



Programme Sales Licence Agreement

NAME OF LICENSEE	("the Licensee")
REGISTERED ADDRESS OF LICENSEE	
COMPANY NUMBER OF LICENSEE	
COMMENCEMENT OF AGREEMENT	("the Commencement Date")
ADVANCE	£ ("the Advance")

The terms of this Agreement are contained in the attached Annexes A, B, C and D

Signed by an authorised signatory for and on behalf of the Licensee:

Name: _____

Position: _____

Signature: _____

Date: _____

Signed by an authorised signatory for and on behalf of the Mechanical-Copyright Protection Society Limited ("MCPS"), contracting for and on behalf of itself and for and on behalf of and as agent or licensee of its various members and associated societies:

Name: _____

Position: _____

Signature: _____

Date: _____

ANNEX A
SPECIAL CONDITIONS

ANNEX B

STANDARD TERMS AND CONDITIONS

1. Definitions

“Advance”	shall have the meaning set out in clause 4.1.
“Ballet”	shall mean a choreographic work having a story, plot or abstract idea, devised or used for the purpose of interpretation by dancing and/or miming, but does not include country or folk dancing, nor tap dancing, nor precision dance sequences.
“Broadcast”	shall have the meaning set out in the 1988 Act (as amended).
“Business Day”	shall mean any day which is not a Saturday, Sunday, public holiday or bank holiday.
“Business Hours”	shall mean 09.00 to 17.30 local time on any Business Day.
“Commercial Work”	shall mean any Repertoire Work other than Production Music.
“Commissioned Work”	shall mean a Musical Work which has been specially and expressly commissioned by the Licensee for use in Qualifying Programmes from composer/writer Members.
“Contract Year”	shall mean each successive one-year period during the Term, beginning on the Commencement Date.
“Cue Sheet”	shall mean a document, in the form set out in Annex C, containing the relevant Reporting Information
“Dramatico-Musical Work”	shall mean any Ballet, opera, operetta, musical, musical play or work of a similar nature in so far that it consists of words and music expressly written therefor.
“Duration of MCPS Music”	shall mean the total duration of Repertoire Works incorporated into a Qualifying Programme.
“Gross Sales Price”	shall have the meaning set out in clause 5.
“Member”	shall mean each person firm or company who or which has entered into the MCPS Membership Agreement either before or during the Term provided that a Member who has signed the MCPS Membership Agreement 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 entry into the MCPS Membership Agreement.

<p>“Music Programme”</p>	<p>shall, subject to clause 3, mean an audio-visual programme where the musical audio material and/or audio-visual material with a musical soundtrack is the primary theme and not merely secondary or incidental to the storyline or documentary material featured in the programme including, but not limited to, the following (including any combination thereof):</p> <p>(a) one or more audio-visual live music performances by an artist, a group or a number of artists and/or groups;</p> <p>(b) an audio-visual documentary where the featured subject matter is one or more music artists, groups, songwriters or composers or a musical style or genre;</p> <p>(c) one or more promotional audio-visual productions which have a music sound recording as their main element;</p> <p>(d) audio-visual programming which has music as its primary theme, including without limitation, archive collections of previously exploited television material;</p> <p>(e) an audio-visual recording of a music award event.</p>
<p>“Musical Work”</p>	<p>shall mean any work consisting of music and any lyrics or words written to be used with the music. It includes any part of such a work.</p>
<p>“PMSR”</p>	<p>shall mean any production music sound recording being a sound recording (as opposed to a Musical Work) to the extent the relevant copyright is owned or controlled from time to time by MCPS and where MCPS has been authorised to license such recordings as so-called production or library music.</p> <p>If one or more of those who own or control the copyright in a relevant sound recording is not MCPS, the expression “PMSR” shall only apply to such interest in the sound recording as is owned or controlled by MCPS.</p>
<p>“Pre-Licensed Work”</p>	<p>shall mean a Repertoire Work in relation to which and to the extent that the Licensee has been granted a licence (outside this Agreement) by the relevant copyright owner to do the acts referred to in clause 2 of this Agreement.</p>
<p>“Production Music”</p>	<p>shall mean Production Music Works and PMSRs.</p>

<p>“Production Music Work”</p>	<p>shall mean the Musical Work embodied on a PMSR to the extent the relevant copyright is owned or controlled, from time to time, by MCPS. If one or more of those who own or control the copyright in a relevant Musical Work is not MCPS, the expression “Production Music Work” shall only apply to such interest in the Musical Work as is owned or controlled by MCPS.</p>
<p>“PRS”</p>	<p>shall mean the Performing Right Society Limited whose registered office is at 2 Pancras Square London N1C 4AG.</p>
<p>“Qualifying Programme”</p>	<p>shall, subject to clause 3, have the following meaning:</p> <p>(a) an audio-visual programme made by the Licensee where all Repertoire Works contained in such programme have been validly licensed for the purposes of primary Broadcast or primary online and/or mobile transmission within the United Kingdom and where such programme has already been Broadcast or transmitted (or scheduled for Broadcast or transmission) within the United Kingdom; and</p> <p>(b) an audio-visual programme made by a third party where all Repertoire Works contained in such programme have been validly licensed for the purposes of primary Broadcast or primary online and/or mobile transmission within the United Kingdom and where (i) the Licensee has entered into an agreement with such third party to distribute such programme for secondary exploitation and (ii) such programme has already been Broadcast or transmitted (or scheduled for Broadcast or transmission) within the United Kingdom.</p> <p>For the avoidance of doubt, only full-length audio-visual programmes falling within (a) or (b) above shall be deemed to be Qualifying Programmes and no clips or extracts of such programmes shall be deemed to be Qualifying Programmes under this Agreement.</p>
<p>“Quarter”</p>	<p>shall mean each of the periods from 1 January to 31 March, 1 April to 30 June, 1 July to 30 September, and 1 October to 31 December, throughout the Term.</p>

<p>“Repertoire Work”</p>	<p>shall mean:</p> <p>(a) each Musical Work (or part thereof) to the extent the relevant copyright is owned or controlled from time to time by MCPS and</p> <p>(b) each PMSR; but excludes any Commissioned Work (solely in relation to the specific purpose for which it was commissioned).</p> <p>If one or more of those who own or control the copyright in a relevant Musical Work or sound recording is not MCPS, the expression “Repertoire Work” shall only apply to such interest in the relevant Musical Work or sound recording as is owned or controlled by MCPS.</p>
<p>“Reporting Information”</p>	<p>shall mean, in respect of each Qualifying Programme, full and accurate details of the Repertoire Works included within such Qualifying Programme.</p>
<p>“Royalty Fee”</p>	<p>shall have the meaning set out in clause 4.4.</p>
<p>“Sales Information”</p>	<p>shall mean the information specified in Annex D.</p>
<p>“Term”</p>	<p>shall mean the period from the Commencement Date until termination of this Agreement in accordance with clause 10.</p>
<p>“Terrestrial Broadcast”</p>	<p>shall mean a Broadcast by means of ‘free to air’ wireless transmission (whether in analogue or digital form). For the purpose of this Agreement Terrestrial Broadcast does not include Broadcast via a cable service, digital terrestrial television or by satellite.</p>
<p>“Territory”</p>	<p>shall mean the World excluding the USA and Canada.</p>
<p>“1988 Act”</p>	<p>shall mean the Copyright Designs and Patents Act 1988, as amended from time to time.</p>

2. Grant of Rights

2.1 MCPS authorises the Licensee to copy and supply to third parties, during the Term, Qualifying Programmes containing Repertoire Works to or for:

- (a) all forms of communication to the public by such third parties (including for the avoidance of doubt Broadcast and on demand transmissions) in the Territory (subject to clause 2.6 below) including but not restricted to terrestrial, satellite, cable, internet and mobile transmissions; and
- (b) viewing as in-flight entertainment on aircraft operated by airlines based in the Territory; and
- (c) viewing at non-fee paying television programme festival in the Territory; and

- (d) viewing by prospective purchasers of a Qualifying Programme, including for the avoidance of doubt, via the internet; and
 - (e) educational establishments in the Territory for viewing by students as part of their studies, provided that no fee is charged to view such Qualifying Programme.
- 2.2 In circumstances where the Licensee wishes to record into a Qualifying Programme (prior to supplying it as set out in clause 2.1 above) alternative music to that originally recorded in the Qualifying Programme, then, subject to the terms and conditions of this Agreement, MCPS hereby grants the Licensee, for the foregoing sole purpose, the non-exclusive right to reproduce in the United Kingdom Production Music into Qualifying Programmes during the Term.
- 2.3 For the avoidance of doubt, the authorisation granted under clause 2.1 above only applies in relation to Repertoire Works. It does not apply to any other rights in Qualifying Programmes.
- 2.4 The licences granted under this Agreement only apply in respect of copying of Qualifying Programmes taking place within the United Kingdom and only for the purposes of exploiting the rights set out in clause 2.1 above. This Agreement does not grant any rights whatsoever in respect or on behalf of any party owning, controlling or administering the copyright outside of the United Kingdom in any Repertoire Work, including the right to control importation into and distribution within such country.
- 2.5 The licences granted under this Agreement do not affect any requirement for a third party to obtain relevant licences in respect of restricted acts undertaken or authorised by that third party (including any licences for the reproduction or communication to the public of Repertoire Works) in the course of the secondary exploitation of the Qualifying Programme.
- 2.6 The authorisation granted in clause 2.1(a) above shall not apply to the supply of a Qualifying Programme where the Broadcast for which the Qualifying Programme is supplied is by way of its first Terrestrial Broadcast within the United Kingdom.
- 2.7 If the Licensee wishes to supply Qualifying Programmes containing Repertoire Works for retail sale in the form of non-music VHS videos or non-music DVDs (falling within the scope of the MCPS AVP licensing scheme ("AVP") then the Licensee must apply for an AVP agreement (or equivalent other agreement if AVP is replaced).
- 2.8 If the Licensee wishes to supply Qualifying Programmes containing Repertoire Works for retail sale in the form of music DVDs (falling within the scope of the MCPS DVD1version 2 licensing scheme ("DVD1v2")) then the Licensee must apply for a DVD1v2 agreement (or equivalent other agreement if DVD1v2 is replaced).

3. Restrictions in Relation to the Licence

- 3.1 No programme or other material shall constitute a Qualifying Programme if it includes any of the following (unless the relevant Member has expressly consented to its inclusion for the purposes of the Agreement):
- (a) any adaptation of a Repertoire Work; by way of example only, this includes:
 - (i) making any arrangement of the music; or
 - (ii) making any alteration to the lyrics, save for any minor change which does not alter the meaning thereof; or
 - (iii) any sampling (as that expression is commonly used in the music industry) of the music and/or lyrics or reproduction in the form of a sample of the music and/or lyrics; or

- (iv) using with music lyrics other than those written to be used with the music or authorised for use with the music; or
 - (v) using with lyrics music other than that written to be used with the lyrics or authorised for use with the lyrics; or
- (b) any Dramatico-Musical Work; or
- (c) any individual or potted version of a Commercial Work exceeding 7 minutes in duration; or
- (d) any Repertoire Work included within an advertisement or sponsorship message or otherwise where the positioning of such Repertoire Work could reasonably lead a person to associate that Repertoire Work with an advertisement or sponsorship message; or
- (e) programming relating to a single composer or author, composer and/or author team and/or where all Commercial Works contained within the programme are by the same composer or author, or composer and/or author team; or
- (f) Music Programmes relating to a single music artist or record label and/or where all Commercial Works contained within the programme are performed by the same music artist or controlled by the same record label.

