

## **SKY'S STANDARD TERMS FOR THE PROVISION OF EPG SERVICES**

*These are Sky's standard terms for the provision of EPG services. Sky is subject to an obligation under the Ofcom EPG Code to ensure that all agreements with broadcasters for the provision of EPG services are made on fair, reasonable and non-discriminatory terms. Sky aims to provide EPG services to all broadcasters on the same standard terms to ensure that the provision of EPG services is fair, reasonable and non-discriminatory.*

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## **1. DEFINITIONS AND INTERPRETATION**

- 1.1 The words and expressions set out in Schedule 1 shall have the meanings ascribed therein.
- 1.2 References in this EPG Agreement to "Sky" and the "Broadcaster" shall include their respective employees, agents and permitted assigns.
- 1.3 Headings are included for ease of reference only and shall not affect the interpretation or construction of this EPG Agreement.
- 1.4 References to Clauses, Schedules and Annexes are, unless otherwise provided, references to Clauses of and Schedules and Annexes to this EPG Agreement.
- 1.5 In the event, and to the extent only, of any conflict between the Clauses and the Annex or the Schedules and the Annex, the Annex shall prevail. In the event, and to the extent only, of any conflict between the Clauses and the Schedules, the Clauses shall prevail.
- 1.6 Without prejudice to Clause 8.9, references in this EPG Agreement to the "Channel" or to a "Channel" shall be deemed to be separate, several references to each of the Channels listed at any time in Annex A. Without limitation to the generality of the foregoing, this shall mean that Charges shall be payable per Channel, and Service Credits shall be awarded per Channel.

## **2. COMMENCEMENT DATE AND TERM**

- 2.1 The Commencement Date is set out in Annex A.
- 2.2 The Term is set out in the Front Sheet.

## **3. PROVISION OF EPG SERVICES**

- 3.1 Sky shall provide the EPG Services described in Schedule 2. This EPG Agreement does not entitle the Broadcaster to receive any services other than those described in Schedule 2.
- 3.2 The Broadcaster shall comply with its obligations in connection with the EPG Services set out (i) in Schedule 2 and (ii) in the Specifications referred to in Schedule 3.
- 3.3 This EPG Agreement shall only apply in respect of EPG Services for Television Channels and Radio Stations broadcast by the Broadcaster (and in respect of which the Broadcaster holds the relevant broadcast licences (if any)). The Broadcaster may request a different agreement from Sky in respect of any Television Channels and/or Radio Stations which the Broadcaster distributes in the Territory (on a pay-TV basis), but does not itself broadcast.

## **4. SERVICE LEVELS AND SERVICE FAILURES**

- 4.1 Sky shall provide EPG Services to the Broadcaster:
  - (i) to substantially the same standard as it provides such services to Third Parties; and
  - (ii) materially in accordance with the Technical Specifications.
- 4.2 Sky does not warrant that the EPG Services shall be free from error or fault.
- 4.3 A Service Failure shall have occurred if, due to an act or omission of Sky:
  - (i) the EPG incorrectly displays or does not display the EPG listing for the Channel, such that it is not possible for viewers to select the Channel from within the EPG; or
  - (ii) the EPG does not navigate to the Channel when the Channel is selected from within the EPG,and, in either case, the fault has affected not less than twenty five per cent (25%) of Set Top Boxes normally entitled to view the Channel for no less than ten (10) consecutive minutes. For the avoidance of doubt, a Service Failure shall include a Total Service Failure.
- 4.4 A Total Service Failure shall have occurred if, due to an act or omission of Sky:

- (i) the EPG incorrectly displays or does not display the EPG listing for the Channel, such that it is not possible for viewers to select the Channel from within the EPG; or
- (ii) the EPG does not navigate to the Channel when the Channel is selected from within the EPG,

and, in either case, the fault has affected not less than eighty five per cent (85%) of Set Top Boxes normally entitled to view the Channel for no less than twenty four (24) consecutive hours.

- 4.5 Sky shall use all reasonable endeavours to correct Service Failures and any other fault with the EPG as soon as practicable and in accordance with accepted satellite television engineering practices.
- 4.6 In the event of any Service Failure, Sky shall credit the Broadcaster with Service Credits calculated in accordance with Schedule 4.
- 4.7 The aggregate value of all Service Credits which shall be payable to the Broadcaster as a consequence of or in connection with Service Failures which are not Total Service Failures occurring in any calendar month during the Term shall be capped at seventy per cent (70%) of the Charges payable by the Broadcaster under Clause 7 in respect of that calendar month. The aggregate value of all Services Credits which shall be payable to the Broadcaster as a consequence of or in connection with all Service Failures (including Total Service Failures) occurring in any calendar month during the Term shall be capped at one hundred per cent (100%) of the Charges payable by the Broadcaster under Clause 7 in respect of that calendar month.
- 4.8 The remedies set out in Clauses 4.6, 4.7 and 8.4(ii) shall be the Broadcaster's only remedies as a consequence of or in connection with any Service Failure, and shall be in full and final settlement of any liability of Sky to the Broadcaster arising as a consequence of or in connection with any Service Failure.
- 4.9 Sky shall, on request, provide a written report to the Broadcaster in respect of any Service Failure detailing its length, nature, known cause(s) and action taken to resolve the Service Failure. Such report shall be sent to the Broadcaster within sixty (60) days of the Broadcaster's request.

## **5. CHANGES TO THE EPG SERVICES**

- 5.1 Sky reserves the right to update the terms of this EPG Agreement (including the Technical Specifications and the Broadcast Requirements referred to in Schedule 3) from time to time by notice to the Broadcaster ("**Updated Terms**"). In exercising this right, Sky shall provide the Broadcaster with reasonable notice before the Updated Terms become effective and shall ensure that the Broadcaster has a reasonable period within which to implement any necessary changes, taking into account the nature of the changes in the Updated Terms.
- 5.2 If the Broadcaster does not wish to accept the Updated Terms then it may terminate this EPG Agreement by providing notice to Sky, such notice to be provided within thirty (30) days of Sky's initial notification, to be effective on the date that the Updated Terms become effective. If Sky decides not to implement the Updated Terms, then such notice of termination will be void.

## **6. USE OF THE EPG SERVICES**

- 6.1 The Broadcaster shall (at its own cost) obtain, install, operate and maintain (or shall procure the obtaining, installation, operation and maintenance of):
  - (i) all equipment (including, without limitation, an Approved Adaptation Hub), facilities, licences and permissions (whether regulatory, copyright, contractual or otherwise) in connection with the encoding, multiplexing, transmission, uplinking, transponder capacity, broadcasting and content of and for the Channel; and

- (ii) all applicable licences and permissions (of a regulatory nature or otherwise) for the transmission by or on behalf of the Broadcaster of the Platform Datastream.
- 6.2 The Broadcaster shall comply with all legal and regulatory requirements (including any licensing requirements and applicable regulatory codes and directions issued from time to time by any competent regulatory authority) which arise in respect of (i) the Channel, and (ii) the information and content supplied by the Broadcaster for display on the EPG (and, in respect of sub-clause (ii), the Broadcaster shall comply with any applicable requirements, regulatory codes and directions imposed on Sky in connection with Sky's broadcast of the EPG as if the Broadcaster were the broadcaster of the EPG).
- 6.2A The Broadcaster shall ensure it has all necessary and valid broadcasting licence(s) (or equivalent authorisation(s)) permitting the broadcast of each Channel in the region where the Channel will be available via the EPG and shall immediately inform Sky if any Channel ceases to be appropriately licensed (or authorised). The Broadcaster shall provide Sky with a copy of the latest version of each such licence (or authorisation) at least 2 weeks prior to: (i) the Commencement Date; and (ii) on each 12 month anniversary of the Commencement Date.
- 6.3 In the event that Sky reasonably believes that the Broadcaster is in breach of its obligations in Clauses 6.1 or 6.2, Sky shall be entitled, without prejudice to its other rights and remedies, and to the extent reasonably necessary to identify, remedy and/or rectify the relevant breach, to:
  - (i) monitor the Broadcaster's content and/or the information supplied for display on the EPG, and if, following the monitoring, Sky continues to reasonably believe that the Broadcaster was in breach of its obligations in Clause 6.1 or 6.2, the Broadcaster hereby undertakes to indemnify Sky fully in respect of any and all costs and/or expenses reasonably incurred in relation to such monitoring; and/or
  - (ii) without prejudice to Clause 8.6(vi), suspend the provision of EPG services in respect of the affected Channel; and/or
  - (iii) edit the information giving rise to the breach, and/or to limit the display of such information in the EPG; and/or
  - (iv) obtain scheduling, event and synopsis information for the Channel from another source and include that information in the EPG, and if Sky continues to reasonably believe that the Broadcaster was in breach of its obligations in Clause 6.1 or 6.2, the Broadcaster hereby undertakes to indemnify Sky fully in respect of any and all costs and/or expenses reasonably incurred in relation to obtaining such information and including it in the EPG,provided that Sky shall, to the extent it considers reasonably practicable, consult with the Broadcaster and give the Broadcaster an opportunity to remedy the relevant breach before proceeding under this Clause 6.3.
- 6.3A In the event that Sky reasonably believes that the Broadcaster is in breach of its obligations in Clause 6.2A, Sky shall be entitled, without prejudice to its other rights and remedies, and to the extent reasonably necessary to identify, remedy and/or rectify the relevant breach, to suspend the provision of EPG Services in respect of the affected Channel, provided that Sky shall, to the extent it considers reasonably practicable, consult with the Broadcaster.
- 6.4 Without prejudice to Sky's other rights and remedies under this EPG Agreement, Sky shall be entitled (but shall not be obliged) to:
  - (i) obtain scheduling, event and synopsis information for the Channel from another source and include that information in the EPG, and the Broadcaster hereby undertakes to indemnify Sky fully in respect of any and all costs and/or expenses

- reasonably incurred in relation to obtaining such information and including it in the EPG, if the Broadcaster does not provide such information in accordance with the Technical Specifications and Schedule 2; and
- (ii) edit the information provided by the Broadcaster pursuant to the Technical Specifications and Schedule 2 if, in Sky's reasonable opinion, such information is excessively detailed and/or otherwise results in inefficient use of the EPG and/or is not compliant with the Technical Specifications or Schedule 2.
- 6.5 Without prejudice to Clause 8.1:
- (i) in the event that the Broadcaster intends to temporarily cease broadcasting the Channel in the Territory such that the Channel is not available to viewers (within its normal broadcast hours), the Broadcaster shall provide Sky with at least two (2) weeks' notice in writing of such intention; and
- (ii) in the event of any material interference with or failure in the transmission of the Channel, the Broadcaster shall, as soon as is reasonably practicable, notify Sky and use its reasonable endeavours to rectify the same.
- 6.6 The Broadcaster shall indemnify Sky against all claims, damages, costs, expenses and other liabilities whatsoever arising directly or indirectly in connection with the content of the Channel and in connection with any information or content supplied by the Broadcaster for display on the EPG (including, but not limited to, claims for defamation and infringement of any other person's Intellectual Property Rights).
- 6.7 Sky shall only be able to claim under the indemnity in Clause 6.6 provided that Sky:
- (i) gives notice to the Broadcaster of any claim against Sky which would be covered by the indemnity in Clause 6.6 as soon as reasonably practicable upon becoming aware of the same; and
- (ii) at the Broadcaster's request, which shall be made within ten (10) working days of any notice given pursuant to Clause 6.7(i), and subject to the Broadcaster satisfying Sky that it will have the necessary financial resources to satisfy the claim in the event that the claim is successful, gives the Broadcaster sole conduct of the defence to and any negotiations in connection with any such claim ("Sole Conduct of the Broadcaster's Defence").
- 6.8 The Broadcaster shall, as soon as reasonably practicable after accepting Sole Conduct of the Broadcaster's Defence and the negotiations under Clause 6.7(ii), take over conduct of the defence to and any negotiations in connection with the claim and any action or litigation that may arise in relation thereto.
- 6.9 Provided that the Broadcaster has accepted Sole Conduct of the Broadcaster's Defence and the negotiations under Clause 6.7(ii) (and has agreed by way of notice to Sky to take over Sole Conduct of the Broadcaster's Defence), Sky shall not at any time admit liability or otherwise attempt to settle or compromise the said claim except upon the express instruction of the Broadcaster and shall give to the Broadcaster, at the Broadcaster's cost, such assistance as it is reasonable to require in respect of the conduct of the said defence and/or negotiations.
- 6.10 Sky shall indemnify the Broadcaster against all claims, damages, costs, expenses and other liabilities whatsoever arising directly or indirectly out of:
- (i) any edits made by Sky pursuant to Clauses 6.3(iii) or 6.4(ii) to the information supplied by the Broadcaster;
- (ii) the inclusion by Sky of material from another source pursuant to Clauses 6.3(iv) and 6.4(i) (including, but not limited to, claims for defamation and infringement of any other person's Intellectual Property Rights); and
- (iii) the broadcast by Sky of any Slate pursuant to Clause 13.5.
- 6.11 The Broadcaster shall only be able to claim under the indemnity in Clause 6.10 provided that the Broadcaster:

- (i) gives notice to Sky of any claim against the Broadcaster which would be covered by the indemnity in Clause 6.10 as soon as reasonably practicable upon becoming aware of the same; and
  - (ii) at Sky's request, which shall be made within ten (10) working days of any notice given pursuant to Clause 6.11(i), and subject to Sky satisfying the Broadcaster that it will have the necessary financial resources to satisfy the claim in the event that the claim is successful, gives Sky sole conduct of the defence to and any negotiations in connection with any such claim ("Sole Conduct of Sky's Defence").
- 6.12 Sky shall, as soon as reasonably practicable after accepting Sole Conduct of Sky's Defence and the negotiations under Clause 6.11(ii), take over conduct of the defence to and any negotiations in connection with the claim and any action or litigation that may arise in relation thereto.
- 6.13 Provided that Sky has accepted Sole Conduct of Sky's Defence and the negotiations under clause 6.11(ii) (and has agreed by way of notice to the Broadcaster to take over Sole Conduct of Sky's Defence), the Broadcaster shall not at any time admit liability or otherwise attempt to settle or compromise the said claim except upon the express instruction of Sky and shall give to Sky, at Sky's cost, such assistance as it is reasonable to require in respect of the conduct of the said defence and/or negotiations.

## **7. CHARGES**

- 7.1 The Broadcaster shall pay the Charges determined in accordance with this Clause 7. Such Charges shall be payable in respect of the period from (i) the Commencement Date (in respect of Channels which launched via an EPG Launch Queue and whose Actual Launch Date was on or prior to the Commencement Date), or (ii) from the Actual Launch Date (in respect of any Channels which launched via an EPG Launch Queue and whose Actual Launch Date is after the Commencement Date and any additional new Channels to which this EPG Agreement is applied by a variation in accordance with Clause 15.4) or (iii) the date on which the Channels launched into the EPG as the result of an acquisition from a third party of such third party's right to have a channel listed in the EPG, in accordance with Sky's Listing Methodology, until expiry or earlier termination of this EPG Agreement.
- 7.2 The Broadcaster shall pay the Charges published by Sky, which are available for download from the "Regulatory Information" section of the Sky Corporate Website: <https://www.skygroup.sky/corporate/about-sky/regulatory>, or on such other website as may be notified by Sky from time to time. The published Charges shall be referred to in this EPG Agreement as the "Published Price List". It is Sky's intention that the Published Price List shall include Charges which shall apply specifically in respect of additional new Channels to which this EPG Agreement is applied by a variation in accordance with Clause 15.4, and in respect of Channels for which the Actual Launch Date was less than twelve (12) months prior to the Commencement Date. Such Charges shall be referred to in this EPG Agreement as the "New Channel Charges".
- 7.3 Sky may vary the Published Price List at any time either with immediate effect or on such date as it may specify, where Sky considers that such variation is necessary in order for Sky or any of its Associated Companies to comply with any regulatory obligation. Sky must notify the Broadcaster of a variation to the Published Price List made in accordance with this Clause 7.3.
- 7.4 Sky may also vary the Published Price List at any time on no less than ninety (90) days written notice to the Broadcaster. Except in the circumstances specified below, Sky does not intend to exercise its right to vary the Published Price List pursuant to this Clause 7.4 less than twelve (12) months after the preceding variation pursuant to this Clause 7.4, but nevertheless expressly reserves its right to do so at any time. The circumstances in which Sky expects that it may be necessary to vary the Published Price List within twelve (12) months of a previous variation pursuant to this Clause 7.4 include where:
  - (i) the Broadcaster makes material changes to the content on the Channel, the type

and nature of the Channel, any services offered through the Channel or to the hours during which it broadcasts the Channel;

- (ii) there are material changes to any Conditional Access Services and/or Regionalisation Services applied to the Channel (including the application or removal of Conditional Access and/or Regionalisation Services), regardless of whether the Broadcaster is itself the contracting party in respect of such services; or
  - (iii) the Channel is subject to the New Channel Charges and a period of twelve (12) months elapses since the Actual Launch Date of the Channel.
- 7.5 The Charges are exclusive of VAT which shall, where applicable, be invoiced by Sky and paid by the Broadcaster at the prevailing rate and in the manner prescribed by law at the date of invoice.
- 7.6 Sky may invoice the Charges monthly in advance. Such invoices may be issued up to forty-five (45) days prior to the commencement of the period to which the invoiced Charges relate. The Broadcaster acknowledges that the first invoice issued to it pursuant to this EPG Agreement may cover a period of more than one month. Sky shall issue invoices to the email address specified in Annex A. The Broadcaster may change the email address for invoices by service of written notice on Sky.
- 7.7 The Broadcaster shall pay each invoice (including, without limitation, the first invoice) rendered in accordance with this EPG Agreement in cleared funds within thirty (30) days of the date of the invoice (the "due date").
- 7.8 Sky may charge interest on any sums which are overdue in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, under which, as at the date of this EPG Agreement, the applicable interest rate is the Bank of England base interest rate plus eight per cent (8%). Such interest shall accrue and be calculated on a daily basis.
- 7.9 The Broadcaster expressly agrees that if any amounts are properly due and owing to Sky pursuant to an agreement between the parties for the provision immediately prior to the Commencement Date of EPG services in respect of the Channel, the failure to pay such amounts by their due date (as defined in the relevant prior agreement) shall be deemed to be a breach of this EPG Agreement by the Broadcaster. Sky's various rights and remedies in the event of a breach (including those remedies set out in Clause 8) shall apply as if the Broadcaster had failed to pay the relevant amount pursuant to this EPG Agreement.
- 7.10 Sky may at any time, on notice to the Broadcaster, set off any liability of the Broadcaster to Sky or SSSL arising under the Platform Services Master Agreement against any liability of Sky or SSSL to the Broadcaster (or its Associated Companies), whether any such liability is present or future, liquidated or unliquidated and whether arising under the Platform Services Master Agreement or any other agreement between the Broadcaster and Sky or SSSL in respect of the Channels. Any exercise by Sky of its rights under this Clause 7.10 shall be without prejudice to any other rights or remedies available to Sky or SSSL arising under the Platform Services Master Agreement or under any other agreement between the Broadcaster and Sky or SSSL.
- 7.11 The Broadcaster shall pay the costs and charges set out in Schedule 5 (if applicable) and shall comply with any additional payment, deposit or security requirements specified in Annex A.
- 7.12 The Broadcaster shall pay each and every invoice issued to it in relation to the provision of EPG Services by way of electronic transfer and in cleared funds by no later than 3pm (GMT) on its due date into such bank account as notified by Sky to the Broadcaster from time to time. For the avoidance of doubt, Sky shall not accept payment by any means other than electronic transfer in cleared funds into the bank account notified to the Broadcaster.
- 7.13 The Broadcaster shall, or shall ensure that any third party making a payment on behalf of the Broadcaster shall, at the time of making a payment into Sky's bank account of any amounts owed to Sky in accordance with this EPG Agreement, provide: (i) an accompanying reference number, which shall be the Broadcaster's account number as

specified to the Broadcaster by Sky; (ii) the name of the entity making the payment; and (iii) documentary proof of remittance sent to the following email address: [accountsreceivable@sky.uk](mailto:accountsreceivable@sky.uk) or to such other email address as notified by Sky to the Broadcaster from time to time.

### **Deposit**

- 7.14 If specified in Annex A, the Broadcaster shall pay a deposit to Sky in respect of the Channel(s) amounting to three (3) months' Charges including any applicable VAT ("the Deposit"), as security for the charges payable under this EPG Agreement.
- 7.15 Without prejudice to Sky's rights under Clause 8 of this EPG Agreement, if the Broadcaster fails to pay the Deposit in cleared funds within fourteen (14) days of the Commencement Date, Sky shall be entitled to suspend the provision of EPG Services forthwith. Sky shall recommence providing EPG Services following a suspension when the Broadcaster has paid the Deposit to Sky in cleared funds, except that Sky shall have no obligation to recommence providing EPG Services outside of the hours of 10am – 4pm Monday to Thursday in the UK or on a Friday, Saturday, Sunday, Bank Holiday, or during a Platform Freeze. The Broadcaster shall continue to be liable for the Charges during any period of suspension under this Clause 7.15.
- 7.16 Without prejudice to Sky's rights under Clause 8 and Clause 7.15 of this EPG Agreement, if the Broadcaster fails to pay the Deposit in cleared funds within twenty eight (28) days of the Commencement Date, Sky shall be entitled to terminate this EPG Agreement by service on the Broadcaster of notice in writing having effect forthwith.
- 7.17 Subject to Clause 7.18 below, Sky shall repay the Deposit, plus any interest payable to the Broadcaster pursuant to Clause 7.19, to the Broadcaster within thirty (30) days of expiry or earlier termination of this EPG Agreement.
- 7.18 Any sums invoiced under this EPG Agreement in accordance with Clause 7 which have not been paid by the Broadcaster shall be deducted from the Deposit (including any interest payable to the Broadcaster pursuant to Clause 7.19) before its repayment to the Broadcaster in accordance with Clause 7.17.
- 7.19 Sky shall pay interest on the Deposit at the rate of 1% above the base rate from time to time of HSBC Bank plc from the date on which the Deposit is received by Sky until the date of its repayment (in full or in part) in accordance with Clause 7.17. Such interest shall accrue and be calculated on an annual basis.
- 7.20 For the avoidance of doubt, nothing in Clauses 7.14 to 7.19 shall affect the Broadcaster's obligation to pay all invoices issued in accordance with Clause 7 of this EPG Agreement by their due date.

## **8. SUSPENSION AND TERMINATION**

- 8.1 Sky shall be entitled to suspend the provision of EPG Services in respect of a Channel:
- (i) forthwith if the Broadcaster fails to broadcast the Channel in the Territory in accordance with the Broadcast Requirements such that the Channel is not available to viewers (within its normal broadcast hours);
  - (ii) forthwith if the scheduling, event and synopsis information in respect of the Channel contains material inaccuracies or is materially non-compliant with the Technical Specifications and/or the requirements in this EPG Agreement; or
  - (iii) forthwith if a Channel not listed in the Adult genre of the EPG changes the nature of its programming such that in Sky's reasonable opinion, the Channel should most appropriately be located in the Adult genre, but there are no available channel numbers for additional channels in the Adult genre because either (a) the genre is full; or (b) Sky has reserved a channel number in the Adult genre for a channel in the Launch Queue or for a channel that is expected to move from another genre into the Adult genre following the transfer of an EPG slot;
  - (iv) forthwith if a Channel broadcasting in High Definition Format ceases to comply

- with any of the technical requirements or content standards for channels broadcast in High Definition Format as set out in Sky's Listing Methodology, provided that Sky shall, to the extent that it considers reasonably practicable, consult with the Broadcaster and give the Broadcaster an opportunity to remedy the relevant breach before proceeding under this Clause 8.1(iv). As part of such consultation, Sky shall give the Broadcaster the option of broadcasting the Channel (a) in standard definition format, except where the Channel is a Fixed HD Channel and/or (b) in 3D Format;
- (v) forthwith if a Channel broadcasting in 3D Format ceases to comply with any of the technical requirements or content standards for channels broadcast in 3D Format as set out in Sky's Listing Methodology, provided that Sky shall, to the extent it considers reasonably practicable, consult with the Broadcaster and give the Broadcaster an opportunity to remedy the relevant breach before proceeding under this Clause 8.1(v). As part of such consultation, Sky shall give the Broadcaster the option of broadcasting the Channel (a) in standard definition format, except where the Channel is a Fixed 3D Channel and/or (b) in High Definition Format;
  - (vi) forthwith if the Broadcaster ceases to schedule and to broadcast on the Channel at least twelve (12) hours of properly scheduled, non-repeating programming in each seven (7) day period, or such other amount of properly scheduled, non-repeating programming as may be specified in Sky's Listing Methodology from time to time. In this Clause and Clause 8.2, "properly scheduled, non-repeating programming" shall mean programming which is scheduled in accordance with the Technical Specifications and which has not already been scheduled and broadcast on the Channel during the relevant period;
  - (vii) by service on the Broadcaster of not less than fourteen (14) days' notice in writing if the Broadcaster has failed to pay within fourteen (14) days of its due date any invoice issued by Sky in accordance with Clause 7 provided that (i) such invoice is not paid during such fourteen (14) day notice period and (ii) the Broadcaster has on three (3) or more occasions in the preceding twelve (12) month period failed to pay by their due date any invoices issued in accordance with Clause 7;
  - (viii) forthwith in accordance with Clause 6.3(ii) and/or 6.3A(i);
  - (ix) forthwith in the event that the Listing Methodology specifies that Sky has the right to suspend or terminate a broadcaster's agreement for EPG Services in certain specified circumstances and such circumstances arise in respect of the Channel(s) or the Broadcaster;
  - (x) forthwith in the event that Sky becomes aware that the name of the Channel as provided by the Broadcaster to Sky as shown on the EPG no longer matches or closely matches the name on the broadcast licence specified in Annex A;
  - (xi) forthwith if the Broadcaster broadcasts a Slate on the Channel without obtaining the prior written consent of Sky in accordance with Clause 13.4 of this EPG Agreement;
  - (xii) forthwith if Sky reasonably considers that any statement:
    - (a) broadcast on the Channel;
    - (b) in the scheduling, event and synopsis information provided in respect of the Channel; or
    - (c) on any webpage under the Broadcaster's control, the URL of which is referred to (1) on the Channel or (2) in the scheduling, event and synopsis information provided in respect of the Channel,is in breach of Clause 13.3 of this EPG Agreement;
  - (xiii) forthwith in accordance with Clause 13.5 of this EPG Agreement;

(xiv) forthwith, in the event that the Channel is most appropriately listed in the Adult genre, is broadcast pursuant to a licence (or equivalent authorisation) other than a licence issued by Ofcom (or any successor regulator in the United Kingdom), where Sky has provided to the Broadcaster a report indicating a breach of the rules contained in the Broadcast Committee of Advertising Practice Code ("BCAP Code"), the Ofcom Broadcasting Code, or any successor code of practice, regulation or law in force at the relevant time (the "Relevant Codes") pursuant to the review procedures specified in Schedule 5, and Sky reasonably believes that further content broadcast on the Channel following provision of the first report may be in breach of the Relevant Codes, provided that where Sky exercises this suspension right it shall request a report from an independent expert, pursuant to the ad hoc review procedure specified in Schedule 5;

- (xv) forthwith if a Fixed Local TV simulcast ceases to meet the requirements for Local TV simulcasts as set out in Sky's Listing Methodology, provided that Sky shall, to the extent that it considers reasonably practicable, consult with the Broadcaster and give the Broadcaster an opportunity to remedy the relevant breach before proceeding under this Clause 8.1(xv); or
- (xvi) forthwith in the event that the Channel contains material that either has been classified R18 by the British Board of Film Classification ("BBFC"), or which would be so classified were it submitted to the BBFC for classification,

and during any period of suspension under Clause 8.1 the Broadcaster shall continue to be liable for the Charges applicable during that period and Sky may broadcast a Slate in place of the Channel, the wording of which shall be agreed between the parties acting reasonably (or if no such wording is agreed prior to commencement of the suspension period, such wording that Sky acting reasonably considers appropriate).

8.2 Without prejudice to Clauses 8.3 and 8.6, Sky shall re-commence providing EPG Services following a suspension pursuant to Clause 8.1 when it is satisfied that:

- (i) following a suspension in accordance with Clause 8.1(i) the Broadcaster is broadcasting the relevant Channel in the Territory in accordance with the Broadcast Requirements and with the requisite amount of properly scheduled, non-repeating programming;
- (ii) following a suspension in accordance with Clause 8.1(ii) the Broadcaster's scheduling, event and synopsis information is materially accurate and materially conforms with the Technical Specifications and the requirements of this EPG Agreement;
- (iii) following a suspension in accordance with Clause 8.1(iii), the content of the Channel has changed such that it is no longer most appropriately located in the Adult genre or a channel number becomes available in the Adult genre for the Channel;
- (iv) following a suspension in accordance with Clause 8.1(iv), the Channel has become fully compliant with the applicable technical requirements and content standards for channels broadcast in High Definition Format as set out in Sky's Listing Methodology;
- (v) following a suspension in accordance with Clause 8.1(v), the Channel has become fully compliant with the technical requirements and content standards for channels broadcast in 3D Format as set out in Sky's Listing Methodology;
- (vi) following a suspension in accordance with Clause 8.1(vi), the Broadcaster is scheduling and broadcasting on the Channel at least twelve (12) hours of properly scheduled, non-repeating programming in each seven (7) day period, or such other amount of properly scheduled, non-repeating programming as may be specified in Sky's Listing Methodology from time to time;

- (vii) following a suspension in accordance with Clause 8.1(vii), the Broadcaster has paid all outstanding invoices;
- (viii) following a suspension in accordance with Clause 8.1(viii), the Broadcaster has remedied any breach of its obligations in Clauses 6.1,6.2 or 6.2A (as appropriate);
- (ix) following a suspension in accordance with Clause 8.1(ix), the circumstances specified in the Listing Methodology have ceased to apply in respect of the Channel or the Broadcaster;
- (x) following a suspension in accordance with Clause 8.1(x), the name of the Channel as provided by the Broadcaster to Sky to be shown on the EPG matches or closely matches the name on the broadcast licence specified in Annex A;
- (xi) following a suspension in accordance with Clause 8.1(xi), the Broadcaster has ceased broadcasting a Slate in breach of Clause 13.4 of this EPG Agreement;
- (xii) following a suspension in accordance with Clause 8.1(xii), the Broadcaster:
  - (a) has ceased broadcasting any statement on the Channel which is in breach of Clause 13.3 of this EPG Agreement;
  - (b) is providing scheduling, event and synopsis information in respect of the Channel, which is not in breach of Clause 13.3 of this EPG Agreement; or
  - (c) has, in relation to any webpage that contains any statement in breach of Clause 13.3, ceased (1) broadcasting on the Channel references to the URL of such webpage, or (2) providing scheduling, event and synopsis information in respect of the Channel containing references to the URL of such webpage; or
- (xiii) following a suspension in accordance with Clause 8.1(xiii), the Broadcaster is scheduling and broadcasting on the Channel either (i) properly scheduled programming or (ii) a Slate and scheduling, event and synopsis information in respect of the Channel, the wording of which has been agreed in accordance with Clause 13.5 of this EPG Agreement;
- (xiv) following a suspension pursuant to Clause 8.1(xiv), Sky is in receipt of a report from an independent expert, pursuant to the ad hoc review procedure specified in Schedule 5, indicating that the content reviewed under the ad hoc review procedure specified in Annex A is in compliance with the Relevant Codes;
- (xv) following a suspension in accordance with Clause 8.1(xv), the Channel has become fully compliant with the applicable requirements for Local TV simulcasts as set out in Sky's Listing Methodology; or
- (xvi) following a suspension pursuant to Clause 8.1(xvi), Sky reasonably believes that the Channel does not contain any content that would be classified R18 by the BBFC, or which would be so classified were it submitted to the BBFC for classification;

and provided that Sky will have no obligation to re-commence providing EPG Services pursuant to this Clause 8.2 outside of the hours of 10am – 4pm Monday to Thursday in the UK or on a Friday, Saturday, Sunday, Bank Holiday, or during a Platform Freeze. The Broadcaster shall continue to be liable for the Charges during any period of suspension under Clause 8.1 above.

8.3 Either party may terminate this EPG Agreement by service on the other party of:

- (i) notice in writing having effect forthwith, if the other party shall become insolvent or have an administrator or administrative receiver appointed over the whole or any part of its assets or go into liquidation (whether compulsory or voluntary) otherwise than for the purposes of bona fide amalgamation or reconstruction or shall make any agreement with its creditors or have any form of execution or distress levied upon its assets or cease to carry on business;

- (ii) not less than thirty (30) days' notice in writing specifying a material or persistent breach by the other party of a material obligation that is capable of remedy and requiring that the breach is remedied, provided that the breach is not remedied during such period. Without prejudice to the generality of this Clause 8.3(ii), the Broadcaster shall be considered to be in material breach of a material obligation if it fails to pay any invoice issued by Sky in accordance with Clause 7 within thirty (30) days of its due date;
  - (iii) notice in writing having effect forthwith specifying a material or persistent breach by the other party of a material obligation which is not capable of remedy; or
  - (iv) notice in accordance with Clause 9.6.
- 8.4 The Broadcaster may terminate this EPG Agreement in respect of any Channel by service on Sky of:
  - (i) not less than ninety (90) days' notice in writing at any time;
  - (ii) notice in writing taking effect forthwith in the event that either of the Service Credit caps specified in Clause 4.7 have been reached in respect of three (3) calendar months in any twelve (12) month period during the Term, provided that such notice is given within sixty (60) days of this right of termination arising; or
  - (iii) not less than seven (7) days' notice in writing taking effect on a date nominated by the Broadcaster in such notice where Sky has either (i) first published its Published Price List in accordance with Clause 7.2, or (ii) varied its Published Price List in accordance with Clause 7.3 or 7.4, and such publication or variation (as the case may be) would result in the Broadcaster being liable for higher Charges in aggregate in respect of the Channel than it would have been liable for if such publication or variation had not been made, provided that termination pursuant to this Clause 8.4(iii) must take effect within ninety (90) days of the relevant publication or notification of the variation by Sky.
- 8.5 If the Broadcaster terminates this EPG Agreement pursuant to Clause 8.4(iii), it shall (in respect of the Channel subject to the termination only) be liable for the Charges applicable to the Channel immediately prior to the relevant publication or variation having effect, and shall not be liable for the higher Charges resulting from the relevant publication or variation. Sky shall, to the extent necessary, credit the difference between such Charges if it has already invoiced the higher Charges prior to the service of notice by the Broadcaster pursuant to Clause 8.4(iii).
- 8.6 Sky may terminate this EPG Agreement by service on the Broadcaster of:
  - (i) notice in writing taking effect forthwith in the event that Sky is entitled to suspend the provision of EPG Services pursuant to Clause 8.1, where Sky has exercised a right to suspend the EPG Services pursuant to Clause 8.1 on two or more previous occasions during the preceding thirty-six (36) month period, provided that none of the failures giving rise to such right to suspend has arisen due to an event of Force Majeure affecting the Broadcaster;
  - (ii) notice in writing taking effect forthwith in the event that Sky has suspended the provision of EPG Services pursuant to Clause 8.1 and such EPG Services remain suspended for a period of one (1) month or more, where the Channel has a Viewing Share on the Sky digital platform of less than 0.1%. This Clause 8.6(ii) shall not apply where the EPG Services have been suspended in accordance with Clause 8.1(vii);
  - (iii) notice in writing taking effect forthwith in the event that Sky has suspended the provision of EPG Services pursuant to Clause 8.1, and such EPG Services remain suspended for a period of 7 days or more, where that Channel has a Viewing Share on the Sky digital platform of 0.1% or greater. This Clause 8.6(iii) shall not apply where the provision of EPG Services has been suspended in accordance with Clause 8.1(vii);

- (iv) notice in writing taking effect forthwith in the event that Sky has recommenced the provision of EPG Services in respect of a Channel following a suspension pursuant to Clause 8.1 and a further right to suspend the provision of EPG Services pursuant to Clause 8.1 arises within 30 days of Sky having recommenced the provision of EPG Services;
- (v) not less than one (1) days' notice in writing requiring that the Broadcaster recommences broadcasting the Channel, provided that the Broadcaster does not recommence broadcasting the Channel during such period, in the event that the Broadcaster has failed to provide prior notice of its intention to temporarily cease broadcasting the Channel in accordance with Clause 6.5(i) and Sky has suspended the provision of EPG Services in accordance with Clause 8.1(i). This Clause 8.6(v) shall not apply where the Broadcaster has ceased broadcasting the Channel as a result of an unplanned playout and/or transmission failure or where the Broadcaster's uplink provider has ceased to provide uplink services in respect of the Channel;
- (vi) notice in writing taking effect forthwith in the event that any relevant broadcast licence specified in Annex A in respect of the Channel is cancelled, revoked, surrendered, expires or for any other reason ceases to be a valid authorisation for broadcast by satellite of the Channel in the region or regions in which it is made available via the EPG, without being immediately renewed or replaced or, without prejudice to Clause 12, is transferred to any other entity;
- (vii) notice in accordance with Paragraph 5.2 of Schedule 2;
- (viii) notice in writing taking effect on a date nominated by Sky in such notice, in the event that Sky reasonably considers that any provision of this EPG Agreement or any assumption underlying this EPG Agreement may not be consistent with the regulatory obligations imposed on Sky or an Associated Company, provided that after serving notice under this Clause 8.6(viii), Sky shall give the Broadcaster reasonable notice of the terms (such terms being consistent with the regulatory obligations imposed on Sky and its Associated Companies) on which Sky offers to continue to provide EPG Services in respect of the Channel upon termination of this EPG Agreement;
- (ix) not less than one hundred and twenty (120) days' notice in writing where Sky reasonably considers that, but for the existence of this EPG Agreement, it would not be required to provide EPG Services to the Broadcaster in respect of the Channel;
- (x) notice in accordance with Clause 12.4;
- (xi) notice in writing taking effect forthwith in the event that the Channel contains material that either has been classified R18 by the British Board of Film Classification ("BBFC"), or which would be so classified were it submitted to the BBFC for classification; or
- (xii) notice in writing taking effect forthwith in the event that the Channel is most appropriately listed in the Adult genre, is broadcast pursuant to a licence (or equivalent authorisation) other than a licence issued by Ofcom (or any successor regulator in the United Kingdom), and Sky has provided to the Broadcaster any combination of two (2) reports from an independent expert, whether pursuant to the periodic or ad hoc review procedures specified in Schedule 5, over a one (1) year rolling term, identifying that content on the Channel does not comply with the Relevant Codes, provided that the second report identifying one (or more) breaches of the Relevant Codes is in relation to content broadcast on the Channel after the date on which the Broadcaster received the first report identifying one (or more) breaches of the Relevant Codes. For the avoidance of doubt, this includes the situation whereby, following a suspension and the initiation of an ad hoc review procedure pursuant to Clause 8.1 (xiv), Sky has provided to the Broadcaster a report from an independent expert, pursuant to the ad hoc review

procedure specified in Schedule 5, indicating that content reviewed under the ad hoc review procedure does not comply with the Relevant Codes.

- 8.7 Those provisions of this EPG Agreement which by their nature were intended to continue after termination of this EPG Agreement (including, to the extent relevant, Clauses 8 (Suspension and Termination), 9 (Force Majeure), 10 (Liability), 11 (Confidentiality), 13 excluding 13.3 (Publicity, Marketing and use of EPG Data), 14 (Notices) and 15 (General)) shall continue in full force and effect notwithstanding the termination or expiry of this EPG Agreement.
- 8.8 Termination or expiry of this EPG Agreement shall not operate as a waiver of any breach by a party of any of the provisions hereof and shall be without prejudice to any rights or remedies of either party which may arise as a consequence of such breach or which may have accrued hereunder up to the date of such termination or expiry.
- 8.9 Except where a relevant event of default affects a party's ability to perform this EPG Agreement as a whole, a party's rights of termination pursuant to this Clause 8 shall apply on a Channel by Channel basis, and termination of this EPG Agreement in respect of any Channel will not affect the continued application of this EPG Agreement to any other Channels.
- 8.10 The Broadcaster expressly acknowledges that if this EPG Agreement is terminated pursuant to this Clause 8 in respect of any Channel, Sky shall be entitled to cease to provide EPG Services in respect of that Channel forthwith. Without prejudice to the generality of the foregoing, if the Broadcaster wishes to re-launch the affected Channel into the EPG at a later date, the Channel will be launched in accordance with Sky's normal channel launch procedures at a new channel number.
- 8.11 If the Broadcaster has not, from time to time, procured the necessary Regionalisation Services in order to regionalise the Channels as described in Annex A from SSSL for one or more Channels, Sky shall be entitled to immediately cease to list such Channels in the EPG. If the Broadcaster wishes for the Channels to continue to be listed in the EPG following it ceasing to procure the necessary Regionalisation Services from SSSL, it shall give Sky no less than 30 days' notice of the date on which such cessation shall occur, and stating its wishes for the Channels to continue to be listed in the EPG after such date. In such circumstances, Sky shall propose amendments to this EPG Agreement to provide for the continued listing the Channels in the EPG after such cessation.

## **9. FORCE MAJEURE**

- 9.1 Subject to Clauses 9.2, 9.3 and 9.4, any delay or failure to perform an obligation under this EPG Agreement by a party (the "affected party") shall not constitute a breach of this EPG Agreement to the extent that it is caused by an event of Force Majeure.
- 9.2 The affected party shall promptly notify the other party in writing of the estimated extent and duration of the inability to perform its obligations.
- 9.3 Upon the cessation of the event of Force Majeure, the affected party shall promptly notify the other party in writing of such cessation.
- 9.4 The affected party shall use all reasonable endeavours to mitigate the effect of each event of Force Majeure.
- 9.5 Where an event of Force Majeure affecting Sky results in:
- (i) the EPG incorrectly displaying or not displaying the EPG listing for the Channel, such that it is not possible for viewers to select the Channel from within the EPG; or
  - (ii) the EPG not navigating to the Channel when the Channel is selected from within the EPG,

and in either case the fault has affected no less than twenty five per cent (25%) of Set Top Boxes normally entitled to view the Channel for no less than twenty four (24) hours, then Sky shall credit to the Broadcaster a reasonable proportion (as determined solely by Sky)

of the Charges payable in respect of the period during which the event of Force Majeure persists. Such amount shall be credited within sixty (60) days of the cessation of the event of Force Majeure.

9.6 If, following three months from the date of notification under Clause 9.2, the event of Force Majeure persists, the unaffected party may forthwith terminate this EPG Agreement by service of notice in writing on the affected party.

9.7 Without prejudice to the generality of Clause 9, neither party shall be in breach of this EPG Agreement for failure to perform its obligations or observe the provisions of this EPG Agreement where to do so would place such party in breach of any applicable law, regulation, code of practice or similar instrument of any competent regulator.

## **10. LIABILITY**

10.1 Neither party excludes or limits liability to the other party for death or personal injury.

10.2 Subject to Clause 10.1 neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for indirect or consequential loss or damage. For these purposes, the expression "indirect or consequential loss or damage" shall include but not be limited to loss of revenue, profit, anticipated savings or business.

10.3 The parties' respective liabilities pursuant to the indemnities in Clause 6.6 and Clause 6.10 shall be unlimited. Sky's liability in the event of any Service Failure shall be limited as set out in Clause 4.8.

10.4 Subject to Clauses 10.1, 10.2 and 10.3, the liability of each party to the other in contract, tort (including negligence and breach of statutory duty) or otherwise arising by reason of or in connection with this EPG Agreement shall be limited to:

- (i) two hundred and fifty thousand pounds (£250,000) for any one incident or series of events arising from a single incident; and
- (ii) five hundred thousand pounds (£500,000) for all incidents in any twelve month period.

10.5 No party shall be liable to the other to the extent that any loss or damage arises or is increased as a result of any failure of any equipment or systems for which the other is responsible pursuant to this EPG Agreement.

10.6 Should any limitation or provision contained in this Clause 10 be held to be invalid under any applicable statute or rule of law, it shall to that extent be deemed omitted.

10.7 All warranties, representations and conditions implied by statute, common law or otherwise, (including but not limited to fitness for purpose) are hereby excluded to the extent permitted by law.

## **11. CONFIDENTIALITY**

11.1 Subject to Clauses 11.2 and 11.3, in respect of Confidential Information disclosed by the other party, each party shall and shall procure that its officers, employees and agents shall:

- (i) only use such Confidential Information for the purpose of performing this EPG Agreement;
- (ii) only disclose such Confidential Information to a third party with the prior written consent of the other party; and
- (iii) ensure that any third party to which Confidential Information is disclosed under Clause 11.1(ii) or Clause 11.3(iii) executes a confidentiality undertaking on terms at least as strict as this Clause 11.

11.2 The provisions of Clause 11.1 shall not apply to any Confidential Information which:

- (i) is in or comes into the public domain other than by default of the recipient party;
- (ii) is or has already been independently generated by the recipient party;

- (iii) is in the possession of or is known by the recipient party prior to its receipt from the disclosing party; or
- (iv) is properly disclosed pursuant to and in accordance with a relevant statutory or regulatory obligation or to obtain or maintain any listing on a stockexchange.

11.3 Notwithstanding Clause 11.1, each of the Broadcaster and Sky shall be entitled to disclose:

- (i) Confidential Information to its permitted sub-contractors when (and to the extent only) such disclosure is necessary for the performance by the relevant party of its obligations under this EPG Agreement;
- (ii) Confidential Information to Ofcom or any successor regulator which has primary responsibility for the regulation of electronic programme guide services in the United Kingdom (whether or not Clause 11.2 applies); and
- (iii) details of the terms and performance of this EPG Agreement to its Associated Companies, auditors, legal and other professional advisers who are bound by duties of confidentiality.

## **12. TRANSFER AND CHANGE OF CONTROL**

12.1 The Broadcaster shall not assign or charge the whole or any part of this EPG Agreement or its rights hereunder.

12.2 Without prejudice to Clause 12.1, the Broadcaster shall not transfer or otherwise deal with the whole or any part of this EPG Agreement or its rights or obligations hereunder without the prior written consent of Sky. The Broadcaster shall request such consent no less than twenty eight (28) days prior to the proposed transfer, or other dealing. Subject to Clause 12.3, Sky shall not unreasonably withhold or delay its consent to a transfer under this Clause 12.2.

12.3 In the event of a proposed transfer of the Broadcaster's rights and obligations under this EPG Agreement, Sky may, without limitation, require as a condition of giving its consent that:

- (i) the Broadcaster pays to Sky the transfer fee as set out in the Listing Methodology; and
- (ii) the parties and transferee enter into documentation effecting the transfer on the terms acceptable to Sky.

12.4 In the event that the Broadcaster is to be subject to a change of Control such that it would no longer be Controlled by an Associated Company of the Broadcaster, then:

- (i) the Broadcaster shall notify Sky within twenty-eight (28) days of such a change of Control taking place; and
- (ii) if, as a result of the change of Control, Sky requires the Broadcaster to pay a deposit in accordance with the Listing Methodology, then the Broadcaster shall pay such deposit in cleared funds within 30 days of the date of the invoice ("due date"). If the Broadcaster fails to pay the deposit by the due date, Sky may terminate this EPG Agreement by service on the Broadcaster of notice in writing taking effect forthwith.

12.5 Sky may assign, transfer, charge or otherwise deal with the whole or any part of this EPG Agreement or its rights or obligations hereunder.

## **13. PUBLICITY, MARKETING AND USE OF EPG DATA**

13.1 Subject to Clause 13.2 and save as required by law or regulation, neither party shall directly or indirectly make any press release or statement to the press, radio, television or other media in any way connected with the subject matter of this EPG Agreement except with the prior written consent of the other which shall not be unreasonably withheld.

13.2 The Broadcaster shall not, in any advertisement (excluding any third party advertisement), promotion, marketing materials, publicity materials or other public comment or posting via

any media concerning the Channel or any Associated Channel or otherwise, or in the scheduling, event and synopsis information in respect of the Channel, without Sky's prior written consent:

- (i) refer to Sky or any of its Associated Companies, or to any telephone numbers, URLs or social media sites associated with Sky or any of its Associated Companies;
- (ii) use any trade mark, service mark or channel name of Sky or any of its Associated Companies; or
- (iii) without limitation to the generality of Clause 13.2(ii), describe the Channel or any Associated Channel as being a "Sky channel" or as being part of "Sky digital", or any similar description.

13.3 The Broadcaster shall not, on a Channel (including in any advertisement, promotion or other messages on that Channel but excluding any third party advertisements on that Channel) or in the scheduling, event and synopsis information in respect of the Channel or on any webpage under the Broadcaster's control, the URL of which is referred to on that Channel or in the scheduling, event and synopsis information provided in respect of the Channel, without Sky's prior written consent (such consent not to be unreasonably withheld):

- (i) make any statement specifically concerning the total or partial lack of availability of any Channel or Associated Channel on the Sky digital satellite platform or any otherwise derogatory or derisory statements calculated to denigrate the Sky digital satellite platform;
- (ii) make any statement concerning the availability of any Channel or Associated Channel on other platforms carrying audio-visual services without making an equivalent statement concerning the availability of such Channel or Associated Channel on the Sky digital satellite platform if it is available on the Sky digital satellite platform; or
- (iii) make any statement advising or encouraging viewers to view any Channel or Associated Channel available on the Sky digital satellite platform on another platform carrying audio-visual services instead of on the Sky digital satellite platform.

13.4 The Broadcaster shall not broadcast a Slate on any Channel without the prior written consent of Sky, such consent not to be unreasonably withheld or delayed.

13.5 For the avoidance of doubt, the Broadcaster shall from time to time be entitled to reduce and/or increase the hours during which it broadcasts any Channel ("broadcast hours") as it shall, subject only to Sky's Listing Methodology, see fit. If the Broadcaster reduces the hours during which it broadcasts any Channel, Sky may request the Broadcaster forthwith to (a) continuously broadcast a Slate on such Channel and (b) provide revised scheduling, event and synopsis information in respect of such Channel during the hours in which the Broadcaster does not broadcast the Channel ("non-broadcast hours"), the wording of each of which shall be agreed between the parties acting reasonably. In the event that the Broadcaster does not broadcast such Slate and provide such revised scheduling, event and synopsis information in accordance with this Clause 13.5, Sky may forthwith suspend the provision of EPG services in respect of that Channel during its non-broadcast hours. In such circumstances the parties agree that Sky may broadcast a Slate in place of the Channel during the non-broadcast hours, the wording of which shall be agreed between the parties acting reasonably (or if no such wording is agreed, such wording that Sky acting reasonably considers appropriate) and/or replace the scheduling, event and synopsis information in respect of the Channel provided by the Broadcaster pursuant to this EPG Agreement with the wording of the agreed Slate (or if no such wording is agreed, such wording that Sky considers appropriate).

13.6 Sky hereby grants consent to the Broadcaster to make reference to the Channel number and basic positioning of the Channel in the EPG, which it may refer to as "Sky Guide" and as being on "the Sky digital satellite platform".

- 13.7 Sky and its Associated Companies may refer to the Broadcaster and may use the Broadcaster's trade marks, channel names and service marks (the "Marks") non-exclusively and royalty-free to the extent necessary for the performance of its obligations under this EPG Agreement in respect of the Channel and for the promotion of the digital satellite platform. Sky and its Associated Companies may also use the Marks in any advertising or marketing material or communication, customer or corporate communication or other publicity materials in the Territory, subject to each type of use of the Marks being approved in writing by the Broadcaster (such consent not to be unreasonably withheld) and, such approval having been obtained, Sky and its Associated Companies being able to use the Marks in a same or similar way to the approved use without further approval having to be obtained. For the avoidance of doubt, nothing in this clause shall prevent Sky and its Associated Companies using the Marks as permitted under the Trade Marks Acts 1994 or as otherwise permitted by law. For the further avoidance of doubt, the Broadcaster may withdraw its consent at any time to Sky's use of the Marks by service of written notice on Sky if there are legitimate business reasons for doing so subject to Sky being permitted a reasonable period for use of materials which have already gone to print and for Sky to make the necessary changes to other materials.
- 13.8 Sky shall be entitled to use the EPG Data provided by the Broadcaster pursuant to this EPG Agreement for and in connection with the publication of television listings and the operation of other electronic programme guides provided by Sky or any of its Associated Companies in any other media (including the Internet and mobile phones). Where necessary for such publication or operation, Sky may pass such EPG Data to third parties. Sky shall not charge any third party to whom it passes EPG Data pursuant to this Clause 13.8 without the Broadcaster's prior written consent. Sky shall ensure that nothing in the other electronic programme guides published or operated by Sky or any of its Associated Companies will indicate that the Channel is available via such other media where this is not the case, or that the Channel is distributed by Sky where this is not the case.

#### **14. NOTICES**

- 14.1 Any notice required or authorised by this EPG Agreement must be given in writing and may be delivered (i) personally or (ii) by commercial messenger or courier service, or (iii) sent by email, or (iv) by prepaid, recorded, postal delivery.
- 14.2 Notices so given will be deemed to have been duly given and received as follows:
- (i) if delivered personally or by commercial messenger or courier service, or if sent by prepaid, recorded, postal delivery, upon delivery at the address of the relevant party as proven by a signed receipt;
  - (ii) if sent by email, upon receipt by the recipient,
- provided that, if, in accordance with the above provision, any such notice, demand or other communication would otherwise be deemed to be given or made outside of the hours of 0830 and 1730 on a working day in the place of delivery, such notice, demand or other communication will be deemed to be given or made on the next working day in such place.
- 14.3 Notwithstanding Clause 14.2, notices shall be deemed to have been duly given and received where all reasonable endeavours have been made to deliver the notice in accordance with this Clause 14 but such endeavours have been unsuccessful.
- 14.4 Notices addressed to Sky shall be addressed to:
- Channels and Operations  
Sky UK Limited  
Grant Way  
Isleworth  
Middlesex TW7 5QD
- e-mail: Channels.Operations@sky.uk
- 14.5 Notices addressed to the Broadcaster shall be addressed as specified in Annex A.

- 14.6 Sky and the Broadcaster may amend their address and email address specified in Clause 14.4 or Annex A (respectively) by written notice to the other party.
- 14.7 The Broadcaster acknowledges that the specifications referred to in Schedule 3, along with any related notifications from Sky, relating to the provision of EPG Services shall be sent to the Broadcaster via email to the nominated Compliance Contact as specified in Annex A.
- 14.8 The Broadcaster may amend the Compliance Contact specified in Annex A by written notice to Sky.
- 14.9 The Broadcaster acknowledges that it is the responsibility of its Compliance Contact to ensure that the specifications and notifications referred to in clause 14.7 above are made available to those persons within its organisation who may require the information contained within such documents in order for the Broadcaster to comply with the terms of this EPG Agreement. For the avoidance of doubt, the Broadcaster shall remain liable for any breach of this EPG Agreement related to non-compliance with the contents of such documents where Sky has sent such documents to the Compliance Contact as notified by the Broadcaster to Sky at the time of sending.

## 15. GENERAL

- 15.1 **Information and assistance:** Each party shall promptly supply to the other such information and assistance as the other may reasonably request to enable it to perform its obligations under this EPG Agreement. Each party shall ensure that information provided to the other party in accordance or in connection with this EPG Agreement is correct to the best of its knowledge at the time of such provision.
- 15.2 **Counterparts:** This EPG Agreement may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this EPG Agreement.
- 15.3 **Waiver:** The rights of each party under this EPG Agreement are cumulative with, and not exclusive of, rights or remedies provided by law. The rights of each party under this EPG Agreement may be waived only in writing and specifically. Delay in exercising or non-exercise of any right under this EPG Agreement is not a waiver of that right.
- 15.4 **Severability:** If any term of this EPG Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that will not affect:
- (i) the legality, validity or enforceability in that jurisdiction of any other term of this EPG Agreement; or
  - (ii) the legality, validity or enforceability in other jurisdictions of that or any other provision of this EPG Agreement.
- 15.5 **Third Party Rights:** A person who is not a party to this EPG Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999, but this shall not affect any right or remedy of a third party, which exists or is available apart from that Act.
- 15.6 **Entire Agreement:** Save in the case of fraudulent misstatement or fraudulent misrepresentation, each party acknowledges that:
- (i) this EPG Agreement constitutes the entire and only agreement between the parties relating to the subject matter hereof and supersedes all previous agreements between the parties; and
  - (ii) it has not been induced to enter into this EPG Agreement in reliance on, nor has it been given, any warranty, representation, statement, assurance, covenant, agreement, undertaking, indemnity or commitment of any nature whatsoever in respect of the subject matter of this EPG Agreement, other than as expressly set out in this EPG Agreement and, to the extent that either party has been so induced, it unconditionally and irrevocably waives any claims, rights or remedies which it might otherwise have had in relation to the same.

- 15.7 **Freedom of Information:** Sky recognises that the Broadcaster may be required to release information under the Freedom of Information Act 2000 ("FOIA"), and that such obligations may extend to information which is held by the Broadcaster or by another person on behalf of the Broadcaster. The parties agree that if the Broadcaster receives a request under the FOIA to disclose Confidential Information (in respect of which the Broadcaster is a recipient party for the purposes of this EPG Agreement), it shall: (a) promptly notify Sky, and (b) consult with Sky prior to disclosing such Confidential Information, provided that nothing in this Paragraph shall require the Broadcaster to do anything which would be in breach of the FOIA or which would be inconsistent with the Lord Chancellor's Code of Practice on the Discharge of Public Authorities issued pursuant to section 45 of the FOIA.
- 15.8 **Bribery:** Each party will not, and nor will any of its officers, employees, shareholders, representatives or agents, directly or indirectly, either in private business dealings or in dealings with the public sector, offer, give or agree to offer or give (either itself or in agreement with others) any payment, gift or other advantage (whether or not by using any payments under this EPG Agreement) with respect to any matters which are the subject of this EPG Agreement which: (i) would violate any anti-corruption laws or regulations applicable to the Broadcaster or Sky; (ii) is intended to, or does, influence any person to act or reward any person for acting in breach of an expectation of good faith, impartiality or trust, or which it would otherwise be improper for the recipient to accept; (iii) is made to or for a public official with the intention of influencing them and obtaining or retaining an advantage in the conduct of business; or (iv) which a reasonable person would otherwise consider to be unethical, illegal or improper. Without prejudice to Clause 8 (Suspension and Termination), in the event Sky reasonably suspects there to have been a breach of this clause 15.8, Sky may terminate this EPG Agreement immediately upon giving notice in writing to the Broadcaster.
- 15.10 **Law and Jurisdiction:** This EPG Agreement shall be governed and construed in accordance with the laws of England and the parties hereby submit to the exclusive jurisdiction of the English Courts.
- 15.11 **Other:** the parties hereby agree to comply with any other provisions set out in AnnexA.

## **SCHEDULE 1**

### **DEFINITIONS**

In this EPG Agreement, the following words and expressions shall have the meanings ascribed herein.

<b>“3D Format”</b>	the PlanoStereoscopic three dimensional format known as “Side-by-Side (Half)”, as further specified in the relevant Broadcast Requirements.
<b>“Access Card”</b>	a smart card supplied by SSSL for use in a Set Top Box.
<b>“Actual Launch Date”</b>	in respect of a Channel, either (i) the date that the Channel was first listed in the live EPG, such date being prior to the Commencement Date, or (ii) the date that the Channel is first listed in the live EPG pursuant to Paragraph 5.1(ii) of Schedule 2 (for Television Channels or Radio Stations).
<b>“Agreement”</b>	this EPG Agreement together with the Schedules and Annex hereto.
<b>“Approved Adaptation Hub”</b>	a Tandberg Evolution 5000 system, Ericsson iSIS 8000 system or such other adaptation hub each as approved in writing by Sky and SSSL.
<b>“Associated Channel”</b>	any channel broadcast by the Broadcaster or by an Associated Company of the Broadcaster.
<b>“Associated Company”</b>	in the case of a relevant company, any subsidiary and holding company and any subsidiary of such holding company (and “holding company” and “subsidiary” are defined in Section 1159 Companies Act 2006).
<b>“Audio Channel”</b>	a channel which is licensed as a television channel but which does not include video. In this EPG Agreement, an Audio Channel shall be a type of Television Channel.
<b>“Broadcast Requirements”</b>	the requirements listed in Part B of Schedule 3 as changed from time to time in accordance with Clause 5.
<b>“Channel”</b>	a Television Channel or Radio Station specified in Annex A.
<b>“Charges”</b>	the charges payable by the Broadcaster pursuant to Clause 7 of this EPG Agreement.
<b>“Commencement Date”</b>	the date set out in Annex A.
<b>“Conditional Access Services”</b>	encryption services provided by SSSL for enabling the provision of a Television Channel or Radio Station on a subscription or pay-per-view basis, or for otherwise enabling a Television Channel or Radio Station to be available only via an appropriately entitled Access Card.
<b>“Confidential Information”</b>	all information (whether written or oral) designated as such by either party together with all such other information which relates to the business, affairs, subscribers, products, developments, trade secrets, know-how and personnel of either party (or an Associated Company of either party) which may reasonably be regarded as the confidential information of the disclosing party including, without limitation, the

terms of this EPG Agreement, any terms proposed by either party (whether or not agreed) in connection with the negotiation of this EPG Agreement and information relating to programme content or schedules.

**"Contract Period"**

each period of thirty-six (36) months from the Commencement Date.

**"Control" and "Controlled"**

in relation to an entity shall mean the ability to direct the affairs of that entity whether by virtue of contract, ownership of shares or otherwise howsoever.

**"DocuSign"**

DocuSign is a provider of electronic signature software that facilitates the secure exchange and completion of contracts and other legal documents by allowing an authorised person to sign a document electronically on behalf of a party to that document.

**"EPG"**

Sky's electronic programme guide for digital satellite Television Channels and Radio Stations.

**"EPG Data"**

data provided by the Broadcaster in accordance with the Technical Specifications (including, where relevant, scheduling, event and synopsis information in respect of a Channel).

**"EPG Genre"**

genres within the parts of the EPG containing Television Channels and Radio Stations, as further defined in the Listing Methodology.

**"EPG Metadata Aggregator"**

a metadata aggregator as detailed in the Technical Specifications or more specifically if you prefer the document "EPG Metadata Augmentation" v1.2.0 or later

**"EPG Services"**

the electronic programme guide services specified in Schedule 2.

**"EPG Sub-Genre"**

sub-genres within EPG Genres, as further defined in the Listing Methodology.

**"Fixed 3D Channel" and "Fixed HD Channel"**

A channel which launched into the EPG via the HD/3D Launch Queue and any channel or channels which subsequently replaced that channel in the EPG from time to time following a transfer of the rights to have such channel listed in the EPG.

**"Fixed Local TV simulcast"**

A channel which launched into the EPG via the Local TV Launch Queue and any channel or channels which subsequently replaced that channel in the EPG from time to time following a transfer of the rights to have such channel listed in the EPG.

**"Force Majeure"**

any cause beyond a party's reasonable control affecting the performance by that party of its obligations hereunder including but not limited to acts of God, insurrection or civil disorder, war or military operations, national or local emergency, avian influenza pandemic, acts or omissions of Government or regulatory authority, industrial disputes of any kind (not involving that party's employees), fire, flood, lightning, explosion, subsidence, uplink and/or satellite failure or degradation, and acts or omissions of

	persons or bodies beyond the reasonable control of the affected party.
<b>“Front Sheet”</b>	the Front Sheet to the Platform Services Master Agreement.
<b>“HD/3D Launch Queue”</b>	the Launch Queue for HD and 3D channels which opened for applications on 30 March 2010.
<b>“High Definition Format”</b>	the format known as “1080i/25” or the format known as “720p/50”, as further specified in the relevant Broadcast Requirements.
<b>“Intellectual Property Rights”</b>	patents, trade marks, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, know-how, trade or business names and other similar rights or obligations whether registrable or not in any country.
<b>“Intended Launch Date”</b>	a scheduled date for launch of a Channel into the EPG, as is notified to the Broadcaster in accordance with Paragraph 2.1 of Schedule 2.
<b>“Launch Window”</b>	the period defined as such in Paragraph 5.1(ii) of Schedule 2.
<b>“Launch Queue”</b>	any list of channels waiting to launch into the EPG from time to time and which is operated by Sky, which for the avoidance of doubt includes channels in the HD/3D Launch Queue and the Local TV Launch Queue.
<b>“Listing Methodology”</b>	the document published by Sky entitled “Method for allocating listings in Sky’s EPG”, as amended from time to time.
<b>“Local TV Launch Queue”</b>	the Launch Queue for Local TV simulcasts (as defined in the Listing Methodology) which opened for applications on 16 September 2013.
<b>“New Channel Charges”</b>	the Charges described as such in Clause 7.2.
<b>“Platform Datastream”</b>	conditional access, EPG and software download data identified in the Technical Specifications as requiring cross-carriage, together with the required DVB compliant data, including the network information tables, cross-carried between different bouquets in the satellite system.
<b>“Platform Freeze”</b>	a period during which Sky limits or ceases any non-essential changes to the EPG or related platform arrangements.
<b>“Published Price List”</b>	the Charges published in accordance with Clause 7.2.
<b>“Radio Station”</b>	a radio station listed in or seeking a listing in the Radio EPG Genre.
<b>“Regionalisation Services”</b>	services provided by SSSL enabling Channels to be listed in the versions of the EPG seen only in particular types of premises or in particular regions, determined by a viewer’s Access Card.
<b>“Service Credit”</b>	an amount credited by Sky pursuant to Clause 4 and Schedule 4.

<b>“Service Failure”</b>	a service failure described in Clause 4.3.
<b>“Set Top Box”</b>	a set top box (or equivalent system integrated into a TV set) which is compatible with the Technology.
<b>“Slate”</b>	either a static image or a repeating sequence of static images which is or are broadcast on the Channel.
<b>“SSSL”</b>	Sky Subscribers Services Limited, a company registered in England with company number 02340150 of Grant Way, Isleworth, Middlesex TW7 5QD.
<b>“Technical Specifications”</b>	the technical specifications and operational requirements listed in Part A of Schedule 3 as changed from time to time in accordance with Clause 5.
<b>“Technology”</b>	all software, hardware, other equipment and procedures used in the provision of the EPG Services.
<b>“Television Channel”</b>	a television channel listed or seeking to be listed in any part of the EPG other than in the Radio Genre and which shall include, for the avoidance of doubt, an Audio Channel.
<b>“Term”</b>	the period from the Commencement Date together with any and all Contract Periods.
<b>“Territory”</b>	the United Kingdom of Great Britain and Northern Ireland, the Republic of Ireland, the Channel Islands and the Isle of Man.
<b>“Third Parties”</b>	any and all broadcasters other than the Broadcaster (including, without limitation, Sky) of any comparable Television Channels or Radio Stations (as appropriate) in respect of which Sky provides EPG services.
<b>“Total Service Failure”</b>	a Service Failure described in Clause 4.4.
<b>“Viewing Share”</b>	the monthly average share of viewing of individuals in Sky digital satellite platform homes based on the year up to and including the month preceding the date that Sky suspends the provision of EPG Services pursuant to Clause 8.1, as measured by the consolidated BARB ratings against all day Monday to Sunday (based on universe), or, in the event that BARB should cease to measure audience on such basis, such other measurement as Sky considers appropriate.

## **SCHEDULE 2**

### **EPG SERVICES**

#### **PART A: PRE-LAUNCH AND LAUNCH OBLIGATIONS FOR TELEVISION CHANNELS AND RADIO STATIONS**

##### **1. Applicability of Part A**

Part A of this Schedule 2 shall only apply in respect of Television Channels and Radio Stations listed in Annex A which are listed in a Launch Queue and which have not launched into the live EPG on the date of signature of this EPG Agreement.

##### **2. Intended Launch Date**

- 2.1 Sky shall use all reasonable endeavours to inform the Broadcaster of the Intended Launch Date for the Channel no less than twelve (12) weeks prior to such date or, where the Channel is listed in the HD/3D Launch Queue, no less than sixteen (16) weeks prior to such date or, where the Channel is listed in the Local TV Launch Queue, no less than ten (10) weeks prior to such date.
- 2.2 Sky may delay the Intended Launch Date at any time prior to launch where it considers it necessary to do so to address any concerns about the stability, safety or integrity of the digital satellite platform. The Broadcaster shall be informed about any such delay in writing as soon as reasonably practicable.

##### **3. Pre-launch obligations**

- 3.1 Not less than six (6) weeks prior to the Intended Launch Date, the parties shall use all reasonable endeavours to arrange a meeting either at Sky's premises or via telephone conference call to discuss the launch of the Channel. At that meeting, the Broadcaster shall provide to Sky information which shall include:
- (i) the time(s) of day the Channel will be broadcast;
  - (ii) the identity of the transponder and schedule facility providers in respect of the Channel; and
  - (iii) service configuration details in respect of the Channel.
- 3.2 Provided that the Broadcaster has complied with Paragraph 3.1(iii), Sky shall, not less than four (4) weeks prior to the Intended Launch Date, configure the Channel such that it may be made available to Set Top Boxes when transmitted via an Approved Adaptation Hub.
- 3.3 Not less than four (4) weeks prior to the Intended Launch Date, the Broadcaster shall:
- (i) provide Sky with sample scheduling, event and synopsis information for the Channel(s) in accordance with the Technical Specifications in respect of the two (2) week period prior to the Intended Launch Date;
  - (ii) provide Sky with actual scheduling, event and synopsis information for the Channel(s) in accordance with the Technical Specifications in respect of the two (2) week period following the Intended Launch Date; and
  - (iii) where relevant, provide an EPG Metadata Aggregator with enriched programme metadata and scheduling, event and synopsis information for the Channel(s) in accordance with the Technical Specifications in respect of the two (2) week period following the Intended Launch Date.
- 3.4 In the case of Television Channels, the Broadcaster shall provide, upon Sky's request, sample programming and/or further representative schedules for the Channel in order to assist Sky to determine the most appropriate EPG Genre and/or EPG Sub-Genre for the Channel.

3.5 Not less than two (2) weeks prior to the Intended Launch Date, the Broadcaster shall ensure that a signal for the Channel is being broadcast. Such signal may consist of “bars and tones”.

3.6 Not less than one (1) week prior to the Intended Launch Date, the Broadcaster shall ensure that the Channel is being broadcast with representative audio, and, in the case of Television Channels, representative video.

#### **4. Pre-launch obligations for Channels broadcast in High Definition Format or 3D Format**

4.1 Where the Channel is to be broadcast in a High Definition Format or a 3D Format, Paragraph 3 above shall not apply and, instead, the obligations set out in this Paragraph 4 shall apply.

4.2 The parties shall use all reasonable endeavours to arrange a meeting at Sky's premises to discuss the launch of the Channel within two (2) weeks of Sky requesting such a meeting. The Broadcaster acknowledges that such meeting is likely to be called before Sky has notified the Broadcaster of the Intended Launch Date for the Channel. At that meeting, the Broadcaster shall provide to Sky information which shall include:

- (i) the time(s) of day the Channel will be broadcast; and
- (ii) the identity of the transponder and schedule facility providers in respect of the Channel.

4.3 The Broadcaster shall provide to Sky the service configuration details in respect of the Channel no less than ten (10) weeks before the Intended Launch Date.

4.4 Provided that the Broadcaster has complied with Paragraph 4.3, Sky shall, not less than eight (8) weeks prior to the Intended Launch Date, configure the Channel such that it may be made available to Set Top Boxes when transmitted via an Approved Adaptation Hub.

4.5 Not less than six (6) weeks prior to the Intended Launch Date, the Broadcaster shall ensure that a signal for the Channel is being broadcast. Such signal may consist of “bars and tones”.

4.6 Not less than four (4) weeks prior to the Intended Launch Date, the Broadcasters shall:

- (i) ensure that the Channel is being broadcast with representative audio, and, in the case of Television Channels, representative video;
- (ii) provide Sky with sample scheduling, event and synopsis information for the Channel(s) in accordance with the Technical Specifications in respect of the four (4) week period prior to the Intended Launch Date;
- (iii) provide Sky with actual scheduling, event and synopsis information for the Channel(s) in accordance with the Technical Specifications in respect of the two (2) week period following the Intended Launch Date; and
- (iv) where relevant, provide an EPG Metadata Aggregator with enriched programme metadata and scheduling, event and synopsis information for the Channel(s) in accordance with the Technical Specifications in respect of the two (2) week period following the Intended Launch Date.

4.7 In the case of Television Channels, the Broadcaster shall provide, upon Sky's request, sample programming and/or further representative schedules for the Channel in order to assist Sky to determine the most appropriate EPG Genre and/or EPG Sub-Genre for the Channel.

#### **5. Launch into the EPG**

5.1 Provided that Sky is satisfied that the Broadcaster has complied with Paragraphs 3.1 through 3.6 above (or Paragraphs 4.1 through 4.7 above in the case of Channels to be broadcast in High Definition Format or 3D Format), then:

- (i) Sky shall notify the Broadcaster of the Channel's initial EPG Genre (and EPG Sub-Genre where relevant) and channel number not less than two (2) days prior to the Intended Launch Date; and
  - (ii) Sky shall list the Channel in the EPG (by incorporating the EPG Data provided by the Broadcaster into the Platform Datastream) with effect from the Intended Launch Date or on such other date which the Broadcaster may nominate which falls within the "Launch Window". In this Schedule, "Launch Window" shall mean the period of seven (7) days from the Intended Launch Date, excluding Fridays, Saturdays and Sundays during such period.
- 5.2 If Sky is not satisfied (in its reasonable opinion) that the Broadcaster has complied with Paragraphs 3.1 through 3.6 (inclusive) (or Paragraphs 4.1 through 4.7 (inclusive) for Channels to be broadcast in High Definition Format or 3D Format) of this Schedule 2 then Sky shall have no obligation to list the Channel in the EPG from the Intended Launch Date or within the Launch Window and, where Sky has already configured the Channel pursuant to Paragraph 3.2 or Paragraph 4.4 (as the case requires), may reconfigure the Channel with immediate effect. Where this Paragraph 5.2 applies, Sky shall be entitled to terminate this EPG Agreement (in so far as it applies to the Channel affected by this Paragraph 5.2) forthwith by service of notice in writing on the Broadcaster within fourteen (14) days of the end of the Launch Window.
- 5.3 Where Paragraph 5.2 applies, the Broadcaster may still request that the Channel be launched into the EPG, but the Broadcaster acknowledges that the Channel will have to be so launched in accordance with Sky's standard channel launch procedures.

## **PART B: POST LAUNCH OBLIGATIONS FOR TELEVISION CHANNELS AND RADIO STATIONS**

### **6. Applicability of Part B**

Part B of this Schedule 2 shall apply in respect of all Television Channels and Radio Stations.

### **7. EPG Data and the Platform Datastream**

- 7.1 The Broadcaster shall provide Sky with scheduling, event and synopsis information for the Channel in accordance with the Technical Specifications. Sky shall incorporate such information into the Platform Datastream as soon as is reasonably possible following receipt from the Broadcaster. Sky shall be entitled to pass the scheduling, event and synopsis information provided by the Broadcaster to third parties to the extent necessary for the performance by Sky of its obligations under this EPG Agreement.
- 7.2 The information provided by the Broadcaster pursuant to Paragraph 7.1 shall be provided on a continuous basis such that, at all times, Sky has all such information in respect of (at least) the next fourteen (14) day period.
- 7.3 Sky shall make the Platform Datastream available to the Broadcaster at Sky's network router, located at Sky's premises. The Broadcaster shall be responsible for transmitting or procuring the transmission of the Platform Datastream from Sky's network router via an Approved Adaptation Hub, where the Platform Datastream shall attach to the broadcast stream for the Channel(s).
- 7.4 The Broadcaster shall, at its own cost, transmit or procure the transmission of the Platform Datastream on each satellite transponder which carries a digital satellite broadcast of any of the Channels intended for receipt in the Territory. If the Broadcaster has procured satellite transponder capacity directly from Sky, it shall be deemed to have complied with the foregoing requirement in respect of any such satellite transponder. The Broadcaster shall not and shall not permit any third party to interfere with, alter, add data to or remove data from the Platform Datastream or delay its transmission.

- 7.5 Sky shall make the Platform Datastream available to all customers of Sky's EPG Services and shall require such customers to transmit or procure the transmission of the Platform Datastream on a basis equivalent to that required of the Broadcaster by Paragraph 7.4.
- 7.6 Sky shall use all reasonable endeavours to minimise the capacity required to transmit the Platform Datastream and shall in any case ensure that the capacity required to transmit the Platform Datastream does not exceed 1.3Mbit/s per satellite transponder, or such other capacity as may be notified by Sky on no less than ninety (90) days' notice.

## **8. EPG Listings**

- 8.1 Subject to Paragraphs 8.1B and 8.2 of this Schedule 2, Sky shall list the Channel in the EPG with the name and channel description set out in Annex A, and, where known on the date of signature, in the EPG Genre (and EPG Sub-Genre where relevant) at the channel number specified in Annex A.

- 8.1B Subject to the Broadcaster and, if appropriate, the distributor of the Channel, exercising any opt-out(s) available pursuant to the Listing Methodology, where a standard definition television channel has an HD Simulcast (as defined in the Listing Methodology), Sky shall swap the channel number of the channels in accordance with this Paragraph 8.1B such that the HD Simulcast is listed at the higher EPG position. Accordingly, in the event that:

8.1B.1 the Channel is broadcast in standard definition format and the Broadcaster or another broadcaster within the same wholly owned corporate group as the Broadcaster also broadcasts an HD Simulcast of the Channel, and such HD Simulcast is listed below the Channel in the EPG, then:

- (i) unless Paragraph 8.1B.1(ii) below applies, the channel number of the Channel shall be swapped with the channel number of the HD Simulcast in the version of the EPG line up made available to viewers in residential premises, retail premises and commercial premises (as defined in the Listing Methodology) with high definition Set Top Boxes; or
- (ii) if such HD Simulcast is distributed on a pay TV basis in a different pay-TV package to the Channel (including where the Channel is broadcast on a non-pay TV basis) the channel number of the Channel (as specified in Annex A) shall be swapped with the channel number of the HD Simulcast in the version of the EPG line up made available to viewers in residential premises, retail premises and commercial premises with high definition Set Top Boxes who are entitled to view such HD Simulcast; and
- (iii) with effect from 1 May 2018 (or such later date as notified by Sky in writing) in either of the circumstances outlined at (i) and (ii) above, the Secondary Channel (as defined in the Listing Methodology) shall be moved to the appropriate number range for Secondary Channels (as described in the Listing Methodology).

8.1B.2 the Channel is an HD Simulcast of another channel broadcast by the Broadcaster or another broadcaster within the same wholly owned corporate group as the Broadcaster in standard definition format and the Channel is listed in the EPG below such other channel, then:

- (i) unless Paragraph 8.1B.2(ii) below applies, the channel number of the Channel shall be swapped with the channel number of the channel broadcast in standard definition format in the version of the EPG line up made available to viewers in residential premises, retail premises and commercial premises with high definition Set Top Boxes; or

- (ii) if the Channel is distributed on a pay-TV basis in a different pay-TV package to the channel broadcast in standard definition format (including where the channel broadcast in standard definition format is broadcast on a non-pay TV basis), the channel number of the Channel (as specified in Annex A) shall be swapped with the channel number of the channel broadcast in standard definition format in the version of the EPG line up made available to viewers in residential premises, retail premises and commercial premises with high definition Set Top Boxes who are entitled to view the Channel; and
  - (iii) with effect from 1 May 2018 (or such later date as notified by Sky in writing) in either of the circumstances outlined at (i) and (ii) above, the Secondary Channel (as defined in the Listing Methodology) shall be moved to the appropriate number range for Secondary Channels (as described in the Listing Methodology).
- 8.2 Sky has the right to move the Channel(s) within the EPG in accordance with the Listing Methodology.
- 8.3 In the event that the Broadcaster wishes to change the name of the Channel or the channel description as shown on the EPG, the Broadcaster shall request Sky's prior written consent. The Broadcaster acknowledges that the name of the Channel as shown on the EPG must at all times match or closely match the name on the broadcast licence specified in Annex A. Where the Broadcaster wishes to change the name of the Channel as shown on the EPG to a name that does not match or closely match the name on such broadcast licence, the Broadcaster shall provide Sky with evidence of the written consent of the broadcast licensing authority authorising such a name change prior to Sky providing its written consent to the change on the EPG. Sky shall not unreasonably withhold its consent to a requested change and shall consent or decline the Broadcaster's request within ten (10) working days of the later of: (i) the Broadcaster's request to change the name of the Channel as shown on the EPG; or (ii) the provision to Sky of the written consent of the broadcast licensing authority to the change of name on the broadcast licence where such consent is required in accordance with this Paragraph 8.6. Where Sky consents to the change(s), Sky shall make the requested change(s) within a further five (5) working days, provided that Sky shall not be required to make any such change during a Platform Freeze.
- 8.4 If the Channel is broadcast in standard definition format, Sky shall ensure that:
  - 8.4.1 the EPG made available in all versions of Set Top Box shall, in accordance with the Technical Specifications, list the channel name and the scheduling, event and synopsis information provided by the Broadcaster. In particular, Sky shall ensure that the EPG made available in all versions of Set Top Box shall be able to list programme information for the Channel in the main television grid and in the appropriate EPG Genre and/or EPG Sub-Genre;
  - 8.4.2 each viewer that is entitled to view the Channel shall be able to tune his/her standard definition Set Top Box to view the Channel by selecting it via the EPG either through:
    - (i) entering the programme number for the Channel;
    - (ii) surfing onto the Channel by use of the channel up/channel down commands; or
    - (iii) selecting, from within any of the relevant listings, the programme currently being broadcast on the Channel; and
  - 8.4.3 the EPG made available in all versions of Set Top Box shall enable viewers to navigate through programme information which is superimposed over the screened image.

- 8.5 If the Channel is broadcast in High Definition Format or 3D Format, Sky shall ensure that:
- 8.5.1 the EPG made available in all versions of Set Top Box shall, in accordance with the Technical Specifications, list the channel name. For the avoidance of doubt, the EPG made available in standard definition Set Top Boxes will not list the scheduling, event and synopsis information for the Channel;
  - 8.5.2 the EPG made available in high definition Set Top Boxes shall, in accordance with the Technical Specifications, list the channel name and the scheduling, event and synopsis information provided by the Broadcaster. In particular, Sky shall ensure that the EPG available in high definition Set Top Boxes shall be able to list programme information for the Channel in the main television grid and in the appropriate EPG Genre and/or EPG Sub-Genre;
  - 8.5.3 each viewer that is entitled to view the Channel shall be able to tune his/her high definition Set Top Box to view the Channel by selecting it via the EPG either through:
    - (i) entering the programme number for the Channel;
    - (ii) surfing onto the Channel by use of the channel up/channel down commands; or
    - (iii) selecting, from within any of the relevant listings, the programme currently being broadcast on the Channel; and
  - 8.5.4 the EPG made available in high definition Set Top Boxes shall enable viewers to navigate through programme information which is superimposed over the screened image.
- 8.6 For the avoidance of doubt, the parties acknowledge that it is not possible to view a channel broadcast in High Definition Format or 3D Format via a standard definition Set Top Box.

