

STANDARD TERMS AND CONDITIONS

1. Definitions

“**Act**” means the Copyright, Designs and Patents Act 1988.

“**Affiliated Society**” means each collecting society (or other body representing rights in Musical Works) with which a Rights Holder has, from time to time, an agreement under which that Rights Holder is authorised to grant licences in relation to the other society's (or body's) repertoire of Musical Works.

“**Agreement**” means these terms and conditions, the schedules to these terms and conditions and the Cover Sheet.

“**Applicable Revenue**” means the Gross Revenue less:

- (a) applicable Sales Tax; and
- (b) reasonable refunds actually paid to Licensee Clients who have paid for the Licensed Services where they were unable to use the Licensed Services as a result of a technical fault in the Licensed Services.
- (c) Maintenance costs actually incurred of hardware and equipment not to exceed five percent (5%) of all Gross Revenue.

“**Application**” means the online application completed and submitted by the Licensee with which the Licensee applies for a licence under this Agreement.

“**Audio-Visual Material**” means any specific presentation of Musical Work(s), other than (i) a Production Work or (ii) a Musical Work which has been commissioned by the Licensee (unless used outside the scope of the commissioning agreement), in conjunction with images (whether moving or still), provided that the Musical Work is the predominant focus of the audio-visual material, including where such material consists of:

- (a) a Music Video; or
- (b) a live concert performance or a film of a live concert performance by the artist performing that Musical Work; or

(c) subject to clause 3.11, such Musical Work being combined with photographs or other images relating to the artist performing the Musical Work or the composer of the Musical Work; or

(d) subject to clause 3.11, an interview with an artist, composer, producer or other person involved in the creation, performance or production of music where the Musical Work used is associated with the interviewee(s); or

(e) where permitted under clause 3.9, a performance of Permitted Excerpts of the Dramatico-Musical Work of which the Musical Work forms part.

Without prejudice to the express restrictions contained in this Agreement, the following will not be treated as Audio-Visual Material for the purpose of this Agreement:

- (i) the fact that ordinary web pages (or equivalent) are visible to the Licensee Client while the Licensee Client is listening to music; or
- (ii) the fact that the media player used to play the music generates random visual images while the music is playing,

provided, in both cases, that the Licensee Client would not reasonably be expected to associate the Repertoire Works being played with the images presented or think that there is any deliberate association by the Licensee of the Repertoire Works with such images.

“**Authorised Devices**” means up to ten (10) Data Storage Devices that may be associated with a Sound Zone within a Licensee Client Venue at any one time for the purposes of storing Downloads and/or Streaming of Musical Works within that particular one (1) Sound Zone. Once a Licensee Client Venue has reached the limit of ten (10) Authorised Devices, the Licensee Client may add additional devices by deactivating one Data Storage Device from use within the Licensee Client Venue for each new Data Storage Device added. The Authorised Devices may auto-expire if they no longer have Musical Works retained on that Data

Storage Device authorised for playback. For the avoidance of doubt, Streaming can only occur on one Authorised Device at any one time.

“Business Day” means between 9:00 and 17:00 (UK time) on a day, other than a Saturday or Sunday, when the commercial banks are open for business in London.

“Caching” means a Musical Work communicated to the public via a Network in the form of a download to an Authorised Device, where such download can only be retained and played by the Licensee Client on that Authorised Device and upon continued payment by the Licensee Client of a Subscription Fee and for the duration of the Licensee Client’s Subscription. Cached content may be either (a) consumed by the Licensee Client while it is downloading or (b) accessed by the Licensee Client only after it has first been downloaded in full. Upon expiration of the Licensee Client’s Subscription, access to the Cached content shall be disabled once the earlier of the following occurs:

where (i) an Authorised Device is online, the content shall be automatically disabled; or

where (ii) an Authorised Device is offline, the content shall be disabled as soon as that device is online; and

in any event no later than thirty (30) days from the last day that the content was Cached.

Recordings of Musical Works made available for Caching must always be protected by appropriate DRM technology. For the avoidance of doubt, Caching does not cover “buffering” where digital content is temporarily stored in a ‘buffer’ on the device solely for the purpose of processing of transferring such digital content to compensate for intermittent Network. The terms **“Cache”** and **“Cached”** as used within this Agreement will be interpreted accordingly.

“Change of Control” means where any person acquires all or substantially all of the shares, business or assets of Licensee. For the avoidance of doubt, including without limitation, where such person is: (i) a digital service provider exploiting similar rights as those subject to this Agreement; or (ii) owner of similar rights as those the subject of this Agreement; or (iii) an affiliate of, or has an affiliate that is, (i) or (ii) above.

“Commercial Report” means a report delivered by the Licensee in the form set out in Schedule 2.

“Concurrent Transmission” means (a) the reception and use by a Licensee Client of more than one Stream or (b) the consumption or access by a Licensee Client of more than one item of Cached content, at any one time by way of more than one Data Storage Device.

“Confidential Information” has the meaning given in clause 9.2.

“Cover Sheet” means the document issued by ICE to Licensee confirming that Licensee has been granted the licence described herein on the basis of the information provided in the Application and specifying among other things the applicable Term, Licence Fees, and usage and revenue limits.

“Data Protection Requirements” means the General Data Protection Regulation (EU) 2016/679, the Data Protection Act 2018, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner, and the equivalent of any of the foregoing in any relevant jurisdiction.

“Data Storage Device” means any medium on which data can be stored (whether temporarily or permanently) whether existing now or invented in the future.

“Digital Service Provider” means the legal person which, in relation to the Licensed Services, most closely meets the following criteria:

- (a) contracts with the Licensee Client in relation to the provision of the Licensed Services;
- (b) sets and controls the price that the Licensee Client pays;
- (c) can fully report on all elements of Gross Revenue (including relevant advertising revenues);

- (d) can provide, or can procure, music usage reporting;
- (e) controls how content is offered and bundled within the Licensed Services; and
- (f) carries out or authorises, on its instruction, the carrying out of the copyright-restricted acts licensed under this Agreement.

“**Download**” means a Musical Work communicated to the public via a Network in the form of downloaded data received and which may be permanently retained by the Licensee Client on a Data Storage Device.

“**Dramatico-Musical Work**” means any ballet, opera, operetta, musical, musical play or work of a similar nature.

“**DRM**” means digital rights management protection applied to digital files to prevent exploitation beyond the scope of the Licensed Services.

“**Gross Revenue**” means any and all gross revenue (before any deductions of agency commissions or any other deductions), whether due and payable to or received or receivable by the Licensee (and irrespective of whether a Licensee Client accesses any Musical Works via the Licensed Services):

- (a) from, or on behalf of, Licensee Clients in consideration (whether in whole or in part) for the provision of the Licensed Services;
- (b) from, or on behalf of, the supply and maintenance of any hardware, equipment and/or provision of services ancillary to the core music offerings in connection to the Licensed Services by the Licensee Client;
- (c) as a result of the inclusion and/or placement of third-party advertising and/or sponsorship;
- (d) as part of or on the Licensed Services including, but not limited to, as a result of the Licensee Client’s accessing buy and/or click-through buttons, sponsorship, click-throughs and/or other commissions, on a page associated with the Licensed Services, including, but not limited to, any page which directly follows such page leading up to, after and/or including the Downloading or

Streaming of the music offering;

- (e) as a result of the sale of a gift card or gift voucher that can be redeemed for or against the Licensed Services; and/or
- (f) any other revenue received by the Licensee arising in relation to the provision to Licensee Clients of the Licensed Services (including, without limitation, such revenue received in relation to donations and barter or contra deals, such deals to be valued for these purposes),

and also includes:

- (i) any revenue of that sort received or receivable by any affiliate of the Licensee or by any associate, subcontractor, trustee, agent and/or other representative of the Licensee or of such affiliate (in each case, a “**Relevant Third Party**”);
- (ii) where the Licensed Services are bundled or otherwise offered together with other service(s), content or product(s) by the Licensee, any and all revenue due and payable to, or received or receivable by, the Licensee or any Relevant Third Party that would be payable to it in consideration for the Licensed Services unbundled from the other service(s); and/or
- (iii) where advertising and/or sponsorship revenues at (c) above are due and payable to, or received or receivable by, the Licensee or any Relevant Third Party on a territorial basis that is wider than a country within the Licensed Territory, a pro-rata amount of such revenues, allocated in accordance with the aggregate total number of Streams on the Licensed Services made by Licensee Clients in each country within the Licensed Territory in which the Licensed Services are operating in the applicable period, divided by the total number of all Streams on the Licensed Services made by all Licensee Clients of the Licensed Services worldwide during the same period,

and for the avoidance of doubt, revenue that relates solely and identifiably to products other than the Licensed Services will not be included in the Gross Revenue.

“High-Quality” means Musical Works, whether as part of audio-only content or audio-visual content, in uncompressed, “high-resolution” or “lossless” audio quality or equivalent quality that exceeds a bit rate of 320kbps, and includes any other file format or end-to-end process that purports to deliver audio quality superior to 320 kbps (such as, by way of example, MQA).

“ICE” means International Copyright Enterprise Services Limited (company number 8983089), whose registered office is at Russell Square House, 10-12 Russell Square, London, WC1B 5EH.

“ICE Home Territories” means the territories described in Schedule 1 under the definitions “PRS-Home”, “GEMA-Home”, “STIM-Home”, “MCPS-Home”, “MCPS IRE-Home”, SABAM-Home “IMRO-Home” and “AKM/AUME-Home”.

“Interactive Streaming” means a Streaming service via which the Licensee Client does not (either contractually or operationally) have On-demand Streaming access and, in contrast to a Webcast, where the Licensee Client has the ability to influence the continuous output of music received, including, without limitation, where the Licensee Client: (a) may start the music (often known as “station”) around a particular track, without actually playing such track, and the Licensed Service then recommends similar tracks, artists or genres; or (b) does not have knowledge of the next track or tracks to be played as part of the continuous output of music; or (c) may pause the music, skip forward to the next Musical Work for a limited number of times, or move forward or backward within the music.

“Licence Fees” means the licence fees applicable to the Licensed Services under the ICE Direct Licence scheme and published on ICE’s website (www.iceservices.com) from time to time and payable in accordance with the terms of clause 4.

“Licensed Services” are those services set out in the Cover Sheet and excludes any other services, content and/or products that are not expressly licensed under this Agreement.

“Licensed Territory” means, as specified in the Cover Sheet:

- (a) ICE Home Territories; and/or
- (b) territories within EEA+CH+UK, CEE and

MENA (each as defined in Schedule 1), other than the ICE Home Territories.

“Licensee” means the person or entity named as such in the Cover Sheet and is the party granted a licence by the Rights Holders.

“Licensee Client” means any business entity in the Licensed Territory who enters into a contract with, or accepts the terms of use of the Licensee to allow such business entity to receive the Licensed Services in a Licensee Client Venue through a Sound Zone, irrespective of whether the business entity accesses and/or uses the Licenced Services.

“Licensee Client Venue” means a single business premises, restaurant or other public establishment under the management of the Licensee Client (excluding any mode of transportation that may make available content to passengers – such as inflight entertainment) in one or more territory of the Licensed Territories.

“Matching Performing Right” or **“MPR”** means the Performing Right in a Musical Work (or part thereof) which is owned, administered or controlled by either: (a) PRS or IMRO and which corresponds to the Mechanical Right in the same Musical Work (or the same part thereof), which is (i) Core Collective Repertoire, (ii) Publisher Repertoire as set out in Table 1 of Schedule 3, or (ii) subject to the necessary approval from PRS or IMRO, licensed by one of the direct licensors in Table 2, Annex 1 of Schedule 3, as the case may be; or (b) BMI and which corresponds to the Mechanical Right in the same Musical Work (or the same part thereof) licensed by one of the direct licensors in Table 2, Annex 1 of Schedule 3.

“Mechanical Rights” or **“MR”** means the mechanical rights granted in clauses 2.1.1 and 2.1.2.

“Member Repertoire” means the repertoire in respect of which the author/composer of a Musical Work (or part thereof as applicable) is a member of a Rights Holder as indicated in Table 1 of Schedule 3.

“Music Video” means any audio-visual production:

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

- (b) whose making was carried out by or on behalf of the record company releasing that recording or by or on behalf of the main artist(s) featured in that recording.

“Musical Work” means a work consisting of a musical work (as defined in the Act) and any lyrics or words written to be used with such musical work (if applicable) and includes any part of such work.

“Network” means the internet, a mobile network or any other wired or wireless network.

“On-demand Streaming” means a service (or the relevant part of a service) whereby a Licensee Client may receive a Musical Work by way of a Play where the time and place at which such Musical Work is received is selected by the Licensee Client, provided always that Concurrent Transmission will not be available unless expressly provided under this Agreement.

“Performing Rights” or **“PR”** means the communication to the public right granted in clause 2.1.3.

“Permitted Excerpts” refers only to Dramatico-Musical Works and means excerpts where the use of all such excerpts in any Audio-Visual Material complies with all the following limitations:

- (a) the total duration of the excerpts does not exceed twenty (20) minutes;
- (b) the use is not an abridged version of the Dramatico-Musical Work;
- (c) the use is not or does not cover a complete act of the Dramatico-Musical Work;
- (d) each excerpt is not presented in a "dramatic form" as defined below; and
- (e) as regards ballets specifically devised for television or excerpts from existing ballets, the total duration does not exceed five (5) minutes.

A dramatic form will be deemed to be created only by a performance in which there is a distinct plot depicted by actors and where the story of the Dramatico-Musical Work and/or its associated words is woven into and carries forward the plot and its accompanying action (and a dramatic form will not, for example, be deemed to be created by

the use of costume, scenery, and/or any dance routine merely to provide an acceptable presentation of the work). For the purposes of this definition, the word "actors" includes actors, singers, mimics and/or puppets.

“Play” means the transmission via a Network of a Musical Work regardless of the duration of actual transmission of that Musical Work intended for simultaneous reception and use by the Licensee Client where the content is not intended to be stored other than temporarily in a Cache for the purposes of rendering the same content during transmission. A Play will include the playback of a Cached Musical Work.

“Preview Clip” means an audio-only un-edited preview clip of a single Musical Work which shall have a maximum duration of up to thirty (30) seconds for a recording of a Musical Work of two (2) minutes and thirty (30) seconds or less in length, or up to ninety (90) seconds for a recording of a Musical Work over two (2) minutes and thirty (30) seconds in length.

“Production Work” means any Musical Work for which the person owning or controlling the copyright in such Musical Work has authorised the relevant Rights Holder to license it as “production” and/or “library” music.

“Quarter” means each of the periods from 1st January to 31st March, 1st April to 30th June, 1st July to 30th September, and 1st October to 31st December, throughout the Term. If the Term starts during such a quarter, the first “Quarter” means the remainder of that quarter. If the Term ends during such a quarter, the last “Quarter” means the part of that quarter that precedes the end of the Term.

“Reciprocal Repertoire” means the Musical Works owned or controlled by an Affiliated Society that, pursuant to a reciprocal agreement between a Rights Holder and that Affiliated Society, such Rights Holder is permitted to license.

“Recording” means, in relation to any Musical Work, a master sound recording of such Musical Work provided that High-Quality Recordings will only be provided to the Licensee where expressly agreed between the parties in writing.

“Repertoire Work” means each Musical Work in which the relevant copyright is owned, administered or controlled, from time to time, in the

Licensed Territory by a Rights Holder (including Reciprocal Repertoires where applicable), provided that: (i) if one or more of those who own, administer or control the copyright in that work are not Rights Holder(s) or an Affiliated Society, the term "Repertoire Work" will only apply to such interest(s) in that work as are owned, administered or controlled by Rights Holder(s) or an Affiliated Society; and (ii) it will exclude any Right Holder's or Affiliated Society's interest in a Musical Work that such Rights Holder or Affiliated Society has withdrawn or withheld from the scope of this Agreement. As at the first Business Day of the Quarter in which the Application was submitted by the Licensee, a summary of the repertoire that may be licensed under this Agreement is set out in Schedule 3.

"**Reporting Date**" has the meaning given in clause 5.1.

