

Product of the Year 2019 - Terms and Conditions

Article 1

Interpretation

1.1 “Application Form” as set out in Article 3

“Article” any article in these Rules.

“Documents” signed copies of both the Rules and the Application Form.

“Finalists” as set out in Article 3.4.1.

“License” as defined in Article 4.1.

“License Period” as defined in Article 4.1.

“Organiser” Product of the Year (India) Pvt. Limited a company incorporated in India with number U51101MH2008PTC178003 and registered office at 307, Nirman Kendra, Off Dr. E. Moses Road, Mahalaxmi, Mumbai 400 011.

“Product” or “Products” as defined in article 2.2.

“Programme” the marketing programme operated by the Organiser known as the “Voted – Product of the Year” programme as more fully described in these Rules.

“Programme Year” the year referred to in the title of a Programme (for example, the Programme Year for “Voted – Product of the Year 2019”).

“Quarter” each consecutive period of three calendar months, with the first Quarter commencing on the License Start Date.

“Signatory” the individual who signs these Rules either in his own capacity or on behalf of another upon whose behalf he is authorised to act.

“Total Expenditure” as defined in Article 5.4.

“Trade Marks” the name logo, devices and get up relating to “Voted – Product of the Year” or any of them.

“You” either the Signatory or, where the Signatory signs these Rules on behalf of a person upon whose behalf he is authorised to sign, such person. Yours will be interpreted accordingly. “Official Announcement Date” will be the date on which the winning status is announced in the Awards Night Ceremony.

Term

1.2 The Signatory, by signing a copy of these rules (either in his own capacity or on behalf of a person upon whose behalf he is authorised to act), will create an agreement between You and the Organiser which will come into force on the date the rules are signed and which will continue until it is terminated in accordance with Articles 5.2 or 5.3.



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Article 2

The Programme

2.1 You acknowledge that the Programme is an innovative proprietary, annual marketing programme owned and operated by the Organiser which is open, subject to these rules to new Products launched in India.

Products

2.2 The Organiser intends that brand products of the type typically sold and available in supermarkets, grocers, pharmacies and other similar retail stores may be entered by You into the Programme (Products), Also 'select services' will be accepted at the discretion of the organisers. In case of products such as mobiles, due to the business nature of early obsolescence, products launched at any time in the two years prior to the formal announcement of the winners will be eligible to participate.

Timing

2.3 Any new Product of Your's that is first launched by or on behalf of You to consumers anytime in the period from 1st January 2017 to 31st December 2018 may be entered by You.

Categories

2.4 Products will be classified by the Organiser at its absolute discretion into categories which, where possible and subject to the absolute discretion of the Organiser, will consist of a minimum of 2 products. The Organiser reserves the absolute right to amend, add or withdraw one or more categories, depending, amongst other things, on the nature and number of applications received, and to assign Products to the category it deems appropriate.

Multiple Entries

2.5 You may enter Products in the Programme in different categories. In the case of substantially similar Products, or the same Product sold in different sizes, You may enter only one Product in any category in any Programme Year. However, so long as the Products are different in some significant manner, You may enter more than one Product in the same category. The Organiser will have absolute discretion to accept a Product into the Programme or into any particular category, to assign Products to categories and to determine if Products that You submit are sufficiently different to warrant multiple entries in a category.



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Article 3

Application

3.1 Completed Application Forms and full support materials must be sent by You at the latest by 31st March 2019 to: www.productoftheyear.in or to the Organiser at 307, 3rd Floor, Nirman Kendra, Off Dr. E. Moses Road., Mahalaxmi, Mumbai 400011. Time is of the essence. The Organiser will have the right to reject (without giving reasons) any Application Form submitted.

3.2 You acknowledge that by submitting a completed On-line Entry Form You commit Yourself to the whole Programme and in particular to the payment of any fees that become due under Articles 5.2, 5.3 and 5.4. For the avoidance of doubt, You agree to pay these fees to the Organiser and you cannot withdraw from the Programme at any point in time post online entry is made.

3.3 The Organiser agrees that, except as otherwise provided in Article 6.3, all information and documents submitted by You will be treated by the Organiser as confidential and will not be disclosed or published by the Organiser without Your consent, except as may be required by law or any regulatory authority. Application forms submitted by You will be kept by the Organiser and will be dealt with by the Organiser as it sees fit.

Procedure to determine winners

3.4 The procedure to be adopted by the Organiser to choose finalists is in two stages and is as follows (subject to any changes that the Organiser may in its absolute discretion make and notify to You.):

Selection of finalists

3.4.1 A panel (The Jury) selected by the Organiser from the industries, including but not limited to, representatives from the retail trade, design, industry and media will review all of the entries received and accepted under Article 3.2. The selection criteria and procedures of the panel will be determined by the Organiser and will include without limitation, the innovative character of the Product (matters such as formula, packaging, recipe and promotional offers in the product). The panel will select from all application forms submitted (and accepted by the Organiser) a number of entrants to be “finalists”. There will be no fewer than two entrants selected as “finalists” in each category; Only those products that have paid the entry fee are entitled to participate in the consumer survey and where the payment is delayed, its participation or otherwise will be at the discretion of the management.

Consumer Vote

3.4.2 The Product selected to be “Voted – Product of the Year” in each category will be determined from among the finalists selected under Article 3.4.1 in that category by the vote of a panel of consumers administered by the Organiser and appointed Independent National Research Company. The panel will be reasonably representative of the population of India (as determined by the Organiser) and will consist of statistically appropriate sample size. A first rating will be based on the vote expressed by the whole of this panel of consumer households. A second rating will be based on the vote expressed by those consumer households within the respondent panel which have purchased one or more of the Products in the particular category. The survey is conducted as a 100% face-to-face survey by the appointed research agency. A small sample of the survey will be done online this year.



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Article 4

Organiser's rights in the Trade Marks

4.1 You acknowledge that the Trade Marks are the exclusive trademarks of the Organiser or its licensors. You agree not to apply for or obtain registration of the Trade Marks for any goods or services in any jurisdiction, nor use the Trade Marks (or anything confusingly similar to the Trade Marks) as a company, business, trade or Product name in any jurisdiction.

Winning Product Trade Marks license

4.2 Subject to You making the payments set out in Article 5, if Your Product is selected under Article 3.4.2 as "Voted – Product of the Year" in a particular category You will be granted a limited, revocable, non transferable, non assignable license (License) to use the Trade Marks only in India subject to the following rules.

4.2.1 The duration of such License is limited to the period commencing from 1st April 2019 to 31st March 2020 (extended till 30th June for 2019 winners) time being of the essence.

4.2.2 You (will obtain the Organiser's approval for all uses of the Trade Marks and) will comply at all times with the reasonable instructions and the directions of the Organiser in relation to your use of the Trade Marks under the License. The Trade Marks may only be used in the form, dimensions and graphic representation approved, in each instance, in writing by the Organiser in its sole discretion.

4.2.3 You may use the Trade Marks only on or in relation to the winning Product and that Product alone. Unless otherwise approved in each instance by the Organiser You may not use the Trade Marks on packaging or advertising which includes products other than the Winning Product.

4.2.4 The Trade Marks may only be used in advertising aimed primarily within India and on Products which are intended for sale within India.

4.2.5 The Trade Marks may only be used in relation to the winning Product in the same form and composition as the Product is presented in the application form submitted in respect of it under Article 3.2.

4.2.6 Every use of the Trade Marks will be accompanied by a reference to the Programme Year (e.g. 2019), category (e.g. in the Shampoo Category) for which the Product won and the reference to the survey details (i.e. Survey of over 2,800 people by Nielsen across categories) except on packaging where the space does not provide for all the information, the Trade Mark and the Year will suffice. In such cases, the mandatory lines which must otherwise appear on the front of the pack (E.g. "Winner : Shampoo Category. Survey of over 2,800 people by Nielsen across categories") must be mentioned at the back of the pack. All creative material for release must be approved by Product of the Year (India) Pvt. Ltd. for correctness of the winning status reference, prior to release.

4.2.7 The Organiser will have the right, in its absolute discretion, to permit the use of the Trade Marks for groupings of some or all of the winning Products for the purpose of promotions directly or indirectly referring to "Products of the Year", subject to Articles 4.2.5 and 4.2.6 above.

4.2.8 The Trade Mark may be used by the winning products to advertise their "Product of the Year 2019" status but may not be used to make any reference to the other participants in any category. If there is a breach of clause 4, then we would be entitled to deprive you of the "Product of the Year 2019" status.



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4.2.9 Product of the Year (India) Pvt. Ltd. will not be held responsible and accepts no responsibility to any person or organisation for the failure of any award winner to comply with these Terms and Conditions or with the requirements of ASCI or any other body in India governing advertising and advertising standards.

4.3 Product of the Year (India) Pvt. Ltd. does not endorse any claims made regarding the performance of the product or any other award or certification. These must be stated separately with no reference to "Product of the Year".

Termination of use

4.4 You undertake to monitor use of the Trade Marks under the License to ensure that it is no longer used on any product or advertising after the License End Date, time being of the essence in particular, but without limitation. You will stop manufacturing or ordering Products and packaging incorporating the Trade Mark sufficiently early so that all Products and packaging incorporating the Trade Marks are reasonably likely to be sold before the License End Date. If the Trade Marks do appear after License End Date on products in stores for retail sale, You will be liable to pay the Organiser damages for any loss suffered including the payment of legal fees in defending claim from third parties.

Limitations on use/right to terminate

4.5 Breach of Article 4 will give the Organiser, in its sole discretion, the right to terminate immediately and without notice the License granted to You under Article 4.2. Notwithstanding such termination, You shall remain liable to pay the Organiser the amount due under Article 5.

Article 5

Fees

5.1 You will pay the Organiser the sum of Rs. 1,25,000/- plus applicable taxes (Rupees One lakh, twenty five thousand only + applicable taxes) for each Product submitted by you. Payment is due WITHIN 10 DAYS post filling the online entry form. In the event that you fail to make the payment within the stipulated time, your entry may be withdrawn and not put up for the survey solely at the discretion of the organiser but the liability to pay once entered continues irrespective of the discretion exercised by the organiser.

Should your finalist fee remain outstanding at the time of official announcement of results, your product may not be declared the winner, even if so voted and the next high scoring product may be declared the winner at the discretion of the management.

5.2 You will pay the Organiser an additional sum of Rs. 10,00,000/- plus applicable taxes (Rupees Ten Lakhs only + applicable taxes) for one year of logo usage or Rs. 18,00,000/- (Rupees Eighteen Lakhs only + applicable taxes) for two years of logo usage, in respect of each Product of Yours that is voted "Voted – Product of the Year" in a category in consideration for the grant of the License under Article 4.1. Payment is due within ten days of receipt of invoice. Unless otherwise agreed with the Organiser, You will not be allowed to make use of the Logo prior to receipt of such payment. Failure to make such payment may at the discretion of the Organiser, result in all Your Products being disqualified from the Programme and, upon the Organiser giving You written notice, this agreement being terminated immediately. Your liability to make any payment due will remain. The winner fee of Rs. 10,00,000/- plus applicable taxes (Rupees Ten Lakhs only + applicable taxes) for one year of logo usage or Rs. 18,00,000 plus applicable taxes (Rupees Eighteen Lakhs plus applicable taxes) for two years of logo usage, becomes payable upon declaring the winning product a winner and is payable whether the winner chooses to use the Product of the Year logo or not during the usage rights period and irrespective of whether You continue to market/sell the winning product during the year or part thereof.



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Article 6

Force majeure

6.1 The Organiser will not be liable for failure to perform any obligation under these rules to the extent that it is caused due to forces beyond its control.

Acceptance of rules

6.2 Participating in the Programme involves full and entire acceptance of these rules. You must accept these rules by signing them personally or by having an authorized signatory sign them.

Agreement to use of name

6.3 If your Product or Products are selected as winner, You permit the Organiser to give out Your name, address and a description of the winner Product(s) together with a research analysis of the results of the consumer panel survey conducted by or on behalf of the Organiser under Article 3.4.2 as part of the publication and promotion of the Programme.

You will also permit the organizer to share your company and product name, if a winner, with our media partners for the year 2019.

Interpretation by the Organiser

6.4 Any question regarding the interpretation or application of these rules or other questions relating to the Programme will be settled solely by the Organiser, in its discretion.

Construction

6.5 Whenever the singular number is used in these rules and when required by the context, the same will include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

Headings

6.6 The headings in these rules are for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of these rules or any of their provisions.

Severability

6.7 If any provisions of these rules will be invalid, illegal, or unenforceable to any extent, the remainder of these rules and their application will not be affected and will be enforceable to the fullest extent permitted by law unless the provision held to be illegal, invalid or unenforceable is so fundamental to the sense of these rules that its illegality, invalidity or unenforceability would make the enforceability of the remainder unreasonable.

Entire Agreement

6.8 These rules and the documents referred to in them constitute the entire agreement between You and the Organiser and supersede all other agreements or arrangements, whether written or oral, express or implied, between You and the Organiser, successors and assigns.

6.9 These rules will be binding upon the Organiser's and Your successors and assigns and personal representatives.

No Waiver

6.10 Neither You nor the Organiser will be affected by any delay or failure in exercising or any partial exercising of any rights under these rules unless it has signed an express written waiver or release.



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Taxes & Duties

6.11 All payments to be made by You under these rules are exclusive of all applicable taxes and duties, which will, where applicable, be paid in addition by You.

Remedies

6.12 The rights, powers and remedies provided in these rules are cumulative and not exclusive of any rights, powers and remedies provided by law. The exercise or partial exercise of any right, power or remedy provided by law or under these rules will not preclude any other or further exercise of them or the exercise of any other right, power or remedy.

Authority to execute

6.13 The signatory executing these rules on behalf of another person represents and warrants that he is empowered to execute them and that all necessary action to authorize their execution has been taken.

Governing law and jurisdiction

These rules are to be governed by and construed in accordance with Indian law and any dispute arising out of these Rules shall be settled by a sole arbitrator appointed by the Organiser in its absolute discretion in accordance with the Arbitration and Conciliation Act, 1996. The place of arbitration shall be Mumbai, and all proceedings shall be conducted in English.