3.2 This Agreement does not extend to the reproduction of any Commercial Work:

- (a) in the form of a parody, pastiche or burlesque of any Commercial Work or of any composer or writer of any Commercial Work or any band or other group or artists which includes any composer or writer of any Commercial Work; or
- (b) where there is a derogatory, facetious, obscene or demeaning reference to the Commercial Work, its composer(s) and author(s) or the performing artist; or
- (c) in any manner which is likely to or causes the public to believe that the Commercial Work (or the composer(s) thereof) is endorsing or promoting any product or service, or the views expressed in the Qualifying Programme.

Whether the use of a Commercial Work breaches this clause 3.2 shall be decided by MCPS in its reasonable discretion.

3.3 All rights not specifically granted under this Agreement are hereby reserved and the parties hereby agree that no implied licences are to be construed hereunder.

3.4 Although the supply of certain audio-visual programmes is authorised for certain purposes, the acts of Broadcasting, other communication to the public and (where relevant) public performance of Repertoire Works are not licensed hereunder. Such other licences as may be necessary must be obtained separately by the Licensee (or other party to whom Qualifying Programmes are supplied, as applicable).

3.5 The provisions of this Agreement authorise the supply of Qualifying Programmes for the specific purposes set out in this Agreement. In the event that a copy of any Qualifying Programme or the soundtrack thereof is made or used in any way for any other purpose (including, without limitation, cinematic or theatric exploitation, rental or lending) whether by the Licensee or any other party then that supply and/or copy shall not be licensed under this Agreement. MCPS reserves all rights including those of its Members and its affiliated societies (and their members) to take action in relation to any such supply/copy.

3.6 This Agreement only covers Repertoire Works. It does not extend to other rights or interests, including (by way of example only), sound recordings (other than PMSRs), films, dramatic

works, performers' rights, moral rights or rights in performances. Nothing in this Agreement shall entitle any party to exercise the licences or authorisations contained in this Agreement in relation to any Qualifying Programme where the appropriate waivers, consents and/or licences have not been obtained from the person(s) owning or controlling rights in relation to sound recordings containing one or more Repertoire Works or performers of Repertoire Works incorporated into such Qualifying Programme. For the purposes of this clause 3.6 (but only insofar as the reproduction of PMSRs in accordance with this Agreement is concerned), MCPS, for and on behalf of its Members, warrants that all the necessary performers' waivers and consents have been obtained from the relevant performers insofar as their performances are embodied on PMSRs.

- 3.7 It is the responsibility of the Licensee to obtain all necessary licences in relation to any Musical Work which is not a Repertoire Work, and nothing in this Agreement applies in relation to any such Musical Work.
- 3.8 Nothing in this Agreement affects the moral rights of authors of Repertoire Works whether subsisting in the United Kingdom or any other territory.
- 3.9 This Agreement shall not apply to any Pre-Licensed Works, provided that:
- (a) the Licensee provides MCPS with evidence that the Repertoire Work in question is a Pre-Licensed Work within 30 days of MCPS's request where MCPS has reasonable grounds for believing that no valid licence is in effect, in which event the Licensee shall provide sufficient evidence. "Sufficient evidence" for the purpose of this clause 3.9 shall comprise of copies of the original approvals issued by the relevant copyright owner(s) of the Repertoire Works, including documentation that discloses the product name, territory, rights granted and details of the parties (but not any commercial terms which are confidential between the parties); and
 - (b) the Licensee provides MCPS with complete and accurate information in relation to the relevant Qualifying Programme (including whether any Repertoire Work used in the Qualifying Programme is a Pre-Licensed Work) and complies with the reporting obligations in clause 7 of this Agreement.

Where, in any reporting by the Licensee, a Repertoire Work is identified as having been used and is not identified as a Pre-Licensed Work and the applicable royalty is calculated and paid by the Licensee on that basis, MCPS is entitled to distribute such royalty on the basis that such Repertoire Work is not a Pre-Licensed Work and the Licensee shall not be entitled to any credit or reimbursement in respect thereof.

