

Australian Music Radio Airplay Project Artist and Artist Representative Agreement Terms and Conditions



COMMUNITY
BROADCASTING
ASSOCIATION OF
AUSTRALIA

The parties agree as follows:

1. Interpretation

1.1 In these terms and conditions:

"Account" means the personalised account and profile created by You (including but not limited to Your employee, agent, representative or servants) on the Website enabling the submission of Content.

"AI" means artificial intelligence as the term is generally understood and includes any technology used to perform tasks that would normally require human intelligence such as machine learning or generative systems.

"Application Form" means the application form provided to You by the CBAA for application to use the Services and add specific Content in accordance with this Agreement.

"AMRAP" means the CBAA's Australian Music Radio Airplay Project.

"APRA AMCOS" means the Australasian Performing Right Association ABN 42 000 016 099 (APRA) and the Australasian Mechanical Copyright Owners Society Limited ABN 78 001 678 851 (AMCOS).

"Artist" shall mean the artist listed in an Application Form submitted by You.

"Artwork" shall mean album cover artwork and any other artwork relating to the Master Recordings, the Artist, Music and Video Recordings.

"CBAA" means Community Broadcasting Association of Australia ACN 003 180 030 of Level 3, 44-54 Botany Road, Alexandria NSW 2015 Australia, and includes its respective parents, subsidiaries, affiliates, successors, assignees, employees, agents, directors and officers.

"Community Radio Station" means a radio station located in Australia allocated either a permanent community broadcast license or a temporary community broadcast license in accordance with the Broadcast Services Act (1992) and approved by the CBAA to use the Services.

"Content" means the Master Recordings (including eMasters), Music, Support Material, and any other material available to the Registered Users from the Services and Website.

"Copyright Clearances" shall mean (i) all samples clearances, performers' consents, moral rights waivers, synchronisation licenses and other clearances required to enable the utilisation of the Master Recordings hereunder and (ii) the clearances and licenses required by Amrap to reproduce the Master Recordings in accordance with this Agreement.

"eMasters" shall mean copies of the Master Recordings in digital format which are suitable to be streamed electronically distributed for downloading and broadcast in accordance with this Agreement.

"Execute" means to execute in accordance with clause 15 and Executed and Execution have corresponding meaning;

"Format" shall mean the specific format that you indicate Your Master Recordings can be reproduced and delivered by CBAA to Registered Users.

"Master Recordings" shall mean the recordings owned and/ or controlled by You and as delivered by You to CBAA including eMasters hereunder solely for the purposes of promoting and distributing in accordance with this Agreement.

"Music" shall mean the musical compositions embodied on the Master Recordings or Video Recordings.

"Performers" shall mean any party who has contributed to the creation of the Master Recording and associated Artwork including, without limitation, producers, artists, remixers, musicians, vocalists, actors, photographers and graphic designers but excluding any party who has contributed to the musical works (and associated lyrics) embodied in the Content.

"PPCA" means the Phonographic Performance Company of Australia Ltd.

"Registered Users" shall mean Community Radio Station personnel who maintain an account with Amrap and are bound by the AMRAP Community Radio Station & Program Maker terms and conditions.

"Services" means the services provided by the CBAA as part of AMRAP from time to time.

"Station Audio Catalogue" shall mean a physical or digital music library where a Community Radio Station stores Content to preview and broadcast.

"Stream" shall mean an eMaster streamed (but not downloadable) at low bit rate on the Website for preview, sampling or evaluation purposes by Registered Users, or up to 30 seconds for Non-Registered (general) Users.

"Support Material" shall mean any material relating to the Master Recordings, Artists or Performers delivered to Amrap by You in accordance with this Agreement including but not limited to promotional material, photos, artwork, Video Recordings and track listings, but excluding Master Recordings.

"Territory" means Australia provided that where there is public performance or communication of the Content outside Australia, the territory shall automatically extend to the world to accommodate the exercise of such rights.

"Users" shall mean the Community Radio Stations, Registered Users and general users of the Website.

"Video Recordings" shall mean any cinematograph film created to promote the Master Recordings.

"Website" means the internet site located at www.amrap.org.au and any website of the CBAA for the Services, including those used to submit, host, display and distribute Content in accordance with this Agreement.

"You" **"Your"** or **"Artist Representative"** shall mean the person or company that owns, controls, or has the right to authorise the duplication of the Master Recordings and has the right to enter into this Agreement and includes Your agent, representative, employees and servants.

1.2 In this Agreement, unless the context otherwise requires:

- (a) any reference in this Agreement to the singular includes the plural;
- (b) any reference to any gender includes all genders;
- (c) any reference to any act or statute includes any act or statute which supersedes, replaces or modifies any earlier act or statute;
- (d) any reference to persons includes all bodies and associations both corporate and incorporated and vice versa;
- (e) paragraph headings are for reference purposes only; and
- (f) all references to clauses are to clauses in this Agreement.

2 Grant of licence

- 2.1 By submitting Your Content and the Application Form to CBAA You hereby grant CBAA a fee free non-exclusive licence in respect of the Content for the Term and throughout the Territory to:
- (a) Use Your registered trademarks and/or logos as supplied by You on the Website and in CBAA's physical and electronic communications solely to promote the availability of Your Content through the Service in accordance with this agreement;
 - (b) Reproduce, copy, encode and convert the Master Recordings into eMasters for the purpose of a Stream or as required in accordance with clause 2.1 (c.) and (d);
 - (c) Make Content available for Registered Users on the Website to order in their preferred Format in accordance with this agreement;
 - (d) Deliver the Content to the Registered Users for the purpose of broadcasting the Master Recordings and Music on a Community Radio Station.
- 2.2 For the avoidance of doubt:
- (a) The licence set out in clause 2.1 above, does not grant CBAA a right to sell Your Content or otherwise distribute Your Content other than as set out herein;
 - (b) CBAA will not reproduce your Content without receiving an Application Form from for each specific Master Recording and/or eMaster;
 - (c) CBAA has no obligation to distribute or promote Your Content. Distribution or inclusion on the Amrap Website is at the CBAA's sole discretion;
 - (d) The licence set out in clause 2.1 above, does not grant the Registered User or the Community Radio Station the right to:
 - (i) reproduce or distribute Content;
 - (ii) publicly perform, broadcast or communicate the Content;
 - (iii) except as provided by legislation, retain copies of the Content whether as a part of the station Audio Catalogue or otherwise in perpetuity until notice to remove Content is provided by You;
 - (iv) publicly perform, broadcast or communicate any Video Recordings.
 - (e) Separate licences are required for the abovementioned activities from APRA AMCOS, PPCA or the relevant rights holders.
- 2.3 During the Term of this Agreement and subject to clause 2.2(e.), You hereby grant CBAA a fee free non-exclusive licence to:
- (a) Download, store, upload, backup and reproduce the Content for the sole purpose of administering Services in accordance with this agreement;
 - (b) Grant the right to Community Radio Stations to apply to the CBAA to receive, store and backup Your Content on their Station Audio Catalogue for the sole purpose of previewing and broadcasting Your Content; and
 - (c) Provide the National Film and Sound Archive ("NFSA") with access to the content for the sole purpose of NFSA archiving Australian Content.

- 2.4 For the avoidance of doubt, clause 2.3b & 2.3c does not grant Community Radio Station's or the NFSA the right to:
- (a) Reproduce (except for archival purposes of the NFSA) or distribute Content;
 - (b) Publicly perform, broadcast or communicate the Content to the public.
- 2.5 Provided no material change is made to the Content, CBAA shall be entitled to alter or adapt the Content to enable distribution of the Content either via the Website or by mail in accordance with CBAA's rights under this Agreement.
- 2.6 In the event that You do not submit Support Material CBAA may source Support Material (excluding Video Recordings) from the Artist's official website. However, You make no warranties or claim any right of ownership of any Support Material sourced by CBAA from the Artist's official website.
- 2.7 You will have the right at all times to request a takedown of any Content delivered under this agreement. On receipt of any such takedown request from You CBAA will withdraw the relevant Content from the Website within 5 (five) working days.

3 Term

- 3.1 This agreement shall commence on the date that You agree via online authorisation and shall continue unless terminated in accordance with clause 9.

4 Royalties

- 4.1 CBAA will not pay any royalty or other payment to You for the grant of rights contained herein.
- 4.2 CBAA does not make any registrations or payments to any collecting societies under this agreement for the use of your Content. It is your obligation to register Your Music and Master Recordings with the relevant collecting societies for the public performance, broadcast and communication of Your Music and Master Recordings.

5 Your obligations

- 5.1 You agree to deliver to the CBAA:
- (a) An Application Form;
 - (b) Your Content in an agreed Format.
- 5.2 You shall be responsible for obtaining all necessary Copyright Clearances required for the exploitation of the Content by the CBAA under this Agreement.

6 Amrap's services

- 6.1 Subject to You providing CBAA with Content and an Application Form, and the CBAA approving your application, CBAA will publish a listing of your Content on the Website.
- 6.2 This listing may include an artist biography and images taken from your Application Form and Support Material or other Support Material You submit. Support Material (not Master Recordings or Video Recordings) may be distributed to Community Radio Stations and the wider

music industry via e-newsletter services and social media directing Users to the Website.

