

PRS for Music
Production Music
Terms and Conditions

1. Definitions

In this Agreement, the following terms shall have the following meanings:

"Agreement" means these terms and conditions, the Licence Particulars and, if applicable, any relevant side letters between the Licensor(s) and Licensee.

"Authorised Exploitation" means the authorised exploitation as set out in the Agreement

"Code of Conduct" means *PRS for Music's* Code of Conduct as published on the *PRS for Music* website, *prsformusic.com*

"Commercial Music" means each musical work where the copyright is owned or controlled in the UK and the Republic of Ireland by MCPS (or an MCPS member or an affiliated society member) but excluding production music works

"Content" has the meaning set out at clause 2.2 of this Agreement

"Duration" means the duration of the Work(s) licensed under this Agreement as set out in the Licence Particulars

"Licence" means the licence(s) granted by MCPS under this Agreement

"Licence Fee" means the fee payable by the Licensee for purchase of this Licence, as set out in the Licence Particulars

"Licence Particulars" means the licence particulars detailing, among other things, the Production details and the Authorised Exploitation covered by the Agreement

"Licensee" means, in relation to any Work(s), each person firm or company named in the Licence Particulars

"Licensor" means in relation to any Work(s) each person firm or company wholly or partially owning or controlling the rights herein licensed

"MCPS" means the Mechanical Copyright Protection Society Limited, a company registered in England with company number 00199120 whose registered office is at 107 Gray's Inn Road, London, WC1X 8TZ

"Musical Work(s)" means all and any musical works, including any associated words, in which the rights to perform in public, to communicate to the public and to authorise others to do the same are from time to time owned and/or controlled by PRS;

"Production" means the audiovisual or audio-only work(s), including but not limited to films, television programs, radio programs, online videos, podcasts, and other media projects, in which the Work(s) may be reproduced or synchronised, as specified in the Licence Particulars

"Production Music Rate Card" means the Production Music Rate Card as published on the *PRS for Music* website, *prsformusic.com*

"Production Music Sound Recordings" means all and any sound recordings in which the rights to play in public, to communicate to the public and to authorise others to do the same are from time to time owned and/or controlled by MCPS;

"Term" means in perpetuity unless otherwise specified in the Licence Particulars

"Work(s)" means the Musical Work(s) and/or Production Music Sound Recording(s) licensed under this Agreement as set out in the Licence Particulars

2. Grant of Licence

2.1 The Licence granted herein is conditional upon the Licensee (and any assignee to whom the Licence is assigned under clause 7, if any) at all times complying with all the terms and conditions of this Agreement.

- 2.2 In consideration for payment of the Licence Fee to MCPS, and subject to all terms and conditions set out herein, MCPS, as agent for and on behalf of the Licensor(s), hereby grants to the Licensee a non-exclusive licence to (a) make recordings in the United Kingdom, the Channel Islands and the Isle of Man whereby the Work(s), and any portion thereof, not exceeding the Duration (and for the sole purpose of the Authorised Exploitation), may be reproduced in or synchronised with (i) the Production and (ii) any and all in-context promotional clips, in-context advertisements, and in-context trailers produced for the promotion of the Production, in any and all media now known or hereinafter devised, (together with (i) the "**Content**"); and to (b) make copies of the Content and distribute the same only in the territory as detailed in the Licence Particulars.
- 2.3 In addition to Clause 2.2, the Licensee is granted a licence to certain additional rights only when the Licensee has paid to use the Content used in a particular context, as detailed in **Annex 1** (Specific grant of rights) to these terms and conditions. The licence to these additional rights is subject to the conditions set forth in Annex 1.
- 2.4 All of the above Licences are granted for the sole purpose of the Authorised Exploitation during the Term.
- 3. Scope of Licence and restrictions**
- 3.1 All rights in the Work(s) other than those expressly granted to the Licensee hereunder are strictly reserved to the Licensor(s). Without prejudice to the generality of the foregoing:
- (a) this Licence does not grant permission to make and/or distribute copies of the Work(s), or to rent or lend copies thereof, or to perform or play the Work(s), (except in relation to Clause 3.2), or to include the Work(s) in a cable programme service, or to authorise any of the foregoing other than in the Content and solely for the purpose of the Authorised Exploitation;
 - (b) the Licensee may not reproduce or exploit the Work(s) in the form of an arrangement, transcription, sample, parody or burlesque unless the relevant Licensor(s) have specifically authorised the Licensee to do this for the purpose of this Licence;
 - (c) all moral rights are reserved;
 - (d) the Work(s) must not be used or exploited in an obscene or defamatory manner or context;
 - (e) the Work(s) must not be used or exploited in such a way as to imply approval for the Content or any part of the content hereof by the writer(s) thereof, or any artist or performer associated with the Work(s), unless the relevant persons have specifically authorised the Licensee to do this for the purpose of this Licence.
- 3.2 This Licence only covers the Work(s). For the avoidance of doubt, it does not cover the copyright or any other rights in any film or broadcast. The Licensee must obtain separate permissions for the use thereof.
- 3.3 This Licence is null and void in relation to any copy of the Work(s) (whether in the form of the Content or any copy thereof) which is (or is intended or proposed to be) used or exploited in breach of or outside the scope of this Licence, whether such use or exploitation is by the Licensee or any third party. All rights are reserved in relation to any such copy.
- 3.4 Without prejudice to clause 3.3 above, where the Licensee authorises a third party to, as part of the Authorised Exploitation, make, use or exploit a copy of the Content, the Licensee must require such third party to agree not to make, use or exploit such copy outside the scope of this Licence, or act in such a way as would be a breach of this Licence, and not to part with possession of such copy without imposing similar conditions (including this condition) on the party to whom possession is given.
- 3.5 The Licensee is in any event liable to the Licensor(s) for any such use or exploitation of such a copy as is referred to in clauses 3.3 and/or 3.4 (whether or not the Licensee has obtained an agreement in accordance with clause 3.4) and MCPS may at its

option require the Licensee to pay to MCPS as liquidated damages the equivalent to the highest amount ordinarily payable for a licence for the particular type of use or exploitation which is not licensed hereunder, together with interest thereon (as calculated under clause 5.2) from the date of such use or exploitation to the date of payment.

