**18 12 2014**

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**MPA GUIDELINE FOR ILLUSTRATION PURPOSES ONLY**

**EXCLUSIVE SONGWRITING AGREEMENT**

IMPORTANT NOTICE TO THE WRITER – THIS DOCUMENT IS AN IMPORTANT AGREEMENT WHICH MAY AFFECT YOUR SONGWRITING CAREER ON A LONG-TERM BASIS. IT IS VITAL THAT YOU UNDERSTAND ITS CONTENTS AND ITS POTENTIAL IMPLICATIONS. YOU MUST SEEK SPECIALIST ADVICE FROM AN INDEPENDENT LAWYER WITH EXPERIENCE OF AGREEMENTS OF THIS KIND. BEFORE THE AGREEMENT IS ENTERED INTO, WE WILL REQUIRE EVIDENCE THAT YOU HAVE HAD THE BENEFIT OF SUCH ADVICE.

**DATED [ ]**

**BETWEEN**

(1) [*NAMES OF WRITERS*] [CAE / IPI No(s) ] [each] care of [ *address* ] (jointly and individually “Writer” )

(2) [*NAME OF PUBLISHER* ] “Publisher” of [ *address* ] CAE/IPI NO [ ]

**1 Definitions**

1.1 The terms: “Territory”, “Term”, “Work(s)”, “Royalties”, “Retention Period” shall have the meanings they are given in Schedule 1 hereto.

1.2 In this Agreement:

“**Act**” shall mean the Copyright Designs and Patents Act 1988 (as amended and/or replaced).

**[** “**Album Advance Controlled Percentage**” shall mean at least *[% to be controlled by Writer for payment of full advances]* %]

“**Approved Label**” shall mean (a) any so-called “major record label” (as such expression is understood in the UK music industry) or its wholly owned subsidiary (as defined in section 1159 of the Companies Act 2006) based in the UK (the major record labels currently being the recorded music divisions of Universal, EMI, Sony and Warner respectively) or (b) any other record label specifically approved in wrtiting by the Publisher as such for these purposes

“**Business** Day” shall mean any day that is not a Saturday, Sunday or bank or public holiday in England

“**Collection Period**“ shall mean the period beginning immediately upon the expiry of the Retention Period and continuing for [ xxx ] thereafter.

“**Commercial Release**” or “**Commercially** **Released**” refers to the commercial release by an Approved Label on a top-line label in a bona fide manner of commercial quantities of records (including CDs and downloads so that for the avoidance of doubt a release which does not include both CD’s and downloads shall not constitute a Commercial Release) for sale to the general public through normal retail outlets so that the same are freely available for purchase by potential purchasers (but excluding so-called “limited edition” and/or promotional releases) in (unless the context otherwise requires) at least the UK [ ***Optional:*** and also includes a release in accordance with such criteria by way of digital distribution only, but only if: (a) digital distribution is the Key Carrier at the time of release; and (b) the Publisher has agreed as a general policy that digital distribution shall satisfy the release requirements for the majority of new writers that have, within the [ xx ] month period preceding the release, been signed to the Publisher];

**[** “**Commitment Album**”shall mean a long-playing studio record album with a total playing time of at least [ xxx ] minutes solely comprising recordings of newly recorded studio performances by [the Writer (either as a solo recording artist or with another group of performers) / the Group] of not less than 10 different compositions (excluding remixes and arrangements of such compositions) of not less than 2.5 minutes’ playing time per composition, provided that the album:

* + 1. is not a “Live”, “Best of”, "out-takes", "B sides”, compilation or soundtrack album (nor any other record released in conjunction with any film, television, radio or theatrical production);
    2. shall comprise recordings of Qualifying Works that make up at least the Minimum Commitment Percentage of all the compositions embodied on such album (by number or playing time, whichever results in the lesser percentage) on each type of sound carrier on which the album is Commercially Released in the Key Territory;
    3. would qualify for inclusion in the Music Week official albums chart in the UK should sufficient sales be achieved;
    4. will be Commercially Released at Full Price; and
    5. if a so-called "double album" or other multiple album, will only constitute 1 album for the purposes of this definition;]

[“**Commitment Track”** shall mean (a) a so-called “A” side or lead track (of at least 2.5 minutes’ playing time) of a single-play record or (b) a track (of at least 2.5 minutes’ playing time) on a long-playing record album (with a total playing time of at least [ xxx ] minutes), which in either case comprises solely recordings of newly recorded studio performances by a solo artist or group [ (which does not include or comprise the Writer)], is Commercially Released at Full Price and would qualify for inclusion in the relevant Music Week official chart in the UK should sufficient sales be achieved;]

“**Cove**r” shall mean any recording of a Work other than a recording by the Writer or any group including the Writer

**Full Price** means, in relation to a single-play record or a long-playing record album,, a published dealer price that is within the standard “full price” category for the type of record concerned (ie single play record or long play record respectively) released on the top-line label of the Approved Label on which the album is Commercially Released

[**“Group**” means the individuals comprising the Writer performing together (with or without others) under the name [ xxx ] and/or under such other professional name(s) as may be adopted by the Writer;]

**[“Key Carrier”** means such type of sound carrier as shall, at the relevant time (on the basis of statistical information available from the BPI at the applicable time), have the largest share by volume of trade deliveries in the UK market for the relevant format (presently the Compact Disc (“CD”) carrier for long-playing records)];

**[“Minimum Commitment Percentage**” shall mean at least [*% to be controlled by Writer for the Minimum Commitment*] %];

[“**Pipeline Income”** shall mean a bona fide estimate by the Publisher of mechanical and performance royalties that will accrue to the Writer under this Agreement but are not yet payable and limited only to any such royalties attributable to income actually received by the Publisher in the UK]

“**PRO**” shall mean the PRS or any affiliated or equivalent performing rights collection organisation.

“**PRS**” shall mean the Performing Right Society Limited (or any successor body)

**“Qualifying Work**” shall mean a Work that has not, at the relevant time, been previously released in any part of the Territory (but excluding any Work whose exploitation infringes third-party rights or requires payment of some kind by the Publisher, whether through the use of a sample from another composition or otherwise to the extent only that the copyright owner of such sampled composition has a share in such Work), and any composition which is composed by the Writer only in part shall count as a fraction of a Qualifying Work, being that fraction of the entire composition that has been composed by the Writer and is controlled by the Publisher under this Agreement;

1.3 In this Agreement, unless the context otherwise requires, any reference to:

* + 1. **adaptation** includes any alteration, addition, arrangement, version, edition and/or translation;
    2. **collecting society** includes any collection agency , collection organisation and industry association representing music publishers’ catalogues and/or other interests;
    3. **communication to the public** and any other term or expression used and not defined in this Agreement has, where applicable, the meaning given in the Act;
    4. **compositions** shall mean musical compositions, including any and all:
       1. music, words, lyrics, libretti, titles, musical scores, adaptations, interpolations, collections and compilations of musical compositions, in each case whether composed, written, owned and/or controlled by or for the relevant person alone or in conjunction with others, or in whole or in part (but where in part, to the extent only of that part, unless the context otherwise requires) and whether or not intended to be part of a dramatico-musical work; and
       2. part(s) of any of the same,

and **composing** and **songwriting** and (in a composition context) **writing** and **co‑writing** and related words shall be construed accordingly;

