



*Revitalizing Royalty Management*

## COPYRIGHT LICENSING OFFICER CONTRACT

**THIS EMPLOYMENT CONTRACT** is made this **2<sup>nd</sup> September 2024** at Nairobi, in the Republic of Kenya

### BETWEEN

**PERFORMING AND AUDIO-VISUAL RIGHTS SOCIETY OF KENYA (PAVRISK)**, a Company Limited by guarantee incorporated in Kenya, whose headquarters are at Starwood Suites, Place 1, {A8} 3<sup>rd</sup> Floor, Argwins Khodhek Road, Nairobi of P.O. Box 100838 - 00101 Nairobi, within the Republic of Kenya (Hereinafter referred to as "Company") on the one hand;

### AND

**NAME** [ \_\_\_\_\_ ] of ID NO [ \_\_\_\_\_ ] and P.O Box [ \_\_\_\_\_ ] within the Republic of Kenya (Hereinafter referred to as "**Copyright Licensing Officer**") on the other hand.

**NAME OF REGION** [ \_\_\_\_\_ ]

Together hereinafter referred to as the "Parties".

### WHEREAS:

- a) PAVRISK is licensed to collect and distribute royalties for communication to the public and broadcasting of protected works of music and audio-visual works on behalf of the respective rights holders under certificate of registration number KE 001, issued by the Kenya Copyright Board (KECOBO).
- b) PAVRISK license covers communication to the public of Sound Recordings, Audio Visual Works and Musical Works.
- c) The company is desirous to engage the services of the Copyright Licensing Officer for purposes of collecting revenues accruing from the communication to the public sector on behalf of the rightsholders pursuant to terms and conditions herein set out.
- d) The Copyright Licensing Officer carries out the work of collecting revenues and has the necessary technical expertise and sufficient experience and is ready, willing, and able to carry out the services required by the Company;
- e) The Company has agreed to appoint the Copyright Licensing Officer to carry out the aforesaid services and the Copyright Licensing Officer has agreed to be so appointed in consideration of the fees set out herein and upon the following terms and conditions.

### **NOW THIS AGREEMENT WITNESSETH:**

#### **1.0 EFFECTIVE DATE AND DURATION**

This contract shall be effective on 2<sup>nd</sup> September 2024. (hereinafter referred to as "the commencement date") and the

agreement will be for a duration of **TWELVE (12) MONTHS** unless terminated pursuant to clause 10 of this contract.

## **2.0 THE SERVICE**

- 2.1 The Copyright Licensing Officer shall issue to users of musical works, sound recordings, and audio-visual works invoices, receipts, and licenses that shall bear the Company's logos as provided by the Company's Secretariat. All invoices, receipts and licenses issued by the Copyright Licensing Officer shall be strictly provided by the Company's Secretariat, and or shall be generated vide the Company's approved digital licensing system.
- 2.2 The Copyright Licensing Officer shall report directly to the Company's Business Development Manager that they will be working under.
- 2.3 The Copyright Licensing Officer shall ensure the maintenance of a proper and efficient management system to store all databases and information required under this Contract.
- 2.4 The Copyright Licensing Officer shall ensure that no communication shall be disseminated to the users or general public unless it has first been approved by the Company's Secretariat and an official sign-off by either of the Company's Business Development Managers has been obtained.
- 2.5 The Copyright Licensing Officer shall endeavor to ensure that awareness and sensitization is undertaken through his/her interactions with the users and participation in the larger Company's awareness activities.
- 2.6 The Copyright Licensing Officer shall comply with all the Company's policies and relevant laws and regulations of Kenya.

## **3.0 TERMS OF COLLECTION AND FEES**

- 3.1 The Parties hereby agree that any monies collected from the 'communication to the public sector' and under this Contract shall be paid to a bank account that has been prescribed by the Company herein below.

Account Name	:	Performing and Audio Visual Rights Society (PAVRISK)
Bank	:	Kenya Commercial Bank (KCB)
Account Number	:	1327020157
Bank Code	:	01
Branch	:	Prestige Plaza Ngong Road
Branch Code	:	01259
Swift Code	:	KCB LKENX
Mpesa Paybill No	:	4136329
- 3.2 The modes of payment that are acceptable are MPESA-PAYBILL, Cheque payments and Electronic Funds Transfer (EFT) or cash deposits made directly to the bank by the users of musical works, sound recordings and audio-visual works (See Schedule for details). There shall be **NO cash** collections made to the Copyright Licensing Officer. This policy shall be strictly observed and any evidence of acceptance of Cash payment shall lead to the immediate termination of this contract.
- 3.3 The Copyright Licensing Officer shall collect from all clients including corporate clients such as banks,

supermarkets, mobile phone service providers, hospitals, the transport sector and political parties.

