

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

DIGITIZATION AGREEMENT

with

PARADISE ENTERTAINMENT LIMITED

This non-exclusive Digitization Agreement (“the Agreement”) is entered into as of September 9, 2019 (the “Effective Date”), by and between Paradise Entertainment Ltd, having its principal office at 55 Loudoun Road, St. John’s Wood, London, NW8 0DL, United Kingdom, and the National Archives and Records Administration, an independent establishment in the executive branch of the United States Government with its headquarters in Washington, DC (“NARA”).

NARA maintains and makes available to the public certain historical records and other documentary materials of the U.S. Government in printed, microform, and other specialized formats (the “Archival Materials”) at its locations throughout the United States (the “NARA Locations”).

NARA and Paradise Entertainment Ltd. hereby agree to cooperate in the digitization of selected Archival Materials from NARA holdings.

Definitions

"**Archival Materials**" refers to the permanently valuable holdings of the National Archives of the United States in printed, microfilm, microfiche, film, photograph, recording, and other types.

"**Confidential Information**" shall include, but shall not be limited to, proprietary information, financial information, forecasts or strategies, any of the present or future products, services, designs or styles, trade secrets, inventions, improvements, know-how, processes, customers, employee or agent information, suppliers, methods of operation, marketing or distribution concepts, systems or procedures, or computer programs, of each party. "Confidential Information" shall not include any information known generally to the public (other than as a result of unauthorized disclosure by the other party, its employees, agents or contractors). For the purposes of this Agreement, "Confidential Information" does not mean information classified by the United States Government for national security purposes.

"**Digital Materials**" means digital reproductions of selections of the Archival Materials with or without associated metadata.

"**Metadata**" means information about an analog or digital object, a component of an object, or a coherent collection of objects. For purposes of this Agreement, Metadata includes "Descriptive Metadata," "Technical Metadata," and "Preservation Metadata" relating to the items to be digitized by Paradise Entertainment Ltd. under this Agreement, as follows:

- Descriptive Metadata provides information or reference points about the content or location of Digital Materials used for purposes of navigating through Digital Materials, similar to tabs on a book. This Descriptive Metadata may include items such as records during a particular time frame, records from a particular location, or records of individuals whose family name begins with a certain letter. Descriptive Metadata is not as detailed or specific as indexing. Whereas indexing allows for the specific electronic search for a specific document, Descriptive Metadata only allows for documents with similar characteristics to be grouped together. This is equivalent to the hierarchy that natively exists in the archival structure of the records.

- Technical Metadata is technical information about the digital files and multi-file objects such as the processes used to reformat the records and pixel dimensions.
- Preservation Metadata includes a history log on the reformatting activities
–examples of this Metadata can be found at <http://www.loc.gov/standards/premis/>.

“**Project Plan**” means a document completed and approved by Paradise Entertainment Ltd. and NARA representatives that lists the Archival Material that NARA and Paradise Entertainment Ltd. have agreed to digitize, and provides the details about standards, Metadata, equipment, format, costs, personnel, and other required information for each selection of Archival Materials. NARA provides the template for project plans. No work will commence on a project until a project plan has been signed by both parties. Once signed by both parties, a project plan will be governed by the terms of this Agreement. Should a third party be named to execute work defined in a project plan, the third party will also be a signatory to the corresponding project plan.

Terms

1. Creation and Use of Digital Materials.

- 1.1 NARA agrees to provide Paradise Entertainment Ltd. with controlled access to selected Archival Materials to enable the creation of high resolution digital reproductions. The dates and other details of the access will be described in the project plan(s), with such access to be granted within 30 days from its execution.
- 1.2 The nature, location, and details about the digitization process for each selection of Archival Materials will be listed in a project plan. All use of the Archival Materials must take place at the location set forth in the applicable project plan. Details of the scanning or other method of digitization, as well as the physical requirements of any non-NARA digitization location (including but not limited to temperature and humidity level standards, fire safety standards, physical security standards, transport standards, etc.) will be agreed to between the parties in each project plan.