4. Licence Fee

- 4.1 The Licensee shall pay to MCPS:
- (a) the Advance (plus VAT) (which shall be a non-returnable but recoupable advance against the Royalty Fees and which shall be subject to increase according to clause 4.2 below) in respect of each Contract Year; and
 - (b) The Royalty Fees, as defined in clause 4.4 below.
- 4.2 The Advance is subject to increase each Contract Year in accordance with the increase in the Retail Price Index over the 12 month period immediately preceding the beginning of the new Contract Year.
- 4.3 Each Advance is recoupable against the Royalty Fees due in the applicable Contract Year, but is non-returnable. For the avoidance of doubt:
- (a) in the event that, throughout any Contract Year, the total Royalty Fees payable by

the Licensee to MCPS in respect of that Contract Year is less than the Advance paid, no part of the Advance shall be carried over to the following Contract Year; and

- (b) in the event that, throughout the Term, the total Royalty Fees payable by the Licensee to MCPS is less than the total Advances paid, no part of the Advance shall be repayable to the Licensee by MCPS.

4.4 The "Royalty Fee" shall mean, individually in relation to each Qualifying Programme, the percentage of the Gross Sale Price calculated as follows:

$$\frac{\text{Duration of MCPS Music}}{\text{Total Duration of Programme}} \times 100 \times 8.5\% = \text{MCPS \% claim in Programme}$$

5. Gross Sale Price

5.1 "Gross Sale Price" shall mean all amounts (in money or money's worth) received or receivable by the Licensee (or any associate, agent, representative or other affiliate of the Licensee) in consideration for the supply of a Qualifying Programme to a third party for the purposes set out in clause 2.1 of this Agreement; subject only to the following deductions:

- (a) VAT;
- (b) any withholding tax not recoverable by the Licensee; and
- (c) a genuine refund paid by the Licensee as a result of the party to whom a Qualifying Programme was supplied not being able to Broadcast or otherwise use that Qualifying Programme as a result of the failure to clear other third party rights or as a result of censorship requirements.

5.2 For the purposes of clause 5.1 above, the consideration paid to the Licensee may take any form, including (without limitation) cash funds, services, goods, agreements to purchase advertising or sponsorship, or other barter or contra deals.

5.3 Where a supply of a Qualifying Programme by the Licensee to another party is not on a true arms-length basis (for example, if supply is to an affiliated company of the Licensee), then the consideration for the purposes of clause 5.1 shall be deemed to be the fair market value of the Qualifying Programme.

5.4 If a package of programmes is sold including one or a number of Qualifying Programmes for an inclusive fee, the Licensee shall, for the purposes of clause 5.1 above, ascribe a proportion of the total revenue to the individual Qualifying Programmes in the package on a genuine market-value basis. MCPS is entitled to challenge the allocation of prices as between programmes included in the package, following which the Licensee agrees to re-consider in good faith such valuation.

6. Payment and Reconciliation

6.1 The Licensee shall pay to MCPS the Advance in instalments, the invoices for which will be issued by MCPS at the beginning of the months set out in Annex A.

6.2 Following the end of each Contract Year (or, where the Term expires during a Contract Year, then following the expiry of the Term) and following submission by the Licensee of the Sales Information, MCPS will calculate the Royalty Fee for that period (the "Period") as per clause 4.4 above.

- 6.3 Where the Royalty Fee for a Period exceeds the Advance paid during that same Period, MCPS will invoice the Licensee for the difference between the two (“the Balancing Payment”) and the Licensee shall pay such invoice.
- 6.4 For the purposes of clause 6.3, the supply of a Qualifying Programme by the Licensee shall be regarded as one falling within a certain Period if the payment to the Licensee for that Qualifying Programme (or the *first* payment, if payment is to be in instalments) is made (or is due to be made) within that Period.
- 6.5 All invoices are due for payment in full within 28 days of the date of issue.
- 6.6 If any relevant change in Retail Price Index has not been published by the time that MCPS is due to send a VAT invoice hereunder then MCPS shall instead invoice the Licensee based on the previous Contract Year’s fees (adjusted with such adjustments for the current year as are available). The Licensee shall pay such invoice within 28 days of receipt thereof, such payment being on account of the correct fees due for that Quarter. When MCPS has the information required to produce correctly adjusted fees for the relevant Quarter, it shall invoice the Licensee the relevant adjustment, which shall be payable by the Licensee within 28 days of receipt thereof. This clause 6.6 is without prejudice to MCPS’s rights under clause 6.7.
- 6.7 Without imposing any obligation on MCPS to accept late payment and without prejudice to any rights and remedies MCPS may have by virtue of any failure of the Licensee to comply with this Agreement, MCPS is entitled to charge interest on the licence fees at 3% above the National Westminster Bank base rate if:
- (a) the Licensee has not paid an invoice within 28 days of its date of issue; or
 - (b) MCPS has been unable to invoice the Licensee for Royalty Fees due as a result of a failure by the Licensee to supply MCPS with the Sales Information or the Reporting Information.

Interest shall run from the date upon which the Licensee would have paid the amount due had it complied fully with this Agreement until the date when MCPS actually received the relevant amount.

7. Reporting Requirements

- 7.1 The Licensee shall in respect of each Qualifying Programme supply to MCPS a Cue Sheet by the end of the Quarter in which the Qualifying Programme is first supplied pursuant to this Agreement. Such Cue Sheet may be supplied in Excel format, either on disk or via email.
- 7.2 The Licensee shall supply to MCPS the Sales Information, in the format set out in Annex D, on a quarterly basis and within one month of the end of the Quarter in which the Qualifying Programme was supplied to a third party pursuant to this Agreement.
- 7.3 Unless notified otherwise, the Licensee will send the Sales Information by email to tvprogrammes@prsformusic.com.
- 7.4 For the avoidance of doubt, where the Licensee records Production Music into Qualifying Programmes pursuant to clause 2.2, then it must provide to MCPS a Cue sheet which incorporates details of such dubbed Production Music (and not the *original* cue sheet).
- 7.5 Where, as a result of any error in the Licensee’s reporting (and, in particular, any failure by the Licensee to clearly and accurately indicate in its reporting whether a Musical Work is a Commissioned Work or a Pre-Licensed Work), the royalties distributed by MCPS do not accurately or fairly represent that which each of the Members or MCPS’s affiliated societies should have received then, without prejudice to any other remedies MCPS may be entitled

to pursue:

- (a) the Licensee shall be liable to pay the amount the affected Members or affiliated societies should have received calculated using the applicable rate in place at the time it should have been reported. Any such claims of underpayment pursuant to this Clause 7.5(a) will be valid only where such claim is made both during and up to 12 months after termination of this Agreement; and
- (b) in the event of any overpayment by the Licensee, MCPS shall not be required to reimburse the Licensee.

8. Auditing

- 8.1 The Licensee shall keep and make available for inspection upon reasonable notice, both during and for twelve months after termination of this Agreement, proper, detailed books and records relating to (a) the use of all Musical Works in Qualifying Programmes and (b) any income or other consideration received by or on behalf of the Licensee in relation to the supply of Qualifying Programmes, together with any supporting documentation relating thereto.
- 8.2 For the purposes of this clause 8, the Licensee shall allow upon reasonable notice access to its premises to inspect accounting records, but not more than once per annum. The duly authorised representatives of MCPS 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.
- 8.3 If tests under any audit and verification process indicate under-payment of the correct Royalty Fee during which monitoring has been carried out by or on behalf of MCPS, then, without prejudice to MCPS's 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 MCPS to the date when it was actually paid (at the rate of 3% over the base rate current from time to time of National Westminster Bank Plc).
- 8.4 If any audit and verification process discloses (a) under-payment of more than 7.5% of the correct Royalty Fee during which monitoring has been carried out by or on behalf of MCPS and/or (b) failures to report correctly amounting to at least 7.5% of the music usage during the period monitored by or on behalf of MCPS, then, without prejudice to MCPS's other rights under this Agreement, the Licensee shall pay, in addition to the payment referred to in clause 8.3, MCPS's reasonable costs of such audit and verification within 28 days of receipt of MCPS's VAT invoice therefore.
- 8.5 For the avoidance of doubt, books, records and accounting records as referred to in clauses 8.1 and 8.2 above shall be deemed to include data, information and records held on computers.

9. Confidentiality

Neither party shall disclose to any third party any confidential information of the other party (so long as it remains confidential) received pursuant to this Agreement, save that MCPS may disclose confidential information of the Licensee to PRS, PRS for Music Limited, to members of PRS and MCPS, to societies affiliated to MCPS or PRS, and to MCPS's professional advisors (where such advisors are under a duty of confidentiality in relation to information so received) for purposes connected with the administration of rights in Musical Works.

10. Termination

- 10.1 The Licensee shall be entitled to terminate this Agreement upon no less than 3 months' notice, with termination to take effect on the day prior to the first day of the next Contract Year. For example, where the Commencement Date is 1 January 2020 and the Licensee provides notice of termination on or before 30 September 2020, such notice shall take effect on 31 December 2020 (being the day prior to the first day of the next Contract Year commencing on 1 January 2021).
- 10.2 MCPS shall have the right at any time to terminate this Agreement forthwith where the Licensee:
- (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 by that party of a formal notice specifying in reasonable detail the breach on which the terminating party relies; or
 - (b) commits a material breach of this Agreement which is not capable of remedy in which event the party seeking to terminate shall specify in reasonable detail the material breach on which it relies by notice to the other party.
- 10.3 A party shall have the right to terminate this Agreement forthwith if the other party:
- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
 - (b) becomes insolvent or is unable to pay its debts 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;
 - (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 clause 10.2(a) to (g) (inclusive); or

- (i) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.
- 10.4 In circumstances where MCPS terminates the Programme Sales licensing scheme, MCPS shall be entitled to terminate this Agreement with no less than six months' written notice to the Licensee, such notice to take effect no earlier than 1 January 2021. In such circumstances, MCPS shall notify the Licensee of alternative licensing arrangements, including any modified licensing scheme to be operated by MCPS.
- 10.5 Where MCPS has a mandate to implement changes to the rates or other terms of this Agreement, from time to time as part of changes to the Programme Sales licensing scheme, MCPS shall notify the Licensee of the modified terms in writing. The modified terms shall take effect no less than 3 months after such notification from MCPS, save where the Licensee notifies MCPS in writing that it does not agree to the terms, in which case the Licensee may instead terminate this Agreement upon providing MCPS with no less than 30 days' notice.
- 10.6 No licence fees already paid (or payable) to MCPS shall be returnable (or credited) to the Licensee upon termination of this Agreement.
- 10.7 Termination of this Agreement for whatever reason shall be without prejudice to any rights which have already accrued to the parties under this Agreement.
- 10.8 Each party's further rights and obligations shall cease immediately on termination except that those clauses the survival of which is necessary for the interpretation or enforcement of this Agreement, shall survive termination of this Agreement and shall continue in full force and effect.

11. Notices

- 11.1 Any notice or other written communication given under or in connection with this Agreement shall only be effective if it is in writing and (if not given by e-mail) signed by or on behalf of the party giving it. Notice may be given by e-mail save that notice to terminate this Agreement shall not be served by e-mail.
- 11.2 The address for service of any party shall be its registered office marked for the attention of the Chief Executive or Managing Director, or, to such other address as may be notified in writing from time to time to the server.
- 11.3 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, two Business Days after the date of posting or in the case of airmail, four Business Days after the date of posting;
 - (c) if sent by fax or e-mail:
 - (i) if received during Business Hours, at the time of receipt of transmission in the place to which it was sent; or
 - (ii) if not received during Business Hours, at the beginning of the next Business Day at the place to which it was sent.
- 11.4 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 fax or e-mail that an activity or other report from the sender's fax 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 fax number and the number of pages transmitted).


12. Miscellaneous

- 12.1 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 preclude any other or further exercise thereof or the exercise of 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.
- 12.2 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.
- 12.3 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 MCPS.
- 12.4 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.
- 12.5 The parties respectively 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.
- 12.6 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.
- 12.7 If any provision of the Agreement is or becomes illegal, void or invalid, that shall not affect the legality and validity of the other provisions, which shall continue in full force and effect.
- 12.8 Neither party to this Agreement shall be liable to the other party for any failure to perform any or all of its obligations hereunder is due to or attributable to acts, events, omissions or accidents beyond the reasonable control of the defaulting party, including a so-called act of God, fire, lockout, strike or other official labour dispute, union problem, riot or civil commotion, terrorism, satellite failure, failure of technical facilities not within the reasonable control of the defaulting party, act of public enemy, enactment, rule or order or act of government, such act or event being deemed an event of force majeure. Each party to this Agreement undertakes to use all reasonable endeavours to notify the other party as soon as practicable of the incidence and termination of any event of force majeure.
- 12.9 The Licensee acknowledges that this is a 'blanket' licence agreement, and that for both parties to take advantage of the administrative simplicity of such a licence, the mechanism for calculating the licence fees (including the MCPS claim in a Qualifying Programme) must take account of all copying of Repertoire Works, including where some such copying might fall within one of the exceptions set out in Part I Chapter III of the 1988 Act. In the event that a licensee wishes to have the ability to claim in one or more cases that a licence is not required for a particular use of a Repertoire Work, then a blanket licence is not, for administrative reasons, the appropriate form of licence and such licensee should instead seek direct work by work licences from MCPS.

12.10 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.

Annex C

Format for Reporting Information

<p>Music Cue Sheet</p> 		PROGRAMME TITLE			CONTRACT NUMBER:		TX DATE:		PAGE NUMBER 1 OF	
		EPISODE TITLE			EPISODE NUMBER:		ORIGIN CLASS X=Commissioned P=Live Performance V=Video T=Soundtrack C=Commercial L=Library		USE B=Background F=Featured S=Signature	
		PRODUCTION COMPANY AND TELEPHONE NUMBER:			PRODUCTION NUMBER (ITV):					
			REPEAT TX:							
TIME CODE	MUSIC TITLE	COMPOSER/ARRANGER	PUBLISHER	PERFORMER (S)	RECORD LABEL AND No.	VIDEO LABEL AND No.	ORIGIN CLASS	USE	DURATION	

Annex D

Format for Sales Information

Programme	Acquiring Party	Territory	Exploitation	Gross Payment	W/H Tax	Gross Sale Price

Where:

- ◆ 'Programme' is the title of the Qualifying Programme
- ◆ 'Acquiring Party' is the party to whom the Licensee supplied the Qualifying Programme
- ◆ 'Territory' is the territory (or territories) of broadcast for which the Qualifying Programme is supplied
- ◆ 'Exploitation' is the form of exploitation for which the Qualifying Programme is supplied (by reference to the categories in clause 2.1. In particular, the Licensee shall state whether the Qualifying Programme has been supplied for Terrestrial Broadcast.
- ◆ 'Gross Payment' is the full consideration of the sale (calculated in accordance with clause 5) *before* withholding tax (if any) is deducted, but after deduction of VAT
- ◆ 'W/H Tax' is withholding tax on the Gross Payment (if any) but only to the extent not recoverable by the Licensee (or Acquiring Party)
- ◆ Gross Sale Price is the Gross Payment less withholding tax (if not recoverable) and is, for the avoidance of doubt, the sum defined in clause 5.