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PPL STANDARD WEBCASTER LICENCE **TERMS AND CONDITIONS**

The issuing of these Terms and Conditions does not in itself grant any rights. Permission to use PPL's repertoire (on the terms set out in the Licence) will only be effective once the online application has been completed, the Licensee has fully paid all licence fees and a receipted invoice has been issued by PPL.

LICENCE PARTICULARS:

Licensee Name: Truckers FM

Licensee Address:

Service Name: Truckers FM

Website Address: www.Truckers.FM

Commencement Date: 24th January 2018

Application Date: 14th October 2015

INTRODUCTION:

- (A) PPL provides services to rights owners and users for the collective licensing of rights in sound recordings, and distributes licence fee revenue to record companies and to performers. PPL wishes to grant the Licensee a licence for the use of its repertoire in the Licensee's Webcasting service, all subject to the terms below.
- (B) The Licensee operates a Webcasting service in the UK and wishes to obtain the right to use the repertoire of PPL in this service, all subject to the terms below.
- (C) The Licence is for non-subscription Webcasting services that are based in the UK and that satisfy one or both of the following criteria:
 - (1) Internet Radio stations that have annual revenues greater than £5,000;
 - (2) Internet Radio Stations or Internet simulcast services that stream more than 270,000 Performances each Licence Year.And which in all cases are not funded and branded by a sole commercial sponsor (which includes a commercial group with the branding of its various associated companies or products)
- (D) PPL offers a Small Webcaster Licence for certain Webcasting services that operate similar services as those licensed under this Licence but have annual commercial revenues (advertising, sponsorship etc) of less than £5,000 and Stream less than 270,000 Performances in any Licence Year.

1. Definitions and Interpretation

1.1 The following definitions apply in the Licence:

"*the 1988 Act*" means the Copyright, Designs and Patents Act 1988.

"*Central Database*" means copies of one or more Sound Recordings in digital form which are stored solely on a single central processing unit, the location of which is the Named Premises.

"*Commencement Date*" means the Commencement Date set out in the Licence Particulars.

"*Commercial*" means, as applied to the Licensee, that the Licensee is not Non-Commercial.

"*Commercial Revenue*" means the total valuable consideration (before any deduction of agency commissions or any other deductions) whether in money or money's worth of income derived and received by the Licensee (or any person, firm, company or entity which is a holding company of the licensee, a subsidiary company of such holding company, a subsidiary of the licensee or an agent, member or associate of the Licensee) from or otherwise in respect of the provision of the Service pursuant to the Licence including without limitation and by way of example only advertising, sponsorship, telephony, and product placement (including without limitation and by way of example targeted delivery of specific sound recordings to users of the Service).

"*Continuous Programme*" means a predetermined programme that is continuously performed in the same order and that is accessed at a point in the programme that is beyond the control of the transmission recipient.

"*Dubbing Report*" means a full and proper report setting out all Sound Recordings copied onto the Central Database and including the following information:

- (1) the duration of such Sound Recording copied (in seconds);
- (2) the ISRC number of such Sound Recording;
- (3) the title of such Sound Recording including, where available, the title of the version or mix;
- (4) the record label and catalogue number of such Sound Recordings;
- (5) (where identifiable) the identity of the performers whose performances are contained in such Sound Recording.

"*Excluded Sound Recording*" means a Sound Recording notified by PPL to the Licensee in accordance with Clause 6.1.

"*Extended Territory*" means all those territories listed on PPL's website and for which PPL is able to license the Webcasting of Sound Recordings.

"*Identifiable Programme*" means any programme (other than a Continuous Programme) in which sound recordings are played in a predetermined order and which is capable of identification as a distinct programme.

"*Interactive Service*" means a service or part of a service that enables a member of the public to receive either:

- (1) a transmission of a programme or sequence of sound recordings specially created for or by the recipient, or
- (2) on request, a transmission of a particular sound recording, whether or not as part of a programme, which is selected by or on behalf of the recipient;

provided that the ability of individuals to request that particular sound recordings be performed for reception by the users of the Service at large does not make a service interactive, if the programming of the service does not substantially consist of sound recordings that are performed within 1 hour of the request or at a time designated by either the transmitting entity or the individual making such request. If an entity offers both interactive and non-interactive services (either concurrently or at different times), the non-interactive component shall not be treated as part of an interactive service.

"*Internet*" means any physical network of interconnecting computers over which multi media content, including, without limitation, text, graphics, software, audio and video identifiable by reference to a unique URI/URL (Universal Resource Indicator/Universal Resource Locator), is made available to and accessed by users of web browsers (for example, the browsers known as "Microsoft Internet Explorer" and "Netscape") through the use of a common set of software protocols such as TCP/IP protocols.

"*ISRC*" means the International Standard Recording Code (ISO 3901).

"*Licence*" means the contract formed of the Licence Particulars, these Terms and the Licensee Guide.

"*Licence Particulars*" means the information identified as such and contained in the confirmation document provided by PPL reflecting that provided by the Licensee via the online application on PPL's website which is pertinent to the Service.

"*Licence Period*" means, subject to Clause 16, an initial period of 12 months from the Commencement Date and such further period thereafter as shall continue unless and until the Licence is terminated (whether in accordance with Clause 16 or otherwise).

"*Licence Year*" means the period of 12 months commencing on 1 January in any given year.

"*Licensee Guide*" means the guide attached or provided to the Licensee via the PPL website licensing facility setting out actions that are prohibited under the Licence.

"*Listener Hours*" means the total aggregate hours of all Webcasting to all Players within the Territory and, where applicable, the Extended Territory.

"*the Members*" means those persons, firms, companies or entities who are from time to time members of PPL and who have appointed PPL as their non-exclusive agent to license the Webcasting in the Territory of their Sound Recordings.

"*Named Premises*" means the premises detailed in the Licence Particulars as the Licensee Address or such other premises as may be notified by the Licensee to PPL, pursuant to the provisions of Clause 8, as being the sole location of the Central Database from the date specified in such notification.

"*Non-Commercial*" means, as applied to the Licensee, that the Licensee has demonstrated or the parties have agreed that the Licensee is either a:

- (1) Privately funded operation (no Commercial Revenue), or
- (2) Small-scale commercial operation mainly financed by private means and with annual Commercial Revenue of less than £5,000, or
- (3) Community or charitable project mainly financed by grants and donations and with annual Commercial Revenue of less than £5,000, or
- (4) University, school or other educational establishments with annual Commercial Revenue of less than £5,000.

"*PPL*" means Phonographic Performance Limited.

"*Performance*" means each instance in which any portion of a Sound Recording in the Service is delivered to a single Player, excluding (a) a Sound Recording in which no copyright subsists; and (b) a Sound Recording subject to a direct licence from the owner of the sound recording(s) in question.

"*Permitted Central Database Capacity*" means 20,000 (twenty thousand) Sound Recordings.

"*Player*" means a player or other apparatus or device capable of playing a transmission of a sound recording in the Service.

"*Pre-Announced Transmission*" means a transmission of an Identifiable Programme as part of the Service, where the date and time of that transmission has been publicly announced in advance of that transmission taking place.

"*Programme Report*" means a full and proper report setting out in chronological order a list of Sound Recordings that have been Webcast in the Service in the relevant period including the following information:

- (1) the date of the Webcast;
- (2) the time of transmission of the programme in which such Sound Recording was used;
- (3) the title of the programme in which such Sound Recording was used;
- (4) the duration of such Sound Recording used (in seconds);
- (5) the ISRC number of such Sound Recording;

- (6) the title of such Sound Recording including, where available, the title of the version or mix;
- (7) the record label and catalogue number of the physical product including sound recordings;
- (8) (where identifiable) the identity of the performers whose performances are contained in such Sound Recording; and
- (9) the number of Performances of such Sound Recording.

"*Quarter*" means the period of three consecutive months starting on 1 January, 1 April, 1 July and 1 October as the case may be.

"*RPI*" means the official Index of Retail Prices (All Items) published by HM Government.

"*the Repertoire*" means all those sound recordings the ownership, control or right to grant licences of the relevant copyright in which are vested in PPL from time to time by the Members subject always to the provisions of Clause 6.

"*Revenue Report*" means a full and proper report setting out the Commercial Revenue in relation to a given period.

"*the Service*" means the provision of a single audio channel via the Internet to the Players in the Territory and, where applicable, the Extended Territory, further particulars being set out in the Licence Particulars, but excluding any service that is funded and branded by a sole commercial sponsor (which includes a commercial group with the branding of its various associated companies or products) and also excluding any subscription or other paid-for service.

"*Sound Recording*" means a sequence of sounds comprising the whole or part of a sound recording in the Repertoire which is identified by a number or other device indicated by or on any descriptive text accompanying the sound recording or by information embodied in or on the electronic or other product on which the sound recording is stored or identified by a single ISRC number.

"*Streaming*" means the continuous delivery via the Internet of an audio or audio visual transmission(s) that enables the contemporaneous performance of the transmitted sound recording(s) by a Player.

"*Tariff of Destination*" means the applicable Webcasting tariff for a territory in the Extended Territory in force from time to time.

"*these Terms*" means these PPL Standard Terms and Conditions for the Standard Webcaster Licence.

"*Territory*" means the United Kingdom of Great Britain and Northern Ireland, the Channel Islands, the Isle of Man and all additional territories to which the 1988 Act shall extend.

"*Territory Report*" means a report setting out the territories within the Extended Territory that have received the Service together with information on the relative number of Performances in each of those territories.

"*VAT*" means value added tax.

"*Webcasting*" means any Streaming, the primary purpose of which is not to sell, advertise or promote particular products or services other than sound recordings, live concerts or other music-related events (and the word "*Webcast*" shall be interpreted accordingly).

"*Webcasting Report*" means, in relation to a given period, a full and proper report setting out for the Service the following information in respect of that period:

- (1) the total Listener Hours; and
- (2) in respect of Non-Commercial Licensees only, the average number of Sound Recordings streamed by the Service per webcasting hour;

"*Working Day*" means any day of the week (Monday to Friday inclusive) which is not a public holiday in England and Wales.

1.2. For the purpose of interpretation of the Licence:-

- (1) Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended extended or re-enacted.
- (2) Words importing the singular number include the plural (and vice versa), words importing any gender include every gender and words importing persons include bodies corporate and unincorporated.
- (3) References to clauses are references to clauses of these Terms unless stated otherwise.
- (4) Where expressions used in the Licence are expressions used in the 1988 Act, they shall have the same meaning in the Licence as in the 1988 Act unless the context otherwise requires.
- (5) In the Licence, unless the context requires otherwise, references to the word "including" do not imply any limitation.

2. Grant: Webcasting

2.1 Subject to the terms and conditions of the Licence and for the sole purpose of providing the Service PPL grants to the Licensee a non-exclusive licence during the Licence Period and within the Territory and the Extended Territory to Webcast Sound Recordings in the Service.

2.2 For the avoidance of doubt, the rights granted under the Licence do not cover the streaming of the Service from third party websites (i.e. websites that are not under the editorial control of the Licensee and designated for the Licensee and/or one or more of the Licensee's radio services) except in cases where both:

- (1) the Internet Simulcast Service is delivered in such a manner that all Performances are recorded by the Licensee and accounted for under this Licence; and
- (2) the third party website clearly indicates that the Licensee is the source of the Internet Simulcast Service.

2.3 For the avoidance of doubt:

- (1) no rights in respect of any Interactive Service are granted under the Licence;
- (2) save as provided in Clause 3.1, no rights in respect of the copying of Sound Recordings, whether by the Licensee or third parties, are granted under the Licence:
- (3) no rights in respect of the public performance of Sound Recordings (whether in the Territory or elsewhere) are granted under the Licence;
- (4) transmissions (a) within closed proprietary systems, (b) within closed private networks and/or (c) within or to mobile phone networks are excluded from the scope of the Licence; and
- (5) the Service shall only be offered to the recipients and/or customers of the Service for private and domestic use and not for resale or other commercial use including streaming to commercial premises.

3. Grant: Central Database

- 3.1 Subject to the terms and conditions of the Licence and for the sole purpose of providing the Service PPL hereby grants to the Licensee a non-exclusive licence during the Licence Period and within the Territory to copy any Sound Recordings onto the Central Database and to retain the copies of those Sound Recordings on the Central Database provided that the total number of different Sound Recordings on the Central Database at any time does not exceed the Permitted Central Database Capacity.

4. Restrictions and Warranties

- 4.1 Without prejudice to Clause 4.5, the Licensee hereby undertakes that it shall comply with all provisions and restrictions set out in the Licensee Guide..
- 4.2 The Licensee hereby warrants that, subject to Clause 5.1, the details of the Service set out in the Licence Particulars are true, accurate and complete in all respects;
- 4.3 Copies of Sound Recordings left on the Central Database after expiry or termination shall be deemed to be infringing copies save where the retention of those Sound Recordings is properly and expressly licensed by the lawful owner of the relevant rights in those Sound Recordings.
- 4.4 The licences granted under Clause 2 and Clause 3 only relate to the copyright in the Sound Recordings and do not include, refer to or cover any other consents or authorisation of whatsoever nature which may be required for the Service.
- 4.5 All rights in the Repertoire which are owned or controlled by PPL and not expressly licensed to the Licensee under Clause 2 and Clause 3 are

expressly reserved.

- 4.6 PPL hereby warrants and represents to the Licensee on behalf of itself that it has the right, power and authority to enter into and to grant the Licence on the terms set out in the Licence.
- 4.7 PPL hereby warrants that it shall perform the administration services provided under the Licence in a good and workmanlike and timely manner and to appropriate professional standards.

