

Dated 12 AUGUST 2010

ARQIVA LIMITED

and

JOHN MILLS LIMITED

**AMENDMENT NO. 3 TO
AGREEMENT DATED 29TH APRIL 2009**

**Arqiva Limited
Crawley Court
Winchester
Hampshire
SO21 2QA**

THIS AMENDING AGREEMENT is made the 12 day of August 2010

BETWEEN:

- (1) **ARQIVA LIMITED** a company incorporated under the laws of England and Wales under number 02487597 and having its registered office is at Crawley Court, Winchester, Hampshire SO21 2QA ("Arqiva"); and
- (2) **JOHN MILLS LIMITED** a company incorporated under the laws of England and Wales under number 2021685 and having its registered office at JML House, Regis Road, London, NW5 3EG ("the Customer").

RECITALS

- A Arqiva and the Customer entered into an Agreement for Connectivity, Uplinking and Satellite Services dated 29th April 2009 as amended ("the Existing Agreement").
- B Arqiva and the Customer now wish to amend the Existing Agreement as set out herein.

TERMS AGREED:

1 AMENDMENT TO THE EXISTING AGREEMENT

- 1.1 The Existing Agreement is hereby amended as set out in the Annex hereto.
- 1.2 The foregoing amendments shall come into effect on 29th July 2010 or when the last of the conditions in section 1 in the Annex are met, which ever is later.

2 GENERAL

- 2.1 This Amending Agreement shall come into effect upon signature by both parties.
- 2.2 Except as expressly varied herein the provisions of the Existing Agreement shall continue in full force and effect.
- 2.3 In the event of any conflict or inconsistency between the Existing Agreement and this Amending Agreement, this Amending Agreement shall prevail.
- 2.4 This Amending Agreement shall be governed by and construed in accordance with English Law and the parties submit to the exclusive jurisdiction of the English Courts to resolve any disputes between them.

ANNEX

Amendments to the Existing Agreement

The Existing Agreement shall be amended on 29 July 2010 or on the date when the last of the conditions in section 1 as set out below are met.

1. Conditions:

The Company agrees to reduce the Option Levels and the Service Charges for the Customer on the satisfaction of the following conditions.

- 1.1. The Customer shall procure that within thirty (30) days of this Agreement, Rocks and Co Productions Limited shall enter into a services agreement with the Company from 29th July 2010 for 2.5 mbit/s of Eurobird Bandwidth at the rate of €96,500 per mbit per annum; Signal delivered to the Uplink Site as SDI; and with a Termination Date of 31st August 2014.

Service Changes:

2. The Option Level for each of the Customer's Channels shall be Yellow. To allow for the reduction in the Customer's EFBR Digital Capacity from 12.5 mbit/s per annum to 10 mbit/s per annum, Paragraph 1.2.1 of Schedule One entitled Digital Capacity shall be deleted and replaced with the following new paragraph:

"1.2 Digital Capacity

- 1.2.1 The Service will be provided by the Company using Digital Capacity on the Transponder defined by the following Option Levels:

Channel 1 – JML Cookshop	Yellow
Channel 2 – JML	Yellow
Channel 3 – Rocks and Co	Yellow
Channel 6 – JML Home & DIY	Yellow

Service Charges:

3. To allow for the agreed decrease in the EFBR Digital Capacity from 12.5 mbit/s per annum to 10 mbit/s per annum, the Service Charges shall be amended. Paragraph 1.1 of Schedule Two Part 1 entitled 'Payments' shall be deleted and replaced with the following new paragraph:

"1. Payments

Pursuant to Paragraph 1.2, Digital Capacity of Schedule One, the Customer shall pay the following Service Charges:

- 1.1 €1,061,250 per annum with respect to the provision of access to 10 mbit/s per annum EFBR of the Digital Capacity."

4. For the avoidance of doubt, the variations set out in sections 2 and 3 shall only take effect upon satisfaction by the Customer of the conditions set out in section 1 above. If the Customer fails to satisfy the conditions set out in section 1 herein by 15 August 2010, the Service Charges shall not be reduced.

IN WITNESS WHEREOF the parties hereto have caused this Amending Agreement to be signed by their respective authorised representatives the day and year first before written.

Signed by
Arqiva Limited

by: 

Name: N. Thompson
Title: DIVISIONAL MD

and by: 

Name: B. WOOLSTON
Title: General Director

Signed by
JOHN MILLS Limited

by: 

Name: JOHN A.D. MILLS
Title: CHAIRMAN & DIRECTOR

and by:

Name:
Title:

Approved by Arqiva Legal

DATED

29th APRIL

2009

ARQIVA LIMITED (1)

AND

JOHN MILLS LIMITED (2)

AGREEMENT FOR THE PROVISION OF CONNECTIVITY, UPLINKING AND
SATELLITE SERVICES

ARQIVA LIMITED
Crawley Court
Winchester
Hampshire
SO21 2QA

THIS AGREEMENT is made on the 29TH day of APRIL 2009

BETWEEN

(1) **ARQIVA LIMITED** (registered in England under number 02487597) whose registered office address is at Crawley Court, Winchester, Hampshire SO21 2QA ("Company");

AND

(2) **JOHN MILLS LIMITED** (registered in England under number 2021685) whose registered office is at JML House, Regis Road, London NW5 3EG (registered ("Customer") together (the "Parties").

RECITALS

- (A) The Company is in the business of providing certain satellite and terrestrial services to its customers.
- (B) The Customer wishes to engage the Company to supply and the Company has agreed to supply certain satellite services (the "Services") to the Customer for use in connection with its television business on the terms and subject to the conditions of this Agreement.
- (C) The Services that the Company shall provide to the Customer shall include, MPEG-2/DVB encoding, multiplexing, BSkyB Adaptation, and the provision of uplink facilities and access to Digital Capacity on the Satellite specified in this Agreement.
- (D) The Company will procure the Digital Capacity required to provide the Services from the Satellite Provider on the terms and subject to the conditions of the Supply Agreement.

IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement unless the context requires otherwise the following terms shall have the following meanings:

"Agreement" means this agreement together with the Schedules and any appendices as any of the same may be amended from time to time.

"Business Hours" means 09.00 until 17.30 hours local time at the relevant location on any Working Day.

"Channels" currently known as :

Channel 1 – JML Cookshop 657

Channel 2 – JML 641

Channel 3 – Rocks and Co 642

Channel 4 – JML Choice 661

Channel 5 – JML Beauty 653

Channel 6 – JML Home & DIY 662

Channel 7 – Shop Now TV 666

or such other name as the Customer may from time to time determine.

- “Commencement Date” means the date upon which this Agreement is executed by the Company having previously been executed by the Customer.
- “Company Equipment” means any Equipment which is not Customer Equipment that is provided and used by the Company to provide the Service detailed in this Agreement.
- “Connectivity” means any circuit required to transfer the Content from the Interface Point to the transmission facilities at the Uplink Site.
- “Connectivity Start Date” means the date the Company will notify the Customer on which the Connectivity will be ready for use.
- “Content” means the material comprised in the Channel provided by the Customer for conveyance by the Service.
- “Customer Equipment” means any equipment provided by the Customer to the Company to enable it to provide the Services.
- “Digital Capacity” means the digital satellite capacity to be used by the Company to provide the Service, as defined in Paragraph 1.2 of Schedule One by reference to the Option Levels set out in Clause 2 of Schedule Seven.
- “DTH” means the distribution of television, radio or data signals by satellite “direct to home” for reception at the homes/premises of individual viewers.
- “Encoding” means the process of creating a single digital composite data stream from either video or audio (or both) programme information.

