

# NGTUNES MUSIC SERVICE DISTRIBUTION AGREEMENT

This AGREEMENT (hereinafter referred to as the "Agreement") is made between you, the Rights Holder, acting on your behalf or as the legal representative for a band, artist, group, company, corporation or label (hereinafter referred to as the "Rights Holder") and NGtunes Music Service (also doing business as ngtunes.com.ng), located at Plot 2, Opp. COCIN Lahol Gut, Rayfield, Jos South (hereinafter referred to as the "Distributor").

The distributor is an Internet Music Distribution Company that facilitates the selling of music downloads to consumers over the Internet. The Rights Holder hereby certifies that it owns or has the right to distribute, publish, sell, copy, transfer, convert, encode, integrate, digitally modify and deliver over the Internet the master sound recordings designated and attached as "Licensed Recordings." The Rights Holder hereby certifies that it owns or has the right to distribute, sell, publish, copy, transfer, convert, encode, integrate, digitally modify and deliver over the Internet any artwork, writings, or pictorials supplied by Rights Holder to the Distributor to promote the sale of the sound recording.

## WITNESSETH:

In consideration of the respective covenants contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

### 1. GRANT OF LICENSE.

**1.1** Licensed Recordings. Rights Holder hereby grants to Distributor a nonexclusive right and license during the Term of Grant throughout the Territory to convert, digitize, encode, make, cause or otherwise produce Digital Audio Transmissions of the Rights Holder's designated Licensed Recordings. The term "Digital Audio Transmission" shall mean any digital embodiment of a sound recording.

**1.2** Distribution of Music. Rights Holder hereby grants to Distributor a nonexclusive right and license during the Term of Grant throughout the Territory to sell via downloading, distribute, publish, copy, transfer, convert, encode, integrate, digitally modify and deliver over the Internet the master sound recordings supplied by Rights Holder and designated as Licensed Recordings and embodied as Digital Audio Transmissions by the Distributor and/or Distributor's Third Party Assignees.

**1.3** Release. Rights Holder hereby authorizes Distributor and Distributor's Third Party Assignees to immediately release, sell via downloading, publish, and/or deliver over the Internet the Digital Audio Transmissions of the Licensed Recordings and any artwork, writings, or pictorials supplied by Rights Holder to the Distributor to promote the sale of Rights Holder's sound recordings during the Term of Grant throughout the Territory.

**1.4 Music Streams.** Rights Holder hereby grants to Distributor a nonexclusive right and license during the Term of Grant throughout the Territory to perform the Digital Audio Transmissions of the Rights Holder's Licensed Recordings through streaming digital transmissions for audio listening by subscription consumers or to promote the sale and distribution of the recording. Rights Holder shall receive no royalty or payment of any kind for the performance of "music clips" as such performance is to promote the sale of Rights Holder's sound recordings.

**1.5 Portable Subscriptions.** Rights Holder hereby grants to Distributor a nonexclusive right and license during the Term of Grant throughout the Territory to perform and deliver to portable subscription services the Digital Audio Transmissions of the Rights Holder's Licensed Recordings using streaming digital transmissions and downloading for audio listening by portable subscription consumers.

**1.6 Distribution of Artwork.** Rights Holder hereby grants to Distributor a nonexclusive right and license during the Term of Grant throughout the Territory to distribute, display, publish, copy, transfer, convert, encode, integrate, digitally modify and deliver over the Internet any artwork, writings, or pictorials supplied by Rights Holder to Distributor to promote the sale of the sound recordings.

**1.7 Text.** Rights Holder hereby grants to Distributor a nonexclusive right and license during the Term of Grant throughout the Territory to distribute, display, publish, copy, transfer, convert, encode, integrate, digitally modify and deliver over the Internet all writings, text, and statements provided by the Rights Holder to the Distributor and/or Distributor's Third Party Assignees to promote the sale and distribution of the sound recordings.

**1.8 Reserved Rights.** The Rights Holder reserves all rights and licenses not expressly granted to Distributor hereunder. Ownership of the Licensed Recordings and Licensed Artwