

# Diageo Content Hub

# Terms and Conditions

## 1. Introduction

Diageo (as defined below) operates a brand asset management system for the management of media assets in electronic format ("Diageo Content Hub (as defined below ("DCH"). From time to time, third parties may be given access to DCH for the purpose of assisting with the provision of services by such third parties to Diageo Group Members (as defined below). This document sets out the terms and conditions of use of DCH by those third parties (the "Terms and Conditions").

## 2. Definitions

In these terms and conditions, the following expressions shall have the following meanings:-

- |     |                   |  |
|-----|-------------------|--|
| 2.1 | "Affiliate"       | any of: <ul style="list-style-type: none"><li>(a) any legal entity directly or indirectly owned and/or controlled by the Authorised User;</li><li>(b) any legal entity that directly or indirectly owns and/or controls the Authorised User; or</li><li>(c) any legal entity which is directly or indirectly owned and/or controlled by any legal entity referred to in (b) above;</li></ul> |
| 2.2 | "Authorised User" | a legal entity to be given access to DCH which has entered into these DCH Terms and Conditions;  |
| 2.3 | "Control"         | in the case of legal entities having stocks and/or shares, ownership or control shall exist through the direct or indirect ownership and/or control of more than fifty percent of the voting shares. In the case of any other legal entity, ownership and/or control shall exist through the ability to directly or indirectly control the management and/or business of the legal entity;   |

- 2.4 “Diageo” Diageo Brands B.V., a company with its statutory seat in Amsterdam, the Netherlands with trade register Amsterdam number 34138436 and address at Molenwerf 10-12, 1014BG Amsterdam, the Netherlands;
- 2.5 “Diageo Group Member” any of:-
- (a) Diageo;
  - (b) any legal entity directly or indirectly owned and/or controlled by Diageo;
  - (c) any legal entity that directly or indirectly owns and/or controls Diageo;
  - (d) any legal entity directly or indirectly owned and/or controlled by a legal entity referred to in (c) above; or
  - (e) any legal entity which is directly or indirectly owned and/or controlled by any legal entity referred to in (a) to (d) together with one or more other legal entities pursuant to a written agreement, such as a joint venture agreement;
- 2.6 “Intellectual Property Rights” patents, any extensions of the exclusivity granted in connection with patents, petty patents, utility models, registered designs, design patents, trade marks, service marks, applications for any of the foregoing (including, but not limited to, continuations, continuations-in-part and divisional applications), the right to apply for any of the foregoing, rights in trade names, business names, brand names, get-up, trade dress, logos, taglines, copy, domain names and URLs, copyrights, design rights, semiconductor topography rights, database rights, publication rights, performer’s rights, moral rights, rights of publicity and privacy, rights in know-how, trade secrets and confidential information and all other forms of intellectual property right having equivalent or similar effect to any of the foregoing which may exist anywhere in the world;
- 2.7 “Media Asset” any data in a digital format, including but not limited to images, sound, video, Intellectual Property Rights (as defined above) or text data which is stored on and/or is accessible using DCH;
- 2.8 “Metadata” the data or information which relates to or accompanies each Media Asset in any format which shall include, without

- limitation, information about usage rights acquired from third parties in respect of the Media Asset;
- 2.9 “Off System Material” any work or material held by the Authorised User on behalf of one or more Diageo Group Members, a representation of which is held as a Media Asset;
- 2.10 “Purpose” to assist or facilitate the provision of services by the Authorised User to one or more Diageo Group Members in strict accordance with the specific asset and usage rights granted by Diageo to the Authorised User as further described in clause 3.3 below;
- 2.11 “Diageo Content Hub or D©H” means a system which enables the storage and retrieval of materials in digital format as such system may be modified or adapted by Diageo from time to time. The system makes materials available for controlled accessing, viewing and download (and copying incidental thereto). Access to the system is permitted only to Diageo Group Members, their sub-contractors and other selected third parties. Diageo may involve third parties in the implementation of the system and the system may utilise any current or future technology from time to time;
- 2.12 “D©H Content” any data, information, content or material available on D©H, including without limitation the Media Assets, comments on Media Assets, Metadata and any communications sent using D©H;
- 2.13 “Diageo Content Hub (D©H) User Terms” the terms and conditions governing access to and use of Diageo Content Hub (D©H) by User Representatives, the current version of which is set out in the Schedule and as may be revised by Diageo from time to time;
- 2.14 “User Representative” a named member of staff of the Authorised User who has been approved by Diageo in accordance with Clause 4.1; and
- 2.15 “Work in Progress” work or materials created for Diageo by or on behalf of the Authorised User for development purposes only, including without limitation, mood edits, concepts and sample music tracks, in respect of which the Authorised User notifies Diageo that usage rights have not been acquired.

### **3. Licence to use D©H**

- 3.1 Subject to the provisions of these Terms and Conditions, Diageo grants to the Authorised User a limited, non-exclusive, non-transferable licence to access and use D©H for the Purpose in accordance with the instructions

notified to the Authorised User by Diageo Group Members from time to time.

- 3.2 The licence under Clause 3.1 shall also extend to any Affiliate of the Authorised User to the extent necessary to achieve the Purpose only, and where Diageo has consented in writing to those Affiliates having access to D©H for the Purpose. The Authorised User shall procure that any of its Affiliates that is granted access to D©H shall comply with these D©H Terms and Conditions and the Authorised User shall be responsible for any acts or omissions of its Affiliates as if they were its own. For the purposes of these D©H Terms and Conditions, the term “Authorised User” shall be deemed to include any Affiliate of the Authorised User to whom D©H access has been granted in accordance with this clause.
- 3.3 The Authorised User shall only be granted such D©H access and usage rights to D©H as may be strictly required to fulfil the Purpose, as determined by Diageo Group Members (in their sole and absolute discretion), taking account of the nature of the services provided by the Authorised User to Diageo Group Members. Such access and usage rights may include the ability to view, download or upload assets and accompanying information, to create Media Assets and Metadata, attach comments to Media Assets or communicate via D©H with other D©H users. The Diageo Group Members shall specify to the Authorised User which of these activities it shall be entitled to undertake from time to time.
- 3.4 The licence in Clause 3.1 is conditional on the Authorised User’s continued compliance with these D©H Terms and Conditions and each User Representative’s material compliance at all times with D©H User Terms. The licence may be withdrawn or modified by Diageo, at Diageo’s sole and absolute discretion, by written notice with immediate effect at any time. In addition, the licence will terminate automatically in the event that the Authorised User does not accept any changes made by Diageo to these Terms and Conditions in accordance with Clause 10.3.

## **4. Access to and Use of D©H**

- 4.1 The Authorised User shall be entitled to that number of User Representatives as specified by a Diageo Group Member from time to time, subject to Diageo’s right to approve the relevant individual User Representative in accordance with any registration and approval process. Each proposed User Representative must complete such registration

process as Diageo may specify from time to time and each Authorised User shall provide such information about the User Representative as Diageo may reasonably request. If Diageo, in its sole discretion, approves the proposed User Representative, and subject to the User Representative accepting the D©H User Terms, Diageo shall provide to the Authorised User a username and password for such person.

4.2 The Authorised User shall, and shall procure that each of its User Representatives shall:-

- 4.2.1 comply with any D©H security requirements, user guidelines and instructions notified by any Diageo Group Member to the Authorised User in writing from time to time;
- 4.2.2 keep confidential the passwords provided to each User Representative and take reasonable steps to prevent persons other than the User Representative from using that User Representative's username and password;
- 4.2.3 not permit any person other than a User Representative to access or use D©H;
- 4.2.4 immediately notify Diageo if it becomes aware of or reasonably suspects that a password has become known to any person other than the User Representative to whom that password has been issued;
- 4.2.5 immediately notify Diageo if it becomes aware of or reasonably suspects any unauthorised access to or use of D©H;
- 4.2.6 immediately notify Diageo if a User Representative leaves the employment of the Authorised User or no longer requires access to D©H;
- 4.2.7 not use D©H or D©H Content for any purpose other than the Purpose;
- 4.2.8 not use D©H or D©H Content except as expressly authorised under these Terms and Conditions and in accordance with the instructions of Diageo Group Members as notified to the Authorised User from time to time;
- 4.2.9 when using or reproducing a Media Asset comply with any restrictions on the use of that Media Asset which are evident from the Metadata of that Media Asset or are otherwise notified to the Authorised User by a Diageo Group Member;
- 4.2.10 comply with all Intellectual Property laws and all Intellectual Property Rights inherent in the Media Asset when using or reproducing any Media Asset;
- 4.2.11 not, without the prior written consent of Diageo, remove from any copy of any Media Asset, whether on D©H or once downloaded from D©H, any copyright notice, watermark or other identifying or security technology or Metadata;

- 4.2.12 not, without the prior written consent of Diageo, modify, change, add or create any product claims, derivative works or make any other changes whatsoever to any Media Asset or in relation to Diageo's Intellectual Property Rights;
  - 4.2.13 not, without the prior written consent of Diageo, make D©H Content available via the Authorised User's website or digital asset management system nor otherwise publish, transmit, license, sell, translate, broadcast, distribute, bundle, merge, share, or otherwise make available or communicate D©H Content to any person, whether in hardcopy or in any other form for any purpose other than the Purpose;
  - 4.2.14 acknowledge and agree that should the Media Asset downloaded from D©H contain any font file, the Authorised User and/or its User Representative [do not get any license to use such font file and](#) shall not use said font file for creating any content, without the prior written consent of Diageo;
  - 4.2.15 acknowledge and agree that should the Authorised User or its User Representative or its member of staff receive via email any Media Asset that has been downloaded from D©H, the D©H Terms and Conditions shall be applicable to the use of such Media Asset;
  - 4.2.16 keep strictly confidential and not disclose to any third party for any purpose any D©H Content, except in connection with the Purpose, or with the prior written consent of a Diageo Group Member; and
  - 4.2.17 use all reasonable endeavours (including without limitation by using up-to-date virus checking software) not to corrupt or interfere with the operation of D©H or expose D©H to any viruses, worms or any other computer code, files or programs which might interrupt, limit or interfere with the functionality of any computer software or hardware or telecommunications equipment.
- 4.3 The Authorised User shall ensure that each of its User Representatives familiarise themselves with any user manuals relating to D©H and engage in such training in the use of D©H as may be specified by Diageo from time to time.
  - 4.4 Diageo reserves the right, at its sole and absolute discretion, to restrict or remove a User Representative's or the Authorised User's access to D©H at any time, and the Authorised User shall, and shall procure that such User Representative shall, immediately discontinue its use of D©H on written notice from Diageo.
  - 4.5 Diageo reserves the right to monitor (with the assistance of any person hosting D©H for Diageo) a User Representative's and/or the Authorised User's access to and use of D©H and any assets or information obtained from D©H. Any such monitoring shall be solely for the purpose of ensuring

compliance with these = Terms and Conditions, the respect of Diageo's Intellectual Property Rights or other legitimate Diageo internal purposes. The Authorised User shall provide Diageo with all reasonable assistance in carrying out such monitoring.

- 4.6 The Authorised User and its User Representatives acknowledge and accept that Diageo may collect and store any personal information submitted to it by the Authorised User and any User Representative ("Personal Information") for the purposes of facilitating that user's access to and use of DCH and for monitoring and enforcing their compliance with these Terms and Conditions. Diageo shall not store, disclose, transfer or otherwise use such Personal Information. Diageo shall comply with its obligations under applicable laws relating to data protection and privacy and shall treat such Personal Information responsibly and take reasonable steps to maintain appropriate confidentiality and to prevent unlawful dissemination or misuse of such Personal Information. Any such monitoring shall not in any way affect any liability of the Authorised User arising under these Terms and Conditions for any reason. Authorised Users and User Representatives can amend their Personal Information at any time in their Profile/account on DCH, or by contacting Diageo at [DCHsupport@icpnet.com](mailto:DCHsupport@icpnet.com). If a user is inactive for more than 9 months, Diageo reserves the right to delete their Personal Information from the site.