"**Rights Holders**" means, collectively, the following entities:

- (i) Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte, Bayreuther Strasse 37, 10787 Berlin, Germany ("**GEMA**");
- (ii) Mechanical-Copyright Protection Society Limited a company registered in England under number 00199120 whose registered address is 2nd Floor, Synergy House, 114-118 Southampton Row, London, United Kingdom, WC1B 5AA ("**MCPS**");
- (iii) Nordisk Copyright Bureau an association whose registered office is situated in the Municipality of Copenhagen ("**NCB**");
- (iv) Performing Right Society Limited a company registered in England under number 00134396 whose registered address is Goldings House, 2 Hays Lane, London, United Kingdom, SE1 2HB ("**PRS**"); and
- (v) Föreningen Svenska Tonsättarens Internationella Musikbyrå (STIM) U.P.A., a co-operative economic association registered in Sweden under the number 702002-3524 whose registered address is

P.O. Box 170 92, 104 62 Stockholm Sweden ("**STIM**"),

- (vi) Société belge des auteurs, compositeurs et éditeurs SC, with address Aarlenstraat, Rue d'Arlon 75-77, 1040 Brussels, Belgium ("**SABAM**")¹;
- (vii) As at 1 July 2019, Irish Music Rights Organisation CLG, a company incorporated under the laws of Ireland, with company registration number 133321, having its registered office and its place of business at Copyright House, Pembroke Row, Lower Baggot Street, Dublin 2 D02HW59 ("**IMRO**");
- (viii) As at 1 January 2021, Broadcast Music, Inc, a company incorporated under the laws of Delaware, with company registration number 6375734 having its trading office at 7 World Trade Center, 250 Greenwich St. New York, NY 10007 ("**BMI**");
- (ix) As at 1 April 2018, Concord Music Group Inc, with registered address 100 N. Crescent Drive, Garden Level, Beverly Hills, CA 90210, USA ("**Concord**");
- (x) As at 7 July 2022, ST Music Europe Limited, a company incorporated under the laws of England and Wales, with company registration number 10886078, having its registered office at 7 Bell Yard, London, England, WC2A 2JR ("**Songtrust**");
- (xi) As at 1 January 2023, AKM Autoren, Komponisten und Musikverleger reg. G. m.b.H., with its registered offices at Baumannstraße 10, 1030 Wien, Austria ("**AKM**");
- (xii) As at 1 January 2023, Austro-Mechana Gesellschaft zur Wahrnehmung mechanisch-musikalischer Urheberrechte G.m.b.H. with its registered offices at Baumannstraße 10, 1030 Wien, Austria ("**AUME**"); and
- (xiii) As at 1 April 2018, Peer European Licensing GmbH, with registered address Muhlenkamp 45, 22303 Hamburg, Germany ("**peermusic**"),

¹ If the Licensee believes it has a licence covering SABAM rights for any periods before July 2021, please let us know by emailing licensing@iceservices.com.

as may be amended from time to time on written notice from ICE to the Licensee, with each such entity being a **"Rights Holder"**.

"Sales Tax" means sales tax or value added tax and each like tax imposed in addition to or in substitution therefor.

"Simulcast" means the broadcast (as that term is defined in the Act) of a programme via a Network where such broadcast:

- (a) is simultaneous with the broadcast of such programme via a traditional terrestrial, satellite or cable television or radio service; and
- (b) is made from the website or other service of the originating broadcaster.

"Sound Zone" means an area within the Licensee Client Venue which plays an individual Stream of content. A Licensee Client Venue may have one or several Sound Zones, but each Sound Zone must be individually reported as a separate and unique Sound Zone within the Licensee Client Venue.

"Sound Zone Subscriber Month" or **"SZSM"** means each month during which a Licensee Client is entitled to access a Subscription Service (regardless of whether the Licensee Client actually accesses the Subscription Service) that covers one (1) Sound Zone. Each individual Sound Zone counts as one (1) individual Sound Zone Subscriber Month.

"Start Date" means the start date of the licence granted under this Agreement required by the Licensee and set out in the Cover Sheet.

"Stream" means a Play with a duration of thirty (30) seconds or longer. Where, however, the Recording of a Musical Work is shorter than thirty (30) seconds in total duration, a Stream means a Play regardless of the duration for which that Musical Work has been Streamed.

"Streaming" (and where the context requires, **"Streamed"**) means a Musical Work communicated to the public via a Network in the form of a continuous output of data which is played immediately rather than being permanently saved to a Data Storage Device other than limited buffering of a Musical Work on a Data Storage Device to allow for an uninterrupted listening

experience where the connectivity or speed of connectivity to a Network is intermittent or intermittently slow.

"Subscriber" means a Licensee Client who accesses the Licensed Services for a defined period of time (i.e. while the subscription continues) and in respect of which there would ordinarily be a subscription fee. The terms **"Subscription"** and **"Subscription Service"** as used within this Agreement will be interpreted accordingly. Where the Licensed Services are available as part of another subscription that is offered by the Licensee, the Licensed Services are also considered a Subscription Service.

"Subscription Fee" means the amount payable by Subscribers for the access and use of the Licensed Services.

"Term" means the period from the Start Date until 12 months from payment of the Licence Fees under clause 4.1, unless terminated earlier in accordance with the terms of this Agreement.

"Tier 1 countries" means Andorra, Austria, Belgium, Cyprus, Denmark, Estonia, Finland, France, Germany, Gibraltar, Greece, Iceland, Ireland, Italy (incl. Vatican City), Latvia, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland and United Kingdom.

"Tier 2 countries" means Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Czech Republic, Hungary, Kosovo, Lithuania, Macedonia, Montenegro, Poland, Romania, Serbia, Slovakia, Slovenia and those territories within MENA (as defined in Schedule 1).

"Webcast" means Streaming with:

- (a) no interactive functionality, for example (without limitation), no use of controls that enables the Licensee Client to pause, skip, move forward or backward through the continuous music output;
- (b) no personalisation of the service by the Licensee Client or the ability for the Licensee Client to offer preferences which then dictate the tracks that are provided to that Licensee Client, for example (without limitation), no ability for the Licensee Client to rate tracks so as to influence subsequent tracks that are

- played;
- (c) no advanced notification to the Licensee Client of titles of specific tracks to be played or specific albums from which tracks will be played (other than the introduction of the next track in DJ-led Webcasts);
 - (d) in any three (3) hour period:
 - (i) no more than three (3) songs from a particular album (including no more than two (2) consecutively); and
 - (ii) no more than four (4) songs from a particular artist or from any compilation of tracks (including no more than three (3) consecutively);
 - (e) no archived programmes less than five (5) hours in duration or available for more than two (2) weeks;
 - (f) no continuous programmes of less than three (3) hours' duration;
 - (g) effective technologies, insofar as such technologies are commercially available and can be implemented without imposing unreasonable costs, which aim to prevent:
 - (i) a Licensee Client or any other person or entity from automatically scanning the Licensee's transmissions alone or together with transmissions by other transmitting entities in order to select a particular sound recording to be transmitted to the Licensee Client; and
 - (ii) a Licensee Client from making copies, other than transient copies, of the sound recordings;
 - (h) no automatic or intentional cause by the Licensee of the Data Storage Device's receiving a transmission to switch from one program channel to another; and
 - (i) no Simulcast.

2 Grant of licence

2.1 Subject to and conditional upon compliance with the terms and conditions contained herein, ICE (as agent for Member Repertoire

and as attorney for Reciprocal Repertoire) on behalf of the applicable Rights Holders (each to the extent they own and/or control any Repertoire Works licensed hereunder) hereby grants the Licensee a non-exclusive licence to do the following during the Term in the Licensed Territory:

2.1.1 to reproduce Repertoire Works on servers in any territory in the universe (including temporary copies on servers between the originating server and the ultimate destination of the Repertoire Work) for the purpose of transmitting the same to Licensee Clients within the Licensed Territory across the Licensed Services;

2.1.2 where downloads are permitted under this Agreement, to cause temporary or permanent copies (as applicable) of Repertoire Works to be made on Licensee Clients' Data Storage Devices in the Licensed Territory across the Licensed Services; and

2.1.3 to communicate to the public (as that term is defined in the Act) and (provided that the Licensee remains the Digital Service Provider) to authorise the communication to the public of Repertoire Works within the Licensed Territory solely as part of and for the purposes of the provision of the Licensed Services.

2.2 The above licences will apply where Repertoire Works are used in audio-only material and Audio-Visual Material.

2.3 The proviso to the definition of Audio-Visual Material and the provisions of clauses 3.6, 3.9, 3.10 and 3.11 of this Agreement will not apply to a particular Repertoire Work where the owner of the relevant rights in such Repertoire Work has granted permission to the Licensee for the use of that Repertoire Work on the Licensed Services in the manner described under the relevant clause on such terms and conditions (including, if required, the payment of royalties or fees in addition to those specified under this Agreement) as the owner thinks fit.

2.4 The licences granted in this clause 2 will not

apply to any Licensed Services which knowingly or recklessly provide internet or mobile “links” to music which requires a licence, but is unlicensed (whether in the form of recordings or notation, scores, lyrics etc.). The inclusion of such links on the Licensed Services will constitute a material breach of this Agreement (which is capable of remedy).

2.5 The Licensee will notify ICE in writing (by email to licensing@iceservices.com) of:

2.5.1 any change to the trading name of any Licensed Services, or part thereof;

2.5.2 any proposed material change to the Licensed Services as soon as practicable and in any event no later than one (1) month before such proposed change is planned to come into effect in any country in the Licensed Territory. Following receipt of such notice ICE and the Licensee will discuss in good faith any amendments to the scope of the Licensed Services hereunder required for the Licensee to be permitted to implement such change. Any such amendment must be by written instrument signed by ICE (on its own behalf and on behalf of the Rights Holders) and the Licensee; and/or

2.5.3 any other changes or proposed changes to the information provided by the Licensee in the Application and/or set out in the Cover Sheet.

3 Exceptions and limitations

3.1 Non-Musical Works (including for the avoidance of doubt audio-books and podcasts) and Musical Works within audio-books and podcasts are outside the scope of this Agreement.

3.2 The licences granted under clause 2 of this Agreement are valid only insofar as:

3.2.1 the Licensed Services offered by the Licensee remain consistent with the Licensed Services set out in the Cover Sheet; and

3.2.2 the Licensee is the Digital Service Provider in relation to the Licensed Services.

3.3 Webcasting is excluded from the scope of this Agreement unless offered on Licensed Services that also offer On-demand Streaming and/or Interactive Streaming.

3.4 This Agreement does not grant any “synchronisation licence” covering the initial fixation of Repertoire Works in combination with visual images to create and produce Audio-Visual Material, nor “graphic rights” covering the graphical representation of lyrics.

3.5 For the avoidance of doubt, the licences granted under clause 2 will not extend to the public performance (as that term is used in the Act) of Repertoire Works as distinct from communication to the public of Repertoire Works, whether as part of the Licensed Services or otherwise.

3.6 Subject to clause 2.3, the licences granted under clause 2 will not permit the use of Repertoire Work(s) with any advertising or sponsorship of whatsoever nature where:

3.6.1 such Repertoire Work(s) are incorporated into such advertising or sponsorship; or

3.6.2 such Repertoire Work(s) are otherwise presented in such a way that a reasonable person might associate the Repertoire Work(s) with the advertising, sponsorship, trade mark, trade dress, get-up or any brand or goodwill,

other than as set out in clause 3.7.1 below.

3.7 For the avoidance of doubt (but without prejudice to the generality of clause 3.6), the licences granted under clause 2 will not apply to any Repertoire Work(s) made available for the purpose of (whether in whole or in part):

3.7.1 directly or indirectly encouraging the Licensee Client to purchase or obtain goods or services of whatsoever nature (other than music via the

Licensed Service); or

3.7.2 promoting the branding of the Licensee, any affiliate of the Licensee or any third party, in such a manner that:

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

Exclusion of Repertoire Works

3.8 Certain Musical Works, which would otherwise be Repertoire Works, may be excluded from this Agreement upon written notice (which may be by email) to the Licensee. The Licensee must then remove the respective Musical Work(s) within 48 hours of receiving such written notice, provided always that such exclusions are only imposed in good faith on the basis of a bona fide objection by a Rights Holder that holds rights in the relevant Repertoire Work(s). ICE will not exclude any Repertoire Works pursuant to this clause 3.8 in order to frustrate the purpose of this Agreement.

Dramatico-Musical Works

3.9 Subject to clause 2.3, where any Repertoire Work forms part of any Dramatico-Musical Work, the licences granted under clause 2.1 will not apply, to the reproduction of:

3.9.1 the whole Dramatico-Musical Work; or

3.9.2 any excerpt(s) from such Dramatico-Musical Work unless all of the following circumstances apply:

- (a) that excerpt which is copied or communicated to the public via the Licensed Services under this Agreement contains only excerpt(s) within the definition of Permitted Excerpts; and

- (b) ICE has not notified the Licensee in writing that a Rights Holder objects to the reproduction of any such Repertoire Work.

Adaptations

3.10 Subject to clause 2.3, the licences granted under this Agreement will not extend to or permit any adaptation of any Repertoire Work to be copied or communicated to the public as part of the Licensed Services unless the relevant Rights Holder (on behalf of its members or Affiliated Society) has consented in writing to such adaptation. By way of example only, this applies to:

3.10.1 any sampling (meaning the taking of part of the music and/or lyrics of a Repertoire Work and incorporating such part into another Musical Work) or the communication to the public or reproduction in the form of a sample of such part of a Repertoire Work; or

3.10.2 using with music lyrics other than those written to be used with the music or authorised for use with the music; or

3.10.3 using with lyrics music other than that written to be used with the lyrics or authorised for use with the lyrics.

However, subject always to clause 3.17 and provided that such alterations do not amount to an adaptation of a Repertoire Work and do not contravene clause 3.11, then this Agreement will apply in relation to Repertoire Works that have been modified (including music and/or lyrics) for the purpose of satisfying the requirements of the relevant recording.

The Rights Holders acknowledge, for the purposes of the restriction set out in this clause 3.10, that the production and inclusion as part of the Licensed Services of Preview Clips of Repertoire Works to promote the supply of music via the Licensed Services and does not of itself constitute an adaptation or sample.

3.11 Subject to clause 2.3, the licences granted

under this Agreement will not extend to:

3.11.1 the reproduction or communication to the public of any Repertoire Work or part thereof in the form of a caricature parody pastiche or burlesque of any Repertoire Work or of any composer or writer of any Work or any band or other group of artists which includes any composer or writer of any Repertoire Work; or

3.11.2 the use of any Repertoire Work in any context which the Licensee ought reasonably to consider as being likely to be insulting or detrimental to the composer featured on the commercially released sound recording of the music or the relevant Rights Holder's member or the member of an Affiliated Society.

3.12 Any additional material limitations in relation to the rights of an Affiliated Society who is associated with a Rights Holder and whose Works are administered by a Rights Holder to grant the licences set out in clause 2.1 which have been notified to ICE on behalf of the Rights Holders will be notified to the Licensee in writing (which may include by email) and will be binding no less than ten (10) days following such notice.

3.13 All rights not specifically granted under this Agreement are hereby reserved, and no implied licences are granted.

3.14 This Agreement does not extend to other rights or interests, including (by way of example only), rights in sound recordings (save for rights in sound recordings of Production Works, where expressly included in this Agreement), films, dramatic or literary works (including any underlying dramatic or literary work which forms part of the Dramatico-Musical Work or which such Dramatico-Musical Work is based on or uses), performers' rights or rights in performances. The Licensee is required to obtain the appropriate waivers, consents and/or licences from the person(s) owning or controlling rights in relation to sound recordings containing Repertoire Works or performers of that Repertoire Work.

3.15 It is the responsibility of the Licensee to obtain all necessary licences in relation to any Musical Work which is not, or to the extent that it is not, a Repertoire Work, and no licence is granted under this Agreement in relation thereto.

3.16 This Agreement does not cover any use of Repertoire Works (including but not limited to private copying) permitted by the relevant copyright laws of the territories covered by this Agreement, by way of example via exceptions and limitations. Neither fees concerning such uses, nor any fees which might be due under other statutory remuneration rights granted under such laws are stipulated or included in this Agreement.

3.17 Nothing in this Agreement affects the moral rights (as defined in the Act or howsoever characterised under applicable local law) of any author of Repertoire Works regardless of the territory of the author, and no use, arrangement or modification of a Repertoire Work (or part thereof) in any way that infringes the moral rights of the relevant authors is licensed under this Agreement.

4 Licence Fees

4.1 In consideration of the licences and authorisations granted under this Agreement, the Licensee will pay to ICE the Licence Fees for the Term in advance, in Euro.

4.2 The Licence Fees shall be payable online by debit/credit card via ICE's designated payment provider, Stripe Payments Europe Ltd and its affiliates (please see ICE's Privacy Policy for further information). For the avoidance of doubt, this Agreement shall not come into force until the Licensee has paid the Licence Fees.

4.3 The Licence Fees are non-refundable and recoupable against the usage limit(s) and revenue cap(s) set out in the Cover Sheet during the Term. For the purposes of calculating recoupment, each Stream / Download / Subscriber Month on a Licensed Service in a Tier 2 country will count as 0.5, while each Stream / Download / Subscriber Month in a Tier 1 country will count as 1.

