

## Terms & Conditions of glomex' Media Exchange Service for Content Owners

### 1. Scope

- 1.1. These terms and conditions ("Terms and Conditions") govern the contractual relationship between glomex GmbH, Munich ("glomex") and you ("Content Owner") (together named as the "Parties") in connection with the Content Owner's use of glomex' Media Exchange Service ("MES").
- 1.2. These Terms and Conditions are the only terms and conditions that apply to the agreement between glomex and the Content Owner for the Content Owner's use of the MES (the "Agreement"). Terms and conditions of the Content Owner that conflict with or deviate from these Terms and Conditions shall not apply.
- 1.3. The Agreement sets forth the terms and conditions pursuant to which the Content Owner licenses its content to glomex for the purpose of its distribution by glomex to Publishers (as defined below) via the MES as further specified in Sections 3 and 4, as well as the terms and conditions pursuant to which the Content Owner shall have the right to use the MES.
- 1.4. The use of the MES is reserved to entrepreneurs within the meaning of Paragraph 14 of the German Civil Code (Bürgerliches Gesetzbuch – BGB). By agreeing to these Terms and Conditions, the Content Owner confirms (i) to be either a legal entity or an individual who is at least 18 years old when registering on the glomex platform currently available under [www.glomex.com](http://www.glomex.com), and (ii) to be an entrepreneur or to act in the name of and on behalf of an entrepreneur and that such entity has duly authorized it to conclude this Agreement.

### 2. Conclusion of the Agreement; Amendments

- 2.1. The Agreement may be concluded in two alternative ways: (i) In case the Content Owner announces its wish to apply for the MES in a sales talk with glomex (e.g. by

telephone), a glomex sales manager may insert Content Owner's registration details into the MES system. The Content Owner will then receive an email with the request to verify its email address. After the email verification, the Content Owner may receive confirmation from glomex that the Content Owner's registration has been received. This email will contain a link to the current Terms and Conditions. The agreement will only be concluded upon express acceptance of the Terms and Conditions by the Content Owner. (ii) In case the Content Owner chooses to apply for the use of the MES via the glomex platform, it may register its website on [www.glomex.com](http://www.glomex.com). After registration on the glomex platform and upon the express acceptance of the Terms and Conditions, the Content Owner will receive the request to verify its email address. By sending the email verification, the Content Owner makes an unconditional offer to glomex to enter into the Agreement. After the email verification, the Content Owner may receive confirmation from glomex that the Content Owner's registration has been received and will be reviewed by glomex.

- 2.2. The Agreement will only be concluded upon express acceptance by glomex of the Content Owner's application (offer). glomex is not obligated to enter into an agreement with the Content Owner.
- 2.3. glomex reserves the right to amend these Terms and Conditions at any time, for example, in order to extend the range of its services or to react to changes of laws. The Content Owner will be informed of any amendment to these Terms and Conditions in writing. If the Content Owner does not object to an amendment in text form (Para. 126 b BGB) within a period of four (4) weeks after receiving the information, the respective amendments shall be deemed accepted.
- 2.4. glomex will inform the Content Owner of the consequences in the event that the Content Owner does not accept or objects to the amended Terms and Conditions within the

period stipulated in the notification of the respective amendment. In the event that the Content Owner objects to the amendments, (i) the version of the Terms and Conditions in effect up to that time will remain in force and effect, and (ii) glomex shall have the right to terminate the Agreement for good cause in accordance with Section 5.2.

### 3. Purpose of the Agreement

glomex operates the MES for the purpose of providing and marketing audio-visual content to third parties. On the MES, glomex gives the Content Owner the opportunity to offer (i) audio-visual titles and/or titles licensed from third parties uploaded to the MES in the respective language version by Content Owner ("Titles") as well as (ii) playlists curated by Content Owner or other content owners or editors authorized by glomex and containing Titles as further detailed in Section 9.2 below (hereinafter "Curated Playlists") (both Curated Playlists and Titles jointly referred to as "Programs") to third parties that have been technically integrated into the MES ("Publishers"), for Publishers to choose to embed ("Embed") a Program into their digital offerings ("Digital Offerings") or on social media platforms.

### 4. Technical Interface

Content Owner delivers its Programs manually or automatically via the existing glomex delivery processes as stated therein. The set-up of glomex' standard technical interface ("Interface") for automatic uploads will be free of charge for the Content Owner. The Interface is specified in the most recent version of the technical specification as linked under <http://support-docs.glomex.com/>. Each party shall bear its potentially arising costs for the initial incorporation of Content Owner to the MES.

### 5. Grant of Rights

5.1. Content Owner hereby grants glomex non-exclusive, unlimited, transferable and sub-licensable rights for the License Period (as defined in Section 5.3 below) and for the License Territory (as defined in Section 6 below) in and to the Programs for the

purpose of marketing the Programs to Publishers and their use and distribution by Publishers. glomex itself as well as Publishers may (i) select the Programs, and (ii) embed the selected Programs in their respective digital offerings for the purpose of making the Programs available to the public on all devices that are suitable for the reception of multimedia content through an embedded player or another interface of glomex or third parties, provided, however, that the availability is not expressly limited according to information delivered in the meta data by Content Owner as linked under <http://support-docs.glomex.com/>.

5.2. Upon conclusion of the Agreement pursuant to Section 2.2 above, glomex is granted the following non-exclusive rights in and to all Programs which Content Owner simultaneously or in future uploads onto the MES. The rights are granted for the exploitation of the Programs and any accompanying materials according to these Terms and Conditions and the individual information delivered in the meta data by Content Owner:

5.2.1. Free Video-On-Demand ("FVOD") and Advertiser-supported Video-On-Demand ("AVOD") rights, i. e. the right to make the Programs available to users in whole or in part, in such a way that members of the public may access them from a place and at a time individually chosen by them via digital or other data transfer technology including all bandwidths and resolution standards (e.g. low-, standard-, high-definition etc.), irrespective of the method of compression and/or data rate, encrypted or unencrypted, with or without commercial support by display of advertising, with or without (intermediate) data storage, in a way that those users may select the Programs without payment of a fee for delivery via wire, satellite, cable (e.g. data lines, telephone lines, coaxial, fibre optic networks and/or dual or multiple wire systems such as DSL, VDSL etc.) and terrestrial transmitters or other transfer methods (including all frequency ranges and all transmission standards, e.g.

- UHF, VHF, GPRS, UMTS, LTE, HSDPA, WIMAX, WLAN etc.) via telecommunication-, TCP/IP-based and/or other systems, using e.g. a television set, computer or other mobile or non-mobile (receiving) equipment.
- 5.2.2. Advertising Rights, i.e., the right to advertise and promote the Programs and their exploitation in ways customary in the trade through worldwide communication networks expressly including the internet, and to advertise and promote screenshots of the Programs in printed matters etc. starting with the upload of each Program on the MES. This includes the right to use the Programs, also in combination with other works, in whole and/or part and/or extracts of their video and/or audio components in ways customary in the trade through all media for the purpose of advertising and promoting the Programs, their exploitation, glomex, the MES and/or licensed services, as well as its goods and services. This also includes the right to create, reproduce and publish synopses and other short form printed matters related to the Programs in ways customary in the trade. Included is the right to use the likenesses, video and/or sound components and other elements of the production.
- 5.2.3. Adaptation Rights, i.e., the right, while safeguarding the authors' moral rights, to segment, rearrange, and to change the Programs and/or their video and/or audio components, combine the same with other works to create trailers, show and hide subtitles, or insert advertising by adding pre- midroll-, or post- advertising clips or overlays etc., for example, , change the title or description of the Program, and/or to adapt the Programs in any other way, especially to comply with the requirements of video on demand services, and to exploit the adaptation in accordance with this Agreement. This includes specifically, but without limitation, the right to include a Title in a Curated Playlist, in combination with other Titles and/or other content by other content owners, and to use such Curated Playlist in accordance with this Agreement and the rights granted herein.
- 5.2.4. Reproduction Rights, i.e., the right to store, archive, reproduce, and include the Programs in databases and on carriers other than the original medium (e.g. video and audio carriers, data carriers, in analogue or digital form) and to further exploit the reproductions subject to the rights granted under this Agreement.
- 5.3. glomex shall be entitled, but not obliged, to exploit the rights granted under this Agreement, and glomex reserves the right to exclude individual Programs from exploitation and to block or delete them on the MES at glomex' sole discretion.
- 6. Term of Agreement, License Period and Termination**
- 6.1. The term of the Agreement shall begin upon express acceptance of the Content Owner's application (offer) by glomex. Unless agreed otherwise in a specific case, the Agreement shall have an indefinite term unless terminated in accordance with this Agreement ("Term").
- 6.2. Either Party may terminate the Agreement for convenience at any time upon four (4) weeks prior written notice to the end of the month. Either Party's right to terminate the Agreement for good cause shall remain unaffected. Each termination has to be in writing; text form shall not be sufficient. glomex will block and delete the account after the Term of the Agreement has expired.
- 6.3. The license period for each Program shall commence with the upload of the respective Program onto the MES by Content Owner or with the start date as indicated in the meta data upon the upload, and shall in relation to all Programs, expire by the end of the Term of the Agreement, provided, however, that the Content Owner does not provide an earlier end of the Term in the meta data of a respective Program upon upload, or subsequently changes the Term in the meta data ("License Period").

6.4. In the event of a termination of the Agreement for any reason, the following shall apply:

Any outstanding revenue share shall be finally settled in accordance with Section 9.5. Upon the end of the Term of the Agreement, the Programs will be taken offline automatically and Content Owner will not be able to access its account or any of its data anymore; however, the Content Owner shall be entitled for a period of up to 10 years following the termination of the Agreement to access, upon request, all data relevant for accounting purposes. glomex will store data relevant for accounting purposes in accordance with applicable laws and regulations.

## 7. License Territory

The License Territory shall be worldwide provided, however, that the License Territory is not expressly limited according to the information delivered in the meta data by Content Owner upon the upload of the Content or amended subsequently ("License Territory").

## 8. Materials

8.1. Content Owner shall provide all materials of each Program and information required for the contractual exploitation by uploading the Programs onto the MES free of charge to the extent set out, and in compliance with the most recent version of the technical specification as linked under <http://support-docs.glomex.com/>.

8.2. Content Owner shall be obliged to provide glomex with all information with respect to any music content contained in the Programs by delivering respective meta data no later than by the start of the License Period. In the event the Programs qualify as music videos (as commonly understood in the music industry), Content Owner shall always, and in all other cases upon request, be obliged to deliver complete music cue sheets indicating the titles of the musical compositions and sound recordings, the names of composers and recording artists, the length of each musical composition, name and address of the publisher and company which controls the sound recording

rights (label) contained in each Program, as well as a description of the way the music is used (e.g., titled music, background music, featured music, etc.) as well as any other information relating to music usage, and all of the above in a format as reasonably requested by glomex from time to time in order to comply with reporting obligations (collectively, the "Music Information").

8.3. The Content Owner shall be obliged to always keep the respective Music Information up to date.

## 9. Additional Obligations of Content Owner

9.1. Content Owner shall inform glomex without delay if a third party asserts any rights and claims in respect of any Programs, in particular but not limited to any alleged or actual breaches of copyright or violations of rights of personality. In such a case, the Content Owner ensures that the respective Program is not available anymore (new upload, deletion, adjustment of metadata etc.) without undue delay. Content Owner shall be liable for any damages resulting therefrom for glomex.

9.2. Content Owner shall treat the MES and any other property of glomex with utmost care and shall not undertake or omit any activities that may cause harm or damages to MES, glomex, any of its assets or property, or any of its customers, licensees, Publishers, users or other content owners.

## 10. Payment of Revenues, Remuneration of Content Owner

10.1. As compensation for the rights granted in this Agreement, and for any other benefits and privileges received by glomex pursuant to the Agreement, the Parties agree that Content Owner shall be entitled to receive a revenue share calculated in accordance with the table set forth below of Total Net Revenues from the advertising that glomex or an agent, agency, online marketer etc. authorized by glomex ("Sales House") generate and receive from advertising videos played out before, after and/or during the Content Owner's Programs embedded in the Publisher's digital offerings (the "Commission"). The percentage of Commission shall increase in accordance

with the monthly amount of video views generated per month by the Publisher with the respective Program as follows:

Video views per month	Share in %
0 – 1,000,000	20
1,000,001 – 7,000,000	25
7,000,001 and more	30

A video view shall have occurred as soon as a Program embedded in a Digital Offering or on expressly approved social media platforms has started.

The number of video views for calculating the share and the Commission shall be determined at the end of each calendar month.

Content Owner may deliver Titles in playlists which are edited and regularly updated by the Content Owner. It shall be agreed between the parties that no additional commission shall be paid for any editing to the Content Owner.

- 10.2. For the purpose of Section 10.1, "Total Net Revenue" means all advertising revenues generated from video ad inventory actually received and retained by glomex from the exploitation of Titles respectively Curated Playlists after taxes, rebates, (bundling-) discounts, allowances, marketing fees, potential arising bad debt losses, agency fees, Sales House fees as well as technical costs for delivery and storage of the Programs and fees paid or payable for the use or exploitation of music incorporated in the Programs.
- 10.3. Content Owner shall only be entitled to its full remuneration if and to the extent that glomex has fully received remuneration from the respective advertising customer and/or Sales House. Payment is deemed to have been received at such time as glomex is able to freely dispose of the amount paid (credit).
- 10.4. In the event glomex receives any revenues in the relevant accounting period from VOD exploitation of the Programs and the related marketing of the rights licensed in this Agreement, glomex will provide Content Owner with an accounting statement within sixty (60) days after the end of each month (unless provided otherwise).
- 10.5. Any amounts owing to Content Owner shall be due ninety (90) days after the end of each invoiceable month and all payments shall be authorized by self-billing documents. The Content Owner agrees that glomex will account for the Commission by way of self-billing procedure. At glomex' discretion, all self-billing documents may be provided only in electronic form.
- 10.6. The Content Owner will provide to glomex all necessary information to be included in the self-billing documents in accordance with Para 14, 14a of the German Value Added Tax Act and any other applicable laws, including Content Owner's name, business address, tax number or VAT identification number and the information whether Content Owner applies the exemption for small businesses, all of the above no later than ten (10) days after receipt of notification of the acceptance by glomex of Content Owner's offer in accordance with Section 2.2. The Content Owner is obliged to inform glomex on any changes with regard to any information relevant for issuing self-billing documents immediately once Content Owner becomes aware of such changes.
- The Content Owner is obliged to immediately check the validity of the self-billing document upon receipt and inform glomex in writing within four weeks about any objections. If Content Owner objects to a self-billing document, Content Owner must immediately issue an invoice in accordance with applicable laws. Further, Content Owner must reimburse glomex for any taxes, interest payments and other costs incurred by glomex. glomex will verify Content Owner's invoice in accordance with the advertising revenues from the advertising customer and/or the Sales House, and if the amount invoices by Content Owner is correct, then glomex will recalculate the full amount of the Commission in accordance with Section 10 and then pay out the relevant amount.
- 10.7. It shall be agreed between the parties that Commission shall only be payable if the Commission exceeds an amount of EUR 500,-. In the event that such amount is not reached, glomex may withhold the payment

until such month in which the amount of EUR 500,- has been reached. Payments which have not been paid at the end of each calendar year or at the end of the Term of the Agreement according to Section 6 shall be transferred to the Content Owner at the end of each calendar year or end of the Term of the Agreement even if the amount totals less than EUR 500,-. However, in the event that the remaining Commission to be accounted and transferred at the end of the calendar year or the end of the Term of the Agreement does not exceed EUR 30,-, Content Owner waives its claim for Commission up to that amount and for such amount and glomex shall not be obliged to issue a self-billing document.

## 11. Conditions of Payment and Taxes

- 11.1. All prices quoted are net prices expressed in Euros and excluding value-added tax in accordance with German VAT laws at the rate in effect as of the time of provision of the contractual services. To the extent that the services rendered hereunder are subject to VAT or a similar tax in another jurisdiction than Germany, glomex shall pay such additional amounts only if and to the extent that glomex actually receives an input tax refund or credit. If glomex receives payment in a currency other than EUR, glomex will convert to EUR at the rate used by its bank at the time glomex orders the payment of the Commission to the Content Owner.
- 11.2. If and to the extent Value Added Tax or similar tax is due on the services under this Agreement, the Content Owner will (i) declare and pay such Value Added Tax or similar tax on its own and (ii) if and to the extent the Content Owner does not comply with its obligation under (i) or glomex will be held liable for such tax, Content Owner will indemnify and hold glomex harmless from and against any Value Added Tax or similar tax (including for the avoidance of doubt any fines, penalties, interests or other additions thereto). "Value Added Tax" means the tax within the meaning of Council Directive 2006/112/EC (as amended from time to time) and any similar tax imposed either locally or nationally on the sale of goods

and/or the provision of services irrespective of its description.

- 11.3. Content Owner acknowledges that the remittance of any compensation resulting from this Agreement is subject to taxation in compliance with the statutory regulations of the Federal Republic of Germany. glomex may therefore be obliged to withhold taxes as provided by law from any compensation payable to Content Owner (including, in particular, the Commission) and, for the avoidance of doubt, entitled to deduct the amount of such taxes from the payments to the Content Owner, and to pay the said taxes to the competent tax authorities. The amount of the said withholding tax is to be determined by the pertinent fiscal laws.

## 12. Access Authorization and Passwords

- 12.1. Content Owner agrees to treat the access data and passwords required to access the glomex platform and the MES confidentially and will inform glomex without undue delay in written form of any unauthorized access to and/or use or loss of its login credentials.
- 12.2. Content Owner shall be fully responsible for all acts carried out by any third party using its access data and/or passwords, whether authorized or not, except for acts carried out by glomex itself.
- 12.3. Content Owner will refrain from any acts or measures that could impair or jeopardize the functionality, operation or security of the MES or the content, data or information processed and stored on the MES or the glomex platform.
- 12.4. If Content Owner breaches any of the above duties and/or obligations, glomex shall be entitled to suspend or delete Content Owner's account after reasonable consideration of the Content Owner's legitimate interests. In such case, glomex will suspend Content Owner's access authorization and notify Content Owner.

## 13. Commercialisation/Range of coverage

- 13.1. glomex shall be entitled to market the Programs especially (without limitation) by including advertisements before, in and/or after each of the Programs. The right granted for the marketing of the Programs by glomex and its Publishers extends to all

measures required for marketing, i.e. the acquisition and support of clients, the acceptance, approval and invoicing of orders, the takeover of all marketing measures required for substantial advertising marketing as well as the implementation of suitable sales promotions. glomex may market the Programs in its sole discretion and is not committed to any advertising success. glomex is entitled to mandate Sales Houses with the marketing of the Programs. It shall be agreed between the parties that Content Owner shall not be allowed to itself conduct marketing activities via the MES during the provision of the Programs on the MES.

- 13.2. In addition to the rights stated pursuant to section 21. of these Terms and Conditions glomex shall be allowed to mark the glomex embed player with a logo or another "branding" provided by Content Owner. Content Owner shall itself be responsible for the branding of each Program (by installation of emblems, watermarks or overlays at the beginning or at the end of the Program etc.).
- 13.3. Content Owner is only entitled to receive the Commission as agreed herein, and glomex shall exclusively retain any other proceeds from the integration of advertisings on the services and platforms (e.g. the top banner, skyscrapers, leaderboards, etc.), and Content owner shall not be entitled to any share in any such proceeds.
- 13.4. In particular (without limitation) for purposes of market research data, audience measuring and similar data, the coverage of the embed player and the number of clicks of each Program (i.e. video views, residence time of users, marketable coverage etc.) will be attributed to glomex or/ and its Publishers.

#### 14. Sublicensing/ Assignment

glomex shall be entitled to grant, assign, sublicense and/or transfer the rights acquired under this Agreement, in whole or in part, as well as the Agreement itself, to third parties. Content Owner shall not be entitled to assign any of its rights under this Agreement, nor the Agreement itself, to any

third party without glomex' prior written consent.

#### 15. Product Placement

Content Owner acknowledges that glomex and/or media service providers (here also referred to as Publishers) are obliged to inform viewers about Product Placements included in Programs if the Program was produced on or after 19 December 2009, due to the German Broadcast Services State Treaty (Rundfunkstaatsvertrag, RStV). Product Placement means any form of audio-visual commercial communication, consisting of the visible inclusion of, or reference to, a product, service, or the trademark thereof, so that it is featured within a Program, in return for payment or for other similar consideration for trade promotion purposes. The free-of-charge provision of goods or services, such as Program props, is considered Product Placement if the goods or services involved are of significant value. Currently, the relevant limit for the determination of "significant" is the lower of (i) 1 per cent of the Program's costs, and (ii) EUR 1,000.00 (one thousand Euros).

For Programs produced on or after 19 December 2009, Content Owner shall thus notify glomex about actually included Product Placements by providing complete and accurate meta data during the upload of the Program to the MES which are also transferable to third parties. Content Owner shall provide glomex with a comprehensive list of all actually implemented Product Placements on request including the respective value, even if the value is below the significant value as specified above. Absence of such a notification shall constitute a statement that the respective Program does not contain any Product Placements. Content Owner also warrants and represents, for all Programs, that the Programs do not include any advertising other than Product Placement as and to the extent notified to glomex in accordance with the above provisions.

#### 16. Warranties/Infringements of Rights

- 16.1. glomex does not warrant that access to the MES or the Programs will not be interrupted and/or of a certain quality. glomex does not warrant that the MES will be provided without interruption and/or errors or that the Programs will be available for a certain period of time.
- 16.2. Content Owner represents and warrants that it has acquired any and all rights from authors, owners of neighboring rights and other intellectual property rights necessary for the exploitation of the Programs by glomex within the scope of this Agreement, and that glomex has not disposed of, pledged or otherwise encumbered such rights or is in any way contractually or legally limited to dispose over the rights as is agreed in this Agreement. Upon glomex' request, Content Owner shall provide full documentation, evidencing that Content Owner is the legitimate right holder of the rights granted hereunder to glomex. Notwithstanding the warranty mentioned above, any and all rights to be compensated to local copyright collecting societies in respect of music performance and reproduction rights (excluding any film/music synchronisation rights which shall be subject to the Content Owner's warranty) in the License Territory shall be paid by glomex.
- 16.3. Content Owner represents and warrants that the materials to be provided pursuant to Paragraph 8.1 shall be of such quality that they may be utilised for all modes of exploitation pursuant to this Agreement, and that they meet the most recent version of the technical specification as linked under <http://support-docs.glomex.com/> and that they do not contain any malware (i.e. viruses, Trojans or similar). Content Owner represents and warrants, and undertakes, that all information apart from the requirements stated pursuant to Paragraph 8.1 and 8.2 will be delivered at all times by promptly uploading complete and accurate meta data as required parallel to the initial upload of the respective Programs onto the MES. Content Owner represents and warrants that the meta data to be provided together with the materials pursuant to Paragraph 8.2 will be permanently updated.
- 16.4. Content Owner represents and warrants that, with regard to the rights granted to glomex hereunder, there are neither agreements nor unilateral claims or demands, that might affect glomex' right to the exploitation of said rights.
- 16.5. Content Owner represents and warrants that its chain of title does not include any resolutive condition(s) regarding the rights granted hereunder that could result in Content Owner, or glomex or glomex' licensees, losing their rights in and to the Program(s).
- 16.6. Content Owner represents and warrants that the Programs are not classified, and shall not be classified, as inappropriate for minors by the Federal Youth Protection Authority in Germany (Bundesprüfstelle für jugendgefährdende Medien, BPjM) and/or similar institutions in other jurisdictions where the content is exploited. Upon request, Content Owner shall provide glomex with copies of the decisions of German "Freiwillige Selbstkontrolle der Filmwirtschaft GmbH" (FSK), "Freiwillige Selbstkontrolle Fernsehen e.V." (FSF), BPJM and/or similar institutions of the respective country with regard to the Programs including the documents related thereto. If any Program is, or will be classified as inappropriate for minors, or Content Owner does not provide the documents stated above, glomex may terminate this Agreement with regard to the corresponding Program or, in case of further breaches, terminate the entire Agreement.
- 16.7. In the event that the rights transferred under the present Agreement are impaired by third parties, Content Owner agrees to take every necessary measure to enforce its rights against such third parties and to notify glomex thereof as soon as such impairment is brought to the Content Owner's attention. glomex shall also be entitled to itself take appropriate action to oppose such impairments. Content Owner shall be obliged to fully and unrestrictedly support glomex in the defense of glomex' rights. Content Owner shall reimburse glomex as well as any Publisher who was (sub-) licensed the respective rights or Programs for any damages, expenses and costs



(including attorneys' fees) incurred in connection with the defense of the transferred rights.

- 16.8. If during the License Period an initial defect appears, or a subsequent defect occurs, or a Program in glomex' reasonable opinion is not exploitable in whole or in part or there is a lack of completeness or accuracy of the uploaded meta data, the Music Information or glomex reasonably believes that a Program is in any respect in breach of these Terms and Conditions, then glomex may, notwithstanding all and any other rights or claims that glomex might have, delete the corresponding Program on the MES or, in case of recurrence, block the account of the Content Owner temporarily or deactivate the account permanently or, respectively, delete the whole account and terminate the entire Agreement for good cause.
- 16.9. Content Owner shall at all times indemnify and hold harmless glomex and all Publishers from and against any and all actions, proceedings, claims, liabilities including taxes and costs, damages, costs, expenses, fees (including court and reasonable attorneys' fees) and losses arising out of a breach or alleged breach of the Content Owner's warranties, representations, obligations or undertakings under this Agreement or arising out of the fact that glomex' exploitation of the rights granted is, or will become, in any way impaired, unreasonable or impossible.
- 16.10. Content Owner represents and warrants that all copyright and ancillary copyright owners involved in the creation of the Program, at any level whatsoever, have adequately participated in the receipts and benefits deriving from the exploitation of the Program as defined in paragraphs 32 and 32a of the German Copyright Code. Should copyright and ancillary copyright owners raise any claims against glomex or its licensees, contracting partners or successors in title, Content Owner shall hold glomex harmless on first request. The parties agree that this indemnity is an equitable allocation of risk and has been taken into consideration within the calculation of glomex' Commission payable hereunder.

- 16.11. Content Owner represents and warrants that the meta data delivered with any Program as well as the Music Information is complete and accurate as provided hereunder.

## 17. Liability of glomex

- 17.1. glomex shall be fully liable under or in connection with this Agreement in case of intent and gross negligence.
- 17.2. In case of slight or ordinary negligence, glomex shall only be liable in case of a violation of significant contractual obligations or the violation of a guarantee. Significant contractual obligations, so-called material contractual obligations within the meaning of case law, are obligations that enable the proper fulfilment of the contract and those upon the fulfilment of which the Content Owner can rely. The liability to pay damages in case of infringement of significant contractual obligations caused by slight or ordinary negligence shall be limited as follows: (i.) glomex' liability shall be limited to foreseeable damage in each case, (ii.) glomex shall not be liable for lost profits or indirect or consequential damage, (iii.) glomex' total liability shall be limited to the amount of Commission payable under the Agreement to the Content Owner, which was actually paid out to it during the 12 months preceding the damage event. During the first 12 months of the term of this Agreement, glomex' total liability hereunder shall be limited to EUR 1,500,-.
- 17.3. glomex shall not be liable for
- any loss of data,
  - interrupted transmission of data, and/or
  - related problems due to technical difficulties beyond its control (e.g. disruptions of the transmission lines of telecommunication providers or of the internet).
- 17.4. The above limitations of liability do not apply to a liability for injuries of life, body, and health or in the event of the acceptance of a guarantee by glomex. Any potential liability of glomex according to the German Product Liability Act and pursuant to Section 44a Telecommunications Act (TKG) shall not be affected.

17.5. The above limitations or exclusions of liability also apply to any liability of employees, workers, staff members, representatives, and vicarious agents of glomex, in particular for the benefit of shareholders, staff members, representatives, organs in terms of their personal liability.

17.6. The above regulations do not constitute a modification of the burden of proof to the detriment of the Content Owner.

## 18. Confidentiality

The parties shall keep all Confidential Information secret and confidential during the Term of the Agreement and thereafter. "Confidential Information" shall mean all terms and conditions of this Agreement and information related to the disclosing party (i) which emerges during and prior to the cooperation in accordance with this Agreement, (ii) and which is not in or does not enter the public domain and/or was not already in the receiving party's knowledge. Third parties to whom such Confidential Information may be disclosed are (i) employees of affiliated companies of glomex, (ii) companies in which glomex and/or ProSiebenSat.1 Media SE and/or any of their employees has a direct or indirect interest, (iii) certified public accountants, lawyers and/or other professional advisors, (iv) prospective buyers or investors, provided that (i) these persons have been obliged by the disclosing party to keep all information secret and confidential and (ii) the party who discloses information under this paragraph remains responsible for the acts and omissions of any such person as though they were the acts and omissions of the disclosing party itself. Confidential Information can be disclosed without limitation (i) to the extent necessary to comply with applicable laws, the rules of any stock exchange on which the shares of that party or its parent company may be listed, or a valid order of a court of competent jurisdiction or an arbitration tribunal or another competent authority, (ii) in order to exercise or to enforce any of its rights pursuant to this Agreement and/or (iii) if it is information relevant to the Content Owner's

accounting obligations to its licensors. Disclosure of the entire Agreement or any press release in relation thereto is subject to the prior written approval of glomex (e-mail shall suffice).

Any confidentiality agreement separately concluded between the Parties shall continue to apply. The confidentiality obligation contained in this Section 18. shall survive the termination of this Agreement.

## 19. Data Protection

19.1. Each party agrees to comply with applicable data protection legislation.

19.2. If, and to the extent that, glomex (i) collects, processes or uses personal data on behalf of the Content Owner, or (ii) has access to personal data of the Content Owner – for example, via remote access to systems of the Content Owner -, the parties will enter into an agreement governing the collection, processing and use of personal data pursuant to any applicable data protection laws and regulations (in particular Para. 11 of the Federal Data Protection Act, and/or article 28 of the EU General Data Protection Regulation). The draft of any such data processing agreement will be provided by glomex.

## 20. Compliance

20.1. Neither the Content Owner nor its employees and/or agents may commit any acts that could result in it or them being liable to prosecution for fraud or breach of a fiduciary duty, criminal insolvency, unfair competition offences, bribery, corruption or similar offences.

20.2. In the event of any breach of this provision, glomex may sever all business contacts with the Content Owner, and immediately terminate or rescind all agreements that are in place. This will not release the Content Owner from its duty to comply with all laws and regulations pertaining to its relationship with glomex.

## 21. Reference

glomex may use the Content Owner's company name and logo as a reference (in particular for marketing purposes on websites and in product presentations).

## 22. Bankruptcy, Composition and Ancillary Proceedings

- 22.1. Content Owner represents and warrants that with regard to the rights granted under this Agreement there are no extraordinary termination, withdrawal and/or other contractual rights which may cause said rights to expire or to be transferred to third parties in the event of a bankruptcy petition being filed or composition proceedings instituted with regard to the Content Owner's estate or if Content Owner becomes insolvent or is in default of its payments or other resolatory conditions for the own acquisitions of title come into effect.
- 22.2. In the event of a bankruptcy petition being filed, or bankruptcy proceedings being instituted, or a petition for instituting legal composition proceedings being filed, or composition proceedings being instituted with regard to Content Owner's estate, the rights transferred to glomex shall not be affected in any way, and the grant of rights hereunder shall not be rescinded, challenged or otherwise reversed.

## 23. Choice of Law and Jurisdiction

- 23.1. This Agreement shall be interpreted and construed in accordance with the laws of the Federal Republic of Germany with the exclusion of the U.N. Convention on Contracts for the International Sale of Goods and the rules of private international law.
- 23.2. The exclusive place of jurisdiction for all legal disputes arising from or in connection with this Agreement shall be Munich (Munich Local Court or Munich I Regional Court). Notwithstanding the foregoing, glomex reserves the right to take legal action at other legally competent courts. Arbitration proceedings have not been agreed.

## 24. Miscellaneous

- 24.1. Any communication by the Parties under or in connection with this Agreement shall be made in English or German.
- 24.2. The place of performance shall be Munich in Germany.
- 24.3. Content Owner shall inform glomex of any changes in Content Owner's corporate form, business address or similar without undue

delay. If Content Owner fails to provide such information without undue delay, it shall be liable for any negative consequences and costs.

- 24.4. If individual provisions of the Agreement are ineffective, the effectiveness of the remaining provisions of this Agreement shall remain unaffected. Instead of the ineffective provision, a replacement provision shall apply which resembles the purpose intended by the ineffective provision most closely. The same shall apply to contractual gaps.
- 24.5. Except as provided in Section 2.3 above, this Agreement may not be modified or waived, in whole or in part, except in writing. The same shall apply for a waiver of this requirement of the written form.