- 4.7 Please see our Privacy and Cookie Notice for more information about how Diageo processes your personal information and your rights in connection with that personal information: -

[https://footer.diageohorizon.com/dfs/assets/policies.diageohorizon.com/PrivacyPolicy\\_en.html](https://footer.diageohorizon.com/dfs/assets/policies.diageohorizon.com/PrivacyPolicy_en.html)

5. The Authorised User warrants and undertakes to comply with its obligations under applicable laws relating to data protection and privacy, and shall not act or omit to act in a manner that will or is likely to result in Diageo or any Diageo Group Member breaching its obligations under such applicable laws, and shall procure that its User Representatives warrant and undertake the same. To the extent that the Authorised User or its User Representative processes any personal data on behalf of Diageo or any Diageo Group Member, they shall: (i) process such personal data only in accordance with Diageo's instructions; (ii) implement appropriate technical and organisational measures to protect such personal data against unauthorised or unlawful processing and against accidental loss,

destruction, damage, alteration or disclosure; (iii) ensure the reliability of any its personnel with access to such personal data and that such personnel have a binding obligation to protect the confidentiality of such personal data; (iv) notify Diageo promptly in writing (and with a copy to [csi@diageo.com](mailto:csi@diageo.com)) (but in any event within 24 hours of becoming aware of it), of any suspected, potential or actual data incident, including any suspected, potential or actual accidental, unlawful or unauthorised destruction, disclosure, loss, alteration or access in relation to personal data processed on behalf of Diageo or any Diageo Group Member; (v) allow Diageo to conduct physical inspections of its premises to ensure compliance with this clause; (vi) not subcontract any processing of such personal data without the prior written consent of Diageo; and (vii) upon termination or expiry of this agreement, at Diageo's request, promptly delete or return all personal data; and (viii) not process and/or transfer any such personal data to any country outside the European Economic Area without the prior written consent of Diageo.

## **6. Placing Information and Media Assets on D©H**

- 6.1 If requested by a Diageo Group Member, the Authorised User shall alter its methods of providing services to Diageo Group Members so as to integrate the use of D©H into its processes for the provision of such services. For example, a Diageo Group Member may request that the Authorised User use D©H to collaborate with Diageo Group Members in the creation of new Media Assets. Such collaboration may include making Work in Progress and related information available in a restricted access area of D©H.
- 6.2 Unless agreed otherwise, the Authorised User and its User Representative shall, as directed by Diageo, either upload or supply for upload onto D©H a copy (in such format agreed upon between the parties) of all works and materials created by or on behalf of the Authorised User for any Diageo Group Member, including without limitation Work in Progress. For all work other than Work in Progress, the Authorised User shall prepare information which may be used as Metadata for such works and materials. For the avoidance of doubt, these works and materials shall include any works or materials which are based on or are modifications to existing materials or assets of the Diageo Group, whether or not such existing materials or assets have been loaded onto D©H as Media Assets. Notwithstanding the above, the Authorised User and its User Representatives shall not make any modification or change whatsoever to any work or material, Media Asset



or in relation to Diageo's Intellectual Property Rights, without the prior written consent of Diageo or if not otherwise permitted by the terms herein.

- 6.3 The Authorised User shall ensure that each Media Asset (other than Work in Progress) uploaded or supplied for upload onto D©H by or on behalf of the Authorised User shall be accompanied by Metadata comprising such information and in such format as Diageo may require and warrants that all such Metadata shall be complete and accurate. Without prejudice to any other right or remedy of Diageo, the Authorised User shall promptly update or correct any such Metadata if at any time it becomes apparent that the Metadata is incomplete or inaccurate. In addition the Authorised User shall, if so requested, provide to Diageo an executed copy of all the documents under which the rights in each Media Asset created by or on behalf of the Authorised User for any Diageo Group Member were acquired. Such documents shall be provided in an electronically scanned format or such other format as Diageo may reasonably stipulate.
- 6.4 When compiling and uploading Metadata onto D©H, the Authorised User shall comply with all applicable laws and regulations, including obligations under data protection laws in place in the territory in which the Materials are uploaded onto D©H.
- 6.5 The Authorised User hereby assigns (by way of a world-wide present assignment of future rights) all Intellectual Property Rights in the Metadata associated with any Media Asset (to the extent that it is not a work made for hire) to the Diageo Group Member which is the owner of the brand to which that Media Asset relates. Where the relevant Diageo Group Member cannot be identified, the assignment shall be deemed to be made to whichever Diageo Group Member is nominated by Diageo. Diageo shall be entitled to reproduce, use, make available and modify the Metadata as it thinks fit, without any restriction always provided that the Authorised User shall not be responsible for any inaccuracy, error or omission introduced into the Metadata by or on behalf of Diageo.
- 6.6 The Authorised User acknowledges that D©H Content uploaded or supplied for upload onto D©H by or on behalf of the Authorised User may be accessible by third parties. The Authorised User confirms that it shall not have any expectation of privacy with respect to any D©H Content uploaded or supplied for upload onto D©H by or on behalf of the Authorised User, save that in respect of Work in Progress and information relating to the development of any Media Asset, the relevant Diageo Group

Company shall create a restricted access area in D©H for use during the development phase. Diageo shall take all reasonable steps to ensure that only those persons specified by Diageo Group Members shall have access to this area.

- 6.7 The Authorised User confirms that Diageo Group Members and third parties requested by a Diageo Group Member to use a Media Asset created by or on behalf of the Authorised User shall be entitled to rely on the accuracy and completeness of the Metadata accompanying such Media Asset.
- 6.8 The Authorised User confirms that a Diageo Group Member shall be entitled to assume that any D©H Content uploaded onto D©H using the username of any User Representative of the Authorised User has been uploaded onto D©H by or on behalf of the Authorised User.
- 6.9 Diageo, any Diageo Group Member or any other Authorised User or User Representative of D©H may from time to time request from the Authorised User a copy of any Off System Material held by the Authorised User. Without prejudice to any other restrictions advised to the Authorised User from time to time, the Authorised User shall not supply a copy of any Off System Material in response to any such request without first obtaining details of the proposed use of the Off System Material and ensuring that such use corresponds to the usage rights acquired from third parties in respect of such Off System Material.

## **7. Intellectual Property Rights**

- 7.1 Nothing in these Terms and Conditions shall give the Authorised User or any User Representative any rights to D©H itself, any software, information, documentation or manuals relating thereto or D©H Content except as expressly set out in these Terms and Conditions.

## **8. Authorised User's Indemnity**

- 8.1 The Authorised User shall indemnify and keep indemnified each Diageo Group Member, each Authorised User and their respective directors and employees (each an "Indemnified Party") against any and all claims, liabilities, damages, losses, and any and all third party claims and costs and/or expenses (including without limitation legal costs and expenses) incurred by an Indemnified Party in connection with:-

- 8.1.1 any breach by the Authorised User of its obligations under these Terms and Conditions;
- 8.1.2 any negligence and/or misconduct by the Authorised User, its User Representative or its members of staff in relation to D©H;
- 8.1.3 any loss, corruption or damage to any D©H Content caused by any act or omission of the Authorised User;
- 8.1.4 any unauthorised use of D©H or D©H Content by the Authorised User, its User Representatives or its members of staff not expressly authorised by a Diageo Group Member;
- 8.1.5 any third party claims alleging that use by the Indemnified Party of any Media Asset (other than Work in Progress) uploaded or supplied for upload onto D©H by or on behalf of the Authorised User exceeds the usage rights acquired from third parties in respect of the Media Asset, where such use corresponds to the associated Metadata but such Metadata is incorrect; and
- 8.1.6 any third party claims alleging that use by the Indemnified Party of any Off System Material supplied by the Authorised User exceeds the usage rights granted by such third party in respect of that Off System Material, where such use corresponds to the intended use as notified to the Authorised User when the request for the Off System Material was made.
- 8.2 Subject to Clause 8.3, in no event shall the Authorised User be liable for any special, indirect, consequential, punitive or exemplary damages, even if the Authorised User has been advised of the possibility of such loss or damages.
- 8.3 The exclusions set out in Clause 8.2 shall not apply to sums for which the Authorised User is liable to indemnify Diageo pursuant to Clause 8.1 which have either been paid pursuant to a damages award by a competent court in respect of a third party claim or paid by Diageo (with the Authorised User's prior written approval) in settlement of a third party claim.
- 8.4 The indemnity in Clause 8.1 in respect of third party claims and any associated liabilities, damages, losses, costs and/or expenses (including without limitation legal costs and expenses) is conditional upon the Indemnified Party:
  - 8.4.1 promptly notifying the Authorised User of any actual or threatened claim;
  - 8.4.2 making no admissions without the Authorised User's prior written consent; and
  - 8.4.3 allowing the Authorised User control over any negotiations or litigation and/or the defence or settlement of any claim and providing the Authorised User with all reasonable assistance in this respect (with the reasonable costs of such

assistance to be paid by the Authorised User), including the right to conduct any negotiations or litigation in the name of the Indemnified Party.

- 8.5 Where any claim or dispute arises in connection with any of the above, the Authorised User's liability under Clause 8.1 shall be limited to the greater of (i) £5,000,000; or (ii) the amount of any cap on the Authorised User's or its Affiliates' liability under any agreement relating to the Authorised User's or its Affiliates' supply of services to any Diageo Group Member which is in force at the date of the claim or dispute. For the avoidance of doubt, this limit is not an aggregate but shall apply separately to each individual dispute or claim. Nothing in these Terms and Conditions shall limit any liability for death or personal injury or damage caused by the Authorised User's negligence or any damage to Diageo's Intellectual Property Rights caused by the Authorised User's negligence.

## **9. Diageo's Warranties and Indemnity**

### **9.1 Diageo warrants that:**

- 9.1.1 it shall use its reasonable endeavours not to introduce any software malware, virus, or other contaminant (including, without limitation, bugs, worms, Trojan horses, botnets, scareware or any other self propagating or other such program) into D@H that may infect, damage or corrupt the Authorised User's systems; and
- 9.1.2 it has taken and shall continue to take all reasonable steps to ensure that D@H is secure.

- 9.2 Save as expressly set out in these Terms and Conditions, Diageo gives no warranty nor representation, either express or implied, of any kind in respect of D@H or the D@H Content or their use.

- 9.3 The Authorised User accepts that Diageo shall have no responsibility for any interruptions or capacity constraints affecting D@H arising from any cause, including without limitation constraints arising from telecommunications networks or service providers and reasonable interruptions for testing, repair, maintenance and service integration.

- 9.4 Diageo agrees to indemnify and keep indemnified the Authorised User and its Affiliates, and their respective directors and employees (each an "Authorised User") against any and all claims, liabilities, damages and losses and any and all third party claims and costs and/or expenses (including without limitation legal costs and expenses) incurred by the Authorised User arising out of or in connection with:

- 9.4.1 any breach by Diageo of its obligations under these Terms and Conditions; and

- 9.4.2 any third party claims alleging that use by Diageo of any Media Asset (other than Work in Progress) uploaded or supplied for upload onto D©H by or on behalf of the Authorised User exceeds the usage rights acquired from third parties in respect of the Media Asset, where such use does not correspond to the associated Metadata and such Metadata is correct.
- 9.5 Subject to Clause 9.6, in no event shall any Diageo Group Member be liable for any special, indirect, consequential, punitive or exemplary damages, even if the Diageo Group Member has been advised of the possibility of such loss or damages.
- 9.6 The exclusions set out in Clause 9.5 shall not apply to sums for which Diageo is liable to indemnify the Authorised User pursuant to Clause 9.4 which have either been paid pursuant to a damages award by a competent court in respect of a third party claim or paid by an Authorised User (with Diageo's prior written approval) in settlement of a third party claim.
- 9.7 The indemnity in Clause 9.4 in respect of third party claims and any associated liabilities, damages, losses, costs and/or expenses (including without limitation legal costs and expenses) is conditional upon the Authorised User:
  - 9.7.1 promptly notifying Diageo of any actual or threatened claim;
  - 9.7.2 making no admissions without Diageo's prior written consent; and
  - 9.7.3 allowing Diageo control over any negotiations or litigation and/or the defence or settlement of any claim and providing Diageo with all reasonable assistance in this respect (with the reasonable costs of such assistance to be paid by Diageo), including the right to conduct any negotiations or litigation in the name of the Authorised User.
- 9.8 Where any claim or dispute arises in connection with any of the above, Diageo's liability under Clause 9.4 shall be limited to the greater of (i) £5,000,000; or (ii) the amount of any cap on any Diageo Group Member's liability under any agreement relating to the Authorised User's or its Affiliates' supply of services to any Diageo Group Member which is in force at the date of the claim or dispute. For the avoidance of doubt, this limit is not an aggregate but shall apply separately to each individual dispute or claim. Nothing in these Terms and Conditions shall exclude or limit the liability of any Diageo Group Member in respect of death or personal injury caused by its negligence.

