

**LETTER OF UNDERTAKING PERTAINING TO THE USE OF CAPASSO MEMBERS' PRODUCTION MUSIC LIBRARIES**

Note that the facility signing this Letter of Undertaking will from now on be known as the Licensee.

1. CAPASSO enters into this on behalf of itself and its current and future Production Music Library members ("Production Music Publishers").
2. CAPASSO hereby authorises the Licensee to use Musical Works and Sound Recordings known as Production Music controlled or administered by the Production Music Publishers ("Production Music Works") Said Production Music supplied by Production Music Publishers in the form of sound carriers ("Production Music CD's" / "Production Music Files"). Note that all Production Music Disc/Production Music Files remain the property of the Production Music Publishers.
3. In return for the above authorisation, the Licensee agrees that it will at all times comply with the terms and conditions set out in this Letter of Undertaking. The authorisation is conditional upon the Licensee doing this.
4. For the avoidance of doubt, no authorisation is granted to the Licensee under this Letter of Undertaking to either copy or distribute Production Music Works. Such authorisation may only be granted by the issuing of a licence. Any such licence is, for the further avoidance of doubt, subject to the conditions set out in this Letter of Undertaking as well as those set out in the licence itself.
5. In order to apply for a licence to copy and/or distribute Production Music Works, the relevant CAPASSO Cue Sheet must be fully and accurately completed by the Licensee and received by CAPASSO prior to or as soon as possible after completion of the relevant production. This specifically excludes broadcast as SABC, ETV and MNET require cue sheets prior to broadcast. This must be carried out for each separate production incorporating any Production Music Work, and the Licensee must submit the properly completed Cue sheet to CAPASSO immediately upon completion of the production.
6. Blanket licence arrangements between CAPASSO and TV broadcasters SABC, MNET and ETV cover fees for the use of the music in general programming broadcasts provided accurate music cue sheets are completed and supplied to the broadcasters along with each new recording or episode. These arrangements do not apply when using the music for the production of advertising spots, product branding, sponsored programs, corporate events and programs, radio, international broadcasts, or other types of usage where separate licences should be applied for directly to CAPASSO.
7. (a) Licences for the recording of Production Music Works are granted in the form of invoices at rates, terms and conditions published in the CAPASSO Production Music Rate Card. However, where the relevant cue sheet applicable to a music license has not been received by CAPASSO in accordance with the provisions of the Letter of Undertaking, CAPASSO on behalf of the Production Music Publishers reserves the right to charge penalties and interest. In the case of non compliance except where prior arrangements have been made, the Licensee shall pay a penalty amounting to 25% (twenty-five percent) of the invoice amount.  
  
(b) Licences are at all times conditional upon full compliance with the terms and conditions set out including the payment of the royalties and other fees specified in the invoice and VAT thereon within the period stated in the invoice.  
  
(c) Where any License Fees payable under this Agreement are not paid by the due date, the Licensee shall pay interest on such late payment calculated on a daily basis at an annual rate of the Prime plus 2% (two percent) payable from the date on which the payment should have been made to the date on which the payment was made.
8. (a) CAPASSO may give written notice of not less than 7 (seven) working days that it wishes to carry out verification procedures at the Licensee's premises. Where this notice has been given, the Licensee will allow CAPASSO through its authorized representatives to attend

any of the Licensee's premises, and inspect and take copies of productions, books, documentary records and supporting documentation (for example, the Client's production details) as they consider are required to check that the Licensee is fulfilling its obligations under this Letter of Undertaking and any licences granted by CAPASSO. The Licensee undertakes that it will maintain books and documentary records and such underlying documentation as will enable the representatives to carry out their task satisfactorily. This Clause applies even after this Letter of Undertaking has been terminated, but only for a period of one year thereafter.

(b) Where inspections carried out as referred to in (a) above (or any other inspections, verifications or other monitoring exercises that CAPASSO undertakes) reveal that the Licensee has failed to properly license its productions according to this Letter of Undertaking (or any licence issued under it), then CAPASSO reserves the right to charge the Licensee in relation to its costs incurred in undertaking such inspection, verification or other monitoring exercise (in addition to any further licence fees that may be payable).

9 (a) This Letter of Undertaking may be terminated by either party upon 4 weeks written notice. On termination CAPASSO and its authorized representations reserve the right to collect all Production Music discs/Production Music files or hard drives supplied by Production Music Publishers.

(b) In addition, CAPASSO shall have the right to terminate this Letter of Undertaking immediately by written notice to the Licensee if: (i) the Licensee commits a material breach of this Letter of Undertaking which is not capable of remedy; or (ii) the Licensee commits a material breach of the Letter of Undertaking which is capable of remedy but which has not been so remedied within 2 weeks or notice thereof; or (iii) the Licensee goes into receivership or any resolution is passed for its winding-up or liquidation (other than for the purposes reconstruction or amalgamation) or is otherwise unable to pay its debts.

(c) CAPASSO may amend this Letter of Undertaking by giving four weeks' notice to the Licensee, at which point such amended Letter of Undertaking will become binding on the Licensee. The Licensee may in such circumstances terminate the Letter of Undertaking by giving notice to CAPASSO prior to the date on which the amendment was to take effect.

d) If this Letter of Undertaking is terminated between CAPASSO and the Licensee, then the Licensee shall no longer have the right to apply, nor use Production Music Library in any manner of form.

10. Hard copies of the CAPASSO Production Music Rate Card and Cue sheet are available on application to CAPASSO (on Word or PDF versions of these documents also being available) and the Licensee hereby confirms that it is familiar with these documents. All references to such documents are references to the documents as published and updated from time to time by CAPASSO.

11. This Letter of Undertaking is only between CAPASSO on behalf of its members and the Licensee, and its terms and conditions may not be relied on by any other party. It may not be assigned. Note that Production Music discs may not be distributed to any other party.

12. This Licence shall be construed according to the laws of South Africa and the parties agree to submit to the jurisdiction of the courts of the Republic of South Africa. Penalties will be imposed for unauthorized usages.

13. If either party institutes legal action against the other for breach of this agreement, the party in breach shall be liable for all legal costs arising from such legal action, calculated on the attorney and own client scale, the cost of Counsel on the brief at the higher scale and the costs of tracing the party in breach's whereabouts as well as value added tax, calculated at the current statutory rate on these legal costs as well as all other costs and expenses incurred resulting from or related to such legal proceedings.

I hereby agree to the above letter of undertaking.

SIGNED: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

COMPANY RESPONSIBLE FOR PAYMENT: \_\_\_\_\_

FINANCE/ACCOUNTS CONTACT: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

ALTERNATIVE CONTACT PERSON: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

PHYSICAL ADDRESS: \_\_\_\_\_

VAT NUMBER: \_\_\_\_\_

COMPANY REGISTRATION NUMBER: \_\_\_\_\_