

Where the venture only involves the form of Commercial Participation A

of goods, the alternative, general and instead of this template.

THIS COMMERCIAL PARTICIPATION AGREEMENT

made on the [] day of []

BETWEEN:

- (1) <<Name of Commercial Participator>> [a company registered in England under number <<Company Registration Number>> whose registered office is at] <<insert Address>>] ("the Commercial Participator"); and
- (2) <<Name of Charity>> [a charity registered in England under number <<Company Registration Number>>] <<insert Address>>] and [a charity registered as a charity under number <<Charity Registration Number>> or variant of the full name under number <<Charity Registration Number>>]; and
- (3) <<Name of Trading Company>> [a company registered in England under number <<Company Registration Number>> whose registered office is at <<insert Address>>] ("the Trading Company").

any registered in England under number <<Company Registration Number>> whose registered office is at] **OR** [of <<insert Address>>]; and

England under number <<Company Registration Number>>] **OR** [of <<insert Address>>] and [a charity registered as a charity under number <<Charity Registration Number>> or variant of the full name under number <<Charity Registration Number>>]; and

stered in England under number <<Company Registration Number>> whose registered office is at <<insert Address>>

WHEREAS:

- (1) The Commercial Participator and the Charity have agreed that the Commercial Participator will participate in the Promotional Venture detailed in the Schedule attached to this Agreement.
- (2) The principal objectives of the Promotional Venture are to raise funds for the Charity and to promote awareness of and support the Charity by means of the methods set out in the Schedule. The types of contributions to be given or applied via the Trading Company for the benefit of the Charity in the circumstances in which they are to be given or applied are set out in the Schedule. No charitable or benevolent body other than the Charity will benefit from the Promotional Venture.
- (3) The Commercial Participator is not a charity and is not defined under Charity Law [and it is not a charity for the purposes of Charity Law].
- (4) This Agreement is entered into for the purposes of Charity Law.
- (5) The Charity is the beneficial owner of the Promotional Venture and has licensed the Trading Company to participate in the Promotional Venture.
- (6) The Trading Company is wholly owned by the Charity and its profits are to be given or applied to the Charity.
- (7) As charities are generally not permitted to trade for profit, the commercial aspects set out in this Agreement are agreed and entered into for the purposes of Charity Law.
- (8) The Charity has joined in as a party to this Agreement since that is required by Charity Law and it has done so to assist the Commercial Participator and the Charity in entering into this Agreement.

participate in the Promotional Venture detailed in the Schedule attached to this Agreement.

are to promote awareness of and support the Charity by means of the methods set out in the Schedule. The types of contributions to be given or applied via the Trading Company for the benefit of the Charity in the circumstances in which they are to be given or applied are set out in the Schedule. No charitable or benevolent body other than the Charity will benefit from the Promotional Venture.

participator" in connection with the Promotional Venture as defined under Charity Law [and it is not a charity for the purposes of Charity Law].

Logo and Charity Name and has licensed the Trading Company to participate in the Promotional Venture.

ty and covenants all of its taxable profits are to be given or applied to the Charity.

commercial aspects set out in this Agreement are agreed and entered into for the purposes of Charity Law.

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1. Definitions

"Agreement"	means this Agreement including its Schedules;
"Promotional Venture"	means the fundraising and awareness activity or activities to be carried on by the Commercial Participator as set out in the Schedule;
"Charitable Contribution"	means any proceeds of the Promotional Venture raised by the Commercial Participator for the benefit of the Charity;



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	tor for and on behalf of the Charity Trading Company;
"Charity La	the Charities Act 1992 (as d by the Charities Act 2006 and arities (Protection and Social ent) Act 2016); the Charitable ns (Fundraising) Regulations and any additions or amendments
"Charity Lo	he logo of the Charity [which is d as a trademark no. <<insert > [of which the Charity is the d proprietor] [the Intellectual rights in which are owned by the
"Charity Na	he Charity's name[s];
"Expiry Dat	he end of the Term or if sooner the n which the Promotional Venture nate in accordance with the terms reement;
"Fundraisin	he Code of Fundraising Practice of raising Regulator;
"Intellectua	intellectual property either g absolutely to any party or which y is entitled to use including any patent application, know-how, k, trademark application, d design, copyright, database other similar intellectual or cial right;
"Term"	means the period of the nal Venture as described in this ent;
"Territory"	means [England & Wales] [the ingdom] [<<define other part/s of >];
"Written St	written statement which complies rity Law which clearly indicates: the name of the Charity; and whichever one of the following ums is applicable in the rcumstances: the [percentage] amount of e price paid for each good or ervice by consumers which will be ven by the Commercial articipator to or applied for the enefit of the Charity; or the actual amount, or (if the actual amount is not known at the time when the statement is

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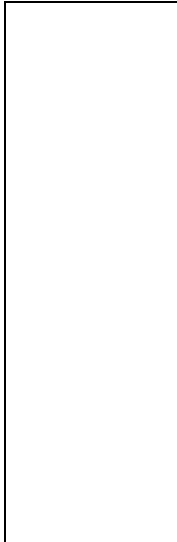
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to be made) an estimate of the amount, of any [other] proceeds from the Promotional Venture undertaken by the Commercial Participator to be so given or applied; or the actual amount, or (if the actual amount is not known at the time when the statement is to be made), an estimate of the amount, of the donations to be given or applied by the Commercial Participator in connection with the sale or supply of each such good or service.

2. **Term of Promotional Venture**

The Term of the Promotional Venture shall be for a period of <<number>> months/years from <<date>> [to <<date>>] [for termination under the terms of this Agreement.

from <<date>> [to <<date>>] [for termination under the terms of this

3. **Responsibilities of the Commercial Participator**

The Commercial Participator shall be responsible for the following:

- 3.1 must meet the requirements of a commercial participator who is responsible for the benefit of a charitable body (namely the Charity). The requirements are the same as those set out in the representations with which the Commercial Participator must accompany such representations as defined below;
- 3.2 will pay £<<amount>> to the Trading Company in return for the rights as set out below;
- 3.3 will pre-agree, organise and fund all aspects of the promotional material to be produced, including the Charity Logo. The Charity Logo must be accompanied by the Charity Name (England & Wales) and the Charity Registration number <<number>>. The Commercial Participator must have the Trading Company's approval before it is produced;
- 3.4 will not permit any promotional material to be produced or used via broadcast media, the press, direct marketing, or outside the Territory, without the prior written consent of the Trading Company;
- 3.5 will abide by all directions given by the Trading Company as to how the Charity Logo or Charity Name is to be used in promotional materials;
- 3.6 will abide by the Fundraising Code of Practice;
- 3.7 will as required by the Trading Company, protect vulnerable people and other members of the public from the behaviour referred to below. The Commercial Participator is to take such steps as are reasonable in the nature of the Promotional Venture>>.

any applicable to it as a commercial participator who is responsible for the benefit of a charitable body (namely the Charity). The requirements are the same as those set out in the representations with which the Commercial Participator must accompany such representations as defined below;

Trading Company in return for the

the Trading Company informed of all aspects of the promotional material to be produced, including the Charity Logo [and any press activities]. All promotional material must be accompanied by the Charity Name [and] [Charity Registration number <<number>>]. The Commercial Participator must have the Trading Company's approval before it is produced;

g of the Promotional Venture via broadcast media, the press, direct marketing, or outside the Territory, without the prior written consent of the Trading Company;

time by the Trading Company as to how the Charity Logo or Charity Name is to be used in promotional materials;

urse of or in connection with the Promotional Venture under this Agreement, protect vulnerable people and other members of the public from the behaviour referred to below. The Commercial Participator is to take such steps as are reasonable in the nature of the Promotional

The "behaviour" means

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- 3.7.1 on a person's privacy;
- 3.7.2 persistent approaches for the purpose of procuring money or other property;
- 3.7.3 on a person to give money or other property;

- 3.8 will provide operation and assistance to enable the Trading Company to discharge its duty under Charity Law to monitor the compliance with Sub-clauses 3.6 and 3.7[.]; and
- 3.9 [will report to the Fundraising Regulator at all times during the Term

