

TAC



AN AGREEMENT

between

**TELEDWYR ANNIBYNNOL
CYMRU CYF**

and

THE MUSICIANS' UNION

1 April 2011

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SECTION ONE - Introduction

1. Preamble

An Agreement dated 1st April 2011 between the Musicians' Union, of 60/62 Clapham Road, London SW9 0JJ ('the Union') of the one part AND Teledwyr Annibynnol Cymru of 32 Y Maes, Caernarfon, Gwynedd LL55 2NN ('TAC') of the other part.

2. Commencement, Duration and Interpretation of the Agreement

This Agreement shall take effect from 1 April 2010 save as regards the fees set out herein which shall apply as from 1 April 2011. This Agreement shall continue in full force and effect for an indefinite period subject to three months written notice of termination given by either party. The Union confirms that it is authorised to act on behalf of those of its members who undertake engagements under the terms and conditions of this Agreement.

3. Content of the Agreement

3.1 This Agreement (which incorporates the definitions set out in Appendix E hereto) sets forth the terms and conditions for the engagement of a Musician, for the principal purpose of broadcasting and other uses, for recording music both in sound only, and simultaneously in sound and vision, and for the purpose of miming in the production of single films and television programmes and series of films and television programmes intended for primary transmission on the S4C Service and co-productions. In particular:- Section Two outlines the various bases upon which the Musician may be engaged and the engagement fees applicable to such engagements.

3.2 Section Three outlines the Rights acquired in consideration of payment of the engagement fees and the further use payments payable for the repeating of the Programme(s) or any such further uses, including in respect of back catalogue programmes.

It is recognised by the parties that as of 31 March 2010 the analogue television signal transmitting the S4C Service was switched off and replaced by a digital only service. It is agreed that all rights acquired under engagements entered into since 31 March 2010 and all repeat and secondary uses of programmes since 31 March 2010 shall be in accordance with and governed by the terms of this

agreement save that the fees set out in this Agreement shall only apply as from 1 April 2011.

4. Recognition

TAC recognises the Union for the purpose of collective bargaining as the sole representative organisation of Musicians and the Union recognises TAC as the sole representative organisation of the Producers.

SECTION TWO - Engagements

5. Forms of Engagement

5.1 All engagements of Musicians shall be made in accordance with the terms of this Agreement, and payments due and uses acquired under such engagements shall be recorded in the Form of Engagement, a copy of which is appended to this Agreement (Appendix A).

5.2 The fees payable as set out in this Agreement are minimum fees.

6. Session Engagements

6.1 Engagements on a session basis shall be paid for at the rate of **£48.80** per hour for a minimum period of three hours (**£146.40**), for which payment an aggregate of seven minutes of music per hour may be recorded.

6.2 Additional music, up to a maximum of five minutes, may be recorded only during a three-hour session, for an additional payment at the rate of **£3.75** per minute of recorded music.

7. Incidental Music - multi-episodic use

Where Incidental Music is used in more than one Programme, each additional episode in which the music is used will attract an additional payment of 10% (ten per cent) of the total fees paid to the Musician for recording the Incidental Music.

8 Featured Music - multi-episodic use

Where Featured Music is used in more than one Programme, each additional episode in which the music is used will attract an additional payment of 33 1/3% (thirty-three and one third per cent) of the total fees paid to the Musician for recording the Featured Music.

9 Signature Tunes/Programme Item Identification Music

9.1 A Musician may be engaged for a three-hour session to record Signature Tune music or Programme Item Identification Music for a named Programme series, and a fee of **£201.20** will be paid to the Musician, to cover the use of the music in up to thirteen episodes of the series as transmissions on the S4C Service.

or

- 9.2 For the use of the Signature Tune music on the S4C Service in unlimited episodes of the named Programme series during two years from the date of the first transmission, a fee of **£234.20** per three hour session will be paid to the Musician.
- 9.3 During the Signature Tune session, the Musician may record not more than one Signature Tune and/or up to twenty minutes of Programme Item Identification Music for use in a Programme, or series of Programmes, which shall be nominated at the time of the engagement.
- 9.4 For the use of the Signature Tune music as transmissions on the S4C Service in unlimited episodes during five years from the date of the first such transmission, a fee of **£260.20** will be paid to the Musician.

Note for Guidance: This Clause is intended to apply solely in the case of music recorded for signature tunes and Programme Item Identification Music. It does not apply to Opening and Closing Music recorded for use in a single Programme that should be recorded under the provisions of Clause 6.

- 9.5 The Signature Tune session may be extended to enable the recording of the music to be completed on payment to the Musician of an additional fee of **£14.65** for each additional six minutes or part thereof by which the session is extended.

10 Combined Use Fee

- 10.1 The Producer may elect to engage and pay the Musician on the basis of a Combined Use Fee conditional upon such engagement being subject to a minimum call of two hours at a rate of **£87.40** per hour. In consideration of payment of the Combined Use Fee the Producer shall be entitled to:

10.1.1 incorporate the Musician's performance into the Programme and to permit or procure unlimited transmissions on the S4C Service;

10.1.2 use or to license others to use the Programme and the Musician's performance in all media now known or hereafter invented whether analogue or digital or linear or interactive online or offline throughout the World in perpetuity including

the release of the music on commercial audio recordings (any audio recording must be registered with PPL) and there shall be no further payments made for the release on commercial audio recordings under this clause.

- 10.2 For the avoidance of doubt the right to incorporate or permit others to incorporate music recorded under the terms and conditions of this Agreement into audio or audio visual products not covered by this Agreement shall be subject to the Musicians' Union's right to negotiate and collect on behalf of its members.

11. Recordings of Continuous Performances

Engagements which are for performances or recordings before specially invited audiences will be payable at the hourly rate of **£48.80** per hour (**£146.40** per three hours) , subject to a minimum of three hours which shall include a continuous performance not exceeding one hour in duration. For performances in excess of one hour an additional payment will be made at the rate of **£14.65** per additional six minutes. Recording of performances that are taking place irrespective of television will be subject to special arrangements (see Appendix B).

12. Daily Engagements

Engagements on a daily basis shall be payable at the rate of **£258.40**, for seven hours' work over nine hours, during which period the Musician may be required to mime, be filmed and/or record for which up to twenty-one minutes of music may be used in the Programme(s).

13. Established Self Contained Groups

- 13.1 A Musician forming part of an Established Self Contained Group may be engaged at a basic recording fee of **£185.55** inclusive of Doubling and portorage. The engagement shall consist of a session on a nominated performance day consisting of four hours' work spread over a twelve hour period during which an aggregate of up to one hour's performance may take place which may be either transmitted or recorded continuously or discontinuously. During such session any tapes made during the sound session may be used without attracting additional payment.
- 13.2 Additional performance time in excess of the aggregate of one hour's performance shall be paid for at the rate of **£10.50** per Musician for each six minutes or part thereof. Additional rehearsal time required in excess of the four hours of work shall be paid for at the rate of **£10.50** per Musician for each fifteen minutes or part

thereof. Any additional rehearsal required at times other than as stated above shall be paid for at the hourly rate.

- 13.3 For an additional payment of **£88.85** per Musician, a Musician may be engaged for a further session of up to three hours during which time not more than twenty-one minutes of music may be recorded in sound only, continuously or discontinuously, with no limitation on any individual member of the Group overdubbing the member's own performance. The session may be extended to permit the full twenty-one minutes of music to be recorded on payment to each Musician at the rate of **£11.80** for each fifteen minutes or part thereof.
- 13.4 For the avoidance of doubt, in the event that the Producer elects to engage additional session musicians to work with Established SelfContained Groups then the provisions of this clause shall not apply to such session musicians.

14. Short Items for Inclusion in Special Programmes

- 14.1 A Musician may be engaged on the basis set out below for a session, in or out of the studio, to rehearse and record discontinuously, in sound or in sound and vision, items from productions rehearsed and produced by other organisations for inclusion in magazine, news, documentary, educational, religious or critical Programmes:-

14.1.1 For a session not exceeding two hours for items of up to ten minutes in the aggregate: **£88.85**.

14.1.2 For a session not exceeding one hour for items of up to five minutes in the aggregate: **£47.50**.

Overtime is not permitted under this Short Item Clause.

- 14.2 News bulletins and/or arts and magazine /listings programmes

The parties recognise the terms of the Musicians' Union News Access Agreement a copy of which is attached hereto as Appendix D.

15 Commercial Audio

- 15.1 For the release of the music on commercial audio recording, subject to there being no contractual prohibitions in the Musician's engagement, the Producer will pay to the Musician an additional fee for every twenty minutes (or part thereof) of recorded music incorporated in the commercial audio recording and subject also to the consent of the Union having been obtained. This fee will be in accordance with the BPI/MU Agreement available at www.themu.org.
- 15.2 Without prejudice to clause 15.1, the use of existing commercial audio recordings in a Programme (for example but without limitation as Incidental Music) shall be in accordance with an appropriate rate to be discussed in good faith between the Producer and the copyright holder and for the avoidance of doubt shall not be in accordance with the BPI/MU Agreement.

16 Promotional Rights

Music recorded under this Agreement may be used for corporate and generic promotional purposes in all media including transmission on line, provided that such use does not constitute secondary commercial exploitation. In the event that any music recorded under this Agreement is required to be used for secondary commercial purposes prior agreement with the Union must be obtained and the union shall not unreasonably withhold approval.

17. Additional Services

17.1 Overdubbing

If the Musician overdubs the Musician's own performance within the basic session, or is called separately to attend for the purpose of such Overdubs, the Musician shall be paid an additional 125% (one hundred and twenty-five per cent) of the total fees paid for the session (excluding portorage) for the first Overdub and 140% (one hundred and forty per cent) for each subsequent Overdub.

17.2 Overtime

A Musician required to work beyond the time of the original period of call:

- 17.2.1 on a session basis shall be paid additional fees at the rate of 30% of the hourly rate for each additional period of 15 minutes or part thereof by which the session is extended;

17.2.2 on a daily engagement shall be paid additional fees at the rate of 60% of the hourly rate for each period of 30 minutes or part thereof by which the engagement is extended.

17.3 Unsocial Hours

If a Musician is called before 8.00am or he/she is detained after midnight, an additional payment of **£36.95** shall be made.

17.4 Costume Fittings and Make-up

When the Musician is called to attend separately from a session or Daily Engagement for costume fitting and/or make-up, an hourly fee of **£36.95** shall be paid subject to a minimum call of two hours. When a Musician is called to attend immediately prior to a session or Daily Engagement for costume fitting and/or make-up a fee of **£18.50** per hour or part thereof shall be paid.

17.5 Performing on more than one instrument

Where the Musician is required to play more than one instrument, a Doubling fee of 10% of the session fee for which the Musician has been engaged shall be paid for each additional instrument played. There shall be no restriction on the number of instruments that the Musician may be required to play.

For the purpose of determining entitlement to Doubling fees each of the following groups shall be regarded as one instrument:

Drums (bass drum, snare drum, tom-tom, cymbals, and the usual small accessories);

Timpani (up to four);

Tuned (mallet) instruments (vibraphone, xylophone, marimba, glockenspiel, tubular bells);

"Latin American" instruments.

17.6 Porterage/Hire of Instruments

17.6.1 The Musician shall provide those instruments which he is engaged to play other than piano, celeste and organ.

17.6.2 For the transporting of heavy instruments to and from the place of rehearsal or recording the Musician shall receive a portorage payment as below: -

- (i) Chimes, drums, marimba, xylophone, vibraphone: **£23.75**;
- (ii) Accordion, electric guitar, bass saxophone, tuba, double bass, cello: **£17.30** (Limit, two or more instruments payment of **£34.85**);
- (iii) Contra bassoon, glockenspiel, baritone saxophone, trombone plus one other brass instrument, French horn plus one other brass instrument, two saxophones, saxophone plus bass clarinet: payment of **£11.60**;
- (iv) Harp, timpani, organ, electric piano: to be negotiated individually.

Where the above payments are made there will be no separate hire charge. The Musician may be required by the Producer to hire an instrument for the purpose of the engagement. The hire charge and any other material terms including any portorage element involved shall be agreed in advance between the Musician or his authorised representative and the Producer, and payment or reimbursement to the Musician of such shall be the responsibility of the Producer.

18. Call Periods and Breaks

The Musician shall be entitled to a break of five minutes for each hour or part thereof called to be taken approximately halfway through the period of call, provided that the production is not thereby disrupted. The Producer may call a break of one hour during a session which will in any event be called after not more than four hours' work and for which no payment will be made.

SECTION THREE – Rights Acquired and Further Uses

19. Rights Acquired

19.1 First Transmission

In consideration of the payment of the engagement fees the Producer shall be entitled to incorporate the Musician's performance into the Programme and:-

- 19.1.1 to use, or licence others to use, the Programme once as a transmission on the S4C Service;
- 19.1.2 to repeat the Programme at any time as a transmission on the S4C Service within seven days of the first transmission for no additional payment;
- 19.1.3 to transmit one signed and/or audio-described version of the Programme on the S4C Service within 7 days of first transmission; and
- 19.1.4 to make the Programme available on a free to air transmission basis (including real time viewing or download (but not free download to own)) for 35 days from the date of first transmission.

19.2 Repeat Transmissions

19.2.1 Pre-purchased repeats:

In respect of Programmes produced from the date of this Agreement only, the Producer may acquire the right to additional transmissions or uses of the Programme on the S4C Service (other than the repeat within seven days referred to in clause 19.1.2) and in all cases provided such payments are made at the time of the original payment:-

- (i) All genres: one transmission package in accordance with the rights granted under Clause 19.1 on the S4C Service at any time and without limit in terms of time: on payment to the Musician of 30% (thirty per cent) of the aggregate session fees for the Programme provided that such payment is made at the time of the original payment;
- (ii) Non-Children's Programmes: the right to transmission packages of the Programme in accordance with the rights granted under Clause 19.1 without limitation

during All Other Times only for seven years on payment of 15% of the aggregate session fees for the Programme;

- (iii) Children's Programmes: the right to transmit the Programme on the S4C Service without limitation in terms of time or number and in perpetuity on payment of 15% of all the relevant session fees combined.

19.2.2 All other repeats

In this section the following time bands shall have the following meaning:

Peak Hours: 18:00 to 20:59 inclusive

Shoulder Peak: 16:30 to 17:59 and 21:00 to 22:29 inclusive

All Other Times: 22:30 to 16:29 inclusive

Subject to clause 19.2.3, for subsequent repeat packages in accordance with the rights granted under Clause 19.1 on the S4C Service, whether in respect of Programmes produced before or after the date of this Agreement, where payment has not been made at the time of the original payment, the Producer shall make a payment to the Musician of the following percentages of the aggregate session fees:

- (i) Peak Hours: 60%
- (ii) Shoulder Peak: 30%
- (iii) All Other Times: 15%

In the event that the Musician's engagement relates to a series of programmes, the basis for the calculation shall be the aggregate session / Daily Engagement fees originally paid to the Musician divided by the number of episodes into which the music was incorporated, subject to a cap of one three-hour basic session fee per episode.

This clause shall also apply to programmes made under the Previous Agreement or any previous agreements between the parties. In the event that the original engagement was five or more years from the date of the repeat transmission

then the repeat fees due to the Musician shall be enhanced by RPI in accordance with Appendix F.

19.2.3 Digital Fee and Use

- (i) With effect from the date of this Agreement, where the Producer has previously acquired the right by way of payment to the Musician of the 'Digital Fee' pursuant to the Previous Agreement to unlimited and unrestricted use on S4/C or 'S4C Digital' (as such term is defined therein), the parties now agree that the Producer shall no longer be entitled to such unrestricted use but will instead entitle the Producer to unrestricted use of such Programme on the S4C Service during All Other Times within a seven year period, such period commencing on the date of the first transmission of such Programme.
- (ii) In the event that the Programme is transmitted during Peak Hours on the S4C Service or upon the expiry of the seven year period any further transmissions of such Programme shall be subject to the provisions of clause 19.2.2.

19.2.4 In the case of signature tunes contracted under the terms of Clause 9 and which are 'out of time', further transmission rights on the S4C Service may be acquired on payment of 50% (fifty per cent) of the Signature Tune session fee current at the time of renewal which shall acquire the corresponding rights granted under clauses 9.2 or 9.4.

19.2.5 Payment of an additional fee equivalent to 15% of the fee due under 19.2.4 will entitle the Producer to unlimited and unrestricted use on the S4C Service of the 5 year rate under clause 19.2.4 where the fee is payable at the same time as the fee paid in 19.2.4.

19.2.6 In respect of programmes which are repeated a minimum of seven years following the date of first transmission on S4C and are scheduled by S4C in a slot allocated for the transmission of archive programmes, known as the 'Aur' (Gold) slot, the payment of repeat fees shall be calculated on the basis of 15% of the Musician's original session fees and shall be subject to the RPI enhancement in accordance with Appendix F.

19.3 Compilation Programmes

A Producer wishing to make a compilation Programme comprising excerpts from Programmes will either discuss the matter with the Union or pay 60% (sixty per cent) of a three-hour session fee at the minimum rate current at the time of transmission of the compilation Programme in respect of each Programme from which excerpts are taken. Such payment shall entitle the Producer to transmit the Programme on the S4C Service in accordance with Clause 19.

19.4 Extracts

19.4.1 The Producer may, on payment to the Musicians' Union Benevolent Fund of the sum of **£72.80** (plus VAT) in respect of each extract, incorporate extracts from Programmes made for transmission on the S4C Service into schools programmes and programmes of a religious, educational, instructional, critical, documentary and magazine type. Each extract must not exceed two minutes in duration, and the total duration of extracts used in the Programme must not exceed six minutes.

19.4.2 The Producer may, on payment to the Musicians' Union Benevolent Fund of the sum of **£145.70** (plus VAT) in respect of each extract, in the case of a drama Programme in which the incidental music has been specially recorded and irrespective of the number of Programmes from which the extracts are drawn, incorporate extracts from programmes made for S4C not exceeding two minutes in duration.

19.4.3 Subject to prior discussion with the Union, the Producer may incorporate extracts into drama and light entertainment Programmes extracts from programmes made for companies other than for S4C on payment of the sum of **£44.35** to each Musician involved in each extract used.

19.5 Programme Sales

In respect of Programmes made for S4C under the terms of this Agreement and as an alternative to the provisions of Clause 10, the Producer may use, or permit the use of, the Musician's performance in all or any media worldwide on payment of a royalty on the basis set out below. No royalty will be payable in respect of non-theatric, non-commercial, and closed circuit television use:

19.5.1 The royalty to Musicians will be 4% (four per cent) of Gross Receipts divided between the Musicians in proportion to their original session fees or daily engagement fees. In respect of those Programmes where the aggregate original earnings of Union members exceed the aggregate earnings of Equity members, a royalty of 21% (twenty-one per cent) will be divided between the performers in proportion to their original earnings.

Note For Guidance. 'original earnings' will include payments made under the MU and Equity Agreements with TAC, but will exclude: -

- (i) repeat payments;*
- (ii) payments intended to reimburse expenditure incurred by an individual - including subsistence payments, travel payments and Musicians' portorage payments, costume fitting and make-up and hire of instruments.*

19.5.2 In respect of those Programmes involving only members of the Musicians' Union and where the Programme consists of at least 40% (forty per cent) of Featured Music, a royalty of 17% (seventeen per cent) of Gross Receipts will be divided between Musicians in proportion of their Original Earnings.

SECTION FOUR - General Conditions and Agreed Understandings

20. Travel and Subsistence

Where a Musician is required to attend a studio, place of rehearsal or location more than 30 (thirty) miles from the Musician's normal place of residence, the Producer shall pay the cost of travel by standard public transport to and from the place of engagement.

21. Punctuality

The Musician shall be available and ready to commence the performance at the starting time for each period of call as notified.

22. Use of Deputies

The Musician may only invite another Musician to deputise in carrying out an engagement by express prior agreement with the Producer or the Producer's authorised representative.

23. Payment to the Musician

Payment shall be made to the Musician either by cash or cheque within 21 (twenty-one) days of the final session or day in any period of consecutive recording by the Musician. Secondary payments made by S4C shall be administered via BACS payments wherever practicable.

24. New Instrument Devices

TAC and the Musicians' Union do not encourage the use of electronic instruments in circumstances where it would be reasonable to expect conventional instruments to be used.

25. Review

Further to Clause 2, fees and other specific matters set out in this Agreement shall be reviewed in good faith within 12 months of the date of this Agreement and thereafter annually following a request by one of the parties, in the light of prevailing financial circumstances.

26. Union Facilities

The Producer shall offer reasonable facilities for the accredited representatives of the Union to visit members of the Union in studios, places of rehearsal, locations, and other places where they may be engaged.

27. Disputes Procedure

In the event of a dispute arising from the operation of this Agreement the following procedure shall apply: -

- (i) there shall be a meeting between the appropriate representatives of the Union and the Producer;
- (ii) in the event of a failure to agree at the above meeting a meeting shall be held between senior representatives of the Union and of the Producer to seek to resolve the dispute;
- (iii) in the event of a failure to agree at the above meeting consideration shall be given to conciliation or arbitration in a form to be mutually agreed or to a reference to the Advisory Conciliation and Arbitration Services (ACAS);
- (iv) it is expressly agreed and understood that this disputes procedure does not constitute a contractual obligation for the parties to this Agreement or parties covered by this Agreement, and it is included to help to regulate and settle any difficulties and disputes that may arise in the spirit and intention of maintaining good relations between the parties to the Agreement.

28. Musician's Undertaking

The Musician shall carry out all reasonable instructions given by the Producer or the Producer's authorised representative.

29. Entire Agreement

Except as otherwise provided, this Agreement constitutes the whole and only agreement between the Parties relating to its subject matter and supersedes all prior agreements or arrangements in that regard made between them, including for the avoidance of doubt the Previous Agreement.

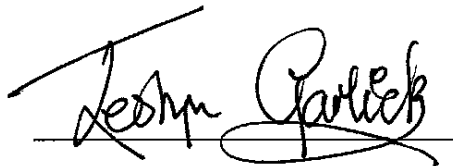
- 29.1.** In construing this Agreement, unless otherwise expressly specified:
- 29.2.** use of either gender includes the other gender, and use of the singular includes the plural and vice versa;
- 29.3.** a reference to any statute or statutory provision shall be construed as a reference to the same as it may, from time to time, be amended, modified or re-enacted;

- 29.4. a reference to any other document in this Agreement is a reference to that other document as amended, varied, or supplemented (other than in breach of the provisions of this Agreement) from time to time;
- 29.5 headings and titles are for convenience only and do not affect the interpretation of this Agreement;
- 29.6 In the event of a conflict between any provision of this Agreement (excluding the Appendices) and the Appendices, the provisions of the Agreement shall prevail.

30. Governing law & jurisdiction


This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the Parties submit to the exclusive jurisdiction of the English and Welsh Courts.

Signature Clause:



on behalf of TAC

Date: 8/3/2012



on behalf of the MU

Date: 15/03/12

APPENDIX A

FORM OF ENGAGEMENT

A Contract dated _____ day of _____ 20____

BETWEEN _____ (The Producer)

of _____

and _____ (The Musician)

of _____

National Insurance no. _____

VAT no.* _____

ENGAGEMENT

The Producer hereby engages the services of the Musician as follows: -

Title of Production _____

Type of Session(s) _____

Length of Session(s) _____ No. of Sessions _____

No. of Days _____

Date(s) _____ Time(s) _____

Venue(s) _____

FEES & EXPENSES

*Delete as appropriate

Standard Session/Daily Fee/Combined Use Fee* £

Additional Fees (specify): £

Pre purchased rights:

Peak / Shoulder Peak repeats @ 30%: £

All Other Times repeats @15%: £

Children's Programmes @15%: £

TOTAL £

Expenses (specify)

£

The Musician will ensure that the Producer and/or S4C are informed of any change to the Musician's contact details e.g. a change of address as soon as possible.

The above engagement is subject to the terms and conditions of the Agreement currently in force between the Musicians' Union (MU) and Teledwyr Annibynnol Cymru (TAC) and any subsequent amendments and updates to it agreed between the MU and TAC from time to time.

The Musician hereby authorises the release of the information concerning this Engagement to the Producer and its licensees (including but not limited to S4C) and the Musician's Union for monitoring, publicity, promotional and administration of secondary payments purposes and the Producer and the Musicians Union hereby confirm that they will deal with the data provided in accordance with the Data Protection Act 1988.

The Musician hereby gives his/her consent as required by the Copyright Designs and Patents Act 1988 (or any statute or statutory provisions amending, modifying, extending or re-enacting the same) for the original recording of any performance and for such reproduction and use of any recorded performances as are permitted by the agreements prevailing at the time of the reproduction and use between the Musicians' Union and TAC. The Musician agrees to their engagement upon the terms stated above all of which the Musician agrees to observe.

This Agreement is to be governed by and construed in accordance with the laws of England and Wales and the parties hereto submit to the exclusive jurisdiction of the English and Welsh Courts.

(The Musician)

(The Producer)

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APPENDIX B

BROADCASTING OR RECORDING A PUBLIC PERFORMANCE

In accordance with this Appendix B, the Producer may transmit or record for transmission performance which would be given before an audience even if it were not to be televised. Such a performance, involving a minimum of 30 (thirty) Musicians (other than pre-existing self-contained ensembles where the number of musicians shall be unlimited), may be of up to three hours duration.

Fees

Payment per hour with a minimum of two hours : **£88.85**.

Overtime

Payment per fifteen minutes, with a maximum of thirty minutes : **£25.50**.

Patching Sessions

Payment for patching may take place during a scheduled rehearsal or a repeat performance : **£88.85** for a three-hour period, or after a performance at a rate per hour of **£48.75**. If a patching session is specially called the rate per three hours will be **£117.20**.

NOTE:

Doubling fees, or portorage, travel and other expense payments are not applicable, as these will have already been paid for the concert performance.

APPENDIX C

RIGHTS ACQUISITION

(I) As an alternative to Clause 10 the Producer may incorporate the Musician's performance into the Programme to which it relates and to use or license others to use sell and exploit the Programme in the territories and media listed below and whether digital or analogue, linear or interactive, on-line or off-line:

(a) Uses

1. UK and Ireland Cable and Satellite.
2. Worldwide Theatrical exhibition.
3. Worldwide Television whether standard (SDTV), high definition (HDTV) or otherwise , excluding UK.
4. Worldwide Videogram.

(b) Further Use Fees

Note: In the case of co-productions where an English sales version and Welsh language version of the programme is made the initial fees paid to the Musician shall be in accordance with the Main Agreement and shall be deemed to apply to the Welsh language version only.

The Producer may acquire the following rights either on payment of additional Use Fees as set out below or as an alternative, on payment of the combined use fee in **(II)**.

- | | | |
|----|---|-----|
| 1. | 1st UK Transmission if paid at the time of engagement | 30% |
| 2. | 2nd and subsequent UK Transmissions | 60% |
| 3. | UK Cable and Satellite | 10% |
| 4. | World-wide Theatrical Exhibition | 50% |
| 5. | World-wide Television Standard and Non Standard | 30% |
| 6. | World-wide Video | 30% |

For the purposes of this Agreement, the parties acknowledge that the S4C Service is, amongst other methods of delivery, transmitted via a unencrypted satellite signal by means of which the S4C Service is be capable of reception throughout the footprint of the satellite from which it is transmitted from time to time.

(II) Combined Use Fee - Buy Out

As an alternative to both Appendix C (I) and Clause 19.5 of the Main Agreement the Producer may opt at the time of the Engagement to pay the Musician a Combined Use Fee as set in Clause 10 of the Main Agreement.

(III) Low Budget Films

To qualify for this provision the film must have a budgeted cost of £3 million or less and the Producer must supply to the Musicians' Union at least four weeks prior to the first proposed music session, a copy of the budget summary sheet of the film.

The Producer may then engage the Musician in accordance with the rate of **£53.95** per hour. This will enable the Producer to acquire the rights contained above and no further payment would be made to the Musician until the film had recouped the agreed multiplier of its certified budget as shall be agreed between the Union and the Producer at the outset.

APPENDIX D

MUSICIANS' UNION (MU) NEWS ACCESS CODE OF PRACTICE

- 1 News items which include the musical performances of Musicians may be recorded under the terms of this code of practice without the further agreement of the MU or those it represents.
- 2 Such news items may only be “communicated to the public” (as defined under the Copyright Designs and Patents Act 1988 (as amended) (“the Act”) at section 20) in news bulletins and/or arts and music magazine/listings programmes, and may not be communicated to the public in general magazine, documentary or any other type of programme, without the Musicians’ written consent and the payment of a fee to be agreed with the MU.
- 3 The broadcaster/production company filming the news item shall ensure that all recording of the Musicians’ performances shall be completed within one hour of commencement of filming.
- 4 The maximum duration of recorded performance that may be communicated to the public in one news item shall be:
 - (a) one minute of Featured Music (i.e. not background or otherwise incidental), and/or
 - (b) one minute of non-featured music (i.e. heard in the background of an interview or under a voice over)

In the event the duration of the recorded performance communicated to the public in one news item exceeds these time limits then the broadcaster/production company shall pay the Musicians a fee to be agreed with the MU.
- 5 Nothing in this code of practice shall prevent any Musician requesting the broadcaster/production company not to record his or her performance and the broadcaster/production company shall not record a Musician who has made such a request.
- 6 The broadcaster/production company shall ensure the Musicians are not called upon to exceed the duties for which they are contracted and are not directed to alter their performance or repeat it for the purpose of retakes for the recording of the news item.
- 7 News items made hereunder must be first communicated to the public within eight days of the recording date, unless the prior written agreement

of the MU is obtained, but thereafter may be communicated to the public throughout the world in perpetuity for the purposes of reporting the news and/or as archived news items.

- 8** Provided news item recordings are made and used strictly in accordance with this code of practice, the MU agrees on behalf of those it represents not to require any written consents to be obtained from or further fees to be paid to the Musicians.
- 9** Save as set out in this code of practice, nothing shall restrict the rights of performers and/or the MU under the Act or otherwise.

APPENDIX E

DEFINITIONS AND INTERPRETATION

In this Agreement, the following terms and expressions shall have the following meanings and all references to clauses and appendices shall be to clauses and appendices in this Agreement (unless otherwise specified):-

“All Other Times”:	22.30 to 16.29 inclusive.
“back catalogue programme”	a Programme or series that is transmitted 6 months or longer after its first transmission.
“Children’s Programme”	a Programme intended or designated for transmission as part of S4C’s specifically designated and branded programming aimed at children and/or educational programmes commissioned for transmission other than during Peak Hours, or as may otherwise be provided S4C’s Terms of Trade from time to time.
“Compilations”:	a programme substantially made up of extracts celebrating the work of an Artist or Musician or an established group of Artists or Musicians or a known production series.
“Daily Engagement”:	an engagement in accordance with Clause 12.
“Digital Fee”	as such payment is referred to in the Previous Agreement.
“Doubling”:	a Musician performing on more than one instrument.
“Established Self Contained Group”:	a group which has a recognised existence prior to the occasion on which it is engaged, and which presents its own act working in the field of pop, rock, jazz, folk and similar music, where the performance is predominately instrumental.
“Featured Music”:	music performed in vision by Musicians in the Programme or audible to characters in the Programme (for example where a radio is playing in the background).

“Gross Receipts”:	sums actually received by S4C or the Producer arising directly and identifiably in respect of a sale made to a third party or a distributor but excluding the cost of manufacturing, promoting, distributing the Programme and excluding Value Added and other sales tax.
“Incidental Music”:	music that is heard by the viewer but is not performed by anyone shown in the Programme nor is audible to any of the characters in the Programme.
“Musician”:	an individual Musician engaged under the terms of this Agreement.
“Overdub”:	a recording, by mutual agreement between the Producer and the Musician, which is used to overlay in unison or in harmony a pre-existing recording made by the same Musician on the same or different instrument but which is not a replacement of the pre-existing recording.
“Opening and Closing Music”	music which is recorded in order to open and/or close single Programmes.
“Patching”:	a recording session used in conjunction with Appendix B of this Agreement, which provides an alternative recording of the music which can be used to provide material which may be edited into the recording of a live performance.
“Peak Hours”:	18.00 to 20.59 inclusive.
“Previous Agreement”	the agreement between the parties dated 1 June 2003 which preceded this Agreement.
“Producer”:	a member of TAC engaging a Musician under the terms of this Agreement.
“Programme”:	a single production, which is either complete in itself or forms part of a series for which the Musician is engaged and which is intended for transmission on the S4C Service;
“Programme Item Identification Music”:	music that is used to identify a regular sequence or occurrence within a Programme such as a sting.
“Shoulder Peak”:	16.30 to 17.59 and 21.00 to 22.29 inclusive.

“S4C”:	Sianel Pedwar Cymru of Parc Ty Glas, Llanishen, Cardiff CF14 5DU.
“S4C Clirlyn”	the S4C high definition channel simultaneously transmitting the S4/C service
“S4C New Media Rights”	the right to communicate the Programme including the whole or any part of the Performance to the public by any means or method and by any platform now or hereafter known other than the Online Rights and including the right to transmit or communicate to mobile devices by any method or medium for a period of up to thirty five (35) days from each transmission of the Programme on the S4C Service.
“S4C Online Rights”	the right to communicate the Programme including the whole or any part of the Performance to the public via the internet either at scheduled times or on demand (such as via the S4C Service known as “Clic”) (including real time viewing or free download) and regardless of the device on which the Programme is viewed for a period of up to thirty five (35) days from each transmission of the Programme on the S4C Service.
“S4C Service”:	the following services together and from time to time: S4/C, S4C Clirlyn, S4C2 and any channel carrying a Timeshift Broadcast , any service via which the S4C Online Rights, S4C New Media Rights or the S4C Website Rights are exercised and whether such services are linear or interactive or delivered by digital satellite, digital terrestrial or digital cable television, online, offline or by wireless technology or by a combination thereof or by telephone line or any other digital media or platform now known or hereafter invented including standard or high definition television (HDTV), webcasting (simultaneous and non – simultaneous streaming) or by a combination thereof and whether or not receivable outside the United Kingdom.
“S4/C”:	the service as defined in sections 29(1) and 84(3) of the Broadcasting Act 1996 and Section 204 of the

Communications Act 2003 (as amended by the Welsh Authority (Digital Switchover) Order 2009).

- “S4C Website Rights” “the exclusive right to establish and update a Welsh language or bilingual website(s) for the Programme and to use the Performance or clips from it on the same and/or any corporate or generic or Welsh learners website which is branded that of S4C.
- “Signature Tune”:
Music recorded for use as opening and/or closing music for a continuing or returning series (but not a single programme or series).
- “Simulcast”:
simultaneous exhibition broadcast or transmission of the Programme (or part of it) on more than one medium or platform now or hereafter known , including (without limitation) digital television, analogue television (whether on constituent elements of the S4C Service or otherwise), the internet, IPTV, digital radio, internet radio, analogue radio, and/or via Wireless Application Protocol (‘WAP’) or a combination thereof.
- “Timeshift Broadcast”
broadcast or transmission of the Programme on any channel from time to time that carries a time-delayed re-broadcast of output on the S4C Service.
- “Video” / “Videogram”:
any form of disc including digital versatile disc (‘DVD’) and ‘Blu-ray’, or cassette whether optical, linear or interactive which is offered for sale or rental to the general public for viewing in the home.

APPENDIX F

OUT OF TIME RPI ESCALATOR

Programmes first transmitted in	Escalator % for repeats in 2011
2010	100
2009	100
2008	100
2007	100
2006	100
2005	112
2004	115
2003	119
2002	122
2001	126
2000	127
1999	130
1998	133
1997	136
1996	141
1995	145
1994	149
1993	154
1992	157
1991	161
1990	168
1989	183
1988	198
1987	211
1986	219
1985	229
1984	236
1983	243
1982	250
1981	258
1980	278
1979	304
1978	340
1977	346
1976	376
1975	418
1974	497
1973	573
1972	623