* + 1. **include, including**, **other**, **in particular**, **for example**, **such as** or any similar words is without limitation;
    2. **month**, **quarter** or **year** shall mean, respectively, a calendar month, calendar quarter or calendar year;
    3. **parties** shall mean the parties to this Agreement, and **party** shall be construed accordingly;
    4. **performing right** has the meaning given in Rule 1(l) of the Rules and Regulations of the PRS (as amended or replaced from time to time) and includes such corresponding rights as subsist under the rules of other Societies from time to time;
    5. **pounds** or **£** shall mean British pounds sterling (or such other currency as may from time to time be the lawful currency of the UK, in which case all monetary amounts that are expressed in sterling in this Agreement shall be re-set and expressed in such other currency at the official exchange rate prevailing in London on the date on which such other currency becomes the lawful currency of the UK);
    6. **royalties** includes any amounts paid for grants of rights by way of fees;
    7. **sample** shall mean a so-called “sample” and includes any “interpolation” (as such terms are understood within the music industry);
    8. **sheet music** includes any printed and/or graphic reproduction of the composition(s) concerned in any media (now or in the future known);
    9. **writing** or **written** includes (if successfully transmitted) email;
    10. for the purposes of all grants and assignments of rights, consents and waivers to the Publisher under this Agreement, the Publisher includes its successors, licensees and assigns and the Writer includes the Writer's personal representatives, heirs and successors in title;
    11. a heading is inserted for convenience only and shall not affect the interpretation of this Agreement in any way;
    12. the singular includes the plural (and vice versa), and any one gender includes the other gender; and
    13. this Agreement or any other document shall, where appropriate, be construed as a reference to this Agreement or such other document as varied, supplemented, novated and/or replaced in any manner from time to time.

2 **Exclusivity**

The Writer shall write and compose Works exclusively for the Publisher during the Term upon the terms set out in this Agreement

**3 Assignment and grant of rights**

In consideration for the payment of [£ XXX ] paid by the Publisher to the Writer (receipt of which is hereby acknowledged) and the payment by the Publisher to the Writer of the advances royalties and fees specified in Schedule 1 to this Agreement the Writer hereby:

3.1 grants and assigns to the Publisher absolutely and with full title guarantee for the Territory and for the period from the Work(s) original creation until expiry of the Retention Period the entire copyright and all right, title and interest of the Writer in and to the Work(s) including all vested, contingent, or future rights now or hereafter known and any and all renewals and extensions thereof. Such rights shall include the following sole and exclusive rights:

(a) to make adaptations, of the Work(s) in the Publishers reasonable discretion (all such adaptations, to remain the original property of the Publisher).

(b) [despite the limited duration of the Retention Period] [and] [despite the limited extent of the Territory] to grant during the Retention Period licences for the synchronization of the Works with visual material , which are in each case of limited or unlimited duration and are for the world or any part thereof [which includes the Territory or part thereof]

1. to reproduce, encode, use and exploit the Works in any manner, including by means of mechanical and/or electronic reproduction and/or record or other sound-bearing and/or visual-image-producing contrivance or other device or contrivance now or in the future known (including all forms of videograms and CD-ROMs or other digital or electronic formats and including downloads);
2. to communicate the Works to the public, including:
3. broadcast by means of radio or television, including broadcasts sent from transmitters situated in the Territory (wherever the same may be received) and transmission to subscribers to a diffusion service (with or without visual images); and
4. streaming or other dissemination via the internet,

subject always to any applicable terms of any blanket-industry agreement in force at the relevant time, the Writer agrees and shall procure that the Publisher may use extracts of the Work(s) and of recordings of the Work(s) (each extract to be no more than 45 seconds) on the Publisher’s website for promotional use only without payment to the Writer or any third party

(e) to exploit performing rights (including grand rights) in the Work(s), to make dramatico-musical work of the Work(s) and/or, [despite the limited duration of the Retention Period] [and limited extent of the Territory], to grant, during the Retention Period, perpetual and/or limited licences (with or without territorial restriction) for use of the Work(s) in a dramatico-musical work;

1. to publish, print and graphically reproduce the Work(s) or any part(s) of them (whether in the form of ordinary sheet-music editions or as part of an album, book or folio or in any publication or other form in any and all media, now or in the future known) and to promote, sell, lend and/or otherwise exploit such copies
2. to exploit the Work(s) by rental or by any other means of public lending or by means of any other facility for public access to recorded music;
3. to reproduce, encode, use and/or exploit the Work(s) and/or any adaptations of them by way of delivery to mobile telephones and/or other mobile communications devices, including in the form of music ringtones, truetones, ringback tones, multimedia messaging services, mobile karaoke services, song dedication services and music video streaming, subject always to any applicable terms of any blanket-industry agreement in force at the relevant time;
4. to exercise any and all other rights of any nature (existing or future) in relation to the Work(s) and to use and to promote the Work(s) via any and all existing or future means;
5. to bring all claims and causes of action of the Writer and other similar benefits accruing before or during the Retention Period in relation to the Work(s);

(k) to use the titles of the Work(s) for all purposes

(l) to license and authorize others to exercise any or all rights assigned and /or granted under this Agreement

3.2 Grants to the Publisher the right to use the name, photographs, likenesses, images, autograph facsimile and biographical material of the Writer for the purposes of trade or otherwise in connection with the use and exploitation of the Work(s) hereunder or in publicity for the Publisher.

* 1. The Writer warrants and undertakes that the Publisher shall be solely entitled to collect 50% of all performing right fees and 100% of all other monies arising from the use and/or exploitation of the Work(s) in the Territory during or before the Retention Period, even if such monies are collected by or for the Publisher during the Collection Period.
  2. The rights granted above shall (as long as the Writer is a member of any PRO) be subject to the rights of such PRO, but shall (as long as the Writer is not a member of that PRO) include all such rights as would otherwise be administered by that PRO.

3.5 Within a reasonable time after the Writer’s reasonable request, the Publisher shall use reasonable endeavours to grant (or to procure the grant of) a licence for the exploitation of the Work(s) on reasonable commercial terms to any person requesting such licence.

3.6 If before or during the Term the Writer includes any sample in any composition comprising a Work, the Writer shall promptly send the Publisher full information on such sample, including: (a) a listening copy of the sample; (b) details of the person(s) that own and/or control the sample and copies of any related correspondence with such person(s); (c) a copy of any clearance agreement; and (d) the identity of the recording and musical work concerned. Despite the limited duration of the Retention Period [and limited extent of the Territory], the Publisher may, during the Retention Period, enter into sample licence agreements for any period (including in perpetuity and with or without territorial restriction) for (i) Works that sample any other Work(s) and/or (ii) compositions other than Works that sample Works. The Writer agrees to be bound by the provisions of such agreements (and by the requirements of any relevant judgment of a court or tribunal of competent jurisdiction), including in relation to the percentage shares attributable to the Writer and the other writer(s) in each relevant composition.

