

**MCPSI / (Production Company /  
Licensee)  
Secondary Exploitation Agreement**



**THIS AGREEMENT** is made on the (date)

**BETWEEN :-**

- (1) **MECHANICAL-COPYRIGHT PROTECTION SOCIETY (IRELAND) LTD.** whose registered office is at Copyright House, Pembroke Row off Lower Baggot Street, Dublin 2, Ireland (“**MCPSI**”) contracting for and on behalf of itself and for and on behalf of and as agents of MCPS and its various Members and its affiliated societies; and
  - (2) **(Production Company / Licensee)** whose registered offices are at (address) (“**the Licensees**”)
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**1. Definitions**

“Advance”	shall have the meaning set out in clause 5.1.
“Broadcast”	<p>shall have the meaning shall have the meaning means an electronic transmission of visual images, sounds or other information which (a) is transmitted for simultaneous reception by members of the public and is capable of being lawfully received by them, or (b) is transmitted at a time determined solely by the person making the transmission for presentation to members of the public and which is not excepted as provided for at subclause 1 below and references to broadcasting shall be construed accordingly.</p> <p>1. Excepted from the definition of “broadcast” is any internet transmission unless it is:</p> <p>(i) a transmission taking place simultaneously on the internet and by other means;</p> <p>(ii) a transmission of recorded moving images or sounds forming part of a programme service offered by the person responsible for making the transmission, being a service in which programmes are transmitted at scheduled times determined by that person.</p>
“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 [ <b>DD/MM/YYYY</b> ]
“Cue Sheet”	shall mean a document, in the form set out in Schedule A, containing the relevant Reporting Information
“Dramatico-Musical Work”	shall mean any ballet, opera, operetta, musical, musical play or work of a similar nature.

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“Duration of MCPSI Music”	shall mean the total duration of Repertoire Works incorporated into a Qualifying Programme.
“Gross Sales Price”	shall have the meaning set out in clause 6.
"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.
“MCPS”	shall mean Mechanical Copyright Protection Society Ireland of Copyright House, Pembroke Row, Lower Baggot Street, Dublin 2.
“Musical Work”	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.
“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 Ireland by MCPSI (or any Member of MCPS) and where such party has authorised MCPSI to license such recordings as so-called production or library music.
“Production Music”	shall mean Production Music Works and PMSRs.
“Production Music Work”	shall mean the Musical Work embodied on a PMSR.
“Qualifying Programme”	shall have the meaning set out in clause 3.
“Quarter”	shall mean each successive period of 3 months, the first beginning on 1 <sup>st</sup> of January 20XX.
“Repertoire Work”	shall mean: (a) each Musical Work (or part thereof) the copyright in which is owned or controlled in Ireland by MCPSI (or a Member or an affiliated society or an affiliated society member of MCPS); and (b) each PMSR; but excludes any Commissioned Work (solely in relation to the specific purpose for which it was commissioned).

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“Reporting Information”	shall mean, in respect of each Qualifying Programme, full and accurate details of the Repertoire Works included within such Qualifying Programme
“Royalty Fee”	shall have the meaning set out in clause 5.4.
“Sales Information”	shall mean the information specified in Schedule B.
“Term”	shall mean the period from <b>DD/MM/YYYY</b> until <b>DD/MM/YYYY</b> (unless terminated earlier in accordance with clause 11).
“Terrestrial Broadcast”	shall mean a Broadcast by means of ‘free to air’ wireless transmission (whether in analogue or digital form). For the avoidance of doubt, it does not include Broadcast via a cable service or by satellite.
“Territory”	shall mean the World excluding the USA and Canada.
“2000 Act”	shall mean the Copyright and Related Rights Act 2000, as amended from time to time.

## 2. **Rights Licensed**

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

- (a) all forms of making available to the public by such third parties (including for the avoidance of doubt Broadcast and on demand transmissions) in the Territory (subject to clause 2.5 below) including but not restricted to terrestrial, satellite, cable, internet and mobile transmissions; and
- (b) viewing as in-flight entertainment on aircraft operated by airlines based in the Territory; and
- (c) viewing at non-fee paying television programme festival in the Territory; and
- (d) viewing by prospective purchasers of a Qualifying Programme, including for the avoidance of doubt, via the internet; and
- (e) educational establishments in the Territory for viewing by students as part of their studies, provided that no fee is charged to view such Qualifying Programme.

2.2 In circumstances where the Licensees wish 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,

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MCPSI hereby grants the Licensees, for the foregoing sole purpose, the non-exclusive right to reproduce in Ireland Production Music into Qualifying Programmes during the Term.

- 2.3 For the avoidance of doubt, the authorisation granted under clause 2.1 above only applies in relation to Repertoire Works. It does not apply to any other rights in Qualifying Programmes.
- 2.4 The licences granted under this Agreement only apply in respect of copying of Qualifying Programmes taking place within Ireland and only for the purposes of exploiting the rights set out in clause 2.1 above.
- 2.5 The authorisation granted in clause 2.1(a) above shall not apply to the supply of a Qualifying Programme falling within clauses 3(a) or (b) where the Broadcast for which the Qualifying Programme is supplied is by way of Terrestrial Broadcast within the Ireland.
- 2.6 If the Licensees wish to supply Qualifying Programmes containing Repertoire Works for retail sale in the form of non music VHS videos or non music DVDs (falling within the scope of the MCPS AVP licensing scheme (“AVP”) then the Licensees must apply for an AVP agreement (or equivalent other agreement if AVP is replaced).
- 2.7 If the Licensees wish to supply Qualifying Programmes containing Repertoire Works for retail sale in the form of music DVDs (falling within the scope of the MCPS DVD 1 version 2 licensing scheme (“DVD1x2”)) then the Licensees must apply for a DVD1x2 agreement (or equivalent other agreement if DVD1x2 is replaced).

### **3. Qualifying Programmes**

For the purposes of this Agreement, “Qualifying Programme” shall, subject to clause 4, have the following meaning:

- (a) an audio-visual programme made by the Licensees where all Repertoire Works contained in such programme have been validly licensed for the purposes of primary Broadcast within Ireland and where such programme has already been Broadcast (or scheduled for Broadcast) within Ireland; and
- (b) an audio-visual programme made by a third party where all Repertoire Works contained in such programme have been validly licensed for the purposes of primary Broadcast within Ireland and where (i) the Licensees have entered into an agreement with such third party to distribute such programme for secondary exploitation and (ii) such programme has already been Broadcast (or scheduled for Broadcast) within Ireland; and
- (c) audio-visual promotional programmes relating to a music artist (or artists) made primarily for the purpose of Broadcast and which has been Broadcast (or scheduled for Broadcast) in Ireland and made in the Territory by the Licensees or a third party, the making of which has been commissioned or expressly approved by the artist’s record company or management company.

**4. Restrictions in Relation to the Licence**

4.1 No programme or other material shall constitute a Qualifying Programme if it includes any of the following (unless the relevant Member has expressly consented to its inclusion for the purposes of the Agreement):

- (a) any adaptation of a Repertoire Work; by way of example only, this includes:
  - (i) making any arrangement of the music; or
  - (ii) making any alteration to the lyrics, save for any minor change which does not alter the meaning thereof; or
  - (iii) any sampling (as that expression is commonly used in the music industry) of the music and/or lyrics or reproduction in the form of a sample of the music and/or lyrics; or
  - (iv) using with music lyrics other than those written to be used with the music or authorised for use with the music; or
  - (v) using with lyrics music other than that written to be used with the lyrics or authorised for use with the lyrics; or
- (b) any Commercial Work or part thereof which is a parody or burlesque of any Commercial Work or of any composer or writer of any Commercial Work; or
- (c) any Commercial Work in any context which the Licensees ought reasonably to consider as being likely to be detrimental to the composer or artist featured on the commercially released sound recording of the music or the relevant Member, for reasons including but not limited to obscene, derogatory or controversial context of the content; or
- (d) any Dramatico-Musical Work; or
- (e) any individual or potted version of a Commercial Work exceeding 7 minutes in duration; or
- (f) any Repertoire Work included within an advertisement or sponsorship message or otherwise where the positioning of such Repertoire Work could reasonably lead a person to associate that Repertoire Work with an advertisement or sponsorship message; or
- (g) without prejudice to clause 3(c), programming relating to a single composer or author, composer and/or author team, music artist or record label and/or where all Commercial Works contained within the programme are by the same composer or author, or composer and/or author team or music artist or record label.

4.2 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.

4.3 Although the supply of certain audio-visual programmes is authorised for certain purposes, the acts of Broadcasting, other making available to the public and (where relevant) public performance of Repertoire Works are not licensed hereunder. Such other licences as may be

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necessary must be obtained separately by the Licensees (or other party to whom Qualifying Programmes are supplied, as applicable).

- 4.4 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, video / DVD exploitation or rental or lending) whether by the Licensees 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.
- 4.5 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 4.5 (but only insofar as the reproduction of PMSRs in accordance with this Agreement is concerned), MCPSI, for and on behalf of the Members of MCPS, warrants that all the necessary performers' waivers and consents have been obtained from the relevant performers insofar as their performances are embodied on PMSRs.
- 4.6 It is the responsibility of the Licensees 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.
- 4.7 Nothing in this Agreement affects the moral rights of authors of Repertoire Works whether subsisting in Ireland or any other territory.

## **5. Licence Fee**

- 5.1 The Licensees shall pay to MCPS:
- (a) a non-returnable advance against royalties of €0 plus VAT ("the Advance", this being subject to change according to clause 5.2 below) in respect of each Contract Year; and
  - (b) The Royalty Fees, as defined in clause 5.4 below.
- 5.2 The Advance is subject to increase each Contract Year in accordance with the increase in the Retail Price Index over the 12 month period immediately preceding the beginning of the new Contract Year.
- 5.3 Each Advance is recoupable against the Royalty Fees due in the applicable Contract Year, but is non-returnable. For the avoidance of doubt:
- (a) in the event that, throughout any Contract Year, the total Royalty Fees payable by the Licensees to MCPSI in respect of that Contract Year is less than the Advance

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paid, no part of the Advances shall be carried over to the following Contract Year;  
and

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

5.4 The “Royalty Fee” shall mean, individually in relation to each Qualifying Programme:

- (a) except in the circumstances referred to in 5.4(b) below, the percentage of the Gross Sale Price calculated as follows:

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

- (b) for Qualifying Programmes falling within clause 3(c) and which are supplied for Terrestrial Broadcast within Ireland, 17% of the Gross Sale Price.

5.5 For the avoidance of doubt, the Royalty Fees due under clause 5.1(b) shall be the aggregate of all Royalty Fees calculated pursuant to clause 5.4 above in respect of all sales of Qualifying Programmes during the applicable Contract Year.

**6. Gross Sale Price**

6.1 “Gross Sale Price” shall mean all amounts (in money or money’s worth) received or receivable by the Licensees (or any associate, agent, representative or other affiliate of the Licensees) 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 Licensees; and
- (c) a genuine refund paid by the Licensees 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.

6.2 For the purposes of clause 6.1 above, the consideration paid to the Licensees may take any form, including (without limitation) cash funds, services, goods, agreements to purchase advertising or sponsorship, or other barter or contra deals.

6.3 Where a supply of a Qualifying Programme by the Licensees to another party is not on a true arms-length basis (for example, if supply is to an affiliated company of the Licensees), then the consideration for the purposes of clause 6.1 shall be deemed to be the fair market value of the Qualifying Programme.

6.4 If a package of programmes is sold including one or a number of Qualifying Programmes for an inclusive fee, the Licensees shall, for the purposes of clause 6.1 above, ascribe a



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proportion of the total revenue to the individual Qualifying Programmes in the package on a genuine market-value basis. MCPSI is entitled to challenge the allocation of prices as between programmes included in the package, following which the Licensees agree to re-consider in good faith such valuation.

**7. Payment and Reconciliation**

7.1 The Licensees shall pay to MCPSI the Advance in instalments, the invoices for which will be issued by MCPSI at the beginning of:

No advance needed for this agreement

7.2 Following the end of each Contract Year (or, where the Term expires during a Contract Year, then following the expiry of the Term) and following submission by the Licensees of the Sales Information, MCPSI will calculate the Royalty Fee for that period (the "Period") as per clause 5.4 above.

7.3 Where the Royalty Fee for a Period exceeds the advance paid during that same Period, MCPSI will invoice the Licensees for the difference between the two ("the Balancing Payment") and the Licensees shall pay such invoice.

7.4 For the purposes of clause 7.3, the supply of a Qualifying Programme by the Licensees shall be regarded as one falling within a certain Period if the payment to the Licensees for that Qualifying Programme (or the *first* payment, if payment is to be in instalments) is made (or is due to be made) within that Period.

7.5 All invoices are due for payment in full within 28 days of the date of issue.

7.6 If any relevant change in Retail Price Index has not been published by the time that MCPSI is due to send a VAT invoice hereunder then MCPSI shall instead invoice the Licensees based on the previous Contract Year's fees (adjusted with such adjustments for the current year as are available). The Licensees shall pay such invoice within 28 days of receipt thereof, such payment being on account of the correct fees due for that Quarter. When MCPSI has the information required to produce correctly adjusted fees for the relevant Quarter, it shall invoice the Licensees the relevant adjustment, which shall be payable by the Licensees within 28 days of receipt thereof. This clause 7.6 is without prejudice to MCPSI's rights under clause 7.7.

7.7 Without imposing any obligation on MCPSI to accept late payment and without prejudice to any rights and remedies MCPSI may have by virtue of any failure of the Licensees to comply with this Agreement, MCPSI is entitled to charge interest on the licence fees at 3% above the Allied Irish Bank plc base rate if:

- (a) the Licensees have not paid an invoice within 28 days of its date of issue; or
- (b) MCPSI has been unable to invoice the Licensees for Royalty Fees due as a result of a failure by the Licensees to supply MCPSI with the Sales Information or the Reporting Information.

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

**8. Reporting Requirements**

- 8.1 The Licensees shall in respect of each Qualifying Programme supply to MCPSI a Cue Sheet by the end of the Quarter in which the Qualifying Programme is first supplied pursuant to this Agreement. Such Cue Sheet may be supplied in Excel format, either on disk or via email.
- 8.2 The Licensees shall supply to MCPSI the Sales Information, in the format set out in Schedule B, on a quarterly basis and within one month of the end of the Quarter in which the Qualifying Programme was supplied to a third party pursuant to this Agreement.
- 8.3 Unless notified otherwise, the Licensees will send (a) the Sales Information for the attention of the Licence Administrator at MCPSI's registered address via email – paul.mallon@imro.ie.
- 8.4 For the avoidance of doubt, where the Licensees record Production Music into Qualifying Programmes pursuant to clause 2.2, then they must provide to MCPSI a Cue sheet which incorporates details of such dubbed Production Music (and not the *original* cue sheet).

**9. Auditing**

- 9.1 The Licensees 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 Licensees in relation to the supply of Qualifying Programmes to third parties, together with any supporting documentation relating thereto.
- 9.2 For the purposes of this clause 9, the Licensees shall allow upon reasonable notice access to its premises to inspect accounting records, but not more than once per annum. The duly authorised representatives of MCPSI shall be entitled to inspect, make extracts and take copies of any of the information and/or documentation available and to carry out such work as is, in their reasonable opinion, considered necessary to verify compliance with the provisions of this Agreement.
- 9.3 If tests under any audit and verification process indicate under-payment of the correct Royalty Fee during which monitoring has been carried out by or on behalf of MCPSI, then, without prejudice to MCPSI's other rights under this Agreement, the Licensees shall pay the amount of the underpayment plus interest based on the period from which the correct fee should have been paid to the Licensors to the date when it was actually paid (at the rate of 3% over the base rate current from time to time of Allied Irish Bank plc).
- 9.4 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 MCPSI and/or (b) failures to report correctly amounting to at least 7.5% of the music usage during

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the period monitored by or on behalf of MCPSI, then, without prejudice to MCPSI's other rights under this Agreement, the Licensees shall pay, in addition to the payment referred to in clause 9.3, MCPSI's reasonable costs of such audit and verification within 28 days of receipt of MCPSI's VAT invoice therefore.

- 9.5 For the avoidance of doubt, books, records and accounting records as referred to in clauses 9.1 and 9.2 above shall be deemed to include data, information and records held on computers.

**10. 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 MCPSI may disclose confidential information of the Licensees to members of MCPS, to societies affiliated to MCPS, and to MCPSI'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.

**11. Termination**

- 11.1 Either party shall have the right at any time to terminate this Agreement forthwith where a Licensee:-

- (a) commits a material breach of this Agreement which is capable of remedy and fails to remedy such breach within 14 clear days after receipt by that party of a formal notice specifying in reasonable detail the breach on which the terminating party relies; or
- (b) commits a material breach of this Agreement which is not capable of remedy in which event the party seeking to terminate shall specify in reasonable detail the material breach on which it relies by notice to the other party.

- 11.2 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

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- (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, examinership 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, examiner, 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.
- 11.3 No licence fees already paid (or payable) to MCPSI shall be returnable (or credited) to the Licensees upon termination of this Agreement.
- 11.4 Termination of this Agreement for whatever reason shall be without prejudice to any rights which have already accrued to the parties under this Agreement.

**12. Notices**

- 12.1 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 fax and/or e-mail save that notice to terminate this Agreement shall not be served by e-mail.
- 12.2 The address for service of any party shall be its registered office marked for the attention of the Chief Executive or Managing Director, or, to such other address as may be notified in writing from time to time to the server.
- 12.3 Any such notice or other written communication shall be deemed to have been served:-
- (a) if personally delivered, at the time of delivery;
  - (b) if posted, two Business Days after the date of posting or in the case of airmail, four Business Days after the date of posting;
  - (c) if sent by fax or e-mail:

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- (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.

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

### **13. Miscellaneous**

13.1 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.

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

13.3 The Licensees shall be jointly and severally liable:

(i) for the performance of their obligations under this Agreement; and

(ii) for any breach of the terms of this Agreement.

13.4 The licences granted under this Agreement are personal to the Licensees and the Licensees may not assign, sub-license or otherwise transfer any or all of its rights or obligations under this Agreement without the written agreement of MCPSI.

13.5 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.

13.6 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.

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

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- 13.7 If any provision of the Agreement is or becomes illegal, void or invalid, that shall not affect the legality and validity of the other provisions, which shall continue in full force and effect.
- 13.8 Neither party to this Agreement shall be liable to the other party for any failure to perform any or all of its obligations hereunder is due to or attributable to acts, events, omissions or accidents beyond the reasonable control of the defaulting party, including a so-called act of God, fire, lockout, strike or other official labour dispute, union problem, riot or civil commotion, terrorism, satellite failure, failure of technical facilities not within the reasonable control of the defaulting party, act of public enemy, enactment, rule or order or act of government, such act or event being deemed an event of force majeure. Each party to this Agreement undertakes to use all reasonable endeavours to notify the other party as soon as practicable of the incidence and termination of any event of force majeure.
- 13.9 The Licensees acknowledge 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 MCPSI 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 II of the 2000 Act. In the event that a licensee wishes to have the ability to claim in one or more cases that a licence is not required for a particular use of a Repertoire Work, then a blanket licence is not, for administrative reasons, the appropriate form of licence and such licensee should instead seek direct work by work licences from MCPSI.
- 13.10 This Agreement shall be construed according to the laws of Ireland and the parties agree to submit to the jurisdiction of the Irish Courts.

Signed:

\_\_\_\_\_

Print name:

\_\_\_\_\_

Date:

\_\_\_\_\_

On behalf of MCPSI

Signed:

\_\_\_\_\_

Print name:

\_\_\_\_\_

Date:


\_\_\_\_\_

On behalf of Production Company

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**Schedule A**

**Format for Reporting Information**

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

**Schedule B**

**Format for Sales Information**

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

Where:

- ◆ 'Programme' is the title of the Qualifying Programme
- ◆ 'Acquiring Party' is the party to whom the Licensee supplied the Qualifying Programme
- ◆ 'Territory' is the territory (or territories) of broadcast for which the Qualifying Programme is supplied
- ◆ 'Exploitation' is the form of exploitation for which the Qualifying Programme is supplied (by reference to the categories in clause 2.1. In particular, the Licensee shall state whether the Qualifying programme has been supplied for Terrestrial Broadcast.
- ◆ 'Gross Payment' is the full consideration of the sale (calculated in accordance with clause 6) *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 6.