



UNIVERSAL MUSIC

***Universal Music Operation Limited
4 Pancras Square, N1C 4AG, LONDON
Registered Office at the above Address
Registered in England 00950138
www.universalmusic.com***

SCHEDULE B

TERMS AND CONDITIONS OF TRADING

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1. Definitions:

Where the context permits the following words shall have the meaning hereby ascribed to them:-

- (a) "the Company" shall mean Universal Music Operations Limited or its assignee or successor in title.
- (b) "the Territory" shall (subject to Clause 13 below) mean the United Kingdom of Great Britain and Northern Ireland, the Channel Islands, and the Isle of Man.
- (c) "Goods" shall mean Merchandise Goods and/or Recorded Music Goods (as defined below).
- (d) "Merchandise Goods" shall mean all merchandise inclusive of their packaging as the Company offers for sale and the Purchaser offers to buy.
- (e) "Recorded Music Goods" shall mean all records, tapes, compact discs, compact disc videograms, and videograms inclusive of their packaging as the Company offers for sale and the Purchaser offers to buy.
- (f) "the Purchaser" shall mean the person, persons, firm or company who acquires Goods hereunder from the Company.

2. Scope:

The contractual terms between the Company and the Purchaser for the purchase of Goods from the Company are contained exclusively within this document as revised from time to time and in no circumstances will the Company be bound by any purported addition to or other variation of these terms, whether orally or in writing unless any such addition or variation is signed on behalf of the Company expressly by reference to these terms.

The Purchaser hereby expressly acknowledges and agrees that its Terms and Conditions of Trading shall in no way apply as between the Company and the Purchaser and that the so called Battle of Forms is hereby expressly excluded.

All supplies of Goods made by the Company to the Purchaser shall be deemed to be so supplied under one contract ("the Contract") on the terms herein contained and the same may be varied from time to time.

NOTE CAREFULLY

Moreover, all liability on the part of the Company is hereby expressly excluded in respect of any representation made by any person before or at the time the contract is entered into, whether orally or in writing. These conditions apply only to orders placed for Goods to be delivered within the Territory.

3. Exclusions of liability:

PLEASE NOTE VERY CAREFULLY THE TERMS OF THIS EXCLUSION

Although the Company will always attempt to comply with orders received as far as possible, it shall not be liable for its failure to do so for whatever reason.

4. Price Variation:

The Company shall be entitled to charge for any Goods ordered at the price(s) ruling on the date of invoice, whether or not there shall have been an increase after the date when such order was placed, and

whether or not the price(s) charged corresponds to any price list or quotation relied upon when such order was placed. It shall be the responsibility of the Purchaser to obtain up to date price lists from time to time.

5. Payment:

All accounts are payable in pound sterling in cash or by cheque drawn on a UK bank account on demand and payment shall in any event be received not later than the last day of the calendar month following that in which the invoice is dated. Payment shall not be deemed to have been made by cheque until the amount for which the cheque is drawn has been credited in full to the Company's bank account. The Company may in its sole discretion grant and vary credit limits.

6. Interest:

In the event of non-payment by the due date, as defined in Clause 5, interest shall thereafter be chargeable by the Company on all such sums as may then be outstanding at the rate permitted under the Late Payment Of Commercial Debts (Interest) Act 1998 or any amendment thereto; and such interest shall compound to be computed at monthly rests and shall be payable without demand.

7. Suspension or Termination of Purchaser's Rights :

In the event of non-compliance or breach by the Purchaser with any contractual obligation, including non-payment, delayed payment or the provisions of Condition 16 below, the Company shall be entitled at its discretion to suspend any outstanding deliveries and/or to terminate the Contract altogether and such steps may be taken by the Company without prejudice to any other of its rights or remedies. The Purchaser shall be deemed to be in breach of the Contract on the occurrence of any one or more of the following events:

- (a) the Purchaser enters into any arrangement or composition for the benefit of the Purchaser's creditors or convenes a meeting of the Purchaser's creditors (or a nominee calls such a meeting); or
- (b) the Purchaser (being an individual or if more than one individual then any one of them):
 - (i) is the subject of an interim order under Part VIII of the Insolvency Act 1986 or makes application to the Court for such an order; or
 - (ii) convenes a meeting of or enters into any arrangement, scheme, compromise, moratorium or composition with any of her his creditors (whether under Part VII of the Insolvency Act 1986 or otherwise); or
 - (iii) has a bankruptcy petition presented against her/ him or is adjudged bankrupt or has a receiver appointed in respect of all or any of her/ his assets; or
- (c) the Purchaser (being a company or partnership):
 - (i) makes a voluntary arrangement or submits to its creditors or any of them a proposal under Part I of the insolvency Act 1986; or
 - (ii) enters into any arrangement, scheme, compromise, moratorium or composition with any of its creditors (whether under Part I of the Insolvency Act 1986 or otherwise); or
 - (iii) makes an application to the Court under section 425 of the Companies Act 1985 or resolves to make such an application; or
 - (iv) is the subject of an administration order made under Part II of the Insolvency Act 1986 or is subject to a resolution passed by the directors or shareholders for the presentation of a petition for such an order or has a petition for such an order presented against it; or
 - (v) is the subject of a resolution for voluntary winding up (other than a voluntary winding up while solvent for the purposes of an amalgamation or reconstruction which has the prior written approval of the Company) or a meeting of its creditors is called to consider a resolution for winding up; or

- (vi) has an administrative receiver or receiver appointed in respect of all or any of its assets or the assets of any guarantor; or
 - (vii) has a statutory demand served on it which is not dismissed within 18 days of service; or
 - (viii) has a petition for winding up presented against it; or
 - (ix) has a winding up order made against it; or
 - (x) is struck off the register of companies or otherwise ceases to exist; or
 - (xi) is subject to any other formal insolvency proceedings in England and Wales; or
- (d) the Purchaser suffers any distress or execution to be levied on any of its assets or becomes unable to pay its debts as and when they become due; or
- (e) analogous proceedings or events to those specified in this clause are instituted or occur in relation to the Purchaser elsewhere than in England and Wales;

8. Cost of Delivery:

Goods ordered from the Company generally will be despatched carriage paid in the Territory but the Company reserves the right to charge for any special delivery arrangements requested.

9. Minimum Shipment:

A minimum shipment charge may be levied by the Company in respect of any shipment to the value of £75 (seventy five pounds) or less but this figure may from time to time be altered by the Company at its discretion. The current definition of a "minimum shipment" and the relevant charge may at any time be checked with the Customer Services Department of the Company. In the event that the minimum shipment charge is altered the Company shall give notice to the Purchaser of the revised charge.

10. (a) Discrepancies:

In the event of a Purchaser wishing to allege that the Goods delivered do not correspond with the accompanying delivery documentation whether as to quantity or in any other respect (including price charged) or do not correspond with the relevant order, any such claims must be notified to the Customer Services Department of the Company in accordance with the Company's standard complaints procedure within three days of delivery (in respect of Recorded Music Goods and Merchandise Goods distributed from SONY DADC and within fourteen days of delivery in respect of Merchandise Goods distributed directly from manufacturers (in both instances in the case of price charged within three months of delivery). Otherwise the Company will not in any event be liable for the same.

(b) Non Delivery of Goods:

In the event of a Purchaser wishing to allege that Goods charged on an invoice have not been delivered to the Purchaser, the Customer Services Department of the Company must be notified within fourteen days of receipt of the invoice. Otherwise the Company will not in any event be liable for the same.

11. Damage:

The Company will not be liable for damage to Goods unless the Purchaser establishes that such damage occurred while the Goods were in the actual control of the Company or its agents and before delivery. In any event, liability is expressly excluded in respect of damaged Goods where no claim in respect thereof has been notified to the Customer Services Department of the Company in accordance with its standard complaints procedure within three days of delivery in respect of Recorded Music Goods and Merchandise Goods distributed from SONY DADC and within fourteen days of delivery in respect of Merchandise Goods distributed directly from manufacturers.

NOTE: Purchasers are accordingly advised in their own interest to inspect the Goods supplied by the Company as soon as possible after delivery.

Full particulars of the reference numbers on delivery documentation shall be supplied to the Company, and the package and its contents retained for examination.

12. Storage Conditions and Used Goods:

The Company in no event will accept liability in respect of Goods which are damaged or otherwise rendered defective because they have been stored, kept or used in an improper manner, by the Purchaser, its customer or agent.

13. Export:

No Goods delivered by the Company may be exported from the Territory without the prior written consent of the Company save where such export is to another member state of the EU (or where such export is to a Territory outside the EU but re-importation into the EU is likely).

14. Property In Goods:

- (a) The property in any Goods delivered by the Company to the Purchaser shall remain in the Company until such time as the Purchaser has paid in full for those Goods and for any other Goods delivered by the Company to the Purchaser.
- (b) Until ownership of the Goods has passed to the Purchaser, the Purchaser shall:
 - (i) hold the Goods on a fiduciary basis as the Company's bailee;
 - (ii) store the Goods (at no cost to the Company) separately from all other goods of the Purchaser or any third party in such a way that they remain readily identifiable as the Company's property and to make a note in its accounting records that the Goods are the property of the Company;
 - (iii) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (iv) maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Purchaser shall produce the policy of insurance to the Company; and
 - (v) not be entitled to pledge and/or charge by way of security for any indebtedness for the Goods.
- (c) Provided that no event specified in 14(d) below shall have occurred and the Company has not given the Purchaser notice of its intention to repossess the Goods the Purchaser may resell the Goods before ownership has passed to it on the following conditions:
 - (i) any sale shall be effected in the ordinary course of the Purchaser's business at full market value;
 - (ii) any such sale shall be a sale of the Company's property on the Purchaser's own behalf and the Purchaser shall deal as principal when making such a sale; and
 - (iii) the Purchaser will hold such part of the proceeds of resale on trust for the Company as shall be equal to the amount owed by the Company to the Purchaser at the time of the receipt of the proceeds of resale by the Purchaser ("the Trust Proceeds");
 - (iv) the Trust Proceeds shall be held in a separate bank account and will not be mixed with any other monies and shall be at all times be identifiable as the Company's monies;
 - (v) the Purchaser shall on request from the Company furnish the Company with full details of the separate accounts in which the Trust Proceeds are held or are to be held, and shall on request supply the Company with documentary confirmation of the

separate treatment of the Trust Proceeds and shall comply with any directions that the Company may give in relation to the monies;

- (vi) if Goods are supplied on credit the Purchaser is not free to use the Trust Proceeds as it sees fit. The Purchaser will hold the Trust Proceeds on trust until the end of the period of credit at which time the Company is entitled to call for them.
- (d) The Purchaser's right to possession of the Goods shall terminate immediately if the Purchaser:-
 - (i) has a bankruptcy petition issued against it; or
 - (ii) goes into liquidation whether voluntary or compulsory; or
 - (iii) makes an arrangement with its creditors; or
 - (iv) has an administrator, receiver or administrative receiver appointed over any of its assets; or
 - (v) receives a written demand from the Company to pay overdue sums owed to the Company in which case the Purchaser's consent from the Company to do the acts referred to in sub-clause 14(b) & (c) shall determine and be deemed to have determined forthwith and the Purchaser shall not thereafter sell or use Goods belonging to the Company save with the prior written consent of the Company.
- (e) The Company may recover and dispose of any Goods in which the Company has retained property under sub-clause 14(a). The Purchaser grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Purchaser's right to possession has terminated, to recover them. Upon the happening of any of the events referred to in sub-clause 14(d) the Company or persons authorised by the Company are hereby authorised to enter upon any premises where such Goods are or may be or where the Company reasonably believes they may be and such entry may be effected by any means, which, for the avoidance of doubt, shall mean that the Company or its agents are authorised to inflict damage to the Purchasers' property for the purpose of recovering the Goods and the Company shall not be liable for such damage in any way whatsoever.
- (f) Notwithstanding the provisions of sub-clause 14(a) the Goods shall be at the risk of the Purchaser from the time when they are tendered for delivery at an agreed destination or are available for collection by the Purchaser or cease to be in the possession of the Company and in particular when they are delivered into the possession or custody of a carrier, forwarding agent, warehouseman or other bailee or agent for the purpose of transmission whether or not such person contracts with or is instructed by the Company or the Purchaser.
- (g) Where the Company is unable to determine whether any Goods are goods in respect of which the Purchaser's right to possession has terminated, the Purchaser shall be deemed to have sold all goods of the kind sold by the Company to the Purchaser in the order in which they were invoiced to the er.
- (h) On termination of the Contract, howsoever caused, the Company's (but not the Purchaser's) rights contained in this clause shall remain in effect.

15. Returns Policy:

- (a) As a general principle the Company will replace free of charge or give credit for all faulty Goods (being goods not of satisfactory quality due to defective manufacture) returned in accordance with the Company's then current returns procedure for that category of Goods.

- (b) The Company's returns policy and procedures for Goods distributed from SONY DADC (including faulty Goods and damaged Goods) will be issued from time to time and are available upon request.
- (c) In respect of faulty Merchandise Goods, damaged Merchandise Goods and Merchandise Goods in respect of which the Purchaser wishes to make a discrepancy claim in accordance with Clause 10(a) above which are distributed directly from the manufacturer such Merchandise Goods shall be returned in accordance with the following procedure:
 - (i) The Purchaser must notify UMO by e-mailing UMO's merchandise company, Bravado, at accountmanagement@bravado.com immediately upon receipt of the applicable goods, but no later than 14 days from receipt of the applicable goods by notifying Bravado of the reason for the application to return ensuring the application clearly states the Purchaser's Account Number, the Line Number(s) and Delivery Note Number.
 - (ii) If the application is successful Bravado will issue a Returns Authorisation detailing the goods authorised to be returned which must be returned to the applicable manufacturer within 28 days of the date of the Returns Authorisation in accordance with the manufacturer's then current returns policy.
 - (iii) UMO will then, subject to examination by the applicable manufacturer, issue the appropriate credit.
 - (iv) Goods returned that are not in accordance with the applicable Returns Authorisation will not be accepted for credit. The applicable Goods will be returned to the Purchaser and a charge levied to your account for the appropriate carriage fee and packaging.
 - (v) The Purchaser's Returns applications notified outside the 14 day allowable period set out in Clause 15(c)(i) above cannot be processed.
 - (vi) Returns received by the manufacturer outside of the 28 day allowable period set out in Clause 15(c)(ii) above cannot be accepted for credit ("Late Returns"). All Late Returns will be returned to the Purchaser and a charge levied to the Purchaser's account for the appropriate carriage fee and packaging.
- (c) The Company will not accept the return of any goods that have not been supplied by the Company.

16. Copyright Protection, Trademarks and Dealing with Goods:

- (a) The Purchaser shall not authorise or permit any other person, firm or company to
 - (i) copy, duplicate, edit, adapt, re-record, alter, add to, or interfere (as applicable) with any Goods or their packaging, in particular (without limitation) by permitting any advertising or similar material to be incorporated in or on any Goods or their packaging;
 - (ii) broadcast or perform any Recorded Music Goods or the material contained therein;
 - (iii) engage in any rental or lease of Goods or any sale plan in respect thereof (involving repurchase or exchange or re-taking of the same for any consideration whatsoever) which is not authorised by the Company in accordance with the Copyright Designs and Patents Act 1988.
 - (iv) sell any Recorded Music Goods where the Purchaser ought reasonably to be aware that the Purchaser's customer intends or is likely to use them for a purpose other than use in a private residence for listening or viewing by persons in such residence without a fee of any kind being charged PROVIDED THAT the Purchaser may sell Goods to a bona

vide retailer for the purpose of resale on the condition that the Purchaser first obtains from such retailer its written agreement to abide by all the provisions of this Clause 16;

- (v) sell, part with possession of or deal with any Goods otherwise than by way of sale as permitted by these conditions.
- (b) The Purchaser shall not nor shall the Purchaser authorise or permit any other to remove, deface or alter any notice with respect to the aforesaid limitations fixed to Goods or their packaging or advertising by the Company.
- (c) The Purchaser shall not nor shall the Purchaser authorise or permit any other to use the Company's name, trade marks, trading style, get-up or logo in any manner other than as provided by the Company.
- (d) The Purchaser shall not authorise or permit any other person to, deal in, possess, or be party to any agreement or arrangement relating to Goods of any kind which are or have been in any way dealt with in breach of copyright or other similar right of any person.
- (e) Should the Purchaser be convicted of an offence under the Copyright Designs and Patents Act 1988 or to be held liable in civil proceedings involving directly or indirectly the infringement of copyright or submitted to judgment in such proceedings or have a search order made against him where such order is not revoked or deals with such person the Company reserves the right to terminate or suspend the contract in accordance with the terms hereof.

WARNING:-

Copyright exists in the Goods supplied hereunder and in the artwork on the packaging thereof. Any unauthorised broadcast, copy or performance (as applicable) of such copyright works or subject matter will be an infringement of copyright and the Infringer may be liable to action at law. The Company or its licensors are the proprietors of the trademarks under which the Goods are marketed or distributed and any infringing use of these trademarks may also result in legal proceedings.

- (f) Purchaser shall indemnify Company against all actions, claims, damages, losses, costs and expenses in respect of any claim of any infringement or alleged infringement by Company of a third party's intellectual property rights arising out of the use or in connection with any of the Purchaser's intellectual property rights that are embodied in the Goods supplied to the Purchaser by UMO hereunder or in connection with the Goods supplied to the Purchaser by UMO hereunder.