- 4.4 Where it is necessary for the Licensee to exchange the currency of an amount into Euro for the purpose of the revenue cap(s) in the Cover Sheet or the sum set out in clause 4.8, the exchange rate used will be the average exchange rate for the Term as published in the European Central Bank Monthly statistics bulletin.
- 4.5 The Licensee may at any time during the Term purchase a licence for additional Licensed Services online via ICE's website. The licence for the additional Licensed Services purchased shall commence once the Licence Fees have been paid for such additional Licensed Services.
- 4.6 The Licensee shall notify ICE immediately if the maximum usage limits in Band 16 in any one Licensed Service are exceeded. If the maximum usage limits are exceeded, this Agreement shall terminate, and the Licensee shall contact ICE to discuss the appropriate licence applicable to the Licensee.
- 4.7 The Licensee shall notify ICE immediately (by email to licensing@iceservices.com) if the Licensee's usage of any of the Licensed Services exceeds the limits stated in the Cover Sheet, so that the amount the Licensee pays as Licence Fees may be adjusted accordingly.
- 4.8 The Licensee shall notify ICE if the Gross Revenue from the Licensed Service(s) exceeds the sum of EUR 500,000 (or such other threshold sum for the ICE Direct Licence scheme as may be published on ICE's website (www.iceservices.com) from time to time at the Rights Holders' and ICE's discretion) (excluding the applicable Sales Tax) per annum. In such circumstances, this Agreement shall terminate, and the Licensee shall contact ICE to discuss the appropriate licence applicable to the Licensee.
- 4.9 The Licence Fees set out in this Agreement are combined fees for the licensing of the Mechanical Rights and the corresponding Performing Rights for each Repertoire Work and any other rights that are expressly granted to the Licensee hereunder, including (in accordance with established industry practice) for shares in Musical Works that are under copyright control or unmatched works (or a portion thereof) used on the Licensed Services, applying a consistent approach to ICE's other licensees that operate services similar to those of the Licensee in the applicable period.
- 4.10 The Rights Holders confirm and warrant that ICE is authorised to receive all payments under this Agreement on behalf of the Rights Holders. Accordingly, the Licensee will pay to ICE Licence Fees and any other payments falling due under this Agreement in consideration of the licences and authorisations granted under this Agreement.
- 4.11 The Licensee will pay its own bank charges on transfers of sums payable to ICE.
- 4.12 All licence fees and payments referred to in this Agreement are subject to any applicable Sales Tax, which the Licensee will pay to ICE at the rate or rates from time to time in force on any sums payable under this Agreement.
- Interest**
- 4.13 If the Licensee fails to make a payment due to ICE under this agreement by the due date, the Licensee shall pay interest on the overdue sum from the due date until payment of the overdue sum.
- 4.14 Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- Withholding tax**
- 4.15 Except as expressly set out in this Agreement, no deduction in respect of any tax, or any other deduction or set-off of whatsoever nature, will be made in calculating or paying any sum due under this Agreement.
- 4.16 The Licensee may be required by the national tax regulations applicable to the Licensee to retain a withholding tax on

Licence Fees and to pay any such retained withholding tax to the competent tax authorities, if applicable. Save where restricted by national tax regulations applicable to the Licensee, if any such withholding is required, the Licensee shall, when making the payment to ICE to which the withholding tax relates, pay to ICE such additional amount as will ensure that ICE receives the same total amount that it would have received if no such withholding had been required.

5 Supply of information and reporting

- 5.1 The Licensee will deliver a complete and accurate Commercial Report to ICE on a Licensed Service-by-Licensed Service and territory by territory basis within fourteen (14) calendar days following the expiry of the Term (the “**Reporting Date**”). The format of the Commercial Report will be as set out in Schedule 2.
- 5.2 ICE reserves the right to take into account the Commercial Reports provided by a Licensee in accordance with clause 5.1 when reviewing any subsequent Application received from the Licensee.
- 5.3 The Licensee will provide ICE with any further information or documentation not already supplied to ICE in the Licensee’s possession, power, custody or control (and use its reasonable endeavours to supply ICE with any further information or documentation not in its possession, power, custody or control) reasonably requested by ICE at any time, in order to assist ICE with the timely verification of Repertoire Works which have been reproduced, distributed or communicated to the public via the Licensed Services provided that the Licensee may anonymise or, where necessary, remove, any element of any information provided under this Agreement which reveals the identity of employees or agents of Licensee Clients or otherwise causes it to include or constitute “personal data” as defined in the Data Protection Requirements. All information will be provided without prejudice to any right in law that ICE may have to obtain such information.

6 Errors in usage data

- 6.1 In the event that ICE or the Licensee becomes aware of any errors in a Commercial Report provided by the Licensee, the relevant party will promptly inform the other (and in any case, no later than five (5) Business Days of becoming so aware). ICE will examine the Commercial Report and request other information from the Licensee necessary to determine the significance of the error(s), and ICE will, as soon as practicable, notify the Licensee of its determination.

- 6.2 Where the Licensee may incur additional costs, as a result of the Licensee’s error in, or failure and/or delay in providing, the Commercial Report, ICE will notify the Licensee as soon as reasonably practicable of such costs and issue a separate invoice to the Licensee.

- 6.3 Where an error has been caused by the Licensee, and, in order to make the necessary adjustment to any incorrect Licence Fees that have been paid or are payable by the Licensee as a result of such error, if ICE is required to perform additional or duplicate processes, ICE reserves the right, at its sole discretion, to elect to carry out such processes as it sees fit and, in those circumstances, to charge the Licensee:

- (i) underpaid Licence Fees and interest;
- (ii) any reasonable costs and expenses of such processes and/or invoicing; and
- (iii) in the circumstance where licence fees have been distributed to ICE customers or their members and/or Affiliated Societies, any reasonable costs, including those of Rights Holders incurred in retrieving Licence Fees.

7 Auditing

- 7.1 The Licensee will permit access to its premises and personnel, and keep and make available for inspection upon reasonable notice (and will procure that each Relevant Third Party permits access to its premises and personnel, and keeps and

makes available for inspection upon reasonable notice), both during the Term and for twelve (12) months after termination or expiry of this Agreement, proper, detailed books and records and all relevant accounting records relating to (a) the use of all Musical Works and (b) any income or other consideration received by or on behalf of the Licensee in relation to the Licensed Services, together with any supporting documentation relating thereto, including its policies and procedures relating to its internal control environment in respect of reporting processes so as to enable complete, accurate, timely and valid reporting to be made to ICE, covering the period up to the earlier of (a) the launch of the Licensed Services or (b) six (6) years prior to the date of notification of audit. Books and records and all relevant accounting records will include data, information and records held on computers or any other storage medium. Any audit carried out under this clause 7, whether during the Term or the term of any Replacement Agreement (defined below) will be permitted to inspect such books and records covering a preceding agreement with the Licensee and ICE regarding substantially the same activities. Where any agreement between the Licensee and ICE replaces this Agreement or licenses substantially the same activities (the "**Replacement Agreement**"), the twelve (12) month period referred to above will begin following termination or expiry of any Replacement Agreement.

7.2 The duly authorised representatives of ICE will have such access to the Licensee's premises and will 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.

7.3 If tests under any audit and verification process indicate underpayment of the correct Licence Fee during the period under audit, then, without prejudice to ICE and the Rights Holders' other rights under this Agreement, the Licensee will pay the amount of the underpayment plus interest

based on the period from which the correct fee should have been paid to ICE to the date when it was actually paid.

7.4 If any audit and verification process discloses (a) underpayment of more than five (5%) of the correct Licence Fee during the period under audit and/or (b) failures to report correctly (so as to affect payment by ICE to the Rights Holders) amounting to at least five percent (5%) of any pertinent information that ICE uses to calculate Licence Fees, then, without prejudice to ICE's other rights under this Agreement, the Licensee will pay, in addition to the payment referred to in clause 7.3 and this clause 7.4, ICE's reasonable costs of such audit and verification within twenty-one (21) calendar days of receipt of ICE's Sales Tax invoice therefor.

7.5 Any confidential information of the Licensee (so long as it remains confidential) received in the course of an audit carried out under this clause 7 will be treated in accordance with clause 9 (confidentiality), save that such confidential information may be disclosed to ICE's directors, board, committee members, officers, employees and professional advisors (solely where such persons are under a duty of confidentiality in relation to information so received).

7.6 The Licensee will, if requested by ICE, provide an ISAE 3402 Type II (or equivalent) statement from its auditors (but not more than once per year) confirming that the financial information submitted by the Licensee for a period is in accordance with the actual Applicable Revenue (as defined under this Agreement) for that period.

8 Credits and notices

8.1 The Licensee will include on each of the Licensed Services:

8.1.1 the logo of ICE;

8.1.2 details of the following website and, where practical, hypertext links to it: <https://www.iceservices.com/>;

8.1.3 where required by any applicable law, the name of the composer and publisher of the Repertoire Works

provided via the Licensed Services;
and

8.1.4 a notice explaining that use of the Musical Works is subject to restrictions, and that a summary of those restrictions may be obtained on request from the Licensee.

8.2 ICE's approval will be deemed to be given to the positioning of the above credits and notices within the terms and conditions of the Licensed Services where it is not reasonably practical to position such information elsewhere.

9 Confidentiality

9.1 This Agreement will not supersede the terms of any prior non-disclosure agreement or other confidentiality agreement entered into between the parties in respect of the disclosure of confidential information while licensing negotiations were taking place or were due to take place.

9.2 All information provided from one party to another hereunder, are confidential ("**Confidential Information**"). Each of the Licensee, ICE, and the Rights Holders agree to keep secret and strictly confidential all Confidential Information belonging to or controlled by another party and will not use such Confidential Information except as contemplated herein and solely in respect of the Licensed Service(s).