4. **Responsibility of the Trading Company**

The Trading Company

- 4.1 will execute a written Statement with the Commercial Participator to ensure compliance with Charity Law concerning the content and use of the Venture;
- 4.2 hereby grants to the Commercial Participator a non-exclusive, non-transferable licence to use the [Charity Name] [and] [Charity Logo] in the Territory in all connection with the Promotional Venture and shall allow the Commercial Participator to represent itself as operating the Promotional Venture as the Trading Company for the benefit of the Charity;
- 4.3 will provide to the Commercial Participator to support the Promotional Venture, where possible, press contacts that will be of use to the Commercial Participator]; and
- 4.4 will ensure the Commercial Participator's compliance pursuant to Sub-clause 3.7 with the Commercial Participator's duty to ensure compliance with the behaviour referred to in that Sub-clause. The Commercial Participator shall ensure that compliance by the following means:
 - <<space>> to apply to enable the Trading Company to

5. **Financial Provisions**

The Commercial Participator agrees to and covenants with the Trading Company to:

- 5.1 pay to the Charity without any deduction or set-off, as specified in Sub-clause 5.2 a sum of Charitable Contributions;
- 5.2 notify the Charity no later than 14 days after the end of the Promotional Venture of the number of Charitable Contributions that have been made;
- 5.3 pay to the Charity the number of Charitable Contributions plus VAT (as specified in Sub-clause 5.2) that invoice has been raised by the Trading Company no later than 28 days after the date of invoice. It shall be the responsibility of the Commercial Participator to ensure that the Commercial Participator's bank account as follows:

EITHER

<<name>>

Name of the Commercial Participator

Account number

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Payment ref. <<name of Participator>>

Sort Code: <<number>>

OR

[by cheque made out to the Participator];

5.4 in the case of any of the money which is payable to or for the account of the Participator in accordance with the instructions notified to the Commercial Participator from time to time by the Trading Company save that in the event of any such instructions, any such property shall be held in trust on the condition in which it was received; and

5.5 upon written request the Commercial Participator, provide a detailed statement of account in relation to the property received by the Commercial Participator for the period calling to be given to or applied for the benefit of the Charity.

6. Obligations of the Trading Company

The Trading Company undertakes to donate to the Charity all its taxable profits for the period of the term of this Agreement relating to the Charity.

7. Obligations of the Commercial Participator

The Commercial Participator shall observe the following covenants with the Trading Company to:

7.1 at all times and in accordance with any relevant provisions of Charity Law including (but not limited to) the Charities Act (foregoing) make available to the Trading Company in accordance with the request and at all reasonable times any books, documents, records, accounts, correspondence (except) which relate to the Trading Company and are kept in connection with the performance of this Agreement;

7.2 work diligently and make maximum contribution to the Charity's charitable Contributions;

7.3 promote and advertise the Trading Company's products throughout the Territory;

7.4 protect and promote the Trading Company's goodwill for the benefit of the Charity the goodwill associated with the Trading Company's [Name of the Charity's Intellectual Property], and not to disclose or otherwise use the name of the Charity's Name; and

7.5 not carry on any activities of the Charity and not to be engaged in any promotional activities in connection with the Promotional Venture within the [United Kingdom or other part/s of UK] with any other charity at any time during the term or for a period of six months thereafter.

8. Confidentiality

8.1 The Charity and the Commercial Participator shall agree to treat as secret and confidential and not to disclose or permit to be disclosed to any person other than those who otherwise make use of or permit to be disclosed to the Commercial Participator's business affairs or financial affairs or for any other purpose or details of the information was received during the term of this Agreement.

8.2 The obligations of confidentiality under this clause shall not apply to any confidential information disclosed to the Commercial Participator for the purpose of the promotion – three parties)

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8.2.1 ... and is at the free disposal of the Charity or the ... published or is otherwise in the public domain ... such information by the Charity or the Trading

8.2.2 ... ly available on a non-confidential basis through ... or the Trading Company; or

8.2.3 ... ith by the Charity and/or the Trading Company ... o on reasonable enquiry by the Charity or the ... ims to have no obligations of confidence to the ... or in respect of it and imposes no obligations of ... ty or the Trading Company,

8.3 The ... Com ... chang ... this clause on the Charity and/or the Trading ... e Commercial Participator with the necessary ... this clause.

