MERLIN MEMBERSHIP AGREEMENT

THIS AGREEMENT is made the day of 2008

BETWEEN

……, located at …….., duly represented by …….. hereinafter referred to as "**Member**" with email address…….;and

MERLIN B.V., having its registered office at Postbus 10574, 1001 EN – Amsterdam, The Netherlands, duly represented by Charles Caldas CEO hereinafter referred to as "**Merlin**" with email address charles.caldas@merlinnetwork.org.

WHEREAS

• Stichting Music and Entertainment Rights Licensing Independent Network (the "Foundation") is a not for profit foundation created subject to all applicable law to promote the existence of a one stop digital rights agency;

• The Foundation has created Merlin to represent independent record companies and/or their digital rights representatives with authority to carry out the Authorised Activities defined below. Record companies and/or their digital rights representatives who enter into Membership Agreements on the terms of this document are referred to below as "members";

• Merlin provides the benefit of a single point of contact where users can obtain rights to the rich and varied repertoires of members in a simple, straightforward manner, thus creating efficiencies, in particular in terms of transaction costs, which would not otherwise be available;

• Merlin provides a practicable and efficient way for members to protect and benefit from their rights, in a market where the members lack the ability to do so efficiently on an individual basis;

• Merlin desires to foster continued growth in independent music and in outlets for independent music;

• Member is an independent record company, aggregator or other licensee, which owns or controls relevant rights in certain recordings and which fulfils the Membership Criteria (as defined below);

• Member wishes to grant Merlin the non exclusive authorisation contained in this Agreement in order to enjoy the benefits described above; and

in consideration of the foregoing and of the mutual covenants contained in this Agreement:

IT IS HEREBY AGREED AS FOLLOWS

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, the following words shall have the following meanings:

Administration Fees: such percentage of Merlin Income (as defined in Clause 3) on a case by case basis as the Board considers appropriate to fund Merlin's operational costs and other liabilities;

Authorised Activities: authority on a non exclusive basis to:

(a) negotiate conditions for the commercial exploitation of members' repertoire via new media/online and other non physical channels on a global non-exclusive basis and for such purposes to set up a "one stop shop" for the granting of multi-territory, multi-repertoire licenses;

(b) conduct and/or co-ordinate negotiations and/or legal actions in cases of unauthorised Non Physical Use (as defined below) of such repertoire via such non physical channels for the purpose of effectively protecting the copyrights therein and assuring such members of their rightful benefits in relation thereto; and

(c) collect and distribute royalties and any other payments arising in respect of/as a result of such uses, negotiations and actions;

Authorised Action: a Proposed Action (as defined in Clause 2.4) in respect of which Member has (or is in accordance with the terms of this Agreement deemed to have) waived its right to opt out under Clause 2.4;

Board: the supervisory board of the Foundation;

Board Approval: a resolution of the Board validly passed in accordance with the Foundation's articles of association and all applicable laws;

Membership Criteria: the criteria set by resolution of the Board from time to time as to eligibility to become a member of Merlin;

Non Physical Rights: the right to transmit, distribute, disseminate or make available Recordings (or the digitised content thereof) by any means now or hereafter known including but not limited to by transmission, distribution, dissemination, or making available via telephone, satellite, broadcast, wireless, cable and/or the internet whether or not a direct or indirect charge is made, whether or not in such a way that members of the public may access Recordings from a place and at a time individually chosen by them and without regard to whether the Recording is simultaneously performed in an audible fashion during such transmission, distribution or dissemination but excluding the right to manufacture, distribute and sell physical carriers of recordings;

Non Physical Use: the exploitation of Non Physical Rights in Repertoire;

Recording: a recording of the whole or any part of a literary, dramatic or musical work, from which sounds reproducing the work or part may be produced, regardless of the medium on which the recording is made or the method by which the sounds are reproduced or produced. For the avoidance of doubt such medium or method may be a computer programme or programmes;

Repertoire: all Recordings in respect of which Member from time to time owns or controls the copyright or Non Physical Rights therein; and

Tax: all forms of taxation, duties and levies in any jurisdiction and all penalties, charges, costs and interest relating thereto.

