



## Welcome to SyncCloud!

*You are about to move your music into the SyncCloud and make your tracks available for the global creative community to licence. To do so, you must agree to this '**Uploader's Agreement**' upon opening your account.*

## Agreement Overview

### The tracks you upload must:

- Be 100% original
- Not include samples from other tracks
- Not be under any other exclusive agreements
- Have a written agreement between 100% of the right holders consenting to this agreement if you are **not the sole owner of all rights**.
- Be professionally recorded, produced and mastered to industry standard

### You must:

- Agree to the 'end users' licence agreements which your tracks will be licenced under.
- Pay an annual fee of £9.99 for space on SyncCloud (unless you are signing up with a coupon)
- Agree to this Agreement

### You will

- Receive 70% net of all licence fees
- Keep 100% of your rights
- Keep any backend royalties
- Move tracks in and out of SyncCloud whenever you wish with no set term

This Agreement sets out the terms under which you have agreed to deliver to SyncCloud certain musical compositions and master recordings for synchronisation and master use licensing on your behalf. Please read this Agreement carefully and make sure you understand it fully before confirming your acceptance of the terms of this Agreement by clicking the tick box below and activating your account.

## THIS AGREEMENT is by and between

- (1) **SyncCloud Ltd**, registered at 71-75 Shelton Street, Covent Garden, London, WC2H 9JQ (the internet based sync platform)(**"SyncCloud"**, **"we"**, **"us"**, **"our"**); and
- (2) **Uploader** (the individual or group uploading music content to the platform)(**"Uploader"**, **"you"**, **"your"**)

NOW IT IS HEREBY AGREED AS FOLLOWS:

## 1. DEFINITIONS AND INTERPRETATION:



1.1. **“Commercial Quality”** means professionally recorded and mastered with mastering being no less than 24 bits per second / 44.1kHz. Tracks uploaded to Portal should be digitised directly from the original master to the highest standard not being less than 24 bits per second / 44.1kHz in WAV format which are technically and commercially satisfactory for use in the Service (as determined by SyncCloud in our sole discretion);

**“Compositions”** means the musical and/or literary works written and composed by a writer embodied in Recordings.

**“Effective Date”** means the date this Agreement becomes a valid binding contract which is the date you click and accept the terms of this Agreement upon opening your account.

**“End User”** means the person(s) purchasing a Licence for their production or event(s).

**“Licence(s)”** means all synchronisation and master use licences entered into by SyncCloud in respect of the Tracks pursuant to this Agreement during the Term. SyncCloud Licences currently available are set out in Schedule 1 and are subject to change at SyncCloud’s sole discretion from time to time during the Term (including, without limitation, the right for SyncCloud to offer End Users discounts of up to twenty five percent (25%) of the synchronisation and master use fees).

**“Net Receipts”** means all income actually received by SyncCloud directly and identifiably attributable to the Tracks pursuant to Licences after deduction of any VAT or other sales taxes and any third party payment processing costs.

**“Recordings”** means the sound recordings embodying the Compositions which are delivered by you to SyncCloud during the Term for use in the Service.

**“Service”** means the service being provided by SyncCloud to you under this Agreement.

**“Site”** or **“Portal”** means the website/portal at [[www.SyncCloud.net](http://www.SyncCloud.net)]

**“Term”** means the period specified in clause 2.

**“Territory”** means the universe.

**“Tracks”** means the Recordings and the Compositions.

**“Subscription Fee”** means an annual fee, which automatically renews on an annual basis, that the Uploader will pay SyncCloud to open up an account with SyncCloud and for space on the SyncCloud Site and Portal. From time to time during the Term, SyncCloud may, in its sole discretion, offer Uploader’s discounts or free activation codes to or in connection with the Subscription Fee.

1.2. In this Agreement, unless otherwise stated, the singular shall include the plural and vice versa and reference to persons shall include corporate bodies and partnerships.

## 2. TERM:

2.1. The Term of this Agreement shall commence on the Effective Date and continues until terminated by either party in writing (email to suffice), or in the case of the Uploader, via the Portal, provided that if on the date that any such notice to terminate the Term is served we have or are about to finalise a Licence with an End User to licence the Tracks (or any of them) we will notify you of such fact and the Term will be automatically extended until the date we have finalised and collected the fee from such Licence.



