



# **Master Rights Agreement For Sound Recordings**

**Recorded Music New Zealand Limited**

**And**

**The Rights Holder**

**Effective 1 January 2019**

This **Master Rights Agreement** is effective **1 January 2019 (Effective Date)**

**between** (1) **Recorded Music New Zealand Limited**, Level 1, 2a Hakanoa Street, Grey Lynn, Auckland (**Recorded Music NZ**)  
**and** (2) **The Rights Holder**

## Background

- A. Recorded Music NZ is a music licensing company and trade organisation established in 1957 to obtain equitable compensation for recording artists and record companies for, among other things, communication to the public of the rights of such parties.
- B. In order to encourage the use of recorded music and for ease of licensing, Recorded Music NZ represents a number of recording companies and subject always to the rights of the applicable rights holder, grants licences for the use of recorded music for a wide range of recording tracks covering various genres of music and languages.
- C. The Rights Holder wishes to encourage the use of recorded music. The Rights Holder recognises that the manner in which music may be used continues to change as new technologies develop and therefore wishes to enable Recorded Music NZ to enter into licences with third parties for use through new technologies on terms which ensure the quality standards and copyright protection for recorded music.

## 1. Definitions and Interpretation

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- 1.1 In this Master Rights Agreement, unless the context otherwise requires or is specified otherwise:

**Artwork** means official single or album artwork associated with Controlled Content for which The Rights Holder exclusively owns or controls the rights to the artwork in New Zealand, or is authorised to grant rights in the artwork to third parties in New Zealand, which may vary from time to time during the Rights Period and, in relation to artwork the copyright in which continues to exist after the expiration of the related Controlled Content, includes such artwork beyond the Rights Period if still owned or controlled by The Rights Holder unless specifically advised otherwise by The Rights Holder to Recorded Music NZ;

**Board** means the board of directors of Recorded Music NZ duly appointed by and under Recorded Music NZ's constitution from time to time;

**Business Day** means any day other than a Saturday, Sunday or public holiday in Auckland, New Zealand;

**Communicate** means to transmit or communicate to the public by any means of a communication technology, including by means of a telecommunications system or electronic retrieval system, and **Communication** has a corresponding meaning;

**Controlled Content** means, collectively, Controlled Recordings and Controlled Videos;

**Controlled Recordings** means all of the Sound Recordings which The Rights Holder exclusively owns or controls the rights in New Zealand, or is authorised to grant rights to third parties in New Zealand, which may vary from time to time during the Rights Period;

**Controlled Videos** means all of the Music Videos which The Rights Holder exclusively owns or controls the rights in New Zealand, or is authorised to grant rights to third parties in New Zealand, which may vary from time to time during the Rights Period;

**Copyright Act** means the Copyright Act, 1994;

**Default Interest** means interest calculated at a rate of 2% per annum over the base overdraft facility rate charged by Recorded Music NZ's bankers from time to time;

**Direct-to-Recording Artist Scheme** means a scheme for the making of direct payments by Recorded Music NZ to certain registered New Zealand recording artists;

**Distribution Policy** means Recorded Music NZ's policy for the calculation, allocation and payment to The Rights Holder and Other Licensors of Distributions, as approved and varied from time to time in the manner set out in Recorded Music NZ's full policy detailed on its website but otherwise contemplated by this Master Rights Agreement. The current Distribution Policy is dated as of 1<sup>st</sup> January 2019 and is attached to this Agreement (as the same may be amended from time to time);

**Financial Year** means each year commencing 1 January and ending on 31 December;

**GST** means goods and services tax payable under the Goods and Services Tax Act, 1985 (New Zealand);

**Label** means any company or other legal entity (including use of any business name, trade mark or brand) under which The Rights Holder releases any Sound Recording or Music Video owned or controlled by the Rights Holder at any time during the relevant Specific Rights Agreement;

**Licensing Scheme** has the meaning given by section 148 of the Copyright Act;

**Music Video** means a film (as that term is defined in the Copyright Act) that embodies a Sound Recording or a soundtrack which, if made separately from the film, would be a Sound Recording;

**New Zealand** means the territories of New Zealand, Fiji, Samoa, Tonga, Tokelau, the Ross Dependency, the Cook Islands and Niue;

**NZ Audience** means an audience where at least 90% of the total members of the audience are NZ Listeners or NZ Viewers;

**NZ Listener** means a person who is physically present in New Zealand at the time he or she listens to a Sound Recording;

**NZ Sub-Licensee** means a person that is granted a Sub-Licence for the relevant Rights, which

- (a) has its principal place of business and registered office in New Zealand; and/or
- (b) Communicates the relevant Rights to a NZ Audience;

**NZ Sub-Licence Fee** means any fee, royalty or other consideration payable by a NZ Sub-Licensee in connection with the grant of, or the exercise of rights under a Sub-Licence;

**NZ Viewer** means a person who is physically present in New Zealand at the time he or she views any content which contains a Sound Recording or views a Music Video;

**Other Licensor** means each person, other than The Rights Holder, that exclusively owns or controls rights in New Zealand, or is authorised to grant rights to third parties in New Zealand, in any Sound Recording or Music Video and grants a licence of those rights to Recorded Music NZ for Recorded Music NZ to use and sub-license those rights;

**Payment Date** has the meaning given to it in clause 4.2;

**Recorded Music NZ Expenses** has the meaning given to it in clause 6.1;

**Rights Period** means that period that Recorded Music NZ is granted certain Rights as set out in the relevant Statement of Rights;

**Rights** mean the rights in relation to Sound Recordings and Music Videos granted by The Rights Holder to Recorded Music NZ which are described in the applicable Statement of Rights;

**Rights Commencement Date** means, for each Right, that date set out in the Statement of Rights;

**Sound Recording** means:

- (a) a recording of sounds, from which the sounds may be reproduced; or
- (b) a recording of the whole or any part of a literary, dramatic, or musical work, from which sounds reproducing the work or part of it may be reproduced,

regardless of the medium on which the recording is made or the method by which the sounds are reproduced or produced;

**Specific Rights Agreement** means this Master Rights Agreement together with a Statement of Rights setting out the specific terms which apply to those Rights whether adopted at the time of this Master Rights Agreement or subsequently and clause 2.5 will be read subject to this definition accordingly;

**Statement of Rights** means a document in the form set out in Schedule 1 which has been agreed to and adopted by the parties;

**Sub-Licence** means a licence granted by Recorded Music NZ in writing to any entity for the exercise of the Rights (**NZ Sub-Licensees**), in accordance with any Specific Rights Agreement, which authorises such entity to exercise any of the Rights specifically in accordance with the terms of that Specific Rights Agreement;

**The Rights Holder Remuneration** means any fee, royalty or other consideration paid by Recorded Music NZ to The Rights Holder for Rights as that remuneration is set out in the relevant Statement of Rights; and

**Wilful Breach** means an act or omission that the person engaging in the breach knows to be or ought to reasonably know to be a breach of the Master Rights Agreement or a Specific Rights Agreement and which the person conducts or permits or continues to conduct or permit having been made aware of such breach.

1.2 Unless the context requires otherwise:

- (a) the singular includes the plural and vice versa, and words importing one gender include the other genders;
- (b) headings are inserted for the sake of convenience of reference only and do not affect the interpretation of that Specific Rights Agreement;
- (c) a **person** includes any individual, corporation, unincorporated association, government department or municipal authority;
- (d) a reference to any legislation is a reference to that legislation as amended, consolidated or replaced; and
- (e) a term or expression that is defined in the Copyright Act, but is not defined in this Master Rights Agreement or any Specific Rights Agreement has the meaning given by the Copyright Act.

## 2. Licence to Recorded Music NZ

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2.1 The process for entering into a Specific Rights Agreement is as follows:

- (a) where Recorded Music NZ has established a new requirement not currently in existence or which replaces any current requirement (as notified to the Rights Holders) to blanket or part repertoire license certain rights on behalf of all or some Other Licensors and including the Rights Holder; and
- (b) where also Recorded Music NZ is so prepared to offer such rights in relation to Controlled Content, it will set out the relevant rights and the terms on which they are available in a new Statement of Rights (each a **New Statement of Rights**) and provide this to The Rights Holder at the last known address for notice in accordance

with the provisions of clause 11.7 and additionally set out such New Statement of Rights on Recorded Music NZ's website and include notice of such New Statement of Rights within a specific Recorded Music NZ newsletter to be sent to members; and

- (c) if Recorded Music NZ does not receive any communication from The Rights Holders within 20 Business Days indicating they do not wish to participate in the New Statement of Rights, then The Rights Holder will be deemed to have accepted and entered into the New Statement of Rights with effect from the date specified in the New Statement of Rights; and
- (d) once a New Statement of Rights is published on Recorded Music NZ's website, it shall become a Statement of Rights and that Statement of Rights together with this Master Rights Agreement will form a Specific Rights Agreement.

## 2.2 Where:

- (a) there is a conflict between the terms of a Statement of Rights and the terms of this Master Rights Agreement then, to the extent of the conflict, the terms of this Master Rights Agreement will prevail unless there is express provision to the contrary in that Statement of Rights; or
- (b) there is any conflict between two Specific Rights Agreements then, to the extent of the conflict, the Specific Rights Agreement which is later in time will prevail.

## 2.3 Unless otherwise set out in a Specific Rights Agreement, The Rights Holder grants to Recorded Music NZ a non-exclusive licence for the duration of the relevant Rights Period, unless terminated earlier in accordance with the terms of the relevant Specific Rights Agreement:

- (a) to exercise, and authorise NZ Sub-Licensees to exercise any or all of the Rights set out in the Specific Rights Agreement; and
- (b) where necessary, to make applications to the Copyright Tribunal in respect of the exercise of setting licence tariffs or the Rights and to defend or otherwise participate in any other relevant proceedings in the Copyright Tribunal; and
- (c) at Recorded Music NZ's sole cost, to commence, defend or otherwise participate in any legal proceedings, or take any other action, which Recorded Music NZ considers necessary or desirable for the purpose of:
  - (i) collecting or recovering any Sub-Licence Fees or other amounts payable by any person in connection with the exercise of the Rights; or
  - (ii) preventing any unauthorised exercise or exploitation by any person of the Rights in accordance with the applicable Specific Rights Agreement.

## 2.4 For the purpose of clauses 2.3(b) and 2.3(c), The Rights Holder appoints Recorded Music NZ as the Rights Holder's attorney and The Rights Holder authorises Recorded Music NZ at Recorded Music NZ's sole cost to conduct any proceedings in the name of The Rights Holder if (acting reasonably) Recorded Music NZ considers it appropriate to do so.

## 2.5 The Rights Holder reserves all rights not expressly granted to Recorded Music NZ under any Specific Rights Agreement (including, for the avoidance of doubt, the right to take any action that The Rights Holder considers necessary or desirable for the purpose of preventing any unauthorised use of the Controlled Content).

## 2.6 Recorded Music NZ will:

- (a) where it Sub-Licenses some or all of the Rights granted to it under any Specific Rights Agreement:

- (i) require NZ Sub-Licensees to maintain such practical and technological protections as are reasonable to ensure that content is not reproduced or used other than as is licensed; and
  - (ii) reasonably monitor, relative to resources and capacity, NZ Sub-Licensees to ensure these NZ Sub-Licensees are using the rights granted under the Sub-Licence in a manner as agreed in the Sub-Licence;
- (b) in relation to any breach of Rights where:
- (i) it is reasonably able to do so, enforce The Rights Holders' rights in relation to the relevant Controlled Content; and
  - (ii) it is not reasonably able to do so, provide all reasonable assistance to The Rights Holder so that The Rights Holder may enforce its rights in relation to the relevant Controlled Content;
- (c) use best commercial endeavours to fully promote, protect, enhance, and develop the interests of The Rights Holder and the Other Licensors and any rights granted. For the avoidance of doubt, and by way of example, but not limited to, this includes those activities that were previously undertaken by the Recording Industry Association of New Zealand Incorporated and now undertaken by Recorded Music NZ itself, such as: the Official New Zealand Chart, anti-piracy, lobbying on copyright reform and education advocacies, data collection and sales and related reporting, music and related awards, and any music grants programme. It is noted by both parties that such activities assist in the positive promotion of music in New Zealand and the efficiency and success of the collection of licence fees for communication and public performance in New Zealand; and
- (d) keep and maintain accurate records and information for the term of any Specific Rights Agreement and for a further 7 years.

### **3. Controlled Content**

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3.1 The Rights Holder will use commercially reasonable endeavours (having regard to the size of the repertoire of Controlled Content and the range of different geographical regions from which it originates) to supply and keep Recorded Music NZ informed and updated throughout the Rights Period of all necessary and relevant details of the Controlled Content (including any changes from time to time). In particular, The Rights Holder will use commercially reasonable endeavours to:

- (a) supply the following information to Recorded Music NZ about the Controlled Content:
  - (i) name of the recording artist(s);
  - (ii) title of the Sound Recording (track) or title of the Music Video;
  - (iii) Label under which the relevant Sound Recording or Music Video is released by The Rights Holder;
  - (iv) in the case of a Sound Recording, Title, artist(s) and catalogue number of the product(s) on which the Sound Recording is released;
  - (v) country in which the Sound Recording or the Music Video was originally made;
  - (vi) year in which the Sound Recording was originally released or the Music Video was made;

- (vii) Label under which the relevant Sound Recording or the Music Video was originally released;
  - (viii) in the case of Music Videos, the Label under which the sound recording embodied in the Music Video was originally released; and
  - (ix) where available, the International Standard Recording Code (ISRC);
- (b) promptly notify Recorded Music NZ if it no longer exclusively owns or controls the Rights, or is no longer exclusively authorised to grant Rights, in any Controlled Recording or Controlled Video at any time during the Rights Period;
  - (c) promptly notify Recorded Music NZ if it transfers exclusive ownership or control of any Labels to a third party, or if The Rights Holder acquires exclusive ownership or control of a Label (including, for the avoidance of doubt, if The Rights Holder launches a new Label); and
  - (d) advise Recorded Music NZ in writing in respect of any Artwork that The Rights Holder no longer exclusively owns or controls, or is no longer exclusively authorised to grant Rights, from time to time during the Rights Period.

3.2 Where Recorded Music NZ requires any information additional to that already being provided by The Rights Holder as at the Effective Date, it will advise The Rights Holder of this. Where The Rights Holder agrees to provide that additional information, such agreement not to be unreasonably withheld, it will supply that additional information to Recorded Music NZ.

3.3 The Rights Holder acknowledges that Recorded Music NZ uses information about the Controlled Content to:

- (a) determine the proportion of The Rights Holder Remuneration which The Rights Holder is entitled to be paid; and
- (b) otherwise exercise its rights and perform its obligations under any Specific Rights Agreement.

## 4. The Rights Holder Remuneration

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4.1 In consideration of the grant of rights under each Specific Rights Agreement, Recorded Music NZ will pay The Rights Holder Remuneration to The Rights Holder as is applicable to The Rights Holders.

4.2 Except where set out in a Specific Rights Agreement:

- (a) at the end of the relevant Financial Year, Recorded Music NZ will calculate The Rights Holder Remuneration payable under each Specific Rights Agreement (**Total Remuneration**) and Recorded Music NZ will provide formal written notice of the Total Remuneration payable to the Rights Holder pursuant to clause 6.3 herein;
- (b) The Rights Holder will issue a valid tax invoice to Recorded Music NZ (**The Rights Holder Invoice**) for the Total Remuneration; and
- (c) as soon as practicable within 6 months of the end of the Financial Year (**Payment Date**), Recorded Music NZ will pay the Total Remuneration to The Rights Holder after deduction of the relevant share of expenses calculated in the manner set out in clause 6.

4.3 Unless specifically indicated, all amounts payable under each Specific Rights Agreement are to be paid in New Zealand dollars.

- 4.4 The Rights Holder Remuneration payable under each Specific Rights Agreement is GST exclusive. Unless otherwise agreed in the Specific Rights Agreement, where there is any GST payable as set out in The Rights Holder Invoice, then this will be payable in addition to The Rights Holder Remuneration.

## 5. Distribution Policy

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- 5.1 If a Specific Rights Agreement sets out that Recorded Music NZ's Distribution Policy will be used to calculate The Rights Holder Remuneration, the parties agree to be bound by the Distribution Policy for the relevant Rights.
- 5.2 With the exception of inconsequential amendments as to form as opposed to substance, if Recorded Music NZ resolves to amend or set a new Distribution Policy then the requirements relating to amendment as set out in the current Distribution Policy as published on Recorded Music NZ's website will apply – i.e. full Board approval (so this requires sign off by the Artist Representative Director; the Chairman who is independent and the Independent Shareholder Director) with subsequent prompt publication again on Recorded Music NZ's website. Recorded Music NZ shall additionally notify Rights Holder of any amendment or new Distribution Policy by notice to the last known address for notice in accordance with the provisions of clause 11.7 and additionally within a specific Recorded Music NZ newsletter to be sent to members.
- 5.3 If there is any conflict between a Specific Rights Agreement and Recorded Music NZ's latest Distribution Policy then the latter will prevail but Recorded Music NZ will use reasonable commercial endeavours to specifically amend the relevant Specific Rights Agreement to ensure clarity and transparency between the parties or otherwise notify The Rights Holder of such amendment.

## 6. Recorded Music NZ Expenses and Allocation and Distribution of Total Remuneration

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- 6.1 The Rights Holder acknowledges that Recorded Music NZ:
- (a) will incur expenses in exercising the Rights and responsibilities granted under the Master Rights Agreement, any Specific Rights Agreement as well as the rights granted from Other Licensors; and
  - (b) may need to establish reserves for future expenditure to properly manage the rights that Recorded Music NZ receives and the responsibilities it has undertaken and agree to;
- (collectively **Recorded Music NZ Expenses**).
- 6.2 In carrying out its business, Recorded Music NZ will:
- (a) seek to minimise the amount of Recorded Music NZ Expenses to be incurred and the level of reserves to be maintained to the extent it is reasonably able;
  - (b) allocate the Recorded Music NZ Expenses across The Rights Holder and Other Licensors on a basis that Recorded Music NZ considers (acting reasonably) is appropriate. In determining what is appropriate, Recorded Music NZ will take into account:
    - (i) whether the relevant expense is directly applicable to any revenue arising from the Rights and then allocate that expense in line with the Total Remuneration payable to The Rights Holder and Other Licensors as a result of such Rights;
    - (ii) any approach that it has adopted in relation to other similar expenses;

- (iii) the IFPI Guidelines for Distribution Rules for Music Industry Music Licensing Companies ;
- (iv) the ease with which the information required to allocate expenses can be obtained;
- (v) the overall Total Remuneration payable by Recorded Music NZ to The Rights Holder and/or the Other Licensors; and
- (vi) that the result of allocation of Recorded Music NZ Expenses should not result in The Rights Holder or an Other Licensor being liable for an allocation of Recorded Music NZ Expenses which is greater than the Total Remuneration payable by Recorded Music NZ to the Rights Holder.

6.3 On or before the Payment Date, Recorded Music NZ will notify The Rights Holder of the following (the **Allocation Approach**):

- (a) the Total Remuneration;
- (b) how the Total Remuneration has been calculated and the reasons for this allocation;
- (c) the amount of Recorded Music NZ Expenses, as a percentage, and how these have been incurred and calculated or in the case of reserves, estimated; and
- (d) the proportion of the Recorded Music NZ Expenses that have been allocated to The Rights Holder, how this has been calculated and the reasons for this allocation.

6.4 On the Payment Date, Recorded Music NZ will pay to The Rights Holder its allocation of the Total Remuneration less The Rights Holders allocation of the relevant Recorded Music NZ Expenses.

6.5 With the exception of any sum over \$5,000 (which such sum will repaid within 10 Business Days by The Rights Holder to Recorded Music NZ), If Recorded Music NZ notifies The Rights Holder in writing, at any time after payment of a Distribution under clause 5, that The Rights Holder was not entitled for any reason to receive some or all of the Distribution (the **Over Payment**) the following process applies:

- (a) Where The Rights Holder does not contest the Over Payment (in accordance with clause 6.5(c) below) The Rights Holder agrees that Recorded Music NZ may deduct the Over Payment from any future Total Remuneration payable to the Rights Holder. Where The Rights Holder has contested the Over Payment any amount of the Over Payment that is not contested by the Rights Holder may be deducted from any future Total Remuneration payable to the Rights Holder with any contested amount of the Over Payment being dealt with in accordance with clause 6.5(c) herein;
- (b) The Rights Holder is entitled to request Recorded Music NZ's documentation and calculations to determine the sum distributed and the Over Payment from Recorded Music NZ; and
- (c) The Rights Holder will have the ability to contest all of or any amount of the Over Payment within 30 Business Days of receiving notice from Recorded Music NZ. Where The Rights Holder does contest all of or any amount of the Over Payment:
  - (i) the parties will meet in good faith to discuss the Over Payment; and
  - (ii) if the parties cannot agree on whether The Rights Holder was entitled to some or all of the Over Payment, then the matter will be referred to dispute resolution in accordance with clause 10; and

- (iii) where it is agreed or determined that some or the entire amount contested is a valid Over Payment to the Rights Holder, Recorded Music NZ may deduct the Over Payment from any future Total Remuneration payable to the Rights Holder; and

6.6 Intentionally Deleted.

6.7 Intentionally Deleted.

6.8 If Recorded Music NZ notifies The Rights Holder in writing, at any time after payment of a Distribution under clause 5, that The Rights Holder was entitled for any reason to receive a greater amount than the Distribution (the **Under Payment**), then Recorded Music NZ may choose to make a further payment to The Rights Holder or to carry this amount forward as an amount payable in priority to the next Distribution paid to The Rights Holder.

6.9 Where Recorded Music NZ determines that The Rights Holder would be entitled to receive a Distribution in respect of any Controlled Content, and one or more persons is or are qualified to receive a payment in respect of that Controlled Content via the mechanism of a Direct-to-Recording Artist Scheme, The Rights Holder authorises Recorded Music NZ to pay, in accordance with the Distribution Policy, a percentage of the relevant Distribution directly to such qualified person or persons. Recorded Music NZ will provide written notification to the Rights Holder of any payments made to any qualified person or persons.

6.10 The provisions of this clause 6 will be read subject to any updated Distribution Policy adopted by the Board and published on Recorded Music NZ's website, but as with clause 5.2 above, Recorded Music NZ will use reasonable commercial endeavours to specifically to notify The Rights Holder of such amendment to ensure clarity and transparency between the parties.

## 7. Term and Termination

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7.1 The term of this Master Rights Agreement will commence and take effect from and will continue until such time there are no Specific Rights Agreements in place between the parties and either party has given the other notice that it wishes to terminate.

7.2 The term of any Specific Rights Agreement will commence on the Rights Commencement Date (as defined in that Specific Rights Agreement) and will either expire or terminate in accordance with the terms of that Specific Rights Agreement.

7.3 Either party may terminate any Specific Rights Agreement:

- (a) by notice in writing if the other party ceases operations;
- (b) by notice in writing if the other party goes into liquidation or has a receiver or manager appointed in respect of its assets or any of them or becomes insolvent, ceases to carry on its business or makes any composition or arrangement with its creditors;
- (c) if there is a material breach of the Specific Rights Agreement by the other party and:
  - (i) the material breach cannot be rectified; or
  - (ii) the material breach can be rectified but the party in breach has not rectified the material breach within 20 Business Days after receiving notice of that material breach requiring them to remedy it;
- (d) where that party has terminated another Specific Rights Agreement within the previous 20 Business Days and termination of that Specific Rights Agreement has a material

adverse effect on the Specific Rights Agreement under consideration; or

- (e) at any time on 6 months' written notice to the other party that it wishes to terminate the relevant Specific Rights Agreement.

7.4 If either party receives notification from the other that it is terminating any Specific Rights Agreement, then from the earlier of either:

- (a) the date that it receives such notification; or
- (b) the date of expiry;

(**Notification Date**), Recorded Music NZ will not:

- (c) grant any new Sub-Licence in respect of the relevant Rights;
- (d) extend or allow to be extended any Sub-Licence of the relevant Rights that was in force as at the Notification Date; or
- (e) commence any legal proceedings relating to the exercise or exploitation of any of the relevant Rights, but for the avoidance of doubt, Recorded Music NZ may take action of the kind referred to in clause 2.3(c)(i) in relation to any Sub-Licence that was in force as at the Notification Date, or which continues in force after that date by virtue of clauses 7.5 and 7.6 following.

7.5 All Sub-Licences granted by Recorded Music NZ prior to the Notification Date will continue until they expire or are terminated in accordance with their terms, provided that, if any Licence is granted on terms such that it automatically continues unless one party exercises a right of termination, Recorded Music NZ will exercise its right of termination as early after the Notification Date as it is able to.

7.6 Recorded Music NZ will continue to account to The Rights Holder, after the date on which any Specific Rights Agreement terminates or expires (**Termination Date**), for any Distribution that is payable to The Rights Holder in accordance with this Master Rights Agreement.

7.7 Unless clause 7.3(d) applies, termination of any Specific Rights Agreement or this Master Rights Agreement will not affect the validity or enforceability of any remaining Specific Rights Agreement or this Master Rights Agreement which are intended to continue, or should reasonably continue, after termination (whether expressly stated so or not). Termination will not affect any claim by either party against the other party arising out of any breach or failure under any Specific Rights Agreement or this Master Rights Agreement prior to termination.

## 8. Warranties and Indemnity

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8.1 Each party represents and warrants to the other party that:

- (a) it has the full corporate right, power and authority to enter into this Master Rights Agreement and any Specific Rights Agreement and to perform the acts required of it under this Master Rights Agreement and any Specific Rights Agreement; and
- (b) the execution of this Master Rights Agreement by such party and the performance by such party of its obligations under this Master Rights Agreement or any Specific Rights Agreement does not and will not breach any agreement to which such party is a party or by which it is otherwise bound, any applicable law or regulation or the rights of any third party.

8.2 Recorded Music NZ warrants that:

- (a) it will use all reasonable skill and care in preparing any new or amending any existing Distribution Policy and calculating the Distribution;
- (b) it will perform its obligations under this Master Rights Agreement and each Specific Rights Agreement using techniques, methodologies and processes in accordance with best industry practice and ensure that its personnel performing any services are suitably qualified and have the requisite skills, expertise and experience to perform the services they perform;
- (c) it will use all commercially reasonable efforts to ensure that the fees are collected and that the NZ Sub-Licensees comply with the terms of the Sub-Licenses;
- (d) it will not make any representation that it can grant greater rights to Controlled Recordings or Controlled Videos than the Rights that have been granted to Recorded Music NZ under this Agreement;
- (e) it will not grant or attempt to grant greater rights to Controlled Recordings or Controlled Videos than the Rights that have been granted to Recorded Music NZ under this Agreement; and
- (f) It will provide services to the Rights Holder and with respect to the Controlled Recordings or Controlled Videos on a transparent, non-discriminatory basis and on an equal basis with other rights holders and rights granted by such rights holders to Recorded Music NZ.

8.3 Where in a Specific Rights Agreement The Rights Holder grants Rights to Controlled Recordings or Controlled Videos to Recorded Music NZ for a specified period of time, Recorded Music NZ warrants that it will not grant or attempt to grant rights to the Controlled Recordings or Controlled Videos for a period longer than the specified period that the Rights have been granted to Recorded Music NZ.

8.4 The Rights Holder acknowledges that where in a Specific Rights Agreement:

- (a) it does not grant Rights to Controlled Recordings or Controlled Videos for a specified period of time; and
- (b) the agreement is terminable only on notice or for any of the other grounds set out at clause 7.3,

then, at any point prior to the Notification Date, Recorded Music NZ is able to grant Rights to the Controlled Recordings or Controlled Videos in accordance with the terms of the Specific Rights Agreement for any period which Recorded Music NZ determines that it is desirable to do so.

8.5 The Rights Holder represents and warrants to Recorded Music NZ, both as at the Rights Commencement Date and on an on-going basis throughout the Rights Period, that:

- (a) except for any Controlled Recording or Controlled Video for which The Rights Holder has notified Recorded Music NZ it no longer owns or controls the Rights pursuant to clause 3.1, The Rights Holder owns or controls all of the Rights, or is authorised to grant rights to third parties in the Rights, and is entitled to grant to Recorded Music NZ a licence in the terms provided for in clause 2.3 or the Specific Rights Agreement;
- (b) the exercise by Recorded Music NZ of the Rights under a Specific Rights Agreement and the granting by Recorded Music NZ of Sub-Licences to NZ Sub-Licensees (provided that in granting those rights Recorded Music NZ has not granted greater rights to NZ Sub-Licensees than those that have been granted to Recorded Music NZ) will not infringe the copyright or other rights of any person; and

- (c) where a Sub-Licensee exercises the rights in a Sub-Licence in accordance with the terms set out in that Sub-Licence (provided that in granting those rights Recorded Music has not granted greater rights than those that have been granted to Recorded Music NZ), it will not infringe the copyright or other rights of any person.
- 8.6 The Rights Holder agrees to defend Recorded Music NZ against, and pay within a reasonable period the amount of any adverse final judgment adjudicated by a court of competent jurisdiction (or settlement that The Rights Holder consents to in writing) resulting from any bona fide legal claims made against Recorded Music NZ by the Sub-Licensees or any third party that arise as a result of a proven breach of the warranties in clause 8.5 (provided that in granting those rights Recorded Music NZ has not granted to the relevant NZ Sub-Licensee greater rights than those that have been granted to Recorded Music NZ).
- 8.7 Recorded Music NZ agrees to defend The Rights Holder against, and pay the amount of any adverse final judgment (or settlement that Recorded Music NZ consents to) resulting from any claims made against The Rights Holder by any Sub-Licensees or any third party that arise as a result of a breach of the warranty in clause 8.2 or 8.3 or where Recorded Music NZ grants rights that Recorded Music NZ has not been granted.
- 8.8 With the exception of the warranties set out in this clause 8, all warranties, terms and conditions (including without limitation, warranties and conditions as to fitness for purpose and merchantability), whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.
- 8.9 Where Recorded Music NZ wishes to rely on the provisions of clause 8.6 and 8.7 then Recorded Music NZ will (in this clause called the **Claiming Party**):
- (a) As soon as reasonably practicable, notify the other party (**Indemnifying Party**) in writing if it becomes aware of any claim of the kind covered by clauses 8.6 or 8.7;
- (b) not make any admissions in relation to the relevant Sub-Licensee or third party claim without the Indemnifying Party's prior written consent (which must not be unreasonably withheld or delayed);
- (c) to the extent permitted by law and at the Indemnifying Party's sole expense, may, on leave being granted, permit the Indemnifying Party to conduct the defence or settlement of any claim provided the Indemnifying Party agrees to consult with and consider where reasonable and practicable the Claiming Party's reasonable comments relevant to the defence or settlement of the claim to minimise any adverse effect to the Claiming Party's business or reputation; and
- (d) if requested by the Indemnifying Party, but at the Indemnifying Party's sole expense, provide the Indemnifying Party with reasonable assistance in conducting the defence of any claim.

## 9. Limitation of Liability

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- 9.1 Subject to clause 9.3, Recorded Music NZ will not be liable under the law of contract, equity, tort (including negligence) or otherwise in relation to:
- (a) this Master Rights Agreement, where it does not relate to a Specific Rights Agreement, for any direct loss or for any loss of profits, goodwill or opportunity or for any indirect or consequential loss or damage, however caused, arising out of or in connection with this Master Rights Agreement or the associated activities of the parties; and
- (b) any Specific Rights Agreement for any loss of profits, goodwill or opportunity or for any indirect or consequential loss or damage, however caused, arising out of or in connection with the Specific Rights Agreement or the associated activities of the parties.

- 9.2 Subject to clauses 9.1 and 9.3, Recorded Music NZ's total liability to The Rights Holder under this Master Rights Agreement or any Specific Rights Agreement, whether in contract, equity or tort (including negligence) or otherwise, will not exceed in aggregate in any 12 month period the total remuneration paid by Recorded Music NZ to The Rights Holder in the 12 month period immediately preceding the event giving rise to the claim.
- 9.3 Clauses 9.1 and 9.2 will not exclude or limit Recorded Music NZ's liability:
- (a) for wilful, malicious or criminal actions of a party, its contractors or personnel;
  - (b) arising under clauses 8.6 or 8.7;
  - (c) arising out of a breach of confidentiality; or
  - (d) arising out of Wilful Breach.

## **10. Disputes**

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- 10.1 The parties will attempt to settle any disputes arising from or relating to this Master Rights Agreement or any Specific Rights Agreement before resorting to external dispute resolution mechanisms, except where the party seeks urgent interlocutory relief.
- 10.2 A party claiming that a dispute has arisen under or relating to this Master Rights Agreement or any Specific Rights Agreement will immediately notify the other party in writing specifying the nature of the dispute.
- 10.3 On receipt of the notice, the parties will use all reasonable endeavours to resolve the dispute by discussion, consultation, negotiation or other informal means.
- 10.4 If, within 35 Business Days of the notice of the dispute, the parties do not agree on a dispute resolution technique or if the dispute is not resolved, then either party may refer the dispute to mediation. The mediation will be administered in accordance with the Mediation Protocol of the

Arbitrators' and Mediators' Institute of New Zealand Inc. (AMINZ). The mediation must be conducted by a mediator and at a fee agreed by the parties. Each party is to bear its own costs in mediation and pay half the third party costs of the mediation.

If there is any conflict between the terms of the provisions set out in this Master Rights Agreement and that set out on Recorded Music NZ's website or in its Distribution Policy, then the terms of this Master Rights Agreement will prevail but it is noted that the timelines set out in this clause endeavour to match Recorded Music NZ's disputes policy as published on its website at the time of this Master Rights Agreement coming into effect.

## 11. General

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- 11.1 This Master Rights Agreement together with any Statements of Rights constitutes the entire agreement of the parties about its subject matter and replaces in full and supersedes any previous understanding or agreements on that subject matter as of and from the Effective Date .
- 11.2 If any provision in this Master Rights Agreement or any Specific Rights Agreement is invalid or unenforceable, the remaining provisions will continue in full force and effect.
- 11.3 A provision or a right under this Master Rights Agreement or any Specific Rights Agreement may not be waived except in writing signed by the party granting the waiver or due to the publication of a New Statement of Rights as contemplated and prescribed in clause 2.1.
- 11.4 A party may exercise a right, power or remedy under this Master Rights Agreement or any Specific Rights Agreement at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by a party under this Master Rights Agreement or any Specific Rights Agreement does not prevent a further exercise of that or of any other right, power or remedy.
- 11.5 This Master Rights Agreement or any Specific Rights Agreement may not be varied except as contemplated by this Master Rights Agreement and pursuant to a New Statement of Rights as contemplated and proscribed in clause 2.1. Where Recorded Music NZ wishes to add a new Rights Agreement or amend this Master Rights Agreement or any Specific Rights Agreement in any way, it will give notice to The Rights Holder in the manner prescribed in clause 2.1 as if it were a New Statement of Rights.
- 11.6 With the exception of the sub-licence in respect of OneMusic and referred to as the Administrative Licence in a Statement of Rights following, Recorded Music NZ will not assign, transfer or otherwise deal with this Master Rights Agreement or any Specific Rights Agreement or any of its rights or obligations under this Master Rights Agreement or any Specific Rights Agreement whether in whole or in part, without the prior written consent of The Rights Holder. Recorded Music NZ shall remain primarily liable for the performance of its obligations to the Rights Holder pursuant to the Statement of Rights - Administrative Licence to Recorded Music NZ and liable for the performance of OneMusic pursuant to any sub-licence including the payment and collection of all fees pursuant to any Specific Rights Agreement for which OneMusic renders services to Recorded Music NZ.
- 11.7 Notices and other communications under this Master Rights Agreement or any Specific Rights Agreement are to be given in writing by email, personal delivery or by post and must be:
- (a) addressed to the email address or address designated in writing by each party for that purpose from time to time; and
  - (b) marked for the attention of the designated person or office holder (if any).

The initial email address, address and relevant person or office holder of each party are set out below the execution clause of this Master Rights Agreement and these addresses are also the

addresses for the service of any legal proceedings in relation to this Master Rights Agreement or any Specific Rights Agreement. However, these addresses may be changed from time to time by notice in writing to the other party.

- 11.8 A notice or communication in relation to this Master Rights Agreement or any Specific Rights Agreement will be deemed to be received:
- (a) in the case of a letter, on the third Business Day after posting;
  - (b) in the case of an email, will be deemed to be received when transmitted to the correct email address of the recipient; and
  - (c) in the case of personal delivery, when delivered.
- 11.9 The parties acknowledge and agree that neither party has the authority to bind the other party.
- 11.10 The parties acknowledge and agree that the other party may provide them with confidential information and they each undertake to treat that confidential information as confidential or otherwise in accordance with the terms and conditions set out in Recorded Music NZ's Privacy Policy or otherwise set out on its website from time to time.
- 11.11 This Master Rights Agreement or any Specific Rights Agreement(s) will be governed by and construed in accordance with the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

## **Agreement**

**Accepted** as an agreement by both **Recorded Music NZ New Zealand Limited** and **The Rights Holder**

via electronic means or otherwise in writing.

## Schedule 1: Standard Form of Statement of Rights [Template Agreement]

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**Note: The parties agree to substantially use this form when adding any new Statement of Rights to ensure consistency.**

This Statement of Rights is between Recorded Music NZ and The Rights Holder for the grant of rights as identified in the terms below. The parties have agreed to the following terms of this Statement of Rights. This Statement of Rights together with the Master Rights Agreement forms a Specific Rights Agreement, which incorporates the entire agreement between the parties.

- A Recorded Music NZ and The Rights Holder are parties to a Master Rights Agreement effective **1 January 2018** under which The Rights Holder has agreed to grant rights in Controlled Content to Recorded Music NZ from time to time in accordance with each Statements of Rights.
- B The Rights Holder now wishes to grant to Recorded Music NZ the rights as set out below in accordance with the terms of the Master Rights Agreement and this Statement of Rights.
- C The Rights Holder has agreed to grant the rights and Recorded Music NZ will pay The Rights Holder Remuneration for the rights.

### 1. Definitions

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**Rights** means the rights set out in clause 2.1.

**Rights Commencement Date** means *[insert date]*.

Note: All capitalised terms used that have not been defined in the Definitions section have the meaning given to them in the Master Rights Agreement.

*[Insert further definitions specific the new Statement of Rights being added]*

### 2. Rights

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- 2.1 In consideration of the payment of The Rights Holder Remuneration by Recorded Music NZ, The Rights Holder grants Recorded Music NZ a non-exclusive licence to exercise and to authorise NZ Sub-Licensees to exercise the following rights:

(a) *[insert the relevant rights being granted]*.

### 3. Remuneration

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*[There are two options for setting out the fees. If the current Distribution Policy is to apply then we suggest inserting the following]*

- 3.1 The fees (The Rights Holder Remuneration) payable by Recorded Music NZ to The Rights Holder will be calculated in accordance with the Distribution Policy as set out in the Master Rights Agreement.

*[Or, if The Rights Holder wants to set a fee that Recorded Music NZ is to pay The Rights Holder for the licence then we suggest]*

3.2 The fees (The Rights Holder Remuneration) payable by Recorded Music NZ to The Rights Holder will be calculated as follows:

(a) *[insert calculation for fees].*

## 4. Termination

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- 4.1 The Statement of Rights will commence on the Rights Commencement Date and will continue until terminated by either party in accordance with the provisions of the Master Rights Agreement (**Rights Period**).

# Statement of Rights – Public Playing or Showing and Limited Reproduction of Controlled Content

This Statement of Rights is between Recorded Music NZ and The Rights Holder for the grant of rights as identified in the terms below. The parties have agreed to the following terms of this Statement of Rights. This Statement of Rights together with the Master Rights Agreement forms a Specific Rights Agreement, which incorporates the entire agreement between the parties.

- A Recorded Music NZ and The Rights Holder are parties to a Master Rights Agreement under which The Rights Holder has agreed to grant rights in Controlled Content to Recorded Music NZ from time to time in accordance with Statements of Rights.
- B The Rights Holder now wishes to grant to Recorded Music NZ the rights as set out below in accordance with the terms of the Master Rights Agreement and this Statement of Rights.
- C The Rights Holder has agreed to grant the rights and Recorded Music NZ will pay The Rights Holder Remuneration for the rights.

## 1. Definitions

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**Reproduce** means copying, recording or storing a work in any material form (including in any digital format) in any medium and by any means.

**Rights** means the rights set out in clause 2.1.

**Rights Commencement Date** means unless otherwise specified, **1 January 2019**.

**Note:** All capitalised terms used that have not been defined in the Definitions section have the meaning given to them in the Master Rights Agreement.

## 2. Rights

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- 2.1 In consideration of the payment of The Rights Holder Remuneration by Recorded Music NZ, The Rights Holder grants Recorded Music NZ a non-exclusive licence to exercise and to authorise NZ Sub-Licensees to exercise the following rights:
  - (a) to play or show Controlled Recordings and Controlled Videos in public to NZ Listeners and NZ Viewers; and
  - (b) to Reproduce the Controlled Recordings and Controlled Videos for the purpose of compiling playlists for the playing or showing of Controlled Recordings and Controlled Videos under clause 2.1(a).

## 3. Remuneration

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- 3.1 The fees (**The Rights Holder Remuneration**) payable by Recorded Music NZ to The Rights Holder will be calculated in accordance with the Distribution Policy as set out in clause 5 of the Master Rights Agreement.

## 4. Termination

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- 4.1 The Statement of Rights will commence on the Rights Commencement Date and will continue until terminated by either party in accordance with the provisions of the Master Rights Agreement (**Rights Period**).

## Statement of Rights – Music on Hold

This Statement of Rights is between Recorded Music NZ and The Rights Holder for the grant of rights as identified in the terms below. The parties have agreed to the following terms of this Statement of Rights. This Statement of Rights together with the Master Rights Agreement forms a Specific Rights Agreement, which incorporates the entire agreement between the parties.

- A Recorded Music NZ and The Rights Holder are parties to a Master Rights Agreement under which The Rights Holder has agreed to grant rights in Controlled Content to Recorded Music NZ from time to time in accordance with Statements of Rights.
- B The Rights Holder now wishes to grant to Recorded Music NZ the rights as set out below in accordance with the terms of the Master Rights Agreement and this Statement of Rights.
- C The Rights Holder has agreed to grant the rights and Recorded Music NZ will pay The Rights Holder Remuneration for the rights.

### 1. Definitions

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**Music On Hold Service** means a service that transmits Sound Recordings by use of any audio device on a telecommunications system (including VoIP) to telephone callers and includes services that:

- (a) aggregate and transmit Sound Recordings to businesses so that the business can transmit the Sound Recordings to its telephone callers; and
- (b) transmit Sound Recordings directly to telephone callers.

**NZ Based Call Centre Operator** means:

- (a) a person that has its principal place of business and registered office in New Zealand;
- (b) whose business activity in New Zealand includes the making of telephone calls to, or receiving of telephone calls from, persons located in New Zealand or overseas for the purpose of promoting or marketing products or to offer to sell products to those persons or provide customer support to those persons; and
- (c) from a call centre that is physically located in New Zealand or overseas.

**Reproduce** means copying, recording or storing a work in any material form (including in any digital format) in any medium and by any means.

**Rights** means the rights set out in clause 2.1.

**Rights Commencement Date** means **1 January 2019**.

**Tariff** means the charges paid by NZ Based Call Centre Operator with respect to the Rights.

**VoIP** means **Voice-over-Internet Protocol**, being a technology for the delivery of voice communications and multimedia sessions over Internet Protocol networks.

**Note:** All capitalised terms used that have not been defined in the Definitions section have the meaning given to them in the Master Rights Agreement.

## 2. Rights

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- 2.1 In consideration of the payment of The Rights Holder Remuneration by Recorded Music NZ, The Rights Holder grants Recorded Music NZ a non-exclusive licence to exercise and subject to payment of the Tariff by the NZ Based Call Centre Operators or NZ Sub-Licensees to authorise NZ Based Call Centre Operators or NZ Sub-Licensees to exercise the following rights:
- (a) to Communicate Controlled Recordings in order to establish and provide a Music On Hold Service; and
  - (b) to Reproduce Controlled Recordings for the purpose of compiling playlists for the Communication of Controlled Recordings under clause 2.1(a).

## 3. Remuneration

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- 3.1 The fees (The Rights Holder Remuneration) payable by Recorded Music NZ to The Rights Holder will be calculated in accordance with the Distribution Policy as set out in clause 5 of the Master Rights Agreement.

## 4. Termination

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- 4.1 The Statement of Rights will commence on the Rights Commencement Date and will continue until terminated by either party in accordance with the provisions of the Master Rights Agreement (**Rights Period**).

## Statement of Rights – Radio

This Statement of Rights is between Recorded Music NZ and The Rights Holder for the grant of rights as identified in the terms below. The parties have agreed to the following terms of this Statement of Rights. This Statement of Rights together with the Master Rights Agreement forms a Specific Rights Agreement, which incorporates the entire agreement between the parties.

- A Recorded Music NZ and The Rights Holder are parties to a Master Rights Agreement under which The Rights Holder has agreed to grant rights in Controlled Content to Recorded Music NZ from time to time in accordance with Statements of Rights.
- B The Rights Holder now wishes to grant to Recorded Music NZ the rights as set out below in accordance with the terms of the Master Rights Agreement and this Statement of Rights.
- C The Rights Holder has agreed to grant the rights and Recorded Music NZ will pay The Rights Holder Remuneration for the rights.

### 1. Definitions

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**Domestic NZ Audience** means a NZ Audience who has agreed to listen or view the relevant content for their private and domestic use only.

**Incidental** means where:

- (a) Sound Recordings licensed by Recorded Music NZ to the NZ Sub-Licensee do not amount to more than half% of the total running time of the Radio Podcast; and
- (b) Sound Recordings licensed by Recorded Music NZ to the NZ Sub-Licensee which are reproduced in the Radio Podcast are extracts only, of no longer than half the length of the Sound Recording.

**On-Demand Radio Podcasts** means the transmission of Sound Recordings via the internet or mobile networks as either a streamed or downloadable single digital file from a website owned or controlled by a NZ Sub-Licensee where:

- (a) Sound Recordings licensed by Recorded Music NZ to the NZ Sub-Licensee have been Reproduced by the NZ Sub-Licensee into a digital file format in combination with sounds or content created by the NZ Sub-Licensee (the **Radio Podcast**);
- (b) all of the Sound Recordings licensed by Recorded Music NZ to the NZ Sub-Licensee are arranged and Reproduced for Communication in the Radio Podcast are separated by sound or content created by the NZ Sub-Licensee (that is, there can be no continuous 'back-to-back' arrangement, Reproduction and Communication of Sound Recordings in the Radio Podcast). However, a NZ Sub-Licensee may arrange and Reproduce for consecutive Communication in the Radio Podcast 3 Sound Recordings that are licensed by Recorded Music NZ to the NZ Sub-Licensee provided that such an arrangement can only occur once per Radio Podcast;
- (c) the Radio Podcast is only offered and transmitted by the NZ Sub-Licensee for a maximum period of 30 consecutive days after the first Communication of the Radio Podcast, except where the use of the Sound Recordings licensed by Recorded Music NZ to the NZ Sub-Licensee and used in the Radio Podcast are Incidental;
- (d) the Radio Podcast is only able to be stored on a device for a maximum period of 30 consecutive days after the Communication of the Radio Podcast to the device, except

where the use of the Sound Recordings licensed by Recorded Music NZ to the NZ Sub-Licensee and used in the Radio Podcast are Incidental; and

- (e) unless the owner of copyright in the Sound Recording has given express written approval to the NZ Sub-Licensee, the Radio Podcast cannot be used in order to sell, advertise or promote particular products or services.

**Reproduce** means copying, recording or storing a work in any material form (including in any digital format) in any medium and by any means.

**Rights** means the rights set out in clause 2.1.

**Rights Commencement Date** means **1 January 2019**.

**Radio Simulcast** means the simultaneous unaltered transmission of the NZ Sub-Licensee's Terrestrial Radio Broadcasts via the internet.

**Terrestrial Radio Broadcast** means the dissemination within New Zealand by wireless transmission of sounds of all kinds by means of radio waves intended to be received by NZ Listeners either directly or through the medium of relay stations but excluding placement on and dissemination through the internet.

**Note:** All capitalised terms used that have not been defined in the Definitions section have the meaning given to them in the Master Rights Agreement.

## 2. Rights

---

- 2.1 In consideration of the payment of The Rights Holder Remuneration by Recorded Music NZ, The Rights Holder grants Recorded Music NZ a non-exclusive licence to exercise and to authorise NZ Sub-Licensees to exercise the following rights:
- (a) to Communicate Controlled Recordings to a NZ Audience by:
    - (i) Terrestrial Radio Broadcast; and
    - (ii) Radio Simulcast;
  - (b) to Communicate as part of any On-Demand Radio Podcasts to a Domestic NZ Audience;
  - (c) to Reproduce and Communicate to a NZ Audience Artwork associated with a particular Controlled Recording for display in conjunction with the Communication of the Controlled Recording under clause 2.1(a)(ii); and
  - (d) to Reproduce Controlled Recordings for the purpose of compiling playlists for the Communication of Controlled Recordings under clause 2.1(a) or for the creation of an On-Demand Radio Podcast under clause 2.1(b).

## 3. Remuneration

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- 3.1 The fees (**The Rights Holder Remuneration**) payable by Recorded Music NZ to The RightsHolder will be calculated in accordance with the Distribution Policy as set out in clause 5 of the Master Rights Agreement.

## 4. Termination

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4.1 The Statement of Rights will commence on the Rights Commencement Date and will continue until terminated by either party in accordance with the provisions of the Master Rights Agreement (**Rights Period**).

# Statement of Rights – Radio New Zealand Limited

This Statement of Rights is between Recorded Music NZ and The Rights Holder for the grant of rights as identified in the terms below. The parties have agreed to the following terms of this Statement of Rights. This Statement of Rights together with the Master Rights Agreement forms a Specific Rights Agreement, which incorporates the entire agreement between the parties.

- A Recorded Music NZ and The Rights Holder are parties to a Master Rights Agreement under which The Rights Holder has agreed to grant rights in Controlled Content to Recorded Music NZ from time to time in accordance with Statements of Rights.
- B The Rights Holder now wishes to grant to Recorded Music NZ the rights as set out below in accordance with the terms of the Master Rights Agreement and this Statement of Rights in respect of Radio New Zealand Limited (**Radio NZ**).
- C The Rights Holder has agreed to grant the rights and Recorded Music NZ will pay The Rights Holder Remuneration for the rights.

## 1. Definitions

---

**Domestic NZ Audience** means a NZ Audience who has agreed to listen or view the relevant content for their private and domestic use only.

**Emergency** means a situation that:

- (a) is the result of any happening, whether natural or otherwise, including, without limitation, any explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, serious fire, leakage or spillage of any dangerous gas or substance, technological failure, infestation, plague, epidemic, failure of or disruption to an emergency service or a lifeline utility, or actual or imminent attack or warlike act; and
- (b) causes or may cause loss of life or injury or illness or distress or in any way endangers the safety of the public or property in New Zealand or any part of New Zealand; and
- (c) cannot be dealt with by emergency services, or otherwise requires a significant and co-ordinated response under the Civil Defence Emergency Management Act 2002.

**Incidental** means where:

- (a) Sound Recordings licensed by Recorded Music NZ to Radio NZ do not amount to more than half of the total running time of the Radio Podcast; and
- (b) Sound Recordings licensed by Recorded Music NZ to Radio NZ which are reproduced in the Radio Podcast are extracts only, of no longer than half the length of the Sound Recording, whichever is the lesser.

**NZ Audience** means an audience where at least 90% of the total members of the audience are NZ Listeners or NZ Viewers.

**NZ Listener** means a person who is physically present in New Zealand at the time he or she listens to a Sound Recording.

**NZ Viewer** means a person who is physically present in New Zealand at the time he or she views any content which contains a Sound Recording or views a Music Video.

**On-Demand Radio Podcasts** means the transmission of Sound Recordings via the internet or mobile networks as either a streamed or single downloadable file from a website owned or controlled by Radio NZ where:

- (a) Sound Recordings licensed by Recorded Music NZ to Radio NZ have been Reproduced by Radio NZ into a digital file format in combination with sounds or content created by Radio NZ (the **Radio Podcast**);
- (b) all of the Sound Recordings licensed by Recorded Music NZ to Radio NZ are arranged and Reproduced for Communication in the Radio Podcast are separated by sound or content created by Radio NZ (that is, there can be no continuous 'back-to-back' arrangement, Reproduction and Communication of Sound Recordings in the Radio Podcast). However, a NZ Sub-Licensee may arrange and Reproduce for consecutive Communication in the Radio Podcast 3 Sound Recordings that are licensed by Recorded Music NZ to Radio NZ provided that such an arrangement can only occur once per Radio Podcast;
- (c) the Radio Podcast is only offered and transmitted by Radio NZ for a maximum period of 30 consecutive days after the first Communication of the Radio Podcast except where the use of the Sound Recordings licensed by Recorded Music NZ to Radio NZ and used in the Radio Podcast are Incidental;
- (d) the Radio Podcast is only able to be stored on a device for a maximum period of -30- consecutive days after the Communication of the Radio Podcast to the device except where the use of the Sound Recordings licensed by Recorded Music NZ to Radio NZ and used in the Radio Podcast are Incidental; and
- (e) unless the owner of copyright in the Sound Recording has given express written approval to Radio NZ, the Radio Podcast cannot be used in order to sell, advertise or promote particular products or services.

**Reproduce** means copying, recording or storing a work in any material form (including in any digital format) in any medium and by any means.

**Rights** means the rights set out in clause 2.1.

**Rights Commencement Date** means **1 January 2019**.

**Radio Simulcast** means the simultaneous unaltered transmission of Radio NZ's Terrestrial Radio Broadcasts via the internet.

**Terrestrial Radio Broadcast** means the dissemination within New Zealand by wireless transmission of sounds of all kinds by means of Hertzian waves intended to be received by NZ Listeners either directly or through the medium of relay stations but excluding placement on and dissemination through the internet.

## 2. Rights - Radio

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2.1 Subject to clause 2.2 and in consideration of the payment of The Rights Holder Remuneration by Recorded Music NZ, The Rights Holder grants to Recorded Music NZ a non- exclusive licence to exercise and to authorise Radio NZ to exercise the following rights:

- (a) to Communicate Controlled Recordings to a NZ Audience by:
  - (i) Terrestrial Radio Broadcast; and

- (ii) Radio Simulcast;
  - (b) to Communicate Prior Communicated Content as part of any On-Demand Radio Podcasts to a Domestic NZ Audience;
  - (c) to Reproduce and Communicate to a NZ Audience Artwork associated with a particular Controlled Recording for display in conjunction with the Communication of the Controlled Recording under clause 2.1(a)(ii); and
  - (d) to Reproduce Controlled Recordings for the purpose of compiling playlists for the Communication of Controlled Recordings under clause 2.1(a) or for the creation of an On-Demand Radio Podcast under clause 2.1(b).
- 2.2 The Rights Holder grants to Recorded Music NZ a non-exclusive licence to exercise and to authorise Radio NZ to exercise the rights set out in clause 2.1 above within any territory in the world in the event of an Emergency.
- 2.3 In respect of Radio NZ's plans to launch an online only radio station, the terms of the Statement of Rights - Non-Interactive Webcast between The Rights Holder and Recorded Music NZ shall be incorporated into this Statement of Rights – Radio New Zealand Limited.
- 2.4 In respect of any Audio Visual Content made by Radio NZ, the terms of the Statement of Rights – Audio Communications and Audio-Visual Communications between The Rights Holder and Recorded Music NZ shall be incorporated into this Statement of Rights – Radio New Zealand Limited.

### **3. Remuneration**

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- 3.1 The fees (**The Rights Holder Remuneration**) payable by Recorded Music NZ to The Rights Holder will be calculated in accordance with the Distribution Policy as set out in clause 5 of the Master Rights Agreement.

### **4. Termination**

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- 4.1 The Statement of Rights will commence on the Rights Commencement Date and will continue until terminated by either party in accordance with the provisions of the Master Rights Agreement (**Rights Period**).

## Statement of Rights – Non-Interactive Webcasting (internet radio; digital radio)

This Statement of Rights is between Recorded Music NZ and The Rights Holder for the grant of rights as identified in the terms below. The parties have agreed to the following terms of this Statement of Rights. This Statement of Rights together with the Master Rights Agreement forms a Specific Rights Agreement, which incorporates the entire agreement between the parties.

- A Recorded Music NZ and The Rights Holder are parties to a Master Rights Agreement under which The Rights Holder has agreed to grant rights in Controlled Content to Recorded Music NZ from time to time in accordance with Statements of Rights.
- B The Rights Holder now wishes to grant to Recorded Music NZ the rights as set out below in accordance with the terms of the Master Rights Agreement and this Statement of Rights.
- C The Rights Holder has agreed to grant the rights and Recorded Music NZ will pay The Rights Holder Remuneration for the rights.

### 1. Definitions

---

**Customise** means where a member of a NZ Audience can influence the transmission of the Non-Interactive Webcasting service including but not limited to by specifying:

- (a) preferred genres; or
- (b) preferred artists; or
- (c) ratings for particular artists; or
- (d) ratings for particular Sound Recordings transmitted in the Non-Interactive Webcasting service.

**Domestic NZ Audience** means a NZ Audience who has agreed to listen or view the relevant content for their private and domestic use only.

**Free of Charge Basis** means where no subscription fee or other fee (including a one-off fee) is charged by the NZ Sub-Licensee to members of its NZ Audience to access and listen to the Sound Recordings.

**Non-Interactive Webcast** means the transmission of a pre-programmed, non-interactive service via the internet or mobile networks from a website owned or controlled by a NZ Sub-Licensee that enables only the real-time (or substantially real-time) presentation of Sound Recordings on a Free of Charge Basis where:

- (a) the transmission via the internet and mobile networks is of any audio channel of Sound Recordings from the website owned or controlled by the NZ Sub-Licensee;
- (b) multiple simultaneous users of the service can hear the Sound Recordings on any device at or substantially near the same time that the transmission of the Sound Recordings is initiated by or on behalf of the NZ Sub-Licensee;
- (c) no user of the service is able to:
  - (i) select the order in which the Sound Recordings are transmitted to them;

- (ii) control, influence or Customise the nature and timing of the content delivered to them; or
- (iii) pause or skip Sound Recordings; and
- (d) the Sound Recordings are not Communicated in a manner where copies of the Sound Recordings can be created for subsequent Reproduction, Communication or aggregation.

**Reproduce** means copying, recording or storing a work in any material form (including in any digital format) in any medium and by any means.

**Rights** means the rights set out in clause 2.1.

**Rights Commencement Date** means **1 January 2019**.

**Note:** All capitalised terms used that have not been defined in the Definitions section have the meaning given to them in the Master Rights Agreement.

## 2. Rights

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- 2.1 In consideration of the payment of The Rights Holder Remuneration by Recorded Music NZ, The Rights Holder grants Recorded Music NZ a non-exclusive licence to exercise and to authorise NZ Sub-Licensees to exercise the following rights:
- (a) to Communicate Controlled Recordings to a Domestic NZ Audience by Non-Interactive Webcasts;
  - (b) to Reproduce Controlled Recordings for the purpose of compiling playlists for the Communication of Controlled Recordings under clause 2.1(a); and
  - (c) to Reproduce and Communicate to a Domestic NZ Audience Artwork associated with a particular Controlled Recording for display in conjunction with the Communication of the Controlled Recording under clause 2.1(a).

## 3. Remuneration

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- 3.1 The fees (**The Rights Holder Remuneration**) payable by Recorded Music NZ to The Rights Holder will be calculated in accordance with the Distribution Policy as set out in clause 5 of the Master Rights Agreement.

## 4. Termination

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- 4.1 The Statement of Rights will commence on the Rights Commencement Date and will continue until terminated by either party in accordance with the provisions of the Master Rights Agreement (**Rights Period**).

## Statement of Rights – Television

This Statement of Rights is between Recorded Music NZ and The Rights Holder for the grant of rights as identified in the terms below. The parties have agreed to the following terms of this Statement of Rights. This Statement of Rights together with the Master Rights Agreement forms a Specific Rights Agreement, which incorporates the entire agreement between the parties.

- A Recorded Music NZ and The Rights Holder are parties to a Master Rights Agreement under which The Rights Holder has agreed to grant rights in Controlled Content to Recorded Music NZ from time to time in accordance with Statements of Rights.
- B The Rights Holder now wishes to grant to Recorded Music NZ the rights as set out below in accordance with the terms of the Master Rights Agreement and this Statement of Rights.
- C The Rights Holder has agreed to grant the rights and Recorded Music NZ will pay The Rights Holder Remuneration for the rights.

### 1. Definitions

---

**Advertisement** means any compilation of audio-visual material, including any Infomercials, which is intended to promote the interests of any person, any product or service for the commercial advantage of any person, and for which payment is made, whether in money or in any other form of consideration including contra arrangements.

**Background or Incidental Use** means Sound Recordings that are used in the background of a scene or segment of a Programme to create the ambiance of the scene or segment. For the avoidance of doubt, Background or Incidental Use does not include the following uses:

- (a) Where the characters or presenters in the scene or segment interact with the Sound Recording, including singing any of the lyrics of the Sound Recording. However, dancing to Sound Recordings is permitted in a scene or segment provided that the dancing is not the principal feature of the scene or segment;
- (b) Where the characters or presenters in the scene or segment mention the name of the Sound Recording or the artist(s) that recorded the Sound Recording. However, in respect of news bulletins:
  - (i) Presenters in a news bulletin are permitted to announce the title to a Sound Recording and its artist; or
  - (ii) NZ Television Sub-Licensees are permitted to include graphics which display the title to a Sound Recording and its artist,

where the Sound Recording is used to accompany a segment in a news bulletin (including any weather forecast bulletins).

- (c) Where the Sound Recording is the principal feature of the scene or segment.

**Infomercials** means any advertising material devised to promote a product or service in an informative and purportedly objective style, irrespective of whether it is promoted as an Infomercial or is otherwise described.

**IPTV Transmission** means the dissemination within New Zealand of writing, signs, signals, pictures, images and sounds of all kinds by means of closed proprietary internet systems and closed private internet networks intended to be received by NZ Viewers, but excluding the open internet.

**NZ Television Sub-Licensee** means a NZ Sub-Licensee:

- (a) that is a broadcaster subject to the jurisdiction of the New Zealand Broadcasting Act 1989 or any legislation that changes or replaces that Act; and
- (b) whose principal business activity in New Zealand is the transmission of television programming to NZ Viewers.

**Music Programme** means any compilation of audio-visual matter into a production intended to entertain or inform that the NZ Television Sub-Licensee has produced and the subject of which is music, including for example singing and/or dancing (whether in competition format or not) or a documentary on music or artists (including biopics).

**Programme** means any compilation of audio-visual matter into a production intended to entertain or inform that the NZ Television Sub-Licensee has produced including:

- (a) interstitial programming produced for the purpose of filling in during technical or weather breaks; and
- (b) live broadcasts,

but does not include:

- (c) a Music Programme, Station Identification, Advertisement, Theme Music or Programme/Station Trailer; or
- (d) interstitial programmes which are created for the purpose of promoting:
  - (i) a sport, sports match or the communication or broadcast of the sport or sports match, including interstitial programmes which comprise montages of plays from one or more sporting events; or
  - (ii) an event or product.

**Programme/Station Trailer** means any compilation of:

- (a) audio or audio-visual matter; and
- (b) extracts of a Programme that contain Sound Recordings or Music Videos which have been, or will be, Communicated in the Programme,

which the NZ Television Sub-Licensee has produced for the purpose of either:

- (c) promoting, pre-announcing or advertising the Communication of the Programme; or
- (d) identifying or promoting the services of the NZ Television Sub-Licensee including any of its channels or websites.

This includes the right to tag the Programme/Station Trailer by announcing or screening words to the effect that the particular Programme can only be viewed on specific channels or websites. When compiling a Programme/Station Trailer, the NZ Television Sub-Licensee must not overlay Sound Recordings onto the trailer such that the trailer includes parts of the

Sound Recording that were not in the Programme or that the Sound Recording becomes the principal feature of the trailer.

**Reproduce** means copying, recording or storing a work in any material form (including in any digital format) in any medium and by any means.

**Rights** means the rights set out in clause 2.1.

**Rights Commencement Date** means **1 January 2019**.

**Satellite Broadcast** means the dissemination within New Zealand of writing, signs, signals, pictures, images and sounds of all kinds by wireless transmission by means of a satellite platform intended to be received by NZ Viewers.

**Station Identification** means any audio-visual matter that is intended to identify or promote the services of the NZ Television Sub-Licensee including any of its channels or websites.

**Terrestrial Broadcast** means the dissemination within New Zealand of writing, signs, signals, pictures, images and sounds of all kinds by wireless transmission by means of Hertzian waves intended to be received by NZ Viewers either directly or through the medium of relay stations.

**Theme Music** means any sound recording right that:

- (a) identifies or is associated with a Programme or series of Programmes; or
- (b) is used at the opening and/or closing credits of a Programme.

**Note:** All capitalised terms used that have not been defined in the Definitions section have the meaning given to them in the Master Rights Agreement.

## 2. Rights

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- 2.1 In consideration of the payment of The Rights Holder Remuneration by Recorded Music NZ, The Rights Holder grants Recorded Music NZ a non-exclusive licence to exercise and to authorise NZ Television Sub-Licensees to exercise the following rights:
- (a) to Communicate Controlled Recordings and Controlled Videos to a NZ Audience by Terrestrial Broadcast, Satellite Broadcast and IPTV Transmission;
  - (b) to Reproduce Controlled Recordings and Controlled Videos for the purpose of compiling playlists for the Communication of Controlled Recordings and Controlled Videos under clause 2.1(a);
  - (c) to Reproduce Controlled Recordings for Background or Incidental Use in Programmes and Programme/Station Trailers that the NZ Television Sub-Licensee has produced and intends to Communicate itself to a NZ Audience under clause 2.1(a); and
  - (d) to Reproduce Controlled Videos in Programmes and Programme/Station Trailers that the NZ Television Sub-Licensee has produced and intends to Communicate itself to a NZ Audience under clause 2.1(a).

### **3. Remuneration**

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- 3.1 The fees (**The Rights Holder Remuneration**) payable by Recorded Music NZ to The Rights Holder will be calculated in accordance with the Distribution Policy as set out in clause 5 of the Master Rights Agreement.

### **4. Termination**

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- 4.1 The Statement of Rights will commence on the Rights Commencement Date and will continue until terminated by either party in accordance with the provisions of the Master Rights Agreement.

## Statement of Rights – Audio and Audio-Visual Communication (includes catch-up TV; SVOD; general entertainment websites)

This Statement of Rights is between Recorded Music NZ and The Rights Holder for the grant of rights as identified in the terms below. The parties have agreed to the following terms of this Statement of Rights. This Statement of Rights together with the Master Rights Agreement forms a Specific Rights Agreement, which incorporates the entire agreement between the parties.

- A Recorded Music NZ and The Rights Holder are parties to a Master Rights Agreement under which The Rights Holder has agreed to grant rights in Controlled Content to Recorded Music NZ from time to time in accordance with Statements of Rights.
- B The Rights Holder now wishes to grant to Recorded Music NZ the rights as set out below in accordance with the terms of the Master Rights Agreement and this Statement of Rights.
- C The Rights Holder has agreed to grant the rights and Recorded Music NZ will pay The Rights Holder Remuneration for the rights.

### 1. Definitions

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**Advertisement** means any compilation of audio-visual material, including any Infomercials, which is intended to promote the interests of any person, any product or service for the commercial advantage of any person, and for which payment is made, whether in money or in any other form of consideration including contra arrangements.

**Audio Communication** means the transmission of Sound Recordings via the internet or mobile networks from a website owned or controlled by a NZ Sub-Licensee where:

- (a) the Sound Recordings have been Reproduced on the NZ Sub-Licensee's website; and
- (b) the Sound Recordings are not Communicated in a manner where copies of the Sound Recordings can be created for subsequent Reproduction or Communication.

**Audio-Visual Communication** means the transmission of Sound Recordings or Music Videos via the internet or mobile networks from a website owned or controlled by a NZ Sub-Licensee where:

- (a) the Sound Recording or Music Videos has been Reproduced in Audio-Visual Content owned or licensed to the NZ Sub-Licensee which is available for viewing from the NZ Sub-Licensee's website; and
- (b) either:
  - (i) the Sound Recordings, Music Videos or Audio-Visual Content are not Communicated in a manner where copies of the Sound Recordings or Audio-Visual Content can be created for subsequent Reproduction or Communication; or
  - (ii) the Audio-Visual Content is a single digital file which is only able to be stored on a device for a maximum period of 30 consecutive days following the Communication of the Audio-Visual Content after which there is no copy of the Audio-Visual Content, fixed file or data from which a user can subsequently replay, Reproduce or Communicate the Sound Recordings or Audio-Visual Content.

**Audio-Visual Content** means any combination of Sound Recordings or Music Videos with visual images, whether moving or still and includes clearly separate and identifiable audio-visual television or movie content (including episodes of a series, films, feature films and audio-visual programs created for access via the internet or mobile telecommunications networks), or a clearly identifiable part thereof, including a Programme.

**Background or Incidental Use** means Sound Recordings that are used in the background of a scene or segment of a Programme to create the ambiance of the scene or segment. For the avoidance of doubt, Background or Incidental Use does not include the following uses:

- (a) Where the characters or presenters in the scene or segment interact with the Sound Recording, including singing any of the lyrics of the Sound Recording. However, dancing to Sound Recordings is permitted in a scene or segment provided that the dancing is not the principal feature of the scene or segment;
- (b) Where the characters or presenters in the scene or segment mention the name of the Sound Recording or the artist(s) that recorded the Sound Recording. However, in respect of news bulletins:
  - (i) Presenters in a news bulletin are permitted to announce the title to a Sound Recording and its artist; or
  - (ii) NZ Television Sub-Licensees are permitted to include graphics which display the title to a Sound Recording and its artist,  
  
where the Sound Recording is used to accompany a segment in a news bulletin (including any weather forecast bulletins).
- (c) Where the Sound Recording is the principal feature of the scene or segment.

**Domestic NZ Audience** means a NZ Audience who has agreed to listen or view the relevant content for their private and domestic use only.

**Infomercials** means any advertising material devised to promote a product or service in an informative and purportedly objective style, irrespective of whether it is promoted as an Infomercial or is otherwise described.

**Music Programme** means any compilation of audio-visual matter into a production intended to entertain or inform that the NZ Television Sub-Licensee has produced and the subject of which is music, including for example singing and/or dancing (whether in competition format or not) or a documentary on music or artists (including biopics).

**NZ Television Sub-Licensee** means a NZ Sub-Licensee:

- (a) that is a broadcaster subject to the jurisdiction of the New Zealand Broadcasting Act 1989 or any enactment that replaces the Act; and
- (b) whose principal business activity in New Zealand is the transmission of television programming to NZ Viewers.

**Programme** means any compilation of audio-visual matter into a production intended to entertain or inform that the NZ Television Sub-Licensee has produced including:

- (a) interstitial programming produced for the purpose of filling in during technical or weather breaks; and

(b) live broadcasts,

but does not include:

(c) a Music Programme, Station Identification, Advertisement, Music Video, Theme Music or Programme/Station Trailer; or

(d) interstitial programmes which are created for the purpose of promoting:

(i) a sport, sports match or the communication or broadcast of the sport or sports match, including interstitial programmes which comprise montages of plays from one or more sporting events; or

(ii) an event or product.

**Programme/Station Trailer** means any compilation of:

(a) audio or audio-visual matter; and

(b) extracts of a Programme that contain Sound Recordings or Music Videos which have been, or will be, Communicated in the Programme,

which the NZ Television Sub-Licensee has produced for the purpose of either:

(c) promoting, pre-announcing or advertising the Communication of the Programme; or

(d) identifying or promoting the services of the NZ Television Sub-Licensee including any of its channels or websites.

This includes the right to tag the Programme/Station Trailer by announcing or screening words to the effect that the particular Programme can only be viewed on specific channels or websites. When compiling a Programme/Station Trailer, the NZ Television Sub-Licensee must not overlay Sound Recordings onto the trailer such that the trailer includes parts of the Sound Recording that were not in the Programme or that the Sound Recording becomes the principal feature of the trailer.

**Reproduce** means copying, recording or storing a work in any material form (including in any digital format) in any medium and by any means.

**Rights** means the rights set out in clause 2.1.

**Rights Commencement Date** means 1 January 2019.

**Station Identification** means any audio-visual matter that is intended to identify or promote the services of the NZ Television Sub-Licensee including any of its channels or websites.

**Theme Music** means and sound recording right that:

(a) identifies or is associated with a Programme or series of Programmes; or

(b) is used at the opening and/or closing credits of a Programme.

**Note:** All capitalised terms used that have not been defined in the Definitions section have the meaning given to them in the Master Rights Agreement.

## 2. Rights

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- 2.1 In consideration of the payment of The Rights Holder Remuneration by Recorded Music NZ, The Rights Holder grants Recorded Music NZ a non-exclusive licence to exercise and to authorise NZ Sub-Licensees to exercise the following rights:
- (a) to Communicate Controlled Recordings to a Domestic NZ Audience in Audio Communications; and
  - (b) to Communicate Controlled Recordings to a Domestic NZ Audience in Audio-Visual Communications.

## 3. Remuneration

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- 3.1 The fees (**The Rights Holder Remuneration**) payable by Recorded Music NZ to The Rights Holder will be calculated in accordance with the Distribution Policy as set out in clause 5 of the Master Rights Agreement

## 4. Termination

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- 4.1 The Statement of Rights will commence on the Rights Commencement Date and will continue until terminated by either party in accordance with the provisions of the Master Rights Agreement (**Rights Period**).

# Statement of Rights – Administrative Licence to Recorded Music NZ

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This Statement of Rights is between Recorded Music NZ and The Rights Holder for the grant of rights as identified in the terms below. The parties have agreed to the following terms of this Statement of Rights. This Statement of Rights together with the Master Rights Agreement forms a Specific Rights Agreement, which incorporates the entire agreement between the parties.

- A Recorded Music NZ and The Rights Holder are parties to a Master Rights Agreement under which The Rights Holder has agreed to grant rights in Controlled Content to Recorded Music NZ from time to time in accordance with Statements of Rights.
- B The Rights Holder now wishes to grant to Recorded Music NZ the rights as set out below in accordance with the terms of the Master Rights Agreement and this Statement of Rights.
- C The Rights Holder has agreed to grant the rights and Recorded Music NZ will pay The Rights Holder Remuneration for the rights.

## 1. Definitions

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**One Music** means the public performance and limited reproduction licensing division of APRA New Zealand Limited which has its registered office at Unit 113, Zone 23, 21-23 Edwin Street, Mt Eden, Auckland, New Zealand which has been established by Recorded Music NZ and APRA to grant licences for the use of music by NZ Sub-Licensees.

**Reproduce** means copying, recording or storing a work in any material form (including in any digital format) in any medium and by any means.

**Rights** means the rights set out in clause 2.1.

**Rights Commencement Date** means 1 January 2019.

**Note:** All capitalised terms used that have not been defined in the Definitions section have the meaning given to them in the Master Rights Agreement.

## 2. Rights

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- 2.1 Where The Rights Holder has entered into any Statement of Rights with Recorded Music NZ which grants, or authorises Recorded Music NZ to grant, non-exclusive licences to any Controlled Recordings or Controlled Videos, The Rights Holder also grants a non-exclusive licence to Recorded Music NZ to Reproduce and Communicate Controlled Recordings and Controlled Videos for the purpose of ensuring and monitoring compliance with the Rights granted to Recorded Music NZ.
- 2.2 Where The Rights Holder has entered into any Statement of Rights with Recorded Music NZ which grants, or authorises Recorded Music NZ to grant, non-exclusive licences to any Controlled Recordings or Controlled Videos under any Statement of Rights, The Rights Holder also grants a non-exclusive licence to Recorded Music NZ to:
  - (a) sub-licence to OneMusic all or any of the Rights granted to Recorded Music NZ under any Statement of Rights; and
  - (b) authorise OneMusic to grant sub-licences to all or any of the Rights granted to OneMusic.

### 3. Remuneration

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- 3.1 Recorded Music NZ is not liable to make any additional payments, other than any fees set out in the relevant Specific Rights Agreement, Distribution Policy or Master Rights Agreement, to The Rights Holder in respect of the licences granted to Recorded Music NZ at clauses 2.1 and 2.2.

### 4. Termination

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- 4.1 The Statement of Rights will commence on the Rights Commencement Date and will continue until terminated by either party in accordance with the provisions of the Master Rights Agreement (**Rights Period**).

## Statement of Rights – Closed looped environments (airlines)

This Statement of Rights is between Recorded Music NZ and The Rights Holder for the grant of rights as identified in the terms below. The parties have agreed to the following terms of this Statement of Rights. This Statement of Rights together with the Master Rights Agreement forms a Specific Rights Agreement, which incorporates the entire agreement between the parties.

- A Recorded Music NZ and The Rights Holder are parties to a Master Rights Agreement under which The Rights Holder has agreed to grant rights in Controlled Content to Recorded Music NZ from time to time in accordance with Statements of Rights.
- B The Rights Holder now wishes to grant to Recorded Music NZ the rights as set out below in accordance with the terms of the Master Rights Agreement and this Statement of Rights.
- C The Rights Holder has agreed to grant the rights and Recorded Music NZ will pay The Rights Holder Remuneration for the rights.

### 1. Definitions

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**On-board Content** means the transmission of pre-programmed Controlled Content from a NZ Sub-Licensee's Aircraft to its passengers via entertainment systems (often in-seat) but where the Controlled Content is not Communicated in a manner where copies of the Controlled Content can be created for subsequent Reproduction, Communication or aggregation.

**NZ Sub-Licensee's Aircraft** means an aircraft owned and operated by an NZ Sub-Licensee.

**Reproduce** means copying, recording or storing a work in any material form (including in any digital format) in any medium and by any means.

**Rights** means the rights set out in clause 2.1.

**Rights Commencement Date** means **1 January 2019**.

**Note:** All capitalised terms used that have not been defined in the Definitions section have the meaning given to them in the Master Rights Agreement.

### 2. Rights

---

- 2.1 In consideration of the payment of The Rights Holder Remuneration by Recorded Music NZ, The Rights Holder grants Recorded Music NZ a non-exclusive licence to exercise and to authorise NZ Sub-Licensees to exercise the following rights:
- (a) to Communicate Controlled Recordings in On-Board Content on a NZ Sub-Licensee's Aircraft;
  - (b) to Reproduce Controlled Recordings for the purpose of compiling playlists for the Communication of Controlled Recordings under clause 2.1(a); and
  - (c) to Reproduce and Communicate Artwork associated with a particular Controlled Recording for display solely in conjunction with the Communication of the Controlled Recording under clause 2.1(a).

### 3. Remuneration

- 3.1 The fees (**The Rights Holder Remuneration**) payable by Recorded Music NZ to The Rights Holder will be calculated in accordance with the Distribution Policy as set out in clause 5 of the Master Rights Agreement.

## **4. Termination**

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- 4.1 The Statement of Rights will commence on the Rights Commencement Date and will continue until terminated by either party in accordance with the provisions of the Master Rights Agreement.

## Statement of Rights – Non-Broadcast Video for Domestic Use

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This Statement of Rights is between Recorded Music NZ and The Rights Holder for the grant of rights as identified in the terms below. The parties have agreed to the following terms of this Statement of Rights. This Statement of Rights together with the Master Rights Agreement forms a Specific Rights Agreement, which incorporates the entire agreement between the parties.

- A Recorded Music NZ and The Rights Holder are parties to a Master Rights Agreement under which The Rights Holder has agreed to grant rights in, among other things, Controlled Recordings to Recorded Music NZ from time to time in accordance with each Statements of Rights.
- B The Rights Holder now wishes to grant to Recorded Music NZ the rights as set out below in accordance with the terms of the Master Rights Agreement and this Statement of Rights.
- C The Rights Holder has agreed to grant the rights and Recorded Music NZ will pay The Rights Holder Remuneration for the rights.

### 1. Definitions

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**Authorised Audience** means the person (i.e. customer/client) who commissioned or paid the NZ Sub-Licensee to make an Authorised Video on their behalf as well as all the respective friends, family and associates of such client or customer, provided the same access/view/utilize the Authorised Video strictly in accordance with the terms and conditions of the particular licence granted by Recorded Music NZ to the NZ Sub-Licensee and, if viewing via on-line streaming, then via a Password Protected Website.

**Authorised Video** means the Reproduction and synchronisation of Controlled Recordings with visual images into any video of the following private, personal, domestic and family orientated functions, activities or uses:

- i. weddings;
- ii birthday or other parties;
- iii the transfer of home movies or photographs onto another format;
- iv holidays, events or tours;
- v births and christenings;
- vi funerals or pre-recorded wills;
- vii education facility events;
- viii any event or activity where the recipients of the recording are the private individuals of whom the recording is made; or
- ix any other similar type of event or activity but not an Unauthorised Video/Activity.

**Domestic NZ Audience** means a NZ Audience who has agreed to listen or view the relevant content for their private and domestic use only.

**Password Protected Website** means a website owned or controlled by a NZ Sub-Licensee which is password protected and can only be viewed by the relevant Domestic NZ Audience.

**Reproduce** means copying, recording or storing a work in any material form (including in any digital format) in any medium and by any means.

**Rights** means the rights set out in clause 2.1 below.

**Rights Commencement Date** means **1 January 2019**.

**Unauthorised Video/Activity** means and includes the:

- (a) making of and/or Communicating corporate, training or educational videos;
- (b) sub-licensing any other person to Reproduce Controlled Recordings (whether into a video or not);
- (c) playing or showing an Authorised Video in public;
- (d) engaging in, authorising or permitting the Reproduction of any pirate, counterfeit or bootleg Controlled Recordings or Controlled Recordings that have been downloaded from sites on the internet that are engaged in unauthorised supply;
- (e) Reproducing of Controlled Recordings in connection with any advertising (as that word is commonly understood);
- (f) distributing or selling (including to the general public) of any Authorised Video for any other purpose not expressly set out in the definition of Authorised Video; or
- (g) any other activity, use or exercise of rights not expressly granted elsewhere in the particular licence between Recorded Music NZ and the NZ Sub-Licensee.

**Note:** All capitalised terms used that have not been defined in the Definitions section above have the meaning given to them in the Master Rights Agreement.

## **2. Rights**

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- 2.1 In consideration of the payment of The Rights Holder Remuneration by Recorded Music NZ, The Rights Holder grants Recorded Music NZ a non-exclusive licence to exercise and to authorise NZ Sub-Licensees to exercise the following rights:
- (a) make Authorised Videos (which defined term incorporates Reproduction of Controlled Recordings) for the purpose of NZ Sub-Licensee's supplying Authorised Videos by physical means to a Domestic NZ Audience; and
  - (b) make Authorised Videos for the purpose of Communicating Authorised Videos to a Domestic NZ Audience via the relevant NZ Sub-Licensee's Password Protected Website.

## **3. Remuneration**

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- 3.1 The fees (**The Rights Holder Remuneration**) payable by Recorded Music NZ to The Rights Holder will be calculated in accordance with the Distribution Policy as set out in clause 5 of the Master Rights Agreement.

## **4. Termination**

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- 4.1 The Statement of Rights will commence on the Rights Commencement Date and will continue until terminated by either party in accordance with the provisions of the Master Rights Agreement (**Rights Period**).