- 6.3 Registered Users can login to the Website to view Content online, and order Content in the provided by You on the online Application. If Content is ordered in digital download format, CBAA will issue the Registered User with a digital download.
- 6.4 CBAA will collate orders taken in respect of Your Master Recordings. CBAA will provide a reports to You via the mechanisms afforded to account holders on the website.

7 Artificial Intelligence (AI)

- 7.1 CBAA will not accept Music generated wholly by AI and in submitting your Music and the Application Form you warrant that:
- 7.1.1 the Music submitted has not been wholly generated by AI; and that
- 7.1.2 where the Music has been partially generated by AI, you have made all of the disclosures required by clause 7.2 and the Application Form.
- 7.2 If you submit Music partially generated by AI, You must provide CBAA with the following information for that Music:
- 7.2.1 the percentage of the Music generated by AI;
- 7.2.2 where in the Music AI was used;
- 7.2.3 the date the Music was created,
- 7.2.4 the AI program(s) used; and,
- 7.2.5 the proof of payment for the AI program(s) subscription(s).
- 7.3 Music partially generated by AI will need to be labelled as "A.I. Generated Music" included in the song title and/or album title.

8 Trademarks/intellectual property

- 8.1 CBAA owns or controls all rights, title and interest, including without limitation all intellectual property rights related to the Website, Services, Amrap's technology, logos, trademarks and service marks.

9 Warranties/indemnities

- 9.1 You warrant and represent that:
- (a) You own and control the necessary rights in order to make the grant of rights, licenses and permissions contained in this Agreement, and that the exercise of such rights, licenses and permissions shall not violate or infringe the rights of any third party;
- (b) You are free to enter into this Agreement and that You are under no disability or obligation and are not bound by any previous contact or arrangement which may interfere with or prevent the performance of the Agreement;
- (c) You have obtained all Copyright Clearances in order for CBAA to exercise the rights that You have granted under this Agreement;
- (d) To the best of Your knowledge, the Content, including any files that are digitally delivered to CBAA by You do not contain any viruses or other programming routines

that may interfere or damage computer software, systems or data;

- (e) The information provided and disclosures you have made to CBAA in submitting the Music and completing the Application Form are true and correct.
- 9.2 Each party (an Indemnifying Party) undertakes to hold the other party, its parents, subsidiaries and affiliates, and their respective directors, officers, employees and agents (each an Indemnified Party) harmless from and to keep the Indemnified Party fully and effectively indemnified against actual losses, claims, expenses, damages and demands (including reasonable legal fees and costs) suffered or incurred by any Indemnified Party arising out of or as a consequence of any material breach by the Indemnifying Party of any warranty, undertaking, representation, or agreement by the Indemnifying Party contained in this Agreement.

10 Termination, removal, or suspension

- 10.1 Either party may terminate this Agreement any time during the Term by giving the other party seven (7) days written notice.
- 10.2 CBAA may also, at its sole discretion, terminate or suspend Your access to the Services for any reason at any time, including if You engage in behavior that the CBAA reasonably believes may create a risk to any CBAA officer's health and safety.
- 10.3 The expiration or termination of this Agreement shall not affect the rights exercised by CBAA prior to the expiration or termination of the Agreement.
- 10.4 Upon termination of this agreement, all rights and licences granted to CBAA under this agreement will cease. CBAA must cease to make the Content available on the Website.

11 Account

- 11.1 You must create an Account before using the Services.
- 11.2 You warrant that all information and data provided by You in the creation of Your Account is accurate and up to date.
- 11.3 You must have a secure password for Your Account. You undertake to ensure that Your password remains confidential. You are responsible for all uses of Your Account, password and for Content submitted to the Website through Your Account either by You, Your employee, representative, servant, agent or any other person You authorise to use the Account. You must notify CBAA immediately if You become aware of any

unauthorised use of Your password or of any other security breach relating to Your Account.

11.4 You are responsible for having and paying for all necessary hardware, software and internet access to use the Service and the Website.

11.5 You must only access, submit or use (or attempt to access or use) Content on the Website in accordance with these Terms.

12 Communications

12.1 The CBAA may provide notices to you via either email or regular mail.

12.2 You agree to notify CBAA of any change to Your email address. You may also notify CBAA if You withdraw Your consent to receive electronic communication, however Amrap reserves the right to suspend or terminate Your access to the Services if You withdraw that consent.

13 Disclaimer

13.1 Your use of the Website is at Your sole risk. The Website is provided on an "as is" and "as available" basis. CBAA is not obliged to notify You of any malfunction in the Website, or if any part of the Website feature is limited, restricted or ceases.

13.2 To the maximum extent permitted by applicable law, CBAA disclaims all warranties, express or implied, including but not limited to:

- (a) uninterrupted or continuous availability of the Website; and
- (b) implied warranties of merchantability, fitness for a particular purpose with respect to the Services under this Agreement.

13.3 Although CBAA intends to take reasonable steps to protect the integrity and reliability of the Website and Your Content contained on the Website and despite any step taken, CBAA does not warrant that the Website, or any part of those services on the Website (including Streams, or any information or other material accessible through the Website) will be uninterrupted, timely, reliable, secure, error-free or is free of any virus, worm, trojan horse or other harmful component.

14 Data protection and security

14.1 CBAA uses all commercially viable measures to protect the confidentiality and security of communications and Content transmitted by the Website and Services and information stored on servers controlled by CBAA. You shall, under no circumstances:

- (a) Violate or attempt to violate the security of the CBAA or the Website;
- (b) Access data or materials which are not intended for Your use under this agreement;
- (c) Log into a server or account which You are not authorised to access;
- (d) Attempt to probe, scan or test the vulnerability of CBAA's servers, system or network or breach the data security or authentication measures of CBAA; or
- (e) Attempt to interfere with CBAA's services to any user, host or network by any means, including without limitation, hacking CBAA's servers or systems, submitting a virus, overloading, "mailbombing", "flooding" or "crashing" or by means of using electronic tools,

including spiders, robots (bots), crawlers, data mining tools, or any other automated means on the Website or Services regardless of the purpose or technical configuration of such electronic tools.

14.2 CBAA reserves the right to investigate occurrences that may involve such violations and may involve and co-operate with law enforcement authorities in prosecuting any and all Registered Users who have participated in such violations.

15 Reservation of rights

15.1 CBAA reserves the right to block, remove or delete Content, communications, posting and other data or information if CBAA, in its sole discretion, has reason to believe that such Content or other data or information may infringe the rights of a third party, in particular if CBAA deems such Content and data and information to be misleading, fraudulent, deceptive, defamatory, abusive or obscene; or in violation of the rights of any third party or any other law or regulations.

15.2 CBAA reserves the right to refuse to add Content to the Website should it not meet Amrap's standards.

15.3 CBAA may change or modify the functionalities of the Website at any time without notice provided the terms of this agreement are not Breached.

15.4 You agree that CBAA shall not be liable to You or to any third party for any changes or modifications of the Website.

15.5 You reserve all rights in the Content not expressly granted herein.

16 No guarantee

16.1 CBAA makes no promises or guarantees that any of the Content will be broadcast by the Community Stations.

16.2 CBAA does not guarantee that Your Content will be included on the Website, whether due to technical fault, or any other reason.

17 Miscellaneous

17.1 The terms and conditions of this Agreement are confidential between the parties.

17.2 This Agreement may only be amended by:

- (a) Written agreement between You and the CBAA; and
- (b) Your express online acceptance of amended Terms.

17.3 By mutual agreement between You and CBAA, CBAA may assign its rights and obligations under this Agreement to another party.

17.4 You acknowledge and confirm that You have been advised of Your rights to seek independent legal advice prior to signing and being bound by the terms of this agreement.

17.5 Nothing in this Agreement shall constitute a joint venture or partnership between the parties.

17.6 Should one or more provision of this Agreement be unlawful, void or unenforceable, such provision(s) shall be deemed severable and will not affect the validity or enforceability of the remaining provisions of the

Agreement and the remainder of the Agreement will remain in full force and effect.

- 17.7 This Agreement is to be construed in accordance with the state laws of New South Wales, Australia and the courts of New South Wales Australia shall be deemed to be the Courts of competent jurisdiction.
- 17.8 This Agreement together with Your Application Form and the Privacy Policy constitute the entire agreement between the CBAA and You in respect of the Website and Services and supersedes any prior agreement between the CBAA and You.

18 Execution & changes to Agreement

- 18.1 CBAA reserves the right, at its sole discretion, to change, modify, add, or remove portions of this Agreement at any time by providing notice to you. CBAA may do so by publishing the amended Agreement to the Website and in Amrap News bulletins. It is your responsibility to check this Agreement periodically for changes. Your continued use of the Services following the posting of changes will mean that you accept and agree to the changes
- 18.2 CBAA has Executed this document by providing this Agreement to You, along with a tick box.
- 18.3 You have Executed this agreement by ticking the box in the Application Form agreeing to these Terms and Conditions, and then submitting it online.

Effective: 28th June 2024