

SPECIMEN PRODUCTION AGREEMENT

From: [Production Company]
[Address]
("we" "us" and "our" being
construed accordingly)

[Artist Name]
[Address]
("you" "your" and "yours"
being construed accordingly)

[Date]

Dear [Artist],

Production Agreement

We write to confirm our agreement with you as follows:-

1. Engagement and Exclusivity

We hereby engage you (jointly and severally) to provide to us your exclusive audio and audiovisual recording services in the Territory during the Term upon the terms set out in this Agreement.

2. Term and Options

- 2.1 The Term of this Agreement shall be an initial period ("The Initial Period") commencing on the date hereof and ending ninety (90) days after the release of the Minimum Commitment in the UK.
- 2.2 You hereby grant us three (3) irrevocable separate consecutive options to extend the Term for further periods commencing upon the expiry of the then current Contract Period and expiring twelve (12) months after such commencement or if later six months after Delivery to us of the Minimum Commitment for such Contract Period (the "First Option Period", "Second Option Period " and "Third Option Period " respectively and collectively referred to as the "Option Periods") provided that no Contract Period shall in any event last for more than two (2) years.
- 2.3 The options referred to above shall be exercised by us sending you written notice at any time prior to the expiry of the then current Contract Period. However in the event that

we have neither exercised our option nor notified you that we do not wish to do so then you shall forthwith notify us in writing that our option has not yet been exercised. We shall be entitled to exercise our option to extend the Term within five (5) business days after having received such notice from you. In the event we fail to do so the Contract Period shall end on expiry of such 5 business days.

- 2.4 In the event that following the exercise of our option to extend the Term for the Second Option Period or the Third Option Period we have not entered into a Major Recording Agreement you may at any time before the commencement of recording of the Minimum Commitment for such Contract Period serve notice upon us that you wish to terminate the Term of this Agreement.

3. Minimum Recording Commitment

You agree to record for us (and we agree to provide the facilities therefor) sufficient Tracks in the Initial Period to comprise [*one (1) Single*] and in each Option Period (if any) sufficient Tracks to comprise [*one (1) Album*] together with such extra Tracks as we may reasonably require after consultation with you in good faith for use as "B" sides and bonus tracks (the "Minimum Commitment").

4. Recording Procedure

- 4.1 We shall be responsible for the engagement of producers and other creative personnel and the terms of such engagement, the studios the method and manner of recording, the choice of artwork for the initial release of Records embodying the Minimum Recording Commitment and the choice of Singles. However we shall consult you in good faith concerning each of these decisions.
- 4.2 Each Master made by you shall be subject to our approval (acting reasonably and in good faith), as being technically satisfactory for the manufacture of Records and you will at our request repeat any performance until Masters which are technically satisfactory are obtained.
- 4.3 All recording costs incurred in connection with the production of Masters under this Agreement shall be paid by us and shall be treated as an expense deductible from Gross Income under clause 7 below. The recording budget shall be fixed by us after consultation with you. We confirm that we will not make a charge for the use of our in-house studio facilities or for our services as producers. Any excess costs over and above the recording budget that are incurred due to either your or our wilful neglect, omission or default shall be deducted from the offending party's share of Net Income

under clause 7 below.

5. Grant of Rights

- 5.1 You now assign to us (by way of present and future assignment) with full title guarantee the copyright making available right and all other rights in the Masters recorded under this Agreement and any Video produced therefrom free from restrictions encumbrances and third party claims and hereby undertake and agree that we shall be entitled to exploit such rights in our absolute discretion subject to the terms of this Agreement throughout the Territory for the full period of copyright and all extensions and renewals thereof.
- 5.2 You hereby grant to us all necessary consents to enable us fully to exploit the Masters recorded under this Agreement and any Video produced therefrom including all consents required under the Act.
- 5.3 You hereby irrevocably and unconditionally:
- 5.3.1 consent to the recording of your performances and the exploitation of the same in any manner whatsoever throughout the Territory as required by Part II of the Act and any similar enactment or other law anywhere in the Territory;
- 5.3.2 waive as against us and our licensees and permitted assigns the benefits of any moral rights to which you are or may be entitled in respect of your contributions to Masters delivered under this Agreement and you further agree not to assert any moral rights against us our licensees or assigns in any part of the Territory in which moral rights are not capable of being waived save for the right to be identified as the artist and as author of compositions embodied upon Masters;
- 5.3.3 grants to us the sole and exclusive right to use and to allow others to use the Name your individual names and other names by which you are known and the right to use and to allow others to use the your logo and approved likenesses and approved biographical material solely in connection with the promotion or exploitation of Masters Records and Videos.

6. Release Commitment

- 6.1 We shall release or procure the release of physical Records in commercial quantities for sale to the general public through recognised channels Records embodying the Minimum Commitment Masters in the First, Second and Third Option Periods in the United Kingdom within one hundred and twenty (120) days after Delivery of such Masters.

- 6.2 In the event that any Master is not so released in the United Kingdom and provided that we shall not at that time have entered into a Major Recording Agreement you shall have the right to serve written notice upon us requiring us to release the same within ninety (90) days of receipt of such notice. In the event that the relevant Master is not then released you shall have the right to terminate the Term of this Agreement by notice in writing.
- 6.3 In the event that the you terminate the Term in accordance with Clause 6.2 above we shall, at your request forthwith assign to you all rights in and to unreleased Masters Videos and any artwork and photographs made or commissioned pursuant to this Agreement subject to the your agreeing either:-
- 6.3.1 To pay to us the unrecouped recording costs in respect of such Masters; and
- 6.3.2 To perform any of our obligations in respect of the payment of third party producer royalties in respect of any subsequent release of such Masters; or
- 6.3.3 To pay to the us or procure the payment by any third party releasing the relevant Masters and/or video a royalty ("the Override Royalty") of four per cent (4%) in respect of one hundred per cent (100%) of Records sold and not returned throughout the Territory calculated on the published price to dealers of the releasing party and subject to the same deductions and reductions therefrom as are applied in the calculation of the royalty payable to you by such releasing party including without limitation withholding taxes and reserves in respect of the Masters provided that such reductions and deductions are reasonable and no less favourable to you than those generally applied in recording agreements. Further if the Masters are included upon any Record together with other Recordings not the subject of this Agreement then the Override Royalty payable to Company shall be pro-rated by the number that such Masters reproduced upon such record bear to the total number of recordings thereon: and
- 6.3.4 To perform any of our obligations in respect of the payment of third party producer royalties in respect of any subsequent release of such Masters;
- 6.4 For the avoidance of doubt the making available of Masters for sale online shall not constitute "release" for the purposes of this clause 6 or clause 11 below.

7. Royalties

- 7.1 In consideration of the rights granted under this Agreement we shall pay to you by way of royalty a sum equal to fifty percent (50%) of Net Income (as defined in sub-clause 7.2 below).
- 7.2 "Net Income" shall mean all monies received by us arising from the exploitation of the

Masters (or any of them) including for the avoidance of doubt all gross monies received in relation to Online Sales (including any share of online advertising revenue and subscription payments paid to us) ("Gross Income") less any Value Added Tax and any other similar taxes and less the "Expenses" (as defined in sub-clause 7.3 below) for the avoidance of doubt Gross Income shall not include any monies received by either you or us in respect of PPL but shall include any monies received by us from VPL in relation to performance of Videos made hereunder.

- 7.3 "Expenses" shall mean the costs and expenses incurred by us (or our licensees or permitted assigns which are chargeable to us) in the making of the Masters and all manufacture packaging distribution promotion and exploitation and all other costs and fees and expenses incurred by us (or by our licensees which are chargeable to us) directly attributable to the Masters including but not limited to the following:
- 7.3.1 All agreed costs actually incurred and paid to third parties in connection with the recording and production of the Masters including studio facilities studio time tapes musician costs third party engineers' fees and costs equipment hire mixing costs and cutting costs;
- 7.3.2 All agreed sums paid or payable by way of advance and/or royalty to any third party producer or to any mixer or re-mixer of the Masters or to any person firm or company in respect of the exploitation of the Masters;
- 7.3.3 Any and all manufacturing costs paid or payable in respect of the Masters and all Records whether in disc tape or other form including the origination and duplication of any artwork and packaging materials including labels liner notes sleeves and tape containers and any and all storage costs.
- 7.3.4 Mechanical copyright royalties and synchronisation fees paid or payable to third party copyright owners of the musical works featured upon the Masters;
- 7.3.5 The costs of postage and packing and all other expenses incurred in respect of the sale and distribution of Records including all costs charges and expenses paid or payable to any third party distributor or licensee in respect thereof;
- 7.3.6 Fees paid or payable for collecting or suing for monies due from third parties in connection with the Masters;
- 7.3.7 All advertising and promotion costs and expenses directly paid or payable in respect of exploitation of the Masters including any agreed production costs of any promotional video posters dealer mailing point of sale materials and marketing tools promotional appearances (including costs of necessary promotional travel and subsistence) and photographic sessions;

- 7.3.8 All reasonable legal fees and reasonable accounting fees and all other professional fees payable directly in relation to this agreement and the sub-licensing of the Masters or the protection of rights in respect of the Masters to include your legal fees in respect of this Agreement;
- 7.3.9 Any and all costs incurred in supplying parts to servicing and liaising with sub-licensees which are directly attributable to Masters;
- 7.3.10 Any other expense which is reasonably incurred by us in accordance with the terms of this Agreement and which is fairly to be regarded as an exploitation expense in respect of the Masters

8. Advances

We shall pay you by way of non-returnable but fully recoupable advances against royalties fifty percent (50%) of any advances received by us from third party licensees relating directly and identifiably to Masters provided that we shall be entitled first to recoup from any gross sums received all Expenses already incurred hereunder and shall further be entitled to retain a discretionary reserve against future Expenses (such reserve not to exceed twenty percent (20%)). Such advances shall be payable to you within fourteen (14) days of our receipt of the same.

9. Accounting

- 9.1 We shall have the right to collect all Gross Income under this Agreement and shall account to you half-yearly in the form of a detailed statement showing Gross Income, Expenses and Net Income and the calculation thereof within ninety (90) days of 30th June and 31st December in each year. We will forward any payment due to you with such statement.
- 9.2 All such statements shall be binding upon you unless we receive specific objection thereto within four (4) years after the date upon which we render them.
- 9.3 You may appoint a representative to examine the books and records of Company but only once in any calendar year. The Artist shall give notice in writing of intent to examine and the Company shall arrange for such examination to take place within 30 days of said notice and the Company will co-operate with any representative conducting such examination and make available copy documentation (including for the avoidance of doubt manufacturing records and third party royalty statements) relating to Gross Income and Expenses as may be required. In the event of any such examination revealing an under payment in excess of 10% or £2,000 (whichever is greater) of the

monies shown due to the Artist on statements (or any of them) rendered and the subject of the examination the Company will forthwith pay the Artist's reasonable costs of examination together with the outstanding sum and interest thereon at 3% above the Company's banker's published base rate from time to time.

10 Income / Withholding Tax

In the event that we shall be obliged by the laws of the Territory or any part of the Territory to deduct and withhold income or other similar tax from royalties or advances payable to you under this Agreement we shall provide you with a certificate of such deduction/withholding. In respect of any deduction/withholding required to be deducted in respect of payments by third parties to us we undertake to complete, execute and deliver all double taxation exemption documentation or other clearances as are available to prevent such deduction/withholding SAVE THAT where such exemption is not available but we receive a tax credit in respect of such deduction or withholding we shall account to you for your share of all sums earned gross of any deduction/withholding.

11. Re-recording Restriction

You undertake that you will not record for five (5) years from the end of the Term any composition released on Record by us or our licensees under this Agreement during the Term or within one (1) year after the end of the Term.

12. Mechanical Licences

- 12.1 You warrant and confirm that we shall be able to obtain a mechanical reproduction licence in respect of each composition embodied in Masters recorded under this Agreement.
- 12.2 You warrant and confirm that all such licences and consents shall be granted to us on the statutory terms applying in each part of the Territory (or if none the standard terms). If in the USA and or Canada we are unable to obtain an undertaking from our sublicensees to pay such mechanical royalties at a full statutory rate then the mechanical royalties shall be payable at seventy five percent (75%) of the minimum statutory rate at the date of recording of Records comprising your compositions.
- 12.3 Mechanical royalties in the USA and Canada shall not be payable on more than ten (10) tracks on an Album or two (2) tracks on a Single.
- 12.4 Notwithstanding anything to the contrary contained in this Agreement mechanical royalties in respect of Controlled Compositions shall be subject to the terms of such

bona fide agreements or licences as we may enter into from time to time. In concluding any such agreement in the USA and/or Canada we will use our best commercial endeavours to secure a more favourable rate than is provided for in sub-clauses 12.2 and 12.3 above and in the event that we are able to secure such more favourable rate then such rate shall apply under this Agreement.

- 12.5 You hereby warrant and confirm that we shall be able to obtain an unrestricted perpetual synchronisation licence from the owners of the copyright in respect of Controlled Compositions which are embodied on Videos made hereunder for promotional purposes to enable us and our licensees to exploit such Videos throughout the Territory for the full period of copyright and any extensions and renewals thereof in any form and in any manner (including without limitation commercial exploitation). In respect of the exploitation of Videos made primarily for promotional purposes the said synchronisation licence shall be granted free of charge.

13. Videos

- 13.1 We shall during the Term have the exclusive right to your musical audio-visual performances and you shall make yourselves exclusively available to us to render performances to be recorded on film and/or video tapes or by any other means for the purpose of producing Videos.
- 13.2 You shall attend at such places and at such times as we shall reasonably request for the purpose of making Videos. Video production costs, storyboard and choice of director for all Videos made hereunder shall be agreed in good faith between us with our decision being final and binding in the event that we are unable to agree.
- 13.3 All costs incurred by us in the production of Videos hereunder shall be treated as an Expense deductible from Gross Income.

14. Promotional Appearances

You warrant and confirm that you will appear at such time and places during the Term as we shall reasonably require for promotional photographs and for other personal appearances in connection with the promotion of Records comprising Masters made under this Agreement. We shall reimburse you for your reasonable out of pocket expenses in connection with such personal appearance(s) (which have not been so reimbursed by any third party).

15. Sampled Recordings

- 15.1 In the event that you wish to include "sampled" extracts from third party recordings

("Sampled Recordings") on Masters recorded under this Agreement and/or extracts from third party compositions ("Composition Extracts") you will inform us in writing and obtain our approval in writing before commencing recording. We will use reasonable endeavours to assist in obtaining all necessary licences and clearances from the copyright owners of such Sampled Recordings and Composition Extracts upon terms acceptable to us and mutually agreed with you.

- 15.2 Any payments fees costs or royalties (including any legal costs) payable for the use of Sampled Recordings or Composition Extracts shall be treated as an Expense under clause 7 of this Agreement.

16 Warranties and Undertakings

You now jointly and severally warrant and undertake that:

- 16.1 you are authorised empowered and able to enter into and perform your obligations under this Agreement;
- 16.2 that the recordings comprising Masters under this Agreement shall not infringe the rights of any third party;
- 16.3 that you will indemnify us in respect of any costs, expenses, losses, claims, liabilities or obligations including our reasonable legal costs arising directly out of any breach you of any of the warranties, representations or agreements made in this Agreement.

17 Third Party Agreements

- 17.1 You hereby acknowledge that we are entitled to licence assign or otherwise dispose of to another person firm or company the product of your services under this Agreement and/or grant to another person firm or company rights in respect of your services hereunder ("Third Party"). You agree that:
- 17.1.1 you will if so required by any Third Party and having been given the opportunity to take independent legal advice enter into an inducement letter giving the Third Party the right in certain circumstances to enforce its rights directly against you;
- 17.1.2 in the event that the term of the Third Party agreement expires prior to the expiration of the Term hereof we shall be entitled to enter into another agreement with a Third Party or during the period of sixty (60) days following the expiry or earlier termination of the agreement with the Third Party to terminate the Term of this Agreement by notice in writing to you;
- 17.1.3 notwithstanding anything to the contrary herein the Initial Period and each subsequent Contract Period shall (if necessary) be extended so that no such Contract Period shall

expire prior to a date thirty (30) days after the date of the expiry of the relevant contract periods of the agreement with the Third Party;

