

## Digital Recording Licence Request Form (Commercial Purposes)

King's College London through Professor Leech-Wilkinson is willing to create and license digital recordings of the Department of Music's 78 rpm Recordings Archive subject to the fees and conditions stated below and the appended standard terms and conditions.

- The commercial rights offered are for the manufacture and sale of physical copies (e.g. compact discs) of the requested recording.
- All other rights are reserved by King's College London.
- The Requestor should contact Professor Leech-Wilkinson if other rights or formats are required.

Please fill in the below form and return to the address below. Once price and use of the recordings have been agreed sign and return two copies of the appended standard terms and conditions (together with this Request Form) and the agreed payment. On receipt of the agreements and payment your recording will be delivered as soon as is reasonably possible.

Professor Daniel Leech-Wilkinson, Department of Music, King's College, Strand, London WC2R 2LS

<b>Contact details</b> (the "Requestor")	<b>Address</b>	
	<b>Company No.</b>	
	<b>Telephone</b>	
	<b>Fax</b>	
	<b>e-mail</b>	
<b>Requested Recording(s)</b> (original company name, series and catalogue numbers must be provided, e.g. HMV DB 2890)		
<b>Technical Requirements</b>	<input type="checkbox"/> Equalisation <input type="checkbox"/> Noise reduction Other...  You may wish to email Prof Leech-Wilkinson to discuss options for sound treatment and likely costs.	
<b>Proposed Use</b>		
<b>Charges - King's College London charges £15 per quarter-hour or part thereof for digital conversion with a minimum charge of £50.</b>		
<b>Commercialisation Revenue</b> – In the event that the requested recordings are to be sold and/or otherwise distributed or exploited, King's will require an advance against future sales and 10% of gross sales revenue ( <i>pro</i>		

<i>rata</i> for compilations)	
<b>Advance against Future Sales</b>	£ (based on projected production runs and sales the Requestor is asked to propose a fair and reasonable advance.)
<b>Copyright Clearance</b> – please confirm by ticking the appropriate boxes that you have acquired the appropriate permissions, or that such permissions are not necessary, for the requested recordings. Please note that it is your responsibility to ensure that any necessary consents have been obtained prior to your intended exploitation of any requested recordings.	
<b>Copyright in the Literary and Musical Works</b>	<input type="checkbox"/> The literary and musical copyrights in the requested recordings have expired – e.g. in the UK, 70 years from the end of the calendar year when the creator (author or composer) died. <input type="checkbox"/> The literary and musical copyrights in the requested recordings are still in force – permission has been obtained from the copyright holder (copies attached) to reproduce and exploit these works.
<b>Copyright in the Sound Recording and Performance</b>	<input type="checkbox"/> The requested recordings are out of copyright – e.g. in the UK, 50 years from the end of the calendar year when the recordings were made or first made available to the public. <input type="checkbox"/> The requested recordings are still in copyright – permission has been obtained from the copyright holder (copies attached) to reproduce and exploit these works.
<b>MCPS Registered</b>	YES <input type="checkbox"/> NO <input type="checkbox"/>

Standard Terms & Conditions are attached overleaf

## DIGITAL RECORDING LICENCE AGREEMENT

THIS AGREEMENT dated \_\_\_\_\_ is between:

**KING'S COLLEGE LONDON** ("King's"), an institution incorporated by Royal Charter, of Strand, London, WC2R 2LS, UK, and

[ ] (the "Requestor") [a company incorporated in [ ] whose registered office is at [ ] [of [insert address] ].

### WHEREAS:

- A. King's has, through the Department of Music, prepared digital recordings of those tracks listed in Schedule A and appended hereto from its archive of 78rpm recordings ("the Recordings").
- B. The Requestor wishes to licence the Recordings for the commercial purposes set out below.
- C. King's is willing to provide the Recordings on the Terms and Conditions shown below and subject to payment of the fees set out hereunder

**IT IS AGREED** as follows:

### 1. Definitions:

**In this Agreement, the following words shall have the following meanings**

**Conversion Charge** £15 per quarter-hour or part thereof with a minimum charge of £50

**Effective Date** Means the date first above written;

**Gross Sales** The total gross sales revenue without deduction or reduction of all income generated from exploitation of the rights hereunder by the Requestor or its Affiliates in all transactions which shall be arm's length transactions. For the avoidance of doubt in the event that the Recordings are incorporated within so-called compilation albums the applicable sum will be pro rated accordingly.

**Purpose** *To be inserted*

**Term** [10] years from the Effective Date

**Territory** means the UK / Europe / World

**2. Grant of Rights**

- 2.1 In consideration of the payments referred to hereunder King’s hereby grants to the Requestor a revocable, non-exclusive licence throughout the Territory during the Term to use and/or otherwise exploit the Recordings for the Purpose solely on compact discs (“CDs”).
- 2.2 King’s retains ownership of the Recordings and any intellectual property rights and/or “know-how” associated therewith. Save for licence of the Recordings hereunder no other licence of any of King’s intellectual property is granted or implied by this Agreement.
- 2.3 The Requestor shall not use or distribute the Recordings other than for the agreed Purpose and has no right to sub-licence the Recordings.
- 2.4 The Requestor hereby acknowledges King’s as the owner of the Recordings and shall ensure that a credit for King’s (as approved by King’s) is made on the CDs.

**3. Payment**

- 3.1 In consideration of the rights granted hereunder the Requestor shall pay to King’s:
  - 3.1.1 prior to delivery of the Recordings an advance on future royalties of [insert sum agreed] £ (“Advance”) and a Conversion Charge in the sum of [insert sum agreed] £ ; and
  - 3.1.2 10 percent (10%) royalty on Gross Sales (“Royalty”)
- 3.2 Royalties due under this Agreement shall be paid within thirty (30) days of each March 31<sup>st</sup>, June 30<sup>th</sup> September 30<sup>th</sup> and December 31<sup>st</sup> following the Effective Date and shall be payable from first exploitation of the Recordings once the Advance has been recouped by Requestor. If no royalties are due for any given quarterly period, the Requestor shall inform King’s that no royalties are due and provide appropriate accounting evidence.
- 3.3 All sums due under this agreement shall be exclusive of VAT which shall be paid by the Requestor where applicable.
- 3.4 The Requestor shall:
  - 3.4.1 keep at its normal place of business detailed and up to date records and accounts showing the quantity, description and value of CDs sold by it and being sufficient to ascertain the payments due under this Agreement. Such records and accounts shall be kept for six (6) years following the end of the year to which they relate.
  - 3.4.2 make such records and accounts available, on reasonable notice, for inspection during business hours by an authorised representative appointed by King’s both

during the Term and for a period of five (5) years thereafter for the purpose of verifying the accuracy of any statement or report given by the Company to King's under clauses 3.1, 3.2 and 3.4 ("Audit").

3.4.3 If King's Audit reveals an underpayment to King's such underpayment shall be payable to King's forthwith. If such underpayment is greater than five per cent (5%) of Royalty due hereunder during the period covered by such Audit, then Requestor shall pay all King's reasonable costs of such Audit.

#### **4. Warranties and Indemnities**

4.1 King's makes NO representation and gives NO warranties or undertakings in relation to the Recordings. For the avoidance of doubt, King's does not warrant that it owns all necessary property and other rights in the Recordings and that their use will not infringe any copyright, trade mark or other right owned by any third party.

4.2 King's shall have no liability to the Requestor, whether in contract, tort or otherwise, in relation to the supply of the Recordings or their use or keeping by the Requestor or by any other person, or the consequences of their use, to the maximum extent permitted under applicable law. Notwithstanding this, King's financial liability (if any) shall be limited to the sums paid by Requestor to King's hereunder.

4.3 The Requestor shall indemnify and hold harmless the Indemnified Parties from and against all Claims and Losses arising from such supply, use or keeping, including without limitation Claims and Losses arising from:

4.3.1 infringement of third party intellectual property rights; and

4.3.2 use of the Recordings within or outside the scope of this Agreement.

4.4 For the purposes of this Clause 4:

4.4.1 "Indemnified Parties" shall mean King's and its directors, officers, employees, representatives and associated undertakings;

4.4.2 "Claims" shall mean all demands, claims, proceedings, penalties, fines and liability (whether criminal or civil, in contract, tort or otherwise); and

4.4.3 "Losses" shall mean all losses including without limitation financial losses, damages, legal costs and other expenses of any nature whatsoever.

5. English law shall apply to this Agreement, and the English courts shall have exclusive jurisdiction.

AGREED by the parties through their authorised signatories:-

For and on behalf of  
**KING'S COLLEGE LONDON**

For and on behalf of the  
**[Requestor]**

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**SCHEDULE A**

**Attach Digital Recording Licence Request Form**