



THIS IS A DRAFT OF A DEED to be delivered on 1st January 2019

BETWEEN

1) **BPI (BRITISH RECORDED MUSIC INDUSTRY) LIMITED** of County Hall, Westminster Bridge Road, London SE1 7JA (the “**BPI**”)

and

2) **THE MUSICIANS’ UNION** of 60-62 Clapham Road, London SW9 0JJ (the “**MU**”)

WHEREAS:

- A. The MU represents session musicians in the United Kingdom and is authorised to negotiate agreements on behalf of its members.
- B. The BPI is a trade association representing record companies in the UK, with its membership accounting for around 90% of all recorded music sold in the UK, and is authorised to negotiate agreements on behalf of its members.
- C. The MU has previously entered into the following agreements with the BPI (when the BPI was previously named The British Phonographic Industry Limited):
 - (i) the agreement dated 9 August 1996 as varied, amended and/or supplemented including without limitation pursuant to the variation agreement dated as of 1 August 2000 (the “**General Agreement**”);
 - (ii) the agreement dated 16 November 1995 as varied, amended and/or supplemented including without limitation pursuant to the variation agreements dated 1 June 1997, 31 March 1999, 1 June 1999 and 30 November 2001 “**Orchestra Agreement**”); and
 - (iii) the agreement dated 3 July 2001 as varied, amended and/or supplemented (the “**Third Agreement**”).
- D. The MU and the BPI entered into a new agreement, replacing the terms of the agreements listed in points C. (i) - (ii) above, on 1 June 2011 (the “**2011 Agreement**”).
- E. The General Agreement, the Orchestra Agreement, the Third Agreement and the 2011 Agreement are hereinafter collectively referred to as the “**Prior Agreements**”.
- F. The parties now wish to terminate all of the Prior Agreements and replace the terms contained in the Prior Agreements with the terms of this document, which shall be referred to as the “**Agreement**”. This Agreement may be commonly referred to as the “**New BPI & MU Agreement**”.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

In this Agreement, capitalised terms shall bear the meanings given to them in Schedule A, or as given to them elsewhere in the Agreement.

2. TERMINATION OF THE PRIOR AGREEMENTS

2.1 The Prior Agreements are hereby terminated with effect from the Commencement Date.

2.2 For the avoidance of doubt, the Prior Agreements shall continue to apply to any engagements of musicians and/or Recordings made upon the terms of the Prior Agreements or any of them prior to the Commencement Date.

3. SCOPE OF THIS AGREEMENT

3.1 This Agreement governs the rates and other terms upon which Musicians shall be engaged by Commissioning Record Labels to provide their services for Audio Sessions, Audiovisual Sessions, Visual Sessions and Live Recording Sessions from and including the Commencement Date.

3.2 Nothing in this Agreement is intended to remove or limit Musicians' rights to equitable remuneration from the broadcast or public performance of their recorded performance(s) pursuant to Section 182D of the Copyright Designs and Patents Act 1988.

3.3 Commissioning Record Labels may engage Musicians under the terms of this Agreement either directly or through a Contractor.

4. SESSION AGREEMENTS & LIVE RECORDING AGREEMENTS

4.1 To confirm their acceptance of the rates and other terms of this Agreement the respective Commissioning Record Label (by an authorised signatory, agent or representative on behalf of the Commissioning Record Label) and the respective Musician(s) shall mutually:

- (a) complete and sign a Session Agreement in respect of each Musician for each Audio Session or Audiovisual Session or Visual Session (as applicable) at the time of or immediately following the relevant Session; and
- (b) ensure that a copy of the completed and signed Session Agreement is provided to each of the Commissioning Record Label, the Musician and the MU within a reasonable time following the relevant Session. BPI and the MU shall use their reasonable endeavours to procure that these obligations are complied with.

4.2 To confirm their acceptance of the rates and other terms of this Agreement the respective Commissioning Record Label (by an authorised signatory, agent or representative on behalf of the Commissioning Record Label) and the respective Musician(s) shall mutually:

- (a) complete and sign a Live Recording Agreement in respect of each Musician for each Live Recording Session at the time of or immediately following the relevant Session; and
- (b) ensure that a copy of the completed and signed Live Recording Agreement is provided to each of the Commissioning Record Label, the Musician and the MU within a reasonable time following the relevant Session.

BPI and the MU shall use their reasonable endeavours to procure that these obligations are complied with.

- 4.3 The Session Agreement and the Live Recording Agreement are attached hereto at Schedule C and can also be found at www.bpi.co.uk and www.theMU.org
- 4.4 Completed and signed Session Agreements and Live Recording Agreements should be sent to the MU by email to session.agreements@theMU.org or by post to Session Agreements, MU HQ, 60-62 Clapham Road, London, SW9 0JJ or by fax to 020 7793 9185.

5. AUDIO SESSION FEES AND AUDIOVISUAL SESSION FEES

- 5.1 There are three types of Audio and three types of Audiovisual Session referred to in this Agreement: The “Standard Audio Session”, and additionally a “Long Audio Session” and a “Short Audio Session”, and the “Standard Audiovisual Session” and additionally a “Long Audiovisual Session” and a “Short Audiovisual Session”.

The table below sets out the maximum duration of each type of Audio and Audiovisual Session, and the maximum duration of the Track or Tracks embodying a performance recorded at the relevant Audio or Audiovisual Session which the relevant Commissioning Record Label is entitled to use on a Record or Audiovisual Device:

<u>Type of Session</u>	<u>Maximum Session Duration</u>	<u>Maximum Track(s) Duration</u>
Standard Audio or Audiovisual Session	3 hours	20 minutes
Long Audio or Audiovisual Session	4 hours	30 minutes
Short Audio or Audiovisual Session	2 hours	10 minutes

Musicians shall be entitled to a break of five minutes for each hour (or part thereof) of the Session, such break to be taken approximately half way through the Session (or as otherwise agreed). Musicians shall not be required to perform for in excess of two hours without such break.

The Commissioning Record Label shall use its reasonable endeavours to provide the Musicians with reasonable advance notice that a session will be an Audiovisual Session.

- 5.2 In respect of each Audio Session or Audiovisual Session relating to a Non-Classical Recording for which a Musician is engaged, the Commissioning Record Label shall pay the Musician the relevant Session Fee set out below within 30 days of the receipt of an appropriate invoice and signed Session Agreement from the Musician in relation to the relevant Session or, if different, on the Commissioning Record Label’s reasonable standard terms of payment:

<u>Type of Session</u>	<u>Session Fee</u>
Standard Audio or Audiovisual Session	£130.00
Long Audio or Audiovisual Session	£194.40
Short Audio or Audiovisual Session	£97.20

- 5.3 Where the relevant Audio Session or Audiovisual Session is in connection with a Classical Recording the Commissioning Record Label shall pay the Musician the relevant Session Fee set out below according to the rank of the Musician within the relevant orchestra or ensemble within 30 days of receipt of an appropriate invoice and signed Session Agreement from the Musician in relation to the relevant Session or, if different, on the Commissioning Record

Label's reasonable standard terms of payment:

<u>Type of Session</u>	<u>Musician</u>	<u>Session Fee</u>
Standard Audio or Audiovisual Session	Section Principal	£92.96
	Principal	£85.51
	Sub-principal	£81.45
	Rank & File	£77.50
Long Audio or Audiovisual Session	Section Principal	£139.45
	Principal	£128.26
	Sub-principal	£122.17
	Rank & File	£116.25
Short Audio or Audiovisual Session	Section Principal	£69.72
	Principal	£64.13
	Sub-principal	£61.08
	Rank & File	£58.13

6. AUDIOVISUAL COMMERCIAL USE FEE

- 6.1 The Session Fee paid by the Commissioning Record Label in relation to an Audiovisual Session, as set out in Clauses 5.2 or 5.3 above grants the Commissioning Record Label the right to use the resulting Audiovisual Recording (as opposed to the Audio Recording) by way of Promotional Use only.
- 6.2 If the Commissioning Record Label shall use or authorize the use of an Audiovisual Recording (or part thereof) for Commercial Use then the Commissioning Record Label shall also pay the Musician the Audiovisual Commercial Use Fee in respect of each Audiovisual Session at which such Audiovisual Recording (or part thereof) was made.
- 6.3 The Audiovisual Commercial Use Fee is the sum of **£27.00** irrespective of whether the relevant Audiovisual Session is a Short Audiovisual Session, a Standard Audiovisual Session or a Long Audiovisual Session, and irrespective of whether or not the relevant Audiovisual Session is in connection with a Classical Recording or a Non-Classical Recording. 6.4 The Commissioning Record Label shall use its reasonable endeavours promptly to inform the Musician and/or the MU in the event that Commercial Use is made of an Audiovisual Recording. The Audiovisual Commercial Use Fee is payable by the Commissioning Record Label within 30 days of receipt of an appropriate invoice from the Musician or, if different, on the Commissioning Record Label's reasonable standard terms of payment following the initial Commercial Use.
- 6.5 For the avoidance of doubt, provided that a Commissioning Record Label has paid the relevant Session Fee, a Commissioning Record Label is entitled to exploit the Audio Recording embodied in any Audiovisual Recording by any and all means including Commercial Use (subject always to Clause 12.1 of this Agreement) notwithstanding that the Commissioning Record Label has not paid the Audiovisual Commercial Use Fee.

7. VISUAL SESSION FEES

- 7.1 In respect of each Visual Session for which a Musician is engaged the Commissioning Record Label shall pay the Musician the sum of **£29.70** for the first hour or part thereof and 1/60th or 1.67% of that sum for every minute (or part thereof) thereafter.
- 7.2 The Visual Session Fee is payable by the Commissioning Record Label to the Musician within 30 days of receipt of an appropriate invoice and signed Session Agreement from the

Musician in relation to the relevant Visual Session, or, if different, on the Commissioning Record Label's reasonable standard terms of payment.

8. LIVE RECORDING SESSION FEES

- 8.1 Where a Commissioning Record Label engages a Musician for a Live Audio Recording Session or a Live Audiovisual Recording Session (whether for a Classical or a Non-Classical Recording), the Commissioning Record Label shall pay the Musician a Live Recording Session Fee of **£48.60**. Such Live Recording Session Fee shall be non-refundable but fully recoupable against any subsequent payment of a Live Recording Commercial Use Fee.
- 8.2 Payment of the Live Recording Session Fee by the Commissioning Record Label in relation to a Live Audio Recording Session or a Live Audiovisual Recording Session as set out in Clause 8.1 above grants the Commissioning Record Label all of those rights to use the resulting Live Audio Recording or Live Audiovisual Recording which are set out in Clause 12.4 below by way of Promotional Use only.
- 8.3 The Live Recording Session Fee shall be payable by the Commissioning Record Label within 30 days of receipt of an appropriate invoice and signed Live Recording Agreement from the Musician in relation to the relevant Live Recording Session, or, if different, on the Commissioning Record Label's reasonable standard terms of payment.

9. LIVE RECORDING COMMERCIAL USE FEE

- 9.1 If a Commissioning Record Label shall use or authorise the use of a Live Recording (whether the same constitutes a Non-Classical Recording or a Classical Recording) for Commercial Use, it shall pay to the Musician or the MU (on the Musician's behalf) the Live Recording Commercial Use Fee (and the MU's receipt of any agreed fee shall be deemed to be a valid discharge of the Commissioning Record Label's obligation to make payment to the relevant Musician). The Live Recording Commercial Use Fee shall be agreed between the Commissioning Record Label and (at the Commissioning Record Label's discretion) either the relevant Musician or the MU (on the Musician's behalf) following good faith negotiation between those parties, and the agreed amount of the Live Recording Commercial Use Fee in each case shall be paid by the relevant Commissioning Record Label to the relevant Musician or the MU (on the Musician's behalf) within 30 days of receipt of an appropriate invoice from the Musician or the MU, or, if different, on the Commissioning Record Label's reasonable standard terms of payment.
- 9.2 In the event that a Commissioning Record Label wishes to use or authorise the use of a Live Recording by way of Commercial Use, it shall notify the relevant Musician and/or the MU (on the Musician's behalf) prior to such Commercial Use. The Musician or the MU (as the case may be) and the respective Commissioning Record Label shall use all reasonable endeavours to agree the Live Recording Commercial Use Fee in accordance with Clause 9.1 above within 60 days of such notification.

10. ADDITIONAL FEES

10.1 Overdubbing

Where at an Audio Session or an Audiovisual Session a Musician records an Overdub the Commissioning Record Label shall pay to the Musician an Additional Fee of an amount equal to **110%** of the otherwise applicable Session Fee in respect of each Overdub recorded.

10.2 Doubling and Trebling

If a Musician is requested to play two instruments ("**Doubling**") or more ("**Trebling**") in connection with a single Audio Session or Audiovisual Session then an Additional Fee shall be paid by the Commissioning Record Label to the Musician as follows:

- (a) **25%** of the otherwise applicable Session Fee for one additional instrument; and
- (b) **40%** of the otherwise applicable Session Fee for two additional instruments;

provided always that a Musician shall not be required to play more than three instruments in total in respect of any single Audio Session or Audiovisual Session and provided always that the following groups of instruments shall in any event be regarded as a single instrument for the purposes of this Clause:

- (i) Tuned (mallet) instruments (i.e. Vibraphone, Xylophone, Marimba, Glockenspiel, and Tubular Bells);
- (ii) 'Latin American' rhythm instruments;
- (iii) Drums (i.e. Bass Drum, Snare Drum, Tom-Toms, Cymbals and accessories); and
- (iv) Timpani (up to four kettles).

10.3 Double Rates

Where a Musician shall attend an Audio Session or Audiovisual Session at any time between midnight and 8 a.m. or on a statutory holiday (Good Friday, Easter Monday, Spring Bank Holiday, May Day, Summer Bank Holiday, Christmas Day, Boxing Day, New Year's Day) then in addition to the applicable Session Fee, the Commissioning Record Label shall pay the Musician an Additional Fee of an amount equal to **100%** of the otherwise applicable Session Fee.

10.4 Overtime

If the relevant Commissioning Record Label wishes the Musician to render his services at any Audio Session or Audiovisual Session or Visual Session for a period in excess of the duration of the relevant Session and the Musician agrees to do so, then the Commissioning Record Label shall pay the Musician the following Additional Fees in respect of each period of 15 minutes for which the Musician shall render his services in excess of the relevant duration:

- (a) **25%** of the otherwise applicable Session Fee in connection with a Non-Classical Recording;
- (b) **10%** of the otherwise applicable Session Fee in connection with a Classical Recording. Notwithstanding the foregoing, total overtime following any one Session shall not exceed 30 minutes, unless otherwise agreed between the Commissioning Record Label and the relevant Musician.

10.5 Porterage

In respect of each Audio Session, Audiovisual Session and Visual Session and in addition to each Session Fee therefor, the Musician shall be paid by the Commissioning Record Label the relevant porterage payments which are set out in Schedule B by way of Additional Fees.

10.6 Subsistence, Travel and Accommodation

If appropriate and necessary to provide subsistence and/or travel and/or accommodation to a Musician in connection with such Musician attending any Session or series of Sessions hereunder, the Commissioning Record Label and the Musician shall negotiate in good faith as to the provision of and/or payment for such subsistence and/or travel and/or accommodation, and any payments so made shall be deemed Additional Fees.

10.7 Musical Directors

Where a musical director participates in any Recording made under this Agreement, in addition to the applicable Session Fee s/he shall be paid an Additional Fee of **100%** of the applicable Session Fee.