NARA reserves the right to inspect the location where Archival Materials are stored and digitized prior to signing of this agreement and during the term of agreement. The inspection may include receiving, storage, preparation, digitization, shipping and other areas related to handling of the Archival Materials. Archival Materials must be safeguarded against theft, vandalism, unauthorized use, damage, and alterations of any kind. Archival Materials must be stored in a facility that is equipped with environmental controls; a 24-hour security system; a fire detection and suppression system that complies with local fire codes; and a safe or vault for holdings that are of high intrinsic or monetary value. Smoking, vaping, beverages, and food must be prohibited in the receiving and shipping areas, the Archival Materials storage area, and any area where the Archival Materials are digitized.

- 1.3 To the greatest extent possible, NARA will provide the originals of the agreed upon Archival Materials for scanning. If the original is not available, or NARA otherwise determines that an alternate source must be used, the best available alternate will be provided. The format of the Archival Materials to be scanned will be described and agreed to in the project plan. However, the ultimate condition assessment and decision on use of any Archival Materials will be at NARA’s sole discretion.

Generally records will be in good condition. NARA will not, knowingly, send Archival Materials in poor condition for digitization. If during handling or digitization of the materials, they are damaged (pages torn, water damaged sustained, marking applied to the records, etc.) the Partner shall immediately stop work, remove the records from the digitization work flow process, and notify the NARA Project Manager (listed in the project plan) of the nature and extent of the

damage and wait for further instructions. The Partner shall not attempt to repair or continue to digitize the Archival Materials.

- 1.4 The project plan must contain detailed information about the transport, packing, care and handling, and return shipping of the Archival Materials to be digitized. Original Archival Materials must travel separately from digital copies made from them. They must not travel together in the same vehicle or on the same day in order to preclude the loss of all copies of the Archival Materials in case of an accident or disaster on the road. The original Archival Materials must return to the National Archives within a specified number of days of the digitization being completed, as defined in the project plan.

Paradise Entertainment Ltd. agrees to bear all costs associated with the transport of Archival Materials to and from NARA.

- 1.5 Digital audio reproductions and related digital derivatives will be created to meet NARA's preservation, reproduction, and access needs. Digital files will be created to specifications that will be provided by NARA, and that will be described and agreed to in a project plan.
- 1.6 Paradise Entertainment Ltd. will at all times comply with applicable NARA requirements for the handling of the Archival Materials, and NARA will provide oversight in the proper handling of all Archival materials made available. Any digitization equipment to be used by Paradise Entertainment Ltd. in conjunction with NARA holdings, including equipment installed on a NARA computer or network, must be approved by NARA prior to its installation, with such approval not being unreasonably delayed or denied. For each project plan, Paradise Entertainment Ltd. will propose the digitization equipment to be used for the records specific to that project plan. All equipment must conform to the standards and requirements specified in the project plan. NARA and Paradise Entertainment Ltd. will designate points of contact prior to the start of the project. The points of contact will provide guidance and assistance on all of the requirements for the particular project.
- 1.7 Paradise Entertainment Ltd. and NARA agree that Endpoint Audio Labs in Burbank, CA may perform all digitization activities. Paradise Entertainment Ltd. remains responsible for ensuring adherence to all of the provisions outlined in this Agreement and the project plan.
- 1.8 Pursuant to the project plan, the Digital Materials will include all Metadata identified by NARA as necessary to allow NARA to maintain or recreate the archival hierarchy of a series of records (i.e., files, items, subseries, etc.), and to provide easy access to files and/or items in the series. The required Metadata will be outlined in the project plan.
- 1.9 Paradise Entertainment Ltd. will donate copies of the Digital Materials to NARA in the digital formats specified in the project plan. This donation will occur as soon as practical after the material is digitized, or on an ongoing basis during the digitization process itself. Documentation of each donation will be accomplished by a cover letter from Paradise Entertainment Ltd. referencing this Agreement and the project plan.
- 1.10 Paradise Entertainment Ltd. will use reasonable efforts to make corrections that are necessary towards ensuring the accuracy of the Digital Materials and the integrity of their archival structure within a mutually agreeable and reasonable period of time of identifying a problem or receiving a NARA request for correction, and Paradise Entertainment Ltd. will deliver the revised data (files and/or Metadata) to NARA when the correction is completed.
- 1.11 NARA will have full and unrestricted rights to use the Digital Materials upon donation by Paradise Entertainment Ltd., including the right to sell, make available for downloading, or

otherwise provide to the public in electronic form, the entire contents of the Digital Materials or segments of them.

1.12 Should Paradise Entertainment Ltd. cease to exist, or a successor company or organization that will operate with essentially the same purposes as Paradise Entertainment Ltd. cease to exist, or Paradise Entertainment Ltd. has transferred its rights to the Digital Materials to a third party which intends to use them in like manner, NARA shall immediately: (a) receive all Archival Materials not already in NARA custody; (b) receive a copy of Digital Materials not previously provided to NARA (Paradise Entertainment Ltd. or the successor company or organization will make all reasonable efforts to deliver this copy to NARA before it ceases to exist); and (c) have full and unrestricted right to use the Digital Materials, consistent with the relevant sections as described in Section 1.9 above. Any successor company, organization, or third party shall be bound by the terms of this Agreement in accordance with Section 12 below.

2. **Obligations**

2.1 Except as otherwise specified in this Section 2, all access and services contemplated under this Agreement will be provided free of charge to NARA.

2.2 Paradise Entertainment Ltd. shall directly pay a third party for the transport of Archival Materials to and from NARA. Paradise Entertainment Ltd. shall directly pay Endpoint Audio Labs for any costs associated with their work.

2.3 NARA may, in its sole discretion, waive any or all of Paradise Entertainment Ltd.'s obligations to reimburse NARA's costs for a project. The reimbursement for a cost may be waived by NARA for many factors including public demand, condition of the records, current workload, or concessions made by Paradise Entertainment Ltd.. A waiver decision will be made on a project-by-project basis. NARA shall be deemed to have waived any right to reimbursement for any cost not specifically outlined and estimated in a project plan. Those costs for which Paradise Entertainment Ltd. may be responsible include, but are not limited to costs related to:

- 2.3.1 Unique or specialized infrastructure at a NARA facility required to support Paradise Entertainment Ltd. efforts;
- 2.3.2 Retrieval and transport of records to and from digitization work stations and monitoring Paradise Entertainment Ltd. staff and volunteers handling the records;
- 2.3.3 Conservation and preservation activities as determined to be necessary by NARA (with costs to be estimated and agreed upon in each project plan);
- 2.3.4 Digitizing the selected content pursuant to standards and specifications defined in each project plan;
- 2.3.5 Quality control of the Digital Materials including audits of the Digital Materials to verify the quality of the images, the quality of the indexes and other agreed-upon standards contained in the applicable project plan. Specific quality control and assurance actions will be detailed in the project plan for each digitization project.
- 2.3.6 Preparing descriptive Metadata that are linked to and permit the organization of Digital Materials, according to standards and specifications to be defined in each project plan;
- 2.3.7 Delivering the Digital Materials to NARA, pursuant to Sections 1.9 - 1.12.

NARA will be solely responsible for all costs related to:

- 2.3.8 Training Paradise Entertainment Ltd. and associated staff or volunteers in handling archival records;
- 2.3.9 Managing any NARA staff involved in each Project;
- 2.3.10 Providing cost estimates for the activities for which Paradise Entertainment Ltd. is responsible pursuant to subsection 2.3 above.
- 2.3.11 Travel of NARA employees to and from Endpoint Audio Labs

