
LICENCE AGREEMENT
pursuant to the New Zealand Universities Communication Works Licensing Scheme

This **LICENCE AGREEMENT** is made on 2014 between the following parties:

1. Audio-Visual Copyright Society Limited (ACN 003 912 310) of Level 1, 140 Myrtle Street, Chippendale, New South Wales, 2008, Australia trading as Screenrights ("**Screenrights**"); and
2. University of Waikato of Hillcrest Road, Hillcrest, Hamilton, New Zealand (the "**Institution**")

BACKGROUND

- A. Screenrights is a licensing body established within the terms of Part VIII of the Copyright Act 1994 (New Zealand) (the "**Act**").
- B. Screenrights operates, inter alia, a licensing scheme that authorises the copying of Licensed Communication Works and the communication of such copies by New Zealand universities in the circumstances set out in section 48 of the Act (the "**Licensing Scheme**").
- C. The Institution is a New Zealand university and is an Educational Establishment within the meaning of section 2 of the Act.
- D. The Institution wishes to obtain from Screenrights a licence under the Licensing Scheme to copy Licensed Communication Works, and to communicate such copies for the educational purposes of the Institution and any other Institution that currently holds a licence from Screenrights.
- E. Screenrights agrees to grant the Institution a licence and the Institution agrees to take a licence in accordance with the terms and conditions contained in this licence agreement.

1. Overview and Interpretation

- 1.1 This licence agreement specifies the conditions upon which Screenrights grants the Institution a Licence.
- 1.2 Special terms used in more than one place are defined in the dictionary in Clause 18.
- 1.3 In this licence agreement, unless the context otherwise requires:
- (a) monetary references are references to New Zealand currency;
 - (b) derivatives of a word defined in this licence agreement have a corresponding meaning; and
 - (c) the definitions of words and expressions in the Act apply to this licence agreement except to the extent of any inconsistency with this licence agreement in which event the licence agreement prevails.

2. Term

- 2.1 The Term of this licence agreement is from 1 January 2015 to 31 December 2018, unless terminated earlier in accordance with Clause 2.2 or Clause 12.
- 2.2 In relation to section 48 of the Act or any other section of the Act which directly affects the rights of the parties under the terms of this licence agreement, if a material change in law is made and comes into effective operation during the Term, the parties must, as soon as practicable, negotiate in good faith on changes (if any) to this licence agreement which seem appropriate. If the parties cannot agree on whether adjustments should be made or what those adjustments, if any, should be, within 30 days from the commencement of such negotiations either party may terminate this licence agreement effective at the end of a calendar year, provided that at least 6 months prior written notice has been given to the other party of the intention to terminate.

3. Grant of Licence and Indemnity

- 3.1 Screenrights on behalf of and with the authority of its members grants to the Institution a licence on the terms and conditions set out in this licence agreement and in accordance with section 48 of the Act to copy, or to authorise others to copy on the Institution's behalf, Licensed Communication Works, or copies of such copies and to communicate such works or copies for the educational purposes of the Institution or any other Institution holding a licence from Screenrights for the Term of this licence agreement. For the avoidance of doubt Communication Work includes but is not restricted to works transmitted on the internet (the "**Licence**").
- 3.2 Without restricting the generality of the foregoing and for the avoidance of doubt, it is agreed that the Institution may perform, play or show any Licensed Communication Work for the educational purposes of the Institution.
- 3.3 Screenrights warrants that it is authorised to enter into this licence agreement and to grant the Licence and indemnity.
- 3.4 Subject to Clause 3.5, Screenrights agrees to indemnify and keep indemnified the Institution and any other Institution as may copy or communicate a copy of a Licensed Communication Work made pursuant to this licence against all loss, damage, costs, charges and expenses (including reasonable legal costs) which the Institution may suffer or incur in respect of any claims which may be made upon or against the Institution as a result of the copying or communication of the Licensed Communication Work by the Institution or its duly authorised agent. For the removal of doubt, this indemnity covers any work or works included in that Licensed Communication Work.
- 3.5 The Institution shall promptly notify Screenrights of any such claim, demand or action, referred to in Clause 3.4 and authorise Screenrights to institute, prosecute

and defend any proceedings and to do such acts as Screenrights may deem necessary, consistent with all relevant New Zealand law, including using the name of the Institution in any such proceedings, and the Institution shall give Screenrights all reasonable assistance in proving and defending any claims, demands, actions or proceedings.

3.6 In the event of any such claim, demand, action or proceedings, referred to in Clause 3.5 herein, Screenrights agrees to consult with the Institution as to its intended response or defence or settlement to such claim, demand, action or proceedings.

3.7 In any response, defence or settlement of any matter or claim referred to in this clause Screenrights shall at all times recognise and abide by the academic freedoms of the Institution as set out in Clause 3.8 of this licence.

3.8 Screenrights undertakes that it will at all times and in respect of all things howsoever arising under this licence agreement protect and enhance the academic freedoms of the institution as set out in Part XIV Education Act 1989.

4. The Institution and Screenrights

4.1 The Institution warrants that it is a New Zealand university and an Educational Establishment.

4.2 The Institution warrants that any Licensed Communication Work or copy of such a work which is made by it or on its behalf under the Licence will be communicated by the Institution (or another institution in accordance with Clause 3.1 above) for its educational purposes only.

4.3 The Institution agrees to inform members of its staff of its obligations under this licence agreement.

4.4 The Institution acknowledges that it has authorised the NZVCC to negotiate on its behalf with respect to all matters pertaining to or arising under this licence agreement.

4.5 Screenrights agrees to provide such information and assistance as the Institution

may reasonably require from time to time to understand its rights and obligations under this licence agreement.

4.6 Screenrights acknowledges that:

(a) no other New Zealand tertiary education institution has been, nor will be during the Term of this licence agreement, offered a licence under the Licensing Scheme on terms any more favourable than the terms of this Licence;

(b) if it wishes to offer another New Zealand tertiary education institution a licence on terms more favourable it will first give written notice to NZVCC of those terms and the parties will seek to negotiate in good faith relevant amendments to this licence agreement;

(c) if the parties are unable to reach agreement on the relevant amendments, either party may invoke the dispute resolution procedure in Clause 11.

4.7 Nothing in this licence agreement shall derogate from the Institution's right to rely on any other provision in the *Copyright Act 1994* or any other statute or right at law to copy or communicate any Licensed Communication Work and to use such a copy or copies for any lawful purpose.

5. Marking

5.1 Subject to this Clause 5, for the Term of this licence agreement, the Institution agrees to mark or cause there to be marked on all copies of Licensed Communication Works or copies of such copies made under the Licence the following: "*Made only for [Name of Institution]'s educational purposes: Title of the Licensed Communication Work: [title] Date of the Licensed Communication Work: [date] Date this Copy made: [date]*"

5.2 Where any copy of such a Licensed Communication Work is made by means of digitisation, the information stipulated in Clause 5.1 shall, if practicable, be embedded within each copy.

5.3 Screenrights may notify the Institution of, and require the Institution to adopt, alternative marking procedures where such alternative marking procedures have first been agreed

by the NZVCC as being reasonably required to fulfil the terms of this licence agreement.

6. Remuneration

6.1 In consideration of Screenrights granting the Licence the Institution agrees and undertakes to pay to Screenrights remuneration in accordance with this Clause 6.

6.2 In each calendar year during the Term of this licence agreement, the Institution shall pay to Screenrights an annual fee (the “**Annual Fee**”). The Annual Fee will be the sum of:

- (a) 50% of the Per Student Rate (as defined below) for the relevant calendar year multiplied by the Institution's Enrolment for the prior calendar year at 30 April; and
- (b) the Per Student Rate for the relevant calendar year multiplied by the Institution's Enrolment for the prior calendar year at 31 August less the amount paid in Clause 6.2(a) above.

6.3 For the purpose of calculating the Annual Fee the Institution, when requested to do so, shall provide Screenrights with its relevant Enrolment details.

6.4 The Annual Fee will be payable by the Institution in 2 instalments:

- (a) on or before:
 - (i) 31 March; and
 - (ii) 31 October,
 in each calendar year, subject to receiving from Screenrights at least 30 days before the dates referred to in sub-paragraphs (a) and (b) an invoice for payment; or failing which,
- (b) within 30 days of the date of invoice, (the “**Due Dates**”).

6.5 For the purposes of this Clause 6, the Per Student Rate in each calendar year of the Term shall be calculated with reference to inflation as follows:

$$\text{Per Student Rate} = \$5.40 \text{ multiplied by } \frac{\text{March CPI}}{\text{March 2014 CPI}}$$

Where:

March CPI = the Consumer Price Index published for the March quarter in the current calendar year

March 2014 CPI = the Consumer Price Index published for the March quarter in 2014.

6.6 Without prejudice to any other rights available to it, where the Institution fails by the Due Date to make payment of any Annual Fee instalment Screenrights may charge interest on the outstanding amount at the Prescribed Rate from the Due Date to the date of payment.

6.7 For the avoidance of doubt, the Annual Fee is exclusive of any GST.

6.8 To the extent that GST is, or at some time becomes, payable on the Annual Fee the Institution shall in addition to the Annual Fee pay, or otherwise assume liability for, the full amount of GST.

7. Sampling

Subject to Clause 3.8:

7.1 For Screenrights' distribution purposes and subject to Clause 8, the Institution authorises Screenrights to establish a Sampling System provided that either:

- (a) Screenrights has previously consulted in good faith with the NZVCC in relation to a Sampling System for another New Zealand university and implemented a Sampling System following such consultation which is substantially similar to the proposed Sampling System for the Institution; or
- (b) in the event that Screenrights has not previously consulted in good faith with the NZVCC in relation to a Sampling System for another New Zealand university, Screenrights will give the NZVCC six (6) months prior notice that Screenrights intends to establish a Sampling System at one or more New Zealand universities; and (ii) during a period of thirty (30) days from the date of such notice Screenrights will consult in good faith with the NZVCC on the methods to be used in the Sampling System, and thereafter Screenrights may in its absolute discretion determine the

method applicable to the Sampling System.

However, Screenrights is not obliged to establish a Sampling System and the obligations on the parties in Clauses 7, 8, 9 and 10 directly related to such sampling only apply if Screenrights does establish a Sampling System.

- 7.2 Screenrights shall be responsible for the establishment costs of the Sampling System.
- 7.3 Screenrights shall administer the Sampling System in consultation with the Survey Authority and the NZVCC and will take into account the legitimate and reasonable concerns of the Institution, expressed through the NZVCC.
- 7.4 The Institution will implement and comply with the procedures of the Sampling System and will use its best endeavours to ensure that its staff are aware of and fully comply with those procedures.
- 7.5 Screenrights will provide the Institution with such written information as the Institution may reasonably require to comply with this Clause 7.
- 7.6 Screenrights confirms and acknowledges that in each calendar year during the Term, no more than 10% of the total Enrolments in the participating New Zealand universities will be represented in the Sampling System.
- 7.7 Screenrights agrees to use its best efforts to ensure that for the Term:
- (a) no individual academic staff member of the Institution will be chosen more than once by the Survey Authority to be represented in the Sampling System; and
 - (b) in each year, the Sample will be conducted on at least 2 participating NZVCC Universities.
- 7.8 Subject to Clause 8.13, Screenrights will be responsible for the costs and expenses of the Sampling System, including the costs and expenses of the Survey Authority.
- 7.9 The Institution will be responsible for its own costs and expenses arising out of or incidental to the Sampling System.

- 7.10 Sampling and any information gathered and produced therefrom shall be used by Screenrights solely for the purposes of determining payments to Screenrights' members and for no other purpose.

8. Sampling Obligations

Subject to Clause 3.8:

- 8.1 The Institution undertakes and agrees that it will comply with the obligations imposed by this clause.
- 8.2 The Institution will use its best endeavours to fully cooperate with Screenrights and the Survey Authority during the Sample Period including, on reasonable notice from Screenrights, by granting to Screenrights and the Survey Authority:
- (a) permission to enter all relevant premises in its possession or control; and
 - (b) access to all relevant property and copying locations of the Institution, provided that this shall not apply to any property or material which belongs to a third party,
- provided always that Screenrights, the Survey Authority or their representatives, comply with the Institution's reasonable requirements for access to sites which are accessible only by security clearance.
- 8.3 The Institution agrees that each of its academic organisational unit / faculty / department / discipline, whichever is most applicable, chosen by the Survey Authority to be represented in the Sampling System will keep Records of all copies of Licensed Communication Works or copies of such Licensed Communication Works made by it, or on its behalf, during the Sample Period.
- 8.4 The Institution acknowledges and agrees that the form of such Records may be modified where both Screenrights and the NZVCC agree to such modification.
- 8.5 The Institution shall use its best endeavours to ensure that Records kept by it:

- (a) are accurate, complete and legible Records of all copies of Licensed Communication Works or copies of such copies made by each of its academic organisational unit / faculty / department / discipline, whichever is most applicable, chosen by the Survey Authority to be represented in the Sampling System;
- (b) are completed by or on behalf of the Institution as and when copies of Licensed Communication Works or copies of such copies are made or as soon as reasonably practicable thereafter; and
- (c) are given to the Survey Authority at intervals as required by Screenrights during the Sample Period whether or not copies of Licensed Communication Works or copies of such copies have been made during the Sample Period.
- 8.6 Screenrights agrees that Records kept by the Institution may exclude advertisements which have been copied incidentally.
- 8.7 The Institution must nominate one or more suitably qualified and authorised members of its staff to act as Copyright Records Officers during the Sample Period to assist in the proper performance by the Institution of its obligations under the Sampling System.
- 8.8 Screenrights may require the appointment of an alternative or additional Copyright Records Officers if Screenrights determines in consultation with the Institution that such additional appointments are reasonably required for the proper conduct of the Sampling System.
- 8.9 The Institution is responsible for ensuring that:
- (a) all members of its staff are fully informed of the requirements of the Sampling System, including:
- (i) during Sample Periods, to keep Records of; and
- (ii) at all times for the Term of this licence agreement, to mark,
- all copies of Licensed Communication Works or copies of such copies of those works
- made by them on behalf of the Institution for educational purposes (whether made at the Institution or elsewhere);
- (b) the persons holding the following positions in the Institution or their nominees participate in training seminars held by Screenrights:
- (i) the Copyright Records Officer(s);
- (ii) the Heads of Departments, Faculties or areas where those Departments, Faculties or areas have been chosen under the sampling system by Screenrights or the Survey Authority; and
- (iii) the Head Librarian (or their delegate);
- (c) during the Sample Period all members of its staff maintain their usual practices for copying Licensed Communication Works or making copies of such copies of those works as adopted by them in periods other than the Sample Period; and
- (d) members of its staff otherwise take all steps as may reasonably be required by Screenrights or the Survey Authority to ensure the completeness and accuracy of Records.
- 8.10 The Institution agrees to notify Screenrights of the names of those persons nominated as Copyright Records Officers under Clause 8.7 and to provide Screenrights with copies of all written advice on the Sampling System given to staff pursuant to Clause 8.9(a), upon reasonable request.
- 8.11 The Institution undertakes to promptly take such action as may be reasonably requested by the Survey Authority or Screenrights from time to time to make good any illegible, incomplete or inaccurate Records.
- 8.12 In the event that Screenrights or the Survey Authority determines, after consultation with the NZVCC, that the Records:

- (a) kept by the Institution during the Sample Period pursuant to this Clause 8 are illegible, incomplete or inaccurate; and
- (b) have not been made good by the Institution upon request under Clause 8.11,
- the Institution shall keep Records pursuant to this Clause 8 for a further Sample Period.
- 8.13 All reasonable expenses of Screenrights and the Survey Authority related to the Institution keeping Records for a further Sample Period pursuant to Clause 8.12 will be borne by the Institution.
- 9. Further Obligations of the Institution**
- 9.1 The Institution authorises Screenrights or the Survey Authority or both to attend at its premises to:
- (a) consult with the Copyright Records Officer(s) and other members of staff on reasonable notice with regard to keeping Records and making copies of Licensed Communication Works and copies of such copies of those works; and
- (b) subject to Clause 3.8 to conduct such audit measures as Screenrights or the Survey Authority, in consultation with the NZVCC, may deem reasonable and necessary to determine compliance with Clause 5 and the accuracy of the Sampling System,
- provided always that Screenrights, the Survey Authority or their representatives, comply with the Institution's reasonable requirements for access to sites which are accessible only by security clearance.
- 10. Confidentiality in the Records**
- 10.1 The Records created under the Sampling System shall be confidential to the Institution and Screenrights.
- 10.2 The Institution shall be permitted to make available for its internal use, or to satisfy its obligations under relevant legislation,
- including the Official Information Act, the Privacy Act, or any other statute, regulation, or by-law applying to the Institution and related to information or matters covered by this licence agreement or if compelled to do so by law, aggregate information (being information which does not directly or indirectly identify a person or a particular department, faculty or area which made a particular Record) which derives from the Records.
- 10.3 Subject to 10.2, the Institution undertakes to:
- (a) promptly notify Screenrights of any request for information which may prejudice the commercial position of Screenrights; and
- (b) withhold the release of such information where Screenrights can demonstrate to the satisfaction of the Institution, within the statutory period governing the release of such information, that the release of such information would prejudice Screenrights' commercial activities or position.
- 10.4 Screenrights is entitled to report to its members (or their representatives) the aggregate figures for copies of Licensed Communication Works or copies of such copies made by the participating New Zealand universities (collectively).
- 10.5 Screenrights undertakes that the aggregate information disclosed to a third party (being a party other than the Institution, the NZVCC, or the Survey Authority) shall not directly or indirectly identify the Institution, or a particular staff member of the Institution, that made a particular Record.
- 10.6 Screenrights acknowledges that by 1 July in each year of the Term it will make available to the Institution and the NZVCC an Audit Report prepared by the Survey Authority containing, in terms of minutes copied, total copies of the Licensed Communication Works and copies of such copies as reported by each academic organisational unit / faculty / department / discipline, whichever is most applicable, under the Sampling System in the prior calendar year.

11. Dispute Resolution Procedure

11.1 Subject to Clauses 6 and 8, any dispute, question, difference, issue or matter arising under, out of, or touching upon this licence agreement in any way shall be dealt with in accordance with this clause.

11.2 The party wishing to invoke the procedure under this clause shall give written notice to the other party particularising the subject matter the first party requires to be dealt with.

11.3 Upon receiving the written notice specified in Clause 11.2, the receiving party shall respond to each of the matters raised within 14 days.

11.4 In the event that any or all of the matters raised by the first party cannot then be resolved between the parties, either party may invoke the procedure provided for below.

11.5 Any matter that has not or cannot be resolved in accordance with the provisions of Clauses 11.2 to 11.4 above may be referred by either party to mediation conducted by a single mediator agreed to by the parties, or in the absence of such agreement after 14 days, to be appointed at the request of either party by the president for the time being of the New Zealand Law Society.

11.6 The costs of the mediator appointed pursuant to Clause 11.5 will be borne by the parties equally.

11.7 If within 60 days of the appointment of the mediator referred to in Clause 11.5 the parties cannot reach agreement then either party may terminate this dispute resolution procedure and revert to its legal remedies.

12. Termination

12.1 Termination

A party may terminate this licence agreement with immediate effect by giving notice to the other party if:

- (a) that other party breaches any material provision of this licence agreement and fails to remedy the breach within 30 days after receiving notice requiring it to do so;

- (b) that other party breaches a material provision of this licence agreement and that breach is not capable of remedy; or

- (c) any event referred to in Clause 12.2 happens to that other party.