9.3 The Licensee, ICE, and the Rights Holders will not, without the disclosing party's prior written consent, at any time divulge, disclose or otherwise furnish to any third party any Confidential Information disclosed to it, except:

9.3.1 to the extent explicitly permitted herein;

9.3.2 to the extent required by law, by any competent authority and/or any regulatory body, including the Collective Rights Management Directive (2014/26/EU), pursuant to an order of a court of competent jurisdiction, or pursuant to any proper order or demand made by any competent authority or body (including competition authorities)

where that party is under a legal or regulatory obligation to make such a disclosure;

9.3.3 in the case of each party, to that party's employees, officers and directors, affiliates and/or sub-contractors (including the employees, officers and directors of such affiliates and/or sub-contractors) to whom disclosure is necessary for a party to perform its obligations under this Agreement and/or to a party's professional advisors as otherwise permitted herein. Each party will impose confidentiality obligations and restrictions of use substantially similar to those set out in this clause 9 on the persons to whom Confidential Information is disclosed; and/or

9.3.4 in the case of ICE, to use the name, logo and/or trade mark of the Licensee and/or the brand of the Licensed Services on its website and/or in any other communication to Rights Holders within a list of licensees and to provide confirmation to Rights Holders and Affiliated Societies that such services are licensed, the identity of the Licensee and the fact that it is ICE licensing the Licensee.

9.4 Each party will implement reasonable procedures to prohibit the unauthorised disclosure or misuse of the other parties' Confidential Information. Each party will use at least the same procedures and degree of care that it uses to prevent the disclosure of its own Confidential Information to prevent the disclosure of Confidential Information disclosed to it by a party under this Agreement, but no less than reasonable care.

9.5 The provisions of this clause 9 will not apply to any information which the receiving party can demonstrate:

9.5.1 is at the time of disclosure already in the public domain or is public knowledge; or

9.5.2 comes into the public domain or

becomes public knowledge otherwise than through an unauthorised disclosure by a party in breach of an obligation of confidentiality; or

9.5.3 was lawfully in a party's possession prior to such disclosure, as evidenced by the respective party, and which was not acquired directly or indirectly from the relevant party; or

9.5.4 is received after disclosure to it from a third party who had a lawful right to disclose such information to it.

9.6 The Licensee agrees that ICE may use the Licensee's Confidential Information disclosed hereunder for ICE's business intelligence reports which will be provided to the Rights Holders under obligations of confidentiality substantially similar to those contained in this Agreement.

9.7 The Licensee agrees that Rights Holders may disclose such Confidential Information to its members and to Affiliated Societies whose rights it administers in the Licensed Territory, provided that any such disclosure by Rights Holders and any disclosure by a Rights Holder is subject to confidentiality obligations and restrictions of use substantively similar to those set out in this clause 9.

9.8 The confidentiality obligations of the parties as set out in this clause 9 will continue after the expiry or termination of the Agreement for five (5) years, unless otherwise required by law.

10 Limitation of liability

10.1 The Licensee represents and warrants that it will not, directly or indirectly, include on the Licensed Services Recordings which are themselves infringing copies of any Repertoire Work.

10.2 Under no circumstances will, on the one hand, ICE and/or any Rights Holder, and on the other hand the Licensee, be liable to the other under this Agreement for:

10.2.1 any loss of profits, business, contracts, anticipated savings or

goodwill; or

10.2.2 any indirect or consequential loss or damage whatever.

10.3 Nothing in this Agreement will limit a party's liability to the other arising out of this Agreement in relation to:

10.3.1 death or personal injury;

10.3.2 fraudulent misrepresentation;

10.3.3 misuse of Confidential Information;

10.3.4 in the case of Licensee, its obligation to pay the Licence Fees.

For the avoidance of doubt, nothing in this Agreement limits a party's liability to the other in relation to infringement of intellectual property rights outside the scope of the licence.

10.4 Subject to clause 10.3, each party's total aggregate liability arising from or in connection with this Agreement including liability for breach of contract, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise will under no circumstances exceed a sum equal to:

10.4.1 in the case of the Licensee, 100% of the Licence Fees paid or payable to in the previous twelve (12) months; and

10.4.2 in the case of each Rights Holder severally, 100% of the Licence Fees received by that Rights Holder in the twelve (12) months preceding any claim made under this Agreement; and

10.4.3 in the case of ICE, 100% of the Licence Fees received by ICE in the twelve (12) months preceding any claim under this Agreement, less any amounts paid by ICE to Rights Holders.

10.5 The obligations and any liability of ICE and each Rights Holder under this Agreement will be several and will extend only to any

loss or damage arising out of such person's own breach of contract, or negligence.

remedy.

11 Termination and expiry

11.1 This Agreement will expire on the last day of the Term unless terminated earlier by written agreement or in accordance with the terms of this clause 11.

11.2 This Agreement may be terminated by the Licensee upon written notice (to licensing@iceservices.com) in the following circumstances:

11.2.1 where the Licensee is ceasing to engage in all activities covered by this Agreement, with immediate effect from the date all such activities cease; or

11.2.2 where ICE notifies the Licensee under clause 17.4 of a variation to these terms and conditions, provided such notice is given no later than thirty (30) days after the date of notification of the variation, with such termination taking effect on the day before the date on which the variation comes into effect.

11.3 Each party will have the right to terminate this Agreement by notice forthwith where the other party:

11.3.1 commits a material breach of this Agreement which is capable of remedy and fails to remedy such breach within thirty (30) Business Days after receipt of notice of such breach and, for the avoidance of doubt and except for the Licensee's obligations under clause 3.8, any breach which consists of a failure by either party to perform an obligation under this Agreement within any period required or by any date specified under this Agreement will be deemed to be capable of remedy if such obligation is performed by such party within such thirty (30) Business Day cure period; or

11.3.2 commits a material breach of this Agreement which is not capable of

11.4 Without limitation, breach of any of the following provisions in this Agreement will be deemed material breach:

11.4.1 non-payment of Licence Fees or other amounts due hereunder; and/or

11.4.2 clause 2.4; and/or

11.4.3 Licensee undergoes a Change of Control, of which written notice will be given to ICE as soon as Licensee is legally able to do so.

11.5 ICE will have the right to terminate this Agreement with immediate effect by written notice if the Licensee:

11.5.1 is dissolved (other than pursuant to a consolidation, amalgamation or merger);

11.5.2 becomes insolvent or is unable to pay its debts (as that term is defined in section 123 of the Insolvency Act 1986) or fails or admits in writing its inability generally to pay its debts as they become due;

11.5.3 makes a general assignment, arrangement or composition with or for the benefit of its creditors;

11.5.4 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:

(a) 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

- (b) is not dismissed, discharged, stayed or restrained in the case of a winding-up petition within ten (10) Business Days or in the case of an administration petition within two (2) Business Days, of the institution or presentation thereof;
- 11.5.5 has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- 11.5.6 seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- 11.5.7 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 twenty-one (21) Business Days thereafter; and/or
- 11.5.8 causes or is subject to any event which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in the preceding provisions of this clause 11.5.
- 11.6 Termination of this Agreement for whatever reason will be without prejudice to any rights which have already accrued to the parties under this Agreement.
- 12 Effect of termination**
- 12.1 Upon termination of this Agreement all licences granted under this Agreement will terminate and the Licensee will immediately cease to be licensed by the Rights Holders for the reproduction or communication to the public of Repertoire Works as set out in clause 2.1 via the Licensed Services.
- 12.2 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement, including clauses 5 (Supply of information and reporting), 6 (Errors in usage data), 7 (Auditing), 9 (Confidentiality), and 10 (Limitation of Liability), will survive the termination of this Agreement, but only in relation to the Licensee's activities during the Term.
- 13 No assignment**
- 13.1 Subject to clause 13.2, the licences granted under this Agreement are personal to the Licensee and the Licensee may not assign, sub-license or otherwise transfer any or all of its rights or obligations under this Agreement without the written agreement of ICE.
- 13.2 Subject always to the other provisions of this Agreement, the Licensee will be permitted to use the services of a third party in operating the Licensed Services, provided that:
- 13.2.1 the Licensee retains complete control and direction over the provision of the Licensed Services to Licensee Clients; and
- 13.2.2 ICE is permitted to audit such third party in accordance with clause 7.
- 13.3 The Licensee will include the following provisions in its terms and conditions for the supply of the Licensed Services to Licensee Clients:
- 13.3.1 that any Repertoire Works communicated to Licensee Clients may only be copied as permitted under this Agreement or by applicable law; and
- 13.3.2 in accordance with the provisions of clause 16 (security and encryption):
- 13.4 The Licensee will, upon request by ICE, provide a copy of the Licensee's standard terms and conditions applying to the provision of any or all of the Licensed

Services.