5. Information, Programme Reports and Dubbing Reports

- 5.1 The Licensee shall provide advance written notice to PPL of any material changes to the information regarding the Service set out in the Licence Particulars. PPL shall review such changes promptly and negotiate in good faith with the Licensee any material variation to the Licence which is necessary to accommodate the notified changes. It is expressly agreed and declared that this obligation shall not be construed as implying any consent on the part of PPL to any change so notified.
- 5.2 Commercial Licensees shall:
- (1) within 20 (twenty) Working Days of the expiry of each Quarter supply to PPL a Programme Report, a Territory Report and a Webcasting Report in respect of each month in that Quarter; and
 - (2) within 20 (twenty) Working Days of receiving a request in writing from PPL supply to PPL a Dubbing Report in respect of a period within the Licence Period specified by PPL in that request.
 - (3) within 20 (twenty) Working Days of receiving a request in writing from PPL supply to PPL a Revenue Report in respect of a period within the Licence Period specified by PPL in that request.
- 5.3 Non-Commercial Licensees shall:
- (1) within 20 (twenty) Working Days of the expiry of each Quarter supply to PPL a Territory Report and a Webcasting Report in respect of each month in that Quarter.
 - (2) on 1 January and 1 July in each Licence Year supply to PPL a Programme Report in respect of a period of seven consecutive days within the two previous Quarters, such period being reasonably typical of the Service in terms of the number and nature of Sound Recordings contained within in.
 - (3) within 20 (twenty) Working Days of receiving a request in writing from PPL supply to PPL a Revenue Report in respect of a period within the Licence Period specified by PPL in that request.
 - (4) within 20 (twenty) Working Days of receiving a request in writing from PPL supply to PPL a Dubbing Report in respect of a period within the Licence Period specified by PPL in that request.
- 5.4 The Licensee shall be treated as a Commercial Licensee unless PPL agrees that it should be treated as a Non-Commercial Licensee or the Licensee has submitted a full Revenue Report for the most recent Licence Year demonstrating that it is a Non-Commercial Licensee.
- 5.5 The Licensee acknowledges that the purpose of the Webcasting Report is to provide an approximation of the number of Performances of Sound Recordings delivered via the Service and agrees to not take any actions designed to distort such approximation or deliver a false impression of the

number of Performances of Sound Recordings delivered via the Service including but not limited to webcasting silence or content not intended to be listened to during hours where the number of listeners is low.

- 5.6 Programme Reports, Territory Reports, Webcasting Reports and Dubbing Reports must comply with PPL's requirements as notified to the Licensee from time to time.
- 5.7 The Licensee shall provide PPL with such further information as PPL may reasonably require from time to time to clarify the information previously submitted in Programme Reports, Webcasting Reports, Revenue Reports, Dubbing Reports and Territory Reports supplied pursuant to Clause 5.2 or, as the case may be, Clause 5.3.
- 5.8 In compiling the Territory Reports to be supplied pursuant to Clause 5.2 and Clause 5.3, the nature and detail of the information to be provided as to the relative amounts of streams to each territory shall be agreed between PPL and the Licensee (save that the Licensee shall not be entitled to refuse to consent to any reasonable request made by PPL).

6. Notification of Excluded Material

- 6.1 PPL may at any time during the Licence Period notify the Licensee in writing that one or more specified Sound Recordings from the Repertoire or the whole of a particular Sound Recording or particular Sound Recordings are excluded from the Licence either for the whole or part of the Licence Period which exclusion shall be effective from the date of receipt of such notification by the Licensee (or, as the case may be, from any future date that is specified in that notification).
- 6.2 Following a notification from PPL pursuant to Clause 6.1 in respect of any Excluded Sound Recording and as soon as reasonably practicable the Licensee shall not Webcast that Excluded Sound Recording in the Service (unless such Webcast is expressly and properly licensed by the relevant rightholder). Following a notification from PPL pursuant to Clause 6.1 in respect of any Excluded Sound Recording the Licensee shall be responsible for obtaining any licence(s) necessary from the owner of the copyright in the sound recording of the Excluded Sound Recording(s).
- 6.3 Following a notification from PPL pursuant to Clause 6.1 in respect of any Excluded Sound Recording the Licensee shall not copy that Excluded Sound Recording or, if that Sound Recording has already been copied, shall as soon as reasonably practicable delete such Excluded Sound Recording(s) from the Central Database.
- 6.4 The Licensee's obligation(s) under Clause 6.2 and Clause 6.3 shall be at the Licensee's cost.

7. Deletion

- 7.1 When the Licensee decides or is obliged under the terms of the Licence to delete any Sound Recording on the Central Database including prior to copying any Sound Recording onto the Central Database where the Permitted Central Database Capacity is reached or where the Permitted Central Database Capacity exceeded, it shall as soon as reasonably practicable and at its own cost irreversibly remove, delete and/or erase that Sound Recording, save where the retention of the copy of that Sound

Recording is properly and expressly licensed by the lawful owner of the relevant rights in the associated Sound Recording.

- 7.2 If requested by notice in writing from PPL, the Licensee shall provide PPL, within 10 (ten) Working Days of such request, with an Affidavit sworn by the Licensee or, if the Licensee is a company, a Director of the Licensee confirming that Clause 7.1 has been complied with.

