

**DATED** \_\_\_\_\_

**(1) Graft Beats Ltd**

**(2) (Licensee)**

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**NON - EXCLUSIVE LICENSING AGREEMENT**

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**THIS AGREEMENT** is made the \_\_\_\_\_ day of \_\_\_\_\_ 2021

**BETWEEN:**

- (1) Graft Beats Ltd a company registered in England and Wales under number 13005467 whose registered office is at Kemp House, 160 City Road, London, England, EC1V 2NX (“the Licensor”) and
- (2) (Name of Licensee) a company registered in (Country of Registration) under number (Company Registration Number) whose registered office is at ( ) **OR** of (Address) (“the Licensee”)

**WHEREAS:**

- (1) The Licensor owns the Work and the Intellectual Property Rights subsisting therein.
- (2) The Licensee wishes to use the Work detailed in Schedule 1 for the purposes detailed in Schedule 2 (the “Stated Purposes”).
- (3) **The Licensor wishes to grant a non-exclusive licence to the Licensee to use the Work and the Intellectual Property Rights subsisting therein for interpolation into a New Song as set out in the Stated Purposes in accordance with the terms and conditions of this Agreement and subject to the payment of the Licence Fee as set out in Clause 6.**
- (4) **The Licensee may (but is not obliged to) license the New Song as described in the Stated Purposes to one or more third party record labels.**

**IT IS AGREED** as follows:

**1. Definitions and Interpretation**

1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

**“The Work”** means the Beat as an mp3 and wav file and any and all Intellectual Property Rights subsisting therein as described in Schedule 1;

**“Confidential Information”** means information relating to this Agreement, any business information relating to either Party, and any other information which either Party may describe as confidential;

**“Effective Date”** means the date the Licensee clicks on the acceptance of this Licensing Agreement on page **x** of the Graft Beats Website;

**“Licence Fee”** means the Fee payable on the Effective Date in accordance with sub-Clause 6.1.1;

<b>“Intellectual Property Rights”</b>	means any and all patents, rights in inventions, rights in designs, trademarks, trade and business names and all associated goodwill, rights to sue for passing-off or for unfair competition, copyright, moral rights and related rights, rights in databases, topography rights, domain names, rights in information (including know-how and trade secrets) and all other similar or equivalent rights (subsisting now or in the future) in any part of the world, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights for their full term;
<b>“New Song”</b>	Means a new or pre-existing song, instrumental track, or sample as set out in Schedule 2 “the Stated Purposes” in this Agreement
<b>“Quarter”</b>	means a three-month period which shall end on 31 <sup>st</sup> March, 30 <sup>th</sup> June, 30 <sup>th</sup> September and 31 <sup>st</sup> December respectively. The first Quarter shall begin on the Effective Date and the final Quarter shall end on the date of termination or expiry of this Agreement;
<b>“Royalty/Royalties”</b>	means those percentage of payments due to the Licensor and the Licensee in accordance with this Agreement as set out in Clause 6;
<b>“Stated Purposes”</b>	The Licensee’s project/intended use of the Work as set out in Schedule 2 of this Agreement
<b>“Term”</b>	means the duration of this Agreement as set out in Clause 12;
<b>“Territory”</b>	means the Universe.

- 1.2 Unless the context otherwise requires, each reference in this Agreement to:
- 1.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
  - 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
  - 1.2.3 “this Agreement” is a reference to this Agreement and each of the Schedules as amended or supplemented at the relevant time;
  - 1.2.4 a Schedule is a schedule to this Agreement;
  - 1.2.5 a Clause or paragraph is a reference to a Clause of this Agreement (other than the Schedules) or a paragraph of the relevant Schedule; and
  - 1.2.6 a "Party" or the "Parties" refer to the parties to this Agreement.
- 1.3 The headings used in this Agreement are for convenience only and shall have no effect upon the interpretation of this Agreement.
- 1.4 Words imparting the singular number shall include the plural and vice versa.

## **2. Grant of Non-Exclusive Licence**

- 2.1 The Licensor hereby grants to the Licensee a non-exclusive licence (the "Licence") within the Territory and for the Term to use the Work solely for the Stated Purposes.
- 2.2 The non-exclusive licence granted by sub-Clause 2.1 shall be granted subject to the payment of the Licence Fee by the Licensee in accordance with the provisions of Clause 6.1.1.

## **3. Scope of Licence**

- 3.1 The Licensee may not:
  - 3.1.1 use the Work for any purposes other than those which are directly related to the Stated Purposes;
  - 3.1.2 use any part of the Work that is not covered by the Licence or that falls outside of the definition of the Work as set out in Schedule 1;
  - 3.1.3 sell or licence the Work to third parties in the form the Work is delivered to the Licensee;
  - 3.1.4 engage in any copying, streaming, duplicating, selling, lending, renting, hiring, broadcasting, uploading, downloading to any database, servers, computers, peer to peer sharing, or other file-sharing services, posting on websites, or distribution in any form of the Work outside of the Stated Purposes.
- 3.2 The Licensee shall not be permitted to assign, sub-licence, sub-contract or otherwise transfer the benefit of the Licence or any part of it to a third party without the prior written consent of the Licensor.
- 3.3 The Licensee may share the Work with third parties engaged in the production of the New Song and shall indemnify the Licensor in accordance with Clause 9.2 of this Agreement.

## **4. Licensee's Rights and Obligations**

- 4.1 The Licensee shall be fully responsible for its use of the Work and for all work carried out in relation to the Stated Purposes.
- 4.2 The Licensee shall be the sole owner of any and all products of the Stated Purposes, subject to the existence and terms and conditions of any agreements to the contrary with any third parties. The Licensor shall have no rights or interests in the Stated Purposes save for those described in this Agreement.

## **5. Waiver of Moral Rights**

Where the nature of the Work concerns moral rights arising out of Chapter IV of the Copyright, Designs and Patents Act 1988, the Licensor hereby waives any and all such rights to the fullest extent possible.

## 6. Licence Fee Payment, Royalties

- 6.1 On the Effective Date, the Licensee shall pay to the Licensor:
- 6.1.1 the Licence Fee of £19.99 in consideration for the Licence granted by this Agreement;
- 6.2 Prior to the commercial exploitation of the New Song as set out in the Stated Purposes in Schedule 2 to this Agreement the Licensor and the Licensee shall, if not already done so, register as members of PRS for Music and MCPS and shall register the New Song with PRS for Music and MCPS in accordance with the Royalty percentages as set out in clause 6.3 below and shall subsequently add the New Song Title the relevant PRS for Music Tune Code and ISWC Code (International Standard Musical Work Code) and any other Codes to Schedule 3 of this Agreement. Comma?
- 6.3 The Licensor shall be entitled to a Royalty of 25% and the Licensee a Royalty of 75% of all income (excluding any Label Advances and VAT) of the Net Royalty Receipts from the exploitation of the New Song including but not limited to Performance Rights Royalties, Mechanical Royalties, and digital service providers including but not limited to Netflix, You Tube, Spotify, Deezer, Googleplay, Apple Music, Soundcloud, Tidal, iTunes and Amazon;

## 7. Licensor's Warranties

- 7.1 The Licensor hereby warrants and represents that:
- 7.1.1 the Work is owned solely, exclusively and absolutely by the Licensor and that the Licensor is free to license it/them to the Licensee;
- 7.1.2 no third party has any right, title or interest in the Work nor has claimed the same at any time prior to the Effective Date;
- 7.1.3 to the best of its current knowledge and belief, the Intellectual Property Rights subsisting in the Work are not being infringed (nor threatened to be so) by any third party as at the Effective Date;
- 7.1.4 to the best of its current knowledge and belief, no third party has infringed the Intellectual Property Rights subsisting in the Work at any time prior to the Effective Date; and
- 7.1.5 nothing in the Work is offensive, indecent, obscene, illegal, dishonest, untruthful, defamatory or discriminatory, and nothing in the Work will infringe the common law or statutory rights of any third party.
- 7.2 The Licensor gives no warranties nor makes any representations beyond those detailed in sub-Clause 7.1 with respect to the Work, the Intellectual Property Rights subsisting therein or any other matters arising out of this Agreement.

## 8. Licensee's Warranties

The Licensee hereby warrants and represents that:

- 8.1 it has the right to enter into this Agreement;
- 8.2 it shall pay all sums due under this Agreement in accordance with Clause 6;
- 8.3 it shall adhere to the Stated Purposes as set out in Schedule 2 of this Agreement;

- 8.4 it shall not exceed the rights granted by this Agreement;
- 8.5 the production of the New Song will not contain any defamatory matter or material which breaches any contract, or law including (without limitation) the Data Protection Legislation, the Official Secrets Act 1989 and other legislation relating to national security, nor breach of any duty of confidentiality, infringe any copyright, nor constitute contempt of court, blasphemy or obscenity.