3.8 [Subject always to clauses 3.9 and 15 below, the Publisher shall not [during the Term], without the Writer's prior written approval, grant any licence for:

1. [any substantial adaptation of any of the Works, provided always that no such approval shall be required for: (i) the inclusion of any Work in a so-called "medley"; (ii) the translation of the lyric of any Work; and/or (iii) any adaptation of any Work made in accordance with the rules, regulations and practices of any local collecting society;]
2. [the synchronisation of any Work with any commercial [for any organisation whose principal object is political in nature, relates to any political and/or industrial controversy and/or relates directly to any matter of public policy]] 
   1. Notwithstanding the above, any restrictions imposed on the Publisher under this clause 3 shall be enforceable by the Writer only to the extent that it is within the Publisher’s direct control to comply with such restrictions and nothing in this Agreement shall prevent the grant of licences for any of the Works: (a) in accordance with any general or so-called "blanket" industry licensing agreements or “mini-blanket” licensing agreements (including, for example, with British Sky Broadcasting, Channel 4 and Channel 5); (b) for use as background music on television; and/or (c) under the rules, regulations and practices of the relevant local collecting societies and/or orders of the UK Copyright Tribunal and/or any other applicable copyright legislation or industry practice.
3. **Advances**

Subject to the terms and conditions of this Agreement, the Publisher shall pay to the Writer the advances set out in clause 7 of Schedule 1 which shall be recoupable from all royalties otherwise payable to the writer under this Agreement.

**5 Royalties**

5.1 The Publisher shall account and pay to the Writer royalties from sums actually received by the Publisher from the exploitation of the Work(s) and such royalties shall be calculated on the basis of the percentages set out in clause 6 of Schedule 1.

5.2 Royalties shall be computed upon all sums actually received by the Publisher in the UK which are solely derived from and identifiably attributable by title to the exploitation of the Works. In calculating such entitlement

[the Publisher shall in the case of all monies under clauses 6.2 to 6.5 of Schedule 1 (inclusive) be deemed to have received such monies gross “at source” before any deductions imposed by the Publishers subpublishers provided always that]

there shall be excluded from the Publishers receipts :

5.2.1 VAT and other taxes required to be deducted

5.2.2 Standard commissions charged and/or deducted by PROs

5.2.3 Any amounts paid to arrangers, adaptors and translators

[5.2.4 Any amounts deducted by or paid to the Publishers subpublishers licensees agents and/or administrators not covered in clauses 5.2.1 to 5.2.3 (inclusive) above] [but on the basis that in the case of all monies under clauses 6.2 to 6.5 of Schedule 1 of this Agreement not less than [xx%] of all monies actually received by the Publisher’s sub publishers (excluding any sums charged and/or deducted pursuant to 5.2.1 to 5.2.3 (inclusive) above) shall be deemed to have been remitted to the Publisher]

5.3 The Writer shall be entitled to receive the 6/12ths (six twelfths) “writer’s share” of the performing right fees which shall be collected and distributed by the relevant PRO of which the Writer is a member so long as such PRO is in a position to do so. The relevant PRO shall pay to the Publisher the full 6/12ths six twelfths of the “publisher’s share” of performing right fees. In the event that the Publisher receives the so called writer’s share identified as such it undertakes to pay over such share to the Writer.

* 1. For the avoidance of doubt, royalties payable to the Writer under this Agreement derived from monies collected by the Publishers subpublishers licensees agents and/or administrators shall not be due and payable until the Publisher has received in the UK accounting and payment (or credit against a previously paid advance) from the same.
  2. If the Writer shall have composed any Work in collaboration with any other person(s) or if any other person(s) set other words or music to any Work and such third-party contributions do not form part of the Work, the above royalties shall, be divided on the basis that all persons entitled to payment for such Work are entitled to an equal share (which share may only be changed following written notice to the contrary (in which case such amended splits shall apply from the accounting period following the accounting period in which the Publisher receives such notice),
  3. Each sum payable to the Writer under this Agreement is exclusive of any applicable VAT, which shall be payable in addition subject to receipt by the Publisher of a valid VAT invoice from the Writer.
  4. All payments (whether from a third party to or for the Publisher or from the Publisher to the Writer) shall be subject to the deduction or withholding of all taxes required to be deducted or withheld under the laws of any jurisdiction and to the exchange control regulations of any jurisdiction from which those payments emanate.
  5. If the Publisher is aware that any monies arising under this Agreement in any jurisdiction may not be remitted to the UK because of any legal or governmental regulations and/or restrictions in such jurisdiction, the Publisher shall notify the Writer and shall, at the Writer’s request, take such steps as may be reasonably practicable and lawful to arrange for such monies to be paid into a bank account in the jurisdiction in the parties’ joint names.
  6. The Writer hereby elects that the performing rights in all Works shall be registered with [ASCAP / BMI / SESAC] in the USA.]

**6 Accounting**

6.1 The Publisher shall account to the Writer semi annually within ninety (90) days after each 30 June and 31 December for all royalties due to the Writer with respect to Work(s) in respect of all receipts of the Publisher in the UK within the previous calendar half year. Statements rendered by the Publisher may be in physical or electronic form (eg. via email, or by being made available for download)

6.2 All payments due to the Writer under this Agreement shall be paid in sterling into the bank account nominated from time to time by the Writer. All sums received by the Publisher in the UK in respect of Work(s) in a foreign currency shall be converted into sterling by the Publisher and for the purposes of this Agreement the Publisher shall be treated as having received the sterling amount actually received by the Publisher as a result of such currency conversion.

6.3 The Writer shall have the right to appoint an accountant professionally qualified as such in the UK (“Auditor”) to inspect (on at least 2 months written notice during reasonable hours at the Writers own cost) the books and records of account of the Publisher in the UK relating to the exploitation of the Works for a maximum of 4 accounting periods immediately preceding the date of the inspection for the purpose of verifying the accuracy of royalty statements delivered to the Writer hereunder. The Writer shall not exercise such right more than once per year, nor in relation to any accounting previously audited. The Auditor must not then be engaged (directly or indirectly) in any audit of the Publisher's books and records of account and may only conduct such audit if the Auditor first gives the Publisher a written undertaking in the form set out in the Exhibit to this Agreement

* 1. The Writer may not bring any claim, proceeding or action against the Publisher in relation to the accuracy of any statement provided under this Agreement unless it is brought against the Publisher in a court of competent jurisdiction within 3 years after the date of the statement.

**7 Warranties**

1. The Writer hereby warrants represents and undertakes that:
2. The Writer is and will remain throughout the Term a "qualifying person" as defined in the Act.
3. The Writer is fully entitled to enter into this Agreement and to grant to the Publisher the rights herein granted with the intent that the Publisher shall have quiet enjoyment thereof.

1. The Work(s) are unencumbered and original copyright works and/or arrangements of compositions of public domain works and will not infringe the copyright or other rights of any third party and are not defamatory or obscene.
2. The Writer shall not make any claim against the Publisher in respect of the Writer’s moral and like rights (including pursuant to the Act)
3. No publishing income (other than the writer’s share of performance income) has been collected by or on behalf of the Writer in respect of the Work(s).
4. The Writer has not granted, and will not during the Retention Period grant, any rights in the Work(s) to any person other than the Publisher or enter into any agreement or act in any way that would derogate from the rights granted to the Publisher under this Agreement
5. The Writer is 18 years old or older
6. the Writer is a member of [PRS];
7. the information provided in clause 2 of Schedule 1 is correct and complete, and the Writer irrevocably authorises the Publisher to comply with the arrangements described in Schedule 4 until further written notice from the Writer (including any payment requested to be made to any third party, whose receipt shall be a valid discharge for the sums so paid); and
8. the Writer shall promptly inform the Publisher of any changes in circumstances that could affect the Publisher in relation to this Agreement.
9. The Writer will hold the Publisher and its successors, permitted assigns, agents and licensees free and harmless from and against any and all actions, claims demands, damages, liabilities, expenses, losses or costs (including legal costs on an indemnity basis) arising as a result of or in connection with any breach or alleged breach of the Writers warranties representations and undertakings under this Agreement. Upon written notice to the Writer of any claim against the Publisher, the Publisher may withhold from any sums otherwise due to the Writer under this Agreement an amount reasonably commensurate with the Publisher’s potential liability in relation to such claim until liability under such claim has been settled determined and paid, and the Publisher has been reimbursed its actual out of pocket expenses (including legal costs on an indemnity basis) incurred in connection therewith provided that any such withholding shall be released if proceedings in respect of such claim have not been commenced within 12 months after the first withholding, but without prejudice to the Publisher’s right to make further withholdings if proceedings are subsequently commenced or fresh or amended claim(s) are received.

**8 Publisher’s obligations**

The Publisher will use its reasonable endeavours to:

8.1 Ensure the prompt and accurate accounting to it of income arising from the exploitation of the Work(s).

8.2 Ensure that the Work(s) is/are registered with the appropriate PROs.

8.3 Where applicable make all copyright registrations to protect the legal status of the Work(s) and the Writer agrees to assist in this regard.

8.4 Take reasonable steps to protect the copyright in the Work(s) and to identify (in consultation with the Writer) and pursue infringers of such copyright where it is in the opinion of the Publisher practicable and commercial to do so.

**9 Delivery of materials**

9.1 Immediately upon the execution of this Agreement (or for those Work(s) written after the execution of this Agreement upon such writing) the Writer will deliver to the Publisher for each Work all relevant copyright information (including, if applicable, details of any co-writer(s), complete details of the proportions in which such co-writer(s) have contributed to the Work and the collecting society affiliation(s) of such co-writer(s)) together with (i) a lead sheet or clearly audible recording and (ii) a lyric sheet .

* 1. For the purposes of this Agreement the date of delivery of a Work shall be deemed to be the date of the Publisher’s receipt from the Writer of the last of the items specified in clause 9.1 above.
  2. The Writer shall, if requested by the Publisher, promptly supply the Publisher with the full name, address and contact number of any co-writer of any Work, unless such co‑writer is then subject to an exclusive songwriting agreement with a third-party publisher.
  3. Delivery under this clause 9 shall be deemed to be a confirmation of assignment under clause 3.1, but failure by the Writer to comply with any of the requirements of this clause 9 shall not affect any rights assigned and granted to the Publisher in respect of any Work.

1. **Further Assurance**
   1. The Writer agrees that it shall, on the Publishers request, execute such other documents, and do all other acts and things as may from time to time be necessary or desirable to give the Publisher the full benefit of this Agreement, including to enable the Publisher to protect, exercise and/or enforce any or all of the Publisher’s rights under this Agreement. In particular, for each Work the Writer shall execute the Publisher's standard form of assignment, the current form of which is set out in Schedule 2. If the Writer fails to do any such act or to enter into any such document within 10 Business Days after submission of the Publisher’s written request, the Publisher is hereby irrevocably granted the right and authority to do such act and/or to execute and deliver such document on behalf of the Writer. In the event of any inconsistency between the provisions of such separate assignment and the provisions of this Agreement, the provisions of this Agreement shall prevail.
   2. The Writer irrevocably grants a power of attorney to the Publisher (with full power of substitution and delegation):
2. for all purposes of clause 10.1 above and in connection with the grant of authority and appointment under clause 12.1 below; and
3. during the Retention Period, in order: (i) to renew and extend the copyrights in the Works (and to file any related applications) in the name of the Writer and on the Writer's behalf; and (ii) on the issuance of such renewals and extensions, to execute proper and formal assignments in the Writer's name so as to secure to the Publisher such renewals and extensions subject to the provisions of this Agreement (it being acknowledged that re-assignment under clause 11 below shall nullify this clause 10.2(b) in relation to the Works re-assigned).

10.3 Solely for the purpose of this clause 10, this Agreement shall, on being signed by or for the Writer in the presence of a witness, be treated as having been executed and delivered by the Writer as a deed.

1. Exploitation and reversion
   1. The Publisher shall use reasonable endeavours to exploit (or to procure the exploitation of) each Work by seeking to obtain one or more of the following :
2. the publication of sheet music or an album, book or folio containing the Work;
3. the grant of a licence for a recording of the Work;
4. the grant of a licence for the Synchronisation of the Work or its incorporation in a dramatic or musical production; and/or
5. the communication of the Work to the public on a bona fide radio station, television station or internet service.

Where any Work is co-published by the Publisher with any other publisher or sub-publisher or licensed or assigned to any other party (including any collecting society) or exploited via any industry “blanket agreement”, the exploitation of the Work by such means shall be deemed to satisfy the Publisher’s obligations under this clause 11.1.

11.2 If, in respect of any of the Works, one (1) or more of the forms of exploitation described in clause 11.1 shall not have taken place at any time before the expiration of the period of 2 years immediately following the date of expiration of the Term the Writer may by notice in writing after the date of expiration of the said period of 2 years require the Publisher to exploit or promote such Work(s) and if the Publisher has failed to exploit or promote such Work(s) in one (1) or more such forms prior to a date 6 months after its receipt of the notice the rights acquired hereunder by the Publisher in respect thereof shall revert to the Writer and the Publisher shall do all things necessary and execute all such documents to re‑assign such rights to the Writer Such reassignment of rights to the Writer shall be in full and final satisfaction to the Writer for any such breach or failure by the Publisher in respect of the undertaking by the Publisher contained in sub‑clause 11.1 hereof and shall be the Writer's sole remedy in respect thereof

11.3 If any Work is specifically commissioned by a third party for inclusion in the soundtrack of a film, then for the purposes of Rule 2(f)(ii) of the Rules of the PRS, the Publisher shall use all reasonable endeavours to exploit such Work for the benefit of the Writer by means additional to such inclusion in such soundtrack (and the public performance and/or communication to the public of the film in question). Any failure to achieve any exploitation under this clause 11.3 shall not constitute a material breach of this Agreement, nor give the Writer any rights under clause 13 below.

11.4 This Agreement shall be regarded as a certificate for the purposes of Rule 1(o)(ii) of the PRS authorising the PRS to treat the Publisher as exploiting the Works for the benefit of the persons concerned. Where an equivalent rule is applied by any other Society, this Agreement shall be regarded as providing the necessary certificate or other evidence that the Publisher publishes or otherwise exploits the Works.

12 Proceedings

* 1. The Writer irrevocably authorises and appoints the Publisher during the Retention Period to institute in any part of the Territory in the name of the Writer and/or the Publisher any claims, demands, actions, defences and/or other proceedings (“**Actions”**) which the Publisher shall think advisable for the protection and enforcement of the Publisher’s rights under this Agreement (or any of them), including any Actions relating to (a) any form of unauthorised use of the Works (including any third-party use of a sample of any Works) and/or (b) any third-party claims brought or threatened in relation to this Agreement and/or any Work(s).
  2. The Publisher shall institute and maintain any such Action in good faith, and the Writer shall, at the Publisher's reasonable request and pre-approved reasonable cost, co-operate fully with the Publisher and may at the Writer’s own expense join in any related formal proceedings. The Publisher may settle any third-party claims, subject to the Writer's prior written approval (not to be unreasonably withheld or delayed).
  3. Any monies becoming payable to the Publisher and/or the Writer as a result of any Action shall be collectable directly by the Publisher and shall first be utilised in reimbursing all out-of-pocket costs and disbursements (including legal costs) incurred by or for the Publisher in obtaining such monies (**Costs**). Any balance remaining after deduction of such Costs shall be divided between the Publisher and the Writer as to [ xx % ] to the Publisher and [ xx % ] to the Writer
  4. When the Writer performs or broadcasts any of the Works, the Writer shall use all reasonable endeavours to ensure that all appropriate returns are promptly made to the PRS or its appropriate affiliate(s) by the person having responsibility for such performance or broadcast, and that the Publisher shall be sent details of all such performances and/or broadcasts (including the date and venue). The Publisher shall provide the Writer with such practical assistance as may be requested in order to give effect to the intent and purpose of this clause 12.4.

1. **Termination**
2. Either party may terminate the Term with immediate effect by written notice to the other if:
   * 1. the other party enters into liquidation (other than a voluntary liquidation for the purposes of reconstruction or reorganisation) or bankruptcy, the other party makes any composition its creditors, or any trustee or receiver is appointed to take over all or a substantial part of the other party's assets and undertaking and is not discharged within 90 days; or
     2. the other party is in material breach of its material obligations under this Agreement (excluding any failure by the Publisher to account correctly, for which the Writer’s sole remedy is as set out in clause 6.3 and excluding any failure by the Publisher to exploit Works, for which the Writer’s sole remedy is as set out in clause 11.2) and such breach continues for 45 days after the other party’s receipt of written notice from the first party specifying such breach, and in the case of such breach by the Publisher, subject to the payment by the Publisher of any and all royalties due to the Writer under this Agreement, the Publisher shall be under no further liability to the Writer (whether by way of damages or otherwise).
3. The termination of the Term shall be without prejudice to: (a) the Publisher’s rights under this Agreement in the Works to which the Publisher is entitled under this Agreement at the date of such termination; or (b) any recoupment of advances to which the Publisher is entitled at the date of such termination from royalties accruing to the Writer under this Agreement.
4. Without prejudice to the foregoing, if the Writer breaches any of the material provisions of this Agreement, the Publisher may (if such breach is capable of remedy) suspend its obligations under this Agreement for the duration of such breach until such breach has been remedied and may at its option on written notice to the Writer extend the then current Period for up to the duration of such breach, provided that the Publisher may not extend any Period in accordance with this clause 13.3 as a result of any failure on the part of the Writer to fulfil the Writer's obligations under clause 4 of Schedule 1 (in which case clauses 3.2,3.3, 3.4 and 7(c) of Schedule 1 shall, without limitation, apply). If, however, any Period is extended under this clause 13.3, then time shall, for the duration of such extension, cease to run in respect of any automatic extension under clause 3.4 of Schedule 1 above, provided that (subject only to clause 3.4 of Schedule 1) such Period shall not in any event exceed 4 years in duration

14 **Right of assignment**

This Agreement is binding on, and shall apply for the benefit of, the parties and their respective successors in title and assignees where expressly permitted under this Agreement. The Publisher may assign any or all of the rights and/or obligations of the Publisher under this Agreement (in whole or in part) to any third party provided that the Publisher shall remain primarily liable to the Writer for fulfilment of the Publisher’s obligations under this Agreement unless and until such assignee covenants with the Writer in writing to perform the Publisher’s obligations under this Agreement (which covenant the Writer shall accept when given). The Writer shall not, without the Publisher's prior written approval, assign, charge, license or otherwise dispose of any or all of its rights under this Agreement;

15 Notices and Approvals

* 1. Any notice to be given under this Agreement (other than a request for Approval per clause 15.2 below) shall be in writing and in English and shall be served (a) when served upon the Writer by hand or pre-paid first-class post (or, if posted internationally, an internationally recognised courier service) at the postal address for the Writer given at the head of this Agreement or as otherwise advised in writing by the Writer [or by email to the Writer’s most recently advised email address ] and (b) when served upon the Publisher by hand or pre-paid first-class post (or, if posted internationally, an internationally recognised courier service) at the postal address for the Publisher given at the head of this Agreement or as otherwise advised in writing by the Publisher.
  2. A notice sent in accordance with clause 11.1 shall be deemed to have been received (a) if so delivered by hand, on delivery, or (b) if so sent by post, 2 Business Days after posting or (c) if so sent by courier, when such notice is delivered and signed for) [or (d) if so sent by email, when successfully transmitted (except where giving rise to a system notification of failure of delivery)]. Where, however, receipt occurs outside normal business hours in the recipient's location, the notice shall be deemed to have been received at the start of the next normal business hours.
  3. Wherever the Writer’s approval, consent, agreement, confirmation and/or consultation, mutual or unilateral (**Approval**), is required under this Agreement such Approval:
     1. shall not be unreasonably withheld or delayed nor made conditional on varying the provisions of this Agreement or the rights granted to the Publisher under this Agreement;
     2. shall be deemed given if: (i) given by the Writer's management, agent or legal representative from time to time (**Writer Representative**); or (ii) the Publisher has not received written notice of the Writer's valid reasons for objection within [ xx ] Business Days after submission of the Publisher's written request for Approval to the Writer and/or any Writer Representative; and
     3. shall, once given (or deemed given), be irrevocable.
  4. Any request for, or grant of, Approval may be made by email.
  5. Any inadvertent failure by the Publisher to obtain the Approval of the Writer in the manner required by this Agreement shall not constitute a breach of this Agreement, nor give the Writer any right to terminate the Term and/or Retention Period.

16 Data protection

The Writer agrees that the Publisher may hold and process personal data relating to the Writer (whether or not sensitive) for legal, personnel, administrative and management purposes and may make such data available to any other person(s) reasonably required to receive such data in connection with this Agreement (whether within or outside the European Economic Area).

17 Confidentiality

Except to the extent required by law or by a court or other competent authority, neither party shall: (a) disclose to any other person any of the content of this Agreement, except to the extent reasonably required in order to perform this Agreement; or (b) make, or permit any person to make, any public announcement or statement (by any means) about this Agreement without the other party’s prior written approval (not to be unreasonably withheld or delayed).

**18 Complete agreement**

This Agreement (and Schedules and Exhibit) contains the complete agreement and understanding between the parties relating to the Work(s) and supersedes all prior oral and written arrangement or agreements relating thereto. Any amendments shall be in writing and signed by both parties. In the event that any individual provision or clause of this Agreement is void voidable or otherwise unenforceable, the remainder of the document shall not be affected and shall remain in full force and effect. No failure to exercise any right or remedy in relation to this Agreement shall waive that (or any other) right or remedy . Nothing in this Agreement constitutes a partnership, joint venture, relationship of agency or contract of employment between the parties. No provision of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 or otherwise by any third party.

1. **Force Majeure**

If the performance of this Agreement by either party is delayed or rendered impossible for any reason beyond their control (including by reason of war, invasion, act of foreign enemy hostilities, civil war, commotion, rebellion, strike, lock out, or other labour dispute, act of labour union or association of performers, act of government, act of God (including fire, storm, flood, earthquake) failure of technical facilities or default of third parties) then any such non performance shall not constitute a breach of this Agreement but either party on notice to the other may suspend its obligations under this Agreement for the duration of such circumstance, in which case a period equal to the suspension shall be added to the then-current Period of this Agreement, provided that: (a) any suspension as a result of an interference with the Publisher’s normal business operations, as opposed to the operations of the music publishing business generally, shall not exceed 6 months; and (b) subject only to clause 3.4 of Schedule 1, such Period shall not in any event exceed 4 years in duration.

**20 Legal advice**

Both parties confirm that they have taken legal advice on the construction obligations and consequences of the terms of this Agreement which affect them and that they are fully understood and agreed.

**21 Headings**

All headings in this Agreement are included for convenience only and shall not affect its interpretation.

1. [Group provisions

The provisions of Schedule 3 apply.]

**23 Law and Jurisdiction**

This Agreement shall be governed by and construed exclusively in accordance with the Iaws of England and Wales and each party hereby submits to the exclusive jurisdiction of the English courts.

As witness the hands of the parties the day and year first above written

SIGNED BY the said …[ *Writer* ]…………………………………….

In the presence of

*Witness*

*Name*

*Address*

SIGNED BY

For and on behalf of [  *Publisher* ]

In the presence of

*Witness*

*Name*

*Address*

**SCHEDULE 1**

**1 Territory:** [ ]

**2 Work (s):**

All musical compositions composed, owned and/or controlled by or for the Writer during the Term [and also including all compositions:

1. composed by the Writer before the start of the Term, including the following compositions :

Title [ ]Writer(s) [ ] Percentage controlled [ ]

and

1. if applicable, compositions in which the Writer has granted rights to any third party before the Term, to the extent that any rights in such compositions revert from such third party to or for the Writer during the Term including the following compositions:

Title [ ]Writer(s) [ ] Percentage controlled [ ]

and

(c) begun by the Writer before and completed during the Term and begun by the Writer before or during the Term and completed after the Term (details of which shall be given to the Publisher by the Writer immediately on the end of the Term and their completion respectively);]

**3 Term :**

3.1 The Term shall commence on the date of this Agreement and continue for an initial period (the "**Initial Period**") together with such further period or periods as may arise by reason of the exercise by the Publisher of one or more of its options granted below

3.2 The Publisher shall have [ xxx ] consecutive irrevocable options (“**Option**”) to extend the Term in each case by a further period (hereinafter respectively in order the "First Option Period" and the "Second Option Period" and the Third Option Period (each an " **Option Period**" and each of the Initial Period and Option Periods a “**Period**”)

3.3 Each Period shall continue until the later of:

* + 1. [ xxxx ] months after the start of the Period; or

(b) [ xxxx ] months after the Fulfilment of the Minimum Commitment for that Period

but no Period shall exceed ( xx ) years in duration subject only to clause 3.4 below

3.4 Each Option shall be exercisable at any time prior to the expiration of the then current Period by written notice from the Publisher to the Writer. If the Publisher fails to do so the Writer shall notify the Publisher in writing of the failure and the Publisher shall remain entitled to exercise the Option at any time up to the end of [ xx ] business days following receipt of such notice. Pending receipt of such notice and the expiration of the said [ xx ] business day period referred to above, the Term shall be deemed to continue. In the event that the Publisher elects to exercise the relevant option then the next Option Period shall be deemed to have commenced upon the date that such Option Period would have commenced had the Publisher exercised such option on a timely basis but payment of any advance which is related to the exercise of such option shall not be due before the actual exercise of such option

**4 Minimum Commitment**

In each Period the Writer shall use best endeavours to procure the [Commercial Release of a Commitment Album ***or***the Commercial Release of at least [ xx ] Commitment Tracks ] the completion of which for a Period is (sometimes) referred to in this Agreement as the Fulfilment of the Minimum Commitment for that Period. The Writer shall give notice to the Publisher in writing of the date of [the Commercial Release of each Commitment Album ***or***the Commercial Release of each Commitment Track ]and the relevant [Commitment Album ***or*** Commitment Track] shall be deemed released upon the date so notified (PROVIDED ALWAYS that it has been so released)

5 **Retention Period**

[Life of copyright and any renewals or extensions]

***or***

[The period beginning on the date of full execution of this Agreement and expiring on the date falling [xxx] years after the end of the Term, provided that:

* + 1. for all Works composed before the start of the Term, the period shall be deemed to have begun on the PRS's last quarter date before the start of the Term;
    2. if the expiry of the period (as so extended, if applicable) does not fall on 30 June or 31 December, the period shall be extended automatically until the next such date

At the end of the Retention Period the Publisher shall have the exclusive right for the Collection Period to collect all income derived from the exploitation of the Work(s) during the Retention Period If for any reason the Publisher receives any royalties arising from the exploitation of the Works after the Collection Period whenever paid, the Publisher shall account to the Writer under this Agreement, but without regard to recoupment of the Writer’s royalty account.]

**6 Royalties:**

**6.1 Sheet music and print income**

6.1.1 [ xx %] ( xx per cent) of the retail selling price of all copies of the Work(s) and folios containing wholly the Work (s) (reduced pro rata by title where a printed folio also contains third party copyrights) sold by the Publisher (and not returned) .

6.1.2 [ xx %] ( xx per cent) of all income received by the Publisher from licensing the printing of the Work(s) in whole or in part by a third party.

6.1.3 No royalties will be paid on copies of sheet music distributed free of charge for promotional purposes copies lost through theft or damaged or destroyed in transit or otherwise.

**6.2 Mechanical royalties**

[ xx %] ( xx per cent) of all royalties received by the Publisher which are solely derived from and identifiably attributable by title to the mechanical reproduction of the Work(s) but reducing to XX% (XX per cent) of all such royalties derived from any Cover.

* 1. Synchronisation royalties

[ xx % ] ( xx per cent) of all fees received by the Publisher that are solely, directly and identifiably attributable by title to the synchronisation of the Work[s) with visual images (including any audio visual production of any kind) but reducing to [ xx% ] of such fees derived from any Cover.

* 1. Performing right royalties

[ xx % ] xx per cent) of the “publisher’s share” of performing rights income received by the Publisher which is solely derived from and identifiably attributable by title to the exploitation of the Work(s).

6.5 Other income

xx % ( xx per cent) of all other income (i.e. except as specified elsewhere in this clause 6 of Schedule 1) received by the Publisher that is solely, directly and identifiably attributable by title to exploitation of the Works (excluding any "black-box" income), but reducing to [ xx % ] (xx per cent) of such monies derived from any Cover.

**7 Advances**

1. for the First Period:

(i) £[xxx] on signature of this Agreement [(or, if later, on execution of assignments of any Works in existence at the date of this Agreement)];

1. [£[xxx] on the Fulfilment of the Minimum Commitment for the Initial Period [and]

*EITHER*

[(b) (i) for the First Option Period £[xxx]

1. for the Second Option Period £[xxx]
2. for the Third Option Period £[xxx]

The advances set out above for each Option Period shall be payable as to [ xx % ] upon the commencement of the relevant Option Period and the balance upon the Fulfilment of the Minimum Commitment for that Option Period]

*OR*

[(b) for each Option Period, a sum equal to [xxx %] of the mechanical and performance royalties that shall have accrued to the Writer’s royalty account under this Agreement [(including Pipeline Income)] in respect of [EITHER [***Use for******Album Commitment*]** the Commitment Album for the immediately preceding Period first Commercially Released during such immediately preceding Period OR [***Use for******Individual Track Commitment*]** those Commitment Tracks which fulfilled the Minimum Commitment for the immediately preceding Period] calculated as at the date falling [ xxx ] months after the Fulfilment of the Minimum Commitment for the immediately preceding Period or , if earlier , the date of the Fulfilment of the Minimum Commitment for the then current Option Period (**Calculation Date**), subject to the following minimum and maximum payments:

**Minimum Maximum**

First Option Period: £[ xxx] £[ xxx ]

Second Option Period: £[ xxx ] £[ xxx ]

Third Option Period: [£[ xxx ] £[ xxx ]]

[ xx %] of the relevant minimum sum shall be payable on the commencement of the relevant Option Period, and the balance of the relevant minimum sum shall be payable on the Calculation Date or (if later) the fulfilment of the Minimum Commitment for the relevant Option Period. If, on the calculation of the advance in accordance with the above formula, the total sum of the advance due for such Period exceeds the relevant minimum, the Publisher shall pay such excess to the Writer (i) as to [ xx %] of such excess on the Calculation Date and (ii) as to the balance of such excess on the Calculation Date or (if later) the date of Fulfilment of the Minimum Commitment for the relevant Option Period.]

1. Notwithstanding the other provisions of this clause 7 :
2. Each advance shall not be payable before [ xx ] Business Days after the date otherwise set out in this clause 7 on which it becomes payable.
3. No advances shall be payable under this Agreement after the end of the Term nor during the period of any suspension under clause 13.3 of the Agreement [or clause 2.3 of Schedule 4 of the Agreement].
4. **[*Album Commitment only ]* [**If during any Period any Commercially Released Album embodies recordings of insufficient Qualifying Works to constitute the Full Advance Controlled Percentage of all the compositions embodied on such Album (by number or playing time, whichever results in the lesser percentage) on each type of sound carrier on which the album is Commercially Released in the UK the aggregate of the advances for such Period shall be reduced by multiplying such aggregate by a fraction, the numerator of which is the actual percentage that such Qualifying Works constitute of all the compositions embodied on such Album (by number or playing time, whichever results in the lesser percentage) on each type of sound carrier on which the album is Commercially Released in the UK, and the denominator of which is the Full Advance Controlled Percentage. Where such Album is Commercially Released on more than one type of sound carrier, the relevant fraction to be applied shall be the smallest of those resulting from the above calculation for each such sound carrier. If:
   * + 1. such reduction results in an aggregate of advances for the relevant Period less than the total of advances that have previously been paid by the Publisher during such Period; and/or
       2. the advances paid during any Period otherwise exceed the advances properly payable under this Agreement (including, for example, where a Work is shown to include a sample of another composition that is not a Work, but an advance has been paid under this clause 7 without regard to such sample),

the Writer shall on demand repay to the Publisher an amount equal to the excess and] the Publisher may deduct such excess from any further monies otherwise payable to the Writer under this Agreement.**]**

(iii) **[*Individual Track commitment only* ][**If the advances paid during any Period otherwise exceed the advances properly payable under this Agreement (including, for example, where a Work is shown to include a sample of another composition that is not a Work, but an advance has been paid under this clause 7 without regard to such sample), the Writer shall on demand repay to the Publisher an amount equal to the excess and] the Publisher may deduct such excess from any further monies otherwise payable to the Writer under this Agreement. **]**

All monies (including the sums set out in clauses 7(a) and (b) above) paid to or for the Writer (other than royalties and such sums, if any, as may be specified as non-recoupable) shall be treated as advances against and to be first deducted from any royalties otherwise payable to the Writer under this Agreement in respect of the Works, so that no royalties shall become payable to the Writer until all such monies have been recouped in full by the Publisher.

If the Publisher overpays any advances to the Writer, an amount equal to the advance overpaid may be deducted from any future advances payable

**SCHEDULE 2**

# The Publisher's Current Standard Form of Assignment as specified in clause 7.1

Ref: From: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*insert name or names of the Writer of the Composition(s) in question*]

To:

[*insert name or names of Publisher*]

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dear Sirs

By way of confirmatory assignment I/we hereby assign to you the following new Composition(s) as detailed in the Schedule below by virtue of and in accordance with the terms of the Agreement entered into between me/us (and others) and you dated \_\_\_\_\_\_\_\_ [*insert date of agreement]*

Title Writer Percentage Contribution

Yours faithfully

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[To be signed by [each Writer Member

contributing to the Composition(s) in question]

SCHEDULE 3

Writer Information

1 Royalty Statements to be sent to :

Name

Address

Email address

1. Royalties/advances to be paid to :

Name

Address

Email address

1. Bank details for any such payments made by electronic transfer:

(NB Publisher may issue a cheque at its discretion)

Bank name

Bank address

Account name

Account number

Bank Sort Code

IBAN code

SWIFT code

1. Writer Representative for Approvals

Name

Address

Email address

**SCHEDULE 4**

[Group Provisions]