- 2.2. Uploader has the right to remove Tracks from the Service/Site/Portal at any time during the Term via the takedown function in the Portal/Site. The Uploader acknowledges and agrees that the removal of all Tracks from the Service does not constitute termination of the Term.
- 2.3. All Licences entered into by SyncCloud during the Term shall remain in full force and effect regardless of any termination of the Term under this clause.

### **3. DELIVERY OF TRACKS, ACCEPTANCE AND REVIEW PROCESS:**

- 3.1. To enable SyncCloud to provide the Service under this Agreement, Uploader shall deliver to SyncCloud Tracks of Commercial Quality via the Uploader Portal and hereby grants to SyncCloud the right to upload such Tracks to the Site/Portal for the purposes set out herein.
- 3.2. Nothing herein shall oblige Uploader to deliver Tracks to SyncCloud.
- 3.3. Uploader must submit all information required by SyncCloud in respect of the Tracks in order for the Tracks to be accepted by SyncCloud for the Service and all such information must be complete, true and accurate.
- 3.4. SyncCloud has the right to review, reject the inclusion of or to remove any Track from the Site and/or Portal and/or Service for any reason whatsoever in its sole and absolute discretion at any time during the Term without providing prior notice to the Uploader (including, without limitation, whether or not a Track(s) is eligible for SyncCloud's Bespoke Licence Service).

### **4. RIGHTS GRANTED:**

- 4.1. SyncCloud (and our licensees and agents) shall be non-exclusively entitled during the Term to negotiate and grant to third parties worldwide synchronisation and master use Licences (without the need for Uploader approval, other than in connection with SyncCloud's Bespoke Licence Service, which will be subject to Uploader's prior approval (email to suffice)) for the use of the Tracks (or any part thereof) in any and all audio-visual productions (now known or hereafter invented) originating in the Territory for exploitation by any and all manner and in any and all media and formats (now known or hereafter invented) for any period of time including for the life of copyright and thereafter in perpetuity. For clarity, SyncCloud shall not and End Users shall not have the right to edit (other than any necessary and incidental edits/modifications solely for the purpose of incorporating a Track within the applicable licensed use under a Licence (including for the purpose of creating so-called "loops")), re-arrange or to remix the Tracks.
- 4.2. Uploader non-exclusively grants to SyncCloud (and our licensees and agents) during the Term any and all ancillary rights in the Tracks necessary to enable SyncCloud (and our licensees and agents) to market and promote the Tracks throughout the Territory by all manner and in all formats and media for the purposes of procuring Licences including without limitation the right to (and authorise others to) copy and reproduce the Tracks and:
  - 4.2.1. upload and store the Tracks on platforms and publicly perform, make available and communicate the Tracks to the public in all formats and media including by way of digital streaming;
  - 4.2.2. distribute copies of the Tracks in any digital or physical format (including by so-called streaming) to third parties free of charge for promotional purposes;
  - 4.2.3. allow the Tracks to be searched for, "read" and "auditioned" by potential music licensees, music supervisors, and producers; and
  - 4.2.4. use your (and, as applicable, any recording artist or writer's name), professional name, likeness, logos, artwork, biographical materials in all media solely in connection with the exploitation and promotion of the Tracks pursuant to this Agreement. Materials delivered by you (or on your behalf) shall be deemed approved.



- 4.3. Uploader irrevocably grants to SyncCloud all consents and permissions necessary to enable SyncCloud to make full use of the Tracks in accordance with this Agreement and agrees that any Tracks may be licensed by SyncCloud in accordance with the Licences.
- 4.4. Uploader irrevocably waives and undertakes not to assert or make any claim based on moral or similar rights in the Recordings and the performances and Compositions reproduced thereon (and you must prior to submission of the Tracks to SyncCloud procure that the writer and all performers and other contributors to the Tracks have granted similar waivers and agreements in writing).
- 4.5. End Users may, from time to time, request an exclusive licence for the use of certain Tracks in respect of a particular production or the use of such Tracks which are subject to the Bespoke Licence Service. In such instances we will notify you providing details of the proposed use and you will have the right to approve any such licence and the relevant terms.
- 4.6. If at any time during the Term Uploader ceases to own or control the rights necessary to enable SyncCloud to exploit any of the Tracks under this Agreement or if Uploader becomes aware of any third party legal action which Uploader believes may prejudice, inhibit or otherwise adversely affect SyncCloud's (and SyncCloud's licensees' and agents') ability to exploit the Tracks (or any of them) under this Agreement then Uploader must immediately use the takedown function in the Site/Portal to withdraw the relevant Tracks from the Service.
- 4.7. You agree to promptly execute or provide any other documents and do any further acts which we or our licensees or agents may reasonably require to confirm the terms of this Agreement or any Licence.

## **5. FEES:**

- 5.1. In consideration of the Services provided by SyncCloud under this Agreement the Uploader shall pay the Subscription Fee to SyncCloud on an annual basis. SyncCloud reserves the right to change the Subscription Fee in its sole and absolute discretion at any time during the Term. The Uploader acknowledges and agrees that SyncCloud has the right to terminate this Agreement and the Uploader's account immediately if the Uploader fails to pay the Subscription Fee.
- 5.2. SyncCloud shall be entitled to collect and receive all synchronisation and master use (ie: for events or other productions not being a so-called synchronisation use) fees arising from Licences entered into by SyncCloud pursuant to this Agreement. SyncCloud shall credit the Uploader's account a seventy per cent (70%) share of Net Receipts from Licences within thirty (30) days of SyncCloud's receipt of such fees from the End User. The Uploader shall have the right at any time during the Term, via the Portal/Site, to withdraw and request the payment of any positive balance in the Uploader's account above twenty-five pounds (£25), and the Uploader acknowledges and agrees that the Uploader must accept the terms and conditions of SyncCloud's third party payment processing partner to process any such payment.
- 5.3. If Uploader does not normally reside in the UK SyncCloud may deduct from sums due to Uploader tax and account to the taxation authorities for tax to be deducted or withheld as required by law. SyncCloud shall provide Uploader with a certificate or other evidence of any tax deduction or withholding (if available to SyncCloud) to assist Uploader in reclaiming such deduction or withholding.
- 5.4. Uploader acknowledges that the music business is a speculative business and so SyncCloud shall not be liable to Uploader for any failure to procure Licences for the Tracks.
- 5.5. Uploader must inform SyncCloud promptly of any changes to their bank account details or VAT status on written notice to the address at the head of this Agreement or by updating their details through the Uploader's profile on the Site/Portal.



## **6. WARRANTIES:**

6.1. The Uploader represents, warrants and undertakes to SyncCloud that:

- 6.1.1. it is entitled to enter into, and grant the rights granted under this Agreement;
- 6.1.2. if the Uploader is an individual, that he/she is 18 years old or over;
- 6.1.3. by entering into this Agreement, it is not, and shall not be throughout the Term, in conflict with any of its other obligations it may have to anyone else;
- 6.1.4. the exercise by SyncCloud of the rights granted under this Agreement and the exploitation of the Tracks in accordance with its terms shall not in any way infringe the rights including any moral or other analogous rights in any jurisdiction anywhere in the world of any third party and/or will in any way be unlawful;
- 6.1.5. the Track(s) is/are original and does not contain sampled material that in any way infringes the rights of any third party;
- 6.1.6. its Track(s) can be licenced by SyncCloud under the Licences listed in Schedule 1 to this Agreement and acknowledges and agrees that the Licenses are subject to change from time to time during the Term at SyncCloud's absolute and sole discretion;
- 6.1.7. they are aware of the annual Subscription Fee and is required to pay this to keep their space on the SyncCloud open;
- 6.1.8. the Uploader irrevocably waives and agrees not to assert or make any claim based on moral or similar rights in the Recordings and the Compositions (and you shall prior to delivery of the Tracks to SyncCloud procure that all writers, performers and other contributors to the Tracks have granted similar waivers and agreements in writing);
- 6.1.9. SyncCloud shall not be obliged to make any payment, fee and/or royalty in respect of the rights in the Tracks expressly granted hereunder and exploited by SyncCloud in accordance with this agreement other than those fees stated expressly to be payable under this Agreement;
- 6.1.10. it shall ensure that all Tracks and / or Track Metadata and / or Artist Materials uploaded to the SyncCloud Server shall be free of all software viruses, worms, spyware, defects, Trojan horses or malicious code or items of a destructive nature or any computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- 6.1.11. it shall not set any Tracks to have a default takedown registered with YouTube Content ID and / or any other user platform in relation to user generated content embodying all or part of such Track, and Uploader shall not and shall procure that its licensors (if any) shall not issue take down notices to any third party in respect of the properly licensed usage of Tracks hereunder;
- 6.1.12. all Tracks uploaded shall be digitised at Commercial Quality converted to the format that the platform/portal requires;
- 6.1.13. none of the Tracks delivered to SyncCloud under this Agreement contain material which is obscene, defamatory or may expose SyncCloud to civil or criminal proceedings;
- 6.1.14. the metadata supplied by the Uploader in relation to the Tracks shall be true and accurate to the best of Uploader's knowledge;
- 6.1.15. you have been advised to take independent expert legal advice in relation to this Agreement and you have either taken such advice or waived your right to do so and you have read fully and understand this Agreement;
- 6.1.16. all Recordings delivered to SyncCloud have been produced and recorded on a non-union basis. You acknowledge that we (and our licensees and agents) are not a signatory to any collective bargaining or other agreement with any union or guild. Notwithstanding the



foregoing, any fees paid to you shall be deemed to apply toward any applicable union or guild minimum dues or fees; and

- 6.1.17. Uploader shall notify SyncCloud promptly and keep SyncCloud notified of any changes in the extent of rights owned and / or controlled by Uploader in any Track(s), it being understood that SyncCloud may incur loss and damage as a result of Uploader's failure to do so.

6.2. SyncCloud represents, warrants and undertakes to the Uploader that:

- 6.2.1. We have the full right, legal capacity and authority to enter into this Agreement and to carry out the terms hereof;
- 6.2.2. We will use reasonable endeavours to obtain prompt and correct accounting to SyncCloud of all master use and synchronisation fees arising from Licences (provided that such reasonable endeavours shall not oblige SyncCloud to take legal action).

## **7. INDEMNITY:**

- 7.1. Uploader fully indemnifies and holds harmless SyncCloud and our agents, licensees and assignees (and any applicable affiliates, subsidiaries or holding companies of the same) against any and all liability costs, expenses or damages (including all legal costs on an indemnity basis) suffered by SyncCloud which results directly or indirectly from a breach of Uploader's obligations or warranties contained in this Agreement or which otherwise arises out of a third party claim which is inconsistent with Uploader's obligations or warranties contained in this Agreement.
- 7.2. In the event of any breach by Uploader of this Agreement or if SyncCloud becomes aware of any claim which is inconsistent with Uploader's warranties and obligations under this Agreement SyncCloud shall have the right to withhold from all moneys payable to Uploader under an amount commensurate with such event until liability has been determined and SyncCloud has been reimbursed in full.
- 7.3. If SyncCloud receives any claim that the Track(s) are in alleged breach of a third party copyright or other rights the claim will be passed directly to Uploader to handle at Uploader's sole cost and expense and Uploader shall use its best efforts to remove SyncCloud as a party to such claim.
- 7.4. Uploader will not hold SyncCloud responsible for any breach of a Licence by an End User. We have no control over, do not guarantee, and you will not hold SyncCloud responsible for the quality, safety or legality of any platforms or productions for which Tracks are licensed. Neither SyncCloud nor any of our subsidiaries, affiliates, officers, agents, partners, employees or any third parties connected to us shall be liable for any direct, indirect or consequential loss or damage incurred by Uploader in connection with Uploader's use of the Service provided by SyncCloud under this Agreement.

## **8. FORCE MAJEURE:**

- 8.1. Neither party shall be liable to the other for any failure to perform any of its obligations under this Agreement due to circumstances beyond its control.

## **9. CONFIDENTIALITY:**

- 9.1. The terms of this Agreement are confidential and shall be kept confidential by the parties hereto except to the extent it is necessary for either party to disclose such terms for the purposes of fulfilling their obligations under this Agreement or as required by law.

## **10. GENERAL:**





- 10.1. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 10.2. SyncCloud may freely sub-licence and assign the benefit of this Agreement in whole or in part and any or all of our rights under it. This Agreement is personal to Uploader and Uploader shall not be entitled to assign or otherwise transfer the benefit of this Agreement in whole or in part.
- 10.3. This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements and understandings between the parties. No variation of this Agreement shall be effective unless it is in writing and signed by both parties.
- 10.4. In the event that any individual provision or clause of this Agreement be adjudged void or voidable, the validity of enforceability of the remainder of the Agreement shall not be affected and shall remain in full force and effect.
- 10.5. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership, joint venture, employer-employee relationship, or agency relationship between the parties.
- 10.6. This Agreement (and any non-contractual disputes arising out of it) shall be governed and construed in accordance with English law and subject to the exclusive jurisdiction of the courts of England and Wales.
- 10.7. No failure or delay by a party to exercise any right or remedy shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.



## **SCHEDULE 1 – LICENCES**

### **Standard Licence - £9.99**

SyncCloud's Standard Licence covers the following uses:

1. internet videos;
2. corporate videos;
3. and all non-commercially distributed projects with a 5,000 copy limit for a downloaded or physical end product.

This license can be used for a single project, worldwide in perpetuity but does not cover broadcast use.

### **Premium Licence - £49.99**

SyncCloud's Premium License covers everything that the Standard Licence covers plus:

1. advertising per project on all media in a single territory (choose Premium Plus for worldwide usage);
2. use on TV, radio and cinema with a broadcast audience of up to 10 million;
3. use in apps, games and DVDs with unlimited copies of a downloaded or physical end product; and
4. industry events and theatre production and includes unlimited distribution worldwide of projects intended to generate revenue.

This license can be used for a single project, worldwide and in perpetuity. If broadcasting, SyncCloud require end user to submit a cue sheet of the music used to the PRO where the production is being broadcast.

### **Premium Plus - £399**

SyncCloud's Premium Plus Licence is the same as the Premium Licence but includes the added benefits of:

1. unlimited copies of a downloaded or physical end product;
2. unlimited broadcast audience; or
3. a theatrically released film.

If broadcasting, SyncCloud require end user to submit a cue sheet of the music used to the PRO where the production is being broadcast.

### **Bespoke Licence Service – To be negotiated by SyncCloud on a case by case basis**

SyncCloud provides qualifying Uploaders/Track(s) with a Bespoke Licence Service within the parameters of the Standard Licence, Premium Licence or Premium Plus Licence but with the associated licence fee to be negotiated by SyncCloud on a case by case basis.





## SCHEDULE 1 – LICENCES

All Licences can be used for a single project, worldwide and in perpetuity.

	Standard Licence £9.99	Premium Licence £49.99	Premium Plus £399
Internet Videos	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Corporate Videos	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Non-commercially distributed projects with a 5,000 copy limit for a downloaded or physical end product	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Advertising per project on all media in a single territory. Need world wide coverage? Choose Premium Plus. (If broadcasting, SyncCloud require end user to submit a cue sheet of the music used to the PRO where the production is being broadcast.)		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Use on TV, radio and cinema with a broadcast audience of up to 10 million (If broadcasting SyncCloud require end user to submit a cue sheet of the music used to the PRO where the production is being broadcast.)		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Use in apps, games and DVDs with unlimited copies of a downloaded or physical end product		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Industry events, theatre production and includes unlimited distribution worldwide of any project intended to generate revenue		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Unlimited copies of a downloaded or physical end product			<input checked="" type="checkbox"/>
Unlimited broadcast audience			<input checked="" type="checkbox"/>
A theatrically released film			<input checked="" type="checkbox"/>