- 3.6 Where the Authorised Exploitation includes the sale or supply of copies to members of the general public the Licensee's obligations under clauses 3.4 and/or 3.5 shall not extend to the relationship between seller or supplier and the members of the general public. For the avoidance of doubt, all rights are reserved against the latter.

4. Excluded Repertoire

- 4.1 Nothing in this Agreement shall be construed as granting any rights whatsoever to the use of any Commercial Music administered by MCPS, the rights to which are specifically excluded from this Agreement.
- 4.2 Clause 4.1 shall not apply where prior approval has been obtained by MCPS from the relevant Licensor(s) to license the use of Commercial Music under this Agreement.

5. Payment

- 5.1 Other than as a direct result of MCPS's error, if any overpayment is made by the Licensee hereunder, no refund shall be payable by MCPS or any Licensor(s) in respect thereof once the same has been distributed in good faith by MCPS to any Licensor(s).
- 5.2 Without prejudice to any other right or remedy of any Licensor(s) or MCPS, and without imposing any obligation to accept late payment, the Licensee shall (if required by MCPS) pay interest on any late payment, calculated on a daily basis at an annual rate of 3% over either the base rate then current of National Westminster Bank plc or (if none) at such other equivalent rate as MCPS may reasonably decide.
- 5.3 For the avoidance of doubt, the amount due shall be in respect of all mechanical rights in the Work(s) and any additional

rights granted under Annex 1 (Specific grant of rights) and MCPS shall not be entitled to receive any further payments (whether by way of profits, residuals, repeat fees, royalties or other payments) for the use of the Work(s) in the Content as licensed hereunder.

6. Inspection of Content

- 6.1 The Licensee shall at MCPS's request make facilities available for MCPS by MCPS's duly authorised representatives to view and inspect the Content and shall also supply MCPS with any information or documentation in the Licensee's possession, power, custody or control (and use its best endeavours to supply the same to MCPS if it is not in the Licensee's possession, power, custody or control) as is reasonably requested by MCPS at any time in order to assist MCPS in verifying whether a proper licence has been obtained in relation to the Content and/or whether the terms and conditions of this Licence have and are being complied with. The provisions of this clause are without prejudice to any additional powers of verification and/or audit which MCPS may have under any other scheme, agreement, licence or code.

7. Assignment

- 7.1 This Agreement may not be assigned without the prior written consent of MCPS. However, consent shall be deemed where assignment is for the sole purposes of financing or distribution of the Content PROVIDED THAT the Licensee has used reasonable endeavours to ensure that the relevant assignee has delivered to MCPS an irrevocable written undertaking to abide by the terms and conditions of this Agreement at all times and MCPS has acknowledged receipt of the same.

8. MCPS warranties

- 8.1 MCPS, on behalf of each Licensor, warrants that such Licensor is entitled to grant this Licence PROVIDED THAT the aggregate liability of such Licensor for breach of this warranty in relation to the reproduction of any one Work on all copies of the Content shall not exceed a sum equal to five times the total amount paid by the Licensee for such licence in relation to such Work.

9. Entire Agreement

- 9.1 Except where the Code of Conduct and Production Music Rate Card are applicable, this Agreement sets forth the full agreement of the parties hereto and may only be modified or varied by a written instrument signed by the parties hereto. Where the Code of Conduct and Production Music Rate Card are applicable, this Agreement together with the Code of Conduct and Production Music Rate Card set forth the full terms of the agreement between the parties.

10. Severance

- 10.1 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

11. Governing law and jurisdiction

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

ANNEX 1 – SPECIFIC GRANT OF RIGHTS

1. Additional Licence (in respect of Exhibitions only):

1.1. In this Clause 1, the following terms shall have the following meanings:

“Exhibition” includes any temporary: exhibition, industry trade show, consumer fair, fashion show, fan convention, and Music-Themed Cultural Exhibition; and

“Music-Themed Cultural Exhibition” means any temporary exhibition having as its sole or main theme the life and/or works of a particular composer, writer, performer or group of writers, composers, or performers; and/or any genre of musical works.

- 1.2.** In consideration for payment of the Licence Fee to MCPS, and subject to all terms and conditions set out in the Agreement, MCPS, as agent for and on behalf of the Licensor(s), hereby grants to the Licensee, whose Authorised Exploitation includes the use of Works in Branded Content, a non-exclusive licence to play or show (and to authorise the playing or showing of) Production Music Sound Recording(s) that have been reproduced or synchronised into Content, in public at an Exhibition only in the United Kingdom (which refers to the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man). For the avoidance of doubt, nothing in this clause 1.2 grants the Licensee the right to play or show (or authorise the playing or showing of) Production Music Sound Recordings in public in any context other than at an Exhibition.
- 1.3.** For the avoidance of doubt, where the Licensee authorises a third party to, as part of the Authorised Exploitation, play or show Production Music Sound Recordings that have been reproduced or synchronised into the Content, the Licensee must require such third party to agree not to use or exploit such copy outside the scope of this Licence or act in such a way as would be a breach of this Licence and not to part with possession of such copy without imposing similar conditions (including this condition) on the party to whom possession is given.
- 1.4.** All of the above Licences are granted for the sole purpose of the Authorised Exploitation during the Term.