9. Intellectual

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9.1 In co ... ng Company disclosing the Charity's Intellectual ... e Commercial Participator to use it for the ... onal Venture, the Commercial Participator agrees

9.1.1 ... roperty shall at all times be maintained in strict ... y the Commercial Participator only in connection ... f the Promotional Venture;

9.1.2 ... roperty being a valuable asset of the Charity, it ... of the same to any person for any reason or ... the prior consent of the Trading Company as ... ded for in this Agreement;

9.1.3 ... any act or thing to be done in derogation of the ... nnection with its Intellectual Property either during

9.1.4 ... ter the Term in any way dispute or impugn the ... s [Logo] [or] [Name] or other Intellectual Property ... ight of the Charity thereto or any person whom ... ing Company may permit to use the same to use ... he Term and thereafter;

9.1.5 ... e in any website a hyperlink to the Charity's ... rading Company's consent which may be later ... e the Commercial Participator shall procure that ... ed within seven days of the Trading Company's

9.1.6 ... the Term it shall forthwith discontinue use of the ... [Name] and any other Intellectual Property of the ... directly or indirectly, thereafter operate or do ... me or in any manner whatsoever that might tend ... mpression that it is in any way associated with ... ing Company.

9.2 Whe ... Vent ... Tradi ... expe ... participator designs material for the Promotional ... participator will indemnify the Charity and the ... all liability, loss, damages, claims, costs and ... sts) arising out of any claim in respect of any

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infringement of any third party whether

or other proprietary rights of any elsewhere.

9.3 In consideration of Property and author of the Promotional Y Participator owns a in relation to the P [Name] [and] [Logo

Participator disclosing its Intellectual any to use it for the purposes only npany agrees that the Commercial ents in any materials produced by it th the exception of the Charity's

10. **Data Protection**

10.1 The Commercial Pa will be collected, pr Data Protection Le Privacy Notice.

any personal data that it may use ordance with the provisions of the objects' rights thereunder) and its

10.2 Complete details of personal data inclu data is used, the l rights and how t applicable), are set

ssing, storage, and retention of the purpose(s) for which personal using it, details of data subjects' personal data sharing (where available from <<insert location>>.

10.3 The parties to this data controller of a that it is not require

ne Commercial Participator is the is referred to in Clause 10.1, and Agreement to, and that it will not:

10.4 share any personal

of the other parties; or

10.5 process any person

r or both of the other parties.

10.6 For the purpose of t

10.6.1 means all ap Kingdom ap limited to, th Regulation (law of Engla section 3 of Protection A Privacy an amended; a

nce from time to time in the United on and privacy including, but not on of the General Data Protection K GDPR"), as it forms part of the , and Northern Ireland by virtue of (Withdrawal) Act 2018; the Data ons made thereunder); and the lications Regulations 2003 as

10.6.2 "personal d "data subjec GDPR".

"data processor", "process", and ng defined in Article 4 of the UK

11. **Termination**

11.1 If either:

11.1.1 the Commer Company fo to comply v pursuant to t of such defa the Commer

pay any sum due to the Trading after the due date for payment or n of the Commercial Participator eriod of 30 days after written notice vered by the Trading Company to

11.1.2 the Commer business or conveyance do so or h

or threatens to cease to carry on on or arrangement with, or any benefit of, its creditors or purports to trative receiver, or administrator

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part of its assets or, being an individual, becomes bankrupt or a bankruptcy petition presented against him or, being a company, insolvent, or passes any resolution to be wound up or a winding-up petition presented against it; or

11.1.1. The Commercial Participator attempts to assign this Agreement and/or any part of it without the prior written consent of the Trading Company or attempts to assign, transfer, sub-licence or otherwise dispose of any of the Intellectual Property or the goodwill of the Commercial Participator or asserts any claim to any goodwill, reputation or other Intellectual Property of the Charity's Intellectual Property; or

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11.1.2. The Commercial Participator's opinion of the Trading Company, the Charity's Commercial Participator is likely to damage the reputation of the Trading Company;

The Commercial Participator may (but without limiting the Charity's or the Commercial Participator's right to any other remedy) at its election terminate this Agreement with upon giving written notice to the Commercial Participator of such action either at law or in equity as it or they may see fit to protect its or their rights hereunder.

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11.2. In the event of any of the circumstances in 11.1 the Trading Company shall be liable for the Commercial Participator's expenses relative to the default.

11.3. **Inclusion of Commercial Participator in period of the promotion (prescribed in Clause 2) will terminate this Agreement at any time by giving the Commercial Participator two months' notice of termination in writing, and if given by the Commercial Participator it shall also give notice to the Trading Company.**

11.4. The Commercial Participator undertakes to and covenants with the Trading Company that from the date it will immediately cease carrying out the promotion promptly:

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11.4.1. The Commercial Participator's [Name] [and] [Logo] and other Intellectual Property as may be required by the Trading Company;

11.4.2. The Commercial Participator's Trading Company all originals and copies of all documents in any form containing or covering in any way the promotion [and] [Logo] and other Intellectual Property of the Commercial Participator;

11.4.3. The Commercial Participator's Trading Company without deduction or set-off all sums due to the Commercial Participator.

12. Indemnity

The Commercial Participator and the Charity shall indemnify, respectively, the Trading Company and the Charity from and against all claims, demands, losses, damages, costs, liabilities and expenses incurred by, respectively, the Trading Company and the Charity (including reasonable legal costs and disbursements paid by either) either as a result of or in connection with the Commercial Participator in relation to this Agreement or the Charity's Commercial Participator in relation to this Agreement or the Charity's Commercial Participator of any of the circumstances set out in clause 11.1.

13. This Agreement is not a partnership

The parties to this Agreement are not joint venturers nor is the Commercial Participator acting as agent for or bind the Charity or the Trading Company.

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14. **Successors and assignm**

This Agreement shall be b permitted assignees of the assign or transfer or purp hereunder without the prior

benefit to successors in title and Commercial Participator shall not er any of its rights or obligations Trading Company and the Charity.

15. **Notices**

All notices which any party connection with this Agree may be sent by first class r above or such other addr written notice given to the the Trading Company at < at <<insert email address>

de to give to any other under or in y hand or by email to such party or to such party at the address given o time be given by any party by rovided, or in the case of email to or to the Commercial Participator nsert email address>>.

16. **Waiver and Forbearance**

No failure to exercise or de shall constitute a waiver th performance by any other to be a waiver of any subse

nt or remedy under this Agreement any party of any breach or non- f this Agreement shall be deemed e or any other provision hereof.

17. **Variation and Entire Agree**

This Agreement contains th its subject matter and understandings related to writing and signed by or on

between the parties with respect to r discussions, agreements and greement shall be valid unless in ties hereto.

18. **Law**

This Agreement shall be g and the parties submit to th

ed in accordance with English law f the English courts.

The Promotional Venture shall c

The following notes are guidance o

The charity will need to set out i venture.

of its own particular promotional

The details should cover the featu intended to be examples of full des

ull; the following examples are not ventures.

Examples of typical promotional

These are examples of typical prom

using use of a charity's name:

(i) An event-organising comp company agrees to pay a profits (ticket sales less ex company makes represent will be donated to the chari

all for a charitable institution. The nising the ball and to give all the e institution. The event organising e public that all profits of the event

(ii) A bank enters into an agr card. The bank uses the c credit card and agrees to opened by a consumer plu

e institution for an "affinity" credit he and logo in its marketing of the titution £3 for every card account t by the consumer using the card.

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will make to the charitable institution if the card
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going from house to house. It intends to sell
agrees with a charitable institution that, in return
nstitution's name on its leaflets as an incentive to
ay the charitable institution £300 per tonne of
esents on its leaflets that it will donate £300 per
table institution.

cial Participator>>

Company>>

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