14 Controlled Composition Agreements

14.1 Where any person, firm or company is or becomes a member of any Rights Holder or an Affiliated Society and that party itself or that party's predecessor in title or grantor has a current contract with the Licensee or the Licensee's predecessor in title or grantor:

14.1.1 to the extent that such contract would otherwise apply in relation to the grant of any or all of the licences referred to in this Agreement and/or the terms and conditions on which such licences are granted, the terms and conditions of this Agreement will during the subsistence of this Agreement replace the terms and conditions of that contract; and

14.1.2 upon the written request of the Licensee, ICE (on behalf of the relevant Rights Holder) will provide the Licensee with evidence that the relevant member has become a member and has given the relevant Rights Holder or the relevant Affiliated Society authority to bind the member as regards this Agreement.

15 Notices

15.1 Except where expressly stated otherwise, any notice or other written communication given under or in connection with this Agreement will only be effective if it is in writing and sent to the appropriate contact on the Cover Sheet. Notice by email is permitted and effective as at the date of the email, save that in the absence of any legitimate electronic signature system, either party will be permitted to require the confirmation in writing (signed by an authorised signatory) of any notice originally sent by email.

15.2 The address for service of notices on the Licensee will be the registered office of Licensee, marked for the attention of the Licensee "Legal Counsel". The address for service of notices on ICE and/or any Rights

Holder will be the registered office of ICE, marked for the attention of the "ICE Legal Counsel", or, if any other address or addressee for service has previously been notified to the server, to the address so notified. A single notice served on or sent to ICE and addressed to any Rights Holder will be treated as validly served on that Rights Holder for the purposes of this Agreement only.

15.3 Any such notice or other written communication will be deemed to have been served:

15.3.1 if personally delivered, at the time of delivery; or

15.3.2 if posted, at the expiry of two (2) Business Days or in the case of airmail four (4) Business Days after it was posted; or

15.3.3 if sent by email, at the time of receipt of transmission if received on a Business Day or, if not received on a Business Day, at the beginning of normal business hours on the next Business Day.

15.4 In proving service of a notice or other written communication it will be sufficient proof that personal delivery was made, or that such notice or other written communication was properly addressed stamped and posted or in the case of an email that a time-stamped copy from the sender's computer can be produced in respect of the notice or other written communication (provided that the sender has not received any system notification of failure of delivery).

16 Security and encryption

16.1 The Licensee will deploy industry standard security and content protection systems and technologies designed to protect and maintain the security and integrity of the Repertoire Works.

16.2 Save as may be permitted by law, the Licensee agrees that it will not (and will procure that any relevant party will not) attempt:

- 16.2.1 to remove or alter any DRM or identifier information that may be associated with any Repertoire Works; or
- 16.2.2 to circumvent any technical measures associated with any Repertoire Work which are designed to track, prevent or restrict the unauthorised use of any Repertoire Work.
- 16.3 The Licensee will take all necessary steps to ensure that any and all Streaming or On-Demand Streaming services used by Licensee Clients from the Licensed Services cannot be converted into Downloads.
- 16.4 The Licensee undertakes to implement, with reasonable skill and care in a workmanlike and professional manner according to good industry practice and consistent with professional standards in the IT industry, all appropriate technical, organisational and security measures in order to protect against (i) data loss, (ii) unauthorised or unlawful use of Licensed Services, and (iii) any computer viruses and/or malicious and/or harmful software being transferred to ICE (or its Affiliates) via the Commercial Reports it provides.
- 17 Miscellaneous**
- 17.1 No delay or omission in exercising any right or remedy hereunder will operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof will preclude any other or further exercise thereof or the exercise of any other rights or remedies. No waiver will be binding or effectual for any purpose unless expressed in writing and signed by the party giving it, and any such waiver will be effective only in the specific instance and for the purpose given.
- 17.2 In the case of conflict or inconsistency between any provision contained in this Agreement, it will be construed in the following order of precedence to the extent of such conflict or inconsistency: (a) the Standard Terms and Conditions; (b) the schedules; and (c) the Cover Sheet.
- 17.3 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.
- 17.4 ICE may from time to time vary the terms and conditions of this Agreement by giving notice in writing to the Licensee, with such variation to take effect not less than thirty (30) days after the date of such notice.
- 17.5 The parties will (and will procure that any other necessary party within its control will) execute and deliver all such documents acts and do all such things as may be reasonably be required on or subsequent to completion of this Agreement for securing each of the rights and obligations of the respective parties under this Agreement.
- 17.6 If this Agreement creates any rights which would in the absence of this provision be enforceable by any person that is not a party to this Agreement, such rights will not be enforceable.
- 17.7 This Agreement and any related dispute or claim (contractual or non-contractual) will be governed by, and construed in accordance with, the laws of England and Wales and subject to the exclusive jurisdiction of the English courts provided that, if the Licensee or ICE wishes to raise a dispute, controversy or claim arising out of or in connection with this Agreement it may refer such dispute to an alternate dispute resolution procedure.
- 18 Interpretation**
- 18.1 Any reference to "person" includes natural persons, firms, partnerships, limited liability partnerships, companies, corporations, unincorporated associations, local authorities, governments, states, foundations and trusts (in each case whether or not having separate legal personality) and any agency of any of the above.
- 18.2 Any phrase introduced by the expressions "including", "include", "in particular" or any similar expression and the words "other", "for example" or any similar words will be

construed as illustrative and will not limit the sense of the words preceding those terms.

18.3 Any reference to a statute, statutory provision or subordinate legislation ("**legislation**") (except where the context otherwise requires) (a) will be deemed to include any bye-laws, licences, statutory instruments, rules, regulations, orders, notices, directions, consents or permissions made under that legislation and (b) will be construed as referring to any legislation

which replaces, re-enacts, amends or consolidates such legislation (with or without modification) at any time.

18.4 Any reference to an English legal expression for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing will, in respect of any jurisdiction other than England, be deemed to include a reference to what most nearly approximates in that jurisdiction to the English legal expression.

Schedule 1 – Rights Holder Home Territories and Licensed Territory Key

LICENSED TERRITORY	EXPLANATION	INCLUDED TERRITORIES
EEA+CH+UK	European Economic Area, Switzerland and United Kingdom	EU includes: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Gibraltar, Greece, Hungary, Ireland, Italy (incl. Vatican City), Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden. EEA + CH + UK includes: EU, Iceland, Liechtenstein, Norway, Switzerland and United Kingdom.
CEE	Central and Eastern Europe	Albania, Andorra, Bosnia-Herzegovina, Kosovo, Macedonia, Monaco, Montenegro, San Marino and Serbia.
MENA	Middle East and North Africa	Afghanistan, Algeria, Bahrain, Djibouti, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Pakistan, Palestine Territories, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, Turkey, United Arab Emirates, Western Sahara and Yemen.
PRS-HOME	Territories considered as PRS Home Territories	United Kingdom plus Cyprus, Gibraltar and Malta and the Channel Islands.
GEMA-HOME	GEMA Home Territory	Germany
STIM-HOME	STIM Home Territory	Sweden
MCPS UK-HOME	MCPS UK Home Territories	United Kingdom plus Cyprus, Gibraltar, Malta and the Channel Islands.
MCPS IRE-HOME	MCPS Ireland Home Territory	Ireland
IMRO-HOME	IMRO Home Territory	Ireland
SABAM-HOME	SABAM Home Territory	Belgium
AKM/AUME-HOME	AKM/AUME Home Territory	Austria

Schedule 2 – Form of Commercial Report

Column	Column Header	Additional description
A	Service Name	Branded/commercially recognised name of service, for example, <i>Brand Premium</i> or <i>Brand hifi</i> or <i>Brand Radio</i> . Trials to be reported separately.
B	Service Category	As per ICE definitions - description of the functionality, for example, Portable Subscription Streaming Service or Ad-funded Interactive Webcasting Service.
C	Monthly Sales Period Start	Start date of the month.
D	Monthly Sales Period End	End date of the month.
E	Territory	Territory base of the subscriber and payment transaction, or in the case of ad-funded/free to Licensee Client services, delivery of advertising and/or consumption of content.
F	Total Applicable Revenue since Start Date (broken down by 12-month periods if the Start Date is before the date of submission of the Application)	As defined in the Agreement.
G	Currency	Currency of applicable revenues reported.
H	Total No. of SZSM in ICE Home Territories	Paid for Sound Zone Subscriber Months; or ad-funded users.
I	Total No. of SZSM in (i) Tier 1 countries outside the ICE Home Territories and (ii) Tier 2 countries	Paid for Sound Zone Subscriber Months;;
J	Full list of Licensee Clients	As per definition

Schedule 3 – Repertoire Works and Rights

ICE is mandated to provide licencing services to its Rights Holder customers in respect of their Repertoire Works. As at the first Business Day of the Quarter in which the Application was submitted by the Licensee, the Repertoire Works are set out in Table 1 below (subject to the exclusions set out in Annex 1 of this Schedule 3). The Repertoire Works may change from time to time during the Term. Where a change in Repertoire Works is of a material nature, ICE will give notice to the Licensee in writing (email notification to the Licensee’s contact, as set out in the Cover Sheet, is sufficient) promptly following ICE’s receipt of notice of the relevant change.

Table 1 - Included Repertoire Works and territories

RIGHTS HOLDER	MANDATED FOR	RIGHTS	TERRITORY LIMITATIONS
PRS	Member Repertoire	PR & MPR ²	N/A
	Reciprocal Repertoire	PR	PRS-Home Territory only
PRS (until 30 June 2019)	IMRO Member Repertoire	PR	N/A
	IMRO Reciprocal Repertoire	PR	IMRO-Home Territory only
IMRO (from 1 July 2019)	IMRO Member Repertoire	PR	N/A
	IMRO Reciprocal Repertoire	PR	IMRO-Home Territory only
MCPS (until 31 March 2022)	Member Repertoire (excluding Core Collective Repertoire)	MR	MCPS-Home Territory only
	Reciprocal Repertoire (excluding Core Collective Repertoire)	MR	MCPS-Home Territory only
MCPS (from 1 April 2022)	Publisher Member Repertoire (excluding Core Collective Repertoire)	MR	MCPS-Home Territory only
	Writer Member Repertoire	MR	N/A
	Reciprocal Repertoire (excluding Core Collective Repertoire)	MR	MCPS-Home Territory only
MCPS / PRS	Core Collective Repertoire	MR	N/A
MCPS IRE	Non-multi-territorial Member Repertoire	MR	IMRO/MCPS-Home Territory only
	Reciprocal Repertoire	MR	IMRO/MCPS-Home Territory only
GEMA	Member Repertoire	PR&MR	N/A
	Reciprocal Repertoire	PR&MR	GEMA-Home Territory only
STIM	Member Repertoire	PR	N/A
	Reciprocal Repertoire	PR	STIM-Home Territory only
STIM/NCB³	Member Repertoire	MR	N/A
NCB	Reciprocal Repertoire	MR	STIM-Home Territory only
BMI (from 1 January 2021)	Member Repertoire	PR ⁴	N/A
SABAM (from 1 April 2021)	Member Repertoire	PR	SABAM-Home Territory
	Reciprocal Repertoire	PR&MR	N/A
Concord	Publisher Repertoire	MR	N/A

² MPR for: (i) SESAC, in territories beyond EEA+CH+UK, or (ii) AMRA, APRA, ASCAP, SAMRO & SOCAN, in territories beyond EEA+CH+UK+CEE (excl. Albania & Vatican City), subject to confirmation.

³ NCB Mechanical Rights matching STIM Member Performing Rights

⁴ Excluding any Performing Rights that match the Mechanical Rights where Anglo-American MPR are listed as excluded in Table 2 below

peermusic	Publisher Repertoire	MR	N/A
Downtown (until 6 July 2022)	Publisher Repertoire	MR	N/A
Songtrust (from 7 July 2022)	Publisher Repertoire	MR	N/A
AKM/AUME (FROM 1 JANUARY 2023)	Member Repertoire Reciprocal Repertoire	PR&MR PR&MR	N/A AKM/AUME-Home Territory only

Annex 1 – Excluded repertoire and territories

The following Musical Works are excluded from the Repertoire Works and, for the avoidance of doubt, are not licensed under this Agreement.

Any Musical Works owned, controlled or administered by an entity that has no affiliation with any collecting society are also excluded from Repertoire Works.

Please note that each set of Matching Performing Rights (MPR) set out in Table 2 below may be excluded from Repertoire Works following a case-by-case assessment by the respective Rights Holder. This is applicable for all territories that are covered (or will be covered) by the respective direct licensing agreement. The Licensee and ICE will discuss in good faith should there be a rights coverage gap regarding Matching Performing Rights.

If the Licensee has secured a multi-territorial licence for Musical Works, the scope of which includes territories which include any of the Home Territories, such repertoire will, subject to the approval of the relevant Rights Holder, be excluded from the scope of this Agreement in respect of that Home Territory as at the date of such approval.

Table 2 - Excluded Musical Works and territories

Unless defined herein or otherwise agreed by the parties, the definition(s) of excluded Musical Works with respect to each of the repertoires listed below is as published on the CISAC website from time to time.

DIRECT LICENSOR	EXCLUDED REPERTOIRE	EXCLUDED RIGHTS	EXCLUDED REGIONS
ACUM	Member	MR&PR	GEMA and STIM Home Territories only
AEPI	Member	MR&PR	PRS, MCPS and IMRO Home Territories only
AKKA-LAA DIRECT	Member	MR&PR	all
AMRA/KOBALT	Anglo-American	MR&MPR ⁵	all
BMG	Anglo-American	MR&MPR	all
EMI	Anglo-American	MR&MPR	all
EMI	Latin-American	MR&MPR	all
IMPEL LTD	Anglo-American	MR&MPR	all
IPRS	Member	MR&PR	PRS/MCPS Home Territories only
KOMCA	Member	MR&PR	all
SACEM/SDRM	Member	MR&PR	all
SESAC, SUISA, HFA (MINT)	Member & HFA independent publisher repertoire	MR&PR	all ⁶
SGAE	Member	MR&PR	all
SIAE	Member	MR&PR	all
SOCAN	Member	PR	all ⁴
SONY/ATV	Anglo-American	MR&MPR	all
SONY/ATV	Latin-American	MR&MPR	all
SOZA	Member	MR&PR	all
SPA	Member	MR&PR	all
SUISA	Member	MR&PR	all
UCMR-ADA	Member	MR&PR	all

⁵ PRS Matching Performing Rights to AMRA mechanical rights are included in this Agreement until such time as there is an administration agreement in place between AMRA and PRS and such agreement is effective.

⁶ MPR will be included in accordance with the detail of PRS Core Collective Repertoire and Publisher Repertoire mechanicals.

UNIVERSAL	Non-BIEM	MR&MPR	all
WARNER CHAPPELL	Anglo-American	MR&MPR	all

Annex 2 – Definition of Core Collective Repertoire

“Core Collective Repertoire” means the repertoire of the publishers in the table below where the author/composer of the Musical Work (or part thereof as applicable) is non-society or a member of PRS, APRA, ASCAP, BMI, IMRO, SAMRO, SESAC or SOCAN:

JOINING DATE	PUBLISHER
1 January 2019	Ameritz Music Ltd, Amlor Music Limited ⁷ , Caprea Media ⁸ , Carlin Music Corp ⁹ , Carthage Music Limited, Conexion Music Group, Defensive Music Publishing, Faber Music Ltd ¹⁰ , Fairwood Music Group, Gear Publishing Company (Hideout Records), Integrity Music Ltd, Jalma Music, ⁷ Just Isn't Music Ltd, Mute Song Group ¹¹ , New Songs Administration, Ostereo Ltd, Proof Songs Limited, Quinlan Road Music Ltd, Red Ink Music Limited, Rightsbridge Ltd, Rzo Music Group, S2k Music Ltd, Shapiro Bernstein & Co Limited ¹² , Some Velvet Morning, Songs In The Key Of Knife, Warp Music Group, Westbury Music Group
1 July 2019	Branch Music Ltd, Daybreak Music Ltd, Song Solutions Ltd
1 January 2020	Bespoke Records Ltd
1 April 2020	May Music Ltd, Planet Mu Publishing
1 July 2020	Reach Global Inc, Tunecore
1 October 2020	Supreme Songs
1 January 2021	Atlantic Screen Group, 3tone Music Publishing Zec Music Ltd,
1 April 2021	Seed Point, Ditto Music Publishing

⁷ Until 31 December 2020

⁸ Via PRS mandate

⁹ Until 31 March 2020

¹⁰ Until 30 June 2019

¹¹ Until 30 June 2019

¹² Until 31 December 2020

1 July 2021	Speegra Ltd Ditto Publishing
1 January 2022	Coin Digital Private Limited Just Another Publisher KWS Blank Canvas Music
1 April 2022	Felt Publishing
1 July 2022	Reformation Nuco Music Limited Asongs
1 October 2022	Drifting Melody Music
1 January 2023	Routenote Melody Limited Colonized Music Publishing Shanna Music Ltd Frontline Music Ltd KWS Blank Canvas Music
1 April 2023	Aurign Inc
1 July 2023	Sneja Recordings