## **9. Regionalisation and viewer types**

- 9.1 SSSL's technology supports a number of different groups of EPG listings (known as bouquets) which enables the Channel to be listed in the versions of the EPG seen only in particular types of premises or in particular regions (determined according to the viewer's Access Card). The Channel shall be listed in all bouquets (and thus shall be available via the EPG to all viewers of the EPG, including viewers in commercial premises) unless the Broadcaster has (from time to time) procured the necessary Conditional Access Services and/or Regionalisation Services from SSSL. If the Broadcaster has (from time to time) procured the necessary Conditional Access Services from SSSL, the Channel shall be listed in the bouquets specified in Annex A. Nothing in this Paragraph 9 shall be read as entitling the Broadcaster to receive any Conditional Access Services and/or Regionalisation Services from SSSL.
- 9.2 The EPG version displayed by a Set Top Box is determined according to:
- (i) whether an active Access Card has been inserted into the Set Top Box (and the EPG version displayed before an active Access Card has been inserted into a Set Top Box shall be referred to in this EPG Agreement as the "Default Bouquet"). For the avoidance of doubt, the Broadcaster acknowledges that the Default Bouquet is available both inside and outside the Territory;
  - (ii) where an active Access Card has been inserted into a Set Top Box, whether the Access Card is associated with residential premises, retail premises or commercial premises, the classification of such premises being determined by SSSL from time to time (and in this EPG Agreement each group of EPG versions shall be referred to as a "Bouquet", where the "Standard Bouquet" is displayed in respect of Access Cards associated with residential premises or retail premises (as defined in the Listing Methodology), and the "Commercial Bouquet" is displayed in respect of

Access Cards associated with commercial premises (as defined in Sky's Listing Methodology)); and

- (iii) within each Bouquet, the region in the Territory in which the Reception Address for the relevant Access Card is located (and each such EPG version shall be referred to in this EPG Agreement as a "Sub-Bouquet").

9.3 "Reception Address" shall mean the address recorded by SSSL from time to time as being the address at which an Access Card in a Set Top Box is located, such address being notified to SSSL via a customer management system interfacing with SSSL's subscriber card management system.

9.4 Subject to Clause 5.1, Sky reserves the right to make changes to the Bouquet structure or the Default Bouquet or the way in which Channel(s) are listed in Bouquets, including the right not to list any Channel or regional variant of the Channel in the Default Bouquet.

## **10. Other functionality**

10.1 Without limitation to the functionality specified in the Technical Specifications or otherwise notified to the Broadcaster from time to time as being available in respect of its Channel(s), the EPG shall include functionality which (without limitation) shall enable viewers to:

- (i) restrict the viewing of certain programmes and certain channels via parental control functionality;
- (ii) view available subtitles broadcast with the Channel(s);
- (iii) set recordings and/or reminders (where applicable) in respect of programmes broadcast in the future;
- (iv) subject to the viewer having the necessary Set Top Box and Sky+ entitlement, use personal video recorder functionality in connection with the Channel(s); and
- (v) subject to the viewer having the necessary Set Top Box and entitlement(s), view content in second and subsequent locations within the home.

10.2 The Broadcaster shall be entitled to use functionality enabling viewers to set reminders (where available) and/or purchase programmes by reacting to the broadcast of a green icon with a relevant programme promotion ("Bookable and Purchasable Promotions functionality") if (and only if) the Broadcaster has entered into a relevant amendment to this EPG Agreement in accordance with Clause 15.4. The Broadcaster acknowledges that additional charges shall apply in respect of its use of Bookable and Purchasable Promotions functionality.

## **PART C: OBLIGATIONS FOR ALL CHANNELS**

### **11. Applicability of Part C**

Part C of this Schedule 2 shall apply in respect of all Channels.

### **12. Further functionality**

Without prejudice to Sky's right to vary the Charges pursuant to Clause 7 or to vary the Technical Specifications or Broadcast Requirements or this Schedule 2 pursuant to Clause 5, Sky may impose new charges in respect of specific additional new EPG functionality which Sky makes available to Third Parties on an optional basis.

### **13. Operational changes**

The Broadcaster may request that Sky implement operational changes, such as changes to the service configuration details for the Channel, or a change of scheduling provider in respect of the Channel. Such changes will be undertaken as agreed between the parties. Where Sky notifies the Broadcaster in advance of undertaking the work that Sky requires the payment of its costs for undertaking work pursuant to this Paragraph 18, the

Broadcaster shall pay such costs. The Broadcaster acknowledges that Sky has wider responsibilities than to the Broadcaster and that, accordingly, Sky may not be able to prioritise operational changes for the Broadcaster. The Broadcaster also acknowledges that some operational changes may not be undertaken during a Platform Freeze.

### **SCHEDULE 3**

### **SPECIFICATIONS**

#### **PART A: TECHNICAL SPECIFICATIONS**

The following documents, as amended from time to time:

1. Broadcasters Reference Guide to EPG Services, which consists of the following documents:
  - Introduction to the Broadcasters' Reference Guide to EPG Services.
  - Broadcast Adaptation Requirements.
  - Broadcaster's Technical Set Up.
  - Sky TV Guide Content Specification.
  - Winter/Summer Changeover Guidelines.
  - Digital Broadcasters Flat File Interface Specification.
  - Operational Guide.
  - Broadcaster's Connectivity Guidelines and Specification.
  - BFS Remote Access.
  - Sky Fault Handling Procedures.
  - Sky Contacts.
  - EPG Metadata Augmentation.
2. Generic Automation Synchronisation, Interface Specification (only where applicable).

#### **PART B: BROADCAST REQUIREMENTS**

The following documents, as amended from time to time:

1. ISO/IEC IS 13818-1/-2/-3: "Information technology - Generic coding of moving pictures and associated audio - Part 1: Systems; Part 2: Video and Part 3: Audio".  
Video encoded bit-streams shall comply with the Main Profile Main Level restrictions as described in ISO/IEC 13818-2 [2], Section 8.2.
2. ETSI EN 300 421 "Digital broadcasting systems for television, sound and data services, framing structure, channel coding and modulation for 11/12GHz satellite services".
3. ETSI TR 101 154 Digital Video Broadcasting (DVB); Implementation guidelines for the use of MPEG-2 Systems, Video and Audio in satellite, cable and terrestrial broadcasting applications.  
The audio shall be encoded in any one of the modes specified in Section 6.1 of ETSI TR 101 154. For MPEG-2 encoded bit-streams with total bit-rates greater than 448kbit/s for Layer 1 or 384kbit/s for Layer II, an extension bit-stream shall be used. The bit-rate of that extension may be in the range 0 to 384kbit/s.
4. ETSI EN 300 468, "Digital broadcasting systems for television, sound and data services, specification for Service Information (SI) in Digital Video Broadcasting (DVB) Systems".
5. ETSI EN 300 472, "Digital Video Broadcasting (DVB); Specification for conveying ITU-R System B Teletext in DVB bitstreams".

And, additionally, in respect of Channels which are broadcast in High Definition Format, the following documents, as amended from time to time:

6. Sky High Definition and 3D Television, Broadcast Guidelines (as applicable to Channels which are broadcast in High Definition Format).

7. ISO/IEC 14496-10 "Information Technology - Generic Coding of moving pictures and associated audio - Part 10: Advanced Video Coding". / ITU-T Rec.H.264.
8. ISO/IEC 13818-1: 2000/Amendment 3:(2004) "Transport of AVC video data over ITU-T Recommendation H.222.0 | ISO/IEC 13818-1 streams".

And, additionally, in respect of Channels which are broadcast in 3D Format, the following documents, as amended from time to time:

9. Sky High Definition and 3D Television, Broadcast Guidelines (as applicable to Channels which are broadcast in 3D Format).

**SCHEDULE 4**  
**SERVICE CREDITS**

Service Credits awarded by Sky to the Broadcaster for Service Failures in accordance with Clause 4 shall be calculated on the basis set out below:

**In respect of a Service Failure that is not a Total Service Failure:**

Number of minutes during which the Service Failure persists x annual Charges payable in respect of the affected Channel at time of commencement of the Service Failure x 0.00000152207.

**In respect of a Total Service Failure:**

Number of minutes during which the Total Service Failure persists x annual Charges payable in respect of the affected Channel at time of commencement of the Total Service Failure x 0.00000190258.

## **SCHEDULE 5**

### **ADULT GENRE MONITORING PROCEDURE**

- 1.1 Where the Channel is most appropriately listed in the Adult genre and is broadcast pursuant to a licence (or equivalent authorisation) other than a licence issued by Ofcom (or any successor regulator in the United Kingdom), the parties hereby acknowledge and agree that Sky may implement the below monitoring procedure.
- 1.2 Sky may appoint an independent expert (the "Independent Reviewer") to review the content on the Channel for compliance with the rules contained in the Broadcast Committee of Advertising Practice Code (the "BCAP Code"), the Ofcom Broadcasting Code, or any successor code of practice, regulation or law in force at the relevant time (the "Relevant Codes") either periodically or ad hoc pursuant to the procedures set out in this Schedule 5.
- 1.3 Sky shall arrange recording of the content on the Channel and delivery of the same to the Independent Reviewer, to the extent required for the conduct of the services provided by the Independent Reviewer.

#### *Periodic Review*

- 1.4 The Independent Reviewer shall follow the monitoring process notified to the Broadcaster in writing at the relevant point at which the Channel is most appropriately listed in the Adult genre, and periodically thereafter, in advance of any changes (the "Periodic Review").
- 1.5 The Independent Reviewer shall provide a report to Sky each calendar month (the "Independent Reviewer Report") specifying whether there is a Relevant Code Breach.
- 1.6 A Relevant Code Breach occurs where the Independent Reviewer reasonably believes that there is content on the Channel that does not comply with the Relevant Codes. For the avoidance of doubt, multiple instances of breach of the Relevant Codes in a single programme shall constitute a single instance for the purposes of this Paragraph 1.6.
- 1.7 To the extent that an Independent Reviewer Report identifies a Relevant Code Breach, Sky shall provide the Broadcaster with a copy of the same.
- 1.8 The Broadcaster shall be liable for all reasonable costs and charges incurred in connection with the services provided by the Independent Reviewer in connection with the Periodic Review and production of the Independent Reviewer Report. Sky shall notify the Broadcaster of the relevant costs and charges in writing at the relevant point at which the Channel is most appropriately listed in the Adult genre, and thereafter, in advance of any changes. The Broadcaster shall pay each invoice rendered in accordance with this Paragraph 1.8 in cleared funds within thirty (30) days of the date of the invoice (the "due date").

#### *Ad Hoc Review*

- 1.9 Sky shall be entitled to request the provision of an ad hoc report from the Independent Reviewer (the "Independent Reviewer Ad Hoc Report"), where Sky reasonably believes that the content on the Channel may be, or may have been, in breach of the Relevant Codes (the "Ad Hoc Review").
- 1.10 Following a suspension pursuant to Clause 8.1 (xiv) of this EPG Agreement, Sky shall request the provision of an Independent Reviewer Ad Hoc Report, to confirm whether or not there has been a Relevant Code Breach.

- 1.11 To the extent that an Independent Reviewer Ad Hoc Report identifies a Relevant Code Breach, whether requested under Paragraph 1.9 or Paragraph 1.10, Sky shall provide the Broadcaster with a copy of the same.
- 1.12 The Broadcaster shall be liable for all reasonable costs and charges incurred in connection with the services provided by the Independent Reviewer in connection with the Ad Hoc Review and production of the Independent Reviewer Ad Hoc Report, where such report indicates that there has been one (or more) Relevant Code Breaches. Sky shall notify the Broadcaster of the relevant costs and charges in writing at the relevant point at which the Channel is most appropriately listed in the Adult genre, and thereafter, in advance of any changes. The Broadcaster shall pay each invoice rendered in accordance with this Paragraph 1.12 in cleared funds within thirty (30) days of the date of the invoice (the “due date”).