3. Public Domain: Ownership

- 3.1 U.S. Government works, which comprise the majority of Archival Materials in the National Archives of the United States, are not eligible for copyright protection in the United States and, as such, are in the public domain.
- 3.2 The parties acknowledge that nothing in this Agreement is intended to alter or impair any rights of control, custody, ownership or use that NARA or the U.S. Government may have in any Archival Materials. NARA shall not transfer control, custody or ownership over any Archival Materials to Paradise Entertainment Ltd. or any third party.
- 3.3 The parties will use all reasonable efforts to ensure that the Archival Materials digitized under this Agreement are in the public domain. In accordance with 36 C.F.R. 1254.62, for any Archival Materials digitized that are not in the public domain, Paradise Entertainment Ltd. will be solely responsible for obtaining any necessary permission for use, copying, and publication from copyright holders, any other existing intellectual property rights holder, any other applicable provisions of the Copyright Act (Title 17, United States Code), and for any other rights including, but not limited to, rights of publicity.
- 3.4 The parties will promptly notify each other in writing of any claim made by a third party that any of the Archival Materials are covered by copyright or any other intellectual property right. Following such notification: a) the parties will use their best efforts to identify and exclude from further distribution any digitized images subject to such restrictions that have not been cleared with the rights holder; and b) compliance with copyright laws and observance of the reproduction rights of any third party will be the sole responsibility of each party, separately, with respect to any Digital Materials under its control.
- 3.5 Any digital materials and metadata associated with such materials shall be dedicated to the public domain, and free of any copyright or licensing restrictions.

4. Privacy

- 4.1 NARA is responsible for protecting the privacy of living individuals mentioned in its records. For purposes of this Agreement, NARA is concerned with sensitive personally identifiable information (PII) - i.e., information which, if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. The most common type of sensitive PII is Social Security Numbers, particularly when linked to date of birth, mother's maiden name, or other types of identifiers; but sensitive PII can also include private medical information. NARA withholds from public access records that are less than 75 years old and contain sensitive PII.

- 4.2 NARA applies this standard to all NARA records before making them available to the public, including the Archival Materials made available to Paradise Entertainment Ltd. for digitization.
- 4.3 In the event that sensitive PII is discovered in the Archival Materials, or in the Digital Materials following digitization, Paradise Entertainment Ltd. will immediately notify NARA in writing as soon as possible, without unreasonable delay, but no later than 24 hours after discovery.
- 4.4 In the event that NARA discovers that any Archival Materials contain sensitive PII, NARA will immediately notify Paradise Entertainment Ltd..
- 4.5 At the direction of NARA's Senior Agency Official for Privacy, Paradise Entertainment Ltd. may be required to take mitigating actions to protect any sensitive PII, including but not limited to: removal of the information from public access, deletion of images containing sensitive PII from Paradise Entertainment Ltd.'s electronic storage devices and backup systems, and immediate return of the Archival Materials for further screening. In such an event, NARA and Paradise Entertainment Ltd. will work together to ensure that as much information as possible remains available for digitization and public access using available search and redaction technology to protect the privacy of living individuals. Each party will be responsible for their own costs in mitigating a PII incident.

5. Confidentiality

- 5.1 During the term of this Agreement and thereafter, each party agrees to maintain the confidentiality of the Confidential Information of the other. Without limiting the generality of the foregoing, each party shall make reasonable efforts to keep, file, and store such Confidential Information, together with any notes or other material incorporating or relating to the Confidential Information, in a manner consistent with its confidential nature and to take all appropriate action, whether by instruction, agreement or otherwise, to ensure that its trustees, directors, officers and employees do not disclose or use the Confidential Information of the others, directly or indirectly, for any purpose other than the purpose of this Agreement. Notwithstanding the foregoing, either party may disclose Confidential Information required to be disclosed by any requirements of law or any rule or regulation of any governmental authority. NARA agrees that any such disclosure will not, to the extent lawfully permitted, include any Confidential Information.
- 5.2 The foregoing confidentiality obligations shall not apply with respect to any information, even if denominated as Confidential Information, to the extent that such information: (i) is or becomes publicly known through no wrongful act or omission of the recipient; (ii) was rightfully known by the recipient before receipt from the other; (iii) becomes rightfully known to the recipient without confidential or proprietary restriction from a source other than the disclosing party which does not owe a duty of confidentiality to the disclosing party with respect to such Confidential Information; or (iv) is independently developed by the recipient without the use of, or reference to, the Confidential Information of the disclosure. In addition, the recipient may use or disclose Confidential Information to the extent (A) approved by the other in writing in advance of such use or disclosure, or (B) such party is legally compelled to disclose such Confidential Information.
- 5.3 Neither party will issue any public announcement regarding the existence or content of this Agreement or any project plan without the other party's prior written approval.

