

# Agreement for the assignment and administration of rights for producers of sound recordings

GVL ID: \_\_\_\_\_  
Contract number: \_\_\_\_\_  
(To be completed by GVL)

Between

Name/Company:

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Address:

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E-mail:

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– hereinafter referred to as “rights holder” –

and

**Gesellschaft zur Verwertung von Leistungsschutzrechten GmbH (GVL)**  
**Podbielskiallee 64, D-14195 Berlin**  
**PO Box 33 03 61, D-14173 Berlin**

– hereinafter referred to as “GVL” –

the following Agreement governing the assignment and administration of rights is hereby concluded:

## Article 1 Assignment of rights

- (1) The rights holder assigns to GVL the right to administer, on its behalf and vis-à-vis third parties, the following rights he is entitled to at present and that he may become entitled to during the term of this Agreement:
1. statutory rights to receive equitable remuneration (Section 86 UrhG, [German Copyright Act]) and/or equitable remuneration in respect of
    - a) conventional radio and TV broadcasts of performances on published sound recordings by broadcasters (Section 78 (2) no. 1, UrhG);
    - b) retransmission of sound recordings broadcast in simultaneous, unaltered and unabridged programmes (Section 78 (2) UrhG);
    - c) communication to the public of performances recorded onto sound recordings or contained in conventional broadcasts or transmitted in accordance with Art. 1 nos. 2 - 5, or of performances based on the making available to the public (cf. Section 78 (2), nos. 2 and 3 UrhG);
    - d) direct or indirect copying of a sound or audiovisual recording onto other sound or audiovisual media for private or other personal uses (Section 54 (1) UrhG);
    - e) copying of sound recordings used in the course of conventional school broadcasts pursuant to Art. 1 nos. 2-4, if the recordings thus made are not deleted at the end of the following school term (Section 47 (2) UrhG);
    - f) copying, distribution and making available to the public of sound or audiovisual recordings of collections for religious usage purposes (Section 46 (4) UrhG);
    - g) lending of published sound recordings (Section 27 UrhG);
    - h) non-commercial copying of recordings and their distribution to the disabled, provided that this is necessary to enable them to access the sensual perception of the recordings (Section 45a (2) UrhG);
    - i) copying, distribution and making available to the public and other types of communication to the public of a sound or audiovisual recording for non-commercial purposes for teaching and instruction in educational establishments (Sections 60 a, 60 h (4) UrhG);
    - j) copying, distribution and making available to the public of a sound or audiovisual recording in collections for teaching and educational media (Sections 60 b, 60 h (4) UrhG);
    - k) copying, distribution and making available to the public of sound or audiovisual recording for the purpose of non-commercial research (Sections 60 c, 60 h (4) UrhG);
    - l) copying, distribution of copies and making available of sound or audiovisual recordings for the purposes listed in Sections 60 e, f UrhG via terminals (Sections 60 e, f, 60 h (4) UrhG);

- m) public performance of sound and audiovisual recordings permitted by law in user-generated contents in the form of caricature, parody or pastiche by a service provider according to UrhDaG, as defined in Section 5 (2) UrhDaG [Copyright Service Provider Act];
  - n) the public performance of audio and video recordings in user-generated content by a service provider presumably permitted pursuant to Section 9 UrhDaG (Sections 9-11, 12 (1) UrhDaG), without prejudice to the priority of contractually agreed licences;
  - o) use in the context of press publications (Sections 87f, 87k UrhG);
2. the right exceeding Section 86 UrhG concerning the non-interactive transmission of performances recorded onto published sound recordings or conventionally broadcast performances via IP TV or OTT, and via new transmission standards for mobile reception or in mobile networks; this shall, however, be on a non-exclusive basis;
  3. the right exceeding Section 86 UrhG concerning the non-interactive transmission of sound recordings in multi-channel services especially in a digital format (cf. Section 85 (1) UrhG); this shall, however, be on a non-exclusive basis;
  4. the right exceeding Section 86 UrhG concerning the non-interactive transmission of sound recordings via simulcasting or webcasting via internet or mobile networks; this shall, however, be on a non-exclusive basis;
  5. the non-exclusive right to make available performances recorded onto published sound recordings or conventionally broadcast in accordance with Section 1 (1), no. 1 a) via podcasting;
  6. the non-exclusive right to make available published sound recordings as background music on websites. Transmissions within closed proprietary systems (intranet) or closed private networks (intranet and/or VPN) or via mobile phone network configurations are excluded from the scope of this Agreement.
  7. the right to authorise the manufacture of single copies of sound recordings against payment (Section 85 (1) UrhG)
    - a) for the purpose of conventional radio or television transmissions by broadcasters and for the provision of copies under the conditions laid down in the valid broadcasting agreement at the time; in particular for the purpose of the first connection with an audiovisual production of a television broadcaster (in-house or commissioned productions financed entirely by the broadcaster, furthermore co-productions, provided that the television broadcaster is exclusively entitled to the broadcasting rights);
    - b) in connection with published tariffs or concluded general agreements for the purpose of public or non-public performance by the reproducer; or for the purpose of archiving except for reproductions to be included in a database; an exception thereto being if it is a database set up directly by the organiser of the public performance or the party engaged by the organiser for said event, for the purpose of public performance in accordance with Section 78 (2), nos. 2, 3 UrhG;

