

COVER SHEET

**PRS FOR MUSIC JOINT
GENERAL ENTERTAINMENT
TELEVISION LICENCE**

NAME OF LICENSEE	ITV Network Limited (" the Licensee ")
COMPANY REGISTRATION NUMBER OF LICENSEE	00603893
REGISTERED ADDRESS OF LICENSEE	The London Television Centre Upper Ground London United Kingdom SE1 9LT

Signed on behalf of the Licensee contracting for and on behalf of itself and as agent of the Network Licensees:

_____ **Date:** _____

Signed on behalf of the Mechanical-Copyright Protection Society Limited ("MCPS") of 2 Pancras Square, London, N1C 4AG, contracting for and on behalf of itself and for and on behalf of and as agent of its various members and the Foreign Societies:

_____ **Date:** _____

Signed on behalf of the Performing Right Society Limited ("PRS") of 2 Pancras Square, London, N1C 4AG, contracting on behalf of itself and for and on behalf of and as agents of the Foreign Societies:

_____ **Date:** _____

ANNEX A

TERMS AND CONDITIONS

1. DEFINITIONS

- "Agreement"** shall mean the cover sheet, the Annex A terms and conditions and any schedules to the terms and conditions.
- "Audio-Visual Material"** shall mean any audio-visual material or any part thereof EXCEPT it specifically excludes any material which constitutes an advertisement of whatsoever nature, but for the avoidance of doubt does not exclude any and all Generic Station Promotions and Sponsorship Messages.
- "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.
- "BARB"** shall mean the Broadcasters' Audience Research Board.
- "Broadcast"** shall have the meaning ascribed thereto in section 6 of the 1988 Act and the term "Broadcasting" shall be construed accordingly.
- "Broadcasting Licence"** shall mean the licence referred to in clause 2.1(i), (j) and (k).
- "Channel 4"** shall mean the television broadcasting channel known as Channel 4 owned and/or controlled by Channel Four Television Corporation.
- "Commercial Work"** shall mean each Musical Work (excluding Production Music Works) the copyright in which is owned or controlled, from time to time, by the Licensor or a Member or a Foreign Society or a Foreign Society Member. If one or more of those who own or control the copyright in a relevant Repertoire Work is not the Licensor(s) (or a Member or a Foreign Society or a Foreign Society Member), the expression "Commercial Work" shall only apply to such interest in the Commercial Work as is owned or controlled by the Licensor(s) or the Member, Foreign Society or Foreign Society Member as applicable.
- "Continuity Link"** shall mean an item of pre-recorded and/or live material, often short in duration, used by the Licensee for the purpose of continuity of service towards the end of a programme or during a programme's credits or during commercial air-time including by means of overlaying an announcement and/or shrinking and pushing a programme window to a corner of the main

	screen, but excluding all Audio-Visual Material which constitutes programme material.
"Contract Year"	shall mean each period 1 January to 31 December during the Term.
"Data Processing Deadline"	shall mean the date by which MCPS and/or PRS would have completed processing of Music Usage Information in respect of a piece of Audio-Visual Material in advance of its next distribution to its Members, had it received full and accurate reporting from the Licensee by the relevant due date.
"Data Storage Device"	shall mean any medium on which data can be stored (whether temporarily or permanently) whether existing now or invented in the future.
"Download"	means the communication to the public of Audio-Visual Material, whereby such Audio-Visual Material may be copied to the User's Data Storage Device and/or as the context requires the file created as a result of such copying.
"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.
"Financial Institution"	means any company, firm or other undertaking whose primary business is the provision of financial services, including the making of loans.
"Foreign Society"	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 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, 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.
"Foreign Society Member"	shall mean any person, firm or company who or which has, from time to time, been notified by the relevant Foreign Society to MCPS or PRS (as the context requires) as being a member of that Foreign Society.
"Generic Station Promotion"	shall mean each item of Audio-Visual Material produced for the purpose of promoting the Licensed Services and/or the specific brand(s) of the Licensed Services (including without limitation each item of Audio-Visual Material prominently featuring the logo and/or image and/or words associated with a Licensed Channel and/or a specific Programme or series or season of Programmes scheduled for communication

to the public on a Licensed Service which is not:

- (a) a Trailer;
- (b) an advertisement; or
- (c) a Station Identification.

"GEOD Service" shall mean a Limited Download/On-Demand Streaming Service and/or a Permanent Download Service whether on a free or pay basis.

"ITVPlayer/ITV Hub" shall mean any proprietary on-demand player of any Network Licensee making GEOD Services available.

"Licence Fee(s)" shall mean the fee payable by the Licensee to the Licensors as set out in clause 6.

"Licences" shall mean the MCPS Licence and the PRS Licence.

"Licensed Channel(s)" shall mean the Licensee channels listed in Schedule 1, as may be amended from time to time pursuant to clause 5.

"Licensed GEOD Services" shall mean the GEOD Services listed in Schedule 1 and such other GEOD Services as may be notified by the Licensee to the Licensors from time to time provided that:

- (a) such services are GEOD Services; and
- (b) such services are not primarily online music services (i.e. services that would be licensable under the Licensors' online music licence or limited online music licence licensing schemes); and
- (c) the Licensee is the Service Provider in relation to the GEOD Services,

but, for the avoidance of doubt, where a service that would otherwise constitute a Licensed GEOD Service under this Agreement but for the incorporation of an element that is separately licensed (or licensable) as an online music service, the remaining elements of such service shall constitute a Licensed GEOD Service for the purpose of this Agreement and the licences granted hereunder.

"Licensed Services" shall mean the Licensed Channels and the Licensed GEOD Services.

"Licensee Group" shall mean any Network Licensee, any ultimate parent undertaking of any Network Licensee and all direct or indirect subsidiary undertakings of any such parent undertaking where "parent undertaking" and "subsidiary undertaking" have the meanings given to

them by sections 390 and 1162 Companies Act 2006 respectively.

- “Licensors”** shall mean MCPS and PRS.
- “Limited Download / On Demand Streaming Service (LD/ODS)”** shall mean a service (or the relevant part of a service) whereby a User may receive Audio-Visual Material by streaming on-demand via a Network (where the time and place at which such Audio-Visual Material is received is selected by the User) and/or may Download via a Network that Audio-Visual Material but where such Download may not be retained by the User on a permanent basis.
- “Looped Content”** shall mean Audio-Visual Material licensed under this Agreement compiled into a loop of programming by the Licensee for repetitive linear transmission via online and mobile network platforms provided that such loop of programming shall not exceed three hours in duration and shall not consist of entire Programme(s).
- “MCPS Licence** shall mean the licence granted by MCPS in clause 2.
- “Member”** shall mean each person firm or company who or which has:
- (a) in the case of MCPS, 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.
 - (b) in the case of PRS, is a member of PRS pursuant to the Articles of Association of PRS PROVIDED THAT a member who has been admitted as such 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.
- “Music Based Channel”** shall mean any channel on which on a representative day 60% or more (in terms of duration) of such of the Audio-Visual Material transmitted on that channel between the hours of 7 a.m. and midnight GMT/BST (i) consists of or includes Music Videograms and/or Musical Works; and/or (ii) is music-orientated and/or music related; and/or (iii) includes coverage of one or more of the following elements or themes (or parts or combinations of parts of the same):
- (a) biographical or historical descriptions, accounts, depictions, analyses or critiques of the work(s) of particular musicians, artists, groups of musicians

and/or artists, composers and/or songwriters, musical genres, companies, organisations or individuals involved in the music or Music Videogram business(es) or groups of any or all of the foregoing;

- (b) the professional, social, private, domestic and family lives of any one or more of the following: musicians, artists, groups of musicians and/or artists, songwriters and composers, and individuals who are (or were) involved in the music business;
- (c) recordings or live broadcasts of live or mimed performances of Musical Works, concerts, festivals, sets, gigs, or private music sessions;
- (d) descriptions of recording studios, concert venues, festival venues, as well as forthcoming or past events at any and all of the same;
- (e) awards and award ceremonies relating to music, Musical Works, Music Videograms and the achievements or work of any one or more of the following: musicians, artists, groups of musicians and/or artists, songwriters and composers, and individuals who are (or were) involved in the music business.

"Music Usage Information"

shall mean the information required under the Licensor's standard reporting Format 5.2

"Music Videogram"

shall mean an item of Audio-Visual Material:

- (a) which has as the main feature of its soundtrack a recording of a single Repertoire Work; 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.

"Musical Work"

shall mean any work consisting of music and any lyrics or words written to be used with the music if applicable. It includes any part of such a work.

"New Channel Fee"

shall have the meaning ascribed to it in clause 5.5.

"Network"

shall mean the internet, a mobile network or any other wired or wireless network.

"Network Licensees"

shall mean the parties listed in Schedule 2 of this Agreement.

"Non-Broadcast Production DVDs"

shall mean non-retail DVD's containing Audio-Visual Material made by the Licensee solely for the purposes of non-commercial training of Licensee employees and

for corporate presentations to Licensee employees and/or other third party groups provided that such third party groups are made up of a closed audience and such presentations are not open to members of the public.

"Non-Programme Material"

shall mean any Audio-Visual Material in relation to a Licensed Service which is either:

- (a) a Trailer; or
- (b) a Generic Station Promotion; or
- (c) a Sponsorship Message; or
- (d) a Station Identification; or
- (e) a Continuity Link; or
- (f) a Music Videogram.

"OFCOM"

shall mean the Office of Communications established under Section 1 of the 2003 Act or any body replacing the same pursuant to an amendment to the 2003 Act or any statute replacing the 2003 Act. References to OFCOM and the 2003 Act shall be deemed to be references to the ITC and the 1990 Act (respectively) where applicable.

"Online Music Licence"

shall mean the Licensors' scheme known as the "Online Music Licence" as published by the Licensors from time to time.

"Pay-Per-View Service"

shall mean any linear transmission and/or retransmission from a distance by any technology (including, without limitation, broadcast, microwave, satellite and cable) of any Audio-Visual Material which is/are only made available on an encrypted basis for reception on television receivers in homes where (a) a specific charge is made to the viewer for the right to view the same (whether by way of a fee charged for a descrambling device or other fee basis) and (b) the viewer is not able to choose the date or time upon which that particular programme or event is accessed.

"Permanent Download Service"

means a service (or the relevant part of a service), by which a piece of Audio-Visual Material is 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, and the term "Permanent Download" shall be construed accordingly.

"Permitted Excerpts"

refers only to Dramatico-Musical Works and shall mean 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 in any single programme;
- (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 5 minutes.

A dramatic form shall be deemed to be created only by a performance in which there is a distinct plot depicted by actors and where the story of the Dramatico-Musical Work and/or its associated words is woven into and carries forward the plot and its accompanying action (a dramatic form shall not, for example, be deemed to be created by the use of costume, scenery, and/or any dance routine merely to provide an acceptable presentation of the work). For the purposes of this paragraph the word "actors" shall include actors, singers, mimics and/or puppets.

"Permitted Service"

shall mean any channel:

- (a) which is, under the control and responsibility of the Licensee, introduced into an uninterrupted chain of communication (including, in the case of satellite transmission, the chain leading to the satellite and down towards earth) from within the United Kingdom; and
- (b) which, if not directly controlled by the Licensee, is controlled by an entity in which the Licensee has a 30% or greater beneficial interest (whether in terms of share ownership of such entity or, in the case of a partnership, in the capital of that partnership); and
- (c) which has been granted an OFCOM licence or equivalent; and
- (d) which is a linear scheduled television channel; and
- (e) which is not a Music Based Channel; and
- (f) which is not a Pay-Per-View Service.

For the avoidance of doubt, an overlay of one or more viewer-optional interactive enhancements including but not necessarily limited to on-screen text or

different camera angles does not for these purposes prevent a channel from being a linear television channel.

- "PMSR"** shall mean any production music sound recording being a sound recording (as opposed to a Musical Work) the copyright in which is owned or controlled in the United Kingdom by MCPS (or any Member or any Foreign Society or Foreign Society Member) and where such party has authorised MCPS to license such recordings as so-called production or library music.
- "Premises"** shall mean any premises owned or leased and occupied by the Licensee.
- "Production Music"** shall mean Production Music Works and PMSRs.
- "Production Music Work"** shall mean any Musical Work:
- (a) embodied on a PMSR; and
 - (b) the copyright in which is owned or controlled, from time to time, by MCPS (or a Member or a Foreign Society or a Foreign Society Member of MCPS). If one or more of those who own or control the copyright in a relevant Repertoire Work is not MCPS (or a Member or a Foreign Society or a Foreign Society Member), the expression "Production Music Work" shall only apply to such interest in the Production Music Work as is owned or controlled by MCPS or the Member, Foreign Society or Foreign Society Member as applicable.
- "Programme"** shall mean any Audio-Visual Material except Non-Programme Material.
- "PRS for Music"** shall mean PRS for Music Limited whose registered office is at 2 Pancras Square, London, N1C 4AG.
- "PRS Licence"** shall mean the licence granted by PRS in clause 3.
- "Quarter"** shall mean consecutive periods of three months, each beginning on 1 January, 1 April, 1 July, 1 October in any Contract Year during the Term.
- "Repertoire Work"** shall mean in relation to:
- (a) the MCPS Licence, each Commercial Work and Production Music; and
 - (b) the PRS Licence, each Musical Work the copyright in which is owned or controlled, from time to time, by PRS (or a Member or a Foreign Society or a Foreign Society Member). If one or more of those who own or control the copyright in a relevant Repertoire Work is not PRS (or a Member or a

Foreign Society or a Foreign Society Member), the expression "Repertoire Work" shall only apply to such interest in the Repertoire Work as is owned or controlled by PRS or the Member, Foreign Society or Foreign Society Member as applicable.

- "Reproduction Licence"** shall mean the licence referred to in clauses 2.1(a), (b), (c), (d), (e), (f), (g) and (h).
- "RPIJ"** shall mean the Retail Price Index Jevons, as currently reported in the Office for National Statistics' monthly Consumer Price Inflation statistical bulletin.
- "S4C"** shall mean the television broadcasting channel known as Sianel Pedwar Cymru.
- "Service Provider"** shall mean the party which, in relation to the GEOD Service, most closely meets the following criteria:
- (a) contracts with the User in relation to the provision of the GEOD Services;
 - (b) sets and controls the price the User pays;
 - (c) can fully report on all elements of the gross revenue (including relevant advertising revenues) of the GEOD Services;
 - (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 GEOD Services; and
- carries out or authorises, on their instruction, the carrying out of the copyright restricted acts licensed under this Agreement.
- "Simulcast"** shall mean a substantially concurrent transmission of a live broadcast from a Licensed Channel or to make a concurrent transmission of a live broadcast from a Licensed Channel, as the context requires. For the avoidance of doubt, "substantially" in the context of this definition allows for a de minimus delay (i.e. a number of seconds at most) between the originating transmission and the concurrent transmission. Such delay should only arise from technical reasons (including without limitation the necessity of buffering).
- "Sponsor"** shall mean any public or private undertaking or individual (other than a broadcaster or programme producer) who is funding the programming with a view to promoting its products, services, trade marks and/or its activities.
- "Sponsorship"** shall mean an item of Audio-Visual Material which

Message"	includes a reference to the Sponsor's products, services or trade marks, except for permitted prop placement and product placement as defined in the relevant OFCOM rules, subject always to the restrictions in paragraph 1(d) of Schedule 3.
"Station Identification"	shall mean an item of Audio-Visual Material prominently featuring the logo and/or image and/or words associated with a Licensed Channel and which does not refer in any way to (i) specific Programmes or (ii) genres of Programmes.
"Term"	shall mean the period 1 January 2014 to 31 December 2017.
"Title Music"	shall mean music used as part of any one or more of the following: <ul style="list-style-type: none"> (a) the main title sequence for a Programme; (b) any credits relating to a Programme; (c) any links into or out of a Programme and/or schedule breaks, whether occurring before during or after a Programme.
"Total Production Costs"	shall mean the final production budget in connection with the production of the Audio-Visual Material (being the total approved shooting budget of the Audio-Visual Material exclusive of so-called indirect costs (including without limitation contingency, completion guarantee fees, overheads, financing fees, pre-delivery interest, legal and accountancy fees)).
"Trailer"	shall mean an item of Audio-Visual Material the primary purpose of which is to inform the viewer of a Programme or series or selection of Programmes scheduled for forthcoming broadcast on a Licensed Service.
"the 1988 Act"	shall mean the Copyright Designs and Patents Act 1988 as may be amended from time to time.
"the 1990 Act"	shall mean the Broadcasting Act 1990 as may be amended from time to time.
"the 1999 Act"	shall mean the Contracts (Rights of Third Parties) Act 1999 as may be amended from time to time.
"the 2003 Act"	shall mean the Communications Act 2003 as may be amended from time to time.
"United Kingdom"	shall mean the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man.
"User"	means a natural person in the United Kingdom who

receives the Licensed GEOD Services for their own private and non-commercial use.

“User Generated Content”

shall mean Audio-Visual Material created by members of the public and uploaded to the Licensed GEOD Services.

“Viewer Hours”

the aggregate hours of viewing of the Licensed Channels (and timeshifted viewing as captured by BARB) as calculated by taking the average of the minute-by-minute audience for each Licensed Channel over the course of a Contract Year and multiplying it by the number of hours in that Contract Year, calculated using viewing data from reports (Gold Standard; All Individuals 4+) published by BARB.

- 1.1 Where the context so admits, words importing the singular shall include the plural and vice versa.
- 1.2 References to any clauses or schedules shall, unless specifically stated otherwise, be construed as references to the clauses and schedules of this Agreement.
- 1.3 Any reference herein to any statute or statutory provision shall include every statutory amendment and re-enactment thereof and every regulation and order made thereunder or any statute or statutory provision replacing the same.
- 1.4 Any phrase setting out a purpose or intention introduced by the term “Primarily” or “Primary” shall be construed in the context where, owing to the exigencies of financing modern audiovisual production, few programmes are financially viable without recourse to multiple revenue streams, some of which may be (and may be expected to be) more valuable than the purpose denoted as primary. Accordingly, the purpose may be denoted as primary despite the commensurate or greater economic or other importance of other purposes.

2. GRANT OF MCPS LICENCE

- 2.1 Subject to the terms and conditions set out in this Agreement, and in particular Schedule 3 and Schedule 5, MCPS hereby grants to the Licensee for itself and for the benefit of the Network Licensees, in respect of which the Licensee enters into this Agreement as agent for such Network Licensees, a non-exclusive licence to do the following during the Term:
 - (a) to reproduce or authorise the reproduction of Repertoire Works in the United Kingdom into Audio-Visual Material intended Primarily for communication to the public on the Licensed Services during the Term;
 - (b) to make copies in the United Kingdom of such Audio-Visual Material for the sole purpose of the communication to the public of the same on the Licensed Services during the Term, subject to the right of the Licensee to make copies of such Audio-Visual Material as between servers, to make copies for the purpose of creating safety copies and to make copies for the purpose of creating different versions (for instance, pre and post watershed versions of a Programme) of such Audio-Visual Material;
 - (c) to make copies in the United Kingdom of Repertoire Works incorporated into Music Videograms onto a hard disk play-out system for the sole

purpose of the communication to the public on the Licensed Services during the Term;

- (d) to reproduce or authorise the reproduction of Repertoire Works in the United Kingdom into Programmes intended Primarily for communication to the public on Channel 4 and S4C during the Term;
- (e) subject to clause 4.4 below, to reproduce on its servers for the sole purpose of communication to the public in the United Kingdom on the Licensed GEOD Services User Generated Content containing Repertoire Works, subject to the right of the Licensee to make copies of such User Generated Content as between servers, to make copies for the purpose of creating safety copies and to make copies for the purpose of creating different versions (for instance, pre and post watershed versions of a Programme) of such User Generated Content;
- (f) where the Licensed GEOD Service expressly authorises the temporary or permanent reproduction of Audio-Visual Material on Users' Data Storage Devices, to cause copies of Repertoire Works incorporated into Audio-Visual Material to be made in the United Kingdom for the User's own private and non-commercial use;
- (g) to reproduce Repertoire Works in the United Kingdom into Audio-Visual Material for the purposes of creating Non-Broadcast Production DVDs;
- (h) to make copies of Non-Broadcast Production DVDs to supply to potential advertisers, provided that not more than 6 separate sets of Non-Broadcast Production DVDs are given away in any Contract Year;
- (i) to communicate to the public PMSRs from any place within the United Kingdom and the Republic of Ireland as part of the Licensed Services (or to authorise the party actually carrying out the communication to the public of the Licensed Services to do the same);
- (j) to retransmit and otherwise communicate to the public, and authorise third parties to retransmit and otherwise communicate to the public, PMSRs as part of the Licensed Channels via cable and via high speed internet protocol based networks and digital subscriber line technology within the United Kingdom and the Republic of Ireland; and
- (k) to Simulcast PMSRs in the United Kingdom and the Republic of Ireland, including in the form of Looped Content.

2.2 In respect of Production Music only, the rights granted by MCPS in sub-clause 2.1(a) will apply additionally to Non-Programme Material made in the United Kingdom for the additional purpose of exploitation in all media throughout the world by the Licensee (and any other party authorised by the Licensee). For the avoidance of doubt, this additional grant of rights does not license (a) any further copying of Production Music outside of the United Kingdom, (b) any communication of PMSRs beyond that licensed under clause 2.1(i) or (c) any rights which are licensable by PRS.

2.3 For the avoidance of doubt, the Reproduction Licence includes (where necessary) the incidental copying of Repertoire Works as part of the production process leading to the creation of Audio-Visual Material.

- 2.4 The MCPS Licence licenses and permits the reproduction of Programmes containing Repertoire Works acquired from third parties for the sole purpose of communication to the public on the Licensed Services (and the communication to the public on the Licensed Services of PMSRs contained within such Programmes) where such Programmes have been lawfully made by the third parties:
- (a) in the United Kingdom under agreements entered into between such third parties and MCPS or MCPS Members directly that specifically license such use on the Licensed Services; and
 - (b) abroad and are imported by the Licensee and Network Licensees and licensed for such use on the Licensed Services.
- 2.5 For the avoidance of doubt, the MCPS Licence shall be subject always to the restrictions set out in Schedule 3 and Schedule 5, unless (i) the relevant Member has expressly consented to such use being covered under the MCPS Licence granted herein, and (ii) the Licensee has entered into an agreement with the relevant Member to this effect and (iii) evidence of such agreement has been provided to the Licensors.
- 2.6 For the avoidance of doubt, the Reproduction Licence includes:
- (a) the right for the Licensee and the Network Licensees to supply Trailers (containing Commercial Music) intended Primarily for communication to the public on the Licensed Services to third party websites/platforms for the purpose of those third party services streaming such Trailers on the internet within the United Kingdom.
 - (b) the right for the Licensee, the Network Licensees and their respective licensed platform operators (such as Sky, Virgin Media and YouView) to authorise a consumer who has recorded a Programme on a device (such as a Sky Plus or a Virgin Tivo set top box), to transfer that Programme onto another device (such as a tablet or smartphone) for viewing, such transfer either being by means of so-called "sideloading" from the original device to the secondary device or by means of the content being streamed from the original device to the secondary device; and
 - (c) the right for the Licensee, the Network Licensees and their respective licensed platform operators to authorise a consumer to stream the Licensed Channels received on a device in that consumer's home to other devices in the same home by means of simultaneous or near-simultaneous streaming.

Pending BARB capturing and reporting viewing data for the uses set out in clause 2.6(b) and (c) above the parties shall enter into good faith discussions about the reporting of viewing data (to the extent that they obtain it from the licensed platform operators) for those uses.

3. GRANT OF PRS LICENCE

- 3.1 Subject to the terms and conditions set out in this Agreement and in particular Schedule 4 and Schedule 5, PRS hereby grants to the Licensee for itself and for the benefit of the Network Licensees, in respect of which the Licensee enters into this Agreement as agent for such Network Licensees, a non-exclusive licence throughout the Term:

- (a) to communicate to the public Repertoire Works from any place within the United Kingdom as part of the Licensed Services (or to authorise the party actually carrying out the communication to the public of the Licensed Services to do the same);
- (b) to retransmit and otherwise communicate to the public, and authorise third parties to retransmit and otherwise communicate to the public, Repertoire Works as part of the Licensed Channels via cable and via high speed internet protocol based networks and digital subscriber line technology within the United Kingdom;
- (c) to Simulcast Repertoire Works in the United Kingdom including in the form of Looped Content;
- (d) to perform or authorise the performance of the Repertoire Works in the United Kingdom:
 - (i) in public in premises owned, leased or hired by the Licensee (or its agent) where the purpose of such performance is in the creation of a Programme for Broadcast and provided that (aa) such performance is or is intended to be communicated to the public with an audience present and (bb) the audience is admitted by or with the authority of the Licensee to the performance free of charge, except where the event in question is a charity event organised by the Licensee (or its agent), in which case, a fee may be charged for attendance. Notwithstanding the foregoing, where an aforementioned charity event takes place at a premises which already has, or should have, a public performance music licence then such licence shall take precedence;
 - (ii) in public in premises owned, leased or hired by the Licensee (or its agent) where the purpose of such performance is as background music to work, in-house staff training, and in staff gyms;
 - (iii) via a telephone switchboard (or equivalent system) so as to be audible to members of the public who telephone the Licensee (so-called "music-on-hold" services) on any telephone service operated by or on behalf of the Licensee other than any which the Licensee might operate on behalf of a third party; and
 - (iv) in Non-Broadcast Production DVDs for the training and corporate presentation purposes set out in clause 2.1(e) above.

3.2 The PRS Licence granted under clause 3.1(a) above only applies for the purposes of:

- (a) reception of each Licensed Channel in the United Kingdom and marine installations including oil rigs serviced from such countries and military camps and bases wherever situated where forces of such countries are stationed and embassies and consulates of such countries;
- (b) direct-to-home reception of each Licensed Channel in the Republic of Ireland; and
- (c) the communication to the public of the Licensed GEOD Service in the United Kingdom.

3.3 Due to the inherent nature and footprint of terrestrial and satellite signals, the Licensors acknowledge that the terrestrial and/or satellite broadcast signal of the Licensed Channels including Repertoire Works intended for reception in the United Kingdom may be received outside of such territory and that such incidental overspill shall not constitute a breach of this Agreement (in particular clause 3.2(a) hereof) provided that the Licensee shall not authorise such overspill.

4. AUDIO-VISUAL MATERIAL COVERED BY THE REPRODUCTION LICENCE

4.1 Without prejudice to the other restrictions contained in this Agreement, in order to qualify as Audio-Visual Material to which the Reproduction Licence applies, all the criteria referred to in clauses 4.2 to 4.5 must be fulfilled.

4.2 The Audio-Visual Material must be made by or commissioned by the Licensee or the Network Licensees for the Primary purpose of the Licensee or the Network Licensees communicating to the public the same on one or more of the Licensed Services. For the avoidance of doubt, the Reproduction Licence and Broadcasting Licence do not permit the exploitation of Audio-Visual Material produced hereunder by a co-producer or another broadcaster, but such exploitation may be permitted under a secondary exploitation agreement, subject to the terms thereof.

4.3 The Licensee must contribute at least 20% of the Total Production Costs of the Audio-Visual Material, PROVIDED THAT the Licensee shall be entitled to treat as counting towards its proportion of the Total Production Costs any finance which it contributes thereto and which has been loaned to it by a Financial Institution.

4.4 With respect to User Generated Content only, the criteria set out clause 4.2 and 4.3 shall not apply. The Licensors shall have the right to request that the Licensee remove from any Licensed GEOD Service any item of User Generated Content containing Repertoire Work(s) where such Repertoire Work has been reproduced and/or communicated to the public in a manner which fails to comply with the permissions, exclusions and limitations in respect of the use of Repertoire Works set out in Schedules 3-6. The Licensee shall remove such item of User Generated Content within 24 hours of receipt of notice from the Licensors from websites which are directly controlled by the Licensee and shall use reasonable endeavours to remove such items within the same timeframe from websites which are not directly controlled by the Licensee.

4.5 This Agreement does not license the reproduction of Repertoire Works into Audio-Visual Material which promotes services or products of the Licensee other than (in accordance with the terms and conditions of this Agreement) the Licensed Services.

5. NEW CHANNELS

5.1 Subject to the provisions of this clause 5, a new channel may be added to the list of Licensed Channels in Schedule 1 provided that it is a Permitted Service.

5.2 The Licensee shall notify the Licensors as soon as reasonably practicable prior to the launch of a new channel that it wishes the said channel to become a Licensed Channel.

5.3 The Licensee shall complete a channel questionnaire in respect of each new channel and shall submit such fully completed channel questionnaire to the Licensors, prior to the launch of the new channel.

- 5.4 Once the Licensee has submitted a channel questionnaire to the Licensors in accordance with clause 5.3 above, the new channel shall, provided that it is a Permitted Service, become a Licensed Channel.
- 5.5 Subject to clause 5.6, the additional fees in respect of new channels launched by the Licensee during a Contract Year ("**New Channel Fee**") shall be as follows:
- (a) £100,000 per annum in respect of a new general entertainment channel, other than a general entertainment channel consisting of predominantly acquired and/or repeat programming;
 - (b) £60,000 per annum in respect of a new general entertainment channel consisting of predominantly acquired and/or repeat programming; and
 - (c) £30,000 per annum in respect of a new gaming or teleshopping channel.

Where a new channel launches part way through a Contract Year, the above New Channel Fees shall be reduced on a pro-rated basis by reference to the number of unutilised days by the new channel of such Contract Year of launch.

- 5.6 New high definition Simulcasts of Licensed Channels; new channels which are time-shifted versions of Licensed Channels (subject to a maximum time-shift of not more than 3 hours from the original transmission time); multiplexed versions of Licensed Channels (including 3D versions of Licensed Channels) shall not incur a New Channel Fee.
- 5.7 Notwithstanding the foregoing, where a channel or channels become(s) owned by the Licensee during the Term as a result of Licensee acquiring the channel/channels or the entity that controls the channel/channels and such channel/channels or the entity that controls the channel/channels is already licensed by either or both of the Licensors, then the parties shall enter into good faith discussions as to adjustments to the commercial terms covering such channel/channels and if no agreement is reached within three months of acquisition, then the pre-existing licence(s) granted in respect of such channel/channels shall continue to apply.

6. LICENCE FEES PAYABLE

- 6.1 In consideration of the licences and authorisations granted under this Agreement, the Licensee shall pay to the Licensors the Licence Fees and any New Channel Fee (as may be applicable).
- 6.2 The Licence Fee shall be calculated as follows:
- (a) in respect of the first Contract Year, the licence fee for calendar year 2010 shall be adjusted by separately multiplying it by:
 - (i) a percentage equal to half the percentage change in Viewer Hours for the Licensed Channels between the calendar years 2009 and 2013; and
 - (ii) the percentage change in RPIJ between December 2009 and December 2013,and adding (or as the case may be subtracting) the product of each to (or from) the licence fee for calendar year 2010, subject to:

- (A) any reduction in Licence Fee calculated on a pro-rated basis as a result of a Licensed Channel ceasing to broadcast during the first Contract Year, such pro-rata reduction to be negotiated on a good faith basis; and
 - (B) any New Channel Fees which may be payable (i) pro-rated in accordance with clause 5.5, for new channels launched during the first Contract Year, and (ii) in full, for channels launched in the previous year.
- (b) in respect of each subsequent Contract Year, the Licence Fee for the previous Contract Year ("**Year A**") including the full New Channel Fees payable for channels launched in the Contract Year preceding Year A ("**Year A-1**") but excluding the pro-rated New Channel Fees payable for any channels launched in Year A (the "**Base Fee**"), shall be adjusted by separately multiplying it by:
- (i) a percentage equal to half the percentage change in Viewer Hours for the Licensed Channels between Year A-1 and Year A; and
 - (ii) the percentage change in RPIJ between Year A-1 and Year A,
- and adding (or as the case may be subtracting) the product of each to (or from) the Base Fee, subject to:
- (A) any reduction in Licence Fee calculated on a pro-rated basis as a result of a Licensed Channel ceasing to broadcast during that Contract Year, such pro-rata reduction to be negotiated on a good faith basis; and
 - (B) any New Channel Fees which may be payable (x) pro-rated in accordance with clause 5.5, for new channels launched during that Contract Year, and (y) in full, for channels launched in Year A.

6.3 In light of the availability of the relevant data, the Licensors and the Licensee acknowledge that the fees for the first, second and third Contract Years (as calculated in accordance with the mechanism set out in clause 6.2 above) are as follows:

- (a) First Contract Year (2014): £27,930,730.27;
- (b) Second Contract Year (2015): £27,159,205.03; and
- (c) Third Contract Year (2016): £26,508,373.33.

6.4 The Licensors acknowledge receipt of on-account fees for the first, second and third Contract Years in the amounts of £23,533,862.96, £23,619,999.96, and £13,778,333.31, respectively (together, the "**On Account Fees**"). The Licensee shall pay:

- (a) the difference between the On Account Fees (pro-rated for the period 30 July 2014 to 31 July 2016) and the corresponding Licence Fees (the "**Tribunal Reconciled Fees**") in the amount of £7,058,457.66 and

interest on the Tribunal Reconciled Fees in the amount of £432,777.73, each as ordered by the Tribunal; and

- (b) the difference between the On Account Fees (for the period between 1 January 2014 and 29 July 2014) and the corresponding Licence Fees in the amount of £2,562,499.18,

payable as a single lump sum subject to receipt of a valid invoice under this Agreement within 28 days from the date of invoice.

6.5 Subject to clause 6.4, the Licensee shall pay to the Licensors the Licence Fee and any New Channel Fee (as may be applicable) in monthly instalments (each instalment of the Licence Fee being one twelfth of the applicable Contract Year's Licence Fee) by direct debit subject to receipt of a valid invoice issued by the Licensors or by *PRS for Music* under this Agreement within 28 days from the date of invoice.

6.6 All fees, rates and sums quoted in this Agreement exclude VAT and the Licensee will pay VAT at the rate or rates from time to time in force on any fees, rates or other sums payable under this Agreement.

