



**Higher Education Trial Printed Music Licence (Non-precedential)**

On signature by an authorised person on behalf of the Higher Education Institution shown below and delivery thereof to PMLL, the attached Standard Terms and Appendices will together comprise a legally binding Agreement between the said Higher Education Institution and PMLL whereby the terms and conditions of the Trial Licence set out or referred to in the said Standard Terms and hereby offered by PMLL to the said Higher Education Institution are accepted.

Name of Higher Education Institution			
Address of Higher Education Institution		Name of Higher Education Institution contact	
		Telephone number of Higher Education Institution contact	
		Email address of Higher Education Institution contact	

Signed on behalf of PMLL:

Signature	
Name	

Signed on behalf of Higher Education Institution:

Signature	
Name of authorised signatory	
Date	

## Definitions

Arrangement	A Licensed Copy which is a re-configuration of a Musical Work made by a Staff Member, by Students under direction of a Staff Member, or by Students otherwise in the course of their studies as part of a Music Course, that adds or alters aspects such as lyrics, harmony, rhythm, texture and instrumentation, including transcription (which means the direct apportioning of a Musical Work for a different combination of instrument or instruments (including voice) than originally intended by the composer, and/or translation of the lyrics to a Musical Work).
Assessed Public Performance	A public performance for the purposes of assessment of a Student or group of Students, and which takes place on the properly licensed premises of the Higher Education Institution or on third-party premises hired by the Higher Education Institution for that purpose. For the avoidance of doubt, any other type of public performance is not included in this definition.
Assessed Performance Recording	An audio or audio-visual recording of an Assessed Public Performance or other assessed performance.
CLA	Copyright Licensing Agency Ltd
Claim Form	A formal notification of a legal claim issued by a court of competent jurisdiction or other statutory body
Digital Copy	An electronic copy, (a) made by scanning from print or copying from a digital source, in either case from a Printed Music Publication, or (b) which is an Arrangement made in electronic format, or (c) an electronic copy of a handwritten Arrangement
Distance Learners	Those Students on a Music Course designed to be studied away from the Licensee's premises. For the avoidance of doubt, this does not include any students based overseas who are not in receipt of direct tuition from the Licensee
Excluded Printed Music Publications	Any Printed Music Publication listed as being excluded from this Agreement as shown on PMLL's website
Full Time Equivalent Music Students (FTEMS)	Those Students declared to PMLL by the Licensee for coverage under the Trial Licence, both full and part time. Each Distance Learner shall be deemed to constitute a single FTEMS
HESA	The Higher Education Statistics Authority
Higher Education Institution	An educational institution within the Territory designated by HESA and/or QAA as a higher education provider
Individual Vocal or Individual Instrumental Teaching	The teaching of instrumental or vocal technique and/or interpretative skills as part of a Music Course and documented as such by the Licensee in its Course Description or similar description of a Music Course
Licensed Copy	A Digital Copy or a Paper Copy, as appropriate, in either single or multiple format

Licensee	Any Higher Education Institution in respect of which the Trial Licence Fee has been paid
Music Course	A course or module offered by the Licensee that includes a music element and which together with other courses or modules comprises a programme of study leading to a degree qualification. Such courses are not limited to courses with a W3 JACS code but could extend to, for example, Dance, Drama, or Education degree qualifications.
Musical Anthology	A Printed Music Publication that is a collection of Musical Works
Musical Work	A musical work that appears within a Printed Music Publication, and which is defined by the Copyright Designs and Patents Act 1988 (as amended), including any words or lyrics
Paper Copy	A paper copy, (a) made by photocopying from a Printed Music Publication, (b) made by printing out from a Digital Copy, (c) which is a handwritten Arrangement, or (d) which is a photocopy of a handwritten Arrangement
PMLL	Printed Music Licensing Ltd acting as agent and/or licensee for various music publishers
Printed Music Publications	Published editions being graphic representations of Musical Works, printed either on paper or in digital format, including musical scores and/or parts, diagrammatic representations, tablature and other ways of representing musical sound and any editorial notes, historical notes or commentaries or other text included in the said published editions. For the avoidance of doubt this does not include Excluded Printed Music Publications or sound recordings.
QAA	The Quality Assurance Agency for Higher Education
Secure Network	A network (whether a standalone network or a virtual network within the Internet) which is only accessible to those Students and Staff Members who are approved by the Licensee for access to the Secure Network, whose identity is authenticated at the time of login (and periodically thereafter) in a manner consistent with current best practice, and whose conduct is subject to regulation by the Licensee (including, where applicable, Virtual Learning Environments)
Source Copy	The Printed Music Publication from which Licensed Copies are made
Staff Members	Staff teaching on, or otherwise connected with (for example, library staff) Music Courses, including Emeritus Professors and other honorary staff and visiting academics
Students	Students registered on at least one Music Course, including undergraduates and taught postgraduates, but excluding any postgraduates who are supervised but not taught
Term	1 August 2020 – 31 July 2021
Territory	The United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man

Trial Licence	The trial licence granted by Clause 2
Trial Licence Fee	The appropriate fee for the Higher Education Institution calculated by reference to the Tariff set out in the attached Appendix
VLE (Virtual Learning Environment)	A web-based platform for the digital aspects of courses of study within an educational institution which presents resources, activities and interactions within a course structure and provide for the different stages of assessment.
Workbook	A Printed Music Publication which consists mainly of Musical Works and extracts therefrom, with accompanying exercises and/or tests designed for educational purposes

## **Higher Education Trial Printed Music Licence – Standard Terms**

This Trial Licence is offered to Higher Education Institutions within the Territory on a non-precedential basis for the duration of the Term.

### **1 Contracting Parties**

This licence (the “Trial Licence”) records the standard terms on which PMLL, grants a trial licence to Higher Education Institutions in Territory on a non-precedential basis and on the following terms and conditions.

### **2 Trial Licence**

Subject to the terms and conditions set out in this Trial Licence, including the limitations and exclusions set out in Clause 4 below, and in consideration of the payment of the Trial Licence Fee, the Licensee is granted the following non-exclusive rights, exercisable during the Term:-

- a) to make, or permit the making of, Licensed Copies subject to Clause 4;
- b) to distribute, and to permit the distribution of, such Licensed Copies to Students and Staff Members;

solely for use by Students and Staff Members within Music Courses.

### **3 Payment and Licensee Obligations**

#### **3.1 Payment**

The Trial Licence Fee, together with VAT thereon, is payable within 30 days of receipt of an invoice from PMLL. PMLL reserves the right to charge interest on any late payment in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

#### **3.2 Credit**

With the exception of Arrangements, for which the credit is set out in Clause 4.15, all Licensed Copies made under this Trial Licence must be annotated as follows:

“Copy made on *[date]* only for use in connection with *[name of course]* under the Trial HEFML held by *[name of Higher Education Institution]*.”

## 4 Limitations and Exclusions

- 4.1 The making of Licensed Copies shall not directly or indirectly substitute for the purchase of Printed Music Publications or for the commissioning, reproduction, hire or any other use of Printed Music Publications or underlying Musical Works or part thereof. At least one original Source Copy of the Printed Music Publication must be owned or subscribed to (in the case of a licensed subscription service) by the Licensee, that are generally part of the library holdings but may be held elsewhere.
- 4.1.1 For the avoidance of doubt, Licensed Copies may not be made from Printed Music Publications not owned by the Licensee, including those personally owned or subscribed to by individual Staff Members or by Students.
- 4.1.2 For the further avoidance of doubt this Trial Licence does not permit the copying of Printed Music Publications made available on hire or borrowed from a library, other than a library owned by the Licensee.
- 4.2 This Agreement is without prejudice to any acts which the Licensee, a Student or a Staff Member is permitted to carry out by the terms of the Copyright, Designs and Patents Act 1988 (as amended) and the Code of Fair Practice of the Music Publishers' Association signed up to by a number of music publishers and set out at [https://www.mpaonline.org.uk/wp-content/uploads/2017/09/The\\_Code\\_of\\_Fair\\_Practice\\_Revised\\_Apr\\_2016.pdf](https://www.mpaonline.org.uk/wp-content/uploads/2017/09/The_Code_of_Fair_Practice_Revised_Apr_2016.pdf).
- 4.3 The Licensee must limit the number of Licensed Copies to one Licensed Copy for each Student (and Staff Member) participating in or teaching on the Music Course for which those Licensed Copies are intended. Licensed Copies may be used within a group that includes students who are not registered on a Music Course, except that (a) the group's purpose must be directly connected with a Music Course, and (b) any student not taking the Music Course with which the group's purpose is directly connected may not be supplied with Licensed Copies.
- 4.4 The Licensee may copy whole Musical Works, except that the Licensee must not make copies of more than ten per cent (by number of items) of the individual pieces of music in a published Musical Anthology or not more than ten per cent (by the number of pages) of any Workbook; if there are fewer than ten individual pieces of music in an Anthology the Licensee may only make copies of one of them.
- 4.5 Licensed Copies may be made only in connection with Music Courses and not for the private purposes of Staff Members, Students or anyone else. Individual Vocal or Individual Instrumental Teaching is included within the Trial Licence but only where it forms a set part of a Music Course.
- 4.6 In addition to the rights granted in respect of Arrangements in Clause 4.8 below, Licensed Copies that are not Arrangements or copies of Arrangements may be altered solely for pedagogic purposes, for example by blanking out parts or translating an extract from a vocal line, provided that the composer's/author's/editor's moral rights are respected and it is made clear on the face of the extract that the original work has been so altered.
- 4.7 The Licence authorises the making of Arrangements as defined in this Agreement, subject to the specific and sole condition they are made by Staff Members or Students solely for pedagogic purposes, including use in assessments that may involve Assessed Public Performances and Assessed Performance Recordings. The Licensee must take steps, for example via an announcement, to ensure no audio recording takes place of such performances except for Assessed Performance Recordings.
- 4.8 Assessed Performance Recordings may be made and used only for the purposes of assessment of a Student or group of Students and are not for distribution other than to those

Staff making the assessment and the Student or group of Students recorded. No further copies of any Assessed Performance Recording may be made, and a suitable copyright notice must be used to this effect. Assessed Performance Recordings may be kept as part of a securely accessed 'assessment bank', provided that

- (a) the Higher Education Institution continues to hold this Licence or a successor to this Licence, and
- (b) access to such assessment bank is monitored and on-site only or via a Secure Network

4.9 For the purposes of Assessed Public Performances (and, in the case of Assessed Performance Recordings, upon request from PMLL or the relevant publisher), the Licensee must submit a pdf of the full score of any Arrangement used by e-mail to:

[arrangements@mpagroup.com](mailto:arrangements@mpagroup.com)

and (in the case of Assessed Public Performances only) the planned date and location of the event, for which Licensee must ensure that the appropriate public performance permissions from PRS for Music are in place.

4.10 With the exception of the uses in clause 4.8, no other use may be made of Arrangements by their creator or, for the avoidance of doubt, by anyone else, including but not limited to public performance, audio recording, broadcasting, or in any other way making available (including uploading audio recordings to a website).

4.11 Nothing in this Agreement provides for Staff Members or Students to claim copyright ownership in Arrangements made under the terms of this Licence.

4.12 The following conditions will apply in respect of the creation of Arrangements under the Licence:

- (a) Arrangements must respect the moral rights of the creator of the original Musical Work on which they are based
- (b) Arrangements may be made in either paper or digital format but must comply with the following terms 4.13 and 4.14.

4.13 Each Arrangement must include the following credit:

- (i) Prominently at the top of the first page, the title of the Musical Work, the name of the composer(s), and the name of the arranger.
- (ii) At the foot of the first page, the copyright credit from the source publication together with the following notice:

"This arrangement was made on [date] under the Higher Education Trial Printed Music Licence held by [name of Higher Education Institution] and is subject strictly to the terms and conditions of that agreement, including its use solely in connection with [name of course]. All copyright is reserved by the publisher."

4.14 All copies of Arrangements which in writing PMLL notifies the Licensee that the author, composer or publisher of the Musical Work of which it is an arrangement has objected, must be destroyed.

4.15 For the avoidance of doubt, Excluded Printed Music Publications are wholly excluded from the scope of this Trial Licence and the rights granted under this Trial Licence may not be

exercised in respect of those. A list of Excluded Printed Music Publications is provided on PMLL's website.

- 4.16 The Licensee must not lend, sell or hire out Licensed Copies.
- 4.17 Digital Copies may only be made available via the Licensee's Secure Network via secure authentication.
- 4.18 The copying of hymns and worship songs used in collective worship and included in licences issued by Christian Copyright Licensing International is excluded from this Trial Licence.
- 4.19 The Trial Licence does not apply to any book, journal, magazine or other printed or digital publication unless the publication consists primarily of printed music. For the avoidance of doubt, publications which may be included in licences issued by CLA are not covered by this Trial Licence.
- 4.20 Any Licensed Copies made by or supplied to Students, including Arrangements, cease to be Licensed Copies at the conclusion of the specific Music Courses for which they were created, and any Arrangement permitted hereunder will require the approval of the copyright owner prior to any exploitation outside of the specific Music Course for which it was created and/or if any use takes place outside the scope of this Agreement. Any use made of them outside of the rights granted hereunder will infringe copyright unless permission to do so is secured from the relevant rightsholders or Clause 4.2 applies. Nothing in this Agreement shall prejudice the writer's moral rights in respect of any Arrangement made hereunder.
- 4.21 The Trial Licence does not apply to and specifically excludes photographs, illustrations or other visual artworks contained in a Printed Music Publication unless clearly owned by the publisher of that same Printed Music Publication and not licensed in by that publisher from a third party.
- 4.22 The Trial Licence does not extend to the making of Licensed Copies outside the Territory. Licensed Copies made within the Territory may be sent outside the Territory to overseas Distance Learners provided that nothing herein shall be deemed to authorise any copying of Licensed Copies outside of the Territory by an overseas Distance Learner. Each overseas Distance Learner shall be responsible for complying with all local laws.
- 4.23 For the avoidance of doubt the Trial Licence does not authorise the general public performance right, broadcast right, making available right or audio recording of any music (including putting audio recordings on any website) for which the Licensee must ensure that it has the appropriate licences in place before undertaking any of these activities.

## **5 Trial Licence Management**

- 5.1 Any notice required by this Trial Licence shall, unless otherwise specified, be in writing and sent by first class post, in the case of the Licensee to the address shown on the Record Sheet, (or any address notified by the Licensee to PMLL), and shall be deemed to have been served on the second working day (which shall exclude weekends and English public holidays) following the date of posting.
- 5.2 This Trial Licence is personal to the Licensee, relates only to that Higher Education Institution, and cannot be assigned.
- 5.3 This Trial Licence shall be governed under English law and the parties submit to the exclusive jurisdiction of the English courts.

- 5.4 The parties agree that the terms of this Contract are not enforceable by a third party under the Contracts (Rights of Third Parties) Act 1999.
- 5.5 Given reasonable notice, the Licensee will allow PMLL to enter the Licensee's premises to review the implementation of the Trial Licence by the Licensee and its compliance with its terms and to inspect the procedures the Licensee uses when applying the Trial Licence.
- 5.6 The Licensee will explain the terms of this Trial Licence to its Staff Members (particularly those with responsibility for reprographic equipment) and Students, and will require Staff Members and Students to agree in writing to comply with these terms.
- 5.7 The Licensee shall appoint a Staff Member as a Trial Licence Co-ordinator to liaise with PMLL in connection with the administration and implementation of the Trial Licence.

## **6 Data Collection**

- 6.1 The Licensee must report to PMLL data on all Licensed Copies it makes during the term of the Trial Licence, in accordance with the protocol agreed between PMLL and UUK/GuildHE and published on PMLL's website; the information obtained will assist PMLL to identify what Licensed Copies are being made and thus inform the accurate re-distribution of Trial Licence Fees to rightsholders, including publishers and composers.
- 6.2 All relevant data received by PMLL from the Licensee, along with data from other Licensees, as part of the protocol referenced in Clause 6.1, shall be made available at a reasonably agreed time and in a reasonably agreed form to the Universities UK / GuildHE Copyright Negotiating and Advisory Committee (subject to the provision of appropriate confidentiality undertakings to PMLL) to assist in negotiations with PMLL for any successor or replacement to this Agreement. PMLL and the Universities UK / GuildHE Copyright Negotiating and Advisory Committee agree to work together in good faith [with this data] to help effect a successive agreement following the end of the Term.
- 6.3 Apart from as set out in Clause 6.2, PMLL undertakes not to disclose any information obtained as a result of any data submitted except:
- 6.3.1 as required by a court or other authority of competent jurisdiction; or
  - 6.3.2 in aggregated form from which the identity of the Licensee cannot directly be identified; or
  - 6.3.3 as required to enable PMLL to distribute the Trial Licence Fees to rightsholders, including music publishers and authors.

## **7 Indemnity**

- 7.1 In the case of any claim, PMLL will indemnify the Licensee in respect of all reasonable and proper legal costs, expenses and damages (and ex gratia payments made with the prior written consent of PMLL) awarded against or incurred by the Licensee. For the purposes of this clause, "claim" shall mean any claim made in writing that the Licensee while acting in pursuance of the Trial Licence has infringed copyright in any Printed Music Publication. For the avoidance of doubt this indemnity applies whether or not the claim is made by a copyright owner who has mandated PMLL to enter into the Licence on its behalf..
- 7.2 The indemnity conferred by clause 7.1 will not apply:
- 7.2.1 if the Licensee is in material breach of any term of the Licence; or



- 7.2.2 if the Licensee has not given PMLL due notice of any claim within ten (10) working days or of any Claim Form within five (5) working days of the same having been received by the Licensee.
- 7.3 Subject to the conditions of clause 7.2 PMLL will take over responsibility for any negotiations for the settlement of any claim and if such claim cannot be resolved by negotiation PMLL shall be entitled to assume full responsibility for the conduct of the defence of such claim.
- 7.4 PMLL shall consult the Licensee prior to the conclusion of any negotiations on the settlement of any claim and (subject to PMLL's overall responsibility for the conduct of the defence of any action) take into account such views and comments as the Licensee may make.
- 7.5 The Licensee shall use all reasonable endeavours to ensure that every relevant letter, Claim Form, application and process received by it at the Licensee's premises shall immediately be forwarded to PMLL and shall ensure that no admission, offer, promise, payment or indemnity shall be made or given by or on its behalf or on behalf of PMLL without PMLL's written consent.
- 7.6 For the avoidance of doubt the Licensee acknowledges that it must obtain permission from the respective rights owners to reproduce Printed Music Publications outside the limits permitted by the Trial Licence.
- 7.7 For the further avoidance of doubt, the Licensee shall be entitled to rely on any information, including that supplied by any information system such as an automated look-up system for individual publications, which may be provided by PMLL whether on the PMLL website or otherwise, for the purposes of determining the scope of Printed Music Publications.

## **8 Cancellation and Breach**

- 8.1 Should the Licensee commit any material breach of any of the terms and conditions of this Trial Licence and remain in such breach 14 days after receiving notice to remedy the same (where the breach is remediable) then PMLL, without prejudice to any of its other rights, may either terminate or suspend the terms of the Trial Licence until PMLL shall be satisfied such breaches will not recur. In the event of termination of the Trial Licence by PMLL pursuant to this clause, the Licensee must permanently delete all Digital Copies stored on its VLE, and take all reasonable steps to ensure immediate destruction of all other Licensed Copies.
- 8.2 The Licensee must cease making new Licensed Copies at the end of the Term and, unless retention is permitted by a subsequent licence rollout documented in writing by PMLL and subscribed to by the Licensee, must permanently delete all Digital Copies stored on its VLE, and take all reasonable steps to ensure the immediate destruction of all other Licensed Copies.

# Appendix

## **PMLL Tariff –Higher Education Trial Printed Music Licence**

### **1 Scope of Tariff**

This Tariff applies to the copying of Printed Music Publications by Higher Education Institutions in connection with Music Courses.

### **2 Charge**

The Trial Licence Fee for each Higher Education Institution is £15 multiplied by the number of all its Full Time Equivalent Music Students as notified by the Licensee to PMLL.