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**MPA GUIDELINE FOR ILLUSTRATION PURPOSES ONLY**

 **FOREIGN SUB PUBLISHING AGREEMENT – DRAFTING NOTES**

1. Clause 1 - Leave date blank until full execution of document
2. Clause 2 - Insert Owners and Subpublishers names, addresses and CAE/IPI numbers
3. Clause 4.1.1 - The Owner should consider:
4. If print rights are to be withheld from the Subpublisher entirely (in which case thee whole of clause 4.1.1 should be deleted and replaced by the words “Intentionally deleted”
5. If electronic print rights are to be withheld from the Subpublisher (in which case the bracketed wording “excluding electronic print” should be adopted*)* or included (in which case the bracketed wording “including electronic print” should be adopted instead)
6. Clause 4.1.5 - If the Owner is only granting non exclusive synchronization rights to the Subpublisher the word “non” in brackets should be retained. If it is granting exclusive rights, it should be deleted.
7. Clause 4.1.5 - The territoriality of the synchronization right being granted to the Subpublisher should be consistent with that of the synchronization right being granted by the Owner to other subpublishers. If the rights granted are exclusive, then this will be essential . If (as is usually the case) rights are granted for all synchronization usage **for productions originating in the Territory**, whether for the world or any lesser part, the bracketed words in 4.1.5 “produced in the Territory for the entire world or any portion of the world ” should be retained and the bracketed words “in the Territory” should be deleted. If rights are only being granted for synchronization usage in the Territory (unusual) then “in the Territory “ should beretained and the remaining bracketed wording should be deleted.
8. Clause 4.2 - The Owner should consider if Online Rights (which will include the mechanical reproduction right and communication to the public right to the extent necessary for the form of digital delivery in question) are to be dealt with by the Subpublisher or by way of a separate online rights agreement – in particular, for Europe ,by way of a Europe wide online licence with one (or more) of the European collecting societies. The drafting provides for 2 alternatives relating to Anglo American repertoire:
9. Online Rights to be withheld from the outset (include the bracketed wording “from the date hereof”)
10. Online Rights to be withdrawn on notice (include the bracketed wording “the date of written notice to the Subpublisher referring to this clause 4.2”)

If the Owner does not want the facility to withhold Online Rights for the Territory, then clauses 4.2 and 4.4.6 should be deleted and replaced by the words “Intentionally deleted”

1. Clause 4.4.4 - The wording here should conform with the methodology adopted in clause 4.1.5 (see Drafting Note 5 above). If exclusive rights are being granted in clause 4.1.5 to issue licences for **productions originating in the Territory** then the rights reserved in clause 4.4.4 should be the exclusive rights to issue licenses for **productions originating outside the Territory** ie the first set of bracketed wording in clause 4.4.4 should be adopted and the second deleted. If the rights being granted under clause 4.1.5 are non exclusive, or are exclusive for the Territory, then the second set of bracketed wording in clause 4.4.4 should be adopted and the first deleted
2. Clause 5.2 - If one or more advances are payable , adopt clause 5.2 . Otherwise , delete.
3. Clause 6.1 - In clause 6.1 insert details of :
4. Address for delivery of physical statements
5. Address for delivery of electronic statements (email)
6. Bank account details for payment transfer
7. Clause 5.2 - Insert percentage and name of Bank for late payment interest
8. Clause 6.7 - Insert the bracketed wording at clause 6.7 if it is envisaged that the Subpublisher will itself be licensing the rights to a third party sub-subpublisher for part of the Territory. NB The Owner should consider (and approve) the sub sub publishers and be aware that the current drafting will not provide any right to audit such sub sub publishers
9. Clause 11.1 - In clause 11.1 insert Subpublishers address, and Owners address where shown. Delete bracketed wording relating to email service if this is not to be permitted
10. Clause 11.2 - In clause 11.2 Delete bracketed wording relating to email service if this is not to be permitted
11. Clause 15 (Signed by) - The Owners attestation wording assumes that the Owner is a corporate entity. Insert the name of authorized officer of the Publisher who is signing
12. Clause 15 (For and on behalf of) - Insert name of the Owner
13. Clause 15 (*Witness*) - Witness to sign alongside the word “witness”
14. Clause 15 (*Name/Address*) - Insert name & address of witness
15. Clause 15 (Signed by) - Insert name of the Subpublisher
16. Clause 15 (For and on behalf of) - The Subpublishers attestation wording assumes that the Subpublisher is a corporate entity. Insert name of authorized officer of Subpublisher who is signing
17. Clause 15 (*Witness*) - Witness to sign alongside the word “witness”
18. Clause 15 (*Name/Address*) - Insert name & address of witness

Schedule

1. Clause 1 - Insert details of Territory to be controlled
2. Clause 2 - Insert details of Work(s) to be administered. Draft provides alternative wording for (a) defined list of Works (b) All existing Works controlled by Owner at the date of Agreement (c) Works acquired by the Owner after the date of the Agreement
3. Clause 3 - Insert details of Term. Draft provides alternative wording for period of Term to run from date of Agreement or from a fixed date in the future. If rights to be granted include right to collect royalties which have arisen prior to date of commencement , but are not to be collected by a prior sub publisher (but not otherwise) , include the bracketed proviso wording.
4. Clause 3.1 - If Subpublisher is to have a post term collection period for income arising during the Term , insert bracketed wording beginning “ provided that upon the expiry… “ , insert number of months and delete bracketed wording beginning “ including all rights…” . If not , then vice versa ie delete “provided that …” wording and retain “including all rights…” wording.
5. Clause 4.1.1 - Insert Retail Selling Price royalty for print music sold by the Subpublisher
6. Clause 4.1.2 - Insert royalty percentage for print music sold by third parties
7. Clause 4.2 - Insert mechanical royalty percentage
8. Clause 4.3 - Insert synchronization royalty percentage for synchronisations procured by the Subpublisher
9. Clause 4.3 - Insert synchronization royalty percentage for all synchronisations other than those procured by the Subpublisher
10. Clause 4.4 - Insert publishers share of performance fees percentage
11. Clause 4.5 - Insert royalty percentage for other income NB The current drafting does not provide for the Owner to receive any share of the Subpublishers “Black Box” income
12. Clause 5 - Insert details of advance(s) payable (or if none delete clause 5 of Schedule)