6. Limitation of Liability

- 6.1 In no event shall either party be liable to the other for any incidental, consequential, special, exemplary, or other indirect damages, or for lost profits, lost revenues, or loss of business arising out of the subject matter of this Agreement, regardless of the cause of action, even if the party has been advised of the likelihood of damages.

6.2 Insurance: Archival materials shall be insured during the period of this agreement. Paradise Films will maintain coverage in an amount, and subject to such conditions, as are satisfactory to NARA. NARA will determine insurance values for the Objects based on their fair market value. In the case of long-term loans, insurance premiums may be reviewed periodically, and NARA reserves the right to require an increase in coverage, if necessary. Paradise Films must furnish NARA with a certificate of insurance. NARA or the United States Government must be named as a beneficiary on the Paradise Film's policy, in addition to Paradise Films, in the event the object is lost, stolen, or otherwise cannot be returned to NARA. NARA must be notified in writing at least 20 days prior to any cancellation or meaningful change in the policy. Any lapses in this coverage will not release the Paradise Films from Liability for loss or damage.

Paradise Films shall indemnify NARA against all claims, actions, proceedings, costs, damages, and liabilities, including attorney's fees, arising out of, connected with, or resulting from use of or borrowing of the Archival Materials

7. Marks and Other Designations

7.1 NARA agrees that Paradise Entertainment Ltd. may make reference to NARA and use any NARA trade names, trademarks, service marks, seal, logos or other designations in connection with its activities contemplated under this Agreement, provided that Paradise Entertainment Ltd. obtains NARA's prior written approval for each usage, which approval will not be unreasonably delayed or withheld. Absent express written authorization, the use of the NARA trade names, trademarks, service marks, seal, logos or other designations shall not imply or state that NARA or any part thereof, or any NARA official or employee, endorses the policies, activities, products, services or opinions of Paradise Entertainment Ltd. or any third party.

8. Notices and Resolution of Disputes

8.1 Notices provided under this Agreement will be effective if delivered to the then current principal business address of the other party. The current addresses are:

If to Paradise Entertainment Ltd.:

Paradise Entertainment Ltd
55 Loudoun Road
St. John's Wood
London
NW8 0DL
United Kingdom
Attention: Ms. Allison McGourty

If to NARA:

National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
United States of America
Attention: Chief Innovation Officer

Notices may be given by mail (effective three business days after mailing) or by express courier (effective on actual delivery).

8.2 Any Notices regarding a dispute under this Agreement, except for matters addressed under Section 10 (Termination: Survival), shall be given to the above listed contacts to resolve. If the listed contacts cannot resolve the dispute, the Parties agree to first try in good faith to settle the dispute by mediation administered by a neutral acceptable to the Parties before resorting to arbitration, litigation, or some other dispute resolution procedure. The Parties agree to share all costs of mediation equally. NARA shall exercise its authority to engage in mediation, arbitration, or other form of dispute resolution in accordance with the Administrative Dispute Resolution Act of 1996, as amended, 5 U.S.C. §§ 571-84.

9. Term of Agreement

9.1 The Agreement is effective as of the Effective Date and will remain in effect for a period of three years, or three years after the completion date of any project defined in a project plan, whichever is longer (the "Expiration Date").

