
Standard Contract
2000 Denmark
Feature Films on Video



Nordisk Copyright Bureau

This Contract is made this day between

Nordisk Copyright Bureau
Hammerichsgade 14
DK-1611 Copenhagen V

hereinafter called “**NCB**”
of the one part

and

hereinafter called the “**Distributor**”
of the other part

The object of this Contract is to make it possible for the Distributor to distribute NCB’s repertoire used in feature films on videos by way of sale or rental for private use.

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1 DEFINITIONS

Words with an initial capital are defined in Annex 1 to this Contract.

1.1 Repertoire of NCB

1.1.1 The repertoire of NCB comprises the copyright protected Nordic and foreign Musical Works for which the management and administration of the mechanical rights (the exclusive right of recording, manufacturing and distribution) has been or will be entrusted to NCB by virtue of membership agreements and/or reciprocal agreements with sister societies in or outside NCB's Territory of Administration.

1.1.1.1 The repertoire of NCB includes the Musical Works already created by the authors as well as those they may create in future, including commissioned music. The repertoire of NCB also includes words without music, e.g. monologues, provided that the author by special agreement has entrusted such rights to NCB.

1.1.2 The repertoire of NCB does not include

- ◆ "public domain works", i.e. musical works that no longer fall within the term of protection of copyright (cf. clause 1.1.2.1 below)
- ◆ Musical Works created by authors who neither directly nor indirectly through a music publisher have entrusted the administration of their mechanical rights to NCB or to any sister society outside NCB's Territory of Administration.

1.1.2.1 "Public domain works" *may* be part of NCB's repertoire provided that the work in question is an arrangement and the adaptation made by the arranger can be deemed to have an individual and new character.

1.2 Feature films on video

1.2.1 This Contract covers only Feature Films on video which shall mean VHS cassettes onto which Feature Films – as defined in Annex 2 – have been transferred.

1.2.1.1 The transfer of a Feature Film onto DVD may also be covered by this Contract, provided that the conditions set out in clauses 3, 3.1 and 3.2 of Annex 2 are fulfilled.

1.2.1.2 The transfer of a Feature Film onto other media/formats shall be covered by this Contract only subject to prior written agreement.

1.2.2 If a video contains more than one Feature Film, the provisions of this Contract shall apply to each individual Feature Film.

- 1.2.3 If a video – apart from one or more Feature Films – contains other productions with music, royalties on such productions shall be calculated according to applicable NCB terms for the relevant type of production.

2 NCB LICENCE

2.1 Basis of the licence

2.1.1 The licence covered by this Contract shall be granted only on condition that

- ◆ the video masters used for the duplication of the Feature Films have been Legally Produced – and
- ◆ the Distributor has acquired the right from the Producer or the Licensee to duplicate and/or distribute the Feature Films on video for private use.

2.1.2 Legally Produced video masters, cf. clause 2.1.1, shall mean that the Producer or Licensee has obtained a Synchronisation licence as set out in Annex 4. The Synchronisation licence – and the fixing of a price and terms for such exploitation – is not covered by the provisions of this Contract but must be applied for separately through NCB and/or the involved rights owners.

2.1.3 For the avoidance of doubt Legally Produced video masters reproducing Nordic television programmes, the contents of which being similar to Feature Films as set out in Annex 2, are subject to the obtaining of a Synchronisation licence as set out in clause 3.1 of Annex 4.

2.1.4 If the Producer and the Distributor are identical a Synchronisation licence shall be obtained prior to the manufacture of copies, cf. clause 2.1.2. If the Producer and the Distributor are not identical the Distributor shall – if requested to do so by NCB – provide evidence that a Synchronisation licence has been obtained as NCB's licence for manufacture and distribution under this Contract is subject to the said Synchronisation licence having been obtained according to clause 2.2 below.

2.2 Scope of the licence

2.2.1 NCB grants the Distributor a non-exclusive licence to:

- ◆ manufacture Feature Films on video using the repertoire of NCB
- ◆ distribute such Feature Films on video to retail outlets, Wholesale Dealers and video clubs with a view to their sale or rental for Private Use

2.2.2 The licence – as defined in clause 2.2.1 – shall apply only to Video Labels notified by the Distributor, cf. Annex 5. NCB accepts only one Distributor as being responsible for the payment of royalties for a given Video Label for each country within NCB's Territory of Administration.

2.2.3 The Distributor may notify a Video Label indicating that under this label he distributes Feature Films on Sales Cassettes only (or Rental Cassettes). In such cases NCB will accept that another distributor under the same Video Label distributes the same Feature Films on Rental Cassettes (or Sales Cassettes).

- 2.2.4 Any exploitation of the repertoire of NCB other than the one set out in clause 2.2.1 shall be subject to individual licence.
- 2.2.5 The use of NCB repertoire in Trailers (advertising for other Feature Films on video) shall be subject to an additional licence unless the Trailers exclusively contain sequences (Musical Works/pictures) which are identical to sequences of the Feature Film in question and provided that a Synchronisation licence has been obtained from NCB. Cf. Annex 6.
- 2.2.6 The use of NCB repertoire as signature tunes is subject to an additional licence, cf. Annex 6.
- 2.2.7 NCB's licence, cf. clause 2.2.1, does not include public performance of the Feature Films on video. Such licence must be obtained from KODA.
- 2.2.8 The licence granted under this Contract shall not be transferred to any third party. Masters shall not be passed on to any third party without NCB's approval.
- 2.2.9 The licence shall apply only as long as this Contract continues to have effect. Upon termination of the Contract NCB's licence shall no longer apply, which means that any manufacture or distribution of Feature Films on video shall be subject to a separate licence from NCB in advance as well as payment of Mechanical Royalties in advance.

2.3 Feature Films made in USA and UK

- 2.3.1 If the master is made by a US or UK Producer it shall be implied that the Distributor has acquired the right to use the Musical Works in Feature Films on video on terms that exclude the rights owners from any further royalties. Distribution of such Feature Films on video may be made without applying for a licence and without paying Mechanical Royalties to NCB.
- 2.3.2 If NCB is provided with evidence by a rights owner to the effect that the licences referred to in clause 2.3.1 have not been obtained, NCB shall present such evidence to the Distributor and claim royalties in accordance with the provisions of this Contract. It rests with NCB to prove that the licences in clause 2.3.1 have not been obtained.

2.4 Feature Films made in countries other than USA and UK

- 2.4.1 If the master is made by a Producer resident in a country other than USA or UK it shall be implied that the right to use the Musical Works in Feature Films on video was granted on terms that require a licence and royalty payment to the rights owners through NCB according to the provisions of this Contract for the distribution of Feature Films on VHS cassettes for Private Use.
- 2.4.2 If the Distributor is provided with evidence by the Producer to the effect that the licences referred to in clause 2.4.1 were obtained on terms that exclude the rights owners from any further royalties, the Distributor shall present such evidence to NCB. The burden of proof rests with the Distributor.

2.5 Bans

- 2.5.1 NCB reserves the right to designate specific works of its repertoire on which a general ban has been imposed in relation to the exploitation of such works in Feature Films on video.
- 2.5.2 If the provisions set out in 2.3.1 as for a Feature Film made by a US or UK Producer proves incorrect, NCB reserves the right to impose a ban on the manufacture and distribution of videos onto which the Feature Film has been transferred.
- 2.5.3 This also applies to instances where all required additional licences have not been obtained – cf. Annex 4 – or in the event that the Distributor at NCB's request fails to produce evidence proving that the said licences have been obtained.

3 MORAL RIGHTS, CREDITS & COMPULSORY INFORMATION

3.1 Moral rights

- 3.1.1 The repertoire of NCB shall not be modified or put into public circulation in any way or any context which may be prejudicial to the honour or the artistic reputation of the author, cf. section 3 of the Danish Copyright Act.

3.2 Credits

- 3.2.1 If the credit lists at the beginning or the end of a Feature Film on video do not include the credits required, the inlay or cover of the Feature Film on video must include the following information for each Musical Work used in the Feature Film: title of the work and names of composer, lyricist, arranger and music publisher.

3.3 Compulsory information

- 3.3.1 The Distributor shall see to it that the inlay or cover of the Feature Film on video bears the NCB logo. The logo in camera-ready form is available from NCB.

- 3.3.2 The following wording shall be printed on Sales Cassettes:

“This video cassette shall only be sold to private persons. The cassette is intended for private use only, i.e. for admission free exhibition in private homes. It is illegal to use the cassette for public exhibition including cable television etc. Rental, lending or duplication of the cassette prohibited.”

- 3.3.3 The following wording shall be printed on Rental Cassettes:

“This video cassette shall only be rented to private persons. The cassette is intended for private use only, i.e. for admission free exhibition in private homes. It is illegal to use the cassette for public exhibition including cable television etc. Sale, lending or duplication of the cassette prohibited.”

4 REPORTING PROCEDURES

4.1 Registration of new releases

- 4.1.1 Prior to introducing the Feature Film on video into the market the Distributor undertakes to supply NCB with the following information:
- a) the title and total playing time of the Feature Film on video (including the title of the Feature Film if different from the title of the Feature Film on video)
 - b) for each Musical Work used in the Feature Film on video the title of the work and playing time as well as the names of the composer, lyricist, arranger and music publisher
 - c) the Video Label and Catalogue Number under which the Feature Film on video is distributed
 - d) indication of whether the Feature Film on video is distributed as a Sales Cassette and/or as a Rental Cassette
- 4.1.1.1 The Distributor may meet the conditions set out in clause 4.1.1 a) by submitting to NCB his release plan as well as a cover of each title.
- 4.1.1.2 The Distributor may meet the conditions set out in clause 4.1.1 b) by submitting the music cue sheet of the relevant Feature Film.
- 4.1.1.3 Feature Films on video having the same content shall not be marketed under the same Catalogue Number, cf. clause 4.1.1 c).
- 4.1.1.4 Feature Films on video of identical content shall not be distributed as Sales Cassette and Rental Cassette under the same Catalogue Number, cf. clause 4.1.1 d).
- 4.1.1.5 Clauses 4.1.1 b) – d) shall not apply if the Feature Film transferred onto video was produced in the USA or the UK – unless the Distributor knows that the conditions set out in clause 2.3.1 are incorrect.
- 4.1.1.6 Clauses 4.1.1 b) – d) shall not apply if the Distributor has imported the Feature Film on video inclusive of Mechanical Royalties and the exporter has signed an agreement with NCB or NCB's sister society in the country of export covering the payment of Mechanical Royalties. The Distributor undertakes to submit documents proving that Mechanical Royalties were already paid.
- 4.1.2 If a Feature Film on video reproducing an audio-visual dramatic film work produced by or for a TV-station in NCB's Territory of Administration is to be screened on television, it may be licensed under the provisions of this Contract, provided that a licence for transfer onto a video master with a view to manufacturing copies and subsequent distribution for Private Use has been obtained, cf. clause 3.1 of Annex 4. The Distributor undertakes to submit documentation proving that Synchronisation royalties have been paid.
- 4.1.3 Not later than 14 days after NCB has requested the Distributor to do so, he shall submit documentation proving that a licence for the use of NCB repertoire in trailers and as signature music has been obtained, cf. clauses 2.2.5 and 2.2.6.

4.2 Reporting of Turnover

4.2.1 Twice a year the Distributor undertakes to report the number of Feature Films on video which have left the Distributor's warehouse during the Accounting Period in question.

4.2.1.1 The reporting shall be made on a list called Sales Report, which is sent to the Distributor by NCB. The Sales Report contains a computer print-out of all the Feature Films on video registered by the Distributor with NCB, cf. clause 4.1. The Distributor undertakes to check that the Sales Report includes all his Feature Films on video, apart from the Feature Films on video mentioned in clause 2.3.1.

4.2.1.2 The Sales Report shall be filled in and returned to NCB not later than 30 days after receipt.

4.2.1.3 The reporting can also be made electronically according to NCB's instructions.

4.2.2 The Distributor undertakes to indicate the following information in his Sales Report:

a) number of copies of each Feature Film on video (Catalogue Number) which has left his warehouse during the relevant Accounting Period grouped in

- sales through wholesale or retail dealers on Sales Cassette
- sales/rental through wholesale or retail dealers on Rental Cassette
- sales through video clubs

divided into countries where the sale or rental took place.

b) the Turnover (exclusive of VAT) of the Distributor for each Feature Film on video (Catalogue Number) divided into the categories set out in sub-clause a) as well as the Distributor's price code prices (exclusive of VAT).

4.2.2.1 For sales effected outside Denmark the Distributor undertakes to supply information on the Turnover of the foreign Distributor in the local currency of the country in question exclusive of the relevant VAT taxes.

4.3 Custom Manufacture

4.3.1 NCB's licence, cf. clause 2.2.1, includes the right to have copies made with duplication firms as Custom Manufacture. The Distributor shall inform NCB of the names and addresses of the firms he uses for Custom Manufacture.

4.3.2 In the event that NCB informs the Distributor of a duplication plant which has been involved in illegal manufacture, the Distributor undertakes to abstain from using the plant in question for Custom Manufacture.

4.3.3 The Distributor agrees to support NCB's efforts to conclude manufacturing agreements with the duplication plants.

5 NCB ROYALTIES

5.1 Royalties payable

5.1.1 Mechanical Royalties shall be payable at the moment when the Distributor makes a video copy, cf. clause 5.2. Provided that the Distributor fulfils his obligations as set out in this Contract, NCB shall not claim settlement of royalties until after the end of the Accounting Period in which the Feature Films on video have left the Distributor's warehouse, cf. clause 6.3.1.

5.2 Mechanical Royalties

5.2.1 For each Feature Film on video reproducing one or more works of NCB's repertoire the Distributor shall pay Mechanical Royalties.

Mechanical Royalties are calculated on the basis of the Turnover of the Distributor of each Feature Film on video (Catalogue Number) categorised as set out in clause 4.2.2 a).

5.2.1.1 For Feature Films on video for sale or rental through wholesale or retail dealers Mechanical Royalties per copy shall be calculated as follows:

The Distributor's Turnover (exclusive of VAT) x (multiplied by) 2.1% ÷ (divided by) number of copies.

5.2.1.2 For Feature Films on video sold inclusive of royalties to non-group affiliated video clubs Mechanical Royalties per copy shall be calculated as follows:

The Distributor's Turnover (exclusive of VAT) x (multiplied by) 2.1% ÷ (divided by) number of copies.

5.2.1.3 For Feature Films on video sold inclusive of royalties to group affiliated video clubs Mechanical Royalties per copy shall be calculated as follows:

The Distributor's (calculated) Turnover (exclusive of VAT) estimated and fixed on the basis of the video club's selling price charged to members (exclusive of VAT) x (multiplied by) 2.1% ÷ (divided by) number of copies.

5.2.2 If the Distributor's Turnover (exclusive of VAT) divided into categories as set out in clause 4.2.2 a) shows an average price per copy lower than the minimum prices set out in Annex 8, the relevant minimum royalty per copy shall be applied.

5.2.3 The Distributor may sell Feature Films on video exclusive of Mechanical Royalties to video clubs provided that the video club has signed a video club agreement with NCB. If the Distributor sells Feature Films on video exclusive of Mechanical Royalties to video clubs, the Distributor shall be liable for the Mechanical Royalties if the video club has not signed a video club agreement with NCB.

5.2.4 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 for Feature Films on video with NCB.

5.3 Returns

5.3.1 No NCB royalties shall be payable if within the same Accounting Period a Feature Film on 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). Any excess of returns as against outgoings may be carried forward to the succeeding Accounting Period.

5.3.2 No Mechanical Royalties shall be payable on Feature Films on video 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.

5.3.3 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 3 months after the end of the preceding Accounting Period. This provision applies only to one and the same Feature Film on video provided that the conditions set out in clause 5.3.3.1 are fulfilled.

5.3.3.1 In order to apply the provisions set out in clause 5.3.3 the below requirements must be met:

- ◆ In his reporting for the Accounting Period in question the Distributor shall inform NCB of his total Turnover and the total number of copies of each Feature Film on video which has left his warehouse by way of sale.
- ◆ Within the end of the 3-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 return.
- ◆ The Distributor shall re-enter such returns at full price in his inventory systems.

5.3.3.2 For each relevant Feature Film on video sold NCB shall offset the amounts credited against the Turnover reported by the Distributor.

5.3.4 The total number set off as returns during one Accounting Period shall never exceed the total outgoings of the same Feature Film on video involving the same rights owners during the same Accounting Period.

5.4 Clearance sale

5.4.1 Royalties shall be calculated as 2.1% of the invoiced wholesale price to retailers taking into account applicable minimum royalties per copy, cf. Annex 8 and clause 5.4.2 below.

5.4.2 Provided that

- ◆ the Feature Film on video has been deleted from the Distributor's catalogue
- ◆ the Feature Film on video is offered to the public as goods sold at bargain prices
- ◆ the Feature Film on 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 minima indicated in Annex 8, however, never less than 20% of applicable minima.

5.5 Exports exclusive of Mechanical Royalties

5.5.1 The Distributor shall be entitled to export Feature Films on video exclusive of Mechanical Royalties provided that the importer has entered into an agreement with NCB or NCB's sister society of the importing country covering payment of Mechanical Royalties and subject to NCB's prior approval of such exports exclusive of Mechanical Royalties. The Distributor shall be liable for Mechanical Royalties on exports exclusive of Mechanical Royalties if the importer has not entered into the said agreement with NCB or NCB's sister society of the importing country.

5.6 Imports inclusive of Mechanical Royalties

5.6.1 The Distributor shall be entitled to import Feature Films on video inclusive of Mechanical Royalties provided that the exporter has entered into an agreement with NCB or NCB's sister society of the exporting country covering payment of Mechanical Royalties and subject to NCB's prior approval of such imports inclusive of Mechanical Royalties. The Distributor shall be liable for Mechanical Royalties on imports inclusive of Mechanical Royalties if the exporter has not entered into the said agreement with NCB or NCB's sister society of the exporting country.

5.7 Claims put forward by third party

5.7.1 If NCB as well as any third parties who are not represented by NCB claim from the Distributor the total royalty amount or part of it for the same work, the Distributor shall pay the said royalty to NCB. NCB hereby guarantees the Distributor against the consequences of any claim made in this respect by the third parties.

6 FINANCIAL PROVISIONS

6.1 Royalty invoice and quarterly advances

6.1.1 After the end of each Accounting Period the Distributor shall receive a royalty invoice specification of Mechanical Royalties payable:

- ◆ in October an invoice covering 1 January – 30 June
- ◆ in April an invoice covering 1 July – 31 December

6.1.1.1 The invoice specification is prepared on the basis of information supplied by the Distributor in his sales report covering the Accounting Period in question, cf. clause 4.2.

6.1.2 As an invoice is prepared only every six months the Distributor undertakes to pay quarterly advances each 1 February, 1 May, 1 August and 1 November. The advance payment shall equal half the Mechanical Royalties invoiced by NCB for the equivalent Accounting Period the year before. The minimum amount of each quarterly advance payment shall be DKK 3,000.00.

6.1.2.1 If the Distributor positively knows that the Mechanical Royalties for a given Accounting Period will deviate considerably from the Accounting Period on which the advance payment is based, the Distributor shall notify NCB of this in order for NCB to adjust the advance payment on the basis of information given on new releases, cf. clause 4.1.

6.1.2.2 As for new Distributors the quarterly advances shall be estimated and fixed by NCB on the basis of the information supplied by the Distributors as to their planned manufacture/distribution.

6.1.3 Interest shall be charged on any difference between the advances paid and the actual Mechanical Royalties invoiced for the same Accounting Period from the date of invoice of the advance payment till the date of the royalty invoice at the interest rate set out in Annex 8.

6.2 Guarantee

6.2.1 As a financial security for the fulfilment of his obligations under this Contract, the Distributor shall pay NCB an amount as a guarantee. This guarantee can be used by NCB to cover any financial claim against the Distributor attributable to non-fulfilment of the provisions of this Contract.

6.2.1.1 The Distributor may choose to provide a banker's guarantee provided that the form and wording are according to directions given by NCB.

6.2.2 The amount of the guarantee shall equal Mechanical Royalties payable for three months based on the Mechanical Royalties invoiced during the two preceding Accounting Periods. Adjustments to the amount of the guarantee shall be made every year in the month of January.

- 6.2.2.1 As for new Distributors the amount of the guarantee shall be estimated and fixed by NCB on the basis of the information supplied by the Distributors as to their planned manufacture/distribution. The minimum amount of the guarantee shall be fixed at DKK 10,000.00.

6.3 Payment of invoice, interest and additional fees

- 6.3.1 All invoices issued by NCB shall be payable within 14 days from invoice date. Claims for Mechanical Royalties, cf. clauses 5.1.1 and 6.1.1, fall due not later than on 15 November covering the Accounting Period 1 January – 30 June, and on 15 May covering the Accounting Period 1 July – 31 December.
- 6.3.2 If the due date of any invoice is not observed NCB shall be entitled to charge default interest from the due date till payment is effected. The applicable interest rate is set out in Annex 8.
- 6.3.3 NCB is entitled to charge a reminder fee as set out in Annex 8 for each reminder sent to the Distributor. This applies to any reminder be it due to failure on the Distributor's part to report information/documentation, or be it due to non-payment or late payment of NCB's invoice.

7 AUDIT

- 7.1 NCB shall have access to the Distributor's warehouse and bookkeeping records in order to verify that the Distributor complies with the provisions of this Contract. This right of access shall not be refused or delayed on any pretext by the Distributor.
- 7.1.1 The Distributor shall ensure that documents required to account for incomings and outgoings from his warehouse are kept in a form which will enable NCB to carry out accurate and convenient audits.
- 7.1.2 The Distributor shall maintain a transparent and precise accounting system which will allow NCB's copyright auditors to check the accuracy of his reportings to NCB.
- 7.2 If the Distributor does not comply with the provisions of clauses 7.1 – 7.1.2 and this consequently entails extraordinary audits, the Distributor shall defray NCB's expenses caused by such audits.
- 7.3 NCB guarantees that information on the Distributor's business and activities shall not be imparted to third parties, unless such right or obligation results from applicable law or the nature of things.

8 BREACH OF CONTRACT AND TERMINATION

- 8.1 If the Distributor fails to comply with his obligations toward NCB as set out in this Contract, NCB shall be entitled to apply sanctions.
- 8.2 The below events shall entitle NCB to terminate the Contract with *immediate effect*:
- ◆ the filing by the Distributor of a bankruptcy petition
 - ◆ the suspension of payment by the Distributor
 - ◆ the bankruptcy of the Distributor
 - ◆ the opening up of negotiations for a composition.
- 8.3 If the Distributor commits any of the below breaches of contract, NCB shall be entitled to terminate the Contract by giving *fourteen days notice*:
- 8.3.1 Failure to meet any financial claims put forward by NCB under the provisions of this Contract.
- 8.3.2 Failure by the Distributor to observe any bans imposed by NCB.
- 8.3.3 Refusal by the Distributor to give access to NCB's copyright auditors for audit purposes.
- 8.3.4 Manufacture, import and/or distribution of illegal Feature Films on video.
- 8.3.5 Unauthorised use of NCB repertoire (infringement of moral rights).
- 8.3.6 Recording onto sound carriers which are not covered by this Contract and which is not licensed by NCB under a separate agreement.
- 8.3.7 Repeated failure – despite warnings from NCB – to comply with the provisions of this Contract, in particular the below events:
- ◆ Failure to register or late registration of releases of Feature Films on video (cf. clause 4.1).
 - ◆ Failure to report or late or incorrect reporting of Turnover and/or number of copies supplied from warehouse (cf. clause 4.2).
 - ◆ Failure to submit or late submission of evidence proving
 - payment of Mechanical Royalties on imports (cf. clause 4.1.1.6)
 - payment of Synchronisation fee on distribution of Feature Films on video containing Nordic television productions (cf. clause 4.1.2)

- licence covering the use of NCB repertoire in trailers and as signature tunes (cf. clause 4.1.3)
- 8.4 Notice of termination of the Contract due to any breach shall be sent by registered as well as by ordinary mail. If the registered letter is not collected by the Distributor, the notice set out in clause 8.3 shall be deemed to have been received three days after posting.
- 8.5 In the event that the Distributor fails to fulfil his obligations under this Contract, NCB shall be entitled to withdraw an amount from the guarantee originally provided by the Producer substantial enough to settle NCB's claims against the Distributor according to the provisions of this Contract.
- 8.6 If NCB terminates the Contract with reference to clauses 8.2 or 8.3, the following claims fall due immediately:
- ◆ claims sustained by invoices issued by NCB prior to the termination of the Contract
 - ◆ Mechanical Royalties on all Feature Films on video which have left the Distributor's warehouse prior to the termination of the Contract
- 8.7 If NCB terminates the Contract with reference to clauses 8.2 or 8.3, the Distributor's right under clause 2.2 to distribute Feature Films on video shall be lost. The sale of Feature Films on video which the Distributor holds in stock at the time of the termination of the Contract requires a written permit from NCB. The permit to sell will be given if
- ◆ the Distributor pays the Mechanical Royalties – calculated according to the provisions of this Contract – not later than at the time of delivery to the buyer
- or
- ◆ a buyer approved by NCB in writing confirms to be liable for the Mechanical Royalties
- 8.8 If the Contract is terminated under the provisions of clause 10, NCB's claims for Mechanical Royalties shall fall due not later than 14 days after the expiration of the notice of termination. Mechanical Royalties on Feature Films on video which the Distributor holds in stock at the time of termination of the Contract shall be calculated according to the provisions of this Contract.
- 8.9 After the termination of this Contract the Distributor shall not manufacture or distribute Feature Films on video reproducing NCB repertoire unless a licence has been obtained and royalties paid to NCB prior to manufacture/distribution.
- 8.10 The interest rate to be charged in the case of breach of contract shall be the interest rate set out in Annex 8 with an additional 6 percent points. Interest shall be charged in the events of breach of contract set out in clauses 8.3.1, 8.3.5 and 8.3.7.

9 JURISDICTION AND APPLICABLE LAW

- 9.1 Disputes relating to the interpretation or implementation of this Contract shall be settled in accordance with the substantive and procedural law of the country of the defendant.

10 TERM OF THE CONTRACT

- 10.1 The “Standard Contract 2000 Denmark • Feature Films on Video” has as a model contract been negotiated with *Foreningen af Danske Videogramdistributører* (Association of Danish Videogram Distributors) and shall take effect as from 1 July 2000. *Foreningen af Danske Videogramdistributører* or NCB may terminate the “Standard Contract 2000 Denmark • Feature Films on Video” by giving a six-month notice for expiry at the first day of January. First possibility for termination will be 1 January 2002.
- 10.2 If *Foreningen af Danske Videogramdistributører* or NCB terminates the “Standard Contract 2000 Denmark • Feature Films on Video”, NCB shall be entitled to terminate this Contract not later than one month hereafter for expiry at the same 1 January. Notice of termination shall be sent by registered mail.
- 10.3 This Contract shall take effect on _____.
- 10.4 The Distributor as well as NCB may terminate this Contract by giving a three-month notice. Notice of termination shall be sent by registered mail.

Date

NCB

Date

Distributor

ANNEX 1

Definitions

Accounting Period	6-month period: 1 January – 30 June respectively 1 July – 31 December
Distributor	The person/company who supplies the Feature Films on video to wholesale dealers and retail dealers or video clubs with a view to their sale or rental
Wholesale Dealers	Wholesale dealers and other companies who buy Feature Films on video from Distributors with a view to their resale to the retail trade or video clubs for sale or rental to private consumers
Catalogue Number	Identification number of a Feature Film on video. The number is used by the Distributor in his bookkeeping and inventory systems
Mechanical Royalty	Royalty paid on one copy of a Feature Film on video
Licensee	The one who has acquired the right from the Producer to exploit the Feature Film
Legally Produced	Applies when the Producer has obtained a Synchronisation licence, cf. Annex 4
Custom Manufacture	The duplication plant does not obtain any right to the product but receives payment for the commodities and the work taken on
Musical Works	Musical works under copyright protection, i.e. music with and without lyrics – and the instances set out in 1.1.1.1: words without music
Music Video	An audiovisual work covered by the “Music Video Agreement 1998”; definition set out in Annex 3
NCB’s Territory of Administration	The Nordic countries (Denmark, Norway, Sweden, Finland and Iceland) and the Baltic countries (Estonia, Latvia and Lithuania)
Turnover	The Distributor’s receipts on sale and/or rental of Feature Films on video after deduction of discounts to dealers but without deduction of distribution and marketing costs
Sales Report	Computer print-out of all Feature Films on video registered with NCB by the Distributor
Producer	The producer responsible for the Feature Film
Private Use	The viewing of the video in private homes by the family and acquaintances of the buyer
Clearance Sale	Clearance sale of stock of Feature Films on video deleted from the Distributor’s sales catalogue

Sales Cassette	VHS cassette intended for sale for Private Use
Feature Film	See Annex 2
Feature Film on Video	See Annex 2
Synchronisation	The combination of a Musical Work and pictures
Synchronisation Licence	Licence covering Synchronisation
Trailer	A promotion spot for other existing or coming Feature Films on video from the Distributor's sales catalogue
Rental Cassette	VHS cassette intended for rental for Private Use
Entertainment Video	An audio-visual work covered by NCB's "Standard contract Entertainment Videos 1998 • Denmark", definition set out in Annex 3
Video Label	Name/label under which the Distributor distributes his Feature Films on video

ANNEX 2

Feature Film – Feature Film on video

- 1 A Feature Film on video shall mean a VHS cassette onto which a Feature Film – as defined below – has been transferred:
 - 1.1 An audiovisual dramatic work which has been shown in cinemas, which has been produced for the video market or which has been produced by or for a TV-station, provided that the dramatic work tells a story and the music remains secondary.
 - 1.2 A Feature Film may be a concluded story, a TV-serial where the episodes can be compared with the chapters of a book, or a TV-serial with recurring characters where each episode can be compared with a short-story. Cartoon and animated films can also be Feature Films.
- 2 Audiovisual works which falls within the definition of Entertainment Video and Music Videos, cf. Annex 3, shall not be included in the definition in clause 1. If an audiovisual work cannot be classified under the definitions mentioned, it rest with NCB to make the final decision as to whether a work (on VHS cassette) shall be categorised as a Feature Film, an Entertainment Video or a Music Video.
- 3 NCB accepts that Feature Films transferred onto DVD fall within this contract. Transfer to other media/formats may also be licensed under this Contract provided that NCB on the basis of a factual assessment determines that the exploitation in question corresponds to exploitation on VHS cassettes, and provided that the rights owners/their music publishers have no objections to the granting of such a licence. The licence may be granted on condition that higher minimum rates are agreed than those set out in Annex 7.
 - 3.1 The licence referred to in clause 3 is subject to the Distributor applying for the licence prior to introducing the product into the market.
 - 3.2 The licence referred to in clause 3 is also subject to the Distributor applying approved technological methods (copy protection) which will prevent any copying of the Musical Works under this Contract.
 - 3.2.1 If an approved and effective copy protection is not available at the time of the conclusion of this Contract, the Distributor shall start implementing such protection measures as soon as they are available.
 - 3.2.2 On the Feature Film on video the Distributor undertakes to indicate to the consumer that copying/duplication constitutes an infringement of applicable copyright law.

ANNEX 3

Entertainment Videos – Music Videos

- 1 This Contract does not cover Entertainment Videos as defined in Annex 1 of the “Standard contract Entertainment Videos 1998 • Denmark”; enclosure 1:

“An entertainment video is an audiovisual production the contents of which are typically – but not solely – the recording of a revue, a concert, a musical, an opera musical, an opera, a stage performance, a sketch, a comedy show etc.

Entertainment videos may contain a substantial part of music, however, they have not been produced with a view to promoting a particular sound carrier.”

- 2 This Contract does not cover Music Videos as defined in clause 2 of the ”Music Video Agreement 1998”:

“A music video is produced by a record company mainly with a view to promoting a sound carrier release, e.g. with a view to being broadcast in chart programmes on television and music channels, and with a view to being released more or less at the same time on a commercial video (VHS cassette) for sale or rental for private and domestic use.

The commercial product referred to as a music video does not solely have to contain reproduction in sound and picture of musical works; interviews with performing artists, studio recordings etc. may be part of the contents.

A music video may also consist of compilations of the performances of various artists, however, it cannot consist of sheer recordings of concerts, operas and musicals. Entertainment videos, feature films and other categories, for which special NCB agreements and terms apply, can never fall within the definition of a music video.”

ANNEX 4

Additional licences

- 1 The Producer shall obtain a licence for the combination of Musical Works and pictures (Synchronisation). In NCB's Territory of Administration a Synchronisation licence shall be obtained from or through NCB; outside NCB's Territory of Administration the licence shall be obtained from the relevant rights owners or their music publishers.
- 1.1 An additional licence from the rights owners/their music publishers is required if:
 - ◆ the Musical Work is used in a political, religious, pornographic or commercial context
 - ◆ a graphic or visual reproduction of sheet music or lyrics is made
 - ◆ the Producer adapts, samples or uses fragmentary reproduction of the Musical Work
 - ◆ the Musical Work never was released before on CD, record, tape or similar media (first recording)
 - ◆ new or translated lyrics are used for existing music
 - ◆ new music is used for existing lyrics
- 1.2 If re-recording/dubbing is made from an existing recording, the Producer shall obtain a licence from the relevant record company and the performing artists.
- 2 NCB's Synchronisation licence covering theatrical exhibition (cinemas) includes the right to transfer the Feature Film to a video master for the manufacture of copies and distribution on VHS cassette for Private Use.
- 3 NCB's Synchronisation licence covering television broadcast does *not* include the right to transfer the Feature Film to a video master for the manufacture of copies and distribution on VHS cassette for Private Use.
- 3.1 NCB's licence covering the transfer of a Feature Film onto a video master – for which a licence for television broadcast and institutional use has been obtained – with a view to the manufacturing of copies and distribution on VHS cassette for Private Use shall be subject to payment of a Synchronisation fee (one-off payment). This Synchronisation fee, which NCB may change at any time without notice, is fixed as follows:

distribution prior to 31 December 2000:	DKK 2.75 per second of recorded music
distribution after 1 January 2001:	DKK 3.00 per second of recorded music

ANNEX 5

Video Labels exploited by the Distributor

1 The Distributor's Video Labels:

2 The Distributor undertakes to notify to NCB any new Video Label he exploits.

3 If the Video Label in question was already notified by another distributor, the exploitation of the Video Label by the Distributor shall be subject to

- a) the Distributor having obtained permission from the owner of the Video Label to make future distributions under the Video Label in question
- b) the owner of the Video Label having ceased to make distributions under the Video Label in question
- c) all NCB claims under this Video Label against its owner having been settled.

3.1 An agreement between the Distributor and the owner of the Video Label covering the provisions set out in clauses 3. a) and b) shall accompany the notification by the Distributor.

3.2 NCB undertakes to inform the Distributor at the moment the provisions of clause 3 c) has been fulfilled, when the Distributor may distribute his Feature Films on video under the Video Label in question.

ANNEX 6

Trailers – signature tunes

- 1 The Producer of a trailer shall – unless the trailer exclusively reproduces sequences (Musical Works/pictures) which are identical to sequences of the Feature Films – obtain a Synchronisation licence from NCB, cf. Annex 4.
- 1.1 NCB's licence for the manufacture of copies and distribution on VHS cassette for Private Use shall be granted against payment of Mechanical Royalties, the size of which depends on the number of VHS cassettes onto which the trailer has been recorded.
2. The licence for the use of NCB repertoire as signature music shall be obtained through NCB; the rights owners/their music publishers may themselves fix the price for such use.

ANNEX 7

Minimum rates

For the calculation of Mechanical Royalties, cf. clause 5.2 of the Contract, the following minimum rates shall apply:

- 1 The minimum rate applicable to Feature Films on video distributed through wholesale or retail dealers with a view to sale shall be 2.1% of DKK 25.00 = **DKK 0.55** per copy.
- 2 The minimum rate applicable to Feature Films on video distributed through wholesale or retail dealers with a view to rental shall be 2.1% of DKK 125.00 = **DKK 2.65** per copy.
- 3 The minimum rate for one copy of a Feature Film on video which contains more than one Feature Film shall be DKK 0.55 respectively DKK 2.65 x (multiplied by) number of Feature Films.
- 4 NCB's minimum rates shall apply irrespective of country of sale.
- 5 The minimum rates shall be adjusted once a year on 1 January in accordance with the changes of the net consumer-price index.

ANNEX 8

Interest and fees

- 1 The interest rate applicable to late payment and any other instance where interest may be charged according to this Contract shall be the inter-bank rate + (plus) 6% p.a.
- 2 Any reminder sent by NCB under this Contract shall be charged the Distributor with DKK 100.00 each reminder.
- 3 The Distributor undertakes to pay all costs in connection with the recovery of any debt payable to NCB under this Contract.
- 4 The settlement of any outstanding interest and cost shall have first priority when NCB receives payment made.



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