



**4th October 2024**

[REDACTED]  
Funding Policy Unit  
Department for Education  
Sanctuary Buildings  
20 Great Smith Street  
London  
SW1P 3BT

Dear [REDACTED]

***Digital Music Licence for Schools for Licence Years 1 April 2024 to 31 March 2026 with an option to extend to 31 March 2027***

The Mechanical-Copyright Protection Society Limited, acting on behalf of itself, its various members, and its affiliated foreign societies and their members (“**MCPS**”) and Performing Right Society Limited, acting on behalf of itself and for and on behalf of its various affiliated societies (“**PRS**”) (MCPS and PRS together being the “**Licensors**”), are empowered to grant to schools licences in respect of the communication to the public and associated mechanical rights of the Licensors’ members’ repertoire through the use of digital services.

The Licensors are prepared to grant the Licence to Schools in England on terms set out in this letter, subject to the Terms and Conditions set out in Appendix 1 (together, this “**Agreement**”).

1. For the purpose of this Agreement, capitalised terms shall have the meaning set out in clause 1 of the Terms and Conditions. References to ‘paragraphs’ relate to paragraphs of this letter. References to ‘clauses’ relate to clauses in Terms and Conditions. The headings to the paragraphs and/or clauses in this Agreement are included for ease of reference only and are not part of this Agreement and are not to be taken into account in its construction.
2. DfE hereby warrants that (a) it has the authority to act as an agent for the Schools in respect of the procurement of the Licences for each School; and (b) by entering into and performing DfE’s obligations under this Agreement, DfE has complied, and shall




throughout the Licence Period continue to comply, with all applicable laws, regulations and rules (including any and all public procurement laws and regulations) and shall not cause (through DfE's act or omission) the Licensors to be in breach of the same.

- 3 Subject to (a) DfE's performance in full of all DfE's obligations under this Agreement (including but not limited to full and timely payment by DfE to the Licensors of the Licence Fees and other amounts payable under this Agreement); and (b) each School's compliance in full with all Terms and Conditions, the Licensors grant a Licence to each School for the duration of the Licence Period.
4. With effect from 1 April 2024, any individual limited online music and/or digital music licence for schools previously granted by the Licensors to any School will terminate and the terms of this Agreement will apply in respect of any such School instead.
5. For each Licence Year, DfE agrees to pay on behalf of each School a licence fee of [REDACTED] per pupil per School (the "**Per-Pupil Fee**"). The Per-Pupil Fee will be multiplied by the aggregate number of pupils in all Schools provided by DfE to the Licensors (or their agent(s)) in accordance with clause 6.1 of the Terms and Conditions below to calculate the Licence Fee for that Licence Year. To calculate the Per Pupil Fee for each subsequent Licence Year, the Per-Pupil Fee for the previous Licence Year will be subject to an annual inflationary adjustment calculated using the Retail Price Index published in September of the year prior to the relevant Licence Year. By way of example, the PerPupil Fee for Licence Year 2025-26 shall be calculated by applying the annual inflationary adjustment to the Per-Pupil Fee for Licence Year 2024-25.
6. DfE shall work together with the Licensors (or their agent(s)) on a joint communication plan to the Schools, with a view to notifying the Schools that DfE has undertaken to pay the Licence Fees on their behalf and that the Schools are thereby licensed and are subject to the terms and conditions of this Agreement.
7. The Licensors shall provide (or shall ensure that their agent(s) provides) the DfE with support materials and other up-to-date information and shall ensure that all such materials are available to Schools via the Licensors' (or their agent(s)) website and shall respond (or shall ensure that its agent responds) to any enquiries related to the Licence in a timely manner.
9. DfE shall make available a page on the Gov.uk's website on which links to key information about the Licence can be provided.

Yours faithfully




For and on behalf of MCPS

Name: 

Position: CCO

For and on behalf of PRS

Name: 

Position: CCO

Agreed and accepted:

Duly authorised for and on behalf of the Department for Education

Name:  8:47 GMT+1)

Position: \_\_\_\_\_

Date: 09/10/2024

## APPENDIX 1

### Terms and Conditions



## 1. Definitions

In this Appendix 1, the following terms have the following meanings. Defined terms used but not defined in this Appendix 1 have the meanings ascribed to them elsewhere in this Agreement.

