



**NOTICE OF ELECTION TO PAY ROYALTIES AS AN ELIGIBLE  
SMALL WEBCASTER**

For All or Any Portion of Period January 1, 2005 – December 31, 2005  
*(must be filed by no later than the first date on which royalty payments are due for the relevant period)*

**I. ELECTION**

In accordance with the authority granted to SoundExchange under the Small Webcaster Settlement Act of 2002 (the "SWSA"), Pub. L. No. 107-321, 116 Stat. 2780, and pursuant to Sec. 6 of The Copyright Royalty and Distribution Reform Act of 2004, the transmission service named below hereby files with SoundExchange its notice of election to pay royalties and comply with the terms adopted pursuant to the SWSA and published in the Federal Register on December 24, 2002, 67 Fed. Reg. 78510 (the "Eligible Small Webcaster Rates and Terms") for the making of ephemeral phonorecords or digital audio transmissions of sound recordings, or both, under the statutory licenses set forth in sections 112(e) and 114(d)(2) of title 17 of the United States Code, respectively, for the period commencing on January 1, 2005, or the date of the first digital audio transmission of a sound recording under statutory license after such date, and ending on December 31, 2005.

**II. BINDING NATURE OF ELECTION**

The service acknowledges that this election to pay royalties in accordance with the Eligible Small Webcaster Rates and Terms is in lieu of any different rates and terms that may be available to such service. Upon the filing of this notice of election, and for so long as the service qualifies as an "eligible small webcaster," as such term is defined in Section 8 of the Eligible Small Webcaster Rates and Terms, the service acknowledges that it cannot opt out of these Rates and Terms in order to elect different rates arrived at by a CARP except in the limited circumstance set forth in Section 1(d) of the Eligible Small Webcaster Rates and Terms. See [http://www.soundexchange.com/Rates\\_Terms.pdf](http://www.soundexchange.com/Rates_Terms.pdf).

**III. INITIAL STATEMENT OF QUALIFICATION TO MAKE PAYMENTS  
AS ELIGIBLE SMALL WEBCASTER IN 2005.**

The service hereby states that it and its "affiliates" "gross revenues," plus "third party participation revenues" and revenues from the operation of a new subscription service, have not exceeded \$1,250,000 in any calendar year prior to 2005, and that the service expects to be an "eligible small webcaster" during 2005. "Affiliate," "gross revenues," "third party participation revenues" and "eligible small webcaster" shall have the meanings set forth in Section 8 of the Eligible Small Webcaster Rates and Terms. The

service acknowledges that the filing of this notice of election does not guarantee the service the right to pay statutory royalties under the Eligible Small Webcaster Rates and Terms if and when the service no longer qualifies as an eligible small webcaster.

**IV. DATE OF FIRST DIGITAL AUDIO TRANSMISSION UNDER STATUTORY LICENSE**

The service hereby states that the date it first made a digital audio transmission of a sound recording under the statutory license set forth in 17 U.S.C. § 114(d)(2) after December 31, 2002 is \_\_\_\_\_ (enter date).

**V. IDENTIFYING INFORMATION FOR ELIGIBLE SMALL WEBCASTER**

Please provide the requested information for each item.

1. Name of service \_\_\_\_\_

2. Mailing address \_\_\_\_\_  
\_\_\_\_\_

3. City/State/Zip \_\_\_\_\_

*Note: A post office box is acceptable only if it is the only address that can be used in that geographic location.*

4. Telephone number \_\_\_\_\_

5. Fax number \_\_\_\_\_

6. Website address of service      http:// \_\_\_\_\_

7. Contact person for questions \_\_\_\_\_

8. Telephone number for contact person \_\_\_\_\_

9. E-mail address for contact person \_\_\_\_\_

**VI. CERTIFICATION**

The undersigned hereby states, under penalty of perjury, that the information provided in this notice of election is accurate and that the undersigned is authorized to act on behalf of the service electing to pay royalties as an eligible small webcaster. The undersigned further acknowledges that he/she has reviewed the Eligible Small Webcaster Rates and Terms and that the service agrees to be bound by the same and the provisions of the statutory licenses and any applicable provisions of regulations adopted thereunder.

Officer or authorized representative of eligible small webcaster

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**VII. DELIVERY**

A completed notice of election must be delivered to the following address:  
SoundExchange, ATTN: Royalty Administration, 1330 Connecticut Avenue, N.W., Suite 330, Washington, D.C. 20036.



**NOTICE OF ELECTION  
FOR  
ELIGIBLE NONSUBSCRIPTION TRANSMISSION SERVICE  
2005 LICENSE PERIOD**

An entity operating an eligible Nonsubscription Transmission Service must elect how it shall calculate its liability during the period January 1, 2005 to December 31, 2005 (the "2005 License Period") by no later than **January 31, 2005**. Where an entity has not previously provided a nonsubscription transmission service, it may make its election by no later than thirty (30) days after the service first makes a digital audio transmission of a sound recording under the statutory license set forth in 17 U.S.C. § 114.

Each such election must be on this form. The election, once made, is fixed for the entire 2005 License Period.

An entity operating a Nonsubscription Service may pay royalties based upon the number of Performances<sup>1</sup> of sound recordings transmitted, or its Aggregate Tuning Hours.<sup>2</sup> Under governing regulations, a service that fails to make a timely election is required to pay royalties on a per Performance basis;<sup>3</sup> provided, however, if the entity previously filed a timely Notice of Election with SoundExchange to calculate royalties on a basis other than a per Performance basis for all or any portion of a period ending December 31, 2004, then such prior election shall remain in effect for the 2005 License Period unless a subsequent election is made on this Notice of Election.

Put an "X" next to the method by which you choose to calculate your royalty liability for the 2005 License Period. Please put an "X" in only one box:

**Per Performance**  **Aggregate Tuning Hours**

**[REMAINDER OF PAGE INTENTIONALLY BLANK]**

<sup>1</sup> "Performance" has the meaning set forth in 69 Fed. Reg. 5693, 5696 (Feb. 6, 2004) (to be codified at 37 C.F.R. § 262.2).

<sup>2</sup> "Aggregate Tuning Hours" has the meaning set forth in 69 Fed. Reg. at 5695-96 (to be codified at 37 C.F.R. § 262.2).

<sup>3</sup> See 69 Fed. Reg. at 5698 (to be codified at 37 C.F.R. § 262.3 (b)).

**IDENTIFYING INFORMATION FOR ENTITY OPERATING AN  
ELIGIBLE NONSUBSCRIPTION TRANSMISSION SERVICE**

Please provide the requested information for each item.

1. Name of entity/service: \_\_\_\_\_
2. Mailing address: \_\_\_\_\_  
\_\_\_\_\_
3. City/State/Zip: \_\_\_\_\_  

*Note: A post office box is acceptable only if it is the only address  
that can be used in that geographic location.*
4. Telephone number: \_\_\_\_\_
5. Fax number: \_\_\_\_\_
6. Website address of service: <http://>\_\_\_\_\_
7. Contact person for questions: \_\_\_\_\_
8. Telephone number for contact person: \_\_\_\_\_
9. E-mail address for contact person: \_\_\_\_\_

**CERTIFICATION**

The undersigned hereby states that he or she is authorized to make the election set forth above.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**DELIVERY**

A completed Notice of Election must be delivered to:

SoundExchange  
ATTN: Royalty Administration  
1330 Connecticut Avenue, N.W., Suite 330  
Washington, D.C. 20036

*SoundExchange does not acknowledge receipt of documents. If you wish to receive notice of delivery,  
please mail this form by Certified Mail, return receipt requested.*