

Partner:

Registered Office:

Registered Number (if any):

Main Contact:

Partners Website:

Project Number:

Project Name:

Delivery Dates:

Deliverables:

Commencement Date:
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The Partner hereby grants a Licence to SCRAN to use the Partner's Digitised Records on the terms set out on this page and the conditions attached hereto:

Signed for and on behalf of *The SCRAN Trust* by

at  
17 Kittle Yards, Causewayside,  
Edinburgh, EH9 1PJ  
on the      day of  
200[      ]

..... Witness  
..... Name  
..... Address  
.....

.....  
Authorised Signatory

Signed for and on behalf of [Insert full name of Partner]

by  
[Authorised Signatory] at

on the      day of  
200[      ]

..... Witness  
..... Name  
..... Address  
.....

.....  
Authorised Signatory

**SCRAN Limited Registered Office:  
Partners' Licence Agreement (Short Form)  
Conditions**

**1. Definitions**

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1.1 In this Agreement the following words have the following meaning:-

1.1.1 "Agreement" means the terms set out on the attached Partners' Licence Agreement (Short Form) and the conditions set out in this document;

1.1.2 "Commencement Date" means the date specified on the front page of this Agreement;

1.1.3 "Commercial Purposes" means use of the Partner's Digitised Records for any reason which generates a profit (but always excluding use for any Non Commercial Purposes);

1.1.4 "Data Capture Template" means the SCRAN template to be completed in respect of each Work the current version of which is available from SCRAN;

1.1.5 "Data Capture Template Guidelines" means the guidelines issued by SCRAN from time to time in respect of completion of Data Capture Templates;

1.1.6 "Datasets" means the electronic records containing a digitised version of a Work, a caption and related metadata;

1.1.7 "Educational Resources" means sets of learning support materials for each Work which expand the bounds of the Datasets;

1.1.8 "Improvements" means all improvements, updates, amendments or additions made to any of the Partner's Digitised Records;

1.1.9 "Intellectual Property Rights" means any and all intellectual property or industrial rights of any description anywhere in the world (whether registered, unregistered, registerable or not and any applications or rights to apply for registration of any of them) including without limitation to the

foregoing generality rights in computer software, rights in the nature of copyright, database rights, unregistered design rights, rights in and to trade names, business names and logos, inventions, know how, trade secrets, confidential information or any analogous or similar right in any jurisdiction;

1.1.10 "Learning Objects" means a collection of records compiled inter alia from the SCRAN Database on a thematic or pre-selected basis for Non Commercial Purposes;

1.1.11 "Multimedia Essays" means multiplatform educational interactives, deliverable across the web supporting major browsers;

1.1.12 "Non Commercial Purposes" means use of the Partner's Digitised Records for education, private study or research and including, without limitation, the grant of a licence to a user where such user is obliged to provide access to the Partner's Digitised Records to end users for education, private study or research;

1.1.13 "Partner's Digitised Records" means the Datasets, the Multimedia Essays and the Educational Resources delivered in accordance with SCRAN's requirements and any associated documentation, including without limitation instruction manuals and user guides;

1.1.14 "Partner's Trade Mark" means the trade mark belonging to the Partner.

1.1.15 "Partner's Website" means the website described as such on the front page of this Agreement.

1.1.16 "SCRAN Database" means the database of images, sounds, movies and learning resources owned by or licensed to SCRAN;

1.1.17 "SCRAN Group" means SCRAN Trust, SCRAN and any other companies forming part of the SCRAN group of companies from time to time;

- 1.1.18 "SCRAN Trade Mark" means the trade mark belonging to SCRAN or SCRAN Trust;
- 1.1.19 "SCRAN Trust" means the SCRAN Trust, a company limited by guarantee, incorporated in Scotland under the Companies Acts with registered number SC166833 and having its registered office at 12 Hope Street, Edinburgh EH2 4DB, being the parent company of SCRAN;
- 1.1.20 "SCRAN Website" means SCRAN's website located at <http://www.scran.ac.uk>.
- 1.1.21 "Technical Guidance" means the technical guidance issued by SCRAN from time to time in relation to delivery of the Partner's Digitised Records;
- 1.1.22 "Work(s)" means the archives, artefacts, literary, dramatic, musical, artistic, graphic or other works, documents and information described on the front page of this Agreement which form part of the Partner's collection and each of which are to be included in whole or in part in the Partner's Digitised Records; and
- 1.1.23 "Working Day" means a day other than a Saturday or a Sunday on which the banks are open for business in Scotland.

- 1.2 In this Agreement, the singular includes the plural and vice versa.
- 1.3 Unless otherwise stated, references to sub-clauses and clauses are sub-clauses and clauses of this Agreement.
- 1.4 In this Agreement, the clause headings are for reference only and shall not affect the construction or interpretation hereof.

## **2. Grant of Licence**

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- 2.1 Subject to Clause 2.2 and 2.3, the Partner hereby grants to SCRAN a non-exclusive, royalty free, perpetual worldwide licence to use, sub-licence and otherwise deal with any or all of the Partner's Digitised Records for any purpose upon and following creation of the same from time to time.

- 2.2 In the event that SCRAN uses any of the Partner's Digitised Records for Commercial Purposes, SCRAN shall pay to the Partner a royalty at a level to be agreed between the parties (both acting reasonably) on a case by case basis before such exploitation.

- 2.3 The Partner hereby grants to SCRAN a non-exclusive royalty free worldwide licence (with the ability to sub-licence) to use the Partner's Trade Mark for the purposes of marketing and promoting the SCRAN Database, providing any Learning Objects and for use as a hyperlink in accordance with Clause 3.4.

## **3. Technical Requirements**

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- 3.1 The Partner will provide the Works as set out on the front page of this Agreement and shall comply with the Technical Guidance.
- 3.2 The Partner shall complete a Data Capture Template for each Work and in completing such Data Capture Templates, the Partner shall comply with the Data Capture Template Guidelines. The Partner shall deliver the completed Data Capture Template to SCRAN on CD Rom, Zip Disc or other medium agreed by SCRAN in writing in advance.
- 3.3 SCRAN shall inspect the Partner's Digitised Records and the Partner will use reasonable endeavours to make such amendments to such Partner's Digitised Records as are reasonably required by SCRAN to ensure that the Partner's Digitised Records are suitable for incorporation into the SCRAN Database.
- 3.4 SCRAN and The Partner shall maintain hyperlinks, or such other links as approved in writing, between the SCRAN Website and the Partner's Website.

## **4. Warranty and Indemnity**

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- 4.1 The Partner hereby warrants and undertakes to SCRAN as follows:-
- 4.1.1 it is the owner or licensed user of all Intellectual Property Rights comprised in or arising from the Partner's Digitised Records, (including, without limitation, the copyright in any computer program) it has all necessary rights and/or consents to enable it to lawfully grant the licence to SCRAN set out in Clause 2 above and the Partner has not entered and shall not enter into any

- arrangement which may conflict with this Agreement;
- 4.1.2 it is the sole beneficial owner of or has obtained all the permissions or other approvals required of the beneficial owner of each of the Works in the Partner's Digitised Records and to the granting of this licence in favour of SCRAN;
- 4.1.3 it will ensure that all subsisting moral rights of all authors of the Works and the Partner's Digitised Records have either not been asserted, have been waived or permission has been obtained from such authors to the use of their copyright works in the manner set out in or contemplated by this Agreement;
- 4.1.4 where any Works of unknown authorship are comprised or copied in digital form into the Partner's Digitised Records, the Partner has made all reasonable enquiries to identify the author of such Works;
- 4.1.5 the use and publication of all or any part of the Partner's Digitised Records or any part thereof or the use and publication of the Partner's Trade Mark by SCRAN in accordance with this Agreement shall not infringe and is not likely to infringe the rights of any third parties;
- 4.1.6 that the Partner shall, immediately it becomes aware of (i) any infringement by third parties of any Intellectual Property Rights in the Partner's Digitised Records or (ii) any alleged infringement by the Partner, the Partner's Digitised Records, of any Intellectual Property Rights owned by third parties, inform SCRAN and the Partner shall diligently and promptly prosecute or defend, at its expense, any proceedings brought in respect of such infringement and keep SCRAN informed at all times of the position and progress of the proceedings;
- 4.1.7 the Partner has used all reasonable endeavours to ensure that all statements purporting to be facts in the Partner's Digitised Records are true and correct and
- no advice, formula or instruction in the Partner's Digitised Records will, if followed or implemented by any person cause loss, damage or injury to them or any other person;
- 4.1.8 the Partner has used all reasonable endeavours to ensure that the content of the Partner's Website and the Partner's Digitised Records or any part or parts thereof, are not under the laws of any jurisdiction obscene or blasphemous or offensive to religion or defamatory to any person; do not contain any material which has been obtained in violation of the Electronic Communications Act 2000, Regulation of Investigatory Powers Act 2000 and the regulations made thereunder, the Official Secrets Act 1989 or any similar law in any other jurisdiction; and nothing contained in the Partner's Digitised Records would, if published constitute a contempt of court; and
- 4.1.9 that it shall take all necessary measures to comply with the Data Protection Act 1998 (as amended, varied or replaced from time to time) including making the necessary notification(s) to the Information Commissioner.
- 4.2 SCRAN warrants that it has used all reasonable endeavours in the compilation of the SCRAN Database to ensure that each Partner warrants that their contributions are not under the laws of any jurisdiction obscene or blasphemous or offensive to religion or defamatory to any person; do not contain any material which has been obtained in violation of the Electronic Communications Act 2000, Regulation of Investigatory Powers Act 2000 and the regulations made thereunder nor the Official Secrets Act 1989, but SCRAN has not carried out and does not carry out any review, checking or verification of contributions to verify the position.
- 4.3 SCRAN hereby warrants and undertakes to the Partner that it shall take all necessary measures to comply with the Data Protection Act 1998 (as amended, varied or replaced from time to time) including making the necessary notification(s) to the Information Commissioner.
- 4.4 The Partner indemnifies and shall keep SCRAN fully and effectively indemnified from

and against all liability, costs, losses, claims and expenses suffered or incurred by SCRAN directly or indirectly as a result of any breach of any of the warranties in clause 4.1 or of any obligation of the Partner under this Agreement.

- 4.5 Each of the warranties and undertakings contained in this clause 4.1 is deemed to be repeated as at the date of delivery of each part of the Partner's Digitised Records to SCRAN.

## **5. Information**

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- 5.1 The Partner shall promptly upon the request of SCRAN, provide free of charge to SCRAN all such information in its possession and such other assistance including training as is necessary to enable SCRAN to incorporate the Partner's Digitised Records (or any part thereof) into the SCRAN Database and to use, sub-license and otherwise deal with the Partner's Digitised Records in accordance with this Agreement.

- 5.2 SCRAN shall from time to time keep the Partner informed of usage of the Partner's Digitised Records by providing the Partner with such reports at such intervals and in such form as SCRAN may from time to time determine.

## **6. Amendments to Works and Improvements**

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- 6.1 The Partner's Digitised Records may be amended or updated from time to time upon agreement between SCRAN and the Partner in writing.

- 6.2 The parties agree that the costs of all Improvements to be made pursuant to Clause 6.1 shall be assessed and agreement will be reached on the responsibility for meeting such costs prior to either party commencing work on the implementation of any Improvements.

- 6.3 When Improvements have been completed, they will be deemed to form part of the Partner's Digitised Records and shall accordingly be subject to all of the terms and conditions of this Agreement.

## **7. Term and Termination**

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- 7.1 This Agreement shall commence on the last date of signing hereof and shall remain in perpetuity, unless terminated pursuant to this Clause 7.

- 7.2 SCRAN shall be entitled to terminate this Agreement forthwith by notice on the happening of any of the following:-

7.2.1 on breach by the Partner of any obligation on it hereunder which is not capable of remedy or, in the case of a breach capable of remedy, shall not have been remedied by the Partner within 28 days of written notice from SCRAN specifying the breach and requiring its remedy;

7.2.2 on the insolvency of the Partner on the appointment of a receiver over the whole or any part of its assets, on the entry of the Partner into any voluntary arrangement or on the Partner compounding with creditors or having an order made or a resolution passed for it to be wound up (otherwise than in furtherance of a scheme for amalgamation or reconstruction on terms previously approved by SCRAN) or on an administration order being made in respect of the Partner or the Partner ceases to trade or if any analogous event occurs in respect of the Partner;

7.2.3 on the ownership or control of the Partner passing into the hands of any person which SCRAN in its reasonable discretion considers unsuitable for any reason; or

7.2.4 the Partner acts in a manner which SCRAN reasonably considers could have a detrimental effect on SCRAN, SCRAN Trust and/or the SCRAN Database.

- 7.3 The Partner shall be entitled to terminate this Agreement forthwith by notice on breach by SCRAN of any material obligation on it hereunder which, in the case of a breach capable of remedy, shall not have been remedied by SCRAN within 28 days of written notice from the Partner specifying the breach and requiring its remedy.

- 7.4 In the event that SCRAN becomes insolvent or a receiver is appointed over the whole or any part of its assets, or SCRAN enters into any voluntary arrangement or otherwise compounds with its creditors or an order is made or a resolution is passed for SCRAN to be wound up (otherwise than in furtherance of a scheme for amalgamation or reconstruction) or an administration order is made in respect

of SCRAN then this Agreement shall automatically terminate without any requirement to give notice and the Partner shall be deemed to have granted a licence in favour of SCRAN Trust to use the Partner's Digitised Records, and the Partner's Trade Mark on terms and conditions identical to the terms and conditions of this Agreement. On request by SCRAN Trust, the Partner shall execute a licence in favour of SCRAN Trust on such terms and conditions.

- 7.5 On termination of this Agreement, SCRAN shall remain licensed in perpetuity to use the Partner's Digitised Records as held by SCRAN at the date of termination on the terms set out in Clause 2 of this Agreement.

## **8. Force Majeure**

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- 8.1 If either party to this Agreement is prevented or delayed in the performance of any of its obligations under this Agreement by Force Majeure then the party in question shall be excused the performance as from the date of such notice for so long as such cause of prevention or delay shall continue.
- 8.2 "Force Majeure" shall be deemed to be any cause affecting the performance of this Agreement arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of the party concerned.

## **9. General**

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- 9.1 The terms and conditions contained in this Agreement may be amended by SCRAN following consultation with the Partner and other existing contributors. No amendment or variation to the terms of this Agreement shall be effective unless agreed in writing on behalf of SCRAN.
- 9.2 Failure by either party hereto to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.
- 9.3 Nothing in this Agreement shall create or be deemed to create any employment or agency relationship or any partnership.

## **10. Notices**

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- 10.1 Any notice required to be given hereunder by either party to the other shall be in writing and shall be served by sending the same by first class registered or recorded delivery post to

the address of the other party as given herein or to such other address as that party may have previously notified to the party giving notice as its address for such service. Such notice will be deemed to be received two (2) days after posting.

## **11. Assignment**

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- 11.1 Subject to clause 11.2 and clause 11.3, neither party shall be entitled to assign the benefit or burden of this Agreement, whether in whole or in part, without obtaining the prior written consent of the other party.
- 11.2 SCRAN shall be entitled to assign all or any part of the benefit or burden of this Agreement to SCRAN Trust or any other member of the SCRAN Group.
- 11.3 SCRAN shall be entitled to assign all or any part of the benefit or burden of this Agreement to any other charitable institution or institutions having objects similar to the objects of SCRAN Trust and which prohibit the distribution of its or their income and property to its or their members to an extent at least as great as are imposed on SCRAN Trust by virtue of the terms of its Memorandum of Association with the written consent of the Partner (such consent not to be unreasonably withheld or delayed).

## **12. Confidentiality**

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- 12.1 The Partner undertakes not to disclose to any third party any Confidential Information nor use any such Confidential Information without the prior written consent of SCRAN. This shall not extend to any Confidential Information which the Partner is required to disclose by any competent court or authority or which enters the public domain other than through a breach of a duty of confidentiality by the Partner or which the Partner requires to disclose to its agents or advisers in connection with the administration of this Agreement. "Confidential Information" means all information received from SCRAN and/or SCRAN Trust relative to the business, operations, property, financial affairs, projects, customers, clients and employees of SCRAN and SCRAN Trust.

## **13. Governing Law**

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- 13.1 This Agreement shall be governed by and construed in accordance with Scots law and the parties hereby submit to the exclusive jurisdiction of the Scottish courts.