

Symphonic Distribution Neighboring Rights Administration Agreement

WHEREAS:

- 1) The Record Company owns or exclusively controls certain rights to Masters (as hereinafter defined); and
- 2) The Administrator is engaged in the business of managing such rights and has inter alia facilities and expertise to ensure the comprehensive exploitation of, and royalty distributions in respect of, these rights; and
- 3) The Record Company wishes to grant such rights, and/or appoint as agent the right to exercise such rights, to the Administrator in order for it to more effectively license such rights and generate & collect such income due to it.

NOW IT IS HEREBY AGREED as follows

1. DEFINITIONS

In this Agreement the following terms shall have the following meanings

"Exclusive Agent" shall, to the extent of the scope of this Agreement, mean to act exclusively on behalf of the Record Company to the exclusion of all other persons including the Record Company and to exercise a right that would otherwise be exercisable exclusively by the Record Company.

"Interactive Service" means a service that enables a member of the public to receive a transmission of a program specially created for the recipient, or on request, a transmission of a particular Masters, whether or not as part of a programme, which is selected by or on behalf of the recipient. The ability of individuals to request that particular Masters be performed for reception by the public at large, or in the case of a subscription service, by all subscribers of the service, does not make a service interactive, if the programming on each channel of the service does not substantially consist of Masters that are performed within 1 hour of the request or at a time designated by either the transmitting entity or the individual making such request. If an entity offers both interactive and non-interactive services (either concurrently or at different times), the non-interactive component shall not be treated as part of an interactive service.

"Masters" shall mean all commercial sound recording and music video copyrights the Record Company owns or exclusively controls relevant rights and shares of such rights thereof for one or more geographic or political regions within the Territory to the extent thereof.

"Non-Interactive Webcasting" means the transmission of Masters via the Internet on a non-interactive basis insofar as the transmitter does not intend or assist downloading or other non-transient reproduction by the end-user, excluding Simulcasting (and the term "Non-Interactive

Webcast" shall be interpreted accordingly).

"Remuneration" shall mean all monies, royalties and fees received in connection with the exploitation or exercise of rights granted herein this Agreement.

"Simulcast" means a simultaneous unaltered transmission via the Internet of Masters included in original free-to-air broadcasts of radio and/or TV signals in compliance with the respective regulations on provision of broadcasting services (and the term "Simulcasting" shall be interpreted accordingly).

"Standard Broadcast" means a broadcast that (a) is transmitted for simultaneous reception by members of the public and is capable of being lawfully received by them, or (b) is transmitted at a time determined solely by the person making the transmission for presentation to members of the public, broadcast but excluding all Internet transmissions.

"Territory" shall mean the World subject to the extent of the Record Company's control of the Masters throughout the Territory.

"Term" shall mean a minimum duration of two (2) years from the date of this Agreement and shall continue in perpetuity until terminated by either party in accordance with clauses 9 of this Agreement.

"Transient Copy" means a temporary copy of a Master which is transient or incidental, which is an integral and essential part of a technological process and the sole purpose of which is to enable: (i) a transmission of a Master in a network between third parties by an intermediary; or (ii) a lawful use of the Master, and which has no independent economic significance.

2. GRANT OF RIGHTS

(1) In consideration of the mutual benefits set out herein and other valuable consideration (receipt of which is hereby acknowledged) the Record Company HEREBY GRANTS the Administrator with full title guarantee the following rights for the duration of the Term in order that the Administrator may fulfil its purpose and obligations herein:

a) "Performance & Broadcast Rights" meaning the exclusive rights to and to grant licenses for others to others to (i) perform Masters in public; and (ii) include Masters in Standard Broadcasts, Simulcasts, and/or Non-Interactive Webcasts.

b) "Dubbing Rights" meaning the exclusive right to copy or to authorise the copying of any Masters only for the purpose of exercising (or authorising the exercise of) the Performance & Broadcast Rights and (i) which shall include the right to equitable remuneration and/or the right to equitable participation in respect of such exploitation and/or the right to any remuneration payable as a result of any tape or equipment or similar levy that the Record Company is entitled to as a result of its ownership or control of Masters; but (ii) exclude use of Masters conventionally granted via a synchronization license in territories such as the United States of America; (iii) any uses in connection with advertising; and (iv) any use on mobile telephones or in any Interactive Service or other making available service.

c) "New Media Communication Rights" meaning the non-exclusive right to, or to authorise another to, communicate any Master to the public (whether via the Internet or otherwise, including without limitation to broadcast any Master and to make available any Master to the public in such a way that members of the public may access it from a place and at a time individually chosen by them), but in each case excluding: (i) the Performance & Broadcast Rights; and (ii) any use of Masters by means of their incorporation into the soundtrack of a feature film originally produced for theatrical release and subsequent use of such Masters as so incorporated.

d) "New Media Dubbing Rights" meaning the non-exclusive right to copy or to authorise the copying of any Master (including without limitation the right to make, or to authorise the making of, a Transient Copy of any Master) whether for the purpose of exercising or authorising the exercise of the New Media Communication Right or for other commercial purposes.

e) "Issuing Rights" meaning the non-exclusive right to do, or to authorise another, to issue to the public copies of any Master comprised in a television programme or spoken-word radio programme and to copy such Master as comprised in such programme solely for such purpose, but in each case excluding the Performance & Broadcast Rights.

f) "Rental and Lending Rights" meaning the non-exclusive right to do, or to authorise another, to rent or lend copies of any Master comprised in a television programme or spoken-word radio programme and to copy such Master as comprised in such programme solely for such purpose, but in each case excluding the Performance & Broadcast Rights.

(2) The hereinabove grants shall also be considered effective for all periods prior to the Term to the extent the Record Company held rights in any Masters PROVIDED THAT such income in respect of prior periods has not been claimed and distributed to Record Company or an authorised agent of licensee thereof.

3. APPOINTMENT AS EXCLUSIVE AGENT

Should the Record Company not be original copyright owner or successor in title thereof to Masters and in accordance with its contractual arrangements not be entitled to onward grant rights stipulated hereinabove, or where the nature of such licensing and/or collection society rules and policies prohibits or impedes the Administrator acting in the capacity as licensee, the Record Company HEREBY APPOINTS the Administrator as its Exclusive Agent and/or Non-Exclusive Agent as appropriate and required.

4. RE-ASSIGNMENT

The Record Company agrees that the Administrator may onward assign the rights and appointments stipulated in clauses 2 & 3 of this Agreement in order so it may fulfil its obligations to the Record Company.

5. DISTRIBUTION OF REVENUES

In consideration of the grant and/or appointment hereinabove the Administrator undertakes to pay to the Record Company the following royalty/share of receipts:

a) An amount equal to eighty per cent (70%) of Remuneration.

6. ACCOUNTING

a) A statement of royalties by Administrator to Licensor shall be made on a quarterly basis within forty five (45) days of the end of each calendar quarter being March, June, September and December each year showing monies received by the Administrator.

b) Payment is made quarterly on Symphonic's regular quarterly distribution schedule:

Quarter Schedule: Q1-Jan-Mar / Q2-Apr-Jun / Q3-Jul-Sept / Q4-Oct-Dec

Estimated Payments: Q1: May 10-20 / Q2: Aug 10-20 / Q3: Nov 10-20 / Q4: Feb 1-7

c) Record Company signing this Agreement is responsible for and will timely pay any royalties or sums due to any performing artists, producers, and any other track participants from the use of the Masters. This includes royalties due to any party as a result of samples included in the recordings and all payments that may be required under collective bargaining agreements applicable to Record Company and its affiliates.

7. DEDUCTIONS / TAXES

The parties acknowledge and agree that the royalties and fees provided for hereinabove shall be computed on a so called at source basis upon one hundred per cent (100%) of Remuneration received by the Administrator in the United States Of America and identifiably attributable to the Masters less only;

(i) Standard commission actually retained by bona fide collection societies.

(ii) Record Company must have a W9 and/or a W8-BEN on file with Administrator in order to receive payment. Administrator has tools and resources available to Record Company to provide assistance for such registrations.

8. OBLIGATIONS

a) The Record Company agrees to cooperate with the Administrator in providing it the full details of all Masters under the Record Company's control in a format agreed to by both parties and at the request of the Administrator copies of all documentation substantiating its ownership or control of the Masters and where relevant the details of all featured and non-featured performers that whose performances have been embodied in the Masters.

b) The Administrator warrants that it shall use all reasonable endeavours in performing its duties under this Agreement but that it shall be under no obligation to seek the distribution or collection of Remuneration which in its professional opinion is deemed to be uneconomical or unreasonable.

9. TERMINATION AND SUSPENSION

a) Record company may terminate this Agreement as of 31st December in any calendar year by giving no less than six (6) months prior Notice PROVIDED THAT no such Notice has any validity should it seek to terminate this Agreement prior to expiry of the minimum duration of the Term.

b) If the Administrator shall enter into liquidation (other than voluntary liquidation for the purposes of reconstruction or reorganisation) or shall make any assignment for the benefit or make any composition with its creditors, or if any bankruptcy or other insolvency proceedings shall be filed by or against the Administrator and not discharged within ninety (90) days then this Agreement shall be deemed to have terminated entirely and all rights to have reverted back to the Record Company.

c) If the Administrator shall materially default in the performance of any of the material obligations or duties of the Administrator under this Agreement and such default shall continue for a period of fourteen (14) days after receipt by the Administrator in writing from the Record Company alleging such default, the Record Company shall be entitled forthwith to terminate this Agreement by written notice to the Administrator.

d) If the Record Company shall materially default in the performance of any of the material obligations or duties of the Record Company and such default shall continue for a period of fourteen (14) days after receipt by the Record Company in writing from the Administrator alleging such default, the Administrator shall be entitled forthwith to terminate this Agreement by written notice to the Record Company.

10. MISCELLANEOUS

- a) This Agreement contains all of the terms agreed by the parties and replaces any and all previous agreements, whether written or oral, concerning the subject matter of this Agreement. This Agreement shall not be varied or modified except by written document signed by the parties hereto.
- b) Nothing herein contained shall be construed or deemed to constitute a partnership, joint venture or contract of employment between the parties hereto and neither party shall be bound by any representation, act or omission of the other.
- c) The Record Company hereby agrees to indemnify the Administrator and hold the Administrator harmless from any and all loss and damage (including reasonable legal costs) incurred by the Administrator as a result of any breach of the Record Company's representations contained in this Agreement provided that the foregoing indemnity shall not apply where such loss or damage arises directly from any breach or non-performance by the Administrator of any of the Administrator's warranties, representations or agreements under this Agreement.
- d) The Administrator agrees to indemnify the Record Company against any loss and damages (including legal fees) arising out of or in connection with any claims, actions, or demands by any third party which is inconsistent with any of the Administrator's warranties and/or representations and/or agreements contained in this Agreement (or any act, omission or default by the Administrator which is inconsistent thereto).
- e) If any provision of this Agreement is held by a court or other body of competent jurisdiction to be void or unenforceable but would be valid and enforceable if a part(s) was deleted or modified such provision shall apply with such deletion or modification to make the Agreement valid and effective.

11. NOTICES

Notices shall be in served in writing to the email address of the Administrator and to the email address of the Record Company.

12. LEGAL JURISDICTION

This agreement shall be deemed executed in the State of Florida and shall be constructed in accordance with Florida Law.