10.8 Payment of Additional Fees

All Additional Fees are payable by the Commissioning Record Label to the Musician at the same time as the relevant Session Fee (that is within 30 days of receipt of an appropriate invoice and signed Session Agreement from the Musician in relation to the relevant Session or, if different, on the Commissioning Record Label's reasonable standard terms of payment).

11. **SUBSEQUENT PAYMENTS**

11.1 Each Commissioning Record Label shall be solely responsible and liable for the payment of the monetary value of its Applicable Percentage.

11.2 The BPI shall use its reasonable endeavours to ensure that (subject to Clause 11.4 below) each Commissioning Record Label authorises VPL to pay the monetary value of its Applicable Percentage to the MU (on behalf of the Commissioning Record Label) from sums otherwise payable by VPL to the Commissioning Record Label in respect of each VPL Period, on or within 30 days following the relevant VPL Distribution Date.

11.3 The MU acknowledges that the timing of the payment of the Applicable Percentages to the MU by the Commissioning Record Labels (whether directly or via VPL in accordance with Clause 11.2 above) is dependent upon:

- (a) the MU calculating each Applicable Percentage and providing each Commissioning Record Label with its Applicable Percentage Statement, and providing VPL with a schedule detailing all Commissioning Record Labels' Applicable Percentage Statements (within the timescales prescribed by this Agreement); and
- (b) the MU calculating (using the VPL Revenue figure for the immediately preceding VPL Period once notified to the MU by VPL) the monetary value of each Applicable Percentage and communicating the respective monetary values to the Commissioning Record Labels individually, and a schedule of all such monetary values to VPL at such time in advance of the relevant VPL Distribution Date as VPL shall reasonably require; and the MU shall use its reasonable endeavours to procure that these provisions are complied with.

11.4 If:

- (a) the sums that are otherwise payable by VPL to any Commissioning Record Label in respect of any VPL Period are insufficient to fully satisfy payment of such Commissioning Record Label's Applicable Percentage in accordance with Clause 11.2 above; or
- (b) the entity that registers a Music Video with VPL is different to the Commissioning Record Label which commissioned the Session(s) which resulted in the Recordings subsequently embodied in such Music Video, and such Commissioning Record Label is not itself a VPL Member; or
- (c) the Commissioning Record Label ceases to be a VPL Member during the relevant VPL Period; or
- (d) the Commissioning Record Label notifies VPL that it does not wish VPL to pay its Applicable Percentage from its VPL income in accordance with the payment

mechanism set out in Clause 11.2 above; or

- (e) for any other reason VPL does not, or is not able to, comply with the payment mechanism envisaged in Clause 11.2 above

then the parties acknowledge that the relevant Commissioning Record Label shall be solely responsible and liable for making payment of the Applicable Percentage (or the shortfall thereof) directly to the MU. The BPI shall not in any manner be responsible for any Commissioning Record Label's failure to pay any Applicable Percentage to the MU, but shall nevertheless use its reasonable endeavours to ensure payment.

- 11.5 As between the BPI and the MU, the MU shall be solely responsible for the distribution of the Subsequent Payments to Musicians.
- 11.6 For the avoidance of any doubt, the payment of the Applicable Percentages by the Commissioning Record Labels to the MU (whether by the Commissioning Record Labels or by VPL on their behalf) and the payment of the Subsequent Payments by the MU to the Musicians are in no way an acceptance by BPI or VPL or their respective members that musicians and/ or performers are entitled to equitable remuneration in relation to sound recordings as embodied in Music Videos and/or a share of any income distributable by VPL, and the MU accepts that the payment of Subsequent Payments are in no way an acceptance that Musicians have any right to VPL income.
- 11.7 As the Commencement Date falls part way through a VPL Period, the relevant VPL Revenue in respect of the first calculation and payment of Applicable Percentages by Commissioning Record Labels will be calculated for the period from the Commencement Date to 31 December 2011 and will be pro-rated in accordance with the number of days between the Commencement Date and 31 December 2011 accordingly.
- 11.8 In the event of the termination of this Agreement for whatever reason, unless otherwise expressly provided, the provisions of this Clause 11 shall survive such termination until the distribution due on the next VPL Distribution Date has taken place and each Commissioning Record Label has paid its Applicable Percentage to the MU, whether through VPL in accordance with Clause 11.2, directly or otherwise, and BPI shall use reasonable endeavours to ensure the obligations arising under this Clause 11 shall survive such termination and be met by the relevant Commissioning Record Labels.

12. GRANT OF RIGHTS

12.1 Audio Sessions

In respect of each Audio Session for which a Musician is engaged during the Term the following grant of rights shall apply:

In consideration of the payment by the Commissioning Record Label to the Musician of the relevant Audio Session Fee and any applicable Additional Fees, the Musician:

- (a) assigns the entire copyright (to the full extent that the Musician owns such copyright) in and to the Audio Recording to the Commissioning Record Label throughout the world for the full period of copyright and all extensions and/or renewals and/or revivals thereof;
- (b) grants all such consents as may be necessary to enable the Commissioning Record Label (and any party authorised by the Commissioning Record Label) to use, and authorise others to use throughout the world in any and all media by any and all means now known or developed in the future the Audio Recording and without prejudice to the generality of the foregoing, this sub-clause shall be deemed to grant any consent required by the Copyright Designs and Patents Act 1988 and any statutory modification or re enactment thereof in respect of the Musician's services;

- (c) waives all so-called “moral rights” or similar rights now existing or created in the future in any part of the world in respect of the Audio Recording or to the extent that such rights cannot be waived in any part of the world the Musician undertakes not to enforce any such rights against the Commissioning Record Label and/or its licensees and/or assignees;
- (d) grants to the Commissioning Record Label the exclusive rental and lending rights in and to the Audio Recording which the Musician may have at the date hereof, or which may after the date hereof be conferred on the Musician, whether pursuant to the Copyright and Related Rights Regulations 1996 or otherwise; and
- (e) grants to the Commissioning Record Label the right to use, and to authorise others to use, the Musician’s name and professional name, approved likeness and approved biography in all media in connection with any usage of the Audio Recording (including without limitation the advertising, publicising and sale of Records embodying the Audio Recording including without limitation any digital transmissions embodying the Audio Recording).

Without prejudice to the generality of the grant of rights set out above, the Commissioning Record Label shall have the perpetual, sole and exclusive worldwide right to exploit (or not to exploit as the Commissioning Record Label shall determine at its sole election) and/or authorise any third party to exploit the Audio Recording in any way (including, for the avoidance of doubt, by way of Commercial Use or Promotional Use) without any further reference to the Musician and without any further remuneration to the Musician other than the relevant Audio Session Fee and any applicable Additional Fees.

Notwithstanding the foregoing:

- (i) if a Commissioning Record Label shall use an Audio Recording by means of a so-called “backing track” in connection with a Commercial Live Performance it shall pay to the Musician or the MU a fee agreed between the Commissioning Record Label and the MU (on behalf of the Musician) following good faith negotiation between the Commissioning Record Label and the MU on a case by case basis (and the MU’s receipt of any agreed fee shall be deemed to be a valid discharge of the Commissioning Record Label obligation to make payment to the relevant Musician);
- (ii) if a Commissioning Record Label shall license an Audio Recording to a third party (such as an artist or artist’s representative) for so-called “backing track” use in connection with a Commercial Live Performance, the Commissioning Record Label shall not be liable for any fee payable in this regard. When granting such a licence, the Commissioning Record Label shall use all reasonable endeavours to make the licensee aware of the licensee’s need to clear the rights of any Musician on the recording with that Musician or the MU (on behalf of the Musician); and
- (iii) the Commissioning Record Label’s right to synchronise or authorise the synchronisation of the Audio Recording with a film, TV programme or advertisement (where the Audio Recording is not being specifically featured, promoted or advertised in the film, TV programme or advertisement) is without prejudice to any right that the MU has to negotiate and collect payment in relation to the Musician(s) performance(s) embodied in the relevant Audio Recording from the producer of that film, TV programme or advertisement. The payment of the Audio Session Fee and any applicable Additional Fees shall represent full, sufficient, reasonable and equitable remuneration for any and all lending and rental rights in respect of the Audio Recording.

