



Gesellschaft zur
Verwertung von
Leistungsschutzrechten

Agreement governing the assignment and administration of rights for performing artists

GVL-ID: _____
Contract number: _____
(to be completed by GVL)

between

First name:

Family 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 holder" referred to in this Agreement shall include both male and female rights holders)

and

**Gesellschaft zur Verwertung von Leistungsschutzrechten mbH (GVL) Podbielskiallee 64, 14195
Berlin**

P.O. Box 33 03 61, D-14173 Berlin, Germany

- hereinafter referred to as "GVL" -

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

Art. 1 Assignment of rights

(1) The rights holder grants 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. the statutory entitlement to receive equitable remuneration for

- a) radio and TV broadcasts of performances on published sound recordings and audio-visual recordings (Art. 78 (2) no. 1 German Copyright Act, UrhG). This also includes the transmission via IP TV and via 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 performances (Art.78 (2) UrhG);
- c) making available of performances to the public (Art. 78 (2), nos. 2 and 3 UrhG);
- d) direct or indirect recording or copying of a performance for private or other personal uses (Art. 54 (1) UrhG);
- e) copying of performances which are broadcast in the course of conventional school broadcasts pursuant to Art. 1 no. 2-4, if the copies thus recorded are not deleted at the end of the following school term (Art. 47 (2) UrhG);
- f) recording, copying, distribution and making available to the public of a performance in collections and libraries for church, school or educational purposes used by students or teachers (Art. 46 (4) UrhG);
- g) rental and lending of recordings (Art. 27 UrhG);
- h) non-commercial reproduction of recordings and their distribution to the disabled, subject to this being necessary to enable them to access to sensual perception of the recordings (Art. 45 a II UrhG);
- i) public, non-commercial performance of the right holder's performance on a commercially published sound or audio-visual recording (Art. 52 UrhG);
- j) making available of performances for education and research (Art. 52 a (4) UrhG);
- k) public, non-commercial performance of the right holder's performance in electronic reading places (Art. 52 b UrhG);
- l) 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 (Art. 79a (1), (2) UrhG);
- m) plus any entitlements and claims for remuneration, whose statutory administration can only be carried out by a collective management organisation;

2. the following exclusive rights:

- a) the right,
 - aa) to record a performance onto sound or audio-visual recordings and make copies (Art. 77 (1), (2) UrhG) as long as this serves the purpose of a use licensed in accordance with Art. 1 (1) no. 1 a) and c);
 - bb) to make the performance available to the public (Art. 78 (1) no. 1 UrhG), as long as this serves the purpose of a usage licensed in accordance with Art. 1 (1) no. 1 a) and c);

- b) the right to copy and distribute published sound and audio-visual recordings of a performance together with previously broadcast programmes of radio and TV broadcasters on(to) physical storage media of any kind (Art. 77 (2) UrhG);
- c) the right to make available published sound or audio-visual recordings of a performance together with broadcast programmes in accordance with Art. 1 (1) no 1 a) in the form of podcasting (Art. 78 (1) no. 1 UrhG).
- d) for usages in accordance with lit. b) and c) the following provisions shall apply:
 - for TV broadcasts this shall apply to individual films and series 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 music films).
 - for radio broadcasts this shall apply to broadcasts 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).
- 3. the right to make claims in cases of omission, loss or damages in case of infringement of the rights transferred in accordance with no. 1 and 2 in and out of court;
- 4. the copyright in audio-visual recordings for usages in accordance with I and II 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 Art. 1 (1) no. 1 lit. I (Art. 79a (4) UrhG).
- (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 Art. 1 shall not include the permission to use the performance recordings for advertising purposes.

Article 2 Definitions

- (1) For the purpose of this Agreement, the following definitions shall apply:
- (2) Audio-visual 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.
- (3) IP TV shall mean the transmission via broadband multimedia services based on an internet protocol (IP). IP-TV shall exclusively be the non-interactive electronic transmission of such services in IP based electronic networks outside the internet (world wide web).
- (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) 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.

- (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.
- (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.

Article 3 Scope of the rights assignment

- (1) The rights pursuant to Art. 1 shall be assigned worldwide and for all production types as well as for all use 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 writing. For any changes to the assignment of rights, the notice periods pursuant to Art. 7 shall be applicable.
- (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 Art. 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 reciprocal agreements are based on the contribution registrations entered via GVL's electronic registration system in accordance with Art. 4 I; 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 their 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 holders

- (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.

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 the necessary information directly. In the case of members of an orchestra or choir, GVL shall especially be entitled to gather information about the periods of adherence to a specific orchestra or choir from their employers or contractors.

- (2) The registration deadlines in the distribution regulations and any expressly communicated deadlines shall be cut-off deadlines for establishing remuneration entitlements. The distribution regulations in their current version shall apply.
- (3) The rights holder must not share his GVL remuneration directly or indirectly with 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 pay-out 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.

Article 5 Entitlements of the rights holders

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 the payment of an administration fee.

Article 6 Legal succession of rights holders

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.

Article 7 Duration of the rights assignments

- (1) This Agreement shall commence with its signature by the parties 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 Art. 3) and must be clearly specified to GVL. The partial or complete termination of this Agreement must be made in writing. 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 holder 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 rental and 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.

(2) If, in retrospect, the distribution for a specific distribution period should turn out to be systematically faulty 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 negatively affected by the faulty distribution can 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 Inclusion of the Articles of Association/Changes to the Agreement

- (1) GVL's Articles of Association in their current version shall form an integral part 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 part of this agreement if they were communicated to the rights holder in writing and if he has agreed to them. Approval by a rights holder shall be deemed as given when the rights holder does not explicitly contest it within 6 weeks from dispatch of the announcement; he shall be made aware of this legal consequence in the relevant communication.

Article 10 Miscellaneous

- (1) The rights holder consents to his details being stored, processed and distributed electronically for the purpose of forming the basis, executing and terminating this Agreement for the assignment and administration of rights, but only within the framework of purposes of this contractual relationship.

This consent shall be expressly extend to the making available of data in the remit of international databases which are used jointly with foreign sister societies.

- (2) The rights holder confirms that he has received information on his rights prior to signing this Agreement for the assignment and administration of rights and that GVL has fulfilled its obligation to provide information pursuant to Art. 53 VGG prior to consenting to his rights being managed.
- (3) Regarding matters relating to Art. 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
Signatures

This is an unofficial translation:

Please note that the translation of the “**Wahrnehmungsvertrag**”, the Agreement governing the assignment and administration of rights, is a free translation into English and is provided as a service by GVL and shall serve for orientation purposes and your files only. The translation is provided solely for the convenience of English speakers. In the event of a discrepancy between the English translation and the German version, the version in the official language **shall** prevail.

Please sign the German original of the Wahrnehmungsvertrag.