**“the Act”** means the Copyright Designs and Patents Act 1988, as amended from time to time.

**“Associated Society”** means each collecting society (or other body representing rights in Musical Works) with which MCPS and/or PRS has, from time to time, an agreement under which MCPS and/or PRS is authorised to grant licences in relation to the other society's (or body's) repertoire for the purpose of this Agreement PROVIDED THAT where such an agreement is only entered into after the commencement of the Licence Period, a collecting society (or other body) shall only be regarded as an Associated Society for the purposes of this Agreement with effect from the date of signature of such agreement with MCPS and/or PRS (as applicable).

**“Audio-Visual Material”** means any specific presentation of Musical Works in conjunction with images, whether moving or still. For the avoidance of doubt (but without prejudice to the express restrictions contained in this Agreement), the following shall not be treated as Audio-Visual Material for the purpose of this Agreement:

- (a) the fact that ordinary web pages (or equivalent) are visible to the User while the User is listening to music; or
- (b) 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 User 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 relevant School of the Repertoire Works with such images.

**“Commercial Work”** means each Musical Work (excluding Production Music Works and Commissioned Works) to the extent the relevant copyright is owned or controlled, from time to time, in the United Kingdom by MCPS, including, without limitation, by virtue of its agreements with Members and Foreign Societies. If one or more of those who own or control the relevant copyright in a Commercial Work is not MCPS, the expression “Commercial Work” shall only apply to such interest in the Commercial Work as is owned or controlled by MCPS.





**“Commissioned Work”** means a Musical Work specially and expressly commissioned by a School from composer/writer members of PRS and/or MCPS.

**“Data Protection Laws”** means, to the extent applicable and in force from time-to-time: the Data Protection Act 2018 (**“DPA 2018”**), the UK GDPR (as defined in section 3(10) (as supplemented by section 205(4)) of the DPA 2018), the Privacy and Electronic Communications (EC Directive) Regulations 2003, and any equivalent or associated legislation and all other applicable data protection rules, regulations, codes of practice and guidance in force in the United Kingdom which relates to the protection of personal data, and the terms **“controller”**, **“data subject”**, **“personal data”**, **“personal data breach”**, **“processor”** and **“processing”** shall have the meaning given to them in the UK GDPR.

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

**“DfE”** means the Department for Education.

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

**“Excluded Service”** means any service (or the relevant part of a service) which falls within the scope (from time to time) of any other MCPS/PRS licensing schemes, including but not limited to:

- (a) MCPS – Karaoke and MIDI scheme;
- (b) MCPS – Music-on-hold scheme;
- (c) MCPS & PRS – Music Services B2B;
- (d) MCPS – Premium Telephone Line Services scheme;
- (e) PRS – Premium Telephone Line Services scheme;
- (f) MCPS & PRS Joint Ringback scheme;
- (g) MCPS/PRS Online Concerts Licence (in all its variants);
- (h) MCPS & PRS B2B Music Preview scheme;



- (i) MCPS & PRS Joint Digital Fitness scheme;
- (j) MCPS & PRS Joint Digital Music Licence for Worship scheme;
- (k) MCPS & PRS Joint Digital Music Licence for Further & Higher Education scheme;
- (l) MCPS & PRS Joint Digital Music Licence for Business Scheme.

**“Licences”** means the licences set out in clauses 2 and 3 of this Appendix 1.

**“Licence Fees”** means the fees payable by DfE on behalf of the Schools in accordance with paragraph 5 of this Agreement and clause 5 of this Appendix 1.

**“Licence Period”** means the period commencing on 1 April 2024 and ending on 31 March 2026, subject to any early termination or extension of this Agreement in accordance with clause 11.

**“Licensed Service(s)”** means the digital service(s) controlled and operated by the Schools in accordance with this Agreement.

**“Licence Year”** means a period of twelve consecutive months commencing on 1 April during the Licence Period. For the avoidance of doubt, reference to, for example, ‘Licence Year 2024-25’ shall mean the Licence Year commencing on 1 April 2024.

**“Licensors”** means PRS and MCPS.

**“MCPS”** means Mechanical-Copyright Protection Society Limited whose registered office is at 107 Gray’s Inn Road, London, England, WC1X 8TZ, contracting for and on behalf of itself and for and on behalf of and as agent or licensee of its various Members and affiliated societies.

**“Member”** means:

- (a) in the case of MCPS, each person, firm or company who or which, from time to time, has appointed MCPS as agent in relation to online exploitation either before or during the Licence Period, other than where such person, firm or company has opted not to participate in the licensing scheme pursuant to which this Agreement has been entered into, PROVIDED THAT a member who has so appointed MCPS after the commencement of the Licence Period shall only be regarded as a member



for the purposes of this Agreement with effect from the date on which the Member so appointed MCPS; and

- (b) in the case of PRS, any person, firm or company who or which, from time to time, pursuant to the Articles of Association of PRS has been admitted either before or during the Licence Period as a member of PRS, other than where such person, firm or company has reserved to himself the relevant rights pursuant to Article 7(cd) of the Articles of Association of PRS (or other equivalent article) PROVIDED THAT a member who has been so admitted after the commencement of the Licence Period shall only be regarded as a member for the purposes of this Agreement with effect from the date of admission into PRS.

**“Musical Work”** means any work consisting of music and any lyrics or words written to be used with the music if applicable. It includes any part of such a work.

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

**“PMSR”** means any production music sound recording being a sound recording (as opposed to a Musical Work) to the extent the relevant copyright is owned or controlled, from time to time, in the United Kingdom by MCPS, including, without limitation, by virtue of its agreements with Members and Foreign Societies and where MCPS has been authorised to license such recordings as so-called production or library music. If one or more of those who own or control the relevant copyright in a sound recording is not MCPS, the expression “PMSR” shall only apply to such interest in the “PMSR” as is owned or controlled by MCPS.

**“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 20 minutes;
- (b) the use is not a "potted 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 minutes.



A dramatic form shall 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 (a dramatic form shall 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 paragraph the word "actors" shall include actors, singers, mimics and/or puppets.

**"Permitted Service"** means a service or the relevant part of a service which is communicated to the public digitally by a "School" (as defined herein) in which no revenue is derived from the use of Repertoire Works and/or Audio-Visual Material containing Repertoire Works, whether by way of payment from Users, or by way of advertising revenue, or in any other way in which revenue derived is closely linked to the Repertoire Works and/or Content.

**"Permitted Usages"** shall mean the following usages only:

- (a) background music on a School's website;
- (b) online tours or prospectuses for a School (streamed or downloaded);
- (c) live streaming and on demand streaming of School events (such as concerts and end of year proms etc.) to parents/relatives of School pupils only and only via a closed/password protected section of a School's website;
- (d) music on School databases and/or servers used for educational purposes (such as music lessons);
- (e) use of music in educational projects and in recordings of such educational projects created solely as part of course work and/or exams for the purpose of a School's assessment/examination process;
- (f) videos of pupils' activities outside of the premises of a School for on demand stream or download (e.g. day trips, school camps);
- (g) School radio station (through online delivery only) via a closed/password protected section of a School's website; and
- (h) utilisation of conferencing or education platforms for online teaching.

**"Podcast"** means a downloadable, audio only programme that contains both music and speech where the Podcast cannot be disaggregated into its individual tracks.





**“Privacy Policy”** means the PRS for Music privacy policy from time to time as is available at <https://www.prsformusic.com/privacy>.

**“Production Music Work”** means any Musical Work embodied on a PMSR to the extent the relevant copyright is owned or controlled, from time to time in the United Kingdom by MCPS, including, without limitation, by virtue of its agreements with Members and Foreign Societies. If one or more of those who own or control the relevant copyright in a Production Music Work is not MCPS, the expression “Production Music Work” shall only apply to such interest in the Production Music Work as is owned or controlled by MCPS.

**“PRS”** means Performing Right Society Limited whose registered office is at Goldings House, 2 Hays Lane, London SE1 2HB, contracting for and on behalf of itself and for and on behalf of and as agents of its various affiliated societies.

**“PRS for Music”** means PRS for Music Limited whose registered office is at Goldings House, 2 Hays Lane, London SE1 2HB.

**“Repertoire Work”** means

- (a) in relation to the licence granted by MCPS, Commercial Works, Production Music Works and PMSRs, but excluding (i) any Musical Work forming part of a Dramatic Musical Work and (ii) any Commissioned Work; and
- (b) in relation to the licence granted by PRS, each Musical Work to the extent the relevant copyright is owned or controlled, from time to time in the United Kingdom by PRS, including, without limitation, by virtue of its agreements with Members and Foreign Societies, provided that if one or more of those who own or control the relevant copyright in a Repertoire Work is not PRS, the expression “Repertoire Work” shall only apply to such interest in the Repertoire Work as is owned or controlled by PRS.

The Licensors shall have the right to exclude specific Repertoire Works from the licences granted under this Agreement by giving notice in writing (which may be by email) to DfE. Such notice shall take effect two working days after it is sent. The Schools will promptly remove such Repertoire Works from the Licensed Service (unless the relevant rights have been validly licensed from an alternative source).

For the avoidance of doubt, if a Musical Work is a Repertoire Work in relation to one Licensor and not the other then it remains a Repertoire Work under this Agreement in relation only to the licence granted by that Licensor of which it is a Repertoire Work.





**“Schools”** means all the state-maintained schools (including, but not limited to, free schools, academic and pupil referral units, and any nurseries, pre-schools or playgrounds forming part of any school, but, for the avoidance of doubt, excluding any standalone pre-schools or playgroups (as categorised within the school census data), sixth-form colleges, universities and other institutions of further or higher education) in England in respect of which DfE confirms it is authorised to act and pays the Licence Fees.

**“School Census Report”** means School census data showing the number of Schools and pupils per School reported in the school census for January in the Licence Year preceding the relevant Licence Year (e.g. the January 2024 census for the 2025-2026 Licence Year) such data to be broken down into individual schools and by relevant managing authority.

**“Server Territory”** means the European Economic Area, Switzerland, the United States of America, Canada and such other territories as may be agreed in writing by the parties.

**“Service Provider”** means, the party which, in relation to a Licensed Service, most closely meets the following criteria, where relevant:

- (a) contracts with the User in relation to the provision of the Licensed Service;
- (b) sets and controls the price the User pays;
- (c) can fully report on all elements of Gross Revenue (including relevant advertising revenues);
- (d) can fully report on all elements of music usage (or can procure such reporting);
- (e) controls how content is offered and bundled within the Licensed Service; and
- (f) carries out or authorises, on their instruction, the carrying out of the copyright restricted acts licensed under this Agreement.

**“Stream”** means the communication to the public of any Musical Work or item of AudioVisual Material in digital form via the internet. For the avoidance of doubt, the communication to the public of for example, ten (10) Musical Works shall be treated as ten (10) separate Streams.

**“Territory”** means the UK or such other countries as the Licensors and DfE may agree in writing (which may include email).



**"UK"** means the United Kingdom of Great Britain and Northern Ireland and the Channel Islands and the Isle of Man.

**"User"** means a natural person in the Territory who receives the Licensed Services for their own private and non-commercial use.

**"VAT"** means value added tax pursuant to the Value Added Tax Act 1994 and each like tax imposed in addition to or in substitution therefor.

## **2. Grant of Licence**

2.1 Subject to and conditional upon compliance with the terms and conditions contained herein and in particular subject to the exclusions and restrictions set out in clauses 3 and 4, MCPS grants each School a non-exclusive licence to do the following during the Licence Period:

- (a) to reproduce Repertoire Works, and Repertoire Works incorporated into AudioVisual Material, on servers within the Server Territory for the purpose of transmitting the same to Users (for the User's own private and non-commercial use) by means of the Licensed Services;
- (b) where the Licensed Services expressly authorise the temporary reproduction of Repertoire Works and/or Audio-Visual Material on Users' Data Storage Devices, to cause such copies to be made in the Territory provided such copies are made for the purpose of the Permitted Usages;
- (c) to communicate to the public (as that term is defined in the Act) and to authorise the communication to the public of PMSRs incorporated into Audio-Visual Material within the Territory solely as part of and for the purposes of the provision of the Licensed Services; and
- (d) to reproduce Repertoire Works into Audio-Visual Material in the Territory, provided that such Audio-Visual Material is made solely as part of a Permitted Usage for the sole purpose of the provision of the Licensed Services.

2.2 Subject to and conditional upon compliance with the terms and conditions contained herein and in particular subject to the exclusions and restrictions set out in clauses 3 and 4, PRS grants each School a non-exclusive licence during the Licence Period to communicate to the public (as that term is defined in the Act) and to authorise the communication to the public of (a) Repertoire Works and (b) Repertoire Works



incorporated into Audio-Visual Material, within the Territory solely as part of and for the purposes of the provision of the Licensed Services.

### **3. Exceptions and Limitations**

3.1 The licences granted under clause 2 of this Appendix are valid only insofar as:

- (a) the Licensed Services are Permitted Services that are provided only for the Permitted Usages. Should any School offer or wish to offer modified or additional services that are not Permitted Services under this Agreement but which require a licence for the use of Repertoire Works DfE shall immediately notify the Licensors and provide such further information as the Licensors may reasonably request;
- (b) the Schools are the Service Provider(s) in relation to the Licensed Services; and
- (c) The Licensed Services are provided solely in the Territory and not in any additional countries. Should any School wish to provide the Licensed Services in any additional country outside of the Territory DfE shall immediately notify the Licensors and provide such further information as the Licensors may reasonably request.

3.2 For the avoidance of doubt, the licences granted under clause 2 of this Appendix shall not authorise the manufacture or distribution of physical products containing Repertoire Works, such as (without limitation) the ordering of compact discs (or any other type of physical media) via a Licensed Service, but which are distributed by mail.

3.3 The licences granted under clause 2 of this Agreement shall not extend to the public performance (as that term is used in the Act) of Repertoire Works, whether as part of the Licensed Services or otherwise.

3.4 Unless (a) the relevant Member has expressly consented to such use being covered under the MCPS licence granted herein, (b) the relevant School has entered into an agreement with the relevant Member to this effect and (c) evidence of such agreement has been provided to the Licensors, the licence granted under clause 2.1 of this Appendix shall not permit the use of Repertoire Work(s) with any advertising or sponsorship where:

- (i) such Repertoire Work(s) are incorporated into such advertising or sponsorship; or
- (ii) such Repertoire Work(s) are otherwise presented in such a way that a reasonable person might associate the Repertoire Work(s) with the advertising or sponsorship.

3.5 Unless (a) the relevant Member has expressly consented to such use being covered under the MCPS licence granted herein, (b) the relevant School has entered into an agreement



with the relevant Member to this effect and (c) evidence of such agreement has been provided to the Licensors, for the avoidance of doubt (and without prejudice to the generality of clause 3.4), the licences granted under these terms and conditions shall not apply to any Repertoire Work(s) made available for the purpose of (whether in whole or in part):

- (i) directly or indirectly encouraging the User to purchase or obtain goods or services of whatsoever nature; or
- (ii) promoting the branding of the School, any affiliate of the School 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.

3.6 The licence granted under clause 2.1 shall not apply to graphic copies (meaning, without limitation, copies of lyrics, notation or scores) of Repertoire Works.

3.7 The licence granted under clause 2.2 shall only apply to a Repertoire Work communicated to the public as part of a Licensed Service where the relevant School has the benefit of a valid licence for or a right to make a reproduction of that particular Repertoire Work and for that particular form of exploitation via the Licensed Service either pursuant to these terms and conditions or otherwise. By way of example only, the licence granted by MCPS under clause 2.1 does not cover the copying of Repertoire Works in an advertisement (save in certain specified circumstances, see clause 3.4 above). However, a parallel restriction does not apply to the licence granted by PRS under clause 2.2. The licence granted by PRS under clause 2.2 would not apply (in the context of this example) unless the relevant School, pursuant to clause 3.4, has the benefit of a right to copy the Repertoire Work for use in that advertisement (and on the Licensed Service(s)).

3.8 The licences granted under clause 2 of this Appendix shall not apply to any Repertoire Works reproduced or communicated to the public within a Podcast unless:

- (a) each programme comprising each Podcast contains both speech and music with the speech interspersed throughout the programme;
- (b) such Podcast is provided only in the form of a programme in its entirety and not in the form of individual tracks or portions of such a programme;
- (c) there can be no guide providing details of the time at which particular tracks appear; and





- (d) no flags or other markers are inserted within such Podcast which may directly indicate or which may be used to indirectly infer the start and end point of tracks or segments of tracks.

3.9 The licences granted under clause 2 of this Appendix shall not apply to any Repertoire Works reproduced or communicated to the public within a Podcast if:

- (a) there is any Audio-Visual Material incorporated into the Podcast (unless PRS for Music provides its prior written approval in relation to such Audio-Visual Material); or
- (b) the Podcast includes more than 2 Repertoire Works from a particular album or more than 2 Repertoire Works performed by a particular artist or written by a particular composer without prior written approval of PRS for Music; or
- (c) more than 50% of the Repertoire Works included within such Podcast are written by the same composer or writing partnership or are performed by the same artist without prior written approval of PRS for Music, unless the relevant Member has expressly consented thereto.

3.10 For the avoidance of doubt, this Agreement grants no licence whatsoever in relation to Repertoire Works which are made available by the Schools outside of the Licensed Service(s). However, such other exploitation of Repertoire Works may fall within the scope of other licensing schemes operated by the Licensors, details of which shall be made available to DfE on request.