10. Termination: Survival

10.1 The Agreement may be terminated by either party for any reason by providing ninety days prior written notice; provided, however, that termination of the Agreement, except if based on a material breach (as discussed below), will not affect any ongoing project plan.

10.2 Either party may terminate the Agreement for a material breach by the other party, by giving ninety calendar days written notice, provided that such termination shall not be effective if such alleged material breach is cured within the ninety calendar day notice period and the allegedly breaching party provides notice of such cure to the other party.

10.3 Notice of termination under subsection 10.2 will immediately halt work on the creation of Digital Materials on all ongoing project plans, and on all signed project plans under which digitization has not begun. In the event of breach by either party: a) all Archival Materials must be returned to NARA custody immediately upon notice of termination under subsection 10.2; b) a copy of all Digital Materials related to such Archival Materials existing at the time of the breach must be turned over to NARA; and c) Paradise Entertainment Ltd. shall retain all Digital Materials and the right to use them consistent with the terms of this Agreement. A termination under subsection 10.2 shall not affect any Digital Materials already published by Paradise Entertainment Ltd..

10.4 In the event of a termination under subsection 10.2, Paradise Entertainment Ltd. retains all rights to Paradise Entertainment Ltd. owned scanning equipment.

10.5 The provisions of Sections 1.11, 1.12, 2, 3, 4, 5 and 6 shall survive termination subject to the provisions above; however, Paradise Entertainment Ltd. obligations under Section 2 shall survive termination to the extent NARA has incurred costs prior to the date of termination that have not been deemed waived pursuant to paragraph 2.3.

11. Governing Law and Certifications

11.1 Each of the individuals signing this Agreement certifies that he or she has legal authority to enter into this Agreement on behalf of his or her Party.

11.2 This Agreement will be governed by and in accordance with the laws of the United States (without regard to conflicts of law) and the laws of the District of Columbia.

12. Relationship of the Parties

12.1 This Agreement does not constitute, and is not intended to give rise to, a partnership or joint venture between the parties. Each party will operate under the terms of this Agreement as an independent entity and not as an agent for, or an employee of, the other.

13. Assignment

13.1 Neither NARA nor Paradise Entertainment Ltd. may assign any of its rights or obligations under this Agreement without the prior written consent of the other party. NARA will not unreasonably withhold or delay its consent.

14. Force Majeure

14.1 None of the parties to this Agreement will have any liability to the other Party for any delay or failure to perform, in whole or in part, or for any cancellation in connection with performance of any obligations hereunder, if such failure or cancellation is due to any cause beyond its reasonable control, including, but not limited to, acts of God, war, riots, civil disturbances, fires, floods, earthquakes, strikes, terrorist acts or credible threat of same, lock-outs, Government shutdown due to lapse in appropriations, labor disputes, failures in public supply of utilities or any other causes beyond the control of the Parties, whether similar or dissimilar to the foregoing.

15. Modification

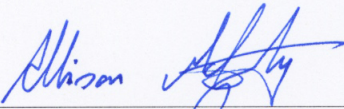
15.1 This Agreement constitutes the entire understanding of the Parties with respect to the matters addressed herein. This Agreement supersedes and replaces any prior or contemporaneous documents, correspondence, conversations, agreements, and other written or oral understandings. The Agreement may be amended, modified, or waived only by written agreement, signed by the authorized representatives of both Parties. In the event of a conflict between an approved project plan and this Agreement, the terms of this Agreement will apply.

16. Date of Execution

16.1 This agreement will be considered executed on the date that the last party signs it.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date hereof.

PARADISE ENTERTAINMENT, LTD.



Name: Allison McGourty

Title: Director

Date:

September 5, 2019

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DIGITIZATION AGREEMENT

with

Paradise Entertainment Ltd.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date hereof.

NATIONAL ARCHIVES AND
RECORDS ADMINISTRATION

A handwritten signature in black ink, appearing to read "D. S. Ferriero", is written over a horizontal line.

Name: David S. Ferriero
Title: Archivist of the United States
Date: