5 KT may terminate this Agreement with immediate written notice if:
  - 17.5.1 the Company undergoes a change of Control, unless the Company gave prior written notice to KT of such a change of Control and KT agrees to continue contractual relations with the Company; or
  - 17.5.2 it reasonably believes that:
    - 17.5.2.1 the Company has committed a breach of clauses in relation to health and safety, insurance or modern slavery; or
    - 17.5.2.2 continuing the contractual relations with the Company may damage or otherwise adversely impact the Charity's reputation, goodwill, name, image or IP Rights.
- 17.6 On expiry or termination of this Agreement for whatever reason, the Company shall:
  - 17.6.1 immediately cease to use all KT IP Rights;
  - 17.6.2 on reasonable request by KT and at the Company's expense, return and destroy all materials or stock containing KT IP Rights; and
  - 17.6.3 account for and pay to KTT all monies owed under this Agreement as accrued at the date of expiry or termination.
- 17.7 Termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination.
- 17.8 Any provision of this Agreement which expressly or by implication is intended to have effect after expiry or termination of this Agreement shall continue to have such effect for the intended further period, including, without limitation, provisions relating to: payment; record keeping; intellectual property rights; confidentiality; data protection; modern slavery; indemnity, limitation of liability; dispute resolution; consequences of termination; third party rights; notices; governing law and jurisdiction.

## **18 Assignment and Subcontracting**

- 18.1 The Company may not assign the benefit of this Agreement to any third party.
- 18.2 The Company may only sub-contract performance of its obligations under this Agreement with the prior written consent of KT.
- 18.3 The Company shall be responsible for the observance and performance by every Subcontractor, and shall be liable to KT for any breach by any Subcontractor, under this Agreement, and shall be liable for the acts and omissions of any Subcontractor as if it were the Company's own acts and omissions.

## **19 General**

- 19.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties.
- 19.2 No failure or delay by any Party in exercising, any right, power or remedy in connection with this Agreement (each a "Right") shall operate as a waiver of that Right, nor shall any single or partial exercise of any Right preclude any other or further exercise of that Right or the exercise of any other Right.
- 19.3 This Agreement does not and is not intended to provide any third party with any rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 19.4 No variation of this Agreement shall be effective unless it is in writing and signed by both Parties.
- 19.5 Any notice or other communication in connection with this Agreement shall be in writing and delivered:
  - 19.5.1 if in relation to a dispute by hand or pre-paid first class post or courier to each Party's Company Secretary at its registered office, with an email copy to the KT Representative; or
  - 19.5.2 by email to the KT Representative and/or otherwise as notified by the receiving Party from time to time.

## **20 Governing Law and Submission to Jurisdiction**

This Agreement, and the document to be entered into pursuant to it, shall be governed by and construed in accordance with law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

## **Commercial Participator Annex**

### **Definitions**

<b>"Proceeds"</b>	means the funds raised by the Promotion in accordance with the Solicitation Statement;
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<b>“Promotion”</b>	means any promotion which is regarded under the Charities Act 1992 as commercial participator activity, including but not limited to a relevant sale of products or event tickets;
<b>“Solicitation Statement”</b>	means the statement in the following format, as prescribed by Cabinet Office guidance in relation to commercial participator activity:  [Brand name] will donate [ •% of purchase price / •p per product sold] to The King’s Trust to help transform young lives. The total amount donated to The King’s Trust is expected to be £[•]. The King’s Trust is incorporated by Royal Charter in England: RC000772. Registered charity number in England and Wales: 1079675 and Scotland: SC041198
<b>“VAT”</b>	has the meaning given in the Value Added Tax Act 1994.

1. The terms of this Annex apply if the Company undertakes any activity which falls within s58 to s60 of the Charities Act 1992.
2. The Company shall not launch or publicise any aspect of the Promotion without prior written permission from The King’s Trust and The King’s Trust Trading Limited (company number (3161821) (“**KTT**”), which is the trading subsidiary of The King’s Trust.
3. The Company shall ensure that where there is any representation that participating in the Promotion shall result in funding being given to KT, the Solicitation Statement shall be reproduced in full. Each Solicitation Statement must be approved in writing by KT prior to the Promotion being launched and/or publicised.
4. The Company shall pay to KT the amount set out in the Solicitation Statement, in accordance with clause 8.1.6 of the Million Makers T&Cs.
5. The Million Makers Terms and Conditions shall apply in full to this Annex, including but not limited to the terms relating to health and safety, insurance, data protection, modern slavery, termination, compliance with the Charities Act and unreasonable behaviour.
6. Intellectual Property



- a. KTT hereby grants to the Company a non-transferable, non-exclusive, revocable and royalty-free licence (with no right to sub-licence, assign or transfer such licence unless written consent has been obtained in advance from KTT) to use the name “The King’s Trust” and the KT Mark solely for the purposes of producing, marketing and advertising the Promotion for the Term in accordance with the terms of this Agreement.
- b. The Company shall only use the KT Mark, The King’s Trust name and any other KT IP Rights in accordance with the express provisions of this Agreement and any reasonable instructions of KTT or KT, and nothing in relation to this Agreement shall imply any transfer or further licensing of any other KT IP Rights.
- c. The Company shall comply with all reasonable instructions of the KT Representative , including but not limited to brand guidelines. If requested, the Company shall provide representative samples of all materials on which KT IP Rights are used within all reasonable timescales for approval by KT (not to be unreasonably withheld or delayed) prior to publication, sale and/or mass production.

#### 7. Commercial Participation

- a. The Company shall ensure that where there is any representation in connection with the Promotion that charitable contributions are to be given to KT, the representation shall be accompanied by the Solicitation Statement such that it satisfies the purposes of section 60(3) Charities Act 1992.
- b. The Company hereby agrees to pay to KT the Proceeds plus VAT.
- c. The Company shall keep separate, legible and detailed books of accounts and records relating to the Promotion and shall allow KT, its employees, agents and professional advisers to inspect, audit and take copies of any such books of account, VAT records, bank statements or other relevant records.
- d. KTT undertakes that it will donate all its taxable profits for the financial period(s) to which this Agreement relates to KT.