## 9. Indemnity

- 9.1 The Licensee shall indemnify and hold harmless the Licensor against any claim, loss, damage, proceedings, settlement, costs or expenses howsoever arising, directly or indirectly, as a result of any breach or non-performance by the Licensee of any of its obligations, undertakings or warranties as set out in this Agreement.
- 9.2 The Licensee shall indemnify and hold harmless the Licensor against any misuse, sale, or licensing of the Work by any individuals engaged in the production of the New Song including but not limited to musicians, recording engineers, studio managers.
- 9.3 The Licensor shall indemnify and hold harmless the Licensee against any claim, loss, damage, proceedings, settlement, costs or expenses howsoever arising, directly or indirectly, as a result of any breach or non-performance by the Licensor of any of its obligations, undertakings or warranties as set out in this Agreement.
- 9.4 The indemnities set out in sub-Clauses 9.1 and 9.2 shall apply provided that in all cases the indemnified Party shall:
  - 9.4.1 notify the indemnifying Party as soon as is reasonably possible of any claim, loss or damage;
  - 9.4.2 consult the indemnifying Party as to the action to be taken in dealing with such matters; and
  - 9.4.3 make no agreement with any third party for the payment of any sum without the prior agreement of the indemnifying Party, such agreement not to be unreasonably withheld.

## 10. Proceedings

- 10.1 The Licensee shall inform the Licensor immediately if it becomes aware of any:
  - 10.1.1 infringement, actual or suspected, of any of the Intellectual Property Rights subsisting in the Work;
  - 10.1.2 claims that the Work or the Intellectual Property Rights therein infringe the rights of any third party.
- 10.2 In the event of any infringement or claim arising under sub-Clause 10.1:
  - 10.2.1 the Licensor shall define the action to be taken;
  - 10.2.2 the Licensor shall be solely responsible for the conduct of any claims or proceedings;

- 10.2.3 the Licensee shall provide all reasonable assistance that may be reasonably required by the Licensor in order to conduct any claims or proceedings;
- 10.2.4 the Licensor shall reimburse the Licensee for any reasonable costs or expenses (including legal costs) incurred by the Licensee in rendering assistance under sub-Clause 11.2.3; and
- 10.2.5 the Licensor shall bear the cost of any claims or proceedings and shall be solely entitled to any and all sums recovered from a third party in such claims or proceedings.

## 11. Confidentiality

- 11.1 Both the Licensor and the Licensee undertake that they shall, except as provided by sub-Clause 12.2 or as authorised in writing by the other, at all times during the continuance of this Agreement and for 12 Months after its termination:
  - 11.1.1 keep confidential all Confidential Information;
  - 11.1.2 not disclose any Confidential Information to any other party;
  - 11.1.3 not use any Confidential Information for any purpose other than as contemplated by this Agreement;
  - 11.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and
  - 11.1.5 ensure that (as applicable) none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 12.1.1 to 12.1.4.
- 11.2 Subject to sub-Clause 12.3, either Party may disclose any Confidential Information to:
  - 11.2.1 any of their sub-contractors or suppliers;
  - 11.2.2 any governmental or other authority or regulatory body; or
  - 11.2.3 any of their employees or officers or those of any party described in sub-Clauses 12.2.1 or 12.2.2;
- 11.3 Disclosure under sub-Clause 12.2 may be made only to the extent that is necessary for the purposes contemplated by this Agreement, or as required by law. In each case the disclosing Party must first inform the recipient that the Confidential Information is confidential. Unless the recipient is a body described in sub-Clause 12.2.2 or is an authorised employee or officer of such a body, the disclosing Party must obtain and submit to the other Party a written undertaking from the recipient to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made.
- 11.4 Either Party may use any Confidential Information for any purpose, or disclose it to any other party, where that Confidential Information is or becomes public knowledge through no fault of that Party.
- 11.5 When using or disclosing Confidential Information under sub-Clause 12.4, the disclosing Party must ensure that it does not disclose any part of that Confidential Information which is not public knowledge.
- 11.6 The provisions of this Clause 11 shall continue in force in accordance with

their terms, notwithstanding the termination of this Agreement for any reason.

## 12. Term and Termination

- 12.1 This Agreement shall come into force on the Effective Date and shall continue in force for a period of **6 months** (the "Term") unless otherwise terminated in accordance with this Clause 12.
- 12.2 The Term may be renewed on the same terms and conditions as set out in this Agreement for a further period of **6 months** for a further fee equivalent thereof in line with inflation and on the same terms every **6-month** period upon the mutual consent of both Parties.
- 12.3 Immediately upon commencement of the commercial exploitation of the Work and New Song as set out within the Stated Purposes in Schedule 2 to this Agreement the provisions of clauses 12.1 and 12.2 shall cease to apply and the non-exclusive licence shall become permanent non-exclusive licence and the Licensee shall not be obligated to pay any further licence renewal fees.**
- 12.4 Either Party has the right to terminate this Agreement immediately by written notice if the other:
- 12.4.1 has committed a material breach of this Agreement, unless such breach is capable of remedy in which case the right to terminate immediately will be exercisable if the other Party has failed to remedy the breach within 28 days after a written notice to do so;
  - 12.4.2 has an encumbrancer take possession, or (being a company) has a receiver appointed of any of its assets or property;
  - 12.4.3 holds a meeting of its creditors or proposes or enters into any arrangement, moratorium or composition with or for the benefit of the same (including any voluntary arrangement as defined by the Insolvency Act 1986) or, (being a company), becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
  - 12.4.4 has (being an individual or firm) a bankruptcy order made against it or (being a company) goes into liquidation (except for the purposes of amalgamation or reconstruction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that Party under this Agreement);  
or
  - 12.4.5 ceases, or threatens to cease, to carry on business.
- 12.5 Sub-Clause 12.3 shall also apply in the event that anything analogous to any of the provisions of that sub-Clause occurs under the law of any jurisdiction.
- 12.6 Any and all obligations of the Parties which either expressly or by their nature continue beyond the termination, cancellation or expiration of this Agreement shall survive termination under this Clause 12.

## 13. Post Termination

Upon the termination of this Agreement for any reason, the Licensee shall:

- 13.1 immediately cease the Stated Purposes (or, where possible, the proportion thereof which concerns the use of the Work and/or the Intellectual Property Rights subsisting therein); and



13.2 immediately cease any and all use of the Work and the Intellectual Property Rights subsisting therein.

#### 14. **Third party licensees and additional rights**

If the Licensee enters into an exclusive Label Licence in respect of the New Song as described in the Stated Purposes in Schedule 2 of this Agreement the Licensee may require the Licensor by notice in writing to grant such additional rights as are requested by the third-party licensee in order to enter into such licence, subject to the following:

14.1 the Licensee shall provide the Licensor with a copy of the terms of the Label Licence which require additional rights and the Licensor shall have an opportunity to comment on those terms prior to conclusion of the licence;

14.2 the additional rights shall be rights which are customary for that label (if a major record label) or customary within the industry (if a non-major record label);

14.3 the third-party licensee shall be a bona fide arms-length record company.

#### 15. **Non-Assignment of Agreement**

Neither Party shall assign, transfer, sub-contract, or in any other manner make over to any third party the benefit and/or burden of this Agreement without the prior written consent of the other, such consent not to be unreasonably withheld.

#### 16. **Notices**

16.1 All notices under this Agreement shall be in writing and be deemed duly given if signed by the Party giving the notice or by a duly authorised officer thereof, as appropriate.

16.2 Notices shall be deemed to have been duly given:

16.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or

16.2.2 when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or

16.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

16.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid.

16.3 All notices under this Agreement shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

#### 17. **Force Majeure**

Neither Party to this Agreement shall be liable for any failure or delay in performing

their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

**18. No Waiver**

The Parties agree that no failure by either Party to enforce the performance of any provision in this Agreement shall constitute a waiver of the right to subsequently enforce that provision or any other provision of this Agreement. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

**19. Severance**

The Parties agree that, in the event that one or more of the provisions of this Agreement is found to be unlawful, invalid or otherwise unenforceable, that those provisions shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

**20. Law and Jurisdiction**

20.1 This Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

20.2 Any dispute, controversy, proceedings or claim between the Parties relating to this Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the exclusive jurisdiction of the courts of England and Wales.

**IN WITNESS WHEREOF** this Agreement has been duly executed the day and year first before written

SIGNED by

for and on behalf of Graft Beats

In the presence of

[Name and Address of Witness]

SIGNED by

[Name and Title of person signing for Licensee]

For and on behalf of [Licensee's Name]

In the presence of

[Name and Address of Witness]

## SCHEDULE 1

### **The Work**

[insert details of the subject matter to be licensed] Beat as an mp3 and wav file etc

## SCHEDULE 2

### Stated Purposes

- (1) The Licensor grants to the Licensee the right to interpolate, incorporate, and use the Work in the production of a New Song composed by the Licensee and produced by the Licensee or any bona fide third-party producer.
- (2) The Licensor grants to the Licensee the right to alter the arrangement, length, tempo, or pitch of the Work interpolated, incorporated in the **body/production** of the New Song.

[Insert details of the Licensee's project / intended use of the subject matter]

## SCHEDULE 3

**New Song Title**

**PRS for Music:**

Tune Code: [insert tune code]

International Standard Musical Work Code (ISWC Code): [insert ISWC Code]