6.7 Notwithstanding any other provision in this Agreement, the Licensors confirm and warrant that *PRS for Music* is authorised to receive all payments under this Agreement as agent on behalf of the Licensors and each of the Members.

6.8 No deduction in respect of any tax, or any other deduction or set-off of whatsoever nature, shall be made in calculating or paying any sum due under this Agreement.

6.9 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, 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 National Westminster Bank Plc payable from the date on which the payment should have been made to the date on which the payment was made.

6.10 For the purposes of this clause 5, an invoice sent by fax or email shall be deemed to be received on the day sent. The Licensee shall promptly confirm the receipt of an invoice sent by email.

7. REPORTING

7.1 Transmission Logs

The broadcast transmission logs for both the Programme and Non-Programme Material returns shall be supplied by the Licensee to the Licensors or their designated agent within 4 weeks from the end of the week of the relevant broadcast period. In order for the Licensors to regulate their administrative processing, the Licensee will submit such usage reporting information on an on-going weekly basis (4 weeks in arrears) for both Programme and Non-Programme Material returns.

7.2 Programme, Non-Programme Material and Music Returns

- (a) In respect of the completion of both the Programme and Non-Programme Material returns along with the music details, the Licensee shall supply to

the Licensors in excess of 90% of information in respect of the Licensed Channels within the time scale provided for in Schedule 6. This threshold will be subject to review from time-to-time and may be revised by agreement between the parties.

(b) The percentage targets set out in clause 7.2(a) above denote the percentage of:

- (i) Programmes with music cue sheets;
- (ii) Programmes with no music;
- (iii) Non-Programme Material with music cue sheets;
- (iv) Non-Programme Material with no music,

reported to the Licensors in both Programme and Non-Programme Material returns within the time scale provided for by Schedule 6.

(c) The Licensee shall ensure that each Programme and Non-Programme Material return contains full and accurate information.

(d) The Licensors will measure the percentage completeness of the reporting of programme returns for each *PRS for Music* reporting period as detailed in Schedule 6, during the Term (such percentages to be calculated in respect of the relevant reporting period as a whole). The Licensors will inform the Licensee of the results of such measurements on 1 June for January, February and March of each calendar year; 1 September for April, May and June of each calendar year; 1 November for July and August of each calendar year; 1 March for September, October, November and December of the preceding calendar year or on such other dates as agreed between the parties. The Licensee will then provide the remaining information to achieve 100% reporting completeness on a date to be agreed between the parties and in any event by the date of the ITV delivery deadlines as outlined in Schedule 6.

(e) The percentage measurements set out in clause 7.2(a) above measure the completeness of Programme and Non-Programme Material reporting and not the completeness and duration of individual music items incorporated into such Programmes and Non-Programme Material. The Licensee and the Licensors agree to continue good faith discussions regarding the development of the Licensee's reporting systems to facilitate the measurement of the accuracy of reporting of music items contained within Programmes and Non-Programme Material through the implementation of, for example and without limitation, music recognition technologies such as "fingerprinting" and "watermarking".

7.3 Format for Programme Returns

The prescribed format for both Programme and Non-Programme Material returns shall be PRS for Music Format 5.2..

7.4 Generic Station Promotions

The Licensee shall report Quarterly to the Licensors in electronic format any new Generic Station Promotions that it has produced and it has communicated to the public that contain Production Music.

7.5 GEOD Reporting

The Licensee shall report for Licensed GEOD Services in the agreed version of *PRS for Music* non-linear v2.1 format and shall include the following information :-

- (a) in the case of repeated unique Programmes and Non-Programme Material (e.g. those repeated in the exact format of the original broadcast) made available on the Licensed GEOD Services, the relevant unique identification number (and Programme titled) instead of a cue sheet;
- (b) in the case of Programmes and Non-Programme Material which are produced solely for exploitation on the Licensed GEOD Services (i.e. which are not broadcast on the Licensed Channels), cue sheets for the Programmes and Non-Programme Material so made available on the Licensed GEOD Services;
- (c) the total number of Programmes and Non-Programme Material communicated to the public on the Licensed GEOD Services, separately identifying those that are downloaded and those that are streamed.

7.6. Clips

The parties shall continue to investigate a method of reporting the downloading and/or streaming on-demand of clips from Programmes. Notwithstanding the generality of the foregoing, the Licensee shall, so far as reasonably possible, provide to the Licensors the following minimum reporting information in respect of clips:

- (a) the total number of clips downloaded and/or streamed on-demand from the Licensed GEOD Services; and
- (b) in respect of each clip downloaded and/or streamed on-demand, the Programme from which the clip has been taken

7.7 Supply of Further Information

- (a) On receiving a request to do so the Licensee shall provide the Licensors with any further information or documentation in its possession, power, custody or control (and use its reasonable endeavours to supply to the Licensors any further information or documentation not in its possession, power, custody or control) as reasonably requested by the Licensors at any time in order to enable the Licensors to verify the Programme and Non-Programme Material returns and all other music usage information required to be provided under this clause 7. The Licensee shall acknowledge such a request within 5 working days of receipt and shall use its reasonable endeavours to supply the requested information within 28 days of receipt of such request, or in any event as soon as reasonably possible.
- (b) In the case of repeated unique Programmes (e.g. those repeated in the exact format of the original broadcast) only, provided that the appropriate cue sheet has been delivered in accordance with these reporting requirements at the time of the first broadcast of such Programme, and the production carried a unique identification number, the Licensee may

supply the relevant unique identification number (and Programme title) again instead of a cue sheet.

7.8 Reporting Liaison Meetings

In order to facilitate the provision of the Programme and Non-Programme Material returns and all other music usage information required to be provided under this clause 7, the parties shall hold monthly or quarterly reporting liaison meetings. The principal purpose for each meeting will be to:

- (a) agree standards for delivery of reporting both in respect of quantity and accuracy of the use of standard format which the Licensee should reasonably be expected to achieve within agreed timescales (where not already agreed or otherwise set out in this Agreement);
- (b) monitor performance and progress against these standards and investigate significant discrepancies including the provision of any relevant information by the parties to assist in this monitoring;
- (c) provide a forum for the supply to the Licensee of details of any incomplete or inaccurate reporting and details of any other problems that are occurring; and
- (d) work towards implementing any changes in reporting required as a result of any change control implemented in accordance with clause 7.11.

7.9 Errors and Queries

- (a) Except as set out in clause 7.2 above, in the event that any incomplete or inaccurate reporting or other problems come to light, the Licensee shall respond to each such query within four weeks in respect of communications to the public within the previous six months and within eight weeks in respect of communications to the public prior to that.
- (b) In the event that errors are repeated, a realistic timescale for correction will be agreed and monitored. Where the Licensee has not corrected the error within the agreed timescale, the parties shall enter into good faith discussions to agree an appropriate course of action and the amount of any costs payable by Licensee to correct such error.

7.10 PRS for Music Online Services

The Licensee will not be charged for using the Licensors' online discography enquiry service and the Licensors' web services interface, such use of 'the web services interface shall be on terms agreed by the Licensors and the Licensee.

7.11 Change Control Procedure

- (a) Other than as set out in clause 7.3 above, if at any time during the Term the Licensors wish to change (whether by addition, deletion or modification) the agreed format of the mode and/or the frequency of delivery of the Programme and Non-Programme Material returns and any other music usage information required to be provided under this clause 7 the procedures set out in this clause 7.11 shall apply.
- (b) The Licensors shall give full details of the proposed changes in writing to the Licensee. The Licensee will use its reasonable endeavours to respond

in writing within four weeks of receipt of the request, stating whether or not it agrees (in accordance with (d) below) to the changes (with or without modifications) and, if so, the date by which it could comply with the changes.

- (c) If the Licensee agrees to the changes, the parties shall meet to finalise the details of the changes (including any modification reasonably required by the Licensors) and to ensure that the agreed changes operate satisfactorily within the terms of this Agreement. The parties shall sign a document setting out the new form of reporting to supersede the existing Programme and Non-Programme Material returns and any other music usage information reporting format required to be provided under this clause 7 and any related changes, and the reporting mechanism will be deemed to be modified accordingly.
- (d) No reasonable change request made by the Licensors under this clause 7.11 shall be refused without good reason. Such good reason may, for example, include without limitation if the proposed change would create a significant additional administrative burden or cost.
- (e) If the Licensee wishes to implement changes to the reporting requirements set out in this Agreement (by way of example, but without limitation, if the Licensee is implementing changes to its internal reporting systems or is designing new internal reporting systems), then the parties shall meet and discuss in good faith any reasonable changes to the Licensee's reporting requirements. For the avoidance of doubt, requests to reduce the frequency of music usage reports or the target thresholds as set out in Schedule 6 shall not normally be deemed reasonable. No reasonable change request made by the Licensee under this clause 7.11 shall be refused without good reason. Such good reason may, for example, include without limitation if the proposed change would create a significant additional administrative burden or cost.

7.12 The parties agree that to the extent this Agreement makes provision for new reporting activities which are inconsistent with the reporting activities as between the parties prior to the date of signature of this Agreement, such new reporting activities shall take effect from the date of signature of this Agreement in respect of Programmes and Non-Programme Material in relation to the Licensed Services subject to the other provisions of this clause 7.

8. TERMINATION OF THE AGREEMENT

8.1 Unless terminated earlier in accordance with this clause 8 this Agreement shall expire on 31 December 2017.

8.2 The Licensee shall have the right to terminate this Agreement forthwith where the Licensors:

- (a) commit a material breach of this Agreement which is capable of remedy and fail to remedy such breach within 30 clear days after receipt by the Licensors of a formal notice specifying in reasonable detail the breach on which the Licensee relies; or
- (b) commit a material breach of this Agreement which is not capable of remedy in which event the Licensee shall specify in reasonable detail the material breach on which it relies by notice to the Licensors.

- 8.3 The Licensors shall have the right to terminate this Agreement either (i) in the case of a breach caused by the Licensee, as against the Licensee and all the Network Licensees or (ii) in the case of a breach caused by a Network Licensee as against the Network Licensee in breach, where the Licensee or Network Licensee:
- (a) commits a material breach of this Agreement which is capable of remedy and fails to remedy such breach within 30 clear days after receipt by the Licensee of a formal notice specifying in reasonable detail the breach on which the Licensors rely; or
 - (b) commits a material breach of this Agreement which is not capable of remedy in which event the Licensors shall specify in reasonable detail the material breach on which it relies by notice to the Licensee.
- 8.4 Each party shall have the right to terminate this Agreement forthwith if the other:
- (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 a 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 clauses (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.

8.5 The Licensors shall have the right to terminate this Agreement forthwith as against a Licensed Service by notice to the Licensee if such Licensed Service ceases to hold an OFCOM licence or equivalent.

8.6 The Licensors shall also have the right to terminate this Agreement forthwith if the Licensee fails to pay any sum due under this Agreement within 30 days of such payment becoming due, and following 30 days after receipt of formal notice by the Licensee of such late payment.

8.7 Termination of this Agreement for whatever reason shall be without prejudice to any rights which have already accrued to each party under this Agreement.

8.8 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.

9. MATERIAL CHANGE IN REPERTOIRE

9.1 The Licensee and the Licensors enter into this Agreement on the mutual understanding that the inventory of Repertoire Works, as at the date of signing of this Agreement, measured by the number and type of Repertoire Works owned or controlled by the Licensors, is substantially comprehensive in that the Repertoire Works comprise nearly all Musical Works (other than Musical Works in the public domain) which the Licensee is likely to wish to use in the Licensed Services.

9.2 Where:

- (a) there is a material reduction in the number and/or type of Repertoire Works covered by this Agreement as compared with the date on which it was signed; and/or
- (b) there is a material reduction in the scope of rights that the Licensors are able to offer as compared with the rights expressly granted in this Agreement; and/or
- (c) the repertoire of a major publisher ceases to form part of the scope of the Repertoire Works covered by this Agreement as compared with the date on which it was signed,

(each a "**Material Change**"),

then, without prejudice to any other rights or remedies available to the Licensee at law or in equity, the Licensee shall have the right to require that negotiations are entered into in respect of the licence fee payable from the point of such Material Change. If no agreement is reached between the parties within three months of the date of such request from the Licensee then the Licensee shall have the right to terminate this Agreement by giving written notice to the Licensors.

10. SERVICE PROVIDER IN RESPECT OF GEOD SERVICE

The Licensee may at any time provide details to the Licensors of its plans to distribute, or its existing activities in relation to the distribution of, Audio-Visual Material via a GEOD Service and may request that the Licensors confirm the identity of the Service Provider in respect of such GEOD Service for the purpose of this Agreement. The Licensors shall use best endeavours to provide confirmation of the identity of the Service Provider in respect of such service for the purpose of this Agreement within 14 working days from receipt of a request from the Licensee provided that the Licensee has given the Licensors sufficient information about the relevant GEOD Service and (except where prevented by reasons of commercial confidentiality) the identity of the third party. The Licensors' confirmation of the identity of the Service Provider shall be binding and non-revocable provided the GEOD Service remains in the form described to the Licensee at the time of the request.

11. NOTICES

- 11.1 Subject to the provisions of clause 6, any notice or other 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 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 or, if any other address for service has previously been notified to the server, to the address so notified, marked for the attention of, in the case of the Licensors: the Chief Executive or Managing Director, and in the case of the Licensee: the Controller of Acquisitions, Rights and Regulatory, Legal, ITV Network.
- 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, 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.
- 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 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.

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, save that the parties acknowledge that this Agreement does not affect a party's accrued rights and obligations which continue pursuant to any previous agreements between the parties or any of them.
- 12.3 This Agreement shall not be modified or varied except by a written instrument signed by the parties hereto.
- 12.4 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 the Licensors save to a member of the Licensee's Group which may from time to time act in place of the Licensee as commissioner of programmes for some or all of the Licensed Channels, except that the Licensors acknowledge that the Licensee enters into this Agreement as agent for or otherwise for the benefit of the Network Licensees and that the Network Licensees are entitled to all rights and benefits granted to the Licensee under this Agreement and that the Licensee may sub-license or otherwise assign such rights and benefits to the Network Licensees.
- 12.5 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.
- 12.6 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.
- 12.7 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.
- 12.8 The Licensee enters into this Agreement, and makes any payments under it, for itself and as agent on behalf of the Network Licensees or otherwise under arrangements with the Network Licensees under which the Network Licensees contribute to such payments and, provided that it complies with the terms of this Agreement and such arrangements (including, without limitation, the financial contributions provided for under such arrangements), each Network Licensee shall be entitled to rely on and enforce its terms pursuant to the 1999 Act as if it were a party to it, and "Licensee" shall be construed accordingly.
- 12.9 Subject to clauses 12.8, 12.10 and 12.11:
- (a) for the purpose of section 1(2) of the 1999 Act the parties state that they do not intend any term of this Agreement to be enforced by any third parties;
 - (b) the parties may rescind or vary any or all of the terms of this Agreement or terminate this Agreement without the consent of any third party

(including without limitation any Network Licensees, and accordingly section 2(1) of the 1999 Act shall not apply; and

- (c) any third party right which exists or is available independently of the 1999 Act is preserved.

12.10 The Licensors shall be liable to the Network Licensees to the same extent as they are to (and subject to the same exclusions and limitations as are applicable to) the Licensee under this Agreement, provided that to the extent that the Licensee or a Network Licensee ("**Claimant**") has recovered any financial remedy from the Licensors in respect of any loss, liability or cost suffered by the Claimant arising under this Agreement, no party other than the Claimant may recover any financial remedy from the Licensors in respect of the same loss, liability or cost as suffered by the Claimant. For the avoidance of doubt, the Licensors shall have the rights conferred by section 3 of the 1999 Act in respect of claims by any Network Licensee.

12.11 The Licensee shall procure that each of the Network Licensees shall comply with the terms of this Agreement as if it were a party to this Agreement and the Licensee shall be liable to the Licensors, subject to clauses 12.6 to 12.9 (inclusive) for any loss, liability and cost arising out of any acts or omissions of the Network Licensees as would have been recoverable against the Licensee if such acts or omissions had been those of the Licensee.

12.12 Except as required by law or legal process or regulatory requirements and then only after prompt notice to the other party of a party's intention to disclose, the parties agree that the terms of this Agreement and any other information relating to either party disclosed in relation to this Agreement shall be kept confidential and, subject to clause 7.3, neither party shall disclose such terms (or such information) to any third party (other than its agents, principals, representatives, attorneys and shareholders) or make any press announcement without the prior written consent of the other. The provisions of this clause 12.12 shall not apply to any information which is:

- (a) at the date of this Agreement in or subsequently enters the public domain, other than by default of the recipient party;
- (b) obtained by the recipient party from a bona fide third party having free right of disposal of such information.

The obligations contained in this clause 12.12 shall endure beyond the termination of this Agreement for a period of three years.

12.13 This Agreement shall be construed according to the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the courts of England and Wales.

SCHEDULE 1

Licensed Channels

ITV1
Regional variations of ITV1
ITV2
ITV3
ITV4
CITV
STV
ITV Breakfast
Channel TV
ITV Encore ¹
ITVBe ²
Any '+1' channel versions of ITV1, ITV2, ITV3, ITV4, CITV, STV and Channel TV and of any new channel(s) pursuant to clause 5
Any High Definition Simulcasts of ITV1, ITV2, ITV3, ITV4, CITV, STV and Channel TV and of any new channel(s) pursuant to clause 5 it being acknowledged that ITV1 HD is a simulcast of both ITV Breakfast and the ITV1 service during their respective transmission hours

Licensed GEOD Services

GEOD Service
www.itv.com (including the Programme pages hosted on such site created by or on behalf of the Licensee and under the editorial control of the Licensee or any Licensed Channel)
www.itvlocal.com
www.stv.tv

¹ Launched on 9 June 2014.

² Launched on 8 October 2014.

ITVPlayer/ITV Hub on all platforms where Licensee is the Service Provider, provided that once the Licensors have agreed on the identity of the Service Provider in respect of a platform, such decision by the Licensors shall not be revoked in accordance with and subject to the provisions of clause 10 above. For the avoidance of doubt, the licences granted under this Agreement shall not cover the hosting or making available of ITVPlayer/ITV Hub (or any Audio-Visual Material thereon) on the Sky or Virgin Media platforms as a part of a Sky or Virgin Media offered SVOD (subscription video-on-demand) service as configured as at the date of this Agreement, but for the avoidance of doubt, such Sky or Virgin Media offered SVOD service excludes a Sky or Virgin Media offered AVOD (advertising funded video-on-demand) or TVOD (pay per view or transactional video-on-demand) service where, to the extent that the Licensee is the Service Provider, the licences granted under this Agreement shall apply to the hosting or making available of ITVPlayer/ITV Hub (or any Audio-Visual Material thereon) on such service.

SCHEDULE 2

Network Licensees

1.	ITV Broadcasting Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 00955957	2.	Ginger Television Productions Limited 62 - 65 Charnos Place Covent Garden London United Kingdom WC2N 4HG Company No. 02818356
3.	STV North Limited Pacific Quay Glasgow G51 1PQ Company No. SC035733	4.	UTV Limited Ormeau Road Belfast BT7 1EB Company No. NI004230
5.	Channel Television Limited The Television Centre La Pouquelaye St Helier Jersey Channel Islands JE1 3ZD Company No. FC025063	6.	STV Central Limited Pacific Quay Glasgow G51 1PQ Company No. SC172149
7.	ITV2 Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 1867871	8.	ITV Digital Channels Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 03101815
9.	ITV Consumer Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 02937518	10.	ITV Global Entertainment Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 2203983
11.	ITV Studios Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 3106525	12.	Independent Television News Limited 200 Grays Inn Road London WC1X 8XZ Company No. 00548648
13	STV Productions Limited Pacific Quay Glasgow G51 1PQ Company No. SC139254	14	ITV Breakfast Broadcasting Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 7698963

SCHEDULE 3

MCPS SPECIFIC PERMISSIONS, EXCLUSIONS AND LIMITATIONS

1. Restrictions applying to the Reproduction Licence in respect of Commercial Works only:
 - (a) In order to qualify as Audio-Visual Material to which the Reproduction Licence applies (and notwithstanding any other terms and conditions of this Agreement), where the Audio-Visual Material contains any Commercial Work, such Audio-Visual Material must comply fully with all the conditions of paragraphs 1(b) to (d) (below).
 - (b) The Reproduction Licence shall not permit the use of Commercial Works in:
 - (i) Generic Station Promotions;
 - (ii) Station Identifications;
 - (iii) Sponsorship Messages.
 - (c) The Reproduction Licence shall permit the use of any Commercial Work in Title Music provided such Commercial Work is not used in more than 2 episodes of a series of a Programme. The Licensee must obtain the prior written approval of the relevant Member(s) in the event that the Licensee wishes to use such Commercial Work in more than 2 episodes of a series of a Programme.
 - (d) The Reproduction Licence shall not apply to the use of any Commercial Work where the positioning and use of the Commercial Work in relation to a Sponsorship Message or advertisement may lead a reasonable person to associate such Commercial Work with the Sponsor or advertiser. For the avoidance of doubt, an association will be deemed to exist where there is:
 - (i) no discernible gap between a Commercial Work and (i) the Sponsorship Message or advertisement and/or (ii) a reference to the Sponsor or advertiser; or
 - (ii) where there are multiple uses of the same Commercial Work in the same Audio-Visual Material which contains multiple Sponsorship Messages from either the same or a number of Sponsors and irrespective of whether a discernible gap exists between the Commercial Work and the references to the Sponsor(s).
2. General Restrictions:
 - (a) The MCPS Licence does not license or permit the reproduction (or the authorisation of such act) of any Repertoire Work by means of a recording if the making of such recording infringed the copyright in such Repertoire Work.
 - (b) The MCPS Licence licenses and permits the use of Music Videograms where these are reproduced for the purpose of communication to the public on the Licensed Channels but would otherwise be excluded because they fail to comply with clause 4 of this Agreement.

- (c) The Reproduction Licence shall not permit the use of Repertoire Work(s) with any advertising of whatsoever nature where:
 - (i) such Repertoire Work(s) are incorporated into such advertising; or
 - (ii) such Repertoire Work(s) are otherwise presented in such a way that a reasonable person might associate the Repertoire Work(s) with the advertising

PROVIDED THAT nothing in this sub-clause shall prevent the use of Repertoire Works in Non-Programme Material as otherwise permitted by this Agreement.

- (d) The MCPS Licence shall not apply to the use of any Repertoire Work(s) for the purpose of (whether in whole or in part):
 - (i) directly or indirectly encouraging the purchase or obtaining of goods or services of whatsoever nature; or
 - (ii) promoting the branding of the Licensee, any affiliate of the Licensee or any third party;

in such a manner that:

- (aa) one or more particular Repertoire Works, composers or writers are associated with such promotion; or
- (bb) a reasonable person might assume that there was an association between particular Repertoire Works, composers or writers and such promotion.

For the avoidance of doubt, this paragraph 2(d) shall not exclude the use of Production Music in Generic Station Promotions.

- 3. The MCPS Licence 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 of 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) without prejudice to paragraphs 1 and 2 above, 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 Programme.
- 4. The Reproduction Licence will not apply to Audio-Visual Material where detailed scheduling information (including the running order) as to Commercial Works that will be included in such material is provided in advance of broadcast on any Licensed Channel.
- 5. The provisions of this Agreement authorise the making of Audio-Visual Material for the specific purposes set out in this Agreement. In the event that a copy of

any Audio-Visual Material or the soundtrack thereof is made or used in any way for any other purpose, including rental and/or lending, whether by the Licensee or any other party then that copy shall not be licensed under this Agreement. MCPS reserves all rights including those of its Members and the Foreign Societies and the Foreign Society Members to take action in relation to any such copy.

SCHEDULE 4

PRS SPECIFIC PERMISSIONS, EXCLUSIONS AND LIMITATIONS

1. The PRS Licence does not license or permit:
 - (a) notwithstanding clause 3.1(d), the public performance given by means of the direct or indirect reception of the Licensed Channels;
 - (b) the communication to the public (or the authorisation of such act) of any Repertoire Work by means of a recording if the making of such recording infringed the copyright in such Repertoire Work; or
 - (c) the communication to the public (or the authorisation of such act) of any Repertoire Work where the MCPS Licence requires prior approval for the reproduction of such Repertoire Work and such approval has not been obtained from MCPS or the copyright owner, as required.

SCHEDULE 5

JOINT MCPS AND PRS PERMISSIONS, EXCLUSIONS AND LIMITATIONS

1. The MCPS Licence and the PRS Licence apply only in relation to use on Licensed Channels and the Licensed GEOD Services and only to the extent that such Licensed Channels are, and remain throughout the Term, Permitted Services and the Licensed GEOD Services remain GEOD Services.
2. Subject to clause 3.2 (as qualified by clause 3.3), the MCPS Licence and the PRS Licence only apply to Licensed Channels to the extent that they are available within the United Kingdom and Republic of Ireland.
3. Where Audio-Visual Material is in addition made available for cinema or other theatric or non-theatric exhibition, no licence is granted hereunder in respect of any such use, and a separate licence must be obtained from the copyright owner prior to such use.
4. Where any Repertoire Work forms part of any Dramatico-Musical Work, the Licences shall not apply to the reproduction or communication to the public of:
 - (a) the whole Dramatico-Musical Work;
 - (b) any excerpt(s) from such Dramatico-Musical Work unless all of the following circumstances apply:
 - (i) the Audio-Visual Material contains only excerpt(s) within the definition of Permitted Excerpts; and
 - (ii) the Licensors have not notified the Licensee in writing that their Member or the Foreign Society Member objects to the reproduction or communication to the public of any such Repertoire Work

EXCEPT in the case of reproduction or communication to the public of the whole Dramatico-Musical Work or any excerpt(s) from such Repertoire Work where such reproduction or communication is of the whole or part of a film made primarily for the purpose of public exhibition in cinemas or similar premises.

5. 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.
6. The MCPS Licence and the PRS Licence do not extend to or permit the inclusion of any adaptation of any Repertoire Work in any Audio-Visual Material unless the relevant Member has expressly consented thereto for the purposes of the Agreement. By way of example only, this applies (to the extent the same constitute an adaptation) to:
 - (a) making any arrangement of the music; or
 - (b) making any alteration to the lyrics, save for any minor change which does not alter the meaning; for example, amending "She" to "He" (and vice versa) provided any such change is compliant with paragraph 3 of Schedule 3; or

- (c) 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
 - (d) using with music lyrics other than those written to be used with the music or authorised for use with the music; or
 - (e) using with lyrics music other than that written to be used with the lyrics or authorised for use with the lyrics.
7. Licensed Channels and any Audio-Visual Material broadcast on the same shall not fall within the MCPS Licence and/or the PRS Licence to the extent that any broadcast expressly or impliedly encourages home reproduction of Repertoire Works other than for the sole purpose of time-shifting a programme contained on a Licensed Channel (so long as this remains an exception to copyright under United Kingdom law).
 8. All rights not specifically granted under this Agreement are hereby reserved.
 9. 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 Audio-Visual Material 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 the Audio-Visual Material. For the purposes of this Agreement (but only insofar as the reproduction and broadcasting 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.
 10. Nothing in this Agreement affects the moral rights of authors of Repertoire Works whether subsisting in the United Kingdom and the Republic of Ireland or any other territory.

SCHEDULE 6

LICENSEE REPORTING DELIVERY MEASUREMENT

The data supply team at *PRS for Music* and the Licensee have been working together to seek an effective operational solution to measure the contractual requirement for complete music usage reporting expressed in the Agreement.

The proposed approach takes account of the following factors:

1. Licensors music usage collection process operates around Quarterly distribution cycles. The Licensee will be informed within a reasonable timescale about the deadline for the submission of reporting information about music broadcast in the specific months that will be used in a forthcoming distribution. This will enable the Licensee to target specified deadlines that are synchronous with the Licensors' distribution dates.

The information contained in the following table will be maintained on a regular basis and supplied to the Licensee for this purpose and, whilst the Licensee will use its reasonable endeavours to meet the 'Deadlines Receipt Date from Broadcaster' column, the parties will agree to an internal 'ITV Delivery Deadline' schedule detailed in the last column of the table as the final cut-off delivery date. These deadlines may change from time to time, subject to the agreement of the parties, and will remain under regular review.

Media	PRS Broadcasting distribution	Reporting period	<u>Primary Reporting Target</u> Deadline Receipt Date From Broadcaster of 90% reporting	<u>Secondary Reporting Target</u> Deadline Receipt Date from Broadcaster of remaining 10% reporting
TV	Apr-16	Sept, Oct, Nov, Dec 2015	22 February 2016	18 April 2016
TV	Jul-16	Jan, Feb, Mar 2016	23 May 2016	25 July 2016
TV	Oct-16	Apr, May, Jun 2016	29 August 2016	24 October 2016
TV	Dec-16	July, Aug 2016	31 October 2016	19 December 2016
TV	Apr-17	Sept, Oct, Nov, Dec 2016	27 February 2017	17 April 2017

2. While the goal is for the Licensee to strive towards 100% reporting of music usage information broadcast across all its Licensed Channels from experience this is known

to be unrealistic. It is therefore proposed to introduce percentile-based targets for reporting of Programmes and Non-Programmes and their cue sheets.

3. The Licensors and the Licensee will agree to the introduction of a Key Performance Indicator (KPI). The KPI will provide the benchmark against which the measurement for the completeness of reporting will be assessed. The date for the KPI measurement will be one week following the deadline receipt date from broadcaster. This KPI will take the form of a percentile threshold that will serve as a target for the completeness of reporting in a given 3-month period:

	Reporting Target	Notice to Improve
Licensed Channels: In-House produced Programmes and Non-Programme Material	90%	80%
Licensed Channels: Acquisitions; Sponsorship; Independents	80%	70%

The Reporting Target denotes the target for reported percentage of:

- Programmes with music cue sheets;
- Programmes with no music;
- Non-Programme Material with music cue sheets; and
- Non-Programme Material with no music,

that the Licensee will seek to exceed in each Quarterly reporting period.

A 'Notice to Improve' threshold is proposed for measuring unsatisfactory levels of reporting. Where the Licensee falls below this threshold in a Quarterly reporting period, the Licensors will issue the Licensee with a Notice to Improve. This will serve to formally recognise that the reporting in that period has fallen to a level that both parties believe to be less than adequate. In such an event, measures to remedy the situation will be discussed at the Licensors/Licensee music reporting liaison meetings. Where problems with the completeness of reporting are identified on an individual station the Licensors' broadcast monitoring team will be requested to conduct analysis to compare the broadcast output against the music reporting information supplied. A monitoring report will be provided to the Licensee identifying problems and providing recommendations for improvement where necessary. In some circumstances the Licensors may also issue a Notice To Improve for a specific station where there is a very high error rate in a monitoring report.



Programme Sales Licence

NAME OF LICENSEE	ITV Network Limited ("the Licensee")
REGISTERED ADDRESS OF LICENSEE	The London Television Centre Upper Ground London United Kingdom SE1 9LT
COMPANY NUMBER OF LICENSEE	00603893
COMMENCEMENT OF AGREEMENT	1 January 2014 ("the Commencement Date")
END DATE OF AGREEMENT	31 December 2017 ("the End Date") (subject to the terms of Annex A)

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

Signed on behalf of the Licensee contracting for and on behalf of itself and as agent of the Network Licensees:

_____ 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 of its various members and associated societies:

_____ Date: _____

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ANNEX A

STANDARD TERMS AND CONDITIONS

1. Definitions

"1988 Act"	shall mean the Copyright Designs and Patents Act 1988, as amended from time to time.
"Broadcast"	shall have the meaning set out in the 1988 Act.
"Business Day"	shall mean any day which is not a Saturday, Sunday or Public Holiday.
"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 period of a year during the Term, beginning on the Commencement Date.
"Co-Producer"	shall mean any third party which is at the relevant time (i) an entity which makes, supplies and/or funds the production (in whole or in part) of a Qualifying Programme for the purpose of broadcast and/or other communication to the public or (ii) a broadcaster of any television network or channel other than the Licensee, whether terrestrial or satellite, and whether or not established in the United Kingdom or (iii) the provider of other communication to the public services whether or not established in the United Kingdom. For the purpose of this definition, the relevant time shall be the date of final delivery by the producer of the relevant Qualifying Programme.
"Cue Sheet"	shall mean a document, in the form set out in Annex B, containing the relevant Reporting Information.
"Data Storage Device"	shall mean any medium on which data can be stored (whether temporarily or permanently) whether existing now or invented in the future.
"Download"	shall mean the communication to the public of audio-visual material, whereby such audio-visual material may be copied to the user's Data Storage Device and/or as the context requires the file created as a result of such copying.
"Dramatico-Musical Work"	shall mean any ballet, opera, operetta, musical, musical play or work of a similar nature.
"Duly Authorised Agent"	shall mean a bona fide agent whose primary business is the marketing, sale and distribution of audio-visual programmes on behalf of the makers of such programmes and who has been appointed by any of the

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	parties referred to in clause 2.10 in good faith to market, sell and distribute the relevant Qualifying Programme. For these purposes, any party who made the Qualifying Programme (whether alone or with any other party or parties) shall not be regarded as a Duly Authorised Agent.
"Duration of MCPS Music"	shall mean the total duration of Repertoire Works incorporated into a Qualifying Programme.
"Foreign Society"	shall mean each collecting society with which, from time to time, MCPS has an agreement under which MCPS is authorised to grant licences in relation to the other 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, 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.
"Foreign Society Member"	shall mean any person, firm or company who or which has, from time to time, been notified by the relevant Foreign Society to MCPS as being a member of that Foreign Society.
"Gross Sales Price"	shall have the meaning set out in clause 5.
"Joint Broadcast Licence"	shall mean the General Entertainment Television Licence entered into by the parties on or about the date of this Agreement.
"Licensee Group"	shall mean any Network Licensee, any ultimate parent undertaking of any Network Licensee and all direct or indirect subsidiary undertakings of any such parent undertaking where "parent undertaking" and "subsidiary undertaking" have the meanings given to them by sections 390 and 1162 Companies Act 2006 respectively.
"Licensed Services"	shall have the meaning ascribed to it in Joint Broadcast Licence.
"Limited Download / On Demand Streaming"	shall mean receipt by a user of audio-visual material by streaming on demand and/or where the user may Download that audio-visual material but where such Download may not be retained by the user on a permanent basis.
"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.

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<p>"Music Programme"</p>	<p>shall 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, where such primary theme is 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>For the avoidance of doubt, shows featuring one or more musical interludes (such as <i>Parkinson</i> or <i>Britain's Got Talent</i>) are not (in the form in which they exist today) Music Programmes.</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>"Network"</p>	<p>shall mean the internet, a mobile network or any other wired or wireless network.</p>
<p>"Network Licensees"</p>	<p>shall mean the parties listed in Annex D of this Agreement.</p>
<p>"Permanent Download"</p>	<p>shall mean a piece of audio-visual material communicated to the public via a Network in the form of a Download and where such Download may be retained by the recipient on a permanent basis.</p>
<p>"PMSR"</p>	<p>shall mean any production music sound recording being a sound recording (as opposed to a Musical Work) the copyright in which is owned or controlled in the United Kingdom by MCPS (or any Member or any Foreign Society or Foreign Society Member) and where such party has authorised MCPS to license such recordings as so-called production or library music.</p>
<p>"Primary"</p>	<p>any phrase setting out a purpose or intention introduced by the term "Primarily" or "Primary" shall be construed in the context where, owing to the exigencies of financing</p>

MCPS / ITV Programme Sales Licence

	modern audiovisual production, few programmes are financially viable without recourse to multiple revenue streams, some of which may be (and may be expected to be) more valuable than the purpose denoted as primary. Accordingly, the purpose may be denoted as primary despite the commensurate or greater economic or other importance of other purposes.
"Production Music"	shall mean Production Music Works and PMSRs.
"Production Music Work"	shall mean the Musical Work embodied on a PMSR.
"PRS"	shall mean the Performing Right Society whose registered office is at 2 Pancras Square, London, N1C 4AG.
"Qualifying Programme"	shall, subject to clause 4, have the following meaning: <ul style="list-style-type: none"> (a) an audio-visual programme made during or prior to the Term by, or co-produced by, the Licensee where all Repertoire Works contained in such programme have been validly licensed for the purposes of Primary Broadcast or Primary home video distribution (pursuant to a licensing scheme operated by MCPS (e.g. AVP or DVD1 V2) or Primary online (including without limitation Limited Download / On Demand Streaming and Permanent Download) and/or mobile transmission within the United Kingdom; and (b) an audio-visual programme made during or prior to the Term 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 (including without limitation Limited Download / On Demand Streaming and Permanent Download) and/or mobile transmission within the United Kingdom and where the Licensee has entered into an agreement with such third party to distribute such programme for secondary exploitation.
"Quarter"	shall mean each successive period of 3 months, the first beginning on the Commencement Date.
"Repertoire Work"	shall mean: <ul style="list-style-type: none"> (a) each Musical Work (or part thereof) the copyright in which is owned or controlled in the United Kingdom by MCPS (or a Member or a Foreign Society or Foreign Society Member); and (b) each PMSR.
"Reporting Information"	shall mean, in respect of each Qualifying Programme, full and accurate details of the Repertoire Works included within such Qualifying Programme.

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"Royalty Fee"	shall have the meaning set out in clause 4.2.
"Sales Information"	shall mean the information specified in Annex C.
"Term"	shall mean the period from the Commencement Date until the End Date (unless terminated earlier in accordance with clause 11).
"Terrestrial Broadcast"	shall mean a Broadcast by means of 'free to air' wireless linear transmission. For the avoidance of doubt, it does not include Broadcast via a cable service, digital terrestrial television or by satellite.
"Territory"	shall mean the World.

2. Secondary Rights Licensed: Qualifying Programmes

2.1 MCPS authorises the Licensee for itself and for the benefit of the Network Licensees, in respect of which the Licensee enters into this Agreement as agent, 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 without limitation and for the avoidance of doubt Broadcast, Limited Download / On Demand Streaming and Permanent Download) in the Territory (subject to clause 2.6 below) including but not restricted to terrestrial, satellite, cable, internet and mobile transmissions; and
- (b) viewing at any school or university or charity or college or film appreciation society or government department or any private audience of non-fee-paying viewers or any private audience of fee-paying viewers in circumstances where any fee which is paid by all or any such viewers is not paid primarily or principally for the purpose of viewing the Qualifying Programme (for example as in flight entertainment on aircraft operated by airlines), in each case throughout the Territory; and
- (c) viewing at any non-fee paying television programme festival in the Territory;
- (d) non-fee paying viewing by prospective purchasers of a Qualifying Programme, including for the avoidance of doubt, via the internet in the Territory; and
- (e) the manufacture and distribution of DVDs in North America, subject to that right only applying to Qualifying Programmes which have had a Primary Broadcast in the United Kingdom and to MCPS's prior approval in the case of repertoire which is not originally published in the United Kingdom.

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 itself and for the benefit of the Network Licensees, in respect of which the Licensee enters into this Agreement as agent, for the foregoing sole purpose, the non-exclusive right to reproduce into Qualifying Programmes during the Term in the United Kingdom:

- (a) Production Music;
- (b) Commissioned Works; and
- (c) other Repertoire Works, but only in instances where the Licensee has not been granted secondary exploitation rights in respect of the sound recordings of the Repertoire Works originally recorded in the Qualifying Programme.

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- 2.3 Licensee may add new music to any Qualifying Programme subject to their delivering a new Cue Sheet. However, for the avoidance of doubt, the addition of new music is subject to the same restrictions as are set out in clause 2.1 and clause 3 and no other party (including for the avoidance of doubt any co-producer) or commissioned party or party to whom the supply is made may add any new music ("**Authorised New Version**"), and any such Authorised New Version shall not make any changes to the original Qualifying Programme or to the music incorporated therein other than those necessary to permit different running times, insertion of commercial breaks, local censorship or other competent authority requirements or shall not constitute any other substantial alteration to the programme. For the purposes of this clause, "substantial" shall mean alterations having a material impact on the editorial content presentation and running order of the Qualifying Programme, having regard to the overall running time of the Qualifying Programme, the degree of topicality involved and other relevant factors.
- 2.4 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.
- 2.5 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. For the avoidance of doubt, this grant of rights to the Licensee does not affect any requirement for a third party to obtain relevant local licences in respect of restricted acts undertaken or authorised by that third party in the course of the secondary exploitation of the programme. Nothing in this Agreement shall affect the rights of any party owning, controlling or administering the copyright in any Repertoire Work outside of the UK, including the right to control importation into and distribution within such country.
- 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 It is hereby confirmed that MCPS has agreed to dispense with any requirement that there be a time limit within which a Qualifying Programme must be broadcast or transmitted on a Licensed Service in the event it is first broadcast or transmitted elsewhere on the basis of the Licensee's confirmation that there are occasions where for many different reasons (by way of example only, subsequent re-scheduling or appropriateness to a particular event or time) a Qualifying Programme may be transmitted elsewhere before it may be broadcast or transmitted on a Licensed Service, and that it is not possible in practice to put on any time limit on when (if ever) a Qualifying Programme is so broadcast or transmitted. Nevertheless, both parties confirm and acknowledge that the absence of such a provision firstly does not detract from the requirement that for a programme to count as a Qualifying Programme under this Agreement it must bona fide have been made for the primary licence purposes. In order to give reassurance to MCPS on this point, Licensee shall as soon as reasonably possible following the end of each calendar year of the Term deliver to MCPS a list of Qualifying Programmes which the Licensee knows have been broadcast or transmitted outside the Licensed Services during such calendar year prior to broadcast or transmission on a Licensed Service, specifying the title of the Qualifying Programme, the identifying number thereof and the name of the relevant country and channel (if known).
- 2.8 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 such activity shall be licensed under the Licensee's AVP agreement (or equivalent other agreement if AVP is replaced).
- 2.9 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 such activity shall be licensed under the Licensee's DVD1v2 agreement (or equivalent other agreement if DVD1v2 is replaced).

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2.10 The rights set out in clause 2.1 above may be exercised by a Network Licensee, a direct or indirect subsidiary of a Network Licensee and/or any Co-Producer of a Qualifying Programme (in respect of that Qualifying Programme only), or a Duly Authorised Agent of any of the above.

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 (to the extent the same constitute an adaptation):
 - (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; for example, amending "She" to "He" (and vice versa) provided any such change is compliant with paragraph 3 of Schedule 3 of the Joint Broadcast Licence; 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 seven minutes in duration; or
- (d) any Repertoire Work included within an advertisement or otherwise where the positioning of such Repertoire Work could reasonably lead a person to associate that Repertoire Work with an advertisement; or
- (e) a Music Programme 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) a Music Programme 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.

PROVIDED THAT paragraphs (e) and (f) shall be disregarded in respect of Music Programmes which have been produced and are in the sales catalogues of any of the Licensees prior to the date of this Agreement and shall only apply to sales into the United States and/or Canada.

PROVIDED FURTHER THAT in the case of a Music Programme that is a *talent show*, paragraphs (e) and (f) above shall not prevent the Licensee from selling all the episodes of an entire series of Programmes where one or more episodes of that series (but not the entire series) falls foul of the restriction in paragraph (e) and/or (f) in circumstances where it was not reasonably or commercially possible for the Licensee to sell the series excluding the particular episode(s).

The Licensee acknowledges that the above proviso is offered on an entirely non-precedential basis.

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

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- (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 of 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.

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.

4. Licence Fee

4.1 The Licensee shall pay to MCPS the Royalty Fees, as defined in clause 4.2 below.

4.2 The "Royalty Fee" shall mean, individually in relation to each Qualifying Programme:

- (a) in respect of the Territory excluding North America, the percentage of the Gross Sale Price calculated as follows:

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

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(b) in respect of North America, the percentage of the Gross Sale Price calculated as follows:

$$\frac{\text{Duration of MCPS Music}}{\text{Total Duration of Programme}} \times 17 = \text{MCPS \% claim in Programme}$$

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 In substitution for the Gross Sales Price in the following circumstances the Licensee shall apply a fair market value rate to the Qualifying Programme relating to the relevant type, media and territory of exploitation of the Qualifying Programme:

- (a) any supply of a Qualifying Programme by or on behalf of the Licensee to a company either in which the Licensee directly or indirectly has a financial holding of 20% or more or which directly or indirectly has a financial holding of 20% or more in the Licensee;
- (b) any supply of a Qualifying Programme under any form of barter agreement;
- (c) the broadcast of a Qualifying Programme by any Co-Producer, in which event there shall be deemed to be a supply of the Qualifying Programme to the Co-Producer on the date of the broadcast;
- (d) where any Co-Producer is taking or has taken an option to take extensive rights or licences directly or indirectly to exploit the Qualifying Programme and where the Licensee has no further financial interest in the revenue generated from the exploitation of the Qualifying Programme. For the purposes of determining whether or not extensive rights or licences have been taken under clause 5.3(d) any broadcasting of the Co-Producer shall be ignored. For the purposes of this clause 5.3(d) the Licensee shall be deemed to have no further financial interest where there is an agreement where the Licensee receives a part of such revenue which is materially lower than with normal commercial practice in this industry in order to avoid the effect of this clause;

5.4 Where any of the circumstances referred to in clause 5.3(a) to (d) apply, and the resulting Gross Sale Price is considered to be too low by MCPS, MCPS has the right to give notice that it wishes such price to be reviewed. Any such notice shall be in writing specifying the grounds on which MCPS claims that the price is too low. The Licensee will consider such notice and the grounds for the claim in good faith and will within 28 days of receipt of the notice notify MCPS whether or not it agrees that the price should be reviewed. If it is agreed that there should be a review, the parties will negotiate in good faith with a view to achieving and will use their best endeavours to agree a fair and

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reasonable price. No such review as is referred to in this clause shall affect the requirement to account and pay in accordance with clause 6 and 7.

- 5.5 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

- 6.1 The Licensee shall pay the Royalty Fees to MCPS Quarterly in arrears.
- 6.2 For the purposes of clause 6.1, the supply of a Qualifying Programme by the Licensee shall be regarded as one falling within a certain Quarter 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 Quarter.
- 6.3 The Royalty Fees payable under clause 6.1 on a full payment or a part or instalment thereof shall accrue to MCPS on the date on which any such payment is made or credited in relation to the supply of the relevant Qualifying Programme. Where the payment in relation to the Qualifying Programme is a part or instalment then the amount accruing shall be the same proportion of the total royalty on the Gross Sales Price as the amount of the part or instalment bears to the total payment to be made or credited in relation to the supply of the relevant Qualifying Programme PROVIDED THAT:
- (a) subject to sub-clause (b), the balance of the total royalty on the Gross Sales Price shall be deemed to accrue to MCPS no later than the date the last part or instalment is due;
 - (b) where any payment is not made or credited in relation to the supply of the relevant Qualifying Programme (by way of example only, because of a bad debt) then it is a matter for the relevant Network Licensee to decide whether or not to pursue payment of the money and for the avoidance of doubt the royalty shall still accrue to MCPS on the date referred to in sub-clause (a).
- 6.4 All invoices are due for payment in full within 28 days of the date of issue. Invoices shall be issued Quarterly.
- 6.5 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 negligent failure by the Licensee to supply MCPS with the Sales Information or Reporting Information.

Interest shall be payable 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.

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- 7.2 The Licensee shall supply to MCPS the Sales Information, in the format set out in Annex C, on a Quarterly basis and within three months 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 (a) the Sales Information and (b) the Reporting Information to MCPS (or to MCPS' duly authorised agent).
- 7.4 For the avoidance of doubt, where the Licensee records Production Music, commissioned music and/or other Repertoire Works into Qualifying Programmes pursuant to clause 2.2 and 2.3, then it must provide to MCPS a Cue Sheet which incorporates details of such dubbed works (and not the *original* cue sheet).

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 the records described in clause 8.1, but not more than once per Contract Year. The duly authorised representatives of MCPS shall be entitled to inspect, make extracts and take copies of any such information and/or documentation 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 discloses 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, MCPS-PRS Alliance 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

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- 10.1 The Licensee shall have the right at any time to terminate this Agreement forthwith where MCPS:
- (a) commits a material breach of this Agreement which is capable of remedy and fails to remedy such breach within 30 clear days after receipt by MCPS of a formal notice specifying in reasonable detail the breach on which the Licensee relies; or
 - (b) commits a material breach of this Agreement which is not capable of remedy in which event the Licensee shall specify in reasonable detail the material breach on which it relies by notice to MCPS.
- 10.2 MCPS shall have the right to terminate this Agreement either (in the case of a breach caused by the Licensee) as against the Licensee and all the Network Licensees or (in the case of a breach caused by a Network Licensee) as against the Network Licensee in breach where the Licensee or Network Licensee:
- (a) commits a material breach of this Agreement which is capable of remedy and fails to remedy such breach within 30 clear days after receipt by the Licensee of a formal notice specifying in reasonable detail the breach on which MCPS relies; or
 - (b) commits a material breach of this Agreement which is not capable of remedy in which event MCPS shall specify in reasonable detail the material breach on which it relies by notice to the Licensee.
- 10.3 Either party shall also 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;

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- (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 Without prejudice to Licensee's other rights and remedies available at law or in equity, including Licensee's right to sue for breach, no licence fees already paid (or payable) to MCPS shall be returnable (or credited) to the Licensee upon termination of this Agreement.
- 10.5 Termination of this Agreement for whatever reason shall be without prejudice to any rights which have already accrued to the parties under this Agreement.
- 10.6 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 or, if any other address for service has previously been notified to the server, to the address so notified, marked for the attention of, in the case of MCPS: the Chief Executive or Managing Director, and in the case of the Licensee: the Controller of Acquisitions, Rights and Regulatory, Legal, ITV Network.
- 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 e-mail:
 - (i) if received during Business Hours ("**Business Hours**" for the purposes of this clause 13 shall mean 09.00 to 17.30 local time on any Business Day) 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 an e-mail that an activity or other report from the sender's computer can be produced in respect of the notice or other written communication.
- 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.

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- 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, save that the parties acknowledge that this Agreement does not affect a party's accrued rights and obligations which continue pursuant to any previous agreement(s) between the parties. 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 (subject to clause 2.9) 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 save to a member of the Licensee's Group which may from time to time act in place of the Licensee as commissioner of programmes for some or all of the Licensed Channels, except that MCPS acknowledges that the Licensee enters into this Agreement as agent for or otherwise for the benefit of the Network Licensees and that the Network Licensees are entitled to all rights and benefits granted to the Licensee under this Agreement and that the Licensee may sub-license or otherwise assign such rights and benefits to the Network Licensees.
- 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 The Licensee enters into this Agreement, and makes any payments under it, for itself and as agent on behalf of the Network Licensees or otherwise under arrangements with the Network Licensees under which the Network Licensees contribute to such payments and, provided that it complies with the terms of this Agreement and such arrangements (including, without limitation, the financial contributions provided for under such arrangements), each Network Licensee shall be entitled to rely on and enforce its terms pursuant to the Contracts (Rights of Third Parties) Act 1999 (the "Act") as if it were a party to it, and "Licensee" shall be construed accordingly.
- 12.7 Subject to clauses 12.6, 12.8 and 12.9:
- (a) for the purpose of section 1(2) of the Contracts (Rights of Third Parties) Act 1999 the parties state that they do not intend any term of this Agreement to be enforced by any third parties;
 - (b) the parties may rescind or vary any or all of the terms of this Agreement or terminate this Agreement without the consent of any third party (including without limitation any Network Licensees), and accordingly section 2(1) of the Contracts (Rights of Third Parties) Act 1999 shall not apply; and
 - (c) any third party right which exists or is available independently of the Act is preserved.
- 12.8 MCPS shall be liable to the Network Licensees to the same extent as it is to (and subject to the same exclusions and limitations as are applicable to) the Licensee under this Agreement, provided that to the extent that the Licensee or a Network Licensee ("Claimant") has recovered any financial remedy from MCPS in respect of any loss, liability or cost suffered by the Claimant arising under this Agreement, no party other than the Claimant may recover any financial remedy from MCPS in respect of the same loss, liability or cost as suffered by the Claimant. For the avoidance of doubt, MCPS shall have the rights conferred by section 3 of the Act in respect of claims by any Network Licensee.
- 12.9 The Licensee shall procure that each of the Network Licensees shall comply with the terms of this Agreement as if it were a party to this Agreement and the Licensee shall be liable to MCPS, subject to clauses 12.6 to this clause 12.9 (inclusive) for any loss, liability and cost arising out of any acts or omissions of the Network Licensees as would have been recoverable against the Licensee if such acts or omissions had been those of the Licensee.

MCPS / ITV Programme Sales Licence

- 12.10 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.
- 12.11 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.
- 12.12 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.
- 12.13 This Agreement shall be construed according to the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the courts of England and Wales.

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Annex B

Format for Reporting Information

Music Cue Sheet A		PROGRAMME TITLE			CONTRACT NUMBER:
		EPISODE TITLE			EPISODE NUMBER:
		PRODUCTION COMPANY AND TELEPHONE NUMBER:			PRODUCTION NUMBER (ITV): REPEAT TX:
TIME CODE	MUSIC TITLE	COMPOSER/ ARRANGER	PUBLISHER	PERFORMER (S)	RECORD LABEL AND No.

MCPS / ITV Programme Sales Licence

Annex C

Format for Sales Information

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

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Annex D

Network Licensees

1.	ITV Broadcasting Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 00955957	2.	Ginger Television Productions Limited 62 - 65 Charnos Place Covent Garden London United Kingdom WC2N 4HG Company No. 02818356
3.	STV North Limited Pacific Quay Glasgow G51 1PQ Company No. SC035733	4.	UTV Limited Ormeau Road Belfast BT7 1EB Company No. NI004230
5.	Channel Television Limited The Television Centre La Pouquelaye St Helier Jersey Channel Islands JE1 3ZD Company No. FC025063	6.	STV Central Limited Pacific Quay Glasgow G51 1PQ Company No. SC172149
7.	ITV2 Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 1867871	8.	ITV Digital Channels Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 03101815
9.	ITV Consumer Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 02937518	10.	ITV Global Entertainment Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 2203983
11.	ITV Studios Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 3106525	12.	Independent Television News Limited 200 Grays Inn Road London WC1X 8XZ Company No. 00548648
13	STV Productions Limited Pacific Quay Glasgow G51 1PQ Company No. SC139254	14	ITV Breakfast Broadcasting Limited The London Television Centre Upper Ground London United Kingdom SE1 9LT Company No. 7698963



Andy Harrower
Director of Broadcast Licensing
PRS for Music
2 Pancras Square
London
N1C 4AG

[DATE] August 2016

Dear Jonathan,

We refer to the following agreements of today's date:

1. PRS for Music Joint General Entertainment Television Licence; and
2. MCPS / ITV Programme Sales Licence;

You will be aware from discussions between *PRS for Music* and ITV during 2013 and the first half of 2014 of certain issues concerning the use of North American-published repertoire in UK television programmes sold to US and Canadian broadcasters and other third parties.

A small number of independent North American publishers of a limited amount of premium, high profile repertoire continue to express concern that UK broadcasters are able to clear the UK rights for uses of this repertoire under UK blanket licences in such a way that no individual consents are required when programmes containing such repertoire are exported from the UK. With the growth in programme sales to the US market this issue is now such that these publishers and their UK sub-publishers who are members of MCPS (through whom these specific rights are licensed) are having major reservations about including their rights in broadcast blanket licences in the UK.

The way we deal with this in our standard, published scheme covering programme sales to North America is to make such uses of North American-published repertoire subject to the individual consent of the publishers concerned. We appreciate, however, that the introduction of such measures into the ITV licence, especially with short notice, could have a significant impact on ITV's business given the volumes and nature of programmes it makes and subsequently sells to broadcasters in the territory.

Given this, and the importance of our relationship with ITV, MCPS has continued to include these rights in the licence on the same terms as in the previous licence. In doing so, however, it is important that we mitigate the risk of a fundamental challenge to the blanket licence. To this end, ITV agrees to the following provisions:

- to work with *PRS for Music* to understand what repertoire is sensitive and of "high risk"
- to be sensitive in its choice of repertoire in programmes produced on or after the date of this letter that are sold to broadcasters and other third parties in North America

- to respond supportively to requests from individual publishers to seek their approval when using certain repertoire in programmes that are sold to broadcasters and other third parties in North America or, following discussions concerning such requests, as a last resort discuss with *PRS for Music* (and/or those publishers if appropriate) whether ITV is able to refrain from using such repertoire in these programmes

Please acknowledge your agreement to the terms of this letter by signing, executing and returning the enclosed copy.

Yours sincerely

Andy Harrower
Director of Broadcast Licensing