

Appendix 1

STANDARD TERMS AND CONDITIONS

1. Definitions

"the Act" means the Copyright Designs and Patents Act 1988, as amended from time to time.

"Agreement" means these terms and conditions, the Cover Sheet and annexes to the terms and conditions and the application form completed by the Licensee.

"Affiliated Society" means each collecting society (or other body representing rights in Musical Works) with which MCPS and/or PRS has, from time to time, an agreement under which MCPS and/or PRS is authorised to grant licences in relation to the other society's (or body's) repertoire for the purpose of this Agreement PROVIDED THAT where such an agreement is only entered into after the commencement of the Term, a collecting society (or other body) shall only be regarded as an "Affiliated Society" for the purposes of this Agreement with effect from the date of signature of such agreement with MCPS and/or PRS (as applicable).

"Affiliated Society Member" means any person, firm or company who or which has been notified, from time to time, as being a member of an Affiliated Society by the relevant Affiliated Society to MCPS and/or PRS.

"Audio-Visual Material" means any specific presentation of Musical Works in conjunction with images, whether moving or still. For the avoidance of doubt (but without prejudice to the express restrictions contained in this Agreement), the following shall not be treated as Audio-Visual Material for the purpose of this Agreement:

- (a) the fact that ordinary web pages (or equivalent) are visible to the User while the User is listening to music; or
- (b) the fact that the media player used to play the music generates random visual images while the music is playing;

provided, in both cases, that the User would not reasonably be expected to associate the Repertoire Works being played with the images presented or think that there is any deliberate association by the Licensee of the Repertoire Works with such images.

"Commencement Date" means the date specified in the Cover Sheet.

"Commercial Work" means any Repertoire Work other than:

- (a) one where the Member owning or controlling the copyright in such Repertoire Work has authorised MCPS to license it as so-called production or library music; or
- (b) a Commissioned Work, PROVIDED THAT for the purposes of clauses 3.2 and 4.5, a Commissioned Work shall not be excluded from such definition where the commissioning agreement does not authorise the Licensee to use the Commissioned Work in the context set out in those clauses.

"Commissioned Work" means a Musical Work specially and expressly commissioned by the Licensee from composer/writer members of PRS and/or MCPS.

"Cover Sheet" means the cover sheet to this Agreement detailing, among other things, the Licensee details and the Licensed Services covered by the Agreement.

"Data Protection Legislation" means any and all applicable laws, statutes and regulations relating to data protection, including but not limited to the Data Protection Act 2018, and any relevant data protection laws made pursuant to it, or which amends, replaces, re-enacts or consolidates any of it.

"Data Storage Device" means any medium on which data can be stored (whether temporarily or permanently) whether existing now or invented in the future.

"Dramatico-Musical Work" means any ballet, opera, operetta, musical, musical play or work of a similar nature.

"Electronic Reporting Format" means the format set out in Appendix 3. If and when the DDEX format is agreed within the industry, the DDEX format shall replace the format set out in Appendix 3 within 6 months of such agreement unless otherwise agreed between the parties, acting reasonably.

"Excluded Service" means any service (or the relevant part of a service) which falls within the scope of any of the following MCPS/PRS licensing schemes:

- (a) MCPS & PRS Joint Ringtone Licence;
- (b) MCPS Karaoke and MIDI scheme;
- (c) MCPS Music-on-hold scheme;
- (d) MCPS Supply of Background Music Services scheme;
- (e) MCPS & PRS Joint Ringback scheme; or
- (f) MCPS & PRS B2B Music Preview scheme; or
- (g) MCPS & PRS General Entertainment Online Licence (GEOL) scheme; or

any other MCPS/PRS licensing scheme, or any service (or the relevant part of a service) which makes podcasts available, from time to time.

"Foreign Societies" shall mean each collecting society with which, from time to time, MCPS or PRS (as the context requires) has an agreement under which MCPS or PRS is authorised to grant licences in relation to the other such collecting society's repertoire for the purpose of this Agreement provided that where such an agreement is only entered into after the commencement of the Term of this Agreement, such a collecting society shall only be regarded as a "Foreign Society" for the purposes of this Agreement with effect from the date of signature of such agreement with MCPS or PRS.

"Gross Revenue" shall have the meaning set out in the Appendix 2B. Broadly, Gross Revenue means all revenue received (or receivable) by the Licensee from Users in consideration of the provision of the Licensed Services and all other revenue received (or receivable) by the Licensee as a result of the provision of the Licensed Services such as, without limitation, advertising and

sponsorship fees. For the avoidance of doubt, this is by way of a summary only. The definition of Gross Revenue applicable to this Agreement is the definition set out in Appendix 2B.

"Initial Period" means the period commencing on the Commencement Date and ending 12 months thereafter.

"Interactive Webcast Service" means a service (or the relevant part of a service), other than an Excluded Service, by which Musical Works are communicated to the public via a Network and:

- (a) no permanent or temporary copy of any Musical Work is retained by the User; and
- (b) such service is neither a Webcast Service, a Music Download Service, a Music Download Karaoke Service, Music On Demand Service, a Music On Demand Karaoke Service or a Simulcast Service.

"Karaoke Version" means Musical Works which are offered in the form of "karaoke" so that the lyrics of the Musical Work appear graphically onscreen as the music plays (but, for the avoidance of doubt, cannot be printed in physical form) or reproduced in any form where the music is not playing.

"Licensed Services" means the Music Service(s) set out on the Cover Sheet.

"Licensee" means the party set out as such in the Cover Sheet.

"Limited Download" means a Musical Work communicated to the public via a Network in the form of a download and where such download can only be retained and played by the User upon continued payment by the User of a Subscription Fee.

"Licensors" means PRS and MCPS.

"Member" means:

- (a) in the case of MCPS, each person, firm or company who or which, from time to time, has appointed MCPS as agent in relation to online exploitation either before or during the Term other than where such person, firm or company has opted not to participate in the licensing scheme pursuant to which this Agreement has been entered into, PROVIDED THAT a member who has so appointed MCPS after the commencement of the Term shall only be regarded as a member for the purposes of this Agreement with effect from the date on which the Member so appointed MCPS; and
- (b) in the case of PRS, any person, firm or company who or which, from time to time, pursuant to the Articles of Association of PRS has been admitted either before or during the Term as a member of PRS other than where such person, firm or company has reserved to himself the relevant rights pursuant to Article 7(cd) of the Articles of Association of PRS (or other equivalent article), PROVIDED THAT a member who has been so admitted after the commencement of the Term shall only be regarded as a member for the purposes of this Agreement with effect from the date of admission into PRS.

"Month" means a calendar month.

"Musical Work" means any musical work (as defined in the Act) and any lyrics or words written to be used with such musical work (if applicable) and, for the purposes of a Karaoke Service only, including in graphical form. It includes any part of such a work.

"Music Download Service" means a service (or the relevant part of a service), other than an Excluded Service or a Music Download Karaoke Service, offering Permanent Downloads.

"Music Download Karaoke Service" means a service (or the relevant part of a service), other than an Excluded Service, offering Permanent Downloads in the form of Karaoke Versions.

