



2012 Additional Agreement
to the “2012 Standard
Contract • AV-products”
Entertainment videos

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ncb

nordisk
copyright
bureau

1 Parties to the Additional Agreement

1.1 Contracting parties

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hereinafter called **NCB** of the one part

and

(CVR number)

-

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hereinafter called **The Distributor** of the other part

have agreed as follows.

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2 Additional Agreement to the “2012 Standard Contract • AV-products” – Entertainment videos

2.1 Scope of Agreement

- 2.1.1 This Additional Agreement to the 2012 Standard Contract • Audio-visual products – Entertainment videos shall be applied when The Distributor (signatory to the above Standard Contract) is distributing NCB’s repertoire used in Entertainment Videos by way of sale or rental for Private Use.

All terms and conditions of the 2012 Standard Contract • Audio-visual products are applicable for Entertainment videos except for the terms and conditions explicitly stated in this Additional Agreement which supersedes the 2012 Standard Contract • Audio-visual products.

2.2 Definitions

- 2.2.1 Entertainment videos are defined as AV-music products, which shall mean Audio-visual products on physical media on which music is the primary content defined as musicals, operas, revues (more than 50% music content), and music documentaries. A DVD on which the music content is the primary content (more than 50% music content) and on which there is a story; otherwise it is a Music DVD which shall not be covered by this Additional Agreement; music DVDs shall be covered by the Music DVD Protocol.

3 Tariff

This Additional Agreement supersedes the articles 3.1, 3.2 and 3.9 of the 2012 Standard Contract • Audio-visual products.

3.1 Royalties payable

- 3.1.1 Mechanical Royalties shall be payable at the moment when The Distributor makes an Entertainment Video cf. article 2.2. Provided that The Distributor fulfils his obligations as set out in this Additional Agreement NCB shall not claim settlement of royalties until after the end of the Accounting Period in which the Entertainment Video has left The Distributor's warehouse.
- 3.1.2 For each Entertainment Video reproducing one or more works of NCB's repertoire The Distributor shall pay Mechanical Royalties.
- 3.1.3 Mechanical Royalties are calculated on the basis of the PPD (Published Price to Dealer) of the production = the Distributor's official list price to retail dealers exclusive of VAT. Discounts whatsoever do not affect the PPD.
- 3.1.3.1 If the Distributor only sells direct to consumers the calculation is based on the RRP (Recommended Retail Price) = the Distributor's official price to consumers exclusive of VAT.
- 3.1.3.2 Mechanical Royalties will be calculated as follows:

$$\frac{\text{PPD} \times 9.009\% \text{ multiplied by playing time of the music}}{\text{playing time of the Entertainment Production}} \text{ multiplied by number of copies}^{\bullet}$$

alternatively

$$\frac{\text{RRP} \times 7.408\% \text{ multiplied by playing time of the music}}{\text{playing time of the Entertainment Production}} \text{ multiplied by the number of copies}^{\bullet}$$

The maximum duration of the Entertainment Production shall be 120 minutes.

- 3.1.3.3 Mechanical Royalties for sales of Entertainment Videos to non-affiliated video clubs shall be calculated as

$$\frac{\text{PPD} \times 9.009\% \text{ multiplied by playing time of the music}}{\text{playing time of the Entertainment Production}} \text{ multiplied by the number of copies}^{\bullet}$$

Mechanical Royalties for sales of Entertainment Videos to affiliated video clubs shall be calculated as

[•] Playing time of the music = the total playing time of NCB's repertoire of the production. Playing time of the Entertainment Production shall not contain trailers and/or supplementary content

$\frac{\text{Club's sales price to members (exclusive of VAT multiplied by 9.009\%)}}{\text{playing time of the Entertainment Production}}$ multiplied by the number of copies •

- 3.1.3.4 The Distributor may sell Entertainment Videos exclusive of Mechanical Royalties to video clubs provided that the video club has signed a video club agreement with NCB. If The Distributor sells Entertainment Videos exclusive of Mechanical Royalties to video clubs which have not entered into a video club agreement with NCB, The Distributor shall be liable for the Mechanical Royalties.
- 3.1.3.5 The base price for the calculation of Mechanical Royalties shall be the highest PPD which at the time in question will be invoiced for 1 copy of the said Entertainment Video. When calculating Mechanical Royalties, temporary price reductions during the accounting period (i.e. price reductions of duration less than 4 weeks) shall not be taken into account.

3.2 Minimum rates and budget minimum rates

- 3.2.1 Applicable minimum rates must be considered when calculating Mechanical Royalties. These rates are indicated on NCB's website and will be changed every 12 months.
- 3.2.1.1 The minimum rates are calculated with regard to each format and way of distribution based on the highest PPD of original released standard repertoire. The minimum rate shall equal to 9.009% of 79% of 2/3 of the highest PPD each format and way of distribution.
- 3.2.1.2 As to distribution as sales video the minimum rate applying to productions released not sooner than 12 months after its original release date shall be 57% of the normal minimum rate calculated set out in the above clause provided that The Distributor submits the production for renewed registration to NCB indicating NCB's code for entertainment budget product. However, the royalties payable shall never be less than 9.009% of the PPD of the production in question.
- 3.2.1.3 The minimum rate for each copy shall be calculated pro rata temporis; i.e. adjustment proportional to the number of music seconds.
- 3.2.1.4 As for promotional videos – i.e. productions specially manufactured the object of which is genuine sales promotion of The Distributor's video catalogue shall be calculated as 50% of the minimum rate provided that:
- ◆ the production is supplied free of charge
 - ◆ the production is marked "Promotion – Not For Sale"
 - ◆ the production is advertising The Distributor's own catalogue
 - ◆ the production is submitted for NCB registration as a promotional video including the letters "PROM" in the Catalogue Number
 - ◆ the total number of copies is submitted for NCB invoicing once and for all

- ◆ NCB receives the text of the inlay card and a copy of the promotional video.

3.2.2 NCB will always consider The Distributor responsible for reporting and payment of Mechanical Royalties irrespective of The Distributor having an agreement with the Producer to the effect that the Producer shall pay Mechanical Royalties. This shall not apply provided that the Producer has entered into a standard contract covering Entertainment Videos with NCB.

3.3 Returns

3.3.1 No mechanical royalties shall be payable if within the same Accounting Period an Entertainment Video is returned to warehouse provided that

- ◆ it is re-entered in The Distributor's inventory and accounting systems at full price
- ◆ the total number set off as returns during one Accounting Period shall never exceed the total outgoings (of the same Catalogue Number). Excess of returns, if any, may be carried forward to the succeeding Accounting Period.

3.3.2 No Mechanical Royalties shall be payable on Entertainment Videos which are destroyed due to faulty manufacture. A letter signed by The Distributor's chartered or certified accountant, customs authorities – or any other confirmation agreed with NCB – may prove as documentation in this respect.

3.3.3 The Distributor may also choose to offset his returns against his sales figures reported to NCB for the preceding Accounting Period provided that the units are returned to warehouse within a period of three months after the end of the preceding Accounting Period. This provision applies only to one and the same Entertainment Video provided that the conditions set out in article 3.3.3.1 are fulfilled.

3.3.3.1 In order to apply the provisions set out in article 3.3.3 the below requirements must be met:

- ◆ in his reporting for the Accounting Period in question The Distributor shall inform NCB of the total number of copies of each Entertainment Video which has left his warehouse by way of sale
- ◆ within the end of the three month period The Distributor undertakes to submit to NCB a list showing the number of copies returned to The Distributor's warehouse after the end of the Accounting Period as well as the actual amounts credited for such returns
- ◆ The Distributor shall re-enter such returns at full price in his inventory systems.

3.3.3.2 For each Entertainment Video which is returned NCB shall offset the amounts credited against the outgoings reported by The Distributor.

3.3.4 The total number set off as returns during one Accounting Period shall never exceed the total outgoings of the same Entertainment Video involving the same copyright holders during the same Accounting Period.

3.4 Clearance sale

3.4.1 Royalties shall be calculated as 10% of the invoiced wholesale price taking into account applicable minimum royalties per copy.

3.4.2 Provided that

- ◆ the Entertainment Video has been deleted from The Distributor's catalogue
- ◆ the Entertainment Video is offered to the public as goods sold at bargain prices
- ◆ the Entertainment Video is sold at a dealer price ranging at least 40% below the dealer price previously charged
- ◆ it is a clearance sale of existing stock; i.e. no new duplication or re-issue allowed

NCB royalties per copy may be lower than the minimum rates; however, never less than 20% of applicable minimum rates.

4 Reporting

The Distributor shall report to NCB as specified in "2012 Standard Contract • Audio-visual products" except for article 4.2 "Reporting of Turnover". Instead The Distributor has to report what appears from 4.1 below.

4.1 Reporting of outgoings

- 4.1.1 Twice a year – in July and January – The Distributor undertakes to report the number of Entertainment Videos which have left The Distributor's warehouse during the Accounting Period in question.
- 4.1.1.1 The reporting shall be made on a list called Sales Report, which is sent to the Distributor by NCB. The Sales Report is a computer generated file containing all the Entertainment Videos registered by The Distributor with NCB. The Distributor undertakes to check that the Sales Report includes all his Entertainment Videos.
- 4.1.1.2 The Sales Report shall be filled in according to NCB's guidelines and returned to NCB not later than 30 days after receipt.
- 4.1.2 The Distributor undertakes to indicate the following information in his Sales Report:
- a) number of copies of each Entertainment Video (Catalogue Number) which has left his warehouse during the Accounting Period in question grouped in
 - sales through wholesale or retail dealers on Sales Video
 - sales/rental through wholesale or retail dealers on Rental Video
 - sales through video clubs
 - lending through libraries
 - rental through wholesale or retail dealers as Revenue Sharingspecified in countries where the sale or rental or lending to the consumers took place.
 - b) the Published Price to Dealers (exclusive of VAT) of The Distributor for each Entertainment Video (Catalogue Number) specified in categories.
- 4.1.2.1 For outgoings effected outside The Distributor's native country The Distributor undertakes to supply information as specified in article 4.1.2 on the outgoings of the foreign distributor in the local currency of the country in question exclusive of the relevant VAT taxes.

5 Term of agreement

- 5.1 Duration of this additional agreement is the same as applying to the "2012 Standard Contract • Audio-visual products".
- 5.2 This agreement will automatically be terminated if the "2012 Standard Contract • Audio-visual products" concluded between The Distributor and NCB, is terminated.
- 5.3 This agreement can also be terminated according to article 12 of the "2012 Standard Contract • Audio-visual products".
- 5.4 This contract shall come into force on the .

6 Signatures

Date

NCB

Date

The Distributor