## 10. General

- 10.1 Diageo does not endorse and is not responsible for any content of any website linked to or from any part of D©H.
- 10.2 If any provision of these Terms and Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and Conditions and the remainder of the provision in question shall not be affected.
- 10.3 Diageo may modify these D©H Terms and Conditions by written notice to the Authorised User. The Authorised User shall be deemed to have accepted such modifications by continuing, or its Authorised Representatives continuing, to access and/or use D©H. In the event that the Authorised User does not accept any modifications to D©H User Terms, the Authorised User's licence under Clause 3.4 shall terminate with immediate effect.
- 10.4 The notice referred to in Clause 10.3 may be given by way of the logon screen for D©H or a pop-up interruption box. The D©H User Terms and any amendments to them may be accepted by the Authorised User by way of electronic signature including without limitation clicking any on-screen "Confirm" or similar button.
- 10.5 The Authorised User's rights and obligations under these Terms and Conditions are personal to the Authorised User and the Authorised User shall not assign such rights or obligations without the prior written consent of Diageo.
- 10.6 As and when requested by Diageo, the Authorised User shall, and shall procure that its members of staff and User Representatives shall, do all acts and execute all documents as may be reasonably necessary to give effect to the provisions of these Terms and Conditions.
- 10.7 In the event of any conflict between the provisions of these Terms and Conditions and the provisions of any other contract between any member of the Diageo Group and the Authorised User, the provisions of these Terms and Conditions shall prevail to the extent of any such inconsistency.
- 10.8 Any provision of these Terms and Conditions may, in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999, be enforced by any Diageo Group Member.

- 10.9 Except as provided in Clause 10.8, no provision of these Terms and Conditions is intended to confer a benefit on, or to be enforceable by, any person other than Diageo or the Authorised User.
- 10.10 It is expressly agreed that Diageo may rescind or vary these Terms and Conditions without the consent of any person who has a right to enforce any part of these Terms and Conditions, notwithstanding that such rescission or variation may extinguish or alter that person's entitlement under that right (but without prejudice to any rights accrued prior to any such rescission or variation).
- 10.11 Wherever these Terms and Conditions require that notice, approval or consent be given in writing then such notice, approval or consent may be given by any of the following methods:
- 10.11.1 by email, which in the case of communications with the Authorised User may be sent to any User Representative and in the case of communications with Diageo should be sent to such email address as Diageo may notify for this purpose from time to time;
  - 10.11.2 by post to such addresses as the Authorised User and Diageo may notify to the other for this purpose from time to time; or
  - 10.11.3 by use of a log-on notice or a pop-up interruption box as referred to in Clause 10.4.
- 10.12 These Terms and Conditions are governed by English law. The courts of England are to have jurisdiction to settle any dispute in connection with these Terms and Conditions. Any proceeding, suit or action arising out of or in connection with these Terms and Conditions may therefore be brought in the English courts. Nothing in this Clause shall prevent either party from taking any proceedings, suit or action arising out of or in connection with these Terms and Conditions in any other court or in the courts of more than one jurisdiction at the same time.

## SCHEDULE

### Diageo Diageo Content Hub User Terms

Diageo Diageo Content Hub ("DCH") is a system for the development, archiving and management of digital media assets, such as tv commercials, POS materials and logos. These terms apply to use of DCH by Diageo group employees and consultants and representatives of 3rd party Authorised Users of DCH. If you are a Diageo group employee any references to instructions and consent shall mean instructions or consent given by your line manager.

1. You shall comply with any DCH security requirements, DCH user manual and any instructions regarding use of DCH notified to you from time to time by Diageo.
2. You shall keep confidential and not disclose to any other person your password and take reasonable steps to prevent others from using your username and password.
3. You shall not permit any other person to access or use DCH using your user credentials.
4. You shall immediately notify [DCHsupport@icpnet.com](mailto:DCHsupport@icpnet.com) if you become aware of or suspect that your password has become known to any other person.
5. You shall immediately notify [DCHsupport@icpnet.com](mailto:DCHsupport@icpnet.com) if you become aware of or suspect any unauthorised access to or use of DCH.
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