#### **4. Further Restrictions**

4.1 Where any Repertoire Work forms part of any Dramatico-Musical Work, the licences granted under clause 2.1 of this Appendix shall not apply, in relation to Audio-Visual Material, to the reproduction of or communication to the public of:

- (a) the whole Dramatico-Musical Work; or
- (b) any excerpt(s) from such Dramatico-Musical Work unless all of the following circumstances apply:
  - (i) that 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
  - (ii) neither of the Licensors has notified DfE in writing that their Member or the Associated Society member objects to the reproduction of any such Repertoire Work

except in each case of reproduction or communication to the public of the whole Dramatico-Musical Work or any excerpt(s) from such Dramatico-Musical Work where





such reproduction or communication to the public is of the whole or part of a film made primarily for the purpose of exhibition in cinemas or similar premises.

4.2 Where any Repertoire Work forms part of any Dramatico-Musical Work, the licence granted under clause 2.1 shall not apply, in relation to material other than Audio-Visual Material, to the reproduction of the whole or substantially the whole Dramatico-Musical Work unless:

- (a) the relevant School has specifically notified the Licensors that it wishes to reproduce the whole or substantially the whole work; and
- (b) the Licensors have notified the relevant School that all relevant Members consent to such reproduction.

For the purposes of this clause 4.2, the expression “Dramatico-Musical Work” shall include any version of such work (with or without cuts, additions, interpolations or the like) which has been publicly performed. Furthermore, for the avoidance of doubt, substantially the whole work shall be deemed to be reproduced where all or nearly all the individual songs or other music included in the work are reproduced.

4.3 In any event, any licence hereunder only applies to the relevant Repertoire Works and not (by way of example only) to 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.

4.4 The licences granted under this Agreement shall not extend to or permit any adaptation of any Repertoire Work to be copied or communicated to the public as part of a Licensed Service unless the relevant Member has consented to such adaptation.

By way of example only, this applies to:

- (a) 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
- (b) using with music lyrics other than those written to be used with the music or authorised for use with the music; or
- (c) 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 4.10 and provided that such alterations do not amount to an adaptation of a Repertoire Work and do not contravene clause 4.4 then this Agreement shall 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.

- 4.5 The licences granted under this Agreement shall not extend to:
- (a) the reproduction or communication to the public of any Commercial Work or part thereof in the form of a parody or burlesque of any Commercial Work or of any composer or writer of any Commercial Work or any band or other group of artists which includes any composer or writer of any Commercial Work; or
  - (b) the use of any Commercial Work in any context which the relevant School 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 Member or Associated Society member.
- 4.6 Any additional limitations in relation to Associated Societies' rights to grant the licences set out in clause 2 of this Appendix which have been notified to the Licensors shall be notified to DfE in writing (which may include by email) and shall be binding on the Schools no less than 10 days following such notice. Where any restriction of a material or adverse nature is added, DfE shall have the right to terminate this Agreement by giving written notice to the Licensors.
- 4.7 All rights not specifically granted under this Agreement are hereby reserved.
- 4.8 This Agreement only covers Repertoire Works. It does not extend to other rights or interests, including (by way of example only), rights in sound recordings (other than PMSRs), films, dramatic works, performers' rights or rights in performances. Each School 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.
- 4.9 It is the responsibility of each School to obtain all necessary licences in relation to any Musical Work or PMSR 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.
- 4.10 Nothing in this Agreement affects the moral rights of authors of Repertoire Works whether subsisting in the UK or any other territory.

## **5. Fees and Payment**

- 5.1 In consideration of the licences and authorisations granted under this Agreement, DfE shall pay to the Licensors the Licence Fees.