17. Peer To Peer Restriction

- (a) In the event that the Purchaser enters into any agreement or any third party acting on behalf of the Purchaser enters into any agreement any entity which distributes or is involved in the distribution of sound recordings without a licence from all the copyright owners thereof, the Purchaser shall immediately notify the Company. Such entities and/or distribution methods shall be deemed to include but not be limited to Kazaa, Gnutella, Musiccity, LimeWire, BearShare, Grokster, NeoNapster, WinMX, Music 369, 6arab, Musiclines, Cdcovers, Simplemp3s, OpenNap, Soulseek, Bit Torrent, Rocketnet, MP2P, eDonkey, eMule, Direct Connect, Piolet, Xolox, Blubster, Morpheus, Warez, Ares, QTrax and any entity using the Fastrack or Gnutella file sharing software ("P2P Network").
- (b) The Purchaser shall be deemed to be in material breach of these Terms and Conditions of Trading in the event that the Purchaser fails to:
 - (i) Notify the Company that it has entered into an agreement with a P2P Network; or
 - (ii) Terminate any agreement with a P2P Network; or
 - (iii) Procure that a third party acting on behalf of the Purchaser terminates any agreement with a P2P Network.

- (c) In the event that the Purchaser enters into any agreement or any third party acting on behalf of the Purchaser enters into any agreement to use peer cache software the Purchaser shall immediately notify the Company. Peer cache software shall mean any software which is specifically designed to reduce the bandwidth utilised as a result of the use of P2P Network(s). Such software shall be deemed to include but not limited to "Peer Cache" or other similar software.
- (d) The Purchaser shall be deemed to be in material breach of these Terms and Conditions of Trading in the event that the Purchaser fails to:
 - (i) Notify the Company that it has entered into an agreement relating to the use of peer cache software; or
 - (ii) Terminate any agreement relating to the use of peer cache software; or
 - (iii) Procure that a third party acting on behalf of the Purchaser terminates any agreement relating to the use of peer cache software.

18. Limitation of Company's Liability: PLEASE READ THIS CONDITION CAREFULLY

- (a) The Company's liability to the Purchaser for breach of any terms of contract expressed or implied shall be limited:-
 - (i) in the case of Goods delivered to and retained by the Purchaser the difference between the sum actually paid by the Purchaser for the Goods in respect of which the claim is made and the value of such Goods;
 - (ii) in the case of Goods not delivered to or not retained by the Purchaser to the sum actually paid by the Purchaser for such Goods and the Company shall in no circumstances be liable for any other loss whatsoever suffered by the Purchaser as a result of a breach by the Company of a Contract (whether or not a breach of a fundamental term or a fundamental breach of the terms of the Contract). Nothing in these Conditions shall restrict the Company's liability for death or personal injury caused by the Goods which arises by reason of the negligence of the Company or its servants or agents.
- (b) The Purchaser shall give written notice to the Company of any such breach as soon as reasonably practicable, but in any event no later than the end of the calendar month following the month in which the alleged breach occurred. The Purchaser shall further be deemed to have withdrawn and the Company shall have no liability in respect of such claim unless in the case of dispute legal proceedings are issued and served within 6 months of notification of breach.
- (c) Neither party shall be liable to the other for any loss of business, loss of profits, loss of reputation or goodwill or for any form of indirect, special or consequential loss or damage whether arising from negligence, breach of contract, tort, breach of statutory duty or otherwise.

Notwithstanding any other provisions of this Agreement, neither party excludes or limits liability to the other party for:

- (i) death or personal injury caused by its own negligence;
- (ii) the consequences of any fraudulent misrepresentation made by it; or
- (iii) any other liability the exclusion of which is expressly prohibited by statute.

19. Notices:

All notices to be given by the Purchaser to the Company shall be given in writing by delivering the same to the Credit Control Department, Universal Music Operations Limited, 4 Pancras Square, London, N1C 4AG or to such other department and/or address as shall be notified by the Company to the Purchaser with a courtesy copy to the Head of Legal and Business Affairs, Digital Universal Music Operations Limited.

All notices to be given by the Company to the Purchaser may be sent by prepaid postage to the last known address of the Purchaser or (in the case of a body corporate and at the Company's option) to the Purchaser's registered office. If any such notice is sent first class post it shall be deemed to have been received on the first business day next following the date on which it was posted, and shall be effective notwithstanding it be returned undelivered.

- 20. Waiver:**
No waiver by the Company of any breach hereunder shall be deemed a waiver of any breach and no particular forbearance shall be deemed to be a general forbearance.
- 21. Non Assignment:**
The purchaser shall not assign the Contract or any of its rights thereunder without the prior written consent of the Company. Nothing in the Contract shall prevent the Company assigning or transferring its rights and obligations thereunder.
- 22. Invalidity:**
If any term or condition in any clause or sub-clause of these terms and conditions is adjudged void or unenforceable, such clause or sub-clause shall be deemed excised from these conditions which in all other respects shall remain in full force and effect.
- 23. Previous Conditions:**
These conditions replace all previous Terms and Conditions of Trading issued by the Company.
- 24. Jurisdiction:**
This Agreement shall be construed in accordance with the laws and procedures of England.