1. Writer Members
   1. The Writer warrants that each of the individuals comprised by the Writer (**Writer Members**) is a member of the Group.
   2. The term “Writer” as used in this Agreement refers to the Writer Members individually and collectively, as the context admits.
   3. The Publisher shall be exclusively entitled to the composing services of the Writer Members for the Term and the Territory (both jointly and severally and whether in relation to the activities of the Group or otherwise).
2. Leaving / disbanding
   1. If any one or more (but not all) of the Writer Members leave the Group (**Leaving Members,** the remaining member(s) being the **Remaining Members**) or if the Writer Members cease to perform together as the Group or if the Group disbands (in any such case, a **Change**), the Writer shall promptly give the Publisher written notice of such Change (**Notice of Change**). If the Writer fails to give any Notice of Change required in accordance with the preceding sentence, the Publisher may (acting in good faith) give notice of such failure in writing to the Writer and such notice shall constitute a Notice of Change.
   2. The Publisher shall have the right, exercisable by written notice to the Writer at any time during the period of [ xx ] days following the date of service of a Notice of Change, to terminate the Term in relation to any one or more of the Writer Members provided that notwithstanding any other provision of this Agreement which may be construed to the contrary such termination (if any) of the Term in relation to any one or more (but not all) of the Writer Members shall be disregarded for the purpose of calculating the duration of the Retention Period.
   3. The Term shall be suspended (so that time shall not run) from the date of service of any such Notice of Change until the sooner of the date of such termination or, if no notice of termination is served, until the expiration of such [ xx ] day period.
   4. If the Publisher does not elect to terminate in relation to any of the Writer Members, the provisions of this Agreement (including clause 3 of Schedule 1) shall continue to apply with effect from the date of the Change as follows:
      1. collectively to the Remaining Members (mutatis mutandis), who shall thereafter be entitled to advances equal to the relevant advances previously payable, but reduced by multiplying such advances by a fraction, the numerator of which is the [ *insert* *number of Remaining Members* ] and the denominator of which is the [*insert number of all members of the Group immediately before the Change who were parties to this Agreement*]; and
      2. individually and severally to the Leaving Member(s) of the Group in respect of whom the Publisher shall not have elected to terminate the Term (each, a **Leaving Writer**), such that each Leaving Writer shall be deemed to have entered into a separate agreement with the Publisher identical in terms to this Agreement (mutatis mutandis), save that:
         1. the songwriting term of such separate agreement shall, for the avoidance of doubt, be equal to the Term that remains unexpired at the date of the Notice of Change and, for the avoidance of doubt, for the purpose of assessing the duration of the Retention Period, the Term for the Leaving Writer shall be deemed not to have been terminated in consequence of the Change;
         2. all advances payable thereafter by the Publisher to the Leaving Writer shall be equal to a fraction of those advances specified as payable to the Writer in this Agreement, the numerator of which is 1 and the denominator of which is the [*insert number of all members of the Group immediately before the Change who were parties to this Agreement* ]
         3. if the royalty rates under this Agreement have been subject to an escalation, the rates that apply in relation to compositions delivered by the Leaving Writer during the songwriting term of that Leaving Writer’s agreement shall be the rates that applied before any such escalation, unless the Leaving Writer himself achieves the target for such escalation from the compositions delivered by the Leaving Writer during the songwriting term of that Leaving Writer’s agreement; [and]
         4. the definition of "Commitment Album" in clause 1.1 of the Agreement shall be deemed amended for the Leaving Writer by the deletion of the words "solely comprising recordings of newly recorded studio performances by the Group" and replacement by the words "solely comprising recordings of newly recorded studio performances by the Leaving Writer (either as a solo recording artist or with another group of performers)"
   5. Royalty earnings arising from the exploitation of any Compositions assigned to the Publisher by the Writer before the date of the Notice of Change shall be applied in recoupment of any unrecouped advances paid before such date. Each Leaving Writer's share of royalty earnings arising from Compositions written or co-written by such Leaving Writer as a member of the Group may be applied in recoupment of advances payable to the Leaving Writer after the date of the Notice of Change.
   6. Royalty earnings arising from the exploitation of any compositions delivered to the Publisher by any Leaving Writer after the date of the Notice of Change:
      1. shall only be applied in recoupment of any advances thereafter paid to other Leaving Writer(s) if such Leaving Writer and those other Leaving Writer(s) shall perform together as a group of recording artists; and
      2. may be applied in recoupment of a fraction of the unrecouped balance of the Writer's joint royalty account as at the date of the Notice of Change (**Old Balance**), the numerator of which is the royalty earnings of such Leaving Writer in the Period in which the Notice of Change is served, and the denominator of which is the aggregate of the royalty earnings accruing to all Writer Members in such Period, [provided that [ xx % ] of that part of such royalty earnings that would otherwise be payable to a Leaving Writer following the recoupment of advances to such Leaving Writer and the appropriate fraction of the Old Balance under this paragraph 3.6(b) shall be applied in recoupment of any remaining part of the Old Balance still otherwise unrecouped, provided that the Publisher shall not be entitled to recoup any part of the Old Balance more than once].
3. New Member
   1. In the event that any new or additional member (**New Member**) joins the Group, the Writer undertakes to use best endeavours to ensure that such New Member shall join as a party to this Agreement for the balance of the Term in the capacity of the Writer (such capacity to be governed by the provisions of this Agreement, mutatis mutandis, together with any supplementary documentation the Publisher may consider necessary), save to the extent that the New Member is prevented from doing so by virtue of prior contractual commitments with unrelated third parties.
   2. The Writer undertakes to procure that any such New Member becoming a party to this Agreement shall, at the Publisher’s request, execute and deliver to the Publisher such document(s) as may reasonably be requested by the Publisher to evidence such New Member's agreement to be bound by the provisions of this Agreement.
   3. On becoming a party to this Agreement, the New Member shall be considered a “Writer Member” for the purposes of this Schedule.
4. No prejudice to Publishers rights

The provisions of this Schedule shall not affect or diminish the rights of the Publisher in any of the Compositions assigned to the Publisher under this Agreement, nor any of the other rights of the Publisher under this Agreement.

**5 Payment**

5.1 The Writer agrees that all sums payable under this Agreement to the Writer while the Writer Members are performing together as the Group shall be paid by a single cheque made payable to [ *insert name of payee*] or transfer into the account of the said payee, unless and until all the members of the Group give notice to the Publisher that they have agreed otherwise.

THE EXHIBIT

From: [*name of the relevant firm of accountants*]

[*Address*]

To: [*Publisher*]

[*Address* ]

Date: ………………………

Dear Sirs and Madams

**[*Name of Writer(s)*]**

I confirm that my firm and I are instructed on behalf of the above writer[s] to carry out an audit of your books and records under clause 6.3 of your music publishing agreement ( “Agreement”) with the writer dated [*date of agreement*].

In consideration of your payment to me and my firm of the sum of £1 (the receipt of which is hereby acknowledged), I hereby for myself and my firm undertake and agree as follows:

1. The audit shall be limited only to your books and records to the extent they relate to the exploitation of the Works (as defined in the above Agreement).
2. I acknowledge that all the information obtained by me and my firm (and our employees and agents) is of a confidential nature, and that neither I nor any other person engaged by me or my firm in relation to the audit shall disclose to any third party (other than the writer) any information obtained in the course of the audit, nor shall make use of any such information in connection with the affairs of any person other than the writer.
3. Neither I nor my firm has been (nor will be) engaged in relation to the audit on a contingency fee basis.
4. Neither I nor my firm is currently engaged in any other audit of any of you or your affiliates’ books and records on behalf of any other person, nor have we received instructions from any such person to carry out such an audit.
5. I shall arrange a start date for the audit with you, and the audit shall be completed within 6 months from the start date.
6. I or my firm shall prepare a working draft of the audit report that we intend to submit to the Writer, which we shall submit to you, and we shall give you a reasonable opportunity to discuss our findings with us before we submit our final report to the writer. We shall deliver a copy of the final report to you at the same time as delivering it to the writer.

Yours faithfully

**[*Name of accountant*]**

duly authorised for and on behalf of

**[*Name of firm of accountants*]**