

# RECORDING AGREEMENT

DATE:

## PARTIES

(1) [INSERT NAME OF COMPANY] \_\_\_\_\_ ("Company").

(2) [INSERT NAME OF ARTIST] \_\_\_\_\_ ("Artist").

THE PARTIES AGREE as follows:

### 1. TERM

1.1. This Recording Agreement ("**Agreement**") will commence on the date of this Agreement.

### 2. RECORDING SERVICES

2.1. During the period of the 2011 YES competition the Artist will provide their recording services ("**Services**") to the Company for the purpose of recording one song written by the Artist ("**Song**") to be mutually agreed with the Company.

2.2. The Company at its sole discretion may arrange for the making of a music video ("**Video**") of the Song and the Artist will co-operate as reasonably required in respect of such Video and such assistance will form part of the Services.

2.3. As part of the Services the Artist further agrees to:

- (a) provide reasonable assistance to the Company for the purposes of the marketing and promotion of the Song; and
- (b) allow the Company to make use of the Artist's name, and approved image, likeness and biography in relation to the marketing, promotion and commercial exploitation of the Song pursuant to this Agreement.

2.4. The Artist will not provide their Services to any other group involved in the 2011 YES competition.

2.5. Except as otherwise provides for in clause 2.4 this Agreement shall be non-exclusive in respect of the Artist's recording services.

### 3. RECORDING

3.1. The Company and the Artist shall mutually agree on the way in which the Song shall be recorded and as applicable the Video made, provided that in the event that a mutually agreed decision cannot be reached the Company's decision on any matter shall be final.

3.2. The Company shall fund the recording, mixing and mastering of the Song, as applicable the making of the Video and all other costs related to the manufacture, release and marketing of the Song.

3.3. The following amounts shall be recoupable from any royalty payable to the Artist pursuant to clause 6:

- (a) all monies spent by the Company on the recording, mixing and mastering of the Song; and
- (b) half of any monies spent by the Company on the making of the Video.

### 4. COPYRIGHT

4.1. The Artist will retain all copyright in the music and lyrics of the Song ("**Song Copyright**");

4.2. The Company will own all copyright in the sound recording of the Song ("**Sound Recording**") and the Video (each referred to as an "**Artist Recording**") provided that all copyright in the Artist Recordings will be deemed to be automatically assigned to the Artist on 1 January 2012 ("**Assignment Date**").

### 5. EXPLOITATION

5.1. Prior to the Assignment Date the Company has the sole and exclusive right to exploit the Artist Recordings by any and all means in any and all media (whether currently existing or which subsequently become known) throughout the universe and such rights may be exercised by the Company its successors, assigns and licensees.

5.2. Subject to the prior rights of APRA, the Artist grants to the Company a licence ("**Licence**") to use the Song Copyright for the purposes of exploitation of the Artist Recordings pursuant to clause 5.1 provided that the Licence shall be limited to the exploitation of the Artist Recordings by way of sale or promotion of the Artist Recordings to the public.

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- 5.3. For the avoidance of doubt, without the prior written agreement of the Artist which may be withheld at the Artist's sole discretion, the Licence shall not include any right to use the Song Copyright in relation to:
- (a) synchronising the Sound Recording with visual images of any nature except for the purposes of creating the Video;
  - (b) 'sampling' the Artist Recordings as that term is commonly understood in the music industry;
  - (c) the promotion of any third party or any third party goods or services; and
  - (d) editing, remixing or rearranging the Artist Recordings.

## 6. ROYALTIES

- 6.1. The Company shall pay the Artist a royalty of **[insert amount of royalty]** \_\_\_\_\_ % of the amount received (and not refunded) by the Company (excluding any GST component of such amounts) from each instance of commercial exploitation of the Artist Recordings ("**Royalty**").
- 6.2. Where any Artist Recording is exploited as part of a compilation put together by the Company and the amount received solely in respect of such Artist Recording cannot be determined the Royalty payable to the Artist provided for in clause 6.1 shall be divided by the number of tracks on any such compilation.
- 6.3. Where any exploitation of an Artist Recording is made pursuant to clause 5.3 the Royalty otherwise provided for in clause 6.1 shall be deemed to be 50%, provided that where the Artist Recording is exploited in any such instance along with other recordings controlled by the Company and the amount received solely in respect of the Artist Recording cannot be determined the Royalty provided for in this clause 6.3 shall be divided by the number of recordings involved in any such exploitation.
- 6.4. The Company shall be entitled to keep 100% of any payments received by the Company directly from Phonographic Performances New Zealand Limited prior to 1 January 2012.
- 6.5. The Company shall ensure the payment of mechanical royalties ("**Mechanical Royalties**") to the Artist at industry standard rates in accordance with standard industry practice and without deduction for any recoupable amounts otherwise owing under this Agreement as provided for in clause 3.3.
- 6.6. No Royalty or Mechanical Royalty will be payable in relation to any use of the Artist Recordings for the purpose of marketing and promoting the Artist Recordings including instances of free give aways of the Artist Recordings.
- 6.7. All Royalties and Mechanical Royalties shall be payable to the Artist at such date as determined by the Company but in any event by 31 December 2011 and shall be accompanied by a detailed statement indicating the basis on which such amounts have been calculated and where they have been received from. The Company shall be entitled to require an appropriate invoice from the Artist before payment is made pursuant to this clause.

## 7. GENERAL PROVISIONS

- 7.1. The Agreement does not create a partnership, joint venture or contract of employment between the parties.
- 7.2. This Agreement may not be varied except by agreement in writing signed by the parties.
- 7.3. This Agreement constitutes the entire agreement between the parties in respect of its subject matter and supersedes any previous understandings or agreements on that subject matter.
- 7.4. This Agreement may not be assigned by either party without the prior consent of the other.

## EXECUTION

Signed on behalf of  
The Company by:

Signed by  
The Artist

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

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