1.2 References to Clauses are, unless otherwise stated, references to clauses of this Agreement.

2. AUTHORISATION

2.1 Member grants Merlin the non exclusive right throughout the world but subject always to Clauses 2.2 to 2.5 and to Clause 2.7:

(a) to negotiate terms and conditions, grant licenses and collect remuneration for Non Physical Use of its Repertoire; and

(b) to take such steps as it considers necessary to protect and enforce the Non Physical Rights in the Repertoire including without limitation the right to institute, settle, compromise, appeal and/or contest legal actions either in Merlin or Member's own name to restrain and/or claim recompense and/or relief for unauthorised exploitation of Non Physical Rights and/or to

negotiate, conclude and collect settlements and/or damages or other sums in respect of the same and for such purposes, Member appoints Merlin as its true and lawful attorney during the continuance of this Agreement with full power and authority to do and perform each and every act and thing whatsoever necessary or appropriate to be done in connection therewith (including without limitation the right to delegate this authority to a professional third party (e.g. a legal representative) as fully as if done by Member.

2.2 The grant of rights in Clause 2.1 is limited to those rights owned or controlled by Member from time to time. In the event and to the extent that Non Physical Rights (or any of them) in any Repertoire are exclusively licensed or assigned to a third party (including without limitation to any so called collection society or rights organisation) then the rights in such Repertoire which are subject to such licenses and/or assignments are excluded from this Agreement during the term of and throughout the territory of the relevant licences and/or assignments.

2.3 Merlin shall not exercise any of its rights hereunder without Board Approval on a case by case basis. Each licensing agreement, complaint regarding unauthorised use of Repertoire, legal action and/or settlement agreement, which Merlin considers pursuing, will be examined by the Board and if Merlin thereafter wishes to pursue such matter, it will be explained in writing (via email or other form of written correspondence) to all members of Merlin as soon as reasonably possible.

2.4 Before entering into any licensing and/or settlement agreement or instituting any legal action, in each case, relating to the Repertoire, Merlin shall send Member a written notice detailing such proposed action (a **Notice of Proposed Action**). Member has the right to "opt out" of any such licence, settlement agreement or legal action (a **Proposed Action**) by notifying Merlin of its wish to do so (an **Opt Out Notice**). An Opt Out Notice may be given by no later than 6pm (UK time) on the tenth business day after Merlin gives Member the relevant Notice of Proposed Action. In the event that Member does not give an Opt Out Notice within such time period, it shall be deemed to have waived its right to opt out of the relevant Proposed Action. Notices of Proposed Action and Opt Out Notices must be given by email. In this clause "business day" means a day (not being a Saturday) on which clearing banks are open for business in the UK for the transaction of all classes of sterling business.

2.5 If any Proposed Action is not concluded or instituted (as applicable) within six months after the date of the Notice of Proposed Action relating thereto, then Merlin shall be obliged to send out a new Notice of Proposed Action before concluding or instituting the relevant Proposed Action. For the avoidance of doubt, if there is any material change in the terms of any Proposed Action, Merlin shall be obliged to send out a new Notice of Proposed Action before concluding or instituting the same. The identities of the members taking part in the Proposed Action shall not be considered a material term of the same.

2.6 An Opt Out Notice may be "partial" or "complete" so that Member shall have the option to limit the territory or repertoire in respect of which it wishes to Merlin to represent it in any proposed action.

2.7 In the event that in any country in which this Agreement applies (the **Relevant Territory**), the aggregate annual share of the recorded music market of all members combined exceeds 25% as per the then latest available annual market share figures published by the IFPI (or if such IFPI figures are not available by a generally recognized statistical authority on the recorded music industry), then with immediate effect upon such figures becoming available, this Agreement shall be varied such that the Relevant Territory shall be excluded from the grant of rights under Clause 2.1. In such event, save as so varied, this Agreement shall remain in full force and effect. For the purposes of this Clause the European Union (EU) and each country which is a member state of the EU, as well as, for the avoidance of doubt, all other countries of the world, shall each be treated as a "country".

3. DISTRIBUTION AND ADMINISTRATION FEES

3.1 Merlin intends to distribute sums collected in relation to the Authorised Activities (**Merlin Income**) in good faith and as quickly, equitably and economically efficiently as possible. Merlin shall distribute Merlin Income to Member (and all other members) in accordance with and subject to

appropriate Board Approval provided that it shall be entitled to deduct Administration Fees and appropriate reserves for Tax (**Tax Reserves)** from such sums.

3.2 Merlin shall additionally be entitled to retain reserves in respect of potential disputes between Merlin and members regarding the distribution of Merlin Income (**Dispute Reserves)** of a maximum of 10% of each distribution of Merlin Income. Such reserves shall be deducted from each distribution of Merlin Income and shall be liquidated no later than 24 months after the date of each such distribution (i.e. the date of Merlin's distribution statement relating to the relevant distribution) subject to any adjustment to the distribution of Merlin Income necessary as a result of a dispute resolved under the procedure set out in Clause 4 or any other adjustment to the distribution of Merlin Income made with Board Approval provided that such 24 month period may be extended to a maximum 36 months in respect of any distribution of Merlin Income which, as at the expiry of such 24 month period, is subject to an unresolved dispute between Merlin and any member.

3.3 Administration Fees charged to any member who is a member of a Board recognised bona fide independent record company trade association will be charged at a discounted rate in recognition of the economic efficiencies of dealing with trade associations rather than individual members on day to day matters.

3.4 In the event that Administration Fees and Tax Reserves relating to any financial year of Merlin exceed its actual operational and other liabilities for such year (including Tax and budgeted costs for ongoing and planned operations), then such excess shall be distributed to members on an equitable basis so as best to reflect the amounts that would have been distributed to them had there been no such excess in the Administration Fees and Tax Reserves charged/retained.

3.5 Where (and to the extent that) royalties due in respect of the exercise of licensing rights hereunder are payable solely, directly and identifiably in respect of Member's Repertoire only, Member shall have the right to require Merlin to arrange for the third party concerned to pay Member the same direct but subject to the payment (directly by the third party or by Member) of applicable Administration Fees and subject to Member providing Merlin with a Tax indemnity in a form acceptable to Merlin in relation to such arrangements.

4. MEMBER'S APPEAL RIGHT

4.1 In the event that Member believes that Merlin Income has not been properly distributed in accordance with Board Approval (an **Incorrect Distribution**) then, Member shall notify Merlin of the same (a **Dispute Notice**) and Merlin and Member shall use all reasonable endeavours to reach agreement on and resolve such matter. If Merlin and Member are unable to reach agreement as aforesaid within sixty (60) days after the date of the relevant Dispute Notice, the matter shall (subject to payment by Member to Merlin of the sum of five hundred US dollars ($500) (the **Deposit))** be referred for final settlement to a panel of three independent experts nominated by the Board (but one such expert in the case of a dispute relating to a sum in Merlin's reasonable opinion of five thousand US dollars ($5,000) or less) (the **Panel**) (or failing such nomination within fourteen (14) days after payment of the Deposit (or if later fourteen (14) days after expiry of the sixty (60) day period referred to above) nominated at the request of either Merlin or Member by the President for the time being of the Institute of Chartered Accountants in England and Wales).

4.2 The nomination of the Panel shall include a designation of one expert to act as chairman of the Panel (the **Chairman).** The Panel shall act as experts and not arbitrators and shall be instructed:

(a) to report within sixty (60) days of its appointment;

(b) that it is only to decide on whether the relevant Merlin Income has been properly distributed in accordance with Board Approval (**the Panel's Scope**); and

(c) that the Chairman shall prior to convening the full Panel decide whether or not the relevant claim falls within the Panel's Scope. If the Chairman decides it does not fall within the Panel's Scope, this will be deemed a decision of the Panel that the Member's claim has failed.

4.3 The decision of the Panel (in the absence of manifest error) shall be final and binding on the parties. Member agrees that (in the absence of manifest error) any decision of the Panel relating to any other member shall be binding on Member and that the procedure under this Clause 4 shall be Member's sole remedy in respect of any claim that there has been an Incorrect Distribution.

4.4 In the event either that Merlin and Member reach agreement under Clause 4.1, or the Panel decides in Member's favour, that there has been an Incorrect Distribution, Merlin shall promptly pay Member the amount of any relevant underpayment applicable together with simple (i.e. non compounded) interest thereon calculated at the base rate of Barclays Bank plc from the date on which the relevant distribution was made until the date on which the agreed under payment is paid to Member. In the event that the Panel finds in favour of Member, Merlin shall return the Deposit to Member. Any fees payable to the Panel shall be borne and be paid by Merlin.

4.5 Member may only serve one Dispute Notice in any period of twelve (12) months and may not serve a Dispute Notice in respect of any distribution of income hereunder unless it serves such notice by no later than two years after the date on which the relevant distribution was made (i.e. the date of Merlin's distribution statement relating to the relevant distribution).

5. FURTHER COMMITMENTS

5.1 Member shall provide Merlin with the information necessary for the full exercise of the rights authorised under this Agreement. Without limiting the foregoing, Member shall promptly inform Merlin of any loss (partial or total, temporary or permanent) of Non Physical Rights.

5.2 Member undertakes to co-operate and assist in every way Merlin reasonably requires in connection with the implementation of this Agreement and the exercise of the rights authorised hereunder. Subject to Merlin's prior approval of the same, Merlin shall reimburse Member's reasonable out of pocket costs in providing such assistance.

5.3 Each party shall do and execute, or arrange for the doing and executing of, each necessary act, document and thing reasonably within its power as may be necessary or desirable to give affect to this Agreement.

6. WARRANTIES AND INDEMNIFICATION

6.1 Merlin warrants and represents that:

(a) it has full right and authority to enter into this Agreement;

(b) it shall not by virtue of the limited authorisations granted under this Agreement acquire any ownership interest in any Repertoire;

6.2 Member warrants, agrees and represents that:

(a) it has the full right, legal capacity and authority to enter into and fully perform this Agreement and to grant Merlin the rights hereunder on the terms and conditions herein;

(b) as at the date of this Agreement it fulfils the Membership Criteria and if this should at any time change, whether due to a change in its circumstances or a change in such criteria, it shall immediately notify Merlin of such fact;

(c) its execution, delivery and performance of this Agreement will not violate rights granted by Member to any third party or violate the provisions of any agreement to which it is a party;

(d) the Repertoire and the material embodied therein does not infringe the rights of any person. All necessary licences for the recording of the compositions embodied in the Repertoire have and will be obtained from the applicable copyright owners. All Recordings in the Repertoire have and will where applicable be made in accordance with the rules and regulations of all applicable unions and where applicable any payments required by such rules and regulations have been, and will continue to be made by Member. Each person who rendered any service or

granted rights in connection with, or who otherwise contributed in any way to the making of such Recordings had the full right and power to do so, and was not bound by any agreement restricting him from rendering such services or granting such rights. Member has secured all consents as required by all applicable laws of the artists and/or musicians whose performances and/or works are comprised in or reproduced in the Repertoire and all other consents relating thereto necessary for the unrestricted exercise of Merlin's rights hereunder;

(e) neither Merlin nor any of its licensees shall be liable to make any payments of whatsoever nature to any third party in respect of the exploitation of the Repertoire (save in respect of copyrighted musical compositions embodied therein);

(f) all the information provided by Member to Merlin in accordance with Clause 5 or otherwise shall be accurate in all material respects; and

(g) it shall not do anything (or suffer or permit anything to be done) which shall in any way derogate from Merlin's authority and/or rights in respect of the Repertoire so as to diminish Merlin's ability to conclude or institute (as applicable) any Authorised Action in respect thereof.

6.3 Member shall at all times indemnify Merlin against all and any expenses (including legal expenses) costs damages claims and liabilities arising out of any breach by Member of any warranty under Clause 6.2 and shall without limitation indemnify Merlin and hold it harmless in respect of any claim by any party to any sum (or part thereof) paid to Member hereunder.

6.4 Merlin shall have the right to suspend payments of royalties and income hereunder for a reasonable period (up to a maximum of 18 months and up to an amount commensurate with any losses damages or costs which may be incurred by reason of any breach hereafter mentioned) if at any time Member is in breach of any warranty under this Agreement. Merlin's rights under this Clause are without prejudice to any other legal or equitable rights.

6.5 Member acknowledges and agrees that neither Merlin nor its shareholder can be held liable by Member for any adverse Tax consequences of whatever kind, including interest and penalties, that might arise in relation to this Agreement, be it in the Netherlands or any other country.

7. COMMENCEMENT AND TERMINATION

7.1 This Agreement shall commence upon the date of signature set out below and (unless terminated earlier pursuant to Clause 7.2 or 7.3) shall continue in force until terminated by either party giving to the other not less than three (3) months notice expiring on 31 December in any year.

7.2. Either party (the "initiating party") may terminate this Agreement with immediate effect by notice to the other party on or at any time after:

(a) the dissolution of the other party; or

(b) the material breach by the other party (the "breaching party") of any of its obligations hereunder which (if the breach is capable of remedy) breaching party fails to remedy within 30 days after receipt of notice from the initiating party giving full particulars and requiring remedy of the breach. For the purposes of this Clause, a breach shall be considered capable of remedy if the breaching party can comply with the obligation in question to the reasonable satisfaction of the initiating party in all respects other than as to the time of performance.

7.3 This Agreement shall automatically terminate with immediate effect in the event that Member no longer fulfils the Membership Criteria.

7.4 Termination of this Agreement (howsoever arising) shall not affect: the accrued rights and obligations of the parties at the date of termination or the rights of any third party granted by Merlin in relation to the Repertoire prior to such termination.

8. CONFIDENTIALITY

8.1 Merlin will keep Confidential Information provided under or in connection with this Agreement confidential and will not copy or disclose the same to any third party except to the extent that it is necessary for the purposes of the Authorised Activities. Merlin agrees that Confidential Information specific to Member (including without limitation competitively sensitive information) shall not be shared or discussed with any other member.

8.2 Member agrees to keep strictly confidential any Confidential Information pertaining to any Merlin activity. Member agrees and understands that sharing such information with any third party including without limitation other members is likewise strictly prohibited.

8.3 For the purposes of this Clause 8, "Confidential Information" means all information of a confidential nature relating to as applicable the Member's or Merlin's business or activities, including without limitation competitively sensitive information, information regarding licensing, copyright enforcement, payment terms with artists, distributors or other counter parties, information regarding Member or Merlin's products, operations, plans, market opportunities and business affairs. The confidentiality obligations under this Clause 8 will not apply to information which is already unambiguously in the public domain or is required to be disclosed by a court of law or any other competent tribunal.

9. MISCELLANEOUS

9.1 Headings and the use of emboldening in this Agreement are for convenience only and shall not affect the interpretation of this Agreement. The recitals to this Agreement form an integral and inseparable part hereof and any reference to this Agreement shall include such recitals.

9.2 If the whole or any part of any one or more provisions of this Agreement are invalid or unenforceable at law, all the other provisions of this Agreement shall remain in full force and effect and the parties shall negotiate in good faith to agree and implement one or more substitute provisions having similar effect so far as the law permits.

9.3 Nothing contained in this Agreement shall be construed as in any way constituting a partnership or joint venture between the parties, or be construed to evidence the intention of the parties to constitute such a relationship or render either of them liable for the obligations of or default of the other. Member is not through its participation in Merlin a shareholder of Merlin or otherwise entitled to profits or liable for debts of Merlin other than in accordance with the express terms of this Agreement.

9.4 This Agreement constitutes the entire agreement between the parties pertaining to its subject matter and supersedes all prior and contemporaneous agreements, whether oral or written of the parties. No amendment or waiver of this Agreement shall be binding unless executed in writing by all of the parties.

9.5 This Agreement may be executed either (a) in any number of counterparts by each of the parties hereto on separate counterparts, each of which when executed and delivered shall constitute an original, but all of which shall together constitute one and the same instrument; or (b) via the on line e-signature acceptance process at www.merlinnetwork.org

9.6 No delay, neglect or forbearance on the part of any party in enforcing against any other party any obligation under this Agreement shall operate as a waiver or in any way prejudice any right of the first-mentioned party under this Agreement. No waiver by any party of any breach of this Agreement shall be construed as a waiver of any other breach of the same or other provision hereof.

9.7 A person who is not a party to this Agreement has no right to enforce any term of this Agreement.

9.8 Neither party may assign this Agreement or any of its rights hereunder.

10. NOTICES

10.1 Any notice under or in connection with this Agreement (a "Notice"), shall be in writing, shall be in the English language and shall be delivered personally or sent by special express delivery (air mail if overseas), by fax or by email to the party due to receive the Notice at its address set out in this Agreement (or if Member enters this Agreement via the on line e-signature acceptance process at www.merlinnetwork.org, Notices to Member shall be sent to its trading address as given in its registration with Merlin at www.merlinnetwork.org) or to another address or fax number specified by that party by written notice to the other party given before the Notice was dispatched. Any Notice given to Merlin shall be sent for the attention of the CEO of Merlin with (save in respect of Opt Out Notices) a copy sent to Merlin UK Limited at such address as notified by Merlin from time to time. Member shall immediately notify Merlin by registered mail of any change of address or email address.

10.2 A Notice is deemed given:

(a) if delivered personally, when left at the address of the party having Notice served on it as referred to in Clause 10.1;

(b) if sent by special express delivery, except air mail, one business days after being sent;

(c) if sent by air mail, 4 (four) business days after posting it; and

(d) if sent by fax or email on receipt of a report confirming its transmission.

In this Clause business day means a day other than a Saturday or Sunday or a public holiday in either the country where the Notice is posted or that to which it is sent.

11. CHOICE OF LAW AND COMPETENT COURT

This Agreement has been entered into in the Netherlands, shall in all circumstances be deemed to have been executed in the Netherlands and shall be governed by Dutch law. Any disputes between the parties that arise from the text and/or the execution of this Agreement will be submitted exclusively to the competent court in Amsterdam.

IN WITNESS whereof this Agreement was entered into the day and year first before written or as applicable on the day of on line acceptance by Member in accordance with Clause 9.5.

_____	_____
For and on behalf of Merlin B.V.	For and on behalf of Member