- 17.1.4 any option exercised by the Third Party shall where applicable be deemed automatically to exercise the option under this Agreement unless we notify you in writing to the contrary;
- 17.1.5 you agree and accept that any provisions relating to the delivery of masters under any agreement with a Third Party shall (for the duration of such agreement only) replace such provisions under this Agreement;
- 17.1.6 the reasonable legal costs incurred by you and us in respect of any agreement with a Third Party shall be treated as an Expense deductible from Gross Income hereunder;
- 17.1.7 notwithstanding anything to the contrary in this Agreement where the provisions of the agreement with a Third Party conflict with the provisions of this Agreement the provisions of the Third Party agreement shall prevail SAVE THAT the number of options to extend the term and the minimum commitment of the Third Party agreement shall not without your prior written approval exceed the number of unexercised options and the Minimum Commitment hereunder so that for the avoidance of doubt if the Third Party agreement requires more Albums than you are required to deliver under this Agreement the balance of the Albums shall be delivered directly to the Third Party and we shall not in any way be involved therewith.
- 17.2 We hereby confirm that:
 - 17.2.1 neither we nor our liquidator trustee administrator nor any other third party shall make an assignment of the products of your services hereunder unless and until the applicable assignee shall have agreed directly with you to assume our royalty and accounting obligations to you hereunder. We further expressly agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to any assignment of this Agreement and that the operation of such Act shall not be excluded by such assignment;
 - 17.2.2 all of the rights in the Masters hereunder shall be subject to your right to be paid royalties in accordance with the provisions of this agreement in respect of the exploitation of the Masters by us or any successor in title to us. In the event that royalties due and outstanding shall be unpaid for forty five (45) days following written notice of demand for the same then the Masters shall automatically and without further formality be (and in such circumstances are hereby deemed to be) transferred and assigned to you.

18. Force Majeure

Notwithstanding anything in this Agreement in the event that its performance by either party is delayed or rendered impossible for any reason beyond their reasonable control including without limitation by reason of war invasion act of foreign enemy hostilities (whether war declared or not) civil war or commotion strike lock out or other labour disputes act of government or its agencies or officers or other prevailing authorities act of God (including without limitation fire storm flood earthquake) failure of technical facilities or default of third parties (other than Artist) then any such non-performance shall not constitute a breach of this Agreement and the operation of this Agreement shall be suspended for the duration of such impossibility Provided that if the Agreement shall be rendered impossible to perform for a period of six (6) continuous months either party shall be entitled to terminate the Term forthwith by serving notice in writing on the other party. In the event of any such suspension specific dates periods and time requirements referred to in this Agreement shall be postponed or extended accordingly.

19 Group Provisions

In the event that one (1) or more of you shall cease to perform as a member of [Name of Band] ("Leaving Member") you or Leaving Member shall promptly give us notice of such occurrence ("Leaving Member Notice"). On receipt of such notice we shall have the following rights:-

- 19.1 The option to terminate the Term of the agreement with respect to the remaining members.
- 19.2 The option to continue the Term with respect to the remaining members. However, if no notice is given to terminate the Term within the period set out in 19.5 below it will be deemed to continue. In the event that the Term continues we and the remaining members shall continue to be bound by the terms of this Agreement.
- 19.3 The option within the period specified in 19.5 below to engage the exclusive services of any Leaving Member as a recording artist. In the event that we exercise such option the Leaving Member shall be deemed to have entered into an agreement with Company upon all the terms and conditions of this Agreement except that:-
 - 19.3.1 The Initial Period shall commence upon the date of exercise of the option;
 - 19.3.2 The Leaving Member grants to us that number of options to extend the Term of the Leaving Member agreement as at such time remain unexercised under this Agreement;
 - 19.3.3 The Minimum Commitment in the Initial Period for such Leaving Member shall be the same commitment for the Contract Period in which such notice was served;
 - 19.3.4 The advances payable shall be a fraction of the advances payable for the relevant Contract Period commencing with the advance payable for the Contract Period in which such Leaving Member left, the numerator being one (1) and the denominator being the

number of members of your group prior to receipt of the Leaving Member Notice.

19.4 A Leaving Member shall not without our consent use the Name which shall remain the property of those members of your group who continue to perform their obligations hereunder.

19.5 We shall have the right to exercise the options referred to in 19.1, 19.2 and 19.3 above within forty (40) days of receipt of the Leaving Member Notice.

20. Definitions

For the purpose of this Agreement the following words shall have the meaning set forth against them:-

20.1 "Act" - shall mean the Copyright Designs and Patents Act 1988 and any statutory re-enactment or modification thereto and any future legislation passed for the protection of performers.

20.2 "Album" - shall mean a Record with a playing time of not less than thirty five (35) minutes and containing not less than ten (10) different Tracks (unless the we agree to the contrary in writing)

20.3 "Contract Period" - shall mean the Initial Period or any of the Option Periods.

20.4 "Controlled Composition" - shall mean any composition wholly or partly written owned or controlled by you or any of you or any person, company or other entity in which you have a direct interest.

20.5 "Delivery" – shall mean the physical delivery to us of Masters technically satisfactory for the manufacture of Records. Masters so delivered shall be deemed satisfactory unless they are rejected by us within fourteen (14) days of such physical delivery.

20.6 "Major Recording Agreement" – shall mean a long term recording agreement which commits one of the major record companies (as that term is generally understood) (or a majority owned subsidiary thereof) to record and release in the United Kingdom at least one Album of Masters

20.7 "Master" - shall mean the original fully edited fully mixed down master recording on digital stereo tape delivered under this agreement and containing original sound recordings of your performances.

20.8 "Name" - shall mean "[]" or such other name as you may use from time to time with our prior written consent.

20.9 "Online Sales" – shall means sales of Tracks or Videos by downloads or streams over the internet or any other electronic form of distribution now know or yet to be discovered including without limitation to mobile telephones and other devices.

- 20.10 "Record" - shall mean gramophone vinyl disc compact disc DCC mini disc magnetic tape (whether in cassette form or otherwise howsoever) or any other contrivance or appliance whatever bearing or used for emitting sounds whether now known or developed or discovered at any time after the date of this Agreement and which embodies Masters.
- 20.11 "Single" - shall mean a Record containing not less than two (2) Tracks and not more than three (3) tracks.
- 20.12 "Term" - shall mean the Initial Period (as defined in this Agreement) together with each (if any) successive Contract Period in respect of which we shall have exercised our option including any extension or continuation of any Contract Period pursuant to the provisions of this Agreement.
- 20.13 "Territory" - shall mean the World and its solar system.
- 20.14 "Track" - shall mean the recorded performance of a musical composition with a playing time of not less than three (3) minutes when played at normal speed.
- 20.15 "Video" - shall mean a disc tape or any other sight and sound carrier (whether now known or to be invented) which is used for emitting sound reproduced in synchronisation and/or in conjunction with visual images.

21. Miscellaneous

- 21.1 Either party shall (without prejudice to any other rights or remedies) have the right to terminate the Term forthwith by notice in writing served upon the other party if:-
- 21.1.1 they become bankrupt or enter into liquidation other than for the purposes of a solvent reconstruction; or
- 21.1.2 a receiver or administrator is appointed in respect of all or a substantial part of their assets and is not discharged within ninety (90) days or if they make or seek to make any voluntary arrangement with their creditors; or
- 21.1.3 they are in breach of any of their fundamental obligations under this Agreement and shall fail to remedy such breach, if capable of being remedied, within sixty days of being given notice in writing of such breach.
- 21.2 You acknowledge that you have been strongly advised to take independent legal advice from a lawyer experienced in agreements of this kind. We will make a contribution to your legal costs in taking such advice of [] plus VAT which shall be an Expense under this Agreement.
- 21.3. No waiver of any breach of any term hereof shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other term.
- 21.4. All notices or payments which either party shall deliver to the other shall be sent by pre-

paid letter post addressed to the other at the address set forth herein or at such other address as may be communicated in writing from time to time. All such notices shall be deemed served at the date three (3) days after the date of said mailing or upon actual receipt by the addressee whichever is earlier.

- 21.5 Nothing in this Agreement shall be construed so as to imply a partnership between us.
- 21.6 This Agreement contains all of the terms agreed between us and replaces all previous agreements written or oral and may not be varied except in writing signed by you and us.
- 21.7 This Agreement shall be governed and construed in accordance with English Law and the English Courts shall be the Courts of sole jurisdiction.
- 21.8 The Clause headings do not form part of and shall not be read into the construction of the Agreement.

Please acknowledge your agreement and acceptance of the above terms by signing below

Yours sincerely

.....

Production Company

Agreed and Accepted

.....

Artist

.....

Artist