- 3.4 The Copyright Licensing Officer shall issue to the users annual licenses, reflecting the twelve months of the license in respect of when the invoicing or payment is made.
- 3.5 The Copyright Licensing Officer shall immediately bring to the Company's attention any incident, problem, or eventuality that he comes across in his dealing with the users via phone where urgent, however, this must be followed up by a detailed email within twelve (12) hours documenting the incident or problem that occurred and shall seek the guidance of the Company before making any commitments to the users.
- 3.6 In fulfilling his/her obligations under this Contract, the Copyright Licensing Officer shall ensure all revenues (banker's cheques, cheques, etc) collected are banked at the close of each business day.
- 3.7 It is hereby understood and agreed that refusal or failure by the Copyright Licensing Officer to remit any revenues collected without just cause or notice to the Company as provided in the clause hereinabove, or to furnish the payment data and records as agreed herein or as may be demanded by the other parties shall constitute a breach under clause 9 of this Contract.

#### 4.0 **ENFORCEMENT**

- 4.1 Before any planned enforcement exercise, the Business Development Manager (Region) from that particular region shall furnish the head office through the Office of the Head of Business Development with the following items **NO** less than two weeks before the enforcement exercise:
  - (i) Full list of non-compliant users and/or business owners;
  - (ii) Proposed budget and information to justify the same.
- 4.2 Once funds are disbursed, the Company shall expect the Copyright Licensing Officers and Regional Business Development Manager to fully comply with the Company's procedures for expenditure and accountability during the enforcement exercise.
- 4.3 Once the budget is approved and funds are disbursed, the concerned Business Development Manager (Region) shall ensure that the Company's procedures related to expenditure during an enforcement operation are adhered to, and shall further ensure that all amounts expended are accounted for in a detailed report accompanied by supporting documents to be sent to the office within **seven (7) days** of the enforcement exercise. The Business Development Manager will be **WHOLLY LIABLE** for any inadequacies emanating from the reconciliation of the enforcement exercise.

#### 5.0 **LICENSE FEE**

- 5.1 The Revenues to be charged by the Copyright Licensing Officer herein shall be determined and prescribed by the Company via a tariff structure, which must be strictly adhered to. These tariffs shall be provided by the Company, together with other materials, letters, and documentation which will facilitate the gathering of data from users and the execution of the responsibilities of the Copyright Licensing Officer under this Contract.
- 5.2 Any deviation from the prescribed tariff structure by the Copyright Licensing Officer must be approved in

writing by the Regional Business Development Manager before implementation.

5.3 Any deviation as stated in clause 4.3 which is not accompanied by approval will be subjected to disciplinary proceedings.

## 6.0 **SCOPE**

6.1 The rights given to the Copyright Licensing Officer under this Contract shall include the right to receive all payments as prescribed herein, on behalf of the Company, payable in respect of the license fees users of musical works, sound recordings and audio visual works that fall under the communication to the public stream of revenue within the allocated Region.

## 7.0 **OBLIGATIONS OF THE COPYRIGHT LICENSING OFFICER**

The Copyright Licensing Officer hereby represents and warrants that:

7.1 He/she has full capacity and authority to enter into and provide the Services under this Contract.

7.2 He/she is not a party or subject to any understanding or agreement restricting his/her ability to enter into this contract and to perform all of his/her obligations and commitments under this Contract.

7.3 The execution and delivery of the Contract and the performance by the Copyright Licensing Officer of his/her obligations herein shall not result in a breach of or constitute a default under any agreement to which the Copyright Licensing Officer is a party or by which he/she is bound or result in a breach of any order, judgment or decree of any court or government authority to which the Copyright Licensing Officer is party or by which he/she is bound.

7.4 The provisions of the Services and the Company's use thereof shall not infringe any rights of any third party.

7.5 He/she shall not permit, allow or cause any encumbrance to be created or arise over any of the Company's assets.

7.6 He/she shall discharge his/her obligations pursuant to this Contract with all due skill, care and diligence including, but not limited to, good industry practice and in accordance with the Company's established procedures.

7.7 The Services shall be performed in compliance with all applicable laws, enactments, orders, regulations and other similar instruments.

7.8 All equipment supplied by the Company and/or used in the course of the provision of the services shall operate by their technical specifications.

7.9 Uphold the image and brand of the Company.

## 8.0 **OBLIGATIONS OF THE COMPANY**

8.1 In its dealings with the Copyright Licensing Officer, the Company shall act in good faith.

8.2 The Company shall pay the Copyright Licensing Officer a total commission of fifteen percent (15%) in Nairobi region and twenty percent (20%) in all other regions based on the actual collections realized by the Copyright Licensing Officer from the assigned area or sectors of users for the month.

8.3 Additionally, there shall be a monthly allowance for Copyright Licensing Officers across all regions, amounting to Kshs. 1,000 for airtime and Kshs. 4,000 for transport. This allowance will be paid in two (2) installments: half on the 1st and the other half on the 16th of each month. The allowance will only be provided to those officers

who have demonstrated effort in collecting fees and issuing the PAVRISK License.

- 8.4 Copyright Licensing Officers who surpass the target for the month between 101% to 150% will receive an additional bonus of Kshs. 5,000 , while those who exceed 151% will receive a bonus of Kshs. 10,000.
- 8.5 Payment of commissions and bonus shall be made on a bimonthly basis upon timely completion and submission of the reconciliation of monies collected and cleared in the Company's account as per the format prescribed by the Company as well as the provision by the Copyright Licensing Officer on any supporting documentation for the said payments.
- 8.6 The Company shall pay the Copyright Licensing Officer either by cheque payments, MPESA-pay bill, and Electronic Funds Transfer (EFT) or cash deposits made directly to the bank as provided by the Copyright Licensing Officer.
- 8.7 The Company shall ensure that the Copyright Licensing officer shall have access to the Company's premises and equipment.

#### **9.0 BREACH AND TERMINATION**

- 9.1 Either party can terminate this Contract by giving one (1) months' notice in writing to the other.
- 9.2 Either party shall be in material breach of this Contract if it fails to perform its obligations to the satisfaction of the other party by invoking the provisions of this Contract and any other internal policy of the Company.
- 9.3 Upon termination of this agreement the Copyright Licensing Officer shall return to the Company all material, information, data and property, including but not limited to cheque payments received, contact information of users, reconciliations, official Company badge, and any other licensing material in their custody within three (3) days of the effective termination. The termination of this Contract shall not prejudice any right of action accrued prior to the date of termination.
- 9.4 Upon termination, in the event that the Copyright Licensing Officer cannot be traced, the Company shall contact the next of kin as indicated in Schedule 1 for any information relevant to the Copyright Licensing Officer. If the Copyright Licensing Officer cannot be traced and has retained the Company documents, then the Company has prerogative to place a notice in the paper stating that the Copyright Licensing Officer is no longer associated with the Company.
- 9.5 During the term of this agreement, and for three (3) years following the termination of this agreement, the Copyright Licensing Officer (including any office, director, shareholder, employee or representative) will not directly, or indirectly, on the Copyright Licensing Officer's own account or as an employee, consultant, partner, owner, officer, director in any way directly, knowingly, divert, solicit or interfere with any of the client or agent or hire any personnel of Company or any associated partner, or entity, and not interfere with the contractual relations of any client, agent or independent contractor earning commissions for Company and agree that any and all such knowledge gained through your relationship with Company is confidential and agree that such knowledge shall not be used for any other purpose, whether personal, business, or any other party of entity. If Copyright Licensing Officer violates this clause, the Company will have the option to terminate this

agreement or give the Copyright Licensing Officer a penalty fee decided by the Company.

9.6 Termination of this Contract shall not affect the rights, obligations and liabilities of either party in respect of any act or omission which occurred before the termination.

#### **10.0 INTELLECTUAL PROPERTY**

Any and all intellectual property created or discovered by the Copyright Licencing Officer in the course of performing duties under this Agreement shall be the sole property of the Company.

#### **11.0 CONFIDENTIALITY**

11.1 The parties hereto covenant and undertake to keep confidential and not to disclose to any other person all or any information which may have come into their possession or knowledge howsoever received or acquired by them that relates to this Contract and to ensure all their employees, servants and/or agents are bound by and observe strict compliance with this provision.

11.2 Such information shall be handled and kept with the highest degree of care.

11.3 This obligation shall survive the expiry or termination of this Contract.

#### **12.0 FORCE MAJEURE**

12.1 Subject to compliance with clause 12.2, neither party shall be liable to the other for any delay or non-performance of its obligations under this Contract arising from any cause beyond its reasonable control including, without limitation, acts of God, governmental act, war, fire, floods, explosion or civil commotion.

12.2 In the event of either party being so delayed or prevented from performing its obligations, such party shall:

12.2.1 Give notice in writing of such delay or prevention to the other party as soon as reasonable possible, stating the commencement date and extent of such delay or prevention, the cause thereof and its estimated duration;

12.2.2 Use all reasonable endeavors to mitigate the effect of such delay or prevention on the performance of its obligations under this Contract; and

12.2.3 Resume performance of its obligation as soon as reasonably possible after the removal of the cause of the delay or prevention.

12.3 In the event that such delay or prevention continues for more than thirty (30) days, either party may terminate this agreement by giving thirty (30) days' notice to the other.

#### **13.0 PERFORMANCE REVIEWS**

The Copyright Licensing Officer's performance shall be reviewed periodically, and any changes to compensation, targets, or duties will be communicated in writing following such reviews.

#### **14.0 DISPUTE RESOLUTION**

Both parties shall make every effort to resolve amicably by direct informal negotiations, any disagreement or dispute arising between them under or in connection with the agreement shall be resolved pursuant to the terms of the HR policy and any other relevant policy.



*Revitalizing Royalty Management*

#### **15.0 WAIVER**

The delay or failure by either party to exercise any of their rights in any one instance will not prevent the party from exercising their rights at that time or at any other time.

#### **16.0 AMENDMENT**

This Contract may only be amended in writing, agreed and signed by duly authorised representatives of all the parties.

#### **17.0 NOTICES**

17.1 Any such notice or other communication shall be deemed to have been duly given or made as follows:

- 17.1.1 If sent by personal delivery, upon delivery at the address of the relevant party as long as there is proof of delivery;
- 17.1.2 If sent by post, seven (7) working days after the date of posting providing that proof is given that the notice was properly addressed and duly dispatched;
- 17.1.3 If sent by facsimile when dispatched provided that there is proof of dispatch verified by a transmission report from the sender's fax machine; and
- 17.1.4 If sent by email, on the date of receipt of the mail as confirmed by the sender by the recipient's mail server

Provided that if, in accordance with the above provisions, any such notice or other communication would otherwise be deemed to be given or made outside normal working hours in the place of service of the notice or other communication it shall be deemed to be given or made at the start of normal working hours on the next working day.

#### **18.0 OWNERSHIP**

All information gathered and obtained as a result of carrying out the work by the Copyright Licensing Officer in any form in the course of the performance of this Contract shall at all times belong to the Company and the Copyright Licensing Officer shall not claim or attach any right to it whatsoever.

#### **19.0 SEVERABILITY**

If any term or provision of this Contract is held to be illegal or unenforceable, in whole or on part, under any enactment or rule of law, such term or provision or part thereof shall, to that extent, be deemed not to form part of this Contract but the enforceability of the remainder of the Contract shall be not affected.

#### **20.0 LAW AND JURISDICTION**

The construction, performance and validity of this Contract shall be governed in all respects by the laws of the Republic of Kenya

**IN WITNESS** whereof the parties have duly executed this Contract on the day and date set hereinabove.



*Revitalizing Royalty Management*

For and on behalf of:  
**PERFORMING AND AUDIO-VISUAL RIGHTS SOCIETY OF KENYA** }  
} }  
**JOSEPH K. NJAGIH** }  
**CEO – PAVRISK** }

For and on behalf of the Copyright Licensing Officer:

I, \_\_\_\_\_ do hereby accept the terms and conditions of this contract.

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

**SCHEDULE I**

**NEXT OF KIN**

Full Name : \_\_\_\_\_

ID/Passport Number : \_\_\_\_\_

Telephone Contacts : \_\_\_\_\_

Physical Location : \_\_\_\_\_

Relationship : \_\_\_\_\_