8. Named Premises

- 8.1 At any time during or within two years of expiry of the Licence Period, the Licensee shall permit PPL on reasonable notice at reasonable times to enter any premises to which it has access at that time and where any part of the equipment used in the provision of the Service is held in order to inspect, examine and have demonstrated in accordance with PPL's instructions the Central Database and any device or system associated with the Central Database and/or the Service for the sole purpose of ascertaining whether the terms and conditions of the Licence have been complied with.
- 8.2 The Licensee shall not remove, authorise, permit or allow any other person to remove for any reason any Sound Recordings copied pursuant to this Licence from the Named Premises whether contained on the Central Database or in any other form.
- 8.5 In the event that it wishes to change the location of the Named Premises the Licensee shall obtain the prior written permission of PPL (such permission not to be unreasonably withheld). The Licensee's notification to PPL shall include the date from which the Central Database is proposed to be held at the new premises.
- 8.6 The Licensee shall at all times keep all copies of Sound Recordings and the Central Database in safe custody at the Named Premises.

9. Advance and Administration Fees

- 9.1 The Licensee shall pay to PPL a non-returnable annual advance of
- (1) Where the Licensee is a Commercial Licensee, **£715** (seven hundred and fifteen pounds)
 - (2) Where the Licensee is a Non-Commercial Licensee, **£415** (four hundred and fifteen pounds)
- in respect of the royalties payable under Clauses 10.1(1), 10.1(2) and 10.3.
- 9.2 The Licensee shall pay to PPL an annual fee in respect of the administration of the rights to Webcast within the Extended Territory of:
- (1) Where the Licensee is a Commercial Licensee, **£104** (one hundred and four pounds)
 - (2) Where the Licensee is a Non-Commercial Licensee, **£62** (sixty two pounds)
- 9.3 The non-returnable advance and administration fees in Clauses 9.1 and 9.2 shall be payable on the Commencement Date, and on the first day of each further Licence Year throughout the Licence Period, save that where the Commencement Date is after 1 January in the initial Licence Year, the fees payable under Clause 9.1 and Clause 9.2 for that Licence Year shall be adjusted using the ratio between the number of days in that Licence Year from the Commencement Date onwards and the total number of days in that Licence Year.

9.4 The advance payable under Clause 9.1 shall be recouped against any consideration payable to PPL under Clauses 10.1(1), 10.1(2) and 10.3. No payment shall be due pursuant to Clauses 10.1(1), 10.1(2) or 10.3 to the extent that any part of the advance paid under Clause 9.1 is unrecouped.

9.5 Where a Licensee is being licensed as a Non-Commercial Licensee but is subsequently shown to have not met the criteria for a Non-Commercial Licensee in any Licence Year or fails to provide a Revenue Report when requested according to Clause 5.3 the Licensee shall promptly make up any shortfall between the sums paid by the Licensee and the advance due from a Commercial Licensee under Clause 9.1 in respect of all relevant Licence Years.

10. Consideration

10.1 In consideration of the rights granted under Clause 2 the Licensee shall account and pay to PPL:

- (1) in each month of the Licence Year the aggregate of 0.0704 pence (£0.000704 sterling) per Performance in the Territory in that month, this fee being subject to Clause 10.2 and to indexation pursuant to Clause 14;
- (2) in each month of the Licence Year the applicable licence fees according to the Tariff of Destination for any Performances in the Extended Territory; and

10.2 The calculation in Clause 10.1(1) shall exclude 4% of Performances as a notional figure to take account of partial Performances of nominal duration made by a Licensee due to, for example but without limitation, technical interruptions, network failure, the closing down of a media player or channel switching. For the avoidance of doubt, this adjustment shall apply regardless of the Licensee's actual experience of such partial Performances.

10.3 In consideration of the rights granted under Clause 3 the Licensee shall account and pay to PPL (in addition to the royalties payable under Clause 10.1) a sum equal to 15% of the total royalties payable under Clause 10.1(1) and Clause 10.1(2).

11. Payment

11.1 The Licensee shall within 40 (forty) Working Days of the expiry of each Quarter pay the licence fees due under Clauses 10.1(1), 10.1(2) and 10.3 (subject to recoupment pursuant to Clause 9.3) as calculated from the Reports provided pursuant to Clause 5.2 or Clause 5.3.

11.2 The Licensee shall not set-off any claims for repayments (whether under the Licence or any other licence granted by PPL) against any advances or royalties due to PPL under Clauses 9 and/or 10.

12. VAT

12.1 All payments referred to in the Licence are exclusive of VAT and the Licensee shall pay together with those payments such VAT or any like tax where the same is applicable at the prevailing rate or rates from time to time.

12.2 Where payments are made in accordance with Clause 12.1, PPL shall provide to the Licensee a duly receipted VAT invoice in respect of such

payments.

13. Interest

13.1 If any payment to PPL under the Licence is not received on the due date interest at the rate of 4% above the Bank of England Base Rate in force from time to time shall be payable by the Licensee on the sum due calculated from the due date until the date of actual payment whether before or after judgment.

14. Indexation

14.1 The Licence subsists during the Licence Period only and terminates at the expiry of the Licence Period.

14.2 The sums referred to in Clause 9.1 and Clause 9.2 and the sums referred to in Clause 10.1(1) are applicable in the Licence Year in which the Commencement Date falls and, save as provided in Clause 14.3, shall be adjusted on 1 January of each subsequent year so as to reflect any increase in the RPI by multiplying the relative amounts by the RPI published in the November of the previous year and dividing the result by the RPI published in the November of the year before that.

14.3 In the event that the RPI is reset at any time, the calculations in Clause 14.2 shall be adjusted to take account of that change.

15. Royalty Audit

15.1 The Licensee shall keep separate and accurate books of account and records concerning the use of Sound Recordings under the Licence, including the number of Performances and the information used to generate Programme Reports, Dubbing Reports and Territory Reports (the "**Licensee's Records**").

15.2 Once in every 12 months and within 20 (twenty) Working Days of a request from PPL to do so, the Licensee shall permit PPL and/or its authorised representatives (who shall be a Chartered or Certified Accountant) to enter the premises of the Licensee and to inspect, take copies and conduct an examination of all the Licensee's Records however stored (whether the same have previously been inspected copied or examined pursuant to the Licence or not) as required.

15.3 If such inspection shows a deficiency in the monies due under Clause 10.1 and Clause 10.3 the Licensee shall forthwith make good this deficiency by paying the equivalent sum to PPL together with interest on that sum in accordance with Clause 13.1. If such inspection shows an over-payment the amount of such over-payment shall be credited to the Licensee against royalties subsequently falling due under Clause 10.1.

15.4 If such inspection shows a deficiency in the monies due under Clause 10.1 and Clause 10.3 in excess of 5% in the amounts paid in respect of any month prior to the inspection the Licensee shall at the same time as making payment of such deficit in accordance with Clause 15.3 pay to PPL all reasonable costs and expenses incurred by PPL in connection with such inspection or audit together with interest on that sum from such date in accordance with Clause 13.1.

15.5 The rights of inspection, examination and taking copies specified in Clauses

15.1 and 15.2 and the obligations specified in Clauses 15.3 to 15.4 shall continue beyond the cessation of the Service and/or the termination of the Licence for a period of 2 years.

15.6 The Licensee for a period of 2 years after the date of the cessation of the Service or the expiry or termination of the Licence shall retain the Licensee's Records to enable PPL, its authorised representatives and/or its auditors to determine an adequate audit trail by which to verify the royalty due to PPL under the Licence.

15.7 All information disclosed to those conducting the royalty audit pursuant to the provisions of Clauses 15.1 to 15.6 will be kept confidential by PPL and shall not be used or disclosed for any purposes other than verifying the information supplied to PPL, obtaining legal and/or accountancy advice thereon or for any subsequent legal proceedings which may arise directly therefrom.

16. Termination

16.1 PPL shall have the right at any time during the continuance of the Licence to terminate the Licence forthwith by written notice to the Licensee in any of the following events:

- (1) If the Licensee commits or permits to be committed any material breach or breaches of any of the terms (whether or not conditions) of the Licence and such breach is incapable of remedy;
- (2) If the Licensee commits or permits to be committed any material breach or breaches of any of the terms (whether or not conditions) of the Licence (including non-payment) and such breach is capable of remedy and the Licensee has not remedied such breach within 20 (twenty) Working Days of being notified in writing of the same;
- (3) If the Licensee (being an individual) suffers a statutory demand to be served upon him and/or becomes bankrupt or enters into an arrangement or composition with or for the benefit of his creditors or suffers an execution to be levied against his goods or property or (being a company) shall be wound up whether compulsorily or voluntarily (save for the purpose of reconstruction or amalgamation) or suffers an execution to be levied against its goods or property or has a receiver or administrator appointed over its assets or any of them or if notice of any liquidation or other proceedings related to insolvency is served upon it.

16.2 Upon early termination of the Licence the last month for the purpose of calculating appropriate royalties payable under Clause 10.1 and Clause 10.3 shall be the period from the date of the commencement of the month in which the termination takes place until the date of termination.

16.3 Either party may terminate the Licence by giving not less than one month's written notice to the other, such notice not to be given before the expiry of 12 months from the Commencement Date and for the avoidance of doubt no refund or discount shall apply in respect of any advance due or paid under Clause 9.1 or any fee due or paid under Clause 10.1 as a result of the Licence being terminated by the Licensee part way through a Licence Year.

16.4 Termination of the Licence howsoever occasioned shall not affect the accrued rights of PPL pursuant to the provisions of Clauses 4 to 15 inclusive.

17. Applicable Law

17.1 The Licence shall be construed and interpreted in accordance with the laws of England and Wales, the courts of which shall be the sole and exclusive courts of competent jurisdiction in all matters concerning the same.

18. Costs

18.1 In the event that either party is in default of any of its obligations under the Licence and the other party incurs legal costs and expenses in order to obtain compliance therewith such costs shall be recoverable by the other party from the defaulting party as a debt to the extent that such costs have been reasonably incurred and have been awarded to the party in question by a court of competent jurisdiction.

19. Waiver

19.1 No waiver by PPL or the Licensee of any breach of any provision of the Licence shall be deemed to be a waiver of any other breach of the same or of any other provision hereof, and no waiver shall be effective unless made in writing and then only to the extent specifically set forth nor shall any single or partial exercise of such right or of any other right power or privilege or remedy preclude any other or further exercise of such or any other right power privilege or remedy available to the party in question under the Licence all of which are several and cumulative and are not exclusive of each other or of any other rights or remedies otherwise available to the party in question at law or in equity.

20. Variation

20.1 No variation or amendment of the Licence shall bind either party unless agreed to in writing by their respective duly authorised representatives.

21. Negation of Partnership/Joint Venture

21.1 The terms and conditions of the Licence shall not constitute any form of partnership or joint venture between the parties.

22. Severance

22.1 If any provisions (or part of a provision) of the Licence shall be determined by any court or other tribunal of competent jurisdiction to be illegal void or unenforceable all other provisions of the Licence (and also, where part of a provision is defective, the remainder of that provision) shall nevertheless continue in full force and effect.

23. Clause Headings

23.1 The clause headings in the Licence are for information only and do not form part of the Licence.

24. Contracts (Rights of Third Parties) Act 1999

24.1 A person who is not a party to the Licence has no rights under the Contracts (Rights of Third Parties) Act 1999 ("the 1999 Act") to enforce any term of the Licence but this does not affect the right or remedy of a third party that exists or is available apart from the 1999 Act.

25. Entire Agreement

25.1 The Licence constitutes the entire agreement between the parties hereto in respect of its subject matter superseding any previous agreement in respect of the same subject matter.

26. Negation of Extension of Rights

26.1 Nothing in the Licence shall be construed as permitting the Licensee to do any act save as expressly provided herein in relation to rights in Sound Recordings from the Repertoire. Without prejudice to the generality of the foregoing nothing in the Licence shall be taken or construed as conferring any form of Licence or permission in respect of the copyright in any musical literary or other work embodied in any such Sound Recording.

27. Representations

27.1 Each of the parties acknowledges to the other that save as expressly made herein neither has made any representation to the other which has induced them to enter into the Licence and to the extent that any such representations have been made they have not been relied on.

27.2 Nothing in Clause 27.1 shall operate to limit or exclude any liability for fraud.

28. No Assignment or Sub Licensing

28.1 The Licensee shall not assign, transfer, charge or sub-license or purport to assign, transfer, charge or sub-license, the benefit of the Licence or any part hereof or any interest hereunder, including where the Licensee is a group of individuals, any addition to or change to the licensed individuals, without the prior written consent of PPL to be given or withheld at its absolute discretion.

28.2 The Licensee shall notify PPL in writing (within 10 (ten) Working Days of the relevant event occurring) of the identity of any third party who acquires a total of 50% or more of the shareholding in the Licensee and of any change of name of the Licensee.

29. Notices

29.1 Any notices or demands to be given or made pursuant to the Licence shall be given or made in writing and sent by:

- (1) pre-paid first class mail; or
- (2) facsimile (confirmed by pre-paid first class mail sent within 24 hours of the despatch of such facsimile); or
- (3) personal delivery

addressed and sent to the recipient at the address stated above and addressed to the Company Secretary or to such other address as may have been duly notified.

29.2 Any notice or demand given or made by mail shall be deemed to have been received at the expiry of 48 hours from such despatch and any notice or demand given or made by facsimile shall be deemed to have been received at the time of despatch.

29.3 For the avoidance of doubt an e-mail shall not be capable of providing proper notice under the terms of the Licence.

PPL Standard Webcaster Licensee Guide

The Licensee hereby undertakes that:

Sound Recording Restrictions

- (1) it shall not publish or cause to be published, by means of an advance program schedule or prior announcement, the titles of the specific Sound Recordings or the names of albums incorporating such Sound Recordings to be transmitted, or, other than for illustrative purposes, the names of the featured recording artists (save that this clause does not disqualify a prior announcement that a particular artist will be featured within an unspecified future time period);
- (2) it shall not Webcast (or authorise the Webcast) in any 3-hour period:
 - (1) more than 3 Sound Recordings from a particular album, including no more than 2 consecutively, or
 - (2) more than 4 Sound Recordings by a particular artist or from any compilation of Sound Recordings, including no more than 3 consecutively; or
 - (3) the same Sound Recording repeated during any 1-hour period
- (3) it shall not knowingly (a) transmit unauthorised recordings (including bootlegs) or (b) without the permission of the rights owner(s), transmit via the Service sound recordings that have not yet been made available for Webcasting purposes in the Territory and Extended Territory;
- (4) it shall not re-mix, edit or otherwise change sound recordings so that what is transmitted would be different from the original sound recording, provided that to segue Sound Recordings to form a Continuous Programme shall not constitute a breach of this paragraph;

Programme Restrictions

- (5) no part of the Service shall contain a Continuous Programme of less than 3 hours duration;
- (6) for any Identifiable Programme of less than 1 hour in duration there shall be no more than 3 Pre-Announced Transmissions of that Identifiable Programme in any 2 week period and that for any Identifiable Programme of 1 hour or more in duration there shall be no more than 4 Pre-Announced Transmissions of that Identifiable Programme in any 2 week period;

Promotional Use

- (7) it shall not knowingly transmit a Sound Recording as part of a service that offers transmissions of visual images, in a manner that is likely to cause confusion, to cause mistake, or to deceive as to any affiliation or association of the copyright holder or featured artist with the Licensee or a particular product or service advertised by the Licensee, or as to the sponsorship, or approval by the copyright holder or featured recording artist of the activities of the Licensee other than the

performance of the Sound Recording itself;

- (8) it shall not use any Sound Recording in such a way as may be taken to imply that any goods, products or services other than the Sound Recording are endorsed advertised or associated with the Sound Recording or any artist whose performance is contained on the Sound Recording or any other party who owns rights in connection with the Sound Recording;
- (9) it shall not use any Sound Recording:
 - (1) as an introduction to or during advertising; or
 - (2) as a signature tune for promotional spots for events; or
 - (3) as a trade mark or brand;

Service Functionality

- (10) it shall not provide an Interactive Service without the explicit consent of the relevant Members;
- (11) it shall not automatically and intentionally cause any device receiving the transmission to switch from one Service to another;
- (12) subject to paragraph 6 above,
 - (1) it shall identify in textual data the sound recording during, but not before, the time it is performed, including the title of the sound recording, the title of the album embodying such sound recording, if any, and the featured recording artist, in a manner to permit it to be displayed to the transmission recipient by the device or technology intended for receiving the Service; and
 - (2) the transmission of the sound recording shall be accompanied, if technically feasible, by the information encoded in that sound recording, if any, by or under the authority of the copyright holder of that sound recording, that identifies the title of the sound recording, and the featured recording artist who performs on the sound recording;

Copying and Piracy

- (13) the Service shall not be designed to assist in the making of any copies of Sound Recordings that would be usable after the cessation of the transmission;
- (14) it shall not commit any act which deliberately encourages or induces taping or recording or re-recording of the Service (or any part of the Service) and which is not lawful or properly authorised;
- (15) it shall not itself, or authorise or permit any other person to, copy any Sound Recording included in the Service (except as to the extent permitted under the Licence or permitted by law);
- (16) it shall use effective technologies, insofar as such technologies are commercially available and can be implemented without imposing unreasonable costs, which aim to prevent:
 - (1) a transmission recipient from automatically scanning the Licensee's transmissions alone or together with transmissions

- by other transmitting entities in order to select a particular sound recording to be transmitted to the transmission recipient; and
- (2) a transmission recipient from making copies, other than transient copies, of the sound recordings.
- (17) it shall accommodate and not interfere with technical measures that are used by sound recording copyright holders to identify or protect copyrighted works, and that are technically feasible of being transmitted by the Licensee without imposing substantial costs on him or resulting in perceptible aural or visual degradation of the digital signal.
- (18) in providing the Service no representations shall be made that any rights in Sound Recordings are transferred in any way to any third party,;
- (19) it shall include on the website from which the Service is delivered, a logo notifying listeners that the Service is licensed by PPL in a reasonable form provided by PPL from time to time;

The Central Database

- (20) it shall not copy a Sound Recording onto the Central Database other than in its entirety;
- (21) it shall copy Sound Recordings so that all reproductions of Sound Recordings used in the Service will be of sufficient technical standard so that the quality of the original Sound Recording is reasonably preserved for any person listening to the Service;
- (22) in respect of the Central Database, comply with PPL's guidelines from time to time issued in relation to devices holding copies of Sound Recordings and in particular as to the security of such copies;
- (23) delete all Sound Recordings on the Central Database immediately upon the expiry or termination (however occasioned) of the Licence (whichever is the earlier) in accordance with Clause 6, save where the retention of those Sound Recordings is properly and expressly licensed by the lawful owner of the relevant rights in those Sound Recordings; and
- (24) ensure that all copying of Sound Recordings shall be undertaken by the Licensee.

Operation of the Service

- (25) it shall exercise proper discretion in the choice and use of the Sound Recordings so as not to denigrate the artistic integrity of any copyright works or any performance embodied on any Sound Recording nor to subject any copyright works or performance embodied on any Sound Recording to derogatory treatment and it shall not accompany the Sound Recording with any image that would have any of these effects (or which is illegal or offensive); and

- (26) it shall not include in the Service or use any Sound Recording otherwise than in accordance with the conditions of the Licence, as permitted by law or expressly licensed by the owner of the relevant rights in that Sound Recording