'Interface Point'	means the point at which the Content will be made available to the Company, as specified in the Interface Specification.
"Interface Specification"	means the technical specifications set out in Schedule Five defining the interface at which the Content will be made available to the Company.
"MCR"	means the Company's Master Control Room, located at the Uplink Site.
"OFCOM"	means OFCOM or any replacement or successor body and references in this Agreement to OFCOM shall include references to that replacement or successor body.
"Option Level"	means the options defining the amount of Digital Capacity set out in Schedule Seven.
"Pre-emptible Digital Capacity"	means the 2.5mbit/s of Digital Capacity provided by the Company on a pre-emptible basis free of charge until required by the Company as detailed in Clause 4.3.6.
"Remaining Service"	means the Service which excludes the Digital Capacity which will be provided by the Company to the Customer.
"Satellite"	means the satellite specified in Schedule Six on which the Digital Capacity is provided, or such other Satellite which is designed for DTH services in geostationary orbit located at 28.5 degrees East or a similar orbital slot and having an equivalent footprint as the Company may use to provide the Services in accordance with Clause 4.2.
"Satellite Provider"	means the party which is detailed in Schedule Six from which the Company procures the Digital Capacity.
"Service"	means the services described in Schedule One which the Company will provide to the Customer on the terms and subject to the conditions of this Agreement.
"Service Charges"	means the service charges to be paid by the Customer for the Service in accordance with the payment terms set out in Clause 6 in the amounts set out in Schedule Two.
"Service Credits"	means the service credits which the

	Customer may claim for Service Interruptions as detailed in Clause 8.1.
“Service Description”	means the service description set out in Schedule One which describes the Service that the Company will provide to the Customer.
“Service Interruption”	means a service interruption as described in Clause 8.1 which may entitle the Customer to claim Service Credits.
“Service Commencement Date”	means the date on which carriage of the Channel and provision of the Service commences, as specified in Schedule One.
“Service Period”	means the period commencing on the Service Commencement Date and ending on the Service Termination Date.
“Service Termination Date”	means the date on which the carriage of the Channel and provision of the Service ceases, as specified in Schedule One.
“Supply Agreement”	means the agreement between the Company and the Satellite Provider under which the Company procures the Digital Capacity.
“Term”	means the duration of this Agreement which commences on the Commencement Date or the Services Commencement Date if earlier and terminates on the Service Termination Date.
“Territory”	means the United Kingdom of Great Britain and Northern Ireland, the Republic of Ireland, the Isle of Man and the Channel Islands.
“Transponder”	means the Transponder on the Satellite specified in Schedule Six as varied from time to time pursuant to Clause 4.2.
“Uplink Site”	means the Company’s Teleports at Chalfont Grove, Bedford, Winchester or such other teleport which the Company may use to provide the Service pursuant to Clause 4.3.
“Working Day”	means any day Monday to Friday except for bank and public holidays in England and Wales.
“Year”	means each complete period of twelve (12) calendar months, commencing with the

Service Commencement Date.

- 1.2 Except where the context otherwise requires words denoting the singular include the plural and vice versa, and words denoting any gender include all genders and words denoting persons include natural persons, firms and corporations and vice versa. This Agreement includes the Schedules attached hereto.
- 1.3 References in this Agreement to Clauses and Schedules shall unless otherwise provided be references to the Clauses and Schedules of this Agreement.
- 1.4 Headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement.
- 1.5 A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment of it.
- 1.6 Except where the context otherwise requires terms and expressions used in this Agreement shall have the same meaning as is commonly ascribed to them in the Broadcasting, Telecommunications and IT industries.
- 1.7 Any phrase introduced by the word “including”, “include” or any similar expression shall be construed as illustrative and the words following any such word shall not limit the sense of the words preceding such words.
- 1.8 In the event and to the extent only of any conflict or inconsistency between the Clauses of this Agreement and the Schedules, the Clauses of this Agreement shall prevail.

2. PURPOSE AND DURATION

- 2.1 This Agreement shall become effective on and from the Commencement Date and, subject to the early termination provisions set out in Clause 12, shall continue until the end of the Service Period.
- 2.2 In consideration of the Customer paying the Service Charges to the Company in the amounts and in the manner specified hereunder the Company will provide the Service to the Customer on the terms and subject to the conditions of this Agreement during the Term.
- 2.3 It is agreed that this Agreement supersedes all previous Agreements between the Company and the Customer.
- 2.4 It is acknowledged that the Connectivity will not be installed and ready for use by the Service Commencement Date. For the avoidance of doubt, prior to the Connectivity Start Date, the Company will be providing the Connectivity using the existing DS-3 circuit.

3. THE PARTIES' OBLIGATIONS

3.1 The Company's Obligations:

- 3.1.1 For the duration of the Service Period, the Company shall provide the Service to the Customer in accordance with the Service Description set out in Schedule One, on the terms and subject to the conditions of this Agreement.
- 3.1.2 The Company will procure, install and maintain the Company Equipment at the Uplink Site in order to perform the Services. The Company Equipment shall remain the property of the Company.
- 3.1.3 The Company shall procure the supply of the Digital Capacity from the Satellite Provider for use in the provision of the Service.
- 3.1.4 Subject to the Customer complying with all of its obligations under Clause 3.2.3 in accordance with the required timescale, the Company shall install and operate any Customer Equipment so that it is available for use in the provision of the Service from the Service Commencement Date.
- 3.1.5 The Company shall obtain and maintain any necessary licence or permission to provide the Service under the Wireless Telegraphy Act 2006 or any successor legislation and all other licenses, consents, or approvals necessary to perform its obligations hereunder, save only to the extent that the Customer is expressly obliged to procure the same pursuant to the terms of this Agreement or by law.
- 3.1.6 For the avoidance of doubt, the Service does not include and the Company shall not provide installation, commissioning or maintenance of the digital satellite receivers (or "digiboxes") for end users.

3.2 Customer Obligations

- 3.2.1 The Customer shall obtain and maintain any necessary licences that may be required in respect of the transmission or carriage of the Content using the Service, including but not limited to any licence required to be issued by OFCOM or any successor body in the United Kingdom or required under the Broadcasting Acts 1990 and 1996 and inform the Company of any material changes thereto.
- 3.2.2 The Customer shall enter into an agreement with BSkyB for EPG services. The Customer shall inform the Company prior to the Service Commencement Date of all relevant technical information describing such EPG services, including, but not limited to, the programme number and shall advise the Company of any changes to such technical information prior to their becoming effective. For the avoidance of doubt, the Service Charges shall start to accrue from the Service Commencement Date irrespective of whether the launch of the Service and the carriage of the Channel have to be delayed because of the Customer's failure to secure an appropriate agreement from BSkyB for the provision of EPG services.
- 3.2.3 The Customer will supply or procure the supply of all Customer Equipment in accordance with the required timescales to enable the Company to provide the Service on and from the intended Service Commencement Date. The Customer shall ensure that the Customer Equipment shall comply with the requirements set out in Schedule Three so as to enable the Company to carry out its obligations pursuant to Clause 3.1. The Company shall operate the

Customer Equipment in accordance with operational procedures agreed with the Customer subject to the Customer providing appropriate training for the Company at the Customer's cost.

- 3.2.4 In relation to monitoring of the encrypted services the Customer will ensure that any viewing cards forming part of the Customer Equipment are authorised prior to the Service Commencement Date and continue to be authorised for the duration of the Service Period.
- 3.2.5 The Customer shall carry out OFCOM compliance recording.
- 3.2.6 The Customer shall use the Service only for the purpose of distributing the Channel in digitally compressed form for DTH reception within the Territory.
- 3.2.7 The Customer shall pay the Service Charges for the duration of the Service Period in accordance with the provisions of Clause 6 in the amount specified in Schedule Two.
- 3.2.8 The Customer shall provide such information as the Company, BSkyB and/or the Satellite Provider shall require to enable it to provide the Service in a timely manner and shall ensure that any such information is accurate, complete and up to date.
- 3.2.9 If and to the extent that the Customer has to attend the Uplink Site or any other premises owned by the Company or any of its subcontractors the Customer will comply with all and any policies and procedures of which it is given notice including but not limited to those policies and procedures relating to health and safety, access and security.
- 3.2.10 The Customer shall take out and maintain for the duration of this Agreement appropriate insurance against all risks in relation to the Customer Equipment and shall provide a copy of the cover note and evidence that the last premium has been paid to the Company upon request and shall comply with its obligations stated in Schedule Three in relation to the Customer Equipment.
- 3.2.11 The Customer shall present the signals which are to be transmitted to the Company as specified in Schedule Five.
- 3.2.12 The Customer shall monitor the Content prior to broadcasting the Content on the Channel.
- 3.2.13 The Customer shall ensure that for the duration of this Agreement it owns the legal title and/or the beneficial interest in the EPG and that it shall not assign, charge or transfer the legal title and/or the beneficial interest of the EPG without the Company's prior written consent.
- 3.2.14 Any assignment, charge or transfer of the legal title or the beneficial interest in breach of Clause 3.2.13 shall be ineffective.
- 3.2.15 The Company reserves the right to exercise a lien over the EPG in return for granting consent to any assignment or in the event that the Company has the right to suspend the Agreement for non-payment pursuant to Clause 4.5.1 (i).

3.3 The Company's Rights

3.3.1 The Company may provide the Service by any particular technical or operational means and/or change the technical or operational means by which it provides the Service at any time during the Service Period provided that any such change does not have a material adverse effect on the provision of the Service which the Company shall continue to provide in accordance with the Service Description set out in Schedule One.

3.3.2 If the Customer is overdue with any payment then, without prejudice to any other right or remedy available to the Company and subject in any event to fourteen (14) days prior written notification by the Company to the Customer of its intention to exercise the rights set out in this Clause, the Company reserves the right to exercise a lien over any Customer Equipment which is at the Uplink Site until the Customer has made such overdue payment in full without settlement or deduction. For the avoidance of doubt the exercise of any such lien shall not affect the Customer's obligation to pay any amounts due under this Agreement.

4. PROVISION OF THE SERVICE

4.1 Commencement of the Service

4.1.1 Without prejudice to the Customer's obligation to pay the Service Charges from the Service Commencement Date, the Company shall not be obliged to commence provision of the Service for so long as any of the following circumstances exist:

- (i) a material breach by the Customer of any of its obligations under this Agreement; or
- (ii) the failure or unavailability of any satellites, transponders, facilities, services or systems (excluding those provided by the Company under this Agreement) provided that such failure or unavailability is not directly caused by any failure by the Company to carry out any of its obligations pursuant to this Agreement; or
- (iii) a request in writing from the Customer to delay commencement of the provision of the Services; or
- (iv) the suspension of the Service in accordance with Clause 4.5 of this Agreement.

4.1.2 For the avoidance of doubt and without prejudice to the Customer's obligation to pay the Service Charges the Company shall not commence provision of the Service until the Customer has met all applicable payment obligations in accordance with Clause 6 and Schedule Two.

4.2 Changes to the Satellite and Transponder

4.2.1 The parties acknowledge that the Satellite on which the Digital Capacity is made available may be changed by the Satellite Provider to another Satellite at the same orbital slot from time to time, and in such event the Company undertakes to use its reasonable endeavours to minimise any disruption to the Service.

4.2.2 The parties acknowledge that the Transponder on which the Digital Capacity is made available may be changed by the Satellite Provider to another Transponder on the Satellite from time to time, and in such event the

Company undertakes to use its reasonable endeavours to minimise any disruption to the Service.

- 4.2.3 The Company may change the Satellite and/or Transponder on which the Digital Capacity is provided to any Satellite or Transponder providing DTH reception in the Territory at any time, provided that any such change does not have a material adverse effect on the provision of the Service which the Company shall continue to provide in accordance with the Service Description set out in Schedule One.
- 4.2.4 In the event that the Satellite Provider changes the Satellite and/or the Transponder in accordance with Clause 4.2.1 or 4.2.2 the Company shall not in any event be held liable for any loss or damage arising out of or caused by such variation unless and to the extent that the Company can recover compensation for such loss or damage from the Satellite provider. The Company shall pay any compensation recovered from the Satellite Provider to the Customer as soon as reasonably practicable after the Company receives any such compensation.

4.3 Changes to the Service

- 4.3.1 The Company may change the Uplink Site to any other teleport at any time, provided that any such change shall not have a material adverse effect on the provision of the Service which the Company shall continue to provide in accordance with the Service Description set out in Schedule One.
- 4.3.2 The Company agrees to use all reasonable endeavours to provide to the Customer such further services as the Customer may reasonably request from time to time during the Term provided that all requests from the Customer for services additional to the Service or requests for a change to the Service requested by the Customer (a "Change") shall be made in accordance with the following procedure:
- (i) The Customer will provide the Company with a written request detailing the precise scope of the Change required and the person within the Customer's undertaking to whom all correspondence in respect of the Change must be addressed (the "Change Representative").
 - (ii) The Company will provide the Change Representative with a written report on the proposed Change which will cover feasibility, impact on any time or other schedules contained or referred to in this Agreement, the Clauses, the Schedules, resource requirements and/or any cost effects (the "Change Report").
 - (iii) The Change Representative will consider the Change Report and will notify the Company in writing, within ten (10) Working Days of receipt of the Change Report of the Customer's decision whether or not to request the Company to proceed with the Change.
 - (iv) If the Parties agree that the proposed Change is acceptable the parties shall use their reasonable endeavours to carry out the Change. In the event that either party decides not to proceed, it will give written notice of its decision to the other party within fifteen (15) Working Days following consideration of the Change Report.
 - (v) The Company reserves the right to charge reasonable costs for

preparing the Change Report at a rate to be agreed between the parties in the event that the Customer submits more than six (6) Change Requests in any Year.

- 4.3.3 The Company may propose a Change in accordance with the procedure detailed in Clause 4.3.2 above adapted mutatis mutandis to refer to the Company in place of the Customer save that:
- (i) The Company will provide the Customer with both a Change Request and Change Report.
 - (ii) The Customer will consider the Change Request and Change Report and will notify the Company in writing within ten (10) Working Days of receipt of the Change Report of the Customer's decision whether or not it agrees to the Change.
 - (iii) If the Parties agree the proposed Change is acceptable the Parties shall use their reasonable endeavours to carry out the Change.
- 4.3.4 No additions, modifications or alterations to the Service will be valid unless such modifications or alterations are in writing and signed by a duly authorised representative of each party.
- 4.3.5 It is agreed that the Option Level selected under this Agreement is appropriate for the Content to be conveyed by the Service from the Service Commencement Date. The Customer confirms that it has accurately represented the nature of the Content that will be conveyed by the Service to the Company prior to signature of this Agreement. In the event that the Customer materially changes the nature of the Content during the Service Period such that in the Company's reasonable opinion the selected Option Level is no longer appropriate then the Company reserves the right to require an increase to the Option Level to an Option Level suitable to the nature of the new Content. The Company shall issue a written notice to the Customer which specifies its requirement to increase the Option Level and the date from which the change to the increased Option Level will take effect. The Service Charges shall be increased from the date specified in the notice to the rate applicable to the increased Option Level.
- 4.3.6 The Customer will be provided with the Digital Capacity as outlined in Schedule One. From the Service Commencement Date the Company shall provide 2.5Mbit/s (EFBR) of Digital Capacity to the Customer for no charge. Should the Company require the Pre-emptible Digital Capacity for another customer then the Company will provide the Customer with sixty (60) days' prior written notice of such requirement where possible or thirty (30) days' prior written notice of such requirement as a minimum (the "Notice Period"). During this Notice Period the Customer may elect in writing to continue to use the Pre-emptible Digital Capacity and in that event from the end of the Notice Period the Service Charge shall increase in accordance with Schedule Two from the day immediately following the expiration of the Notice Period. If the Customer fails to elect in writing to continue to use the Pre-emptible Digital Capacity the Company will cease to supply such after the expiration of the Notice Period.

4.4 Use of the Service

4.4.1 The Customer will ensure that the Service is used in accordance with such reasonable operating instructions as may be notified in writing or orally (and subsequently confirmed in writing) to the Customer by the Company from time to time and in accordance with all applicable laws and regulations.

4.4.2 The Service shall only be used by the Customer for the purposes set out in this Agreement.

4.4.3 Inadvertent Overspill

The Customer acknowledges that the permitted use of the Services provided by the Company pursuant to this Agreement is the transmission of Content over the BSKyB platform within the Territory.

The Customer further acknowledges that the footprint of the Satellite is wider than the Territory and that accordingly the Services can be viewed outside the Territory.

It is the Customer's responsibility to ensure that it has obtained the necessary rights to broadcast the Content and in the event that a third party claim is brought for any of the reasons stated in Clause 9.2 in relation to Content which is viewed outside the Territory the Customer shall fully indemnify the Company as specified in Clause 5.6 in relation to any such third party claims.

4.5 Suspension of the Service

4.5.1 The Company may suspend the Service immediately if and for so long as:

- (i) the Customer has failed to pay the Company any Service Charge or any other sum due under this Agreement in full without set off or deduction by its due payment date and such default has not been remedied within five (5) days of the date of issue of a written notice from the Company requesting immediate payment of the overdue amount; or
- (ii) the Customer is in material breach of any of its obligations under this Agreement and has failed to remedy such breach within fourteen (14) days of the date of issue of a written notice from the Company stating the breach and the remedy required; or
- (iii) the Customer is in breach of its obligations under Clause 9.2; or
- (iv) the Company is required or requested to cease or suspend provision of the Service by the Satellite Provider; or
- (v) the Company is obliged to comply with an order, regulation, instruction or request of the Government of the United Kingdom or an agency thereof, an emergency services organisation, or other competent international satellite organisation or administrative authority which necessitates such suspension; or
- (vi) the Company is reasonably of the opinion that any act or default of the Customer or its agents is likely to cause damage to the Uplink Site the Satellite or any other use of the Satellite.

4.5.2 For the avoidance of doubt, the Customer shall continue to be liable to pay

the Service Charges during any period during which the Company has suspended the provision of the Service pursuant to this Clause 4.5.1. If the Company exercises its rights of suspension pursuant to this Clause 4.5.1, it will not operate as a waiver of any right that either party is entitled to under this Agreement or by law.

- 4.5.3 If and to the extent that the Company exercises its right of suspension under Clause 4.5.1 above this will not exclude the Company's right to terminate this Agreement in accordance with its terms in respect of a breach which has not been remedied or any other event, nor will it prevent the Company from claiming damages from the Customer for breach of this Agreement.

4.6 Planned Interruptions

- 4.6.1 The Company provides equipment and operational systems to industry standard levels of redundancy and contingency. However during the Service Period occasional interruptions of Service to the Customer may be required for repairs to or maintenance, testing or improvement of the systems operated by the Company and/or the Satellite Provider. The Company shall, wherever possible give the Customer at least forty eight (48) hours notice of any such interruption and shall use its reasonable endeavours to minimise any disruption of the Service.

- 4.6.2 The Company shall not in any event be held liable for any loss or damage arising out of or caused by any interruptions caused or requested by the Satellite Provider unless and to the extent that the Company can recover compensation for such loss or damage from the Satellite Provider. The Company shall pay any compensation recovered from the Satellite Provider to the Customer as soon as reasonably practicable after the Company receives any such compensation.

5. INTELLECTUAL PROPERTY RIGHTS AND INDEMNITY

- 5.1 If in the course of or as a result of the Company providing the Service to the Customer any of the Company's employees or agents create any document or other material protected by copyright or other intellectual property right (for example a breakdown slate) (the "Created Works"), it is agreed that all legal and beneficial rights in the Created Works will vest in and be owned by the Company, and Customer will have no rights in it beyond a non-exclusive licence to make copies for internal use of any document (but not other material) for the purpose of receiving the Services for the Term. The Customer and the Company (e.g. regarding grant of licence) will duly execute any assignment or other instrument, which may be necessary to give effect to this provision. However, should the Company create any promotional showreel using any materials provided by Customer, the copyright in those materials will remain with the Customer and the Company will seek the Customer's permission in order to use and broadcast the materials in their promotional showreel.

- 5.2 The Company shall indemnify the Customer and hold the Customer harmless against all claims liabilities, actions, losses judgments, payments made in settlement, costs (including legal fees) proceedings, and demands of claims from third parties arising from infringement (or alleged infringement) of any patent, design or copyright or other intellectual property right enforceable in the United Kingdom or any other place, arising out of the Created Works or

the Company's use of the Company Equipment to provide the Services.

- 5.3 The Customer shall notify the Company promptly in writing of any allegation of infringement and any claim (actual or threatened) or action which may give rise to the Company's obligation to indemnify the Customer. The Customer shall not make any admission relating to the allegation and shall not settle any such claim or action without the prior written consent of the Company, which consent shall not be unreasonably withheld or delayed. The Customer shall allow the Company to conduct all negotiations and proceedings and at the Company's cost give the Company all reasonable assistance and information in the defence of any such allegation claim or action.
- 5.4 If at any time an allegation of infringement of patent, design, or copyright is made, the Company may at its own expense modify the DVB Uplink Equipment supplied by the Company so as to avoid the infringement or may replace such items with non-infringing equipment, provided that such replacement items do not prevent the Customer from receiving the signal or receiving the Services.
- 5.5 The Company shall not acquire or be deemed to acquire any legal or beneficial right in the Content due to or arising out of its provision of the Service pursuant to this Agreement. The Customer shall indemnify the Company and the Satellite Provider and hold the Company and the Satellite Provider harmless against all claims liabilities, actions, losses judgments, payments made in settlement, costs (including legal fees) proceedings and demands of claims from third parties including the Company's other customers arising from infringement (or alleged infringement) of any patent, design or copyright or other intellectual property right enforceable in the United Kingdom or any other place, by reason of the Company's use or possession of the Customer Equipment and/or the use, storage or transmission of the Content.
- 5.6 The Customer shall indemnify the Company and hold the Company harmless from and against any claims incurred by the Company resulting from or arising out of any material breach of the Customer's obligations in Clause 3 or any breach of the warranties in Clause 9 of this Agreement and in the event that the use or installation of the Customer Equipment at the Uplink Site causes loss or damage to the Company's property, the Company's Equipment or any of the Company's customers' equipment the Customer shall fully indemnify the Company and/or its customer as the case may be in relation to such loss or damage.
- 5.7 The Company shall notify the Customer promptly in writing of any allegation of infringement and any claim (actual or threatened) or action which may give rise to the Customer's obligation to indemnify the Company. The Company shall not make any admission relating to the allegation and shall not settle any such claim or action without the prior written consent of the Customer, which consent shall not be unreasonably withheld or delayed. The Company shall allow the Customer to conduct all negotiations and proceedings and at the Customer's cost give the Customer all reasonable assistance and information in the defence of any such allegation claim or action.
- 5.8 If at any time an allegation of infringement of patent, design, or copyright is made, the Customer may at its own expense modify the Customer Equipment

so as to avoid the infringement or may replace such items with non-infringing equipment.

- 5.9 The indemnity in Clause 5.2 does not apply to the extent that infringement is caused by the Customer's use of the Service for a purpose not permitted by this Agreement with other apparatus not supplied by the Customer.
- 5.10 The indemnification obligations stated in this Clause 5 shall survive termination of this Agreement.

6. SERVICE CHARGES AND PAYMENT

- 6.1 The Customer shall pay the Service Charges at the rates, times and frequencies and in the currency as specified in Schedule Two in the manner specified in this Clause 6.
- 6.2 The Service Charges shall be adjusted annually by the annual percentage increase in inflation as measured by the UK retail price index ("RPI") or any such replacement index. Such increase shall be applied on each anniversary of the Service Commencement Date and in the latter case shall be based on the published figure for RPI six (6) months prior to the anniversary to which it applies.
- 6.3 All Service Charges due under this Agreement shall be payable within fourteen (14) days of the date of the relevant invoice (the "Due Date") and will be paid in full without any set-off, deduction or withholding of any kind. The Company may charge daily interest on any outstanding amounts from the Due Date until payment is received in full at a rate equal to 2% per cent per annum above the base rate of National Westminster Bank Plc as current from time to time whether before or after judgment. In addition the Company may suspend the Service until all Service Charges have been paid in full pursuant to Clause 4.5.1.
- 6.4 The Company will not charge interest pursuant to Clause 6.3 above on an invoiced amount if the Customer disputes an invoice in good faith provided that the Customer does all of the following:
- (a) pays all undisputed amounts on the invoice when they are otherwise due; and
 - (b) notifies the Company in writing that the invoice is under dispute stating the reason and the amount which is disputed prior to the date when payment would otherwise be due; and
 - (c) co-operates with the Company to promptly resolve the dispute; and
 - (d) pays the agreed upon portion of the disputed amount within ten (10) days of resolution of the dispute.
- 6.5 All Service Charges are exclusive of Value Added Tax and any other applicable taxes which may from time to time be levied at the rates and in the manner specified by prevailing legislation.
- 6.6 The Company may set off sums due from the Company to the Customer under any agreement (without prejudice to any other rights or remedies) against sums due from the Customer to the Company under this Agreement or any other agreement.

- 6.7 Upon the Company's request the Customer shall promptly provide the Company with information describing the Customer's current financial condition. If the Customer experiences a materially adverse change in its financial condition or varies the Service or requests the Company to provide additional Services the Company may request the Customer to provide or increase an existing security deposit or other form of security.
- 6.8 In the event that the Market Rate for the Services increases or decreases by more than twenty five (25) percent, the Parties will review the Service Charges in good faith. For the purpose of this Agreement "Market Rate" means the average of two written quotes from a third party supplier for an equivalent Service.
- 6.9 In the event that the Market Rate for the Services has increased or decreased by more than ten (10) percent by the third anniversary of the Service Commencement Date ("Third Anniversary"), the Parties will review the Service Charges in good faith. Either Party may supply evidence of the Market Rate to the other Party within three (3) months of the Third Anniversary of this Agreement. For the avoidance of doubt, this Clause 6.9 shall apply to the Third Anniversary of this Agreement only and evidence of a change in Market Rate received by either Party on or after the Third Anniversary shall not be considered under this Clause 6.9 and Clause 6.8 shall apply instead.

7. SERVICE CREDITS

- 7.1 The Customer shall be entitled to claim Service Credits in accordance with this Clause 7 for any period of time during the Service Period during which the Customer ceases to use the Service solely as a result of a Service Interruption as defined in Clause 8.
- 7.2 The period of time for which the Customer shall be entitled to claim Service Credits under this Clause 7 shall be equal to the duration of the Service Interruption.
- 7.3 The Customer's entitlement to Service Credits shall be calculated by multiplying the effective hourly rate of Service Charge by the aggregate number of hours (or parts thereof) of Service Interruptions occurring during the relevant month.
- 7.4 The Company shall give the Customer an allowance equal to the appropriate Service Credit calculated in accordance with Clause 7.3 above against the Service Charges which would have otherwise been due from the Customer for the future use of the Service or a cash refund equal to the appropriate Service Credit if and to the extent that Service Charges due under this Agreement for such future use of the Service are less than the amount of the Service Credit due.
- 7.5 For the purpose of calculating the aggregate monthly duration of Service Interruptions only those Service Interruptions notified by and agreed with the Company shall be applicable.

- 7.6 In the event that the Service Interruption only affects one Channel the Company shall only pay Service Credits in accordance with this Clause 7 in relation to the Channel affected by the Service Interruption.

8. SERVICE INTERRUPTIONS

- 8.1 For the purposes of this Agreement, a "Service Interruption" shall be deemed to have occurred in the event of any of the following:

- (i) loss of vision signals; or
- (ii) loss of audio signal; or
- (iii) degradation in quality of either of the above such that in the reasonable opinion of both parties, the quality no longer meets the standards normally expected for a service of this type;

provided always that the Service Interruption exists for at least the period specified below:

- (i) a single Service Interruption exists for more than fifteen (15) minutes; or
- (ii) the aggregate of all Service Interruptions of less than fifteen (15) minutes but more than two (2) minutes exceeds thirty (30) minutes in any month; or
- (iii) six (6) or more Service Interruptions of less than two (2) minutes occur in a fifteen (15) minute period.

8.2 Duration of Service Interruption

- 8.2.1 The duration of a Service Interruption shall be calculated as follows:

- (i) the Service Interruption shall begin from the time at which according to the Company operational log such interruption commenced and the Customer ceased using the Service; and
- (ii) the Service Interruption shall end when the Service has been restored and the Company so notifies the Customer or, if earlier, when the Customer resumes the use of the Service contrary to the Company's advice.

- 8.2.2 For the purposes of calculating the Customer's entitlement to claim Service Credits for Service Interruptions the following shall apply:

- (i) where the duration of a single Service Interruption is fifteen (15) minutes or greater, then the duration of the Service Interruption in respect of which the Customer may claim Service Credits shall equal the duration of the Service Interruption;
- (ii) where a number of Service Interruptions of between two (2) and fifteen (15) minutes are aggregated so as to constitute a Service Interruption, then the duration of the Service Interruption in respect of which the Customer may claim Service Credits shall equal the aggregated duration of all such Service Interruptions;
- (iii) where six (6) or more Service Interruptions each of less than two (2) minutes duration occur within a fifteen (15) minute period so as to constitute a Service Interruption, then the duration of the Service

Interruption in respect of which the Customer may claim Service Credits shall be measured from the commencement of the first such Service Interruption until the end of the last Service Interruption.

8.3 Exclusions

8.3.1 Interruptions to the Service which occur due to any of the reasons set out below shall not constitute Service Interruptions and accordingly the duration of any such interruptions shall be discounted from any calculations regarding the availability of the Service and the Company shall have no liability to pay and the Customer shall not be entitled to claim Service Credits for any interruptions which do not constitute Service Interruptions:

- (i) the failure or unavailability of any satellites, transponders, facilities, services or systems (excluding those provided by the Company under this agreement) provided that such failure or unavailability is not caused by any act or omission by the Company; or
- (ii) the Satellite Provider or the Government of Luxembourg revoking any necessary approval for the provision of the Service or suspending the service due to circumstances not caused by any act or omission of the Company; or
- (iii) the Satellite Provider suspending the Digital Capacity for routine testing, repair or maintenance of the Satellite; or
- (iv) suspensions of the Service pursuant to Clause 4.5; or
- (v) any termination of the Service pursuant to Clause 12 or otherwise; or
- (vi) any failure due to breach or omission by the Customer of its obligations under this Agreement; or
- (vii) planned interruptions to the Service in accordance with Clause 4.6; or
- (viii) any failure due to termination or suspending the Supply Agreement not caused by any act or omission of the Company; or
- (ix) any failure due to force majeure as described in Clause 16.

8.4 Without prejudice to the provisions of Clause 4.5 (suspension) the Company's liability for Service Interruptions shall be limited exclusively to granting Service Credits or repayments as provided in Clause 7.

8.5 The Company shall only pay Service Credits in relation to the Connectivity to the extent that it is able to, and does recover Service Credits from the third party supplier. The Company shall pay Service Credits only after it has received the same from the third party supplier.

9. WARRANTIES

9.1 The Company warrants and undertakes to the Customer that for the duration of the Service Period, it shall:

- (i) comply with all instructions issued by the Satellite Provider that relate to the performance of the Service; and

- (ii) provide the Service with reasonable skill and care.
- 9.2 The Customer warrants, and undertakes to the Company that for the duration of the Service Period:
- (i) it has the right to transmit the Content; and
 - (ii) it shall ensure that the Content does not contain any material which is obscene, offensive, defamatory, seditious, blasphemous, indecent or which constitutes an injurious falsehood or slander of title or any tort or contempt of court or breach of parliamentary privilege and will not invade the privacy of any person; and
 - (iii) the transmission of the Service and the Content will not infringe the intellectual property rights or any other proprietary rights of any third party; and
 - (iv) it shall not include in the Content any material which causes a breach of the rules of OFCOM; and
 - (v) it shall make the Company aware of any notices it receives from any other party including but not limited to OFCOM in respect of a revocation or significant change to any and all licences held by Customer as soon as reasonably practicable following its receipt of such notice.
- 9.3 The Company and the Customer each represents and warrants to the other that:
- (i) it has the right, power and authority to enter into and perform its obligations under this Agreement; and
 - (ii) it has full capacity and authority and has obtained all necessary consents (including but not limited to, where its procedures so require, the consent of its Parent Company) to enter into and to perform this Agreement and that this Agreement is executed by a duly authorised representative; and
 - (iii) the fulfilment of its obligations hereunder will not constitute a material violation of any existing applicable law, rule, regulation or order of any governmental authority; and
 - (iv) all material and necessary or appropriate governmental, public or private consents, permissions, agreements, licences or authorisations to which it is subject have been or will be obtained prior to the Service Commencement Date; and
 - (v) the execution, delivery and performance of this Agreement shall not violate or conflict with;
 - any provision of the by-laws, articles of incorporation or other similar statutory instrument of either party; or
 - any law, judgment or order applicable to either party; or
 - any material agreement, restriction or obligation to which either

party is subject or which constitutes a default under any such agreement, restriction or obligation.

10. LIABILITY

- 10.1 Both parties accept liability for death or personal injury resulting from its own negligence or that of its employees, sub-contractors or agents or for proven fraud of the relevant party or of its employees or agents acting in the course of their duties.
- 10.2 The Company warrants that it will provide the Service to the Customer in accordance with the terms of this Agreement. All other conditions, warranties, terms, undertakings and obligations express or implied by statute (including, without limitation, those of satisfactory quality or of fitness for a particular purpose (even if that purpose is made known expressly or by implication to the Company), common law, custom, trade usage or otherwise and all liabilities (if any) are excluded.
- 10.3 The Company does not represent that it will provide the Service free from Service Interruptions during the Term. The Company will be responsible as described in this Agreement if a Service is not provided in accordance with the terms of this Agreement. The Company's only obligation and the Customer's only remedy in the event of a Service Interruption will be the right to claim Service Credits pursuant to Clause 7.
- 10.4 Neither party shall be liable to the other party in contract, tort (including negligence) or otherwise for any:
- (a) loss of business; loss of data; loss of profits; loss of goodwill; loss of anticipated savings even when advised of the possibility; loss of revenue or;
 - (b) any indirect or consequential losses, liabilities or costs.
- 10.5 Subject to Clause 10.6 and 10.7 below both parties accept liability in respect of damage to the other's tangible property resulting from its or its employees' negligence up to an aggregate of £2,000,000 (two million pounds).
- 10.6. The Company's liability in relation to Customer Equipment shall be limited to instances where damage is directly caused due to the Company's negligence or wilful default up to a maximum aggregate liability per incident of £50,000 (fifty thousand pounds). In all other circumstances the Company shall not accept liability for damage caused to or by Customer Equipment.
- 10.7 The Company's liability in relation to Company Equipment located at the Interface Point is limited to £50,000 in aggregate. The Company shall not be liable for damage caused by the Company Equipment to the Customer's buildings or property irrespective of how such damage is caused.
- 10.8 Other than in respect of Clauses 10.1, 10.4, 10.5, 10.6 and 10.7, the Company's maximum aggregate liability in contract, tort, negligence or otherwise arising out of, or in connection with, this Agreement will be limited in aggregate to the greater of:
- (a) £500,000 (five hundred thousand pounds); or

- (b) the value of the Service Charges paid by the Customer in the twelve (12) months preceding the incident which gave rise to the claim under this Agreement.

10.9 Notwithstanding the foregoing, nothing in this Clause 10 shall restrict or limit the Customer's liability under Clause 5.

11. DATA PROTECTION

Both parties shall comply with the Data Protection Act 1998 and, where processing personal data on the other party's behalf, shall process such data strictly in accordance with such other party's instructions and put such operational and technological processes in place to safeguard against any unauthorised access, loss, destruction, theft, use or disclosure of the data.

12. TERMINATION

12.1 If either party:

- (i) being a company, has a petition presented for its winding up (which is not dismissed within fourteen (14) days of its service) or has a meeting convened to consider a resolution that it be wound up or such a resolution is passed (other than solely for solvent amalgamation or reconstruction) or has a petition presented for the appointment of an administrator or has a receiver or administrative receiver appointed over it or any of its assets or makes any proposal for a voluntary arrangement or any other composition scheme or arrangement with, or assignment for the benefit of, its creditors or is or becomes insolvent within the meaning of s123 Insolvency Act 1986; or
- (ii) being an individual (or if a firm or partnership, any of its partners or members), has a petition presented for his bankruptcy, or has a receiver appointed over his affairs, or makes any voluntary arrangement with his creditors or (in the case of a firm or partnership) proposes or has presented against it a petition for its dissolution; or
- (iii) in either case undergoes any analogous event in any jurisdiction where it is domiciled,

then the other party may terminate this Agreement by written notice to the other taking immediate effect.

12.2 The Customer acknowledges that the Company has entered into the Supply Agreement with the Satellite Provider under which the Satellite Provider has agreed to provide the Company with access to the Digital Capacity for the purposes of providing the Service to the Customer. The Customer further acknowledges that the Company's use of the Digital Capacity thereunder is subject at all times to the continuing approval of both the Satellite Provider and the Government of Luxembourg. The Customer therefore agrees that if any such approval is revoked or withheld by the Satellite Provider or the Government of Luxembourg for any reason so that the Company can no longer access and use the Digital Capacity to provide the Service to the Customer, then this Agreement shall terminate automatically and the Company and the Customer shall be discharged from all further obligations to each other with effect from the date of such termination.

- 12.3 Either party shall be entitled to terminate this Agreement at any time in the event of the other party being in material breach of any term of this Agreement and, if such breach is capable of remedy, failing to remedy such breach within thirty (30) days of receiving written notice from the non-breaching party that refers to this Clause 12.3 and specifies the breach and the remedial action required.
- 12.4 This Agreement shall terminate at the end of the Service Period unless either party terminates prior to that date pursuant to a provision of this Agreement.
- 12.5 The Company may terminate this Agreement without liability in the event that the Satellite Provider terminates the Supply Agreement provided that such termination is not caused by any act or omission of the Company.
- 12.6 The Company shall have the right to terminate this Agreement on 31st March 2013 and 30th September 2013, on giving the Customer at least ninety (90) days written notice, in the event that the Satellite Provider does not renew the Digital Capacity with the Company.

13. CONSEQUENCES OF TERMINATION

- 13.1 Upon termination of this Agreement for any reason the Customer will immediately cease to use the Service.
- 13.2 If the Service is terminated by the Company pursuant to Clauses 12.1 or 12.3 or by the Customer other than in accordance with Clause 12 all of the Service Charges that would have become due from the Customer pursuant to this Agreement if the Service had not been so terminated shall become immediately due and payable by the Customer, less an allowance for accelerated payment of five (5) per cent per annum. Such payment will be made by the Customer by way of liquidated and ascertained damages and the amount of such payment is accepted by the parties as being a genuine pre-estimate of the net losses likely to be suffered by the Company in the event of the Agreement being so terminated.
- 13.3 On termination of this Agreement for any reason,
- (a) any sums due to the Company shall become immediately payable by the Customer without set-off or deduction;
 - (b) the Company shall provide the Customer with:
 - (i) a refund for any outstanding Service Credits allowed pursuant to Clause 7; and
 - (ii) a refund of any Service Charges paid in advance by the Customer under Schedule Two for periods after the termination date of this Agreement during which Service will no longer be provided, less any sums due from the Customer to the Company; and
 - (c) either party shall at its cost immediately deliver up any property belonging to the other party which it has no contractual right to retain.
- 13.4 The provisions of this Agreement which either expressly or by implication have effect after the termination of this Agreement shall continue to be enforceable by the parties notwithstanding such termination.

14. CONFIDENTIALITY

- 14.1 "Confidential Information" means information disclosed by one party (the "Disclosing Party") to the other (the "Receiving Party") to the extent that such information is designated as such by the Disclosing Party in writing or relates to the Satellite Provider and/or the business affairs, developments, trade secrets, know-how, personnel, customers or suppliers of the Disclosing Party or such information may reasonably be regarded as the confidential information of the Disclosing Party.
- 14.2 The Receiving Party undertakes that:
- (i) it (and any person employed or engaged by it in connection with this Agreement in the course of such employment or engagement) shall use Confidential Information of the Disclosing Party only for the purposes of this Agreement and shall not disclose any such Confidential Information to any third party without the prior written consent of the Disclosing Party; and
 - (ii) it shall take all necessary precautions to ensure that all Confidential Information is treated as confidential and is not disclosed (save as aforesaid) or used other than for the purposes of this Agreement.
- 14.3 Neither the Customer nor any person engaged by it whether as an employee, servant, agent or sub-contractor shall use the Confidential Information for the solicitation of business from the Company.
- 14.4 Each party undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of Clauses 14.2 and 14.3 by its employees agents consultants and sub-contractors. For the avoidance of doubt, the Receiving Party acknowledges that the Disclosing Party may require and the Receiving Party shall procure undertakings as to confidentiality directly from its employees in terms no less onerous than the terms contained in this Clause 14.
- 14.5 The Customer shall not advertise nor publicly announce its involvement in the Agreement without the prior written consent of the Company.
- 14.6 The Receiving Party may disclose information:
- (i) pursuant to a duty imposed by law or the requirements of a regulatory authority but only to the extent so required; and
 - (ii) to give proper instructions to any professional adviser under an obligation to keep such Confidential Information confidential.
- 14.7 Confidential Information shall not include, and the obligations contained in this Clause 14 shall not apply, in respect of information:
- (i) which was in the public domain at the time of disclosure;
 - (ii) which, though originally Confidential Information, subsequently falls into the public domain through no fault of the Receiving Party;
 - (iii) independently developed by the Receiving Party or its employees or agents where such party can show it has no access to that information as Confidential Information of the Disclosing Party received under this Agreement; or

- (iv) lawfully in the possession of the Receiving Party at the time of receipt which is subsequently lawfully received from a third party not under an obligation of confidentiality to the Disclosing Party in respect of that information.
- 14.8 Without prejudice to the generality of Clause 14.7 (i)-(iv) above, information shall not be deemed to be in the public domain by reason only that it is known to only a few of those people to whom it might be of commercial interest and a combination of one or more items of Confidential Information with information in the public domain shall not cause such Confidential Information to be deemed to be in the public domain.
- 14.9 The obligations contained in this Clause 14 shall continue in force notwithstanding termination of this agreement howsoever occasioned.

15. ASSIGNMENT AND SUBCONTRACTING

- 15.1 The Customer shall not assign, transfer or delegate any of its rights under this Agreement in whole or in part without the Company's prior written consent, which shall not be unreasonably withheld or delayed. Any purported assignment or transfer by the Customer of any of its rights or obligations under this Agreement without the Company's prior written consent shall be null and void and all acts and omissions by the assignee or transferee and in any event by the Customer's employees are deemed to be those of the Customer. Delegation, whether authorised or not, shall not relieve the Customer of any of its liability or obligations under this Agreement.
- 15.2 The Company may subcontract or delegate the provision of the Service in whole or in part in which case the Company shall remain primarily liable to fulfil the obligations which it has accepted pursuant to this Agreement.

16. FORCE MAJEURE

- 16.1 Neither party shall be liable for any loss or damage suffered or incurred by the other arising from the other party's delay or failure to fulfil or otherwise discharge any of its obligations under this Agreement to the extent that such delay or failure is caused by any cause or circumstance beyond its reasonable control including, but not limited to acts of God, inclement weather, fire, flood, drought, lightning, acts of the party's contractors or suppliers; natural catastrophe; acts of central or local Government or international or national regulatory authority; national emergencies; riots; war; solar disturbances; sun outages; externally caused interference including rain fade; Satellite component failure including failure or interruption of Satellite propulsion, electrical or other common systems; degradation of the Satellite not within the reasonable control of either of the parties and the withdrawal by the Satellite Provider of access to the Digital Capacity on the Satellite ("the Force Majeure Event"). A Force Majeure Event shall not affect the Customer's obligation to pay the Service Charges.
- 16.2 The party seeking to rely on a Force Majeure Event shall as soon as is reasonably practicable after first becoming aware of the circumstances which gave rise to the Force Majeure Event give full particulars in writing to the other party, including, but not limited to, an estimate as to the length of time the Force Majeure Event may continue and the facts and circumstances giving rise to the Force Majeure Event (the "Force Majeure Notice") and shall take reasonable steps to mitigate the effect of such Force Majeure Event. If a

Force Majeure Event persists for a continuous period of three (3) months, then either party shall have the right to terminate this Agreement forthwith upon written notice to the other, such termination shall be deemed effective on and from the date of issue of the Force Majeure Notice.

17. NOTICES

17.1 Any notice under or in connection with this Agreement shall be in writing and may be delivered by hand to or sent by first class post or by electronic or facsimile transmission (such electronic or facsimile transmission to be confirmed by letter posted within twelve (12) hours) to the Company Secretary at the address of the receiving party set out in this Agreement or to any other address notified by the relevant party from time to time.

17.2 Any notice addressed as provided in Clause 17.1 shall be deemed to have been given or made on the second Working Day after posting if sent by first class post, upon delivery if delivered by hand and if sent by electronic mail or facsimile transmission on the next Working Day after the date of transmission provided the sender retains a receipt of electronic mail or the facsimile machine produces a report showing successful transmission to the correct facsimile number.

18. WAIVER

18.1 No terms or conditions hereof shall be deemed waived and no breach or default excused unless such waiver or excuse shall be in writing and signed by the issuing party.

19. SEVERANCE

19.1 If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement, which shall remain in full force and effect.

20. NO AGENCY

20.1 The Company, in providing the Services to the Customer, is acting only as an independent contractor. Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as an agent for the other. Neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way. This includes, but is not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power.

21. ENTIRE AGREEMENT

21.1 This Agreement constitutes the entire legal and contractual relationship between the parties relating to the subject matter of this Agreement and except in the case of any fraudulent misrepresentation made by either party in connection with the subject matter of this Agreement and/or save as may be expressly referred to or referenced in this Agreement, supersedes all prior or contemporaneous agreements or representations, written or oral with respect to this Agreement and its subject matter.

22. DISPUTE RESOLUTION PROCEDURE

- 22.1 Any question or difference which may arise concerning the construction meaning or effect or any matter which arises out of or in connection with this Agreement shall in the first instance be referred to the nominated representatives of the Company and the Customer for discussion and resolution at a meeting convened for that purpose. The meeting shall take place as soon as reasonably possible and, in any event, within twenty one (21) days of such referral. If the matter is not resolved at this meeting, the escalation will continue through two (2) more levels of management as soon as reasonably possible and, in any event, within a further twenty one (21) days. If the unresolved matter is having a serious effect on the performance of this Agreement the parties will use reasonable endeavours to reduce the time for completion of the process.
- 22.2 Neither party may initiate any legal action until this process has been completed, unless such party has reasonable cause to do so to avoid damage to its business or to protect or preserve any right of action it may have, including without limitation to seek injunctive relief in respect of any breach of its intellectual property rights or similar proprietary rights.
- 22.3 If the dispute is not resolved by escalation in accordance with Clause 22.1 above either party may seek resolution of the dispute through the courts in accordance with Clause 24.

23. VARIATION

- 23.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of both parties.

24. LAW AND JURISDICTION

- 24.1 This Agreement shall be governed by and construed and interpreted in accordance with English law and without prejudice to Clause 22 (dispute resolution procedure) the parties hereby submit to the exclusive jurisdiction of the English courts.

25. CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999


- 25.1 A person or body who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any terms of this Agreement but this does not affect any rights or remedies of a third party which exist or are available apart from that Act.

26. CUMULATIVE REMEDIES

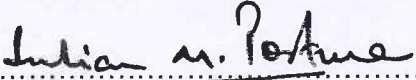
- 26.1 The rights and remedies of the Company under this Agreement are cumulative and without prejudice and in addition to any rights or remedies which the Company may have at law or in equity.

AS WITNESS the hands of the parties the day and year first before written

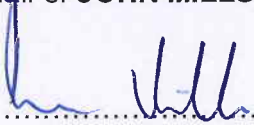
Signed for and on behalf of **ARQIVA LIMITED** by

Signed..... 
Print Name..... N. THOMPSON
Title..... DIVISIONAL MD
Date..... 29/4/09

Signed for and on behalf of **ARQIVA LIMITED** by

Signed..... 
Print Name..... J M PORTMAN
Title..... DIVISIONAL ED
Date..... 28.4.09

Signed for and on behalf of **JOHN MILLS LIMITED** by:

Signed..... 
Print Name..... JOHN ANGUS DONALD MILLS
Title..... CHAIRMAN - DIRECTOR
Date..... 16th APRIL 2009

SCHEDULE ONE

SERVICE DESCRIPTION

1. SERVICE OVERVIEW

1.1 General

The Company will supply Customer with;

1.1.1 Connectivity services in accordance with Schedule Five.

1.1.2 Digital encoding, multiplexing, adaptation services, compliant with the Option Level specified in Paragraph 1.2 of this Schedule, for one television channel.

1.1.3 Uplink of that channel to the Transponder to meet the requirements of Schedule Six.

1.2 Digital Capacity

1.2.1 The Service will be provided by the Company using Digital Capacity on the Transponder defined by the following Option Level:

Channel 1 – JML Cookshop Yellow

Channel 2 – JML Yellow

Channel 3 – Rocks and Co Yellow

Channel 4 – JML Choice Yellow

Channel 5 – Beauty Shop Yellow

Channel 6 – JML Yellow

Channel 7 – Shop Now TV Yellow

1.2.2 The **Pre-emptible Digital** Capacity is provided to be allocated across three channels to increase the Option levels as follows:

Channel 1 – JML Cookshop Orange

Channel 2 – JML Red

Channel 3 – Rocks and Co Red

1.2.3 ~~The Company~~ will provide the Digital Capacity to the Customer across **two Transponders** within a mutually agreeable timescale.

2. TERM

2.1 Service Commencement Date: 01/03/2009

Service Termination Date: 29/08/2014

The Service will be made available to the Customer 24 hours per day, seven days per week during the Service Period.

3. SERVICE DESCRIPTION – KEY ELEMENTS

The following Service elements shall be provided by the Company to Customer;

3.1 Backhaul of the service as detailed in Schedule Five.

3.2 Encoding of seven TV programme streams each with one associated stereo audio in compliance with MPEG and DVB-S standards presented in SDI format with embedded audio.

3.3 Multiplexing on a statistical basis the above stream(s) into a single DVB multiplex with a total bit rate of 27.032 Mb/s or 33.79 Mb/s.

3.4 Adaptation of the Multiplexed 27.032 Mb/s or 33.79 Mb/s data stream.

3.5 Addition of DVB-S compliant Reed Solomon and FEC error correction, and QPSK modulation of an RF carrier by the Transport Stream at the Uplink Site.

3.6 Upconversion, amplification and uplink of the RF carrier to the Satellite.

3.7 Provision of access to the Digital Capacity to provide the Service.

4. SERVICE DESCRIPTION – ANCILLARY ELEMENTS

4.1 Uplink Management and Control

4.1.1 Monitoring of technical parameters of Service, including BER on the Connectivity and EIRP on the uplink as necessary.

4.1.2 Measurement and logging from time to time of C/N and/or C/No on downlinked signal.

4.1.3 Visual monitoring of all off air programmes within multiplex.

4.1.4 Detailed measurement of vision, audio and data signals as required from time to time.

4.2 Maintenance and Fault Repairs

4.2.1 Faults will be reported to and logged by the MCR. Details of the nature of the fault will be recorded. Fault analysis and engineer call-out will be co-ordinated from the MCR to ensure continuity until the fault is cleared.

- 4.2.2 Maintenance of the Uplink system is 365 days per year, and all maintenance will be by the Company approved personnel or those of an authorised maintainer.
- 4.2.3 Where the Company is responsible for a Service outage the Company will issue an incident report. The target time for delivery of the incident report is one (1) Working Day.

5. SERVICE PARAMETERS

5.1 Payout

Not Used

5.2 Encoding, Multiplexing & Adaptation

Encoding of the source signal SDI into a DVB MPEG 2 4:2:0 stream. The stream will then be passed through an adaptation hub to enable the Service to be part of the BSkyB platform.

5.3 Uplink

All parameters will be in compliance with DVB-S parameters and the Satellite Provider's requirements, and in particular, the details set out in Schedule Six.

5.4 DVB parameters

Multiplexer Transport Stream Rate:	27.032 Mb/s or 33.79 Mb/s(not incl. 204,188 RS padding)
Satellite Inner Coding:	Reed Solomon 188,204 (as per DVB-S standard)
Satellite FEC:	One of the following DVB compliant FEC rates will be applied to the multiplex transport stream $\frac{1}{2}$, $\frac{2}{3}$, $\frac{3}{4}$, $\frac{5}{6}$ or $\frac{7}{8}$
Satellite Modulation:	QPSK (as per DVB-S standard)
Uplink Symbol Rate:	22 Ms/s or 27.5 Ms/s

SCHEDULE TWO
COMMERCIAL TERMS

1. Payments

Customer shall pay the following Service Charges for the duration of the Service Period:

- 1.1 €1,785,000 per annum with respect to the provision of access to 17.5 mbit/s EFBR of the Digital Capacity
- 1.2 £45,000 per annum with respect to the provision of the Connectivity.
- 1.3 In the event that the Customer elects in writing to require the Pre-emptible Digital Capacity in accordance with Clause 4.3.6 then the Service Charges shall increase by €95,500 per mbit per annum from the date specified in Clause 4.3.6;

2. Deposit

No deposit required.

3. Payment Schedule

The Service Charge will be payable monthly in advance, with effect from the Service Commencement Date, the amount(s) due being one month of the annual Service Charges set out in paragraph 1 above. The Company shall invoice for such charges no later than thirty (30) days in advance of the month to which they relate. The due date for payment by the Customer shall be fourteen (14) days before the start of the month to which the payment relates. Customer shall pay the Service Charges by standing order throughout the Service Period. For the avoidance of doubt the Company shall have no obligation to commence Service until a completed standing order has been set up and confirmation of this has been provided by correspondence from the Customer's bank. For the avoidance of doubt failure to comply with this requirement shall not delay the obligation of Customer to pay Service Charges on and from the Service Commencement Date.

Any sum falling due on a day which is not a Business Day shall be payable on the immediately preceding Business Day.

4. VAT

All sums payable under this Agreement are exclusive of VAT or any other taxes which may be applicable, or become applicable at any time. Any such charges will be payable by the Customer.

SCHEDULE THREE
THE COMPANY EQUIPMENT

The Company shall provide a 1+1 decoders at the uplink site for eight channels carried on the Connectivity

SCHEDULE FOUR

CONTACT DETAILS

1. THE COMPANY :

Notice Address:

Director of Legal Services
Arqiva Limited
Chalfont Grove
Narcot Lane
Chalfont St Peter
Bucks SL9 8TW
United Kingdom

Bank details:

GBP (£) Bank Account
National Westminster Bank – Cheltenham
Bank Account No: 24540714
Sort Code: 60-05-16
Account Name: Arqiva Ltd.

US Dollars (\$) Bank Account
National Westminster Bank – Cheltenham
Bank Account No: 21508100
Iban: GB22 NWBK 6073 0121 5081 00
International Bank Code: BIC NWBKGB2L
Account Name: Arqiva Ltd.

Euros (€) Bank Account
National Westminster Bank – Cheltenham
Bank Account No: 21508119
Iban: GB47 NWBK 6072 0321 5081 19
International Bank Code: BIC NWBKGB2L
Account Name: Arqiva Ltd.

Contact Details:

Account Manager Tel: 01494 878297 Fax: 01494 874433
Billing Accounts Dept Tel: 01494 878787
Operational MCR Tel: 01494 871613

2. The Customer:

Notice Address and Billing Address
JML House
Regis Road
London
NW5 3EG

Customer Contact Details: (JML to complete)

Accounts Ernest Tumuhairwe +44 (0)20 7691 4738
ernesttumuhairwe@jmldirect.com

Payments As above
Operational Syed Jaffri 020 7691 47226
Syed.jaffri@johnmillstd.co.uk

SCHEDULE FIVE

THE INTERFACE SPECIFICATION AND CONNECTIVITY

The Customer shall present the Content as follows:

Interface Point: JML
JML House, Regis Road
London NW5 3EG

Presentation standard: conforming to television and video standards ITU-R BT.601 and ITU-R BT.656 and to audio standard AES 3 1992, the audio signals to be embedded. The service to carry one PAL video signal and one stereo audio signal.

The Customer shall present dual ASI signal to the Interface Point.

Connectivity: It shall be the Company's responsibility to collect the signals from the Customer Site and deliver them via the Connectivity to the Uplink Site. The Connectivity shall be a STM1 circuit ASI presentation, and the Company shall encode the Channel at a minimum contribution rate of 8Mbits/s. The Customer shall be responsible for providing and installing the encoding and interface equipment at the Customer Site.

The Company shall be responsible for providing, installing and maintaining the Company Equipment at the Uplink site.

The Customer will provide adequate rack space to house the Company Equipment at the Interface Point.

The Customer shall provide and/or procure access to the Interface Point if there is a failure of the Connectivity. This is a condition of this Agreement and in the event that the Customer breaches this clause the Company shall not be liable to pay Service Credits.

SCHEDULE SIX
THE SATELLITE AND TRANSPONDER

Company shall provide Digital Capacity for DTH reception in the Territory. Company can at its discretion from time to time use the satellites detailed below.

A. Satellite Details

1. Satellite	:	EUROBIRD
2. Orbital position	:	Eurobird 28.5° East
3. Degree of protection	:	Non-Preemptible
4. Downlink Frequency Band	:	10.70 – 12.75 GHz
5. Uplink Frequency Range	:	12.75 – 14.50 GHz 17.30 – 18.40 GHz

B. Orbital Position and Transponder Bandwidth

The satellite providing the allotted capacity shall be maintained by the Satellite Provider within ± 0.1 degrees of its nominal longitude position and shall be kept such that the maximum angle between the equatorial plane and the orbital plane shall not exceed ± 0.1 degrees.

C. Satellite Provider

SES ASTRA

SCHEDULE SEVEN

ENCODING AND BIT RATE OPTIONS

1. General

The Channel will share digital capacity on the Transponder with other digital channels and the allocation of Digital Capacity for the Channel will fluctuate as defined in this Schedule depending on;

- (i) the technical nature of programming carried within the Channel at any point in time; and
- (ii) the corresponding requirements of such other channels or services with which the Channel shares digital transponder capacity.

In statistically multiplexing the Channel, the Company will ensure that the Channel is treated in no less favourable a manner than that in which the Company treats the providers of any other channel or services using digital capacity on the Transponder provided that Customer acknowledges that different channels, including the channel, require different digital capacity allocation by virtue of the technical nature of the programming content on those channels.

2. Options

The allocation of digital capacity to the Customer on the Transponder shall be based on the following options:

Option	Equivalent Fixed Bit Rate (EFBR)* (kbps)	Maximum Bit Rate (EFBR + 25%) (kbps)
Brown	5,000	6,250
Blue	4,500	5,625
Green	4,000	5,000
Red	3,500	4,375

Orange	3,000	3,750
Yellow	2,500	3,125

* The EFBR is the approximate equivalent bit rate required by a fixed (non-variable) rate encoding system to achieve subjectively similar results.