12.2 Audiovisual Sessions

In respect of each Audiovisual Session for which a Musician is engaged during the Term the

following grant of rights shall apply:

In consideration of the payment by the Commissioning Record Label to the Musician of the relevant Audiovisual Session Fee, and any applicable Additional Fees, the Musician:

- (a) assigns the entire copyright (to the full extent that the Musician own such copyright) in and to the Audiovisual Recording and the Audio Recording embodied therein to the Commissioning Record Label throughout the world for the full period of copyright and all extensions and/or renewals and/or revivals thereof;
- (b) grants all such consents as may be necessary to enable the Commissioning Record Label (and any party authorised by the Commissioning Record Label) to use, and authorise others to use throughout the world in any and all media by any and all means now known or developed in the future the Audiovisual Recording and the Audio Recording embodied therein and without prejudice to the generality of the foregoing this sub-clause shall be deemed to grant any consent required by the Copyright Designs and Patents Act 1988 and any statutory modification or re enactment thereof in respect of the Musician's services;
- (c) waives all so-called "moral rights" or similar rights now existing or created in the future in any part of the world in respect of the Audiovisual Recording and the Audio Recording embodied therein or to the extent that such rights cannot be waived in any part of the world the Musician undertakes not to enforce any such rights against the Commissioning Record Label and its licensees and/or assignees;
- (d) grants to the Commissioning Record Label the exclusive rental and lending rights in and to the Audiovisual Recording and the Audio Recording embodied therein which the Musician may have at the date hereof, or which may after the date hereof be conferred on the Musician, whether pursuant to the Copyright and Related Rights Regulations 1996 or otherwise; and
- (e) grants to the Commissioning Record Label the right to use, and to authorise others to use, the Musician's name and professional name, approved likeness and approved biography in all media in connection with any use of the Audiovisual Recording and the Audio Recording embodied therein (including without limitation the advertising, publicising and sale of Audiovisual Devices and/or Records embodying the Audiovisual Recording and/or such Audio Recording).

Without prejudice to the generality of the grant of rights set out above, the Commissioning Record Label shall have the perpetual, sole and exclusive worldwide right to exploit (or not to exploit as the Commissioning Record Label shall determine at its sole election) and/or authorise any third party to exploit both the Audiovisual Recording and the Audio Recording in any way without any further reference to the Musician and without any further remuneration to the Musician other than the relevant Audiovisual Session Fee and any applicable Additional Fees.

Notwithstanding the foregoing:

- (i) the right to exploit or authorise the exploitation of the Audiovisual Recording (as opposed to the Audio Recording) by way of Commercial Use is subject to the payment by the Commissioning Record Label to the Musician of the Audiovisual Commercial Use Fee (which the Commissioning Record Label shall be entitled to pay at the time of the relevant Session but is in any event payable within 30 days following receipt of an appropriate invoice and signed Session Agreement from the Musician, or on the Commissioning Record Label's reasonable standard terms of payment, if different);
- (ii) if a Commissioning Record Label shall use an Audiovisual Recording by means of a so-called "backing track" in connection with a Commercial Live Performance it shall

pay to the Musician or the MU a fee agreed between the Commissioning Record Label and the MU (on behalf of the Musician) following good faith negotiation between the Commissioning Record Label and the MU on a case by case basis (and the MU's receipt of any agreed fee shall be deemed to be a valid discharge of the Commissioning Record Label obligation to make payment to the relevant Musician);

- (iii) If a Commissioning Record Label shall license an Audiovisual Recording to a third party (such as an artist or artist's representative) for so-called "backing track" use in connection with a Commercial Live Performance, the Commissioning Record Label shall not be liable for any fee payable in this regard. When granting such a licence, the Commissioning Record Label shall use all reasonable endeavours to make the licensee aware of the licensee's need to clear the rights of any Musician on the recording with that Musician or the MU (on behalf of the Musician); and
- (iv) the Commissioning Record Label's right to synchronise the Audio or Audiovisual Recording with a film, TV programme or advertisement (where the Audio or Audiovisual Recording is not being specifically featured promoted or advertised in the film, TV programme or advertisement) is without prejudice to any right that the MU has to negotiate and collect payment in relation to the Musician(s) Performance(s) embodied in the relevant Audio Recording from the producer of that film, TV programme or advertisement. The payment of the Audiovisual Session Fee and any applicable Additional Fees shall represent full, sufficient, reasonable and equitable remuneration for any and all lending and rental rights in the Audiovisual Recording and the Audio Recording embodied therein.

12.3 Visual Sessions

In respect of each Visual Session for which a Musician is engaged during the Term the following grant of rights shall apply:

In consideration of the payment by the Commissioning Record Label to the Musician of the Visual Session Fee and any applicable Additional Fees, the Musician:

- (a) assigns the entire copyright (to the full extent that the Musician owns such copyright) in and to the Visual Recording to the Commissioning Record Label throughout the world for the full period of copyright and all extensions and/or renewals and/or revivals thereof;
- (b) grants all such consents as may be necessary to enable the Commissioning Record Label (and any party authorised by the Commissioning Record Label) to exploit, and authorise others to exploit throughout the world in any and all media by any and all means now known or developed in the future the Visual Recording and without prejudice to the generality of the foregoing this Agreement shall be deemed to be any consent required by the Copyright Designs and Patents Act 1988 and any statutory modification or re enactment thereof in respect of the Musician's services;
- (c) waives all so-called "moral rights" or similar rights now existing or created in the future in any part of the world in respect of the Visual Recording or to the extent that such rights cannot be waived in any part of the world the Musician undertakes not to enforce any such rights against the Commissioning Record Label and its licensees and/or assignees;
- (d) grants to the Commissioning Record Label the exclusive rental and lending rights in and to the Visual Recording which the Musician may have at the date hereof, or which may after the date hereof be conferred on the Musician, whether pursuant to the Copyright and Related Rights Regulations 1996 or otherwise;
- (e) grants to the Commissioning Record Label the right to use, and to authorise others to use, the Musician's name and professional name, approved likeness and approved

biography in all media in connection with any exploitation of the Visual Recording (including without limitation the advertising, publicising and sale of Audiovisual Devices embodying the Visual Recording); and

- (f) grants to the Commissioning Record Label (and any party authorised by the Commissioning Record Label) the right to synchronise a separate but related Audio Recording in timed relation to the visual performance as embodied in the Visual Recording.

Without prejudice to the generality of the grant of rights set out above, the Commissioning Record Label shall have the perpetual, sole and exclusive worldwide right to exploit (or not to exploit as the Commissioning Record Label shall determine at its sole election) and/or authorise any third party to exploit the Visual Recording in any way (including, for the avoidance of doubt, by way of Commercial Use or Promotional Use) without any further reference to the Musician and without any further remuneration to the Musician other than the relevant Visual Session Fee. The payment of the Visual Session Fee and any applicable Additional Fees shall represent full, sufficient, reasonable and equitable remuneration for any and all lending and rental rights in the Visual Recording.