- c) for the purpose of non-commercial manufacture and exploitation of a film;
  - d) for the purpose of non-interactive transmissions via IP TV or OTT and via new transmission standards for mobile reception or in mobile networks in line with Article 1 (1), item 2 of this Agreement;
  - e) for the purpose of non-interactive transmission of sound recordings in multi-channel services, particularly in digital format in accordance with Article 1 (1), item 3 of this Agreement;
  - f) for the purpose of non-interactive transmission in the form of simulcasting or webcasting via the internet or mobile networks in accordance with Article 1 (1), item 4 of this Agreement;
  - g) for the purpose of podcasting in accordance with Article 1 (1), item 5 of this Agreement;
  - h) for the purpose of background music on websites in accordance with Article 1 (1), item 6 of this Agreement;
  - i) for the purpose of the use in the context of internet programmes for young people in accordance with Article 1 (1), item 10 of this Agreement;
8. as regards audiovisual recordings, which contain musical performances or excerpts thereof recorded onto a sound recording, and whose duration is no longer than 10 minutes:
- a) the right to conventional broadcasts by broadcasting enterprises (Section 94 (1) UrhG) in comprehensive and specialist TV programming (except for specialised music programmes);
  - b) the right to conventional broadcasts by broadcasting enterprises (Section 94 (1) UrhG) in specialised music programmes (which would be those programmes with a content of the relevant audiovisual recordings of over 70%);
  - c) the non-exclusive right to non-interactive transmission via IP TV or OTT in line with Art. 1 item 2 of this Agreement and via new transmission standards for mobile reception or in mobile networks;
  - d) the non-exclusive right to non-interactive transmissions in multi-channel services in accordance with Art. 1 item 3 of this Agreement;
  - e) the right to simulcast via internet or mobile networks;
  - f) the non-exclusive right to make available performances recorded onto published sound recordings or conventionally broadcast performances via podcasting in accordance with Art. 1, 1 a) of this Agreement;
  - g) for the preparation of broadcasts regarding own or commissioned productions of music performances with event character in the period of six weeks prior to the first transmission until the first transmission on the websites of the broadcasters which are responsible for organising the event,

the non-exclusive right to make available [their] performances to the public via streaming on demand, subject to the prerequisite that the respective broadcaster has signed a broadcasting licensing agreement, has fulfilled the operating conditions in line with **Annex 2**, and that only audiovisual recordings with performances of the performing artists (featured artists) which appear during the show are being used.

- h) statutory entitlements to equitable remuneration arising from the retransmission, reproduction, communication to the public, lending and the dissemination pursuant to items 1. b) to 1 o);
- i) the right of mechanical reproduction/copying corresponding with items 7. a) to 7 g) above;

plus any entitlements and claims for remuneration, whose statutory administration can only be done by a collective management organisation - without limitation to their duration;

- 9. as regards sound recordings, the non-exclusive right of reproduction and distribution via physical storage media, irrespective of its nature, reproduction and making available to the public (Section 19 a UrhG), also via internet, and via new transmission standards for mobile reception or via mobile networks, plus the rights mentioned in item 8 c) (Section 85 (1) UrhG), for specified and previously broadcast programmes of radio and TV stations in accordance with the following regulations:
  - a) For TV broadcasts, this shall apply to individual and serial film works which were produced by the TV broadcaster itself or commissioned by it for its own broadcast purposes where sound recordings merely get used to provide dramaturgic support (except for music films) as well as for all programmes which fulfil the conditions in items 3 b to c of Annex 2.
  - b) For radio broadcasts, this shall apply to radio plays which were produced by the broadcaster itself or commissioned by it for its own broadcast purposes where sound recordings merely get used to provide dramaturgic support (except for radio plays with a music related main subject) as well as for all programmes which fulfil the conditions in items 3 b to c of Annex 2
- 10. Programmes as part of internet programmes for young people ("service for young people") for the purposes of Section 33 MStV (German Interstate Broadcasting Agreement) or similar programmes of private broadcasters may be made available to the public via streaming, without the necessity to be linked to a broadcast, and be transmitted in their entirety or in parts prior or after having been made available, if the broadcasters have entered into a broadcasting licensing agreement with GVL. In the case of programmes of such internet services for young people, contents where published music recordings are used as background music can be placed into such on demand services without a broadcast being a requirement.
- 11. the right to make claims in cases of omission, loss or damages in case of infringement of the rights transferred in accordance with item 2 and 10 in and out of court;
- 12. the neighbouring rights transferred to the performing artists or exploitation rights assigned to the rights holder as previously defined in items 1 to 10, in particular the broadcasting right including the right to broadcast the performance of published sound recordings which will later be connected with a film work (Section 78 (1) no. 2 UrhG);

13. authors' usage rights assigned to the rights holder as previously defined in items 8 and 10 above;
  14. the right to information pursuant to Section 19 UrhDaG on a non-exclusive basis.
- (2) The rights holder may assign the right to anyone to issue a non-commercial licence for the exploitation of his recordings or to use them for non-commercial purposes himself. The provisions in the respective current version published separately shall apply in particular.

### Article 1a Definitions

- (1) For the purpose of this Agreement, database shall mean a collection of musical sound recordings arranged in a methodical or systematic way and accessible with the help of electronic or other means and whose set-up requires a substantial investment.
- (2) IP TV shall mean the transmission via broadband multimedia services based on an internet protocol (IP). IP TV for the purpose of this Agreement shall exclusively be the non-interactive electronic transmission of such services in IP based electronic networks outside the internet (world wide web).
- (3) OTT (over-the-top) within the meaning of this Agreement is the non-interactive, electronic transmission of video and audio content via the internet if the operator of the retransmission service provides access to the programme exclusively to authorised users in a secure environment.
- (4) New transmission standards for mobile reception shall mean those which enable the non-interactive transmission of programme signals via satellite or terrestrial signals to mobile end user devices (e.g. DVB-H).
- (5) Mobile network services shall mean the transmission channels used for public mobile telephony (e.g. UMTS) as long as they are exclusively used for the non-interactive transmission of programme signals.
- (6) Multi-channel services for the purpose of this Agreement shall mean services in which sound or audio-visual recordings are transmitted via at least two parallel channels by wire or wireless means without substantial editorial contribution and without interactive elements, - especially via satellite or cable - with the exception of internet transmissions. The user must not have any influence on the specific design of the particular programme he receives.
- (7) Simulcasting shall mean the non-interactive, simultaneous, unaltered transmission not intended for permanent storage ("streaming") of a conventional terrestrial broadcast via commonly accessible pages on the internet (world wide web) or via mobile networks, provided that the criteria specified in Annex 4 of this Agreement have been met.
- (8) Webcasting for the purpose of this Agreement shall mean the non-interactive and not permanently storable transmission of sound recordings via commonly accessible pages on the internet (world wide web) or commonly accessible mobile network services on one or more channels, as long as the primary purpose of the service is not to sell, advertise or promote particular products or services other than sound recordings, live concerts or other music-related events, and provided that the criteria specified in Annex 1 of this Agreement have been fulfilled.
- (9) Podcasting for the purpose of this Agreement shall mean the making available to the public of a conventional broadcast already legitimately used for broadcasting or making available within 30 days of the intended conventional broadcast for the non-permanent ("streaming") or permanent ("download") storage via commonly accessible pages on the internet (world wide web including any specially designed applications (apps)) or

publicly accessible mobile network services through the broadcaster, provided that the criteria specified in Annex 2 of this Agreement have been met. Instead of making a conventional broadcast publicly available as early as 30 days prior to the planned conventional broadcast, a rights holder may alternatively extend this assignment to GVL to 3 months prior to the planned conventional broadcast.

- (10) Background Music on Websites for the purpose of this Agreement shall mean the making available to the public of sound recordings as background music on sites accessible to a user of the Internet (world wide web) provided that
- it is a non-interactive, unaltered transmission of sound recordings (“streaming”) by means of or via the computer of a user, and it excludes any reproductions of the transmitted sound recordings by the user and
  - it meets the criteria set out in the operating conditions for background music on websites (see Annex 3).
- (11) Service providers pursuant to UrhDaG within the meaning of this Agreement are service providers which, pursuant to Section 2 UrhDaG, store and make available to the public a large amount of copyrighted content uploaded by third parties, with the exception of services not covered under Section 3 UrhDaG.

## Article 2 Limitations of the rights assignment

- (1) The assignment of rights under Art. 1 above shall take effect only for the purpose of administration within the Federal Republic of Germany.
- (2) This limitation shall not be applicable to agreements concluded with foreign retransmission companies, and provided that GVL grants rights in respect of territories outside the Federal Republic of Germany in agreements concluded with broadcasting enterprises and radio advertising companies of the Federal Republic of Germany. This limitation shall also not be applicable provided that agreements are concluded with foreign collecting societies concerning mutual administration of related rights of performing artists and/or producers of sound recordings.
- (3) If the rights holder has assigned rights to GVL for certain countries, the prevalent national rules and regulations which comply with the rights pursuant to Article 1 shall be applicable. On behalf of rights holders who have assigned their rights for administration outside Germany to GVL, GVL shall also be entitled to claim for the remuneration entitlements with its foreign sister societies and also to receive such remuneration calculated by foreign sister societies from them, relating to rights outside the scope of this Agreement or for periods prior to the conclusion of this Agreement. Remuneration entitlements claimed by GVL from its foreign sister societies within the framework of its existing representation agreements are based on the registered rights ownership; in such cases, GVL may also rely on already saved and processed data.
- (4) The assignment of rights pursuant to Article 1 shall not include the usage for advertising purposes.
- (5) The rights holder reserves the right to exercise the powers provided for in broadcasting agreements to exclude the reproduction of sound and/or audio-visual recordings if the artists involved so wish and where applicable, the powers provided in licensing agreements to exclude the making available of specific sound and/or audio-visual recordings. The rights holder also reserves the right to exclude sound and/or audio-visual recordings from any sort of reproduction if any of the artists involved has not given his consent to such an exploitation. The rights holder is obliged to inform GVL about such reservations in “text form” [in writing, electronic notifications are permitted]. The assignment of rights in this Agreement does not include the right to license background music on websites according to Article 1 item 6, as well as webcasting or podcasting

services subject to Article 1 items 4, 5, 8 f and g as well as item 9 of this Agreement, which do not comply with the criteria listed in Annexes 1, 2 and 3 of this Agreement. Moreover, rights for the use of sound recordings as so-called “ringback tones” are not included either (so-called “ringback tones”).

- (6) In cases where GVL has not yet concluded general agreements or not yet established a tariff, it needs to obtain prior approval of the rights holder in each individual case.

### **Article 3 Duties of the rights holder**

- (1) The rights holder shall be obliged at all times to provide GVL with the necessary details in order to determine and manage his rights and claims, and to submit evidence; furthermore, to submit the necessary details for establishing and executing the distribution regulations and to supply the required documentation. GVL shall also be entitled to acquire necessary information directly.
- (2) The registration deadlines in the distribution regulations and any expressly communicated deadlines shall be cut-off deadlines for establishing remuneration entitlements. Pursuant to Section 30 VGG [Act on Collective Management Organisations], collections arising from rights shall be considered as non-distributable if the identity or whereabouts of the rights holder could not be established within three years after the financial year has lapsed where the remuneration was collected for the relevant rights and if the collective management organisation had undertaken the necessary steps pursuant to Section 29 VGG.
- (3) The rights holder shall inform GVL of his bank details and personal data (name, address, e-mail) and shall keep GVL informed of any changes to his details. In order to facilitate a payout at a later date, this obligation shall continue up to five years after the agreement has been terminated. GVL shall not be liable for misdirected transfers based on incorrect details. The rights holder shall be obliged to return any overpayments which result from incorrect, incomplete or unclear details to GVL.
- (4) The rights holder shall be obliged to inform GVL without delay about any changes to his residence or the registered office address or any changes to the company.
- (5) The rights holder is also obliged to identify or mark repertoire relating to sound recordings if it has not had its first or simultaneous publication in a signatory country of the Rome Convention. For such recordings, other evidence for protection criteria pursuant to the Copyright Act, Rome Convention or WPPT must be provided upon request.
- (6) Provided that the GVL online portal for eligible producers on the website [www.gvl.de](http://www.gvl.de) “label.gvl” is used for the fulfilment of the above mentioned obligations of the rights holder, the terms (and conditions) of use for the GVL online portal shall apply.

### **Article 4 Assignment of rights holders' entitlements, legal succession and authorisations**

- (1) Rights holders' entitlements vis-à-vis GVL may only be assigned to third parties subject to GVL's approval. GVL may make its approval subject to an assignment to payment of an administration fee.
- (2) In case of the death of a rights holder the rights administration agreement shall be continued with their legal successor or legal successors. If there are several legal successors, they must exercise their rights vis-à-vis GVL via a joint authorised representative. GVL is not obliged to make any payouts until a joint authorised representative has been appointed. In all other respects, the general statutory provisions shall apply.



- (3) The rights holder may only appoint one authorised party for the management of his rights vis-à-vis GVL. By appointing another authorised party, the rights holder revokes the previously granted authorisation vis-à-vis GVL without any further action. The authorisation [power of attorney] with the most recent date.

#### **Article 5 Duration of the rights assignments**

- (1) This Agreement shall commence with the day of conclusion and shall be valid retroactively for the distribution years for which the registration deadline has not lapsed yet.
- (2) This Agreement may be terminated by giving 6 months' notice per 31st December of any year. It is also possible to withdraw individual rights from GVL. The withdrawal of rights may extend to individual protected usage types or territories and must be clearly specified to GVL. Right from the beginning of this Agreement, a three months' notice may be given per the end of any semester in a calendar year, as well as pursuant to Article 1 items 8 a) to g), 9 and 10, including the respective reproduction rights in items 7 and 8 i). If the termination is made in order to have the rights covered by this Agreement administered by another collecting society, this Agreement may be terminated by giving 3 months' notice per 31st December of any year. The partial or complete termination of this Agreement must be made in "text form" [in writing, electronic notifications are permitted]. The date of receipt by GVL shall determine the beginning of the notice period.
- (3) Should the agreements entered into by GVL with users continue to be valid beyond the termination of this Agreement, then this Agreement shall be extended accordingly with respect to the relevant assignment of rights. This shall not apply for the termination options provided in the preceding paragraph 2, third clause, with the exception of items 7 a) and b) including the respective reproduction rights.
- (4) Once this Agreement has been terminated or rights have been withdrawn from it, the rights shall revert to the rights holder at the points in time set out in paragraph three without any explicit assignment.

#### **Article 6 Distribution**

- (1) The following provisions shall apply with regards to distribution purposes:
- a) Licence fees collected by GVL for the use of sound recordings shall be divided equally between record companies and performing artists.
  - b) Licence fees collected by GVL for the use of music video clips shall be divided equally between record companies and performing artists after a pre-allocation of 60% to the record companies.
  - c) Licence fees collected by GVL for the lending of movies shall be divided equally between performing artists and record companies after a pre-allocation of 40 % to the performing artists.
  - d) Licence fees collected by GVL for retransmission of artistic performances not covered by a) or b) above, shall be allocated to performing artists. This shall also apply to rental income, income from Section 79a UrhG and revenues from direct remuneration rights for performing artists pursuant to Section 4 UrhDaG.
- (2) In the event that the distribution for a specific distribution period should turn out to be systematically faulty in its entirety or in parts, specifically in cases where this is due to the invalidity of a provision of the underlying

distribution regulations (including their Annexes), and if a complete reversal and rerun of the distribution is not possible or only feasible at disproportionate costs,

- a) the level of the entitlements arising from the faulty distribution can be estimated if a precise calculation is not possible or only at disproportionate costs,
- b) the entitlements of those adversely affected by the faulty distribution may be satisfied from current and future collections,
- c) reclaim entitlements by the society may be offset against future payment entitlements
- d) or, instead of these amounts being offset, reclaim entitlements by the society may be waived in their entirety or in part.

When selecting from these measures, the aim is to consider that the relevant entitlements are being fulfilled as completely as possible, and to observe the requirement of proportionality. The principle of equality shall be observed and cases of hardship must be taken into consideration.

#### **Article 7 Integration of the Articles of Association, the Distribution Regulations and contract modifications**

- (1) GVL's Articles of Association and Distribution Regulations in their respective version as amended shall form integral parts of this Agreement.
- (2) Future changes to this Agreement passed by the Associate and Delegates' Assembly, for example with respect to new rights or usage types shall become an integral part of this Agreement provided they were communicated to the rights holder in "text form" [in writing, electronic notifications are permitted] and if he has agreed to them. Approval by a rights holder shall be deemed given when the rights holder does not explicitly contest the assignment within 6 weeks from dispatch of the announcement; the rights holder shall be made aware of this legal consequence in the relevant communication.

#### **Article 8 Miscellaneous**

- (1) Personal details of the rights holder shall be electronically saved, processed and passed on within the scope of the intended use of the contractual relationship for the purpose of establishing, executing and terminating this Agreement governing the assignment and administration of rights as well as for later payments and for the compliance with statutory retention periods even after the contractual relationship has been terminated. This shall comprise the making available of data in the remit of international databases which are used jointly with foreign sister societies. Data protection information regarding this Agreement governing the assignment and administration of rights within the meaning of Section 12, 13 DSGVO [GDPR] are published at <https://www.gvl.de/en/data-protection-statement>.
- (2) The rights holder confirms that he has received information on his rights prior to the conclusion of this Agreement for the assignment and administration of rights and that GVL has fulfilled its obligation to provide information pursuant to Section 53 VGG prior to consenting to his rights being managed.
- (3) Regarding matters relating to Article 12.2 b) to e) of the Articles of Association, the rights holder may lodge an appeal with the complaints committee. The complaints committee can only be appealed to within four weeks from the receipt of the decision in dispute. If a party entitled to an appeal has missed the deadline

through no fault of their own, they have the right to be reinstated into their status quo ante upon application. The application must be filed within a two-week deadline once the hindrance has been removed. It is not possible to appeal for reinstatement into a status quo ante once a year has lapsed counted from the end of the missed deadline. Legal action cannot be taken until the complaints committee has made a decision or once six months have passed since the appeal. Further details can be determined in the procedural rules of the complaints committee.

(4) Place of performance and jurisdiction shall be the registered office of GVL.

\_\_\_\_\_  
Place, date  
Rights holder

Berlin, \_\_\_\_\_  
Gesellschaft zur Verwertung  
von Leistungsschutzrechten mbH (GVL)

\_\_\_\_\_  
Stamp and signature of the sound recording producer

\_\_\_\_\_  
Guido Evers  
Managing Director      Dr. Tilo Gerlach  
Managing Director

## Annex 1

### OPERATING CONDITIONS WEBCASTING

A webcaster must fulfil the following operating conditions in order to obtain a webcasting licence in compliance with the agreement for the assignment and administration of rights.

#### 1. No previews

The webcaster may not publish or arrange the publication of any previews or other kinds of announcements revealing the titles of the individual music recordings or the titles of the album including such music recordings featuring as part of the programme. Names of performing artists being played in the programme may not be mentioned except for illustrative purposes. This does not exclude the webcaster from making an announcement that an artist features in the programme in an unspecified timeframe.

#### 2. Music programme

Broadcasts by the webcaster may not include the following within three hour-segments of his programme:

- a) more than three different titles from a specific album; no more than two of which may be in consecutive order; or
- b) more than four different titles by a specific artist or a compilation of music titles; no more than three of which may be in consecutive order.

#### 3. Pre-recorded programmes and broadcast loops

The transmission may not be part of

- a) a pre-recorded programme of less than five hours; or
- b) a pre-recorded programme of five or more hours which is being transmitted for a period of more than two weeks; or
- c) a broadcast loop of less than three hours.

#### 4. Programme repetition

The transmission may not be part of a programme that can be identified as one that plays music recordings in a predetermined order (except in pre-recorded programmes and broadcast loops) if this programme is transmitted:

- a) more than three times within a previously publicly announced period of two weeks, as long as it is a programme lasting less than an hour; or

- b) more than four times within a previously publicly announced period of two weeks, as long as it is a programme lasting an hour or more.

#### **5. Prohibition of use for advertising and dubbing purposes**

The webcaster may not transmit music recordings as such or as part of a service offering the transmission of images or films in a manner that is suitable to create the false impression of a connection between the owner of the copyright and/or related rights with the webcaster or a specific product or service that the webcaster is advertising for. Furthermore, the webcaster may not create the impression that his activities over and above the transmission for music recordings itself are sponsored by the owner of the copyright and/or related rights (incl. the performing artist).

#### **6. Prevention of programme scans and recordings**

In the case of consecutive music recordings being used for his programme, the webcaster must either talk over them or cross-fade them. Should this not be possible in an individual case, the interval between two transmitted music recordings must not exceed 0.25 seconds. Unless it entails disproportionate costs, the webcaster must use effective technical measures, widely available on the market, which are targeted at preventing that:

- a) the person receiving a transmission or any other person can automatically scan the webcaster's programme itself or together with the transmissions by other webcasters in order to filter out specific music recordings from the programmes; and
- b) the person receiving a transmission can create copies of the music recordings (except thereof are transient copies made for technical reasons).

#### **7. Support of technical measures**

The webcaster shall accommodate and not interfere with technical measures that are used by sound recording producers to identify or protect their music recordings, provided that these technical measures can be transmitted by the webcaster without substantial costs and without any perceptible aural or visual degradation of the digital signal.

#### **8. Providing information for rights management purposes**

- a) The webcaster shall provide information on the music recordings in a way that they are displayed to the person receiving the transmission via a specific device, during, but not prior to the transmission: Title of the music recording, if possible, title of the album containing the track and name of the performing artist.
- b) The transmission of music recordings shall, if technically feasible, be accompanied by the transmission of the information on title and performing artist as implemented into each music recording by the rights owners.

This obligation shall apply subject to the conditions pursuant to no. 6.

## **9. No transmission of unauthorised music recordings**

The webcaster may not transmit any unauthorised music recordings; those include, without exception, so-called bootlegs (unauthorised concert recordings) and recordings which have not yet been published for webcasting purposes in the country where the webcaster is headquartered. The webcaster may not remix or change the music recordings in any other way so that the music recordings transmitted are different to the original recordings.

## **10. Automatic channel skipping and personalised programmes**

The webcaster may not support any devices that enable automatic skipping from one programme channel to another. The person receiving a transmission shall, however, have the option to use pause and skip functions. The webcaster must determine fixed gaps applying to functions for skipping individual titles or for skipping a time interval in a forward direction which cannot be influenced by individual persons receiving the transmission. The skip function must not enable more than six skips to skip individual titles within 60 consecutive minutes of play.

The webcaster may also offer personalised programmes ("preference functions"). The preference function shall provide the persons receiving the transmission with the possibility to inform the webcaster of their preferred genres, artists or music recordings. The combination of skip and preference functions may not lead to transmissions of recordings by specifically requested artists or albums. The combination of unlimited skip functions with preference functions shall be excluded.

## **11. Maintaining integrity of works and performances**

When using music recordings, the webcaster shall observe the moral rights of the authors and performing artists. The broadcaster must, in particular, refrain from any distortion or other interference which might endanger the reputation and standing of such moral rights holders. This applies in particular to the combination of music recordings with images or films.

## **12. Prohibition regarding linking**

The webcast must be made from a server which is controlled by the webcaster. The webcast may only be accessible via the webcaster's website including applications (apps) specifically designated by the webcaster. The webcaster must use effective technical measures generally available in the market which prevent a simultaneous and unaltered transmission of the webcast on third-party websites. Access via third parties' websites, e.g. by linking webcasts may only be granted if the webcaster is named, and require GVL's prior permission.

## **13. Geoblocking**

The webcaster guarantees by installing technical measures such as geoblocking that its webcast channel can only be reached from countries for which it has obtained a licence. Except thereof are cross-border

usages permitted by law, especially those under the portability directive<sup>1</sup>. A multi-territory licence is required for cross-border usages.

#### **14. Prohibition to sublicense**

The webcaster shall not be entitled to grant the licence to third parties such as online aggregator services, for example.

Unofficial Translation - Sample

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<sup>1</sup> DIRECTIVE (EC) 2017/1128 dated 14 June 2017.

## Annex 2

### OPERATING CONDITIONS PODCASTING

A broadcaster must fulfil the following operating conditions in order to obtain a podcasting licence in compliance with the agreement for the assignment and administration of rights.

#### 1. Control by the broadcaster

The podcast of a broadcast must be made available using a server which is controlled by the broadcaster. It shall only be accessible via the broadcaster's website including specifically designated applications (apps). Access via other websites must not take place unless the name of the broadcaster and/or the programme are mentioned, and is subject to permission by GVL.

#### 2. No further usage

The broadcaster must legally oblige the recipient of the podcast to use the programme only for private/personal use.

#### 3. Programme restrictions

- a) The programme must not be made up exclusively of music recordings [back-to-back music] and shall not contain more than 3 subsequent tracks.
- b) In cases where music recordings are merely used as background music, and the contents of the sound recordings in the podcast does not exceed 10% of the total duration of the programme, and the used sound recordings consist of excerpts shorter than one minute and less than half of the total duration of the actual music track, then the provisions in nos. 5, 6 and 9 shall not be required.
- c) If at least 50% of the used total duration of music recordings used in programmes are subject to voice-overs, they shall not be taken into consideration when applying the restrictions mentioned above under a) to c).

#### 4. Prohibited use for advertising purposes

The broadcaster must not use his services to advertise or sell certain products except for sound recordings.

#### 5. Programme scan prevention

Unless the broadcaster incurs unreasonable costs in doing so, he shall use generally commercially available and effective technical measures which serve the purpose of preventing podcasts from being passed on or scanned in such a way that music recordings can be filtered out and reproduced.



## 6. Support of technical measures

The broadcaster shall accommodate technical measures that are used by sound recording producers to identify and protect their music recordings, provided that these technical measures can be transmitted without substantial costs and without any perceptible aural or visual degradation of the transmitted signal.

## 7. Providing information for rights management purposes

- a) The broadcaster may provide the following information on the music recordings in a way that they are displayed to the person receiving the transmission via a specific device, during but not prior to the transmission: Title of the music recording, if possible, title of the album containing the track and name of the performing artist.
- b) The transmission of music recordings shall, if technically feasible, be accompanied by the transmission of the information on title and performing artist as included for each music recording by the rights owners.

## 8. No transmission of unauthorised music recordings

The broadcaster must not transmit unauthorised sound recordings such as bootlegs (unauthorised recordings of live concerts) or recordings not yet released for public broadcast. The broadcaster must not alter the recordings via e.g. re-mixes or other arrangements so that they differ from the original recordings.

## 9. Automatic channel skipping and personalised programmes

The broadcaster may not support any devices that enable automatic skipping from one programme channel to another. Furthermore, the broadcaster must not add skip or “fast-forward” or “rewind” functions into his offer. The broadcaster may, however, provide for a pause function as well as a “rewind” and a “forward” function. Such functions must in no way enable the listener to get from one sound recording to the next. No function shall enable the listener to create a personalised programme (e.g. relating to the offer of specific artists or the contents of specific albums).

## 10. Integrity of works and performances

When using music recordings, the broadcaster shall preserve the moral rights of authors and performing artists. The broadcaster must, in particular, refrain from any distortion or other interference which might endanger the reputation and standing of such moral rights holders. This applies in particular to the combination of music recordings with images or films.

## 11. Geoblocking

The broadcaster guarantees by installing technical measures such as geoblocking that its podcast can only be reached from countries for which it has obtained a licence. This shall also apply if the podcast is disseminated via third parties. Except thereof are cross-border usages permitted by law, especially those under the portability directive<sup>2</sup>.

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<sup>2</sup> DIRECTIVE (EC) 2017/1128 dated 14 June 2017.

## Annex 3

### OPERATING CONDITIONS FOR BACKGROUND MUSIC ON WEBSITES

The following operating conditions must be complied with during the licensing procedure relating to sound recordings used as background music on websites:

#### 1. Programme restrictions

The total duration of all tracks used as background music may not exceed 15 minutes. The streams may not include more than one track of a specific artist and must consist of a minimum of 2 different tracks.

#### 2. Technical requirements

During the streaming process, non-downloadable formats shall be used. Only audio transmission formats must be used. The streamed contents must be purchased legally.

The streams shall commence automatically when a user visits the respective website or scrolls to a specific section on the website.

Users must not have the ability to select, pause, rewind, replay certain tracks or, through whatever technical means, advance or retreat to a point in the streaming programme ("skip" function).

In order to prevent background music titles appearing as internet music search results or being detected by web-crawling services or so-called stream rippers, the titles may not be linked to metadata which would facilitate a search for titles or names of specific recordings, albums or tracks or the featured artists.

It is not allowed to link specific tracks. The website must not contain or support links to titles on other sites, including those of the licensee.

Unless the website operator incurs unreasonable costs in doing so, he shall use generally commercially available and effective technical measures which serve the purpose of preventing the used recordings from being passed on or scanned in such a way that they can be filtered out and reproduced.

#### 3. Prohibition of use for advertising and dubbing purposes

The website shall not advertise, announce or feature in any way, shape or form, titles of the specific tracks or the names of albums incorporating such tracks or the names of the featured recording artists.

The licensed website shall not carry third party advertising or suggest by implication or otherwise any endorsement by the artists of any product or service.

The website shall not synchronise the tracks with any particular visual materials.

The rights holders shall retain the right to withhold any individually specified tracks or all tracks of an artist from the licence.

In the event that a performing artist should retroactively object to the use of their recordings on a specific website or in the event that the producer concerned has specific reasons to believe that such continued use will negatively affect his relationship with the recording artist concerned, then the licensee is obliged upon notice to the licensee hereunder to immediately remove such recordings from his website or to swap them. The website operator shall not re-mix, edit or otherwise modify sound recordings.

#### **4. Licensees**

Each natural person or legal entity can only acquire one licence.

The licensed website must be operated by a private individual or a legal entity that employs no more than 10 full-time employees or consultants and whose annual gross revenue does not exceed €500,000. Where such a legal entity is part of a group of associations or businesses, then the aggregate staffing level and the aggregate gross revenue of all members of such group shall be taken into account for the purposes of this Agreement.

Operators of websites and/or entities offering digital music services are not eligible for acquiring a licence. The licensee shall be responsible for clearing all necessary usage rights subject to copyright for the use of the underlying musical works.

#### **5. Prohibited contents**

The licensed websites may not contain nor encourage or endorse the following contents in any way: Gambling, alcohol, tobacco products, illegal drugs, pornography, music piracy, violence and other illegal or unlawful content/activities as well as those which might be harmful to the interests of the entitled rights owners or performing artists such as obscenities or any other abusive or grossly inappropriate behaviour. This shall specifically apply to, but is not limited to, copyright infringements (including file sharing), racism, homophobia, instigation of violence, fraud, or infringements of the rights of third parties.

## Annex 4

### OPERATING CONDITIONS SIMULCASTING

The following operating conditions shall apply with regards to usages in the course of simulcasting based on the Agreement governing the assignment and administration of rights:

#### 1. Prohibition to sublicense

The simulcaster shall not be entitled to grant the licence to third parties such as online aggregator services, for example.

#### 2. Prohibition regarding linking

The simulcast must be made from a server which is controlled by the simulcaster. The simulcast may only be accessible via the simulcaster's website including applications (apps) specifically designated by the simulcaster. The simulcaster must use effective technical measures generally available in the market which prevent a simultaneous and unaltered transmission of the simulcast on third-party websites. Access via third parties' websites, e.g. by linking the simulcast may only be granted if the simulcaster is named, and require GVL's prior permission.

#### 3. Prevention of programme scans and recordings

The simulcaster must use generally commercially available and effective technical measures which serve the purpose of preventing that

- a) the person receiving a transmission or any other person can automatically scan the simulcaster's programme itself or together with the transmissions by other simulcasters in order to filter out specific music recordings from the programmes;
- b) the person receiving a transmission can create copies of the music recordings (except thereof are transient copies made for technical reasons) and
- c) third parties can create video-on-demand services on the basis of the simulcast.

#### 4. Geoblocking

The simulcaster guarantees by installing technical measures such as geoblocking that its simulcast channel can only be reached from countries for which it has obtained a licence. Except thereof are cross-border usages permitted by law.