Synchronisation licence
general Terms and Conditions

GENERAL TERMS AND CONDITIONS

1.1 Subject to the Licensee complying with the terms and conditions contained in this Agreement and in consideration of payment of the Licence Fee and for the other consideration contained in this Agreement the Licensor grants to the Licensee the non-exclusive right to synchronise the Compositions in timed relation with the Film and to reproduce and use the Film incorporating the Compositions in the Media during the Term in the Territory. This Agreement does not confer any right to perform or broadcast the Compositions. Performance or broadcast of the Compositions is subject to the rights of the relevant performing rights societies and to payment of their customary fees. All rights in the Compositions not expressly granted under this Agreement (including the right to use the Compositions on any soundtrack album) are reserved to the Licensor.

1.2 All rights granted by the Licensor under this Agreement in and to the Compositions are only in respect of the Licensor’s Administrative Share and the Licensor makes no representations nor grants any rights in respect of any third party’s share in the Compositions.

2. The Licensee agrees, warrants and undertakes that it shall:

(a) not make any change to the lyrics, music or to the character of the music of the Compositions or make or permit any parody of the Compositions or derogatory use of them;

(b) not use the Compositions (or any title) for any purpose separately or independently from the Film;

(c) in its use of the Compositions in the Film not exceed the Duration of Usage and type of Usage specified in the Special Terms and as evidence of this furnish the Licensor free of charge with a DVD copy of the Film and a cue sheet for the Film a minimum of thirty (30) days prior to the first release of the Film;

(d) print or cause to be printed the Credit and all copyright and other notices which the Licensor may reasonably require or as may be required by the relevant laws of any country in the Territory on each positive and negative print of the Film. The size and placement of the Credit shall be no less favourable to the Licensor than the size and placement of the credits of other musical compositions and master recordings used in the Film;

(e) be responsible for obtaining and paying for all clearances, licences, permissions and consents from third parties necessary to use any musical works and master recordings (including the master recording embodying the Compositions) owned or controlled by third parties which are featured in the Film; and

(f) be responsible for obtaining and paying for any and all mechanical and performing right licences necessary to use the Compositions in accordance with this Agreement and any repeat, re-use, re-run and/or residual fees or other payments (if any) arising under any arrangement or collective bargaining agreement with any relevant union or guild.

3.1 The Licensee indemnifies the Licensor from and against all demands, claims (including claims withdrawn or not proceeded with by the claimant), liabilities, losses, damages, costs and expenses whatsoever (including all interest, penalties, legal and other costs and expenses together with value added tax and similar taxes thereon (if applicable) incurred by the Licensor and from and against all actions, suits and proceedings arising from any (direct or indirect) breach or alleged breach by the Licensee of any agreement, undertaking, representation or obligation on its part contained in this Agreement.

3.2 All sums payable by the Licensee pursuant to paragraph 3.1 shall be paid immediately on the Licensor’s demand in full without any deduction, withholding, counterclaim or set off.

3.3 The Licence Fee and all other sums payable under this Agreement are expressed exclusive of VAT which shall be payable by the Licensee subject to submission by the Licensor of a valid VAT invoice.
3.4 Where stipulated in the Special Conditions, the Licensor acknowledges that the Licensor has agreed to the Licence Fee on a “Favoured Nations Basis”, that is, on the basis that no other third party licensor of musical compositions or sound recordings in connection with the Film has or shall receive any greater remuneration than that payable to the Licensor under this Agreement. Notwithstanding the foregoing, if any such third party licensor has received or shall receive any remuneration in excess of the amount of the Licence Fee, the Licensee shall notify the Licensor in writing and promptly pay the Licensor the difference between the Licence Fee and the remuneration paid or payable to such third party following the Licensor’s submission of an invoice for such sum.

4. The Licensor warrants that it has the right to enter into this Agreement and grant to the Licensee the rights set out in it. The Licensor shall indemnify and hold the Licensee harmless from any liability, damages or costs arising out of any breach of the terms of this Agreement by the Licensor pursuant to a final judgment of a court of competent jurisdiction or settlement consented to in writing by the Licensor (such consent not to be unreasonably withheld) provided that the total liability of the Licensor shall not in any event exceed the Licence Fee paid by the Licensee. The Licensee must promptly notify the Licensor of any claim or demand which is inconsistent with the Licensor’s warranty and the Licensee shall at its own cost co-operate fully with the Licensor in the defence of any such claim or demand.

5. Any use of the Compositions not expressly authorised by the Licensor under this Agreement shall constitute an infringement of the copyright in the Compositions in addition to any other rights and remedies which may be available to the Licensor.

6.1 On expiry of the Term all rights granted under this Agreement shall cease and no further use or exploitation of the Compositions in the Film may take place.

6.2 In the event of a default or breach of this Agreement by the Licensee, the Licensor will notify the Licensee in writing of such default or breach and the Licensee shall have ten (10) days from its receipt of such notice in which to cure such default or breach. The Licensor’s rights and remedies in the event of a breach of the terms of this Agreement by the Licensee shall be limited to the right to recover damages, and in no event shall the Licensor be entitled by reason of any such breach to enjoin, restrain or seek to enjoin or restrain the distribution or other exploitation of the Film.

7. The Licensee may licence or assign the benefit of this Agreement to a third party for the purposes of financing or distributing the Film or broadcasting or transmitting the Film (subject to the terms and conditions of this Agreement and to the third party being expressly bound by the terms and conditions of this Agreement) but not further or otherwise. The Licensee shall remain primarily liable for any failure on the part of its licensees or assignees to comply with this Agreement but if any licensee or assignee enters into a direct deed of covenant with the Licensor to comply with the terms of this Agreement and the Licensee’s obligations under it the Licensee shall thereafter remain secondarily liable under this Agreement.

8. This Agreement shall be governed by and construed in accordance with English law and the parties submit to the non-exclusive jurisdiction of the English courts in respect of any dispute (including non-contractual disputes) arising out of this Agreement.

9. This Agreement shall not be valid until fully executed by both parties and the Licence Fee has been paid in full whereupon this Agreement shall constitute the entire agreement between the parties and shall supersede any and all prior agreements and understandings, oral or written, related to such agreement. This Agreement may not be varied except by an instrument in writing signed by both parties.

10. Any notice or other communication given under this Agreement shall be in writing and delivered personally or by courier or sent by first class recorded delivery mail and shall be addressed to the relevant party’s address in the Special Terms or to such other address as the relevant addressee may hereafter by notice substitute. Any such notice or other communication shall be deemed to have been duly given (i) in the case of hand delivery when left with proof of delivery at the relevant address; or (ii) in the case of posting two (2) days after the proven date of posting.

11. No failure or delay by a party to exercise any right or remedy shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

12. No warranties or representations shall be deemed to have been made by the Licensor except as expressly set forth above.

13. If any part of this Agreement is judged by a court of competent jurisdiction to be illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any such modification or deletion shall not affect the validity and enforceability of the rest of this Agreement.
14. The parties do not intend that any term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not party to this Agreement.

15. The Special Terms attached to these General Terms and Conditions are an integral part of this Agreement. In the event of any inconsistency between the Special Terms and these General Terms and Conditions the Special Terms shall prevail. Where only one title is specified in the Composition section of the Special Terms then reference to “Compositions” in these General Terms and Conditions shall be construed as “Composition”. Capitalised terms not defined in these General Terms and Conditions shall have the meanings given to them in the Special Terms.