12.4 Live Sessions

In respect of each Live Recording Session for which a Musician is engaged during the Term the following grant of rights shall apply:

In consideration of the payment by the Commissioning Record Label to the Musician of the applicable Live Recording Session Fee and any applicable Additional Fees the Musician:

- (a) assigns the entire copyright (to the full extent that the Musician owns such copyright) in and to the Live Audio Recording or the Live Audiovisual Recording (as applicable) to the Commissioning Record Label throughout the world for the full period of copyright and all extensions and/or renewals and/or revivals thereof;
- (b) grants all such consents as may be necessary to enable the Commissioning Record Label (and any party authorised by the Commissioning Record Label) to use, and authorise others to use throughout the world in any and all media by any and all means now known or developed in the future the Live Audio Recording or the Live Audiovisual Recording (as applicable) and without prejudice to the generality of the foregoing this sub-clause shall be deemed to grant any consent required by the Copyright Designs and Patents Act 1988 and any statutory modification or re-enactment thereof;
- (c) waives all so-called "moral rights" or similar rights now existing or created in the future in any part of the world in respect of the Live Audio Recording or the Live Audiovisual Recording (as applicable) or to the extent that such rights cannot be waived in any part of the world the Musician undertakes not to enforce any such rights against the Commissioning Record Label and its licensees and/or assignees;
- (d) grants to the Commissioning Record Label the exclusive rental and lending rights in and to the Live Audio Recording or the Live Audiovisual Recording (as applicable) which the Musician may have at the date hereof, or which may after the date hereof be conferred on the Musician, whether pursuant to the Copyright and Related Rights Regulations 1996 or otherwise; and
- (e) grants to the Commissioning Record Label the right to use, and to authorise others to use, the Musician's name and professional name, approved likeness and approved biography in all media in connection with any use of the Live Audio Recording or the Live Audiovisual Recording (as applicable) (including without limitation the advertising, publicising and sale of Audiovisual Devices and/or Records embodying the Audiovisual Recording and/or the Audio Recording).

Without prejudice to the generality of the grant of rights set out above but subject always to payment by the Commissioning Record Label to the Musician of the Live Recording Session Fee, the Commissioning Record Label shall have the perpetual, sole and exclusive worldwide right to exploit (or not to exploit as the Commissioning Record Label shall determine at its sole election) and/or authorise any third party to exploit the Live Audio Recording or Live Audiovisual Recording (as applicable) by way of Promotional Use without any further reference to the Musician and without any further remuneration to the Musician other than the relevant Live Recording Session Fee, and any applicable Additional Fees.

Notwithstanding the foregoing:

- (i) if a Commissioning Record Label shall use a Live Audio Recording or Live Audiovisual Recording by means of a so-called "backing track" in connection with a Commercial Live Performance it shall pay to the Musician or the MU a fee agreed between the Commissioning Record Label and the MU (on behalf of the Musician) following good faith negotiation between the Commissioning Record Label and the MU on a case by case basis (and the MU's receipt of any agreed fee shall be deemed to be a valid discharge of the Commissioning Record Label obligation to make payment to the relevant Musician);
- (ii) If a Commissioning Record Label shall license a Live Audio Recording or Live Audiovisual Recording to a third party (such as an artist or artist's representative) for so-called "backing track" use in connection with a Commercial Live Performance, the Commissioning Record Label shall not be liable for any fee payable in this regard. When granting such a licence, the Commissioning Record Label shall use all reasonable endeavours to make the licensee aware of the licensee's need to clear the rights of any Musician on the recording with that Musician or the MU (on behalf of the Musician); and
- (iii) the Commissioning Record Label's right to synchronise or authorise the synchronization of the Live Audio Recording or Live Audiovisual Recording with a film, TV programme or advertisement (where the Live Audio Recording or Live Audiovisual Recording is not being specifically featured promoted or advertised in the film, TV programme or advertisement) is without prejudice to any right that the MU has to negotiate and collect payment in relation to the Musician(s) performance(s) embodied in the relevant Audio Recording from the producer of that film, TV programme or advertisement. The payment of the Live Recording Session Fee and any applicable Additional Fees shall represent full, sufficient, reasonable and equitable remuneration for any and all lending and rental rights in the Live Recording.

13. UNDERTAKINGS

- 13.1 The MU hereby confirms and agrees that it has the full right and authority to enter into this Agreement and it has not and shall not make any contract and/or arrangement with its members or with any third party which shall conflict with the terms of this Agreement and/or which shall prevent and/or restrict the MU from fulfilling its obligations under this Agreement. Further the MU confirms and agrees that, in respect of its relations with third parties, it shall not take any action which limits and/or restricts (or is likely to limit and/or restrict) the rights granted to Commissioning Record Labels pursuant to this Agreement and/or any Session Agreement or Live Recording Agreement and/or prevents (or is likely to prevent) Commissioning Record Labels from exercising and exploiting such rights, and it will use its reasonable endeavours to ensure it and its members timeously provide all relevant performer data in connection with Recordings made hereunder to Phonographic Performance Limited ("PPL") and/or VPL as appropriate.
- 13.2 The BPI hereby confirms and agrees that it has the full right and authority to enter into this Agreement and it has not and shall not make any contract and/or arrangement with its members or with any third party which shall conflict with the terms of this agreement and/or

which shall prevent and/or restrict the BPI from fulfilling its obligations under this Agreement. Further the BPI confirms and agrees that, in respect of its relations with third parties, it shall not take any action which limits and/or restricts (or is likely to limit and/or restrict) the rights granted to Musicians pursuant to this Agreement and/or any Session Agreement or Live Recording Agreement and/or prevents (or is likely to prevent) Musicians from exercising and exploiting such rights, and it will use its reasonable endeavours to ensure its members timeously provide all relevant performer data in connection with Recordings made hereunder to PPL and/or VPL as appropriate.

14. CREDITS

- 14.1 Notwithstanding anything to the contrary contained in this Agreement the Commissioning Record Label shall use its reasonable endeavours where practicable and bearing in mind commercial and artistic considerations to procure a credit identifying each Musician whose recorded performance is embodied on a Record or Audiovisual Device on the packaging or liner or sleeve notes of such Record, and in the end credits of such Audiovisual Device.
- 14.2 No failure by a Commissioning Record Label to comply with the provisions of this Clause 14 and no failure of persons other than a Commissioning Record Label to comply therewith shall constitute a breach of this Agreement by a Commissioning Record Label provided that such Commissioning Record Label shall use its reasonable endeavours to correct such failure when the Musician notifies the Commissioning Record Label of such failure.

15. DISPUTES PROCEDURE

- 15.1 In the event that a dispute arises in respect of the subject matter of this Agreement (but not in relation to any individual Session Agreement or Live Recording Agreement which is concluded), the following procedures shall apply:
- (a) there shall be a meeting between senior representatives of the MU and the relevant Commissioning Record Label to seek to resolve the dispute;
 - (b) in the event of failure to resolve the dispute at the meeting referred to in 15.1(a) above, a further meeting shall be held between representatives of the MU and the BPI;
 - (c) in the event of failure to resolve the dispute at the meeting referred to in 15.1(b) above, consideration shall be given to resolution of the dispute by means of alternative dispute resolution to be mutually agreed between the MU and the Commissioning Record Label.
- 15.2 It is expressly agreed that the disputes procedure set out in Clause 15.1 above does not in any manner constitute a contractual obligation of the parties to this Agreement, and it is solely included as a suggestion to help regulate and settle any difficulties and disputes that may arise in connection with the subject matter of this Agreement with the intention of maintaining good relations between the MU and the BPI. This disputes procedure shall not apply in relation to any dispute between any Musician and Commissioning Record Label in relation to specific Session Agreements or Live Recording Agreements which may be concluded during the Term.

16. TERM

- 16.1 The term of this Agreement (the "**Term**") shall commence on the Commencement Date and shall continue for an initial period of five years and continuing thereafter, subject to each party's right to terminate the Agreement at any time during or after the Term on not less than six months' written notice to the other.
- 16.2 Notwithstanding the provisions of Clause 16.1 above, in the event that all of the record companies and labels owned by any Major Music Group shall cease to be full time members of VPL during the Term then it is the intention that all such record companies owned by the relevant Major Music Group (to the extent that each such record company also constitutes a

Commissioning Record Label hereunder) shall cease to be entitled to engage Musicians on the terms set out in this Agreement or the Session Agreement or the Live Recording Agreement with effect from the date that such record companies shall cease to be full time members of VPL and the Term shall continue in full force and effect but the parties hereto shall enter into good faith negotiations with respect to an appropriate amendment to the terms of this Agreement.

- 16.3 Notwithstanding anything to the contrary contained in this Agreement, it is agreed both parties shall meet:
- (a) on an annual basis on or about the anniversary of the Commencement Date to review the operation of the Agreement generally; and
 - (b) within four weeks of a written notice served by one party on the other setting out any issue or issues of concern; and in either case shall use their reasonable endeavours acting in good faith at all times to address any issues raised in writing by one party to the other.

17. NOTICES

Any notice to be served hereunder shall be in writing and shall be served by hand delivery of the same to the party to be served, by courier or by registered prepaid post at the respective addresses set out at the head of this Agreement or such other address or addresses as may be designated by either party following written notice to the other. Such notices shall be deemed given on the next working day when delivered by hand or by courier or posted except that notice of change of address shall be effective only from the date of its actual receipt.

18. MISCELLANEOUS

- 18.1 Neither party hereto shall have the right to assign, transfer or charge this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party.
- 18.2 Illegality or unenforceability of any portions hereof shall not affect the legality or enforceability of the balance of the Agreement.
- 18.3 The provisions set forth herein constitute the entire agreement of the parties. This Agreement may not be modified altered or changed except by an instrument in writing signed by a duly authorized officer of each of the parties. In this Agreement reference to the masculine gender shall be deemed to include reference to the feminine gender and the singular shall be construed as including the plural and vice versa.
- 18.4 All fees and payments due hereunder are exclusive of VAT and where applicable VAT thereon shall be payable upon receipt of a valid VAT invoice.
- 18.5 The validity, construction and effect of this Agreement and any or all modifications hereof shall be governed by the Laws of England and any difference or dispute which may arise under or in relation to this Agreement shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

SCHEDULE A

DEFINITIONS

“**Additional Fees**” means those fees payable in addition to Session Fees (in respect of Overdubs, Doubling and Trebling, Double Rates, Overtime, Portage, Subsistence, Travel and/or Accommodation) as more particularly set out in Clause 10.

“**Applicable Percentage**” means the percentage of the VPL Revenue arising in respect of the immediately preceding VPL Period of which each Commissioning Record Label is liable to pay the monetary value to the MU pursuant to Clause 11. The following procedure shall determine the Applicable Percentage:

Step One

Following receipt from VPL of written details of all music videos registered with VPL during the immediately preceding VPL Period, the MU shall identify which of such music videos constitute Music Videos as defined herein. For the avoidance of doubt, such Music Videos shall only be identified by their registration with VPL and not, for example, by the point in time at which they were commissioned.

Step Two

In respect of those Music Videos identified in Step One above, the MU shall identify the total number of Musicians whose performances (as embodied in an Audio Recording or an Audiovisual Recording) are embodied in each such Music Video. Each Commissioning Record Label shall be entitled to verify such total, but such total shall be deemed agreed if the Commissioning Record Label has not objected thereto in writing within 30 days of receipt of written notice of such total given by the MU. One point shall accrue to the Commissioning Record Label that commissioned the Recording embodied in the relevant Music Video for each Musician whose performance is embodied in each such Music Video, save that where the number of Musicians exceeds 20, then no more than 20 points shall accrue to such Commissioning Record Label in respect of that Music Video. For the avoidance of doubt, and subject to the aforesaid maximum of 20 points, only one point shall accrue in relation to each Musician in respect of any given Music Video, even where, for example, such Musician has performed on the relevant Music Video by way of an Overdub, or by way of playing more than one musical instrument or by way of performing separately for an Audio Recording and a Visual Recording both embodied in a Music Video.

Step Three

The MU shall calculate for each Commissioning Record Label the aggregate of the points identified in Step Two above in respect of each Music Video which have accrued to the Commissioning Record Label during the immediately preceding VPL Period, and shall calculate the number of all points accruing to all Commissioning Record Labels for the immediately preceding VPL Period.

Step Four

The Applicable Percentage for each Commissioning Record Label will be calculated by the following equation:

$$(X \div Y) \times 100$$

where:

X equals the aggregate number of points accruing to the relevant Commissioning Record Label as identified by Step Three above for the immediately preceding VPL Period; and

Y equals the aggregate number of all points (including all those points comprising X) accruing to all Commissioning Record Labels as identified by Step Three for the immediately preceding VPL Period.

Step Five

Within 90 days of the end of each VPL Period, the MU shall provide each Commissioning Record Label with its Applicable Percentage Statement and VPL with a schedule of the information contained in all Commissioning Record Labels' Applicable Percentage Statements.

Step Six

Within 150 days of the end of each VPL Period, VPL shall provide the MU with the VPL Revenue total for such VPL Period. On receipt thereof the MU shall calculate the monetary value of each Commissioning Record Label's Applicable Percentage. MU shall communicate the relevant monetary values to the relevant Commissioning Record Labels, and provide VPL with a schedule detailing such monetary values ascribed to the relevant Commissioning Record Labels at such time in advance of the relevant VPL Distribution Date as VPL shall reasonably require.

"Applicable Percentage Statement" means a written statement from the MU setting out the calculation of the Applicable Percentage for a given Commissioning Record Label in accordance with Step Four of the definition of Applicable Percentage.

"Audio Recording" means an audio only Recording which results from an Audio Session or the audio only portion of an Audiovisual Recording which results from an Audiovisual Session and which embodies a Musician's audio performances.

"Audio Session" means a studio recording session resulting from the engagement by a Commissioning Record Label of a Musician under the terms of this Agreement pursuant to which session the Musician performs for the purposes of the Commissioning Record Label capturing solely the audio only performances of such Musician.

"Audio Session Fee" means the applicable fee payable by the Commissioning Record Label to the Musician in accordance with Clauses 5.2 or 5.3 of the Agreement.

"Audiovisual Commercial Use Fee" means the sum payable (if at all) under Clause 6 of the Agreement.

"Audiovisual Device" means a physical device (including without limitation DVD and Blu-ray Disc) or digital file (or other means now known or yet to be discovered or invented) for the storage of sound and moving pictures embodying an Audiovisual Recording or Live Audiovisual Recording.

"Audiovisual Recording" means a Recording or series of Recordings which result from an Audiovisual Session and which embodies a Musician's audio and visual performances.

"Audiovisual Session" means a studio recording session resulting from the engagement by a Commissioning Record Label of a Musician under the terms of this Agreement pursuant to which session the Musician performs for the purposes of the Commissioning Record Label simultaneously capturing both the audio and the visual performances of the Musician.

"Audiovisual Session Fee" means the applicable fee payable by the Commissioning Record Label to the Musician in accordance with Clause 5.2 or 5.3 of the Agreement.

"BPI Members" means the members of the BPI from time to time.

"Classical Recording" means any Audio Recording or Audiovisual Recording or Live Audio Recording or Live Audiovisual Recording of repertoire which would qualify for inclusion in the Official Charts Company Classical Chart.

"Commencement Date" means 1st January 2019

"Commercial Live Performance" means a Live Performance in front of a paying audience.

“Commercial Use” means any exploitation of an Audio Recording, an Audiovisual recording, a Visual Recording or a Live Recording (as the case may be) which:

- (a) embodies the relevant Recording as the featured or primary focus of that exploitation for valuable consideration from consumers, either through sale, rental, lending, or otherwise making the Audiovisual Recording or Live Recording available to the public; or
- (b) is intended to increase the cost to the consumer of any other product in which the Recording is also included, incorporated and/or embodied.

“Commissioning Record Label” means any BPI Member or any other person firm or company (including but not limited to members of the Association of Independent Music (“AIM”)) who commissions or authorises the commissioning of an Audio Recording, an Audiovisual Recording, a Live Recording or a Visual Recording under the terms of this Agreement.

“Contractor” means a legal person approved by the MU who shall at all times be acting as an employment agent, as opposed to an employment business (as those terms are defined in the Employment Agencies Act 1973 as amended) on behalf of the Commissioning Record Label to engage Musicians for Audio Sessions, Audiovisual Sessions, Visual Sessions and/or Live Recording Sessions.

“Live Audio Recording” means a sound recording or series of sound recordings which result from a Live Recording Session and which embodies a Musician’s audio only performances.

“Live Audiovisual Recording” means an audiovisual recording or series of audiovisual recordings which result from a Live Recording Session and which embodies a Musician’s audio and visual performances.

“Live Performance” means a live performance or series of live performances by the same Musician (including without limitation any rehearsal for such live performance) rendered by the Musician during the Term before a live audience.

“Live Recording” means the recording of a Live Performance pursuant to which a Commissioning Record Label captures (or authorises the capture of) either the audio only performances or the audiovisual performances of a Musician.

“Live Recording Agreement” means the contract which is to be executed by the relevant Commissioning Record Label and the relevant Musician in respect of each applicable Live Recording Session, a specimen of which is provided in Part 2 to Schedule C.

“Live Recording Session” means a Session at which a Commissioning Record Label makes or authorises the making of a Live Recording of a Live Performance.

“Live Recording Session Fee” means the fee to be paid by the relevant Commissioning Record Label in accordance with Clause 8.1 of the Agreement.

“Live Recording Commercial Use Fee” means the fee to be paid by the relevant Commissioning Record Label in accordance with Clause 9.1 of the Agreement.

“Major Music Group” means one of the following: (i) Warner Music UK Limited, (ii) the Universal Music group of companies, (iii) the EMI Music group and (iv) Sony Music Entertainment UK Limited and each of the wholly or jointly owned subsidiaries of each of them and their successors and assignees from time to time.

“Musicians” means those musicians who are members of the MU from time to time but only those musicians who do not have an existing contractual relationship with a Commissioning Record Label in respect of the relevant Audio Recording and/or Audiovisual Recording and/or Visual Recording and/or Live Recording in respect of which the musician is engaged under the terms of this Agreement.

“Music Video” means a short film synchronising an Audio Recording or the audio-only portion of an Audiovisual Recording to images, which has been authorised and/or commissioned by a Commissioning Record Label for the purposes of communicating such film to the public, and which has been registered with VPL as such.

“Non-Classical Recording” means any Audio Recording or Audiovisual Recording or Live Audio Recording or Live Audiovisual Recording which does not constitute a Classical Recording.

“Overdub” means an Audio Recording made during an Audio Session which is used to overlay in unison or in harmony with an existing Audio Recording embodying the performance of the same Musician made during the same Audio Session but which is not a replacement of the existing Audio Recording.

“Promotional Use” means any exploitation of an Audio Recording, an Audiovisual Recording, a Visual Recording or a Live Recording (as the case may be) which is not a Commercial Use.

“Record” means a physical sound carrier or a digital sound file embodying an Audio Recording or Live Audio Recording.

“Recording” means an audio and/or visual recording which embodies a Musician’s audio and/or visual performance.

“Schedule(s)” means the schedule(s) which are annexed hereto and form a part of this Agreement.

“Session” means an Audio Session, an Audiovisual Session, a Visual Session or a Live Recording Session.

“Session Agreement” shall mean the contract which is to be executed by the relevant Commissioning Record Label and the relevant Musician in respect of each applicable Audio Session, Audiovisual Session or Visual Session, a specimen of which is provided in Part 1 to Schedule C.

“Session Fee” shall mean either the Audio Session Fee or the Audiovisual Session Fee or Visual Session Fee or Live Recording Session Fee payable to a Musician by the Commissioning Record Label in accordance with Clauses 5.2, 5.3, 7 or 8 of the Agreement in respect of a Musician’s engagement for such session.

“Subsequent Payments” means the payments to be made by the MU to Musicians from the total monetary value of the Applicable Percentages received by the MU in respect of the immediately preceding VPL Period, which payments shall be made by the MU to Musicians in accordance with the MU’s distribution policy from time to time.

“Term” means the period referred to in Clause 16 of the Agreement.

“Track” means a mixed and mastered Recording of a composition as released or authorised for release by a Commissioning Record Label on a Record or Audiovisual Device.

“Visual Recording” means a film or series of films embodying visual images only of the whole or any part of the mimed visual performance of the Musician and which is made pursuant to a Visual Session.

“Visual Session” means a recording session resulting from the engagement by a Commissioning Record Label of a Musician under the terms of this Agreement pursuant to which session the Musician performs for the purposes of the Commissioning Record Label capturing solely the visual performances of the Musician (including but not limited to miming performances).

“Visual Session Fee” means the sum payable by the Commissioning Record Label to the Musician in accordance with Clause 7.1 of the Agreement.

“**VPL**” means Video Performance Limited (company number 01818862) of 1 Upper James Street, London W1F 9DE and its successors and assignees.

“**VPL Distribution Date**” means the day on which VPL distributes to its members their respective revenue entitlement from the preceding VPL Period.

“**VPL Members**” means the members of VPL from time to time (whether or not the same are BPI Members and/or AIM Members).

“**VPL Period**” means each VPL financial year which, at the date of this Agreement, is the 12 month period from 1 January to 31 December.

“**VPL Revenue**” means an amount to be calculated in respect of each VPL Period during the Term and which will in each instance be equal to 6.35% of the sum which is equal to:

- (a) the total VPL licensing revenue which is otherwise distributable by VPL to all VPL Members during the relevant VPL Period; less
- (b) deductions in respect of VPL running costs for the relevant VPL Period, independent-label-only VPL income and overseas labels' VPL income.

SCHEDULE B

Porterage payments

The porterage payments are as follows:

GROUP A - Payment £17.52

Chimes
Drums
Marimba
Vibraphone
Xylophone

GROUP B - Payment £13.77

Electric Accordion
Electric Guitar
Bass Saxophone
Tuba
Double Bass

N.B. LIMIT OF PAYMENT IN GROUP B FOR TWO OR MORE INSTRUMENTS £20.50

GROUP C - Payment £8.88

Contra Bassoon
Glockenspiel
Baritone Saxophone
Trombone plus 1 other brass instrument
2 Saxophones
Cello

GROUP D Payment to be negotiated between the Commissioning Record Label and Musician on a case by case basis

- Harp
Timpani
Organ

SCHEDULE C

Session Forms

- BPI/MU Session Agreement 2019
- BPI/MU Live Recording Agreement 2019

SESSION AGREEMENT

This Session Agreement should be completed in CAPITAL LETTERS and signed by the Musician and the Commissioning Record Label. Three copies should then be made. One copy should be retained by the Musician; one copy should be retained by the Commissioning Record Label; and one copy should be sent, by the Musician, or the Contractor on the Musician's behalf, to the Musicians' Union ('MU') by either email: session.agreements@theMU.org or post to: Session Agreements, MU HQ, 60-62 Clapham Road, London, SW9 0JJ. The MU's Privacy Policy can be accessed at: <https://www.musiciansunion.org.uk/Utility-Navigation/Privacy>

Once signed by both parties this Session Agreement shall constitute a legally binding contract between the Commissioning Record Label and the Musician in respect of the relevant Sessions. This Session Agreement incorporates the terms and conditions of the agreement between the British Recorded Music Industry Limited ('BPI') and the MU dated [TBC] (the "New BPI/MU Agreement"), a copy of which can be viewed or downloaded at www.bpi.co.uk and www.theMU.org. All defined terms in the New BPI/MU Agreement shall bear the same meanings in this Session Agreement. In the event of any conflict between this Session Agreement and the New BPI/MU Agreement then this Session Agreement shall prevail.

In consideration of the payment by the Commissioning Record Label to the Musician of the relevant Session Fee(s) and any applicable Additional Fee(s) or Commercial Use Fee(s) provided by the New BPI/MU Agreement and/or detailed below, the Musician assigns to and grants to, or waives in favour of the Commissioning Record Label all of the Musician's rights and consents in respect of the Recording(s) made at such Session(s) as are set out in the New BPI/MU Agreement (save as expressly excepted or otherwise provided therein).

The Commissioning Record Label hereby agrees to pay its respective Applicable Percentage in accordance with Clause 11 of the New BPI/MU Agreement, and further agrees and acknowledges that this provision may be enforced by the MU under the Contracts (Rights of Third Parties) Act 1999.

1. Session Date(s):						
2. Artist/Band:	Full Name:					
3. Commissioning Record Label:	Full Name:					
4. Musician Details:	Full Name:					
	D.O.B. (optional):		MU Number:		PPL ID No:	
	Address:			Instrument(s):		
					
	Email Address:					
5. Studio/Venue:						
6. Producer (if any):	Full Name:					
7. Contractor (if any):	Full Name:					
	Email Address:					
8. Type of Session (insert no.):	<input type="checkbox"/> Standard (3 hours)	<input type="checkbox"/> Long (4 hours)	<input type="checkbox"/> Short (2 hours)	Start Time(s)		
9. Nature of Session(s) (tick):	<input type="checkbox"/> Audio Session	<input type="checkbox"/> Audiovisual Session	<input type="checkbox"/> Visual Session			
10. Type of Recording (tick):	<input type="checkbox"/> Non-Classical Recording		<input type="checkbox"/> Classical Recording			
11. Title(s) of Compositions recorded: (Please continue overleaf if more than 6 compositions recorded)	1.		4.			
	2.		5.			
	3.		6.			
12. (Classical Recordings only) Type of Musician (tick):	Session 1: <input type="checkbox"/> Section Principal <input type="checkbox"/> Principal <input type="checkbox"/> Sub-principal <input type="checkbox"/> Rank & File		Session 2: <input type="checkbox"/> Section Principal <input type="checkbox"/> Principal <input type="checkbox"/> Sub-principal <input type="checkbox"/> Rank & File		Session 3: <input type="checkbox"/> Section Principal <input type="checkbox"/> Principal <input type="checkbox"/> Sub-principal <input type="checkbox"/> Rank & File	
13. Session Fee(s):	£ Audiovisual Commercial Use Fee (£27.00 per Session): YES / NO / TBC (Please circle) £					
14. Additional Fee(s) (insert number and calculate as a percentage of the Session Fee):	<input type="checkbox"/> Overdub (110%)	<input type="checkbox"/> Doubling (25%)	<input type="checkbox"/> Trebling (40%)	<input type="checkbox"/> Double Rates (100%)	<input type="checkbox"/> Portage (Per Schedule B BPI/MU Agreement)	<input type="checkbox"/> Overtime (.....) minutes (non-classical 25% per 15 mins) (Classical 10% per 15 mins)
	£	£	£	£	£	£
15. Total Fee(s) payable by Commissioning Record Label:	Total: £ plus VAT (if applicable) = £					
16. Data Protection:	<p>Musician consents to the disclosure / processing of their personal information, including the fact of their MU membership (if applicable), by:</p> <p>(a) Commissioning Record Label in order to fulfil their obligations under this Session Agreement;</p> <p>(b) Commissioning Record Label, the MU and Video Performance Ltd ('VPL') as necessary for the purpose of ensuring they are paid any applicable Subsequent Payments that may become due in relation to the Recordings made under this Session Agreement;</p> <p>(c) Commissioning Record Label, the MU and Phonographic Performance Ltd ('PPL') in order to assist PPL in the collection and distribution of Equitable Remuneration from the public performance and broadcast of Recordings made under this Session Agreement, and;</p> <p>(d) The MU in order to assist it in the collection and distribution of income for them from the further and secondary use of Recordings made under this Session Agreement.</p>					
17. Musician's signature and date:	Signed:			Date:		
18. Authorised signatory on behalf of the Commissioning Record Label:	Signed:			Date:		
	Full Name:					

This Session Agreement should be completed in CAPITAL LETTERS and signed by the Musician and the Commissioning Record Label. Three copies should then be made. One copy should be retained by the Musician; one copy should be retained by the Commissioning Record Label; and one copy should be sent, by the Musician, or the Contractor on the Musician's behalf, to the Musicians' Union ('MU') by either email: session.agreements@theMU.org or post to: Session Agreements, MU HQ, 60-62 Clapham Road, London, SW9 0JJ. The MU's Privacy Policy can be accessed at: <https://www.musiciansunion.org.uk/Utility-Navigation/Privacy>

Once signed by both parties this Session Agreement shall constitute a legally binding contract between the Commissioning Record Label and the Musician in respect of the relevant Sessions. This Session Agreement incorporates the terms and conditions of the agreement between the British Recorded Music Industry Limited ('BPI') and the MU dated [TBC] (the "New BPI/MU Agreement"), a copy of which can be viewed or downloaded at www.bpi.co.uk and www.theMU.org. All defined terms in the New BPI/MU Agreement shall bear the same meanings in this Session Agreement. In the event of any conflict between this Session Agreement and the New BPI/MU Agreement then this Session Agreement shall prevail.

In consideration of the payment by the Commissioning Record Label to the Musician of the relevant Session Fee(s) and any applicable Additional Fee(s) or Commercial Use Fee(s) provided by the New BPI/MU Agreement and/or detailed below, the Musician assigns to and grants to, or waives in favour of the Commissioning Record Label all of the Musician's rights and consents in respect of the Recording(s) made at such Session(s) as are set out in the New BPI/MU Agreement (save as expressly excepted or otherwise provided therein).

The Commissioning Record Label hereby agrees to pay its respective Applicable Percentage in accordance with Clause 11 of the New BPI/MU Agreement, and further agrees and acknowledges that this provision may be enforced by the MU under the Contracts (Rights of Third Parties) Act 1999.

1. Session Date(s):	
2. Artist/Band:	Full Name:
3. Commissioning Record Label:	Full Name:
4. Musician Details:	Full Name: D.O.B. (optional): MU Number: PPL ID No: Address: Instrument(s): Email Address:
5. Studio/Venue:	
6. Producer (if any):	Full Name:
7. Contractor (if any):	Full Name: Email Address:
8. Title(s) of Compositions recorded: (Please continue overleaf if more than 10 compositions recorded)	1. 6. 2. 7. 3. 8. 4. 9. 5. 10.
9. Live Recording Session Fee:	£ Live Recording Commercial Use Fee (can be negotiated now or later YES / NO / TBC (Please circle) £
10. Total Fee(s) payable by Commissioning Record Label:	Total: £ plus VAT (if applicable) = £
11. Data Protection	Musician consents to the disclosure / processing of their personal information, including the fact of their MU membership (if applicable), by: (a) Commissioning Record Label in order to fulfil their obligations under this Session Agreement; (b) Commissioning Record Label, the MU and Video Performance Ltd ('VPL') as necessary for the purpose of ensuring Musician is paid any applicable Subsequent Payments that may become due in relation to the Recordings made under this Session Agreement; (c) Commissioning Record Label, the MU and Phonographic Performance Ltd ('PPL') in order to assist PPL in the collection and distribution of Equitable Remuneration from the public performance and broadcast of Recordings made under this Session Agreement, and; (d) The MU in order to assist it in the collection and distribution of income for Musician from the further and secondary use of Recordings made under this Session Agreement.
11. Musician's signature and date:	Signed: Date:
12. Authorised signatory on behalf of the Commissioning Record Label:	Signed: Date: Full Name:

