

TERMS OF USE FOR PROTECTED SOUND RECORDINGS AND MUSIC VIDEOS OWNED AND LICENSED BY JBD PRODUCTIONS

Licensing Guidelines for Public Performance, Communication Rights and Synchronisation Rights in JBD Productions sound recordings and music videos

The information contained in these guidelines is designed to outline the circumstances in which JBD Productions would consider entering into direct licences. In order for JBD Productions to be able to provide the most efficient service, for public performance, broadcast and communication licensing, please see the guidelines and important information below. Please note that the information contained in these guidelines may change from time to time.

Incidental Copying/Dubbing – This Licence will be in addition to the particular Communication Right or Public Performance right granted in order for the customer to make copies of sound recordings and music videos for the purpose of exercising the relevant Communication or Public Performance Right in circumstances where section 107 of the Copyright Act does not apply (see below for details). For example, JBD Productions would grant a right to copy sound recordings for the purpose of digital jukeboxes where the primary licence is the right to publicly perform sound recordings in bars.

Ephemeral Copying – Section 107 of the Copyright Act allows a broadcaster to make a reproduction of a sound recording for the purpose of broadcasting the sound recording provided that a copy of the recording is destroyed within 12 months of the copy first being made. This section does not apply if the person who makes the reproduction is not the same person as the broadcaster. Therefore the customer may require JBD Productions to grant an ancillary reproduction right if the maker of the reproduction is not the broadcaster or where the customer wishes to retain copy of a sound recording after the expiry of the 12 month period.

Retransmission Remuneration – This Licence is the right to collect on behalf of another person, equitable remuneration to which that person becomes entitled as a result of the retransmission of a free-to-air broadcast which includes a sound recording owned or controlled by that person.

Please refer to our "Direct Licensing Guidelines" for further information or a more detailed description of each licensing category.

Copyright

Please note that the Copyright Act gives the customer the right to publicly perform or broadcast a sound recording or music video, provided equitable



remuneration is paid for its use. The licences set out are automatic under the Copyright Act if remuneration is already agreed between the parties.

Sound Recordings and Music Videos

JBD Productions grants blanket licences in all its sound recordings and music videos from all its artists.

You should be aware that some sound recordings in Australia are unprotected which means that a customer does not require any licence from JBD Productions to be able to publicly perform or broadcast such sound recordings ("Non-Protected Recordings"). Determining whether a sound recording is a protected recording (and consequently requires a licence) ("Protected Recording") or an Unprotected Recording is a complex process.

In determining whether a sound recording is protected or unprotected, you need to consider the country where the recording was made, the nationality and residence of everyone performing on the recording (including session musicians), the country where the recording was first released, the date and place of first release and the age of the recording. As a general statement recordings made in Australia, New Zealand, the UK, Europe and Canada are usually Protected Recordings and a Licence will be required. Recordings made in the US may also require a Licence depending on the details of the Recording. Please note all music videos are protected.

JBD Productions recommends you obtain your own legal advice if you intend only to exercise rights in unprotected recordings.

Who We Licence

JBD Productions will consider granting Licences to any third parties subject to agreement on fees and negotiated terms.

Alternative Licence Available via the PPCA

An alternative to obtaining Licences directly from JBD Productions is to obtain a licence for JBD Productions sound recordings and music videos from the PPCA (to which JBD Productions has granted non exclusive rights in its sound recordings and music videos). PPCA is able to grant blanket licences not only in respect of JBD Productions recordings and music videos, but also may grant rights in sound recordings and music videos owned by other copyright owners. To find out more about licensing from the PPCA, please go to www.pcca.com.au.

Whether you licence JBD Productions sound recordings and music videos from JBD Productions or PPCA is at your discretion.



As the PPCA does not cover synchronisation of any kind, enquiries for synchronisation licences can be submitted to JBD Productions only.

Fees and Standard Terms

Each Licence and the fees/royalties payable are negotiated on a case by case basis. The following will be considered in determining the fees/royalties payable:

- The prevalence of the sound recordings (e.g. how important is the music to the service,);
- the size of the audience and, for music videos, the number of screens in use; and
- the rights that the customer requires.

The fee/royalty applicable may also vary depending on the rights the customer requires and the service that is being offered (e.g. in some cases pay per play, in other cases a percentage of the revenue generated by an advertisement).

Fees may also vary having regard to any marketing the customer agrees to undertake in respect of the JBD Productions recordings and music videos, any customer data available, and any other indirect benefits. Please note that the aforesaid provisions shall not automatically result in a reduced rate.

JBD Productions does have some standard terms that are typically included in the types of licences referred to in these guidelines.

Refer to the Direct Licensing Guidelines for the schedule of fees.

Advances

JBD Productions usually requires an advance payment and/or minimum guarantee, and in any event, in all cases when JBD Productions has not had a prior contractual arrangement with the customer.

Term

JBD Productions terms vary depending on the purpose of the use of the sound recording or music video.

Reporting

JBD Productions requires quarterly reporting for all licences other than licenses where a one-off flat fee is charged. JBD Productions also requires customers



to maintain and provide play logs. Webcasting licences have further reporting requirements and are subject to international approval.

JBD Productions grants Licences for the territory of Australia. If you would like to get a licence for New Zealand as well, or other countries in addition to Australia, this will be subject to a separate licence. JBD Productions can discuss this with you on a case by case basis for enquiries relating to other territories if required.

Disclaimer and limitation of liability

To the fullest extent permitted by law, JBD Productions excludes all conditions and warranties (express and implied) of any kind. Under no circumstances (including without limitation, any act or omission on the part of JBD Productions) will JBD Productions or its affiliates be liable for any indirect, incidental, special and/or consequential damages or loss whatsoever which results from any use or access of, or any inability to use or access any Material. Certain laws may not allow the exclusion of some conditions and warranties and in that case some of the above exclusions may not apply to you if and to the extent they are not permitted by law.

These direct licensing guidelines are intended only to provide a summary and general overview on matters of interest to potential licensees and customers of JBD Productions's repertoire. It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure that these guidelines are accurate but we do not guarantee the currency of the guidelines. You should seek legal or other professional advice before acting or relying on any of the content contained in these guidelines.

Indemnity

You agree to indemnify JBD Productions and its officers, directors, agents and affiliates from and against all claims, liabilities, costs and expenses (including legal costs on a full indemnity basis) resulting from your failure to comply with these Terms of Use.

The Terms of Use are effective until terminated by JBD Productions, and JBD Productions may terminate this agreement at any time without notice. In the event of termination, you are no longer authorised to access the network, but all restrictions imposed on you, licenses granted by you and all JBD Productions disclaimers and limitations of liability set out in the Terms of Use will survive.