"Music On Demand Service" means a service (or the relevant part of a service), other than an Excluded Service or a Music on Demand Karaoke Service whereby a User may receive a Musical Work by streaming on-demand via a Network (where the time and place at which such Musical Work is received is selected by the User) and/or by way of Limited Download. Any service falling primarily within the foregoing definition but which also includes elements which fall within the definition of Interactive Webcast Service and/or Webcast Service shall be deemed in its entirety to be a Music On Demand Service.

"Karaoke Exclusions List" means the list of groupings of Repertoire Works (such as repertoire of significant publishers or significant Affiliated Societies) that are excluded from being reproduced as or communicated to the public as Karaoke Versions of Repertoire Works under this Agreement. This list can be found at the website set out at Appendix 4 and is subject to change from time to time.

"Music On Demand Karaoke Service" means a service (or the relevant part of a service), other than an Excluded Service) whereby a User may receive a Karaoke Version of a Musical Work by streaming on-demand via a Network (where the time and place at which such Musical Work is received is selected by the User) and/or by way of Limited Download. Any service falling primarily within the foregoing definition but which also includes elements which fall within the definition of Interactive Webcast Service and/or Webcast Service shall be deemed in its entirety to be a Music On Demand Karaoke Service.

"Music Service Provider" means, the party which, in relation to the Licensed Service, most closely meets the following criteria:

- (a) contracts with the User in relation to the provision of the Licensed Service;
- (b) sets and controls the price the User pays;
- (c) can fully report on all elements of Gross Revenue (including relevant advertising revenues);
- (d) can fully report on all elements of music usage (or can procure such reporting);
- (e) controls how content is offered and bundled within the Licensed Service;
- (f) carries out or authorises, on their instruction, the carrying out of the copyright restricted acts licensed under this Agreement.

"Music Usage Information" means the information referred to in the Electronic Reporting Format.

"Music Videogram" means any audio-visual production:

- (a) which has as the main feature of the soundtrack thereof a recording of a single Repertoire Work copies of which recording have been or are intended to be released as audio records for sale to the general public; and
- (b) the making of which was carried out by or on behalf of the record company releasing that recording or by or on behalf of the main artist(s) featured in that recording.

"Music Service" means a digital music service offering on demand streaming, permanent downloads or webcasting to a UK audience (and defined in this Appendix 1).

"Network" means the internet, a mobile network or any other wired or wireless network.

"Permanent Download" means a Musical Work communicated to the public via a Network in the form of a download and where such download may be retained by the User on a permanent basis. For the avoidance of doubt, a Permanent Download excludes ringtones.

"Permitted Excerpts" refers only to Dramatico-Musical Works and means excerpts where the use of all such excerpts in any Audio-Visual Material complies with all the following limitations:

- (a) the total duration of the excerpts does not exceed 20 minutes;
- (b) the use is not a "potted version" of the Dramatico-Musical Work;
- (c) the use is not or does not cover a complete act of the Dramatico-Musical Work;
- (d) each excerpt is not presented in a "dramatic form" as defined below; and
- (e) as regards ballets specifically devised for television or excerpts from existing ballets, the total duration does not exceed five minutes.

An excerpt will be deemed to be presented in dramatic form if it is accompanied by any dramatic action, whether acted, danced or mimed, and thereby (and/or through the use of costume, scenery or other visual effects) given a visual impression of or otherwise portrays the writers' original conception of the Dramatico-Musical Work from which the excerpt is taken. By way of example, an excerpt will not normally be deemed to be presented in dramatic form if:

- i) the excerpt is presented on a fixed set which is not based on the set of the original Dramatico-Musical Work. (A 'fixed set' would be one which is used for the whole or a substantial part of the television or stage show);
- ii) the performer(s) is/are wearing a costume which is not a costume from or based on the original Dramatico-Musical Work; or
- iii) scenic effects are limited to the use of either a single prop, and/or a backcloth or a piece of scenery (whether physically present or created by technical means e.g., lighting effects) provided that the use thereof is not combined with costume from or based on the

Dramatico-Musical Work from which the excerpt is taken.

"PRS for Music" means PRS for Music Limited trading under the brand name of PRS for Music whose registered office is at Goldings House, 2 Hay's Lane, London, SE1 2HB.

"Quarter" means each of the periods from 1st January to 31st March, 1st April to 30th June, 1st July to 30th September, and 1st October to 31st December, throughout the Term.

"Relevant Party" means a party which is involved in the provision of the Licensed Services, as set out in clause 14.2.

"Repertoire Work" means each Musical Work to the extent the relevant copyright is owned or controlled, from time to time, in the UK by:

- (a) MCPS, including, without limitation, by virtue of its agreements with Members and Foreign Societies, provided that if one or more of those who own or control the relevant copyright in a Repertoire Work is not MCPS, the expression "Repertoire Work" shall only apply to such interest in the Repertoire Work as is owned or controlled by MCPS; and
- (b) PRS, including, without limitation, by virtue of its agreements with Members and Foreign Societies, provided that if one or more of those who own or control the relevant copyright in a Repertoire Work is not PRS, the expression "Repertoire Work" shall only apply to such interest in the Repertoire Work as is owned or controlled by PRS.

For the avoidance of doubt, if a Musical Work is a Repertoire Work in relation to one Licensor and not the other then it remains a Repertoire Work under this Agreement in relation only to the licence granted by that Licensor.

"Renewal Period" shall mean each additional consecutive 12-month period after the expiry of the Initial Period.

"Royalty Fee" means the royalties payable in accordance with clause 5 as set out in Appendix 2A in respect of the calendar year 2023.

"Server Territory" means the European Economic Area, Switzerland, the United States of America, the UK Canada and such other territories as may be agreed in writing by the parties.

"Simulcast Service" means the broadcast (as that term is defined in the Act as at 1 July 2006) of a programme via a Network where such broadcast:

- (a) is simultaneous with the broadcast of such programme via a traditional terrestrial, satellite or cable television or radio service; and
- (b) is made from the website or other service of the originating broadcaster.

"Subscriber" means a User who accesses a Licensed Service by means of a payment allowing access for a limited period of time (i.e. while the subscription continues) and in respect of which there would ordinarily be a subscription fee payable (a **"Subscription Fee"**).

"Term" means the Initial Period plus any Renewal Period (unless terminated earlier under clauses 4.6, 12.1, 12.3, 12.4 or 12.5).

"Territory" means the UK or such other countries as the Licensors and the Licensee may agree in writing (which may include email).

"UK" means the United Kingdom of Great Britain and Northern Ireland and the Channel Islands and the Isle of Man.

"User" means a natural person in the Territory who receives the Licensed Services for their own private and non-commercial use.

"VAT" means value added tax and each like tax imposed in addition to or in substitution therefore.

"Voucher" means a physical or online voucher or token which is pre-paid and allows a User to redeem that pre-payment against purchase of music from the Licensed Service.

"Webcast Service" means a service (or the relevant part of a service), other than an Excluded Service or a Simulcast Service, by which Musical Works are broadcast (as that term is defined in the Act as at 1 July 2006) to Users via a Network. For the avoidance of doubt, to constitute a Webcast Service, there must be:

- (a) no interactive functionality, for example (without limitation), no use of controls that enable the User to pause, skip, move forward or backwards through the stream;
- (b) no personalisation of the service by the User or the ability for the User to offer preferences which then dictate the tracks that are provided to that User, for example (without limitation), no ability for the User to rate tracks so as to influence subsequent tracks that are played;
- (c) no advanced notification to the User of titles of specific tracks to be played or specific albums from which tracks will be played (other than the introduction of the next track in DJ led services);
- (d) in any 3-hour period:
 - (i) no more than 3 songs from a particular album (including no more than 2 consecutively);
 - (ii) no more than 4 songs from a particular artist or from any compilation of tracks (including no more than 3 consecutively);
- (e) no archived programmes less than 5 hours in duration or available for more than 2 weeks; and
- (f) no continuous programmes of less than 3 hours duration; and
- (g) effective technologies, insofar as such technologies are commercially available and can be implemented without imposing unreasonable costs, which aim to prevent:
 - (i) a User or any other person or entity from automatically scanning the Licensee's transmissions alone or together with transmissions by other transmitting entities in order to select a particular sound recording to be transmitted to the User; and
 - (ii) a User from making copies, other than transient copies, of the sound recordings; and
 - (iii) no automatic or intentional cause by the

Licensee of the device receiving a transmission to switch from one program channel to another.

2. Grant of Licence

2.1 Subject to and conditional upon compliance with the terms and conditions contained herein and in particular subject to the exclusions and restrictions set out in clauses 3 and 4, MCPS grants the Licensee a non-exclusive licence to do the following during the Term:

- (a) to reproduce Repertoire Works on servers within the Server Territory (including temporary copies on servers between the originating server and the ultimate destination of the Repertoire Work) for the purpose of transmitting the same to Users (for the User's own private and non-commercial use) by means of the Licensed Services; and
- (b) where downloads are permitted under this Agreement, to cause temporary or permanent copies (as applicable) of Repertoire Works to be made on Users' Data Storage Devices in the Territory for the User's own private and non-commercial use.

For the avoidance of doubt (but subject to all terms of this Agreement, in particular clause 3.3), it is intended that this Agreement licenses all reproductions of Repertoire Works necessary in the ordinary operation of the Licensed Services.

2.2 Subject to and conditional upon compliance with the terms and conditions contained herein and in particular subject to the exclusions and restrictions set out in clauses 3 and 4, PRS grants the Licensee a non-exclusive licence, during the Term, to communicate to the public (as that term is defined in the Act) and to authorise the communication to the public of Repertoire Works within the Territory solely as part of and for the purposes of the provision of the Licensed Services.

2.3 The above licences shall apply where Repertoire Works are used in audio-only material and, subject to clause 3.2, Audio Visual Material.

2.4 The Licensors will not unreasonably refuse or delay any request by the Licensee to include further services of the Licensee within the scope of this Agreement provided that:

- (a) they are a Music Service; and
- (b) the Licensee is, in relation to that service, the Music Service Provider; and
- (c) they are otherwise within the scope and limitations set out in this Agreement.

2.5 The provisions of clauses 3.2, 3.6, 4.1, 4.2, 4.4 and 4.5 shall not apply to a particular Repertoire Work where the owner of the relevant rights in such Repertoire Work has granted permission to the Licensee for the use of that Repertoire Work on the Licensed Services in the manner described under the relevant clause on such terms and conditions (including, if required, the payment of royalties or fees in addition to those specified under this Agreement) as the owner thinks fit.

2.6 The licences granted in clauses 2.1 and 2.2 shall not apply to any Licensed Service which knowingly

or recklessly provides internet or mobile "links" to music which requires a licence, but is unlicensed (whether in the form of recordings or notation, scores, lyrics, etc). The inclusion of such links on a Licensed Service shall constitute a material breach of this Agreement (which is capable of remedy).

3. Exceptions and Limitations

- 3.1 The licences granted under clause 2 are valid only insofar as:
- (a) the Licensed Services are Music Services. Should the Licensee offer or wish to offer modified or additional services that are not Music Services under this Agreement but which require a licence for the use of Repertoire Works the Licensee shall immediately notify the Licensors and provide such further information as the Licensors may reasonably request; and
 - (b) the Licensee is the Music Service Provider in relation to the Licensed Services
 - (c) the Licensed Services are provided solely in the Territory and not in any additional countries. Should the Licensee wish to provide the Licensed Services in any additional country outside of the Territory the Licensee shall immediately notify the Licensors and provide such further information as the Licensors may reasonably request.
- 3.2 Subject to clause 2.5, the incorporation of Commercial Works into Audio-Visual Material is only licensed under this Agreement where the Audio-Visual Material consists of:
- (a) a Music Videogram; or
 - (b) a live concert performance or a film of a live concert performance by the artist performing that particular Commercial Work; or
 - (c) subject to clause 4.5, such Commercial Works being combined with photographs or other images relating to the artist performing the Commercial Work or the composer of the Commercial Work; or
 - (d) subject to clause 4.5, an interview with an artist, composer, producer or other person involved in the creation, performance or production of music where the Commercial Work(s) used are associated with the interviewee(s); or
 - (e) where permitted under clause 4.1, a performance of Permitted Excerpts of the Dramatico-Musical Work of which the Commercial Work forms part.

For the avoidance of doubt, such Audio-Visual Material as is licensed under 3.2(a) to (e) above is only licensed insofar as it is reproduced or communicated to the public via the Licensed Services.

- 3.3 For the avoidance of doubt, this Agreement does not grant any "synchronisation licence" (to the extent that such a licence may be required by the Licensee) covering the initial fixation of Repertoire Works in combination with visual images to create and produce Audio-Visual Material.
- 3.4 For the avoidance of doubt, the licences granted

under clause 2 shall not authorise the manufacture or distribution of physical products containing Repertoire Works, such as (without limitation) the ordering of compact discs (or any other type of physical media) via the Licensed Service, but which are distributed by mail.

- 3.5 For the avoidance of doubt, the licences granted under clause 2 shall not extend to the public performance (as that term is used in the Act) of Repertoire Works, whether as part of the Licensed Services or otherwise.
- 3.6 Subject to clause 2.5, the licence granted under clause 2.1 shall not permit the use of Repertoire Work(s) with any advertising or sponsorship of whatsoever nature where:
- (a) such Repertoire Work(s) are incorporated into such advertising or sponsorship; or
 - (b) such Repertoire Work(s) are otherwise presented in such a way that a reasonable person might associate the Repertoire Work(s) with the advertising or sponsorship.
- 3.7 For the avoidance of doubt (but without prejudice to the generality of clause 3.6), the licences granted under clause 2 shall not apply to any Repertoire Work(s) made available for the purpose of (whether in whole or in part):
- (a) directly or indirectly encouraging the User to purchase or obtain goods or services of whatsoever nature (other than music via the Licensed Service); or
 - (b) promoting the branding of the Licensee, any affiliate of the Licensee or any third party;
- in such a manner that:
- (i) one or more particular Repertoire Works, composers or writers are associated with such promotion; or
 - (ii) a reasonable person might assume that there was an association between particular Repertoire Works, composers or writers and such promotion.
- 3.8 Except where expressly agreed otherwise in writing between the parties, the licences granted under clause 2 shall not apply to graphic copies (meaning, without limitation, copies of lyrics (except in the case of a Karaoke Service licensed hereunder), notation or scores) of Repertoire Works.
- 3.9 Subject to the provisions of this clause 3.9, the licence granted under clause 2.2 shall apply to the communication to the public of Repertoire Works within the Licensed Service including where such communication to the public is not as part of a music download, stream or webcast constituting the substantial offering of the Licensed Service. However, the licence granted under clause 2.2 only applies if all of the following conditions are met:
- (a) the Licensee has the benefit of a valid licence for or a right to make a reproduction of that particular Repertoire Work and for that particular form of exploitation via the Licensed Service either pursuant to this Agreement or otherwise; and
 - (b) the licence of the communication to the public

of such Repertoire Work is not otherwise excluded under the terms of this Agreement; and

- (c) the Licensors and the Licensee have agreed the additional fee that shall be payable in respect of such communication to the public and that fee has been paid by the Licensee to the Licensors.

By way of example only, the licence granted by MCPS under clause 2.1 does not cover the copying of Repertoire Works in an advertisement (see clause 3.6 above). However, clause 3.6 does not apply to the licence granted by PRS under clause 2.2. Therefore, pursuant to this clause 3.9, the licence granted by PRS under clause 2.2 would only apply (in the context of this example) if the Licensee has a licence to copy the Repertoire Work for use in that advertisement (and on the Licensed Service(s)) and if the Licensee has paid the agreed fee to the Licensors.

- 3.10 For the avoidance of doubt, this Agreement grants no licence whatsoever in relation to Repertoire Works which are made available by the Licensee outside of the Licensed Service (or outside the scope of this Agreement).

However, such other exploitation of Repertoire Works may fall within the scope of other licensing schemes operated by the Licensors, details of which shall be made available to the Licensee on request.

- 3.11 For the avoidance of doubt, the licences granted under clause 2 shall not extend to any exploitation on a Licensed Service from recordings which are themselves infringing copies.
- 3.12 This Agreement grants no licences in respect of the reproduction or communication to the public of any Repertoire Work in the form of a Karaoke Version where such Repertoire Work falls within the Karaoke Exclusions List. The Licensee shall be responsible for checking the Karaoke Exclusions List, as updated from time to time, and the Licensee shall be solely responsible for excluding such usage for the purposes of calculating the Royalty Fee due under this Agreement.

4. Further Restrictions

- 4.1 Subject to clause 2.5, where any Repertoire Work forms part of any Dramatico-Musical Work, the licence granted under clause 2.1 shall not apply, in relation to Audio-Visual Material, to the reproduction of:

- (a) the whole Dramatico-Musical Work; or
- (b) any excerpt(s) from such Dramatico-Musical Work unless all of the following circumstances apply:
- (i) that which is copied or communicated to the public via the Licensed Services under this Agreement contains only excerpt(s) within the definition of Permitted Excerpts; and
- (ii) neither of the Licensors has notified the Licensee in writing that their Member or the Affiliated Society Member objects to the reproduction of any such Repertoire Work.

- 4.2 Subject to clause 2.5, where any Repertoire Work forms part of any Dramatico-Musical Work, the

licence granted under clause 2.1 shall not apply, in relation to material other than Audio-Visual Material, to the reproduction of the whole or substantially the whole Dramatico-Musical Work unless:

- (a) the Licensee has specifically notified the Licensors that it wishes to reproduce the whole or substantially the whole work; and
- (b) the Licensors have notified the Licensee that all relevant Members consent to such reproduction.

For the purposes of this clause 4.2, the expression "Dramatico-Musical Work" shall include any version of such work (with or without cuts, additions, interpolations or the like) which has been publicly performed. Furthermore, for the avoidance of doubt, substantially the whole work shall be deemed to be reproduced where all or nearly all the individual songs or other music included in the work are reproduced.

- 4.3 In any event, any licence hereunder only applies to the relevant Repertoire Works and not (by way of example only) to any underlying dramatic or literary work which forms part of the Dramatico-Musical Work or which such Dramatico-Musical Work is based on or uses.

- 4.4 Subject to clause 2.5, the licences granted under this Agreement shall not extend to or permit any adaptation of any Repertoire Work to be copied or communicated to the public as part of a Licensed Service unless the relevant Member has consented to such adaptation. By way of example only, this applies to:

- (a) any sampling (meaning the taking of part of the music and/or lyrics of a Repertoire Work and incorporating such part into another Musical Work) or the communication to the public or reproduction in the form of a sample of such part of a Repertoire Work; or
- (b) using with music lyrics other than those written to be used with the music or authorised for use with the music; or
- (c) using with lyrics music other than that written to be used with the lyrics or authorised for use with the lyrics.

However, subject always to clause 4.10 and provided that such alterations do not amount to an adaptation of a Repertoire Work and do not contravene clause 4.5, then this Agreement shall apply in relation to Repertoire Works that have been modified (including music and/or lyrics) for the purpose of satisfying the requirements of the relevant recording.

For the avoidance of doubt, the Licensors acknowledge, for the purposes of the restriction set out in this clause 4.4, that the production and inclusion as part a Music Download Service of audio clips of Repertoire Works of up to 30 seconds duration (or up to 1 minute's duration for Repertoire Works over 6 minutes in length) to promote the supply of music via Music Download Service does not of itself constitute an adaptation or sample.

- 4.5 Subject to clause 2.5, the licences granted under this Agreement shall not extend to:

- (a) the reproduction or communication to the public of any Commercial Work or part thereof in the form of a parody or burlesque of any Commercial Work or of any composer or writer of any Commercial Work or any band or other group of artists which includes any composer or writer of any Commercial Work; or
- (b) the use of any Commercial Work in any context which the Licensee ought reasonably to consider as being likely to be insulting or detrimental to the composer featured on the commercially released sound recording of the music or the relevant Member or Affiliated Society Member.
- 4.6 Any additional limitations in relation to the Affiliates Societies' rights to grant the licences set out in clause 2 which have been notified to the Licensors shall be notified to the Licensee in writing (which may include by email) and shall be binding no less than 10 days following such notice. Where any restrictions of a material nature is added (other than exclusions of Musical Works from the definition of Repertoire Works), the Licensee shall have the definition of Repertoire Works), the Licensee shall have the right to terminate this Agreement by giving written notice to the Licensors. All rights not specifically granted under this Agreement are hereby reserved.
- 4.7 This Agreement only covers Repertoire Works. It does not extend to other rights or interests, including (by way of example only), rights in sound recordings, films, dramatic works, performers' rights or rights in performances. The Licensee is required to obtain the appropriate waivers, consents and/or licences from the person(s) owning or controlling rights in relation to sound recordings containing Repertoire Works or performers of that Repertoire Work.
- 4.8 It is the responsibility of the Licensee to obtain all necessary licences in relation to any Musical Work which is not, or to the extent that it is not, a Repertoire Work, and no licence is granted under this Agreement in relation thereto.
- 4.9 Nothing in this Agreement affects the moral rights of authors of Repertoire Works whether subsisting in the UK or any other territory.
- 5. Fees and Payment**
- 5.1 In consideration of the licences and authorisations granted under this Agreement, the Licensee shall pay to the Licensors the Royalty Fees for the duration of the Term.
- 5.2 The Royalty Fees for the Initial Period and for each Renewal Period thereafter shall be payable during each 12 month period of the Term in four equal quarterly instalments. Each instalment shall be payable in advance on the first day of each the Quarter by direct debit, or as otherwise agreed by the Licensors.
- 5.3 The Licensors shall be entitled to increase the Royalty Fees at the start of each calendar year based on the annual increase in the Retail Price Index over the preceding year. The increased Royalty Fees will be notified to the Licensee prior to the end of the Initial Period and each applicable Renewal Period and will apply to the Licensee from the start of the Renewal Period.
- 5.4 The Licensee may at any time during the Term change from a lower Royalty Fee band to a higher Royalty Fee band within a particular Music Service by paying the difference between the lower Royalty Fee band already paid and the higher Royalty Fee band. The Licensee may not change from a higher Royalty Fee band to a lower one and the Licensors shall not refund the Licensee in the event that the Licensee's actual exploitation of Repertoire Works is such that the Licensee would be eligible for a lower Royalty Fee band but has paid the Royalty Fee for a higher band.
- 5.5 The Royalty Fees shall be cumulative and for any service which combines more than one Music Service, an aggregate Royalty Fee shall be payable.
- 5.6 Each Musical Work on an album communicated to the public shall be counted as a single download for the purpose of the usage limits in Royalty Fee band.
- 5.7 The Licensee shall notify the Licensors immediately if the Licensee exceeds the maximum usage limit in the highest Royalty Fee band in any one Music Service. If the maximum usage limit is exceeded, this Agreement shall terminate and the Licensee shall contact the Licensors to discuss the appropriate licence applicable to the Licensee.
- 5.8 The Licensee shall notify the Licensors immediately if the Licensee exceeds the maximum usage limit in the Royalty Fee band for which the Licensee applied. The Licensee shall then pay the difference between the Royalty Fee band for which he applied and the Royalty Fee band for which the Licensee's usage actually falls within.
- 5.9 At the end of the Initial Period and each Renewal Period during the Term the Licensee shall provide a report to the Licensors detailing the number of Musical Works communicated to the public under the Licensed Service. In the event that such number is greater than the maximum number permitted under the Royalty Fee band for which the Licensee applied the Licensee shall pay the difference between the Royalty Fee band for which he applied and the Royalty Fee band for which Licensee's usage actually falls within.
- 5.10 The Licensee shall notify the Licensors if the Gross Revenue from the Licensed Services exceeds the sum of £200,000 (excluding VAT) per annum. In such circumstances, this Agreement shall terminate and the Licensee shall contact the Licensors to discuss the appropriate licence applicable to the Licensee.
- 5.11 The Licensee shall notify the Licensors immediately if the Licensee is to launch a new service which constitutes a Music Service and therefore requires a licence from the Licensors. The Licensee shall submit to the Licensors a fully and accurately completed application for licence 28 days before the launch of any such new service.
- 5.12 The Licensee shall notify the Licensors promptly of any material change in the information provided in the application for licence and the effective date of such change.
- 5.13 All Royalty Fees and payments referred to in this Agreement are subject to VAT or other equivalent sales tax. The Licensee shall pay to the Licensors VAT or other equivalent sales tax (if applicable) at the rate or rates from time to time in force on any sums payable under this Agreement.

5.14 Without prejudice to any other right or remedy of the Licensors, and without imposing an obligation to accept late payment, where any fees payable under this Agreement are not paid by the due date (or the date on which such fees should ordinarily have been paid in circumstances where the Licensors have been unable to submit an invoice) due to default of the Licensee, the Licensee shall (if required by the Licensors) pay interest on such late payment calculated on a daily basis at an annual rate of 3% over the base rate, current from time to time, of Santander UK plc payable from the date on which the payment should have been made to the date on which the payment was made.

6. Supply of Information

6.1 In relation to any and all Repertoire Works reproduced and communicated to the public under this Agreement via all Licensed Services, the Licensee will deliver the Music Usage Information to the Licensors or to the Licensors' duly authorised agent (details of which will be provided to the Licensee) in the Electronic Reporting Format quarterly one month following the Quarter to which the Music Usage Information relates.

6.2 The Licensee must also supply the Licensors with any further information or documentation in its possession, power, custody or control (and use its reasonable endeavours to supply the Licensors with any further information or documentation not in its possession, power, custody or control) reasonably requested by the Licensors at any time, in order to enable the Licensors to verify the Repertoire Work(s) which have been reproduced or distributed via all Licensed Services.

6.3 Where any or all of the Licensed Services are accessible by Users only on payment of subscription or other similar payment (or access is otherwise limited or controlled in some way), the Licensee shall, upon request of the Licensors, use reasonable endeavours to ensure that such Licensed Services are at all times accessible by the Licensors (and PRS for Music) free of charge for the purposes of the Licensors verifying that the Licensee is acting in accordance with this Agreement. For the avoidance of doubt, the Licensee shall not be required to provide free access to downloads under a Music Download Service or to provide free access to a mobile phone network or internet access.

6.4 The Licensee acknowledges that the Licensors have a responsibility to maximise the efficiency of their reporting to their Members and the Affiliated Societies. Therefore, if the Licensors wish to make any reasonable upgrade or alteration of whatsoever nature to the Music Usage Information or data specification referred to in Appendix 3 during the Term, the Licensee agrees to use its reasonable endeavours to implement the changes required as soon as is reasonably practicable, PROVIDED THAT the Licensors shall not request that the Licensee implements the change in less than six months from the making of the request, and in each case of a change the following procedures shall apply:

- (a) the Licensors shall give full details thereof in writing to the Licensee;
- (b) the Licensee will respond in writing within 4 weeks of receipt of the request, stating the date by which it commits to comply with the change and the Licensors shall provide full

assistance to the Licensee in order to assist the Licensee in complying with the change; and

the parties will then finalise the details and undertake tests to ensure that the change operates satisfactorily within the terms of this Agreement, satisfactory operation of which will be deemed acceptance of the change and Appendix 3 and/or the definition of Music Usage Information will be amended or replaced accordingly. For the purpose of this clause, in determining what change may be reasonable, regard shall be had to the DDEX project.

6.5 Without prejudice to any right in law that the Licensors may have to obtain such information, the Licensee shall not be obliged to provide to the Licensors any information which identifies Users or which otherwise constitutes "personal data" as defined in the Data Protection Legislation. For the avoidance of doubt, the Licensee must still provide all required Music Usage Information (or other information to be provided under this Agreement), but is entitled to remove any element of it which reveals the identity of Users or otherwise causes it to include or constitute "personal data".

7. Late Reporting

7.1 The following provision applies where the Licensee has:

- (a) failed to deliver prior to the required date Music Usage Information for the Licensed Service; or
- (b) delivered such Music Usage Information prior to the required date, but it contains any omission or error of whatsoever nature (by way of example only, Repertoire Works having been omitted therefrom or incorrectly or misleadingly named, or the duration of any Repertoire Works having been under-reported) which is material and the Licensee has failed to give notice in writing to the Licensors correcting the omission or error by the date upon which such reporting should have been provided.

7.2 In such circumstances (and without prejudice to any other rights which either or both Licensors may have against the Licensee) if one or both of the Licensors has distributed some (or all) royalties received (excluding any commission) to Members and/or Affiliated Societies based on the usage data supplied, but, as a result of clause 7.1(a) or (b) applying, the royalties distributed do not accurately or fairly represent that which each of the Members and/or Affiliated Societies should have received (when considering the true usage of Repertoire Works), then the Licensee shall pay the fees set out in clauses 7.3 and 7.4 (in addition to those set out in clause 5).

7.3 Where clause 7.2 applies, separately in relation to each relevant Repertoire Work either omitted from the relevant Music Usage Information or as regards which there was a material omission or error of whatsoever nature or in relation to which the relevant Music Usage Information was not delivered, the additional fees shall be calculated at the rate equivalent to that which has been or will be paid by MCPS and/or PRS (as applicable) to their members (or affiliated societies) in relation to the Music Usage Information which was submitted prior to the required date.

7.4 Where clause 7.2 applies, the Licensee will also pay interest on the additional fees as referred to in clause 7.3 above computed in accordance with clause 5.14 and calculated from the date on which MCPS and/or PRS (as applicable) first made a distribution to their members (or affiliated societies) in relation to the relevant period to the date on which the Music Usage Information was received by the Licensors or the date on which the Licensors received written notice of the relevant error, as the case may be.

7.5 The provisions of this clause apply notwithstanding any other provision of this Agreement, but are without prejudice to any other right which MCPS and PRS have in relation to any failure to submit Music Usage Information fully or accurately completed within the time stipulated in clause 6.1.

8. Vouchers

The licence under clause 2.1 only applies to Licensed Services purchased using Vouchers where each such Voucher:

(a) either:

- (i) contains no branding other than that of the Licensee; or
- (ii) is issued in conjunction with a festival or other musical event, and the voucher contains no branding other than that of the Licensee, the band/artist performing at the festival or other musical event, and/or the festival or other musical event;

and in the case of either (i) or (ii) above:

- (b) does not refer to any specific artist(s), band(s) or Musical Work(s); and
- (c) does not otherwise contravene the limitations and restrictions set out in this Agreement (in particular clause 3.6 and 3.7).

Repertoire Works provided via a Voucher scheme which is outside this clause 8.1 are not licensed under this Agreement and a separate licence for premium usage of this type must be sought from the Licensors.

9. Credits and Notices

The Licensee shall include on each of the Licensed Services:

- (a) the logo of PRS for Music; and
- (b) details of the following website and, where practical, hypertext links to it: www.prsformusic.com; and
- (c) where reasonably practicable, the name of the composer and publisher of the Repertoire Works provided via the Licensed Services; and
- (d) a notice explaining that use of the musical works is subject to restrictions and that a summary of these restrictions may be obtained by accessing the Licensors' website through the link referred to above.

Approval of the Licensors shall be deemed to be given to the positioning of the above credits and notices within the terms and conditions of the

Licensed Service(s) where it is not reasonably practical to position such information elsewhere.

10. Auditing

10.1 The Licensee shall keep and make available for inspection upon reasonable notice (and shall procure that each Relevant Party keeps and makes available for inspection upon reasonable notice), both during and for twelve months after termination or expiry of this Agreement, proper, detailed books and records relating to (a) the use of all Musical Works and (b) any income or other consideration received by or on behalf of the Licensee in relation to the Licensed Services, together with any supporting documentation relating thereto covering the period up to six years prior to the date of notification of audit. Where any agreement between the Licensee and the Licensors replaces this Agreement or licenses substantially the same activities (the "**Replacement Agreement**"), the twelve month time-limit referred to above shall begin following termination or expiry of the Replacement Agreement.

10.2 For the purposes of this clause 10, the Licensee shall allow upon reasonable notice (and shall procure that each Relevant Party shall allow) access to its premises to inspect relevant accounting records, but not more than once per annum. The duly authorised representatives (who shall be external qualified accountants or auditors unless otherwise agreed between the parties) of the Licensors shall have such access to the Licensee's premises and shall be entitled to inspect, make extracts and take copies of any of the information and/or documentation available and to carry out such work as is, in their reasonable opinion, considered necessary to verify compliance with the provisions of this Agreement.

10.3 If tests under any audit and verification process indicate under-payment of the correct Royalty Fee during the period under audit, then, without prejudice to the Licensors' other rights under this Agreement, the Licensee shall pay the amount of the underpayment plus interest based on the period from which the correct fee should have been paid to the Licensors to the date when it was actually paid (at the rate set out in clause 5.14).

10.4 If any audit and verification process discloses (a) under-payment of more than 7.5% of the correct Royalty Fee during the period under audit and/or (b) failures to report correctly (so as to affect a distribution by the Licensors to their Members) amounting to at least 7.5% of the music usage during the period under audit, then, without prejudice to the Licensors' other rights under this Agreement, the Licensee shall pay, in addition to the payment referred to in clause 10.3, the Licensors' reasonable costs of such audit and verification within 28 days of receipt of the Licensors' VAT invoice therefore.

10.5 If tests under any audit and verification process indicate over-payment of the correct Royalty Fee during the period under audit, then the Licensors shall, as soon as is reasonably practical, pay the amount of the overpayment back to the Licensee (but, for the avoidance of doubt, no interest shall be payable unless the overpayment is a result of an act or omission of the Licensors (in which case interest shall be payable at the rate set out in clause 5.14)). However, where the overpayment does not result from an act or omission of the

Licensors and the Licensee have already distributed such overpayment to their Members and/or Affiliated Societies, the Licensors shall be entitled to deduct its reasonable internal and/or external costs in administering the payment back of the overpayment.

10.6 The Licensors shall not (and shall procure that their representatives shall not), without the Licensee's written consent, disclose to any third party any confidential information of the Licensee (so long as it remains confidential) received in the course of an audit carried out under this clause 10, save that such confidential information may be disclosed to the Licensors' directors, board sub-committee members, officers, employees and professional advisors (solely where such persons are under a duty of confidentiality in relation to information so received and the Licensors shall be liable to the Licensee in respect of any breach of such confidentiality obligation) solely for purposes connected with this Agreement.

10.7 For the avoidance of doubt, books, records and accounting records as referred to in clauses 10.1 and 10.2 above shall include data, information and records held on computers.

10.8 The Licensee shall, if requested by the Licensors, provide a statement from its auditors (but not more than once per year) confirming that the financial information submitted by the Licensee for the relevant requested period is in accordance with the actual Gross Revenue for that period.

11. Security and Encryption

Save as may be permitted by law, the Licensee agrees it shall not (and shall procure that any Relevant Party shall not) attempt to:

- (a) remove or alter any rights management or identifier information that may be associated with any Repertoire Works; or
- (b) circumvent any technical measures associated with any Repertoire Work which are designed to prevent or restrict the unauthorised use of any Repertoire Work.

12. Termination and Expiry

12.1 Subject to payment of the Royalty Fee to the Licensors, this Agreement shall automatically renew for a period of 12 months after the end of the Initial Period and at the end of each subsequent Renewal Period until either party gives to the other party not less than three months prior written notice that it does not wish for the Agreement to automatically renew, in which event the Agreement shall terminate at the end of the relevant Renewal Period.

12.2 This Agreement may be terminated by the Licensee, by giving not less than three months written notice to the Licensors or upon written notice in circumstances where the Licensee is ceasing to engage in activities covered by this Agreement. In the event that the Licensee terminates the Agreement pursuant to this clause 12.2, the Licensee shall not be entitled to any refund of Royalty Fees, however, subsequent Quarterly instalments of the annual Royalty Fee relating to Quarters falling after the Agreement terminates shall not be payable.

12.3 Each party shall have the right to terminate this Agreement by notice forthwith where the other

party:

- (a) commits a material breach of this Agreement which is capable of remedy and fails to remedy such breach within 14 clear days after receipt of notice of such breach; or
- (b) commits a material breach of this Agreement which is not capable of remedy;

and, for the avoidance of doubt, any breach which consists of a failure by either party to perform an obligation under this Agreement within any period required or by any date specified under this Agreement shall be deemed to be capable of remedy if such obligation is performed by such party within the 14 day cure period specified in (a) above.

12.4 The Licensors shall have the right to terminate this Agreement by notice forthwith if the Licensee:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts (as that term is defined in section 123 of the Insolvency Act 1986) or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition:
 - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its administration, winding-up or liquidation; or
 - (ii) is not dismissed, discharged, stayed or restrained in the case of a winding-up petition within 14 days or in the case of an administration petition within 2 days, of the institution or presentation thereof;
- (e) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (g) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case

within 30 days thereafter; or

- (h) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (a) to (g) (inclusive).

12.5 The licences granted under clause 2 are so granted on the basis of the representations made by the Licensee in part A of the application form.

12.6 The Licensors shall have the right to terminate this Agreement by notice forthwith if the licences granted under clause 2 are no longer valid pursuant to clause 3.

12.7 Termination of this Agreement for whatever reason shall be without prejudice to any rights which have already accrued to the parties under this Agreement.

13. Effect of Termination

13.1 Upon termination of this Agreement all licences granted under this Agreement shall terminate and the Licensee shall immediately cease to be licensed by the Licensors for the reproduction or communication to the public of Repertoire Works via the Licensed Services. Termination shall be without prejudice to the ability of Users to retain a copy of a Repertoire Work supplied to them in the form of a Permanent Download.

13.2 Clauses 5, 6, 7, 10, 13, 16 and 17 shall survive the termination of this Agreement, but only in relation to the Licensee's activities during the Term.

14. No Assignment

14.1 Subject to clause 14.2, the licences granted under this Agreement are personal to the Licensee and the Licensee may not assign, sub-license or otherwise transfer any or all of its rights or obligations under this Agreement without the written agreement of both MCPS and PRS except where the Licensee wishes to assign or transfer its rights and obligations to a direct or indirect subsidiary or direct or indirect holding company of the Licensee in which case the Licensors may not unreasonably withhold consent.

14.2 Subject always to the other provisions of this Agreement, the Licensee shall be permitted to use the services of a third party in operating the Licensed Services, provided that:

- (a) the Licensee retains complete control and direction over the provision of the Licensed Services to Users; and
- (b) the Licensors are able to audit such third party in accordance with clause 14.

14.3 The Licensee shall include the following provisions in its terms and conditions for the supply of the Licensed Services to Users:

- (a) that any Repertoire Works communicated to Users may only be copied as permitted under this Agreement or by applicable law; and
- (b) that, save as may be permitted by law, no attempt shall be made by Users to:
 - (i) remove or alter any rights management or identifier information that may be

associated with any Repertoire Works; or

- (ii) circumvent any technical measures associated with any Repertoire Work which are designed to prevent or restrict the unauthorised use of any Repertoire Work.

14.4 The Licensee shall, upon request by either Licensor, supply such Licensor forthwith with a copy of the Licensee's standard terms and conditions applying to the provision of any or all of the Licensed Services.

15. Controlled Composition Agreements

Where any person, firm or company is or becomes a member of either of the Licensors or an Affiliated Society and that party itself or that party's predecessor in title or grantor has a current contract with the Licensee or the Licensee's predecessor in title or grantor:

- (a) to the extent that such contract would otherwise apply in relation to the grant of any or all of the licences referred to in this Agreement and/or the terms and conditions on which such licences are granted, the terms and conditions of this Agreement shall during the subsistence of this Agreement replace the terms and conditions of that contract; and
- (b) upon the written request of the Licensee the relevant Licensor will provide the Licensee with evidence that the relevant Member has become a Member and has given the relevant Licensor or the relevant Affiliated Society authority to bind the Member as regards this Agreement.

16. Notices

16.1 Except where expressly stated otherwise, any notice or other written communication given under or in connection with this Agreement shall only be effective if it is in writing. Faxes and e-mails are permitted save that notices under clause 12 of this Agreement shall not be served by e-mail. In the absence of any legitimate electronic signature system, either party shall be permitted to require the confirmation in writing (signed by an authorised signatory) of any notice originally sent by email.

16.2 The address for service of any party shall be its registered office marked for the attention of the Chief Executive or Managing Director, or, if any other address or addressee for service has previously been notified to the server, to the address so notified. A single notice served on or sent to PRS for Music and addressed to either Licensor shall be treated as validly served on both Licensors.

16.3 Any such notice or other written communication shall be deemed to have been served:

- (a) if personally delivered, at the time of delivery;
- (b) if posted, at the expiry of two business days or in the case of airmail four business days after it was posted;
- (c) if sent by facsimile message or e-mail, at the time of receipt of transmission (if received during normal business hours that is 09.30 to 17.30 local time) in the place to which it was sent or (if not received during such normal

business hours) at the beginning of the next business day at the place to which it was sent.

- 16.4 In proving service of a notice it shall be sufficient proof that personal delivery was made, or that such notice or other written communication was properly addressed stamped and posted or in the case of a facsimile message or e-mail that an activity or other report from the sender's facsimile machine or computer can be produced in respect of the notice or other written communication, in the case of a fax, showing the recipient's facsimile number and the number of pages transmitted.

17. Confidentiality

Subject to clause 17.2, the parties agree that the terms of this Agreement and any other information relating to either party disclosed in relation to this Agreement ("Confidential Information") shall be kept confidential and, subject to clause 10.6, neither party shall disclose such terms (or such information) to any third party (other than its agents, representatives, professional advisors and shareholders, and, in the case of the Licensors, their Members and Foreign Societies) or make any press announcement without the prior written consent of the other. The provisions of this clause 17 shall not apply to any information which:

- (a) is at the date of this Agreement in or subsequently enters the public domain, other than by default of the recipient party;
- (b) is obtained by the recipient party from a bona fide third party having free right of disposal of such information; or
- (c) the recipient party can demonstrate by written evidence was already known to it at the date of disclosure and was not previously acquired by it under an obligation of confidence to the disclosing party.

- 17.2 A party may disclose Confidential Information to the extent required by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that:

- (a) if not prohibited by the request or order for disclosure, it shall immediately inform the other party in writing of the request or order;
- (b) if not prohibited by the request or order for disclosure, it shall consult with the other party and take into account the reasonable requests of the other party in relation to the disclosure;
- (c) if not prohibited by the request or order, it shall give the other party the chance to defend, limit or protect against the disclosure;
- (d) it shall disclose only that portion of the confidential information which is legally required to be disclosed; and
- (e) it shall attempt to obtain confidential treatment for any Confidential Information which is disclosed.