12.2 Notification of other events

Each party must notify the other party immediately if:

- (d) that party ceases to carry on business;

- (e) that party ceases to be able to pay its debts as they become due;

- (f) any step is taken by a mortgagee to take possession or dispose of the whole or part of that party's assets, operations or business;

- (g) any step is taken to enter into any arrangement between that party and its creditors; or

- (h) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, an administrator or other like person of the whole or part of that party's assets, operations or business and the appointment has not been terminated within 30 days.

12.3 After termination

Clauses 10 (Confidentiality in the Records) and 11 (Dispute Resolution Procedure) continue to apply after termination of this licence agreement and termination of this licence agreement under this Clauses 12 or 13 does not affect any accrued rights or remedies of either party or any rights or remedies of either party under statute, including under the Act.

13. Force majeure

13.1 Force majeure

If a Force Majeure Event affecting a party precludes that party (**Precluded Party**)

partially or wholly from complying with its obligations under this licence agreement then:

- (a) as soon as reasonably practicable after that Force Majeure Event arises, the Precluded Party must notify the other party of:
 - (i) the Force Majeure Event;
 - (ii) which obligations the Precluded Party is precluded from performing (**Affected Obligations**);
 - (iii) the extent to which the Force Majeure Event precludes the Precluded Party from performing the Affected Obligations (**Precluded Extent**); and
 - (iv) the expected duration of the delay arising directly out of the Force Majeure Event;
- (b) the Precluded Party's obligation to perform the Affected Obligations will, to the Precluded Extent, be suspended for the duration of the actual delay arising directly out of the Force Majeure Event (**Actual Delay**); and
- (c) the other party's obligations to perform any obligations dependent on the Affected Obligations will be suspended until the Precluded Party resumes performance.

13.2 Termination

If the Actual Delay continues for more than 90 days, the other party may terminate this licence agreement immediately by giving notice to the Precluded Party.

Notices

- 14.1 All notices under this licence agreement must be in writing and given by personal delivery, pre-paid post or facsimile.
- 14.2 Any notice served:
 - (a) by delivering it, is deemed to have been served at the time of such delivery;
 - (b) by post, is deemed to have been served upon the day on which in the ordinary course of posting it would have been received; and
 - (c) by facsimile transmission, is deemed to have been served on the day of transmission provided that the transmission is complete and legible.

15. Miscellaneous

- 15.1 Failure or omission by a party at any time to enforce or require strict or timely compliance of any provision of this licence agreement does not affect or impair that provision in any way or the rights of that party to avail itself of the remedies it may have in respect of any breach of any such provision.
- 15.2 If any provision of this licence agreement is found to be void, illegal or unenforceable, that provision shall be deemed severable and the remaining provisions shall be read and applied as if the void, illegal or the unenforceable provision had been deleted.
- 15.3 Screenrights agrees to be responsible for the payment of New Zealand withholding tax on remuneration paid by the Institution under Clause 6 of this licence agreement.

16. Place of Contract, Jurisdiction and Forum

- 16.1 This licence agreement shall be deemed to have been made in the State of New South Wales, Australia.

16.1 The parties agree that this licence agreement shall be governed in accordance with the laws of New Zealand and the parties agree, subject to the provisions of Clause 11 of this licence agreement, to submit to the exclusive jurisdiction of the courts of New Zealand and all courts of appeal therefrom in respect of any question, dispute or issue arising from this licence agreement.

“**Copy**” means a reproduction or recording in any material form and includes an electronic or digitised copy of the Communication Work;

“**Copyright Records Officers**” means those persons nominated by the Institution under Clause 8.7;

17. Copyright Tribunal

“**Educational Establishment**” has the same meaning as it does in section 2 of the Act;

17.1 For the Term of this licence agreement the Institution and Screenrights agree that neither party will make an application to the Copyright Tribunal or other court of competent jurisdiction in respect of matters dealt with by this licence agreement without first resorting to the dispute resolution procedure set out in Clause 11.

“**Educational Purposes**” has the same meaning as the words set out in s 162 (4) (b) (iii) Education Act 1989;

18. Dictionary

18.1 In this licence agreement the following definitions apply, unless the context otherwise requires:

“**Act**” means the Copyright Act 1994 (New Zealand);

“**Enrolled**” includes admitted to a particular course of instruction provided by the Institution, entitled to be enrolled, and for which no formal indication of withdrawal, deferment or discontinuance of enrolment has been registered;

“**Annual Fee**” means the total of the annual Licence Fee, payable pursuant to this licence agreement.

“**Enrolment**” means the number of students enrolled in the Institution during a calendar year as published annually by the Ministry of Education (or its successor) expressed in equivalent full time student terms;

“**Audit Report**” means the document prepared under Clause 10.6;

“**Force Majeure Event**” affecting a person means anything outside that party's reasonable control including, but not limited to, fire, storm, flood, earthquake, explosion, technology failure, war, invasion, rebellion, sabotage, epidemic and an act or omission (including laws, regulations, disapprovals or failures to approve) of any third person (including, but not limited to, subcontractors, customers, governments or government agencies).

“**Broadcast**” means a transmission, whether or not encrypted, of a programme by wireless communication, where the transmission is-

- (a) capable of being lawfully received, in New Zealand or elsewhere, by members of the public; or
- (b) for presentation to members of the public in New Zealand or elsewhere:

“**GST**” means a goods and services tax or similar value added tax levied or imposed in New Zealand on a supply;

but for the avoidance of doubt excludes Communication Works which are communicated via the internet.

“**Institution**” includes all Educational Establishments with which the Institution is affiliated, associated or amalgamated, merged into or incorporated with at the commencement of this licence agreement or from time to time during the Term;

“**Communication Work**” means a communication work (as defined in the Act) and includes any work included in such communication work.

“**Licence**” means the Licence that Screenrights has granted to the Institution under this licence agreement.

“Licensed Communication Work” means Communication Works which are:

- (a) Broadcasts;
- (b) Films that are communicated;
- (c) Works communicated via the internet by those radio stations listed in Schedule 1 to this licence agreement;

and any works included in any such Communication Works.

“NZVCC” means the New Zealand Vice-Chancellors’ Committee;

“NZVCC Universities” means those universities whose Vice-Chancellors comprise the NZVCC from time to time;

“Prescribed Rate” means six percentage points per annum;

“Records” means the information kept in the form stipulated under Clause 8.3;

“Sample Period” means a period of time selected by Screenrights for conducting a sample under the Sampling System;

“Sampling System” means the system of surveying copying of Licensed Communication Works including Broadcasts or copies of such copies made by participating New Zealand universities during the Term of this licence agreement;

“Student” means a person enrolled at the Institution including, but not limited to, those enrolled on a part-time, external or off-shore basis;

“Survey Authority” means such person as Screenrights may in consultation with the NZVCC appoint from time to time to administer the Sampling System and to conduct the samples;

“Term” means the term of this licence agreement as defined in Clause 2;

“this licence agreement” means this agreement.

SIGNED

for and on behalf of)
UNIVERSITY OF WAIKATO)
by its authorised representative)
in the presence of)

.....

.....
Signature of Witness

.....
Name (please print)

.....
Name of Witness (please print)

SIGNED

for and on behalf of)
AUDIO-VISUAL COPYRIGHT SOCIETY)
LIMITED (TRADING AS SCREENRIGHTS))
by its authorised representative)
in the presence of)

.....

.....
Signature of Witness

.....
Name (please print)

.....
Name of Witness (please print)

SCHEDULE 1

Radio New Zealand National

Radio New Zealand AM network

Australian Broadcasting Corporation Radio National

Canadian Broadcasting Corporation Radio One

Radio Network's Newstalk ZB

Radio Network's Radio Sport

Media Works Radio Live

Media Works BSPORT

BBC World Service