



## **RULES OF DISPUTE RESOLUTION PROCEDURES**

### **(A) DEFINITIONS:**

The Adjudication and Arbitration Rules set out below contain a number of capitalised terms, which have the following meanings:

**Adjudication:** A voluntary procedure for resolving issues and Disputes that does not result in a binding decision on the Participant raising an issue or the Participants to the Dispute (unless they choose to enter into a separate agreement).

**Adjudicator:** A senior PPL employee making a decision on the Dispute in an Adjudication.

**Administrator:** An employee of PPL who assists in the processing of Adjudications and Arbitrations, being the initial point of contact for Participants who wish to participate in such procedures and providing the necessary administrative support to the Adjudicator or, as the case may be, Arbitration Tribunal.

**Arbitration Tribunal:** Either the sole Arbitrator (chosen from the Legal Panel) or the panel of three Arbitrators (chosen from the Legal Panel and the Industry Panel) making the Award in an Arbitration.

**Arbitrator:** A person appointed in accordance with these Rules to resolve the Dispute in an Arbitration. Such person may act alone or as part of a tribunal of three Arbitrators.

**Arbitration:** A voluntary procedure for resolving Disputes that results in an Award that is binding on the parties.

**Award:** The decision in an Arbitration.

**Chairman:** An Arbitrator from the Legal Panel, who is chosen by his (or her) fellow Arbitrators on an Arbitration Tribunal of three Arbitrators, to act as the Chairman in an Arbitration.

**Dispute:** An issue or dispute relating to the distribution of revenues collected by PPL in respect of the exploitation in the United Kingdom of the rights it controls in sound recordings.

**Industry Panel:** A panel consisting of individuals who work or have worked in the music industry and have more than ten years' experience in that industry. The members of the Industry Panel may vary from time to time and their details can be obtained from the Administrator.

**Legal Panel:** A panel consisting of lawyers with experience of the music industry and who have more than seven years' experience as a lawyer. The members of the Legal Panel may vary from time to time and their details can be obtained from the Administrator.

**Mediation:** A voluntary process, led by a Mediator, which is designed to achieve a settlement of a Dispute that is the subject of an Arbitration.

**Mediator:** A qualified mediator, who is a member of the Legal Panel and who is chosen by parties to an Arbitration to seek to facilitate through Mediation a settlement between them of a Dispute that is the subject matter of that Arbitration.

**Participant:** A person who is (or claims to be) a Record Company or Performer, as the case may be, or their successors in title.

**Performer:** A person contributing a performance to a sound recording.



**Record Company:** A person admitted to membership of PPL and whose name appears on the register to be kept under Section 352 of the Companies Act 1985 (as amended by the Companies Act 1989) or Section 113 of the Companies Act 2006 (or any statutory modification or re-enactment thereof for the time being in force) (or a person who at any material time has satisfied these conditions).

## **(B) THE ADJUDICATION RULES**

1. If one or more Participant(s) wish(es) to submit a Dispute to Adjudication, an application form must be submitted to the Administrator accompanied by a short statement (from each party) giving details of the Dispute. (The application form can be obtained from PPL.) On receipt of the application form and statement(s), the Administrator shall in his or her discretion determine whether the dispute shall be heard under this procedure. (For example, if PPL is aware that not all the relevant Participants have agreed to the submission of the Dispute it may determine that Adjudication is not appropriate.) If the Dispute is considered unsuitable, this will be communicated to the Participant(s) and the form/statement(s) will be returned.
2. If the Administrator decides that the Dispute may be suitable for Adjudication, the Administrator will pass the application form and statement(s) to an appropriate and available Adjudicator.
3. The Adjudicator will also consider, as soon as possible, the admissibility of the Dispute.
  - 3.1. If he or she considers that for any reason the Dispute is not suitable for Adjudication (whether because of the nature of the Dispute, the likely availability of evidence or otherwise), that decision will be communicated to the Participant(s) and the papers returned.
  - 3.2. If the Dispute is suitable for Adjudication, the Adjudicator will send a letter to each Participant requesting (a) the production of any documents which the Participant considers to be relevant, and (b) a written explanation of the relevance of the documents to the Dispute.
4. The Adjudicator will consider all documents submitted (and shall aim to do so within 28 days of the receipt of that documentation). If, after a reasonable period of time, no documents have been submitted by all the parties (or the party, in the case of an adjudication involving only one party) to the Dispute, then the Adjudicator may make a decision and if so, will communicate this to the parties.
5. If it appears to the Adjudicator that further documentation might exist which is relevant to the dispute, the Adjudicator will aim to ask the relevant Participant by the end of the 28 day period if such documentation exists and, if it does, for it to be supplied.
6. If no further documents are requested, the Adjudicator will aim to make a decision on the Dispute within a further 14 days. If further documents are requested, the Adjudicator will aim to make a decision within 14 days of receipt of those documents (or of notification that no such documents exist).
7. Where the Adjudicator considers it to be appropriate, the Adjudicator may seek comments from any other Participant on any documents submitted.
8. The Adjudicator will communicate his or her decision in writing to the Participant(s). If the Parties to a Dispute involving more than one Participant, have received the decision and indicate that they are willing to be bound by it, they should draw up an agreement accordingly. This agreement should be returned to the Adjudicator.



9. For the avoidance of doubt, if the Participant(s) do not agree to be bound by the decision, PPL may nevertheless apply that decision when distributing revenues to Record Companies and Performers (without prejudice to the rights of any Participant to seek to resolve the Dispute by other means, whether by way of Arbitration or otherwise).

10. For the avoidance of doubt, PPL shall be responsible for the costs and expenses of the Adjudicator. Each party to an Adjudication, to the extent that they incur (or have incurred) any legal or other costs, shall be responsible for those costs.

### **(C) THE ARBITRATION RULES**

1. If Participants (and PPL, in the case of a Dispute involving PPL) wish to submit a Dispute to Arbitration, the Participants (and, as the case may be, PPL) must submit a joint application form (in the form set out in Schedule B of this document) to the Administrator accompanied by a short statement from each party giving details of the Dispute. The joint application form can be obtained from PPL Member Services. For the avoidance of doubt, Participants (and, as the case may be, PPL) can agree to have a Dispute resolved by Arbitration even if not all the Participants (and, as the case may be, PPL) affected by a Dispute have agreed that course. In every case, however, an Award is binding only on those Participants (and, as the case may be, PPL) who have agreed to be parties to the Arbitration (“the parties”).

#### **Appointment**

2. The parties, in their joint application, should specify whether they wish to have the Dispute heard by a single Arbitrator, or a panel of three Arbitrators. The payment of the costs of the Arbitration Tribunal is addressed in Rules 18 to 23 below. The parties’ attention is particularly drawn to the possible cost consequences set out in those Rules of a decision to appoint an Arbitration Tribunal consisting of three Arbitrators. The parties should consider, before deciding to appoint such an Arbitration Tribunal, whether it would not be sufficient (having regard to the nature of the Dispute) to have it resolved by a sole Arbitrator.

3. If the parties wish to appoint a single Arbitrator, the Arbitrator will be drawn from the Legal Panel. Further:

3.1. The parties may agree (within their joint application) to appoint a particular member of the Legal Panel to be the Arbitrator.<sup>1</sup>

3.2. Alternatively, in the absence of agreement (which absence of agreement should be indicated in the joint application) or if the agreed member of the Legal Panel is unable to act as the Arbitrator for that Dispute, the Administrator will appoint the Arbitrator on a rotation basis (that is to say, by appointing the Legal Panel member who appears in the list of such members immediately after the Legal Panel member last appointed by the Administrator) subject to the inability or lack of availability of that member to act in relation to the particular Dispute (in which case the member next appearing in the list will be appointed). The Administrator will aim to make this appointment within 14 days of receipt of the joint application.

4. If the parties all agree to appoint an Arbitration Tribunal consisting of three Arbitrators, each party will name, within their joint application, an Arbitrator, either from the Legal Panel or the Industry Panel<sup>2</sup>. Those Arbitrators will appoint a member of the Legal Panel to sit as Chairman. If the member of the Legal Panel or the Industry Panel chosen by any party is unable or unavailable to act in relation



to that particular Dispute, that party will be invited by the Administrator to make a further selection or to accept the next available Arbitrator.

5. All Arbitrators must be, and remain, impartial and independent of all parties to the Arbitration at all times.

6. If, for any reason, the appointment of an Arbitrator is challenged by a party to the Arbitration, or an Arbitrator becomes unable to act or refuses to act, a replacement shall be appointed in the same manner as in the original appointment.

### **Procedure**

7. The Arbitrator (or, where the Arbitration Tribunal consists of three Arbitrators, the Chairman) shall determine all procedural and evidential matters with a view to achieving for the parties a just and expeditious resolution of the Dispute. These matters include:

7.1. The procedure for submitting written statements of case by the parties (and the order of that submission);

7.2. Any application to amend a statement of case (and any matters arising from such amendment);

7.3. Any application to join the Arbitration;

7.4. The procedure for the production and inspection of documents (or property);<sup>3</sup>

7.5. The procedure for submitting other material, including whether to apply strict rules of evidence and the necessity (or otherwise) for any expert evidence;

7.6. Whether the Dispute should be dealt with on the papers, or whether there should be a hearing; and

7.7. Whether the parties should be given time to take all reasonable steps available to them with a view to resolving their Dispute by agreement, including through the process of Mediation. (For the avoidance of doubt, the Arbitrator/Chairman does not have the power to compel any party to participate in any Mediation).

8. As soon as practicable after his/her appointment, the Arbitrator/Chairman shall arrange a meeting with the parties and/or their representatives to determine the procedure to be followed. Such meeting shall usually take place in London. For the avoidance of doubt, the Arbitrator/Chairman may, at his or her sole discretion, allow for the meeting to take place by way of a telephone conference call or via other electronic means.

9. The Arbitrator/Chairman may set time limits within which the various procedural steps should be completed (subject always to the discretion of the Arbitrator/Chairman to extend any time limit).

10. In the event of default by any party under any procedural order or direction, the Arbitrator/Chairman shall have the power to debar a party from further participation, and/or to proceed with the Arbitration and deliver the Award, and/or to make any other order as he/she sees fit (save that, if the default occurs during a hearing before an Arbitration Tribunal of three Arbitrators, the decision will be made by all (or the majority) of them).

11. Parties may be represented by a barrister or a solicitor or any other individual of their choice.

### **Burden of proof**



12. The Arbitration Tribunal shall decide the issues raised by the Dispute on the balance of probability.

### **Award**

13. The Arbitration Tribunal shall make an Award in writing and state the reasons for the decision. The Award shall be dated and signed by the Arbitration Tribunal.

14. Where the Arbitration Tribunal consists of three Arbitrators and they fail to agree, they shall decide by a majority.

15. The Award shall be final and binding on the parties as from the date it is made.

### **Mediation**

16. Provided that prior written notice is provided to the Arbitrator/Chairman, at any point during the Arbitration the parties to an Arbitration may by agreement ask a Mediator (who is chosen by agreement between them and who is not one of the Arbitrators to their Arbitration) to mediate part or all of the Dispute that is the subject of the Arbitration between them. If the Mediator accepts this request the terms upon which any such Mediation is conducted will be a matter for determination by the Mediator in conjunction with the parties to the Mediation. In the first instance but subject to Rule 21 below, the administrative costs of any such Mediation (including the cost of any venue for the Mediation and the fees and reasonable expenses of the Mediator) will, in the absence of contrary agreement between the parties and the Mediator, be borne equally by each of the parties to the Mediation, and (also in the absence of contrary agreement) each party to the Mediation shall bear its own costs (whether of attendance, representation or otherwise). For the avoidance of doubt, PPL shall not be responsible for any fees or costs whether of the Mediator, the Mediation, or the parties (save to the extent that it is a party to the Mediation and has agreed to be so responsible).

### **Confidentiality**

17. All aspects of the Arbitration (including any Mediation) shall be confidential save as required by law or to enforce the Award or if the parties otherwise agree in writing, save that PPL (if it is not a party) shall be informed of the Award (and the reasons for it) insofar as the Award is relevant to PPL's operations and save as provided for in Rule 1 above and Rules 18 to 23 below.

### **Costs**

18. Where PPL is not a party to the Arbitration,<sup>4</sup> then at its sole discretion PPL will consider whether to pay the following costs of the Arbitration:

18.1. The cost of the venue at which any meeting as specified under Rule 8 takes place (and the necessary administration expenses for the holding of such a meeting).

18.2. The cost of the venue at which any full hearing takes place (and the necessary administration expenses for the holding of such a full hearing).

18.3. Where the parties have chosen a sole Arbitrator, the fees and any other reasonable costs of that Arbitrator.

18.4. Where parties have chosen an Arbitration Tribunal consisting of three Arbitrators rather than a sole Arbitrator, only the fees and other reasonable costs of the Chairman, save that where PPL at its absolute discretion considers that it is reasonable for the parties to have agreed to have the Dispute



resolved by more than a sole Arbitrator, PPL shall also pay the fees and other reasonable costs of the other two Arbitrators.

19. PPL will seek to inform the Arbitration Tribunal and the parties as early as possible during the Arbitration process how it intends to exercise its discretion under Rule 18. PPL will base its decision upon its knowledge of the Dispute from the contents of the documents referred to in Rule 1 above or otherwise, and upon representations made by or on behalf of the parties (which PPL will seek before making a decision in this respect). PPL shall be entitled to reconsider the exercise of its discretion when a party is joined to the Arbitration or a party's statement of case is amended.

20. All parties to the Arbitration should note that, where PPL decides to be responsible for certain costs under Rule 18, in cases where a party conducts itself unreasonably that party may be required to reimburse PPL for such costs if so ordered by the Arbitration Tribunal (as set out in Rule 21 below).

21. The Arbitration Tribunal shall have the power at any time before or after the Award to make such order for costs (if any) as seems appropriate having regard to all the circumstances of the case (such as, in particular, the reasonableness or otherwise of the parties' conduct in relation to the Dispute and to the Arbitration process), including: an order for the reimbursement to PPL of costs paid by PPL pursuant to Rules 18 and 19 above; and orders relating to the parties' legal and other costs in the Arbitration and in any Mediation which may have taken place and an order for the payment of any costs and reasonable expenses of the Arbitrator(s) where the parties appoint the Arbitrator(s) but subsequently settle the Dispute by Mediation or otherwise.

22. Where PPL is a party to the Arbitration or where PPL is not a party and has decided pursuant to Rule 18 above not to pay some or all of the costs of the Arbitration (for example, pursuant to Rule 18., not to pay the fees and other costs of all of the Arbitrators), the Arbitration Tribunal has the power to make appropriate orders during the course of the Arbitration process with a view to ensuring the due payment of those fees and costs. For the avoidance of doubt, where PPL is not a party to the Arbitration, PPL shall not be responsible for any costs that it has not expressly agreed to pay pursuant to Rules 18 and 19.

23. Where a party to the Arbitration is subject to a costs order in favour of PPL, the amount ordered to be paid to PPL shall, at PPL's discretion and without prejudice to its other rights and remedies, be treated as an Overpayment under the Distribution Rules. PPL therefore shall be at liberty to recover such sum in whole or in part (to the extent that payment has not been received from that party) by way of making deductions from future distributions to that party.

### **Recourse to Court**

24. The parties shall have recourse to the Courts only as far as is provided for under the Arbitration Act 1996.

### **Governing law**

25. These rules and any Arbitration pursuant to these rules shall be governed by English law. The seat of the Arbitration shall be England.

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<sup>1</sup> Parties should check with their intended choice of Arbitrator that they are able to accept the appointment.

<sup>2</sup> In the case of a Dispute in which there is more than one claimant (or respondent), the claimants (or, as the case may be, respondents) shall jointly nominate an Arbitrator.



<sup>3</sup> The Arbitrator/Chairman has the right (at the request of any party) to seek from PPL, if it is not a party to the Dispute, any relevant, and easily ascertainable, documentation relevant to the Dispute held by PPL.

<sup>4</sup> Where PPL is a party to the Arbitration, other parties may not perceive the Arbitration Tribunal to be impartial if one or more of the Arbitrators is paid by PPL. As PPL wishes the Arbitration to be seen to be fair (as well as being fair), it is inappropriate for PPL to undertake to pay any costs of the arbitration in such circumstances (subject to any order for costs being made by the Arbitrator).

### **SCHEDULE A**

Application Form for Adjudication

[Please contact PPL Member Services for this form]

### **SCHEDULE B**

Joint Application Form for Arbitration

[Please contact PPL Member Services for this form]

### **SCHEDULE C**

Arbitration Agreement

[Please contact PPL Member Services for this agreement]