- 17.3 The obligations contained in this clause 17 replace and supersede the provisions of any prior non-disclosure or confidentiality agreement entered into between the parties

or
any of their affiliates regarding information shared in connection with this Agreement

("Prior NDA"), and (b) shall endure beyond the termination of this Agreement for a period of five years. Any Prior NDA shall be deemed to terminate immediately upon the entering into of this Agreement and its provisions shall not be deemed to apply to any information exchanged in connection with this Agreement (whether before or after this Agreement is entered into).

18. Miscellaneous

- 18.1 No delay or omission in exercising any right or remedy hereunder shall operate as a waiver thereof or of any other right or remedy and no single or partial exercise thereof shall prejudice any other rights or remedies. No waiver shall be binding or effectual for any purpose unless expressed in writing and signed by the party giving it and any such waiver shall be effective only in the specific instance and for the purpose given.

- 18.2 This Agreement sets forth the entire agreement of the parties in relation to the subject matter hereof and each of the parties hereto acknowledges that it has not entered into this Agreement in reliance on any representation or term not contained in this Agreement. This Agreement shall not be modified or varied except by a written instrument signed by the parties hereto.

- 18.3 The headings to the clauses in this Agreement are included for ease of reference only and are not part of this Agreement and are not to be taken into account in its construction.

- 18.4 The parties shall (and shall procure that any other necessary party within its control shall) execute and do all such documents acts and things as may be reasonably be required on or subsequent to completion of this Agreement for securing each of the obligations of the respective parties under this Agreement.

- 18.5 If this Agreement creates any rights which would in the absence of this provision be enforceable by any person not a party to this Agreement, such rights shall not be enforceable.

- 18.6 This Agreement shall be construed according to the laws of England and Wales and the parties agree to submit to the jurisdiction of the English Courts.

Appendix 2A

PRS for MUSIC LIMITED ONLINE MUSIC LICENCES + Royalty Fees (Calendar Year 2023)

LOML+ Licence Band	A	B	C	D	E	F	G	H	I	J	K	L	M	N
2023 Annual licence fee (excl. VAT)	£2,925	£4,386	£5,849	£7,310	£8,771	£10,235	£11,696	£13,158	£14,620	£16,082	£17,545	£19,006	£20,468	£21,931
Music Download (max. number of downloads per annum)	37,736	56,604	75,472	94,340	113,208	132,075	150,943	169,811	188,679	207,547	226,415	245,283	264,151	283,019
Music Download - Karaoke (max. number of downloads per annum)	16,667	25,000	33,333	41,667	50,000	58,333	66,667	75,000	83,333	91,667	100,000	108,333	116,667	125,000
Music On Demand (max. number of streams per annum)	765,404	1,148,106	1,530,808	1,913,509	2,296,211	2,678,913	3,061,615	3,444,317	3,827,019	4,209,721	4,592,423	4,975,124	5,357,826	5,740,528
Music On Demand - Karaoke (max. number of streams per annum)	508,475	762,712	1,016,949	1,271,186	1,525,424	1,779,661	2,033,898	2,288,136	2,542,373	2,796,610	3,050,847	3,305,085	3,559,322	3,813,559
Music On Demand (Subscription) Single Platform (max. number of subscribers per month)	417	625	833	1,042	1,250	1,458	1,667	1,875	2,083	2,292	2,500	2,708	2,917	3,125
Music On Demand (Subscription) Dual Platform (max. number of subscribers per month)	278	417	556	694	833	972	1,111	1,250	1,389	1,528	1,667	1,806	1,944	2,083
Music On Demand Karaoke Single Platform (max. number of subscribers per month)	278	417	556	694	833	972	1,111	1,250	1,389	1,528	1,667	1,806	1,944	2,083
Webcast (max. number of streams per annum)	3,050,847	4,576,271	6,101,695	7,627,119	9,152,542	10,677,966	12,203,390	13,728,814	15,254,237	16,779,661	18,305,085	19,830,508	21,355,932	22,881,356
Webcast Subscription (max. number of subscribers per month)	833	1,250	1,667	2,083	2,500	2,917	3,333	3,750	4,167	4,583	5,000	5,417	5,833	6,250
Interactive Webcast (max. number of streams per annum)	1,949,153	2,923,729	3,898,305	4,872,881	5,847,458	6,822,034	7,796,610	8,771,186	9,745,763	10,720,339	11,694,915	12,669,492	13,644,068	14,618,644
Interactive Webcast Subscription (max. number of subscribers per month)	758	1,136	1,515	1,894	2,273	2,652	3,030	3,409	3,788	4,167	4,545	4,924	5,303	5,682

Appendix 2B

Gross Revenue Definition

The following definition applies to the following Licensed Services:

"Gross Revenue" means, subject to the provisions of this Appendix 2B:

- (a) all revenue received (or receivable) by the Licensee from Users in consideration for the provision of the Licensed Services; and
- (b) all revenue, including by way of sponsorship and commissions, received (or receivable) by the Licensee as a result of the inclusion of third party advertising "in-stream" or "in-download" as part of the Licensed Service, being advertising placed immediately at the start, end or during the actual delivery (by way of streaming or downloading as applicable) of a Repertoire Work to a User; and
- (c) all revenue, including by way of sponsorship, click-throughs and other commissions, received (or receivable) by the Licensee as a result of the placement of third party advertising, buy or click-through buttons on a Relevant Page (as defined below) of the Licensed Service (and including any page which directly follows such Relevant Page leading up to and including the downloading or streaming of the music offering). For the avoidance of doubt, advertising revenue referred to in this sub-paragraph (c) shall not include revenue arising from sponsored searches or click-through commissions arising from such searches;

and in each of the above cases such revenue shall, for the avoidance of doubt, include any such revenue whether received or receivable by the Licensee or any associate, affiliate, agent or representative of such party.

There shall be no other deduction or set-off from the above revenues other than reasonable refunds to Users for services that they were unable to use (but had paid for) due to technical faults in the Licensed Services. For the avoidance of doubt, Gross Revenue shall not be reduced by credit card commissions or similar payment process charges.

For the avoidance of doubt, where the Licensed Service is provided as part of a "portal based service" of which the Licensed Service form only one part of a suite of services including some that do not relate to music in any way, it is not intended that the definition of Gross Revenue set out above includes the entire revenue of the portal or indeed any revenue of the portal which is not attributable to the Licensed Service.

"Relevant Page" means a page:

- (a) from which Licensed Services are "actually offered" to Users. A Licensed Service is "actually offered" to Users from a page if Musical Works are enabled or made directly available from that Licensed Service to the User to download or stream from that page (in most cases this will be where such Musical Works can be purchased by the User or their download or stream otherwise takes place); but only
- (b) where such offering forms all or the predominant part of that page, being for the purposes of this Agreement where the offering comprises 75% or more of the space on that page excluding space occupied by any advertising. For the purposes of performing the foregoing calculation, the "offering" shall include any content which directly relates to the actual offering of the Licensed Service pursuant to sub-paragraph (a) above (by way of example, but without limitation, an image of the artist or artwork closely associated with the offering, reviews of the offering, credits, and music player controls).

Appendix 3

Electronic Reporting Format

PRS for Music Non Linear Reporting format v2.1 or DDEX Digital Sales Report

Appendix 4

EXCLUDED REPERTOIRE

Please see the Karaoke Exclusions List as may be updated from time to time www.prsformusic.com/restrictedkaraokeworks