

Agreement governing the assignment and administration of rights for performing artists

GVL ID: _____
 Contract number: _____
 (To be completed by GVL)

Between

First name: _____

Last name: _____

Name at birth/née: _____

Nationality: _____

Date of birth: _____

Country of birth: _____

Registered address

Street: _____

Postcode/City: _____

Country: _____

E-mail: _____

– hereinafter referred to as “rights holder*” –

(* “rights holders” referred to in this Agreement shall include both male and female rights holders)

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 his 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. the statutory entitlement to receive equitable remuneration for

- a) radio and TV broadcasts of performances on published sound recordings audiovisual recordings (Section 78 (2) no. 1, UrhG [German Copyright Act]); This also includes the transmission such as via IP TV or OTT and by using new transmission standards for mobile reception or via mobile networks as well as in the form of simulcasting and/or webcasting via internet or via mobile networks
- b) ~~cable~~-retransmission of his other performances, also in the form of IP TV or OTT (Section 78 (24) UrhG)
- c) making available of performances to the public (Section 78 ~~II~~(2) nos. 2 and 3 UrhG);
- d) direct or indirect recording of a performance for private or other personal uses (Section 54 (1) UrhG);
- e) copying of performances recordings used in the course of conventional school broadcasts pursuant to Article 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) recording, copying, distribution and making available to the public of a performance in collections for religious usage purposes (Section 46 (4) UrhG);
- g) rental and lending of recordings with performances (Section 27 UrhG);
- h) non-commercial reproduction of recordings with performances and their distribution to the disabled, provided that this is necessary to enable them to access the sensual perception of the recordings (Section 45 a (2) UrhG);
- i) public, non-commercial performance of the right holder's performance on a commercially published audiovisual or sound recordings (Section 52 UrhG);
- j) copying, distribution and making available to the public and other types of communication to the public of performances for non-commercial purposes for teaching and instruction in educational establishments (Sections 60 a, 60 h (4) UrhG);
- k) copying, distribution and making available to the public of a performance in collections for teaching and educational media (Sections 60 b, 60 h (4) UrhG);
- l) copying, distribution and making available to the public of a performance for the purpose of non-commercial research (Sections 60 c, 60 h (4) UrhG);
- ~~m) copying and making available to the public of performances for scientific research in the form of text and data mining (Sections 60 d, 60 h (4) UrhG);~~
- ~~n)m)~~ copying, distribution of copies and making available of a performance for the purposes listed in Section 60s e, f UrhG via terminals (Sections 60 e, f, 60 h (4) UrhG);
- n) copying, distribution and making available of a sound recording after the 50th anniversary of its publication or its first lawful use for communication to the public (Section 79a (1), (2) UrhG);

- o) public performance of his performances via a service provider in accordance with the UrhDaG [Copyright Service Provider Act] to whom the rights of the performer have been contractually assigned by a third party (Section 4 (3) UrhDaG);
- p) 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 as defined in Section 5 (2) UrhDaG;
- q) the presumably permitted public performance of his performances in user-generated content by a service provider as defined by the UrhDaG (Sections 9-11, 12 (1) UrhDaG);
- r) use in the context of press publications (Sections 87f, 87k UrhG);
- ~~e)s~~) plus any entitlements and claims for remuneration, whose statutory administration can only be done by a collective management organisation;

2. the following exclusive rights:

- a) the right
 - aa) to record the performance onto sound or audiovisual ~~or sound~~ recordings and make copies (Section 77 (1), (2) UrhG) ~~as long as this serves the purpose of a use licensed in accordance with Article 1 (1) no. 1 a) and c);~~
 - ~~bb)~~ and to make ~~the performance it~~ available to the public (Section 78 (1),) no. 1 UrhG) as long as this serves the purpose of public performance and broadcast pursuant to Article 1 (1) 1 a) and c) or a use licensed in accordance with Art. 2 c) and d). This also includes the connection with Article 1 (1) no. 1 a) and c); an audiovisual production of a TV broadcaster in the case of in-house or commissioned productions provided that the television broadcaster is exclusively entitled to the broadcasting rights;
 - bb) for the purpose of public performance and broadcasting, to make copies of the performance which is connected with an audiovisual production and to distribute it (Section 77 (2) UrhG);
 - b) the right to copy and distribute published sound and audiovisual recordings of a performance together with previously broadcast programmes of radio and TV broadcasters on(to) physical storage media of any kind (Section 77 (2) UrhG);
 - c) the right to make available published sound or audiovisual recordings of a performance together with broadcast programmes in accordance with Article 1 (1) no. 1 a) in the form of podcasting (Section 78 (1) no. 1 UrhG).
 - d) the right to broadcast the performance on published sound recordings which are later combined with a film work (Section 78 (1) no. 2 UrhG);
 - ~~d)e)~~ for usages in accordance with lit. b) and c) the following provisions shall apply:
 - for TV broadcasts this shall apply for individual films and series 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).
 - for radio broadcasts this shall apply to broadcasts which were produced by the radio 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).
3. the right to make claims in cases of omission, loss or damages in case of infringement of the rights transferred in accordance with item 1 and 2 in and out of court;

4. the copyright in audiovisual recordings for usages in accordance with [this paragraph](#) e.g. in the role of a music video director;
5. the entitlement of the performing artist to receive details on the licence fees collected and any other information relevant to quantify the remuneration entitlement in accordance with Article 1 (1) no. 1 ~~pn~~ (Section 79a (4) UrhG).

6. the right to information pursuant to Section 19 UrhDaG on a non-exclusive basis.

- (2) GVL exercises the rights assigned to it in its own name. It is entitled to transfer the rights assigned to it in whole or in part to third parties, to accept the consideration and to collect based on the entitlement to remuneration assigned to it.
- (3) The assignment of rights pursuant to Article 1 shall not include the permission to use the performance recordings for advertising purposes.

Article 2 Definitions

For the purpose of this Agreement, the following definitions shall apply:

- (1) Audiovisual recordings shall mean video clips containing musical performances or excerpts thereof recorded onto a sound recording, and whose duration is no longer than 10 minutes.
- (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. Retransmission may only be made to authorised users in a secure environment.
- ~~(3)~~(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).
- ~~(4)~~(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.
- ~~(5)~~(6) Simulcasting shall mean the non-interactive, simultaneous, unaltered and not permanently storable transmission ("streaming") of sound recordings included in a conventional free-to-air broadcast via the internet (world wide web) or via mobile networks.
- ~~(6)~~(7) Webcasting in the sense of this Agreement shall mean the non-interactive and not permanently storable transmission of a programme 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.
- ~~(7)~~(8) Podcasting in the sense of this Agreement shall mean the making available to the public of a conventional broadcast already produced legitimately for transmission purposes for the non-permanent ("streaming") or permanent ("download") storage via commonly accessible pages on the internet (world wide web) or commonly accessible mobile network services through the broadcaster.

(9) Service providers pursuant to UrhDaG within the meaning of this Agreement are providers of services which, pursuant to Section 2 UrhDaG, store and make available to the public a large amount of copyrighted content uploaded by third parties, except for services not covered under Section 3 UrhDaG.

Article 3 Scope of the rights assignment

- (1) The rights pursuant to Article 1 shall be assigned worldwide and for all production types as well as for all usage types covered by this Agreement.
- (2) The rights holder shall be entitled to limit the assignment of rights to certain countries or production types. For the rights limitation, an additional form shall apply: Rights limitation (performing artist)", which forms an integral part of this Agreement. The rights holder shall also be entitled to exclude specific usage types from the administration by GVL. Any type of rights limitation to that extent must be communicated to GVL in in text form [as stipulated in Section 126 b of the German Civil Code]. For any changes to the assignment of rights, the notice periods pursuant to Article 7 shall apply.
- (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 apply. 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 contribution registrations entered via the electronic registration system of GVL in accordance with Article 4 (1); in such cases, GVL may also rely on already saved and processed data.
- (4) 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 4 Duties of the rights holder

- (1) The rights holder shall be obliged at all times to provide GVL with information and evidence necessary to establish and administer his rights and entitlements. He shall also deliver the details necessary to establish and execute the distribution regulations and provide the necessary documentation. Information and evidence for establishing rights and administering claims as well as information and documents pertaining to the administration of the distribution regulations may be supplied to GVL by the rights holder via an electronic system or on paper, i.e. on the forms issued by GVL. GVL shall also be entitled to acquire necessary information directly. ~~In the case of members of an orchestra or choir,~~ GVL shall be especially ~~be~~ entitled to gather information ~~about the periods of adherence to a specific orchestra or choir~~ from ~~their~~ the corresponding employers ~~or contractors~~.
 1. For members of an ensemble (choir or orchestra), i.e. information about the periods of adherence to a specific ensemble;
 2. For dubbing actors and artistic performers, i.e. information to help identify a project (in the case of a series, this includes in particular the series title as well as the title and number of the individual episodes), information about the type of contribution (ensemble or role), and in the case of dubbing a role, information about their names and the scope of their contribution (number of takes),

3. For actors, i.e. information to help identify a project (in the case of a series, this includes in particular the series title as well as the title and number of the individual episodes), information about the type and the scope (number of shooting days) of the contribution as well as their names in the case of an impersonation of a role.

- (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 must not share his GVL remuneration directly or indirectly with the tariff partners of GVL. In cases of non-compliance, rights holders shall be obliged to pay the amount received based on the usage of the tariff partner back to GVL to be used for social purposes.
- (4) 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.
- (5) The rights holder shall be obliged to inform GVL without delay about any changes to his residence and - in the case of moving to Germany - to provide a confirmation by the German residents' registration office ("Einwohnermeldeamt").
- (6) The rights holder shall be obliged to inform GVL of any changes to his tax status (especially liability to pay VAT or foreign taxes) without delay.
- (7) Any rights holder who does not comply with the duties arising from this agreement, the distribution regulations or the Articles of Association, shall be obliged to reimburse GVL accordingly.
- (8) In the event that GVL makes payments lacking legal grounds, it may claim those payments back. The payee cannot claim that he cannot return this undue enrichment.
- (9) 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. This shall not apply to performing artist rights holders who hold German nationality or are nationals of another European Union member state, or another member state of the European Economic Area.
- (10) Provided that the GVL online platforms MY.GVL and ARTSYS.GVL for performing artists are used via the website www.gvl.de, the terms (and conditions) of use for online platforms shall apply.

Article 5 Entitlements of the rights holders

Entitlements of rights holders vis-à-vis GVL may only be assigned to third parties subject to the approval of GVL. GVL may make its approval subject to an assignment to payment of an administration fee.

Article 6 Legal succession and authorisations by the rights holder

- (1) In the event of a rights holder's death, this Agreement shall be continued with his legal successor(s). If there is more than one legal successor, their rights vis-à-vis GVL must be executed by a joint authorised representative. GVL shall not be obliged to make any payments prior to the appointment of a joint authorised representative. In all other respects, the statutory provisions shall apply.
- (2) 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 7 Duration of the rights assignments

- (1) this Agreement shall commence ~~withon the day of its signature by the parties conclusion~~ and shall enter into force retroactively for the distribution years for which the registration deadline has not lapsed yet. In cases where the rights holder has assigned rights for this retroactive period to another foreign collective management organisation for administration purposes, he will be provided with a separate letter containing a legally binding confirmation of the different agreement start date.
- (2) This Agreement shall continue for an unlimited period and may be terminated by giving 6 months' notice per 31st December of any year. Rights may be withdrawn for individual production types or territories (see Article 3) and must be clearly specified to GVL. 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.
- (4) Once this Agreement has been terminated and/or rights have been withdrawn from it, the rights shall revert to the rights holders at the end of a calendar year without any explicit assignment.

Article 8 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 ~~cable~~ 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 9 Integration of the Articles of Association, the Distribution Regulations and contract modifications

- (1) The GVL 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 Assembly of Shareholders and Delegates, 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 10 Miscellaneous

- (1) Personal details and data of the rights holder shall be electronically stored, 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, as well as the International Performer Number (IPN) which can also be passed on to third parties which are involved in the value chain of an artistic contribution. 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 signing 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

Berlin, _____
Gesellschaft zur Verwertung
von Leistungsschutzrechten mbH (GVL)

Signature of the rights holder

Dr. Tilo Gerlach
Managing Director

Guido Evers
Managing Director

Unofficial Translation - Sample