

TRIBE OF NOISE MUSIC LICENSE AGREEMENT

THIS IS A LEGAL AGREEMENT (THE "AGREEMENT") BETWEEN LICENSEE AND TRIBE OF NOISE BV ("Tribe of Noise"). THIS AGREEMENT APPLIES TO LICENSES ISSUED VIA THE WEB AND VIA LOCAL SALES REPRESENTATIVES, AND IS APPLICABLE TO ONLINE, DIGITAL AND PHYSICAL DELIVERY OF LICENSED MATERIAL.

1. Definitions. The following terms have the stated meanings:

- a.** "Audio Products" means any product in any format or media now known or hereafter devised, embodying the Licensed Material alone, including, without limitation, compact discs (CDs), cassettes, phonograph records and digital downloads.
- b.** "Breach" means any breach of, or failure to comply with, any representation, warranty, covenant or agreement made or undertaken in this Agreement.
- c.** "Broadcast" means to cause or permit others to cause the performance, telecast, broadcast, transmission, streaming, exhibition or distribution of the Synchronized Licensed Material.
- d.** "Collection Societies" means any performing, mechanical, or other rights society (e.g., ASCAP, BMI, SESAC, SOCAN, SACEM, MCPS, PRS, PPL, GEMA, GVL, SGAE, AIE) that collects and administers royalty payments on behalf of music publishers, writers and performers.
- e.** "Copy" means to duplicate or otherwise make copies of the Work solely for the purpose of Broadcasting the Work.
- f.** "Edit" means use by Licensee of less than an entire Master, including the editing, looping, enhancing or modifying of the Master, provided that any such change (i) shall not alter the fundamental character of the portion of the Master being used, and (ii) shall not give rise to any ownership rights or claims, including copyright, on the part of Licensee in or to the resultant edited recording or composition.
- g.** "Licensed Material" means the sound recordings (the "Masters") and musical compositions, including lyrics, embodied on the Masters (the "Compositions") offered for licensing by Tribe of Noise and selected for use by Licensee (such Masters and Compositions so selected, collectively the "Licensed Material"). Any reference to the Licensed Material shall be to each part of the Licensed Material and also to the Licensed Material as a whole.
- h.** "Licensee" means the person or entity purchasing a license hereunder and, if specifically identified during the purchase process or set forth in the invoice, also means the person or entity on whose behalf the license is purchased.
- i.** "Media" means, unless otherwise stated in the Rights and Restrictions, any and all media, now known or hereafter devised.
- j.** "Rights and Restrictions" means the information: (i) accompanying the Licensed Material on any website where the Licensed Material is offered for licensing (including all areas of the purchase process); (ii) in any invoice or order receipt; and (iii) in any other written communication accompanying the Licensed Material. Such Rights and Restrictions may include, without limitation, a description of the Licensed Material, the permitted scope of use, any territory or other use restrictions applicable to the Licensed Material selected, and the corresponding price for the license of such Licensed Material. The Rights and Restrictions shall be incorporated into this Agreement and all references to the Agreement shall include the Rights and Restrictions.
- k.** "Synchronize" means to couple and/or synchronize, arrange, record, re-record, transcribe, modify or edit the Licensed Material solely in timed relation with the Use(s).
- l.** "Synchronized Licensed Material" means Licensed Material that has been coupled and/or synchronized, arranged, recorded, re-recorded, transcribed, modified or edited solely in timed relation with the Use(s).
- m.** "Term of Use" means the period of time identified in the Rights and Restrictions, during which time Licensee may exercise the rights granted herein.
- n.** "Territory" means worldwide unless otherwise stated in the Rights and Restrictions.
- o.** "Use" means the specific use identified in the Rights and Restrictions.
- p.** "Work" means the production or program embodying the Synchronized Licensed Material.

2. License Grant and Restrictions.

- a.** Tribe of Noise grants to Licensee, for the Term of Use and in the Territory, a non-exclusive, non-transferable right to use, Edit and Synchronize the Licensed Material, and to Copy and Broadcast the Synchronized Licensed Material. As further described in Section 6, below, the rights granted herein should not be subject to rights held by Collection Societies.
- b.** Use of the Licensed Material is strictly limited to the Use, Media, Term of Use, Territory and any other restrictions specified in the Rights and Restrictions. Licensed Material shall not be used contrary to any Rights and Restrictions.
- c.** Licensee may use the Synchronized Licensed Material as part of the Work to advertise or promote the Work, provided that the Licensed Material is not separated from the original Work. Any use of Licensed Material apart from the Work

requires a separate license.

- d. Nothing contained in this Agreement shall be deemed to grant Licensee the right to manufacture, distribute or sell Audio Products.
- e. Licensee shall not use the Licensed Material in any unlawful manner.

3. Fees. In consideration of the grant of the license contained in this Agreement, Licensee agrees to pay to Tribe of Noise the amount set forth in the invoice or order receipt. Licensee acknowledges and agrees that, as further described in Section 6, below, certain uses of Licensed Material may require additional payment to Collection Societies and, if required, Licensee shall be solely responsible for such payments.

4. Interest or Cancellation on Overdue Invoices. If Licensee fails to pay Tribe of Noise' invoice in full within the time specified on the invoice, Tribe of Noise may add a service charge of one-and-one-half percent (1.5%) per month, or such lesser amount as is allowed by law, on any unpaid balance until payment is received. Tribe of Noise also reserves the right, in its sole discretion, to revoke the license if payment is not made in full on time.

5. Music Credit. Licensee agrees to provide credit, where technically feasible and in accordance with customary industry practice, in the following manner: "[Artist's Name]/[Track Title]/Tribe of Noise" or as otherwise notified by Tribe of Noise.

6. Collection Society Payments.

- a. To the extent that Licensed Material consists of tracks from Tribe of Noise' **PRO** collection, this License Agreement shall be deemed to include the direct grant to Licensee of the right to publicly perform the Licensed Material in the Territory, and no fee which would otherwise become due and payable as a result of a public performance of the Licensed Material as contemplated by this License Agreement shall be due to Tribe of Noise or its contributors, nor shall this License Agreement require Licensee to report usage of the Licensed Material to any Collection Societies. In furtherance of the foregoing, Tribe of Noise has used reasonable efforts to ensure that it holds all rights in **PRO** content necessary to issue direct licenses, inclusive of all performing rights, mechanical or any other similar rights, without need for payment of further royalties to any Collection Society. However, in certain jurisdictions, Licensee may be asked to pay royalties to Collection Societies due to traditional music industry agreements and treaties. In case of doubt Licensee is advised to contact Tribe of Noise immediately.

7. Representations and Warranties.

- a. Tribe of Noise represents and warrants that: (i) it has all necessary rights and authority to enter into and perform this Agreement; (ii) the Licensed Material will be free from defects in material and workmanship for thirty (30) days from delivery (Licensee's sole and exclusive remedy for a breach of this warranty being the replacement of the Licensed Material); (iii) Licensee's use of the Licensed Material in its original form, and when used in accordance with this Agreement, will not infringe upon the rights of any third party, including copyrights and rights of privacy or publicity.
- b. Licensee represents and warrants that: (i) it has all necessary rights and authority to enter into and perform this Agreement; (ii) if licensing the Licensed Material on behalf of a third party, Licensee is authorized to act as an agent on behalf of that third party and has full power and authority to bind the third party to this Agreement and Licensee shall be bound and liable for any failure of such third party to comply with the terms of this Agreement.

8. Indemnification.

- a. Provided Licensed Material is only used in accordance with this Agreement and Licensee is not otherwise in breach of this Agreement, and as Licensee's sole and exclusive remedy for any alleged or actual breach of the representations and warranties set forth above, Tribe of Noise shall defend, indemnify, and hold Licensee and its parent, subsidiaries and commonly owned or controlled affiliates and their respective officers, directors and employees harmless from all damages (except punitive damages not directly attributable to acts of Tribe of Noise), liabilities and expenses (including reasonable attorneys' fees and permitted and authorized costs) arising out of or connected with any actual or threatened lawsuit, claim or legal proceeding alleging that Tribe of Noise is in breach of its warranties set forth above. The foregoing states Tribe of Noise' entire indemnification obligation under this Agreement.
- b. Licensee shall defend, indemnify and hold Tribe of Noise and its parent, subsidiaries and commonly owned or controlled affiliates and their respective officers, directors and employees harmless from all damages (except punitive damages not directly attributable to acts of Licensee), liabilities and expenses (including reasonable attorneys' fees and permitted and authorized costs) arising out of or as a result of claims by third parties relating to: (i) Licensee's use of any Licensed Material outside the scope of this Agreement; or (ii) any other actual or alleged breach by Licensee of this Agreement.
- c. The party seeking indemnification pursuant to this section shall promptly notify the other party of such claim. At indemnifying party's option, indemnifying party may assume the handling, settlement or defense of any claim or

litigation, in which event indemnified party shall cooperate in the defense of any such claim or litigation. Indemnified party shall have the right to participate in such litigation, at its expense, through counsel selected by indemnified party. The indemnifying party will not be liable for legal fees and other costs incurred prior to the other party giving notice of the claim for which indemnity is sought.

9. Limitation of Liability. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, TRIBE OF NOISE MAKES NO WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE LICENSED MATERIAL OR ITS DELIVERY SYSTEMS, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TRIBE OF NOISE SHALL NOT BE LIABLE TO LICENSEE OR ANY OTHER PERSON OR ENTITY FOR ANY PUNITIVE, SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, OR ANY OTHER DAMAGES, COSTS OR LOSSES ARISING OUT OF THIS AGREEMENT, EVEN IF TRIBE OF NOISE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, COSTS OR LOSSES. SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES OR LIABILITY FOR CERTAIN CATEGORIES OF DAMAGES.

10. Breach and Termination. In the event of a Breach by Licensee, Tribe of Noise may, at its sole discretion, terminate this Agreement and revoke any licenses granted herein. Such termination shall take effect immediately upon notice to Licensee, and Licensee shall immediately (i) cease using the Licensed Material in any Media and in any manner; (ii) destroy or delete all copies of the Licensed Material.

11. Reservation of Rights. All rights which are not expressly granted by Tribe of Noise to Licensee pursuant to this Agreement, including all promotional materials or any other property owned or controlled by Tribe of Noise are specifically reserved by Tribe of Noise. Except as expressly set forth in this Agreement, nothing contained herein shall be deemed to convey or transfer to Licensee any ownership interest, including copyright, in or to the Licensed Material.

12. Miscellaneous Terms.

- a. **Unauthorized Use.** Any use of Licensed Material in a manner not expressly authorized by this Agreement or in breach of a term of this Agreement constitutes copyright infringement, entitling Tribe of Noise to exercise all rights and remedies available to it under copyright laws around the world. In addition, and without prejudice to Tribe of Noise' other remedies under this Agreement, Tribe of Noise reserves the right to charge and Licensee agrees to pay a fee equal to up to five (5) times Tribe of Noise' standard license fee for the unauthorized use of the Licensed Material.
- b. **Audit/Certificate of Compliance.** Upon reasonable notice, Tribe of Noise may, at its discretion, either through its own employees or through a third party, audit Licensee's records directly related to this Agreement and use of Licensed Material in order to verify compliance with the terms of this Agreement. Where Tribe of Noise reasonably believes that Licensed Material is being used outside the scope of the license granted under this Agreement, Licensee shall, at Tribe of Noise' request, provide a certificate of compliance signed by an officer of Licensee, in a form to be approved by Tribe of Noise.
- c. **Withdrawal.** Upon notice from Tribe of Noise, or upon Licensee's knowledge that any Licensed Material is subject to a threatened or actual claim of infringement, violation of another right, or any other claim for which Tribe of Noise may be liable herein, or if Tribe of Noise withdraws any Licensed Material for any good reason, Licensee will physically remove the Licensed Material from its premises, computer systems and storage (electronic and physical) and, if possible, cease any future use at its own expense. Tribe of Noise shall provide Licensee with comparable Licensed Material (which comparability will be determined by Tribe of Noise in its reasonable commercial judgment), free of charge, but subject to the other terms and conditions of this Agreement.
- d. **Governing Law.** This Agreement will be governed in all respects by the laws of the Netherlands, without reference to its laws relating to conflicts of law. Any disputes arising from this Agreement or its enforceability shall be settled by binding arbitration to be held in Amsterdam, the Netherlands. The United Nations Convention on Contracts for the International Sale of Goods does not govern this Agreement. Notwithstanding the foregoing, Tribe of Noise shall have the right to commence and prosecute any legal or equitable action or proceeding before any court of competent jurisdiction to obtain injunctive or other relief against Licensee in the event that, in the opinion of Tribe of Noise, such action is necessary or desirable.
- e. **Severability.** If one or more of the provisions contained in this Agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not be affected. Such provisions shall be revised only to the extent necessary to make them enforceable.
- f. **Waiver.** No action of either party, other than express written waiver, may be construed as a waiver of any provision of this Agreement. A delay on the part of either party in the exercise of its rights or remedies will not operate as a waiver of such rights or remedies, and a single or partial exercise by either party of any such rights or remedies will not preclude other or further exercise of that right or remedy. A waiver of a right or remedy on one occasion will not be construed as a bar to or waiver of rights or remedies on any other occasion.

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