- 5.2 For the purpose of calculating the Licence Fee for Licence Year 2024-2025, the Licensors (or their agent(s)) shall rely on the School Census Report provided by DfE on 16 February 2024 in the form of a spreadsheet entitled 'Copyright\_schools\_2023\_final.xlsx' and enclosed at Annex 1 of these Terms and Conditions.
- 5.3 Schools not included in the School Census Report in any given year, because, for instance, they opened after the January census of that year, shall nonetheless be deemed to be licensed for the purposes of this Agreement.
- 5.4 The Licensors (or their agent(s)) shall calculate the Licence Fees for any such Schools due for their first Licence Year and shall include such Licence Fees in the invoice to DfE for the following Licence Year (in addition to the Licence Fees due in respect of such Schools for that Licence Year).
- 5.5 DfE represents and warrants that the information provided in any given School Census Reports is true and accurate.
- 5.6 The Licensors (or their agent(s)) shall issue an invoice on or around 1 April of each Licence Year, for the Licence Fee applicable to that Licence Year. DfE shall pay each invoice within 30 days of the date of issue. The Licensors (or their agent(s)) reserve the right to charge interest on any late payment by DfE. Any such interest will be calculated on a daily basis at an annual rate of 3% over the base rate current from time to time of National Westminster Bank Plc and will be payable from the date on which the payment should have been made to the date on which the payment was made. DfE acknowledges that PRS for Music (as defined in the Licence) is authorised by the Licensors to receive all payments under this Agreement as agent on behalf of the Licensors and each of the Members (as defined in the Licence).
- 5.7 The Licence Fees and any other sums payable under this Agreement are subject to VAT. DfE shall pay to the Licensors VAT or other equivalent sales tax (if applicable) at the rate or rates from time to time in force on any sums payable under this Agreement subject to receipt of a valid VAT invoice.
- 5.8 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, shall be made in calculating or paying any sum due under this Agreement.

## **6. Supply of Information**



- 6.1 For the purpose of calculating the Licence Fees for Licence Years subsequent to Licence Year 2024-2025, DfE shall provide the Licensors (or their agent(s)) annually by 31 October of each Licence Year the School Census Report for each Licence Year.
- 6.2 DfE will appoint or nominate a licensing co-ordinator to act as a central contact for the Licensors in matters relating to the Licence, and DfE shall confirm the name and contact details of said licensing co-ordinator to the Licensors promptly following the date of this Agreement and notify the Licensors of any changes to these details in a timely manner.
- 6.3 The Licensors require DfE to provide up-to-date contact details for the Schools, such details to include, for each School, full postal address, telephone number and email address.

## **7. Data Protection**

- 7.1 The Licensors, DfE and each School will comply with all applicable requirements of the Data Protection Laws. This clause 7 is in addition to, and does not relieve, remove or replace, any obligations or rights under the Data Protection Laws.
- 7.2 Without prejudice to any right in law that the Licensors may have to obtain such information, the Schools and DfE shall not be obliged to provide to the Licensors any information which identifies Users, pupils or School staff or which otherwise constitutes personal data of such individuals. For the avoidance of doubt, the Schools and/or the DfE must still provide all information to be provided under this Agreement, but shall remove any element of it which reveals User, pupils or School staff personal data.
- 7.3 DfE, the relevant Schools and the Licensors acknowledge and agree that the only personal data that will be shared between the Schools, DfE and the Licensors under this Agreement shall be limited business contact information (including email addresses, names, job roles and other relevant contact information) and any personal data shared for the purpose of fulfilling the terms of this Agreement (including but not limited to reporting requirements and complying with audits). This shall be shared for the sole purpose of performing the rights and obligations under this Agreement. In respect of the limited processing under this Agreement DfE, the Licensors and each School acknowledges and agrees that each shall be a separate and independent controller of such personal data.
- 7.4 Upon reasonable written request from DfE, a relevant School and/or the Licensors to one or more of the other relevant parties, the party in receipt of such request will provide reasonable assistance to the requesting party to assist with compliance with the requirements of the applicable Data Protection Laws relevant to the assisting party's





rights and obligations under this Agreement, including responding to an individual's right of access request or a personal data breach.

7.5 DfE and the Schools acknowledge and agree that each shall not provide personal data to the Licensors in circumstances under which the Licensors could be considered a data processor on their behalf without first notifying the Licensors in writing and entering into a data processing agreement with the Licensors in compliance with the relevant Data Protection Laws (such agreement to be negotiated in good faith).

## **8. Data Collection**

8.1 The DfE shall assist or instruct the relevant School and/or Local Authority, as appropriate, to assist the Licensors in the conducting of a data collection exercise (such as a survey, record keeping exercise, online reporting exercise or a combination thereof).

8.2 The Licensors may, no more than once in each year, require the Licensee to participate in a data collection exercise to identify the type of recorded music under the Licence which will assist the Licensors in distributing the Licence Fee to Members and Associated Societies.

8.3 The data collection exercise may, without limitation, take the form of a survey or a record keeping or online reporting exercise or any combination of these in accordance with any guidelines on data collection on MCPS's website.

8.4 If selected by the Licensors to participate in a data collection exercise, the Licensee shall co-operate with MCPS in conducting the data collection exercise and undertakes to ensure that its staff comply with its obligations under this clause.

8.5 The Licensee undertakes not to disclose any information obtained as a result of any data collection except:

8.5.1 as required by a court or other authority of competent jurisdiction; or

8.5.2 in aggregated form from which the identity of the Licensee cannot directly be identified.

8.6 Any survey or record-keeping exercise must include all Accessible Copies.

## **10. Security and Encryption**





Unless agreed otherwise, the Schools will use their reasonable endeavours to prevent unauthorised copying and/or the unauthorised issuing of copies of Repertoire Works by whatever technical means are reasonably practicable for each given School. Upon request a School will inform the Licensors concerning its progress in relation to fulfilling this obligation.

## **11. Term, Termination & Extension**

- 11.1 This Agreement shall commence on receipt by the Licensors of a counter-signed copy of this Agreement signed by DfE, with effect from 1 April 2024, and shall continue until 31 March 2026 (thereby covering the Licence Year 2024-25 and Licence Year 2025-26) unless terminated in accordance with clause 11.3. It may be further extended subject to the mutual agreement of the parties hereto.
- 11.2 DfE shall be entitled to extend the Licence Period for a further Licence Year (thereby covering Licence Year 2026-27) by notifying the Licensors in writing no later than 31 December 2025.
- 11.3 The Licensors shall have the right to terminate this Agreement with immediate effect if DfE fails to pay the Licence Fees or any other sums due under this Agreement within 30 days of such payment becoming due and after 14 days following service of a formal notice by the Licensors to DfE of such late payment.

## **12. No Assignment**

This Agreement is personal to the DfE and the licences granted under it are personal to each School and neither the DfE nor any School may assign, sub-license or otherwise transfer any or all of its rights or obligations under this Agreement without the prior written agreement of both MCPS and PRS.

## **13. Miscellaneous**

- 13.1 Any notice or other communication given between the parties under or in connection with this Agreement shall only be effective if it is in writing. Faxes and e-mails are permitted save that notice to terminate this Agreement, or any extension notice served under clause 11 above, shall be served by personal delivery or post with a copy of such notice to terminate sent by fax or e-mail. Any such notice or other written communication shall be deemed to have been served:
- (a) if personally delivered, at the time of delivery;



- (b) if posted, at the expiry of two business days or in the case of airmail four business days after it was posted; or
  - (c) if sent by fax or e-mail, at the time of receipt of transmission (if received during normal business hours, that is 09.30 to 17.30 local time) in the place to which it was sent or (if not received during such normal business hours) at the beginning of the next business day at the place to which it was sent.
- 13.2 No delay or omission in exercising any right or remedy hereunder shall operate as a waiver thereof or of any other right or remedy and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other rights or remedies. No waiver shall be binding or effectual for any purpose unless expressed in writing and signed by the party giving it and any such waiver shall be effective only in the specific instance and for the purpose given.
- 13.3 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. This Agreement shall not be modified or varied except by a written instrument signed by the parties hereto.
- 13.4 The headings to the clauses in this Agreement are included for ease of reference only and are not part of this Agreement and are not to be taken into account in its construction.
- 13.5 The parties shall (and shall procure that any other necessary party within its control shall) execute all such documents and do all such acts and things as may be reasonably be required on or subsequent to completion of this Agreement for securing each of the obligations of the respective parties under this Agreement.
- 13.6 If this Agreement creates any rights which would in the absence of this provision be enforceable by any person not a party to this Agreement, such rights shall not be enforceable.
- 13.7. In entering this Agreement the Licensors agree not to pursue any backdated costs relating to usage rights not included under DfE's prior agreements with PRS and MCPS in Schools prior to the term of this agreement, for the avoidance of doubt, before April 2024.
- 13.8 This Agreement shall be construed according to the laws of England and Wales and the parties agree to submit to the jurisdiction of the English Courts.



## ANNEX 1

### School Census Report 2023



Copyright\_schools\_  
2023\_final.xlsx

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# DFE Digital Music Licence

Final Audit Report

2024-10-09

Created: 2024-10-09

By:

Status: Signed

Transaction ID: CBJCHBCAABAAxnLiAKN8KegblgM1vpJFzkzzmpCP\_Tb9

## "DFE Digital Music Licence" History



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Signer entered name at signing as

2024-10-09 - 12:47:51 PM

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Document e-signed by

Signature Date: 2024-10-09 - 12:47:53 PM GMT - Time Source: server



Agreement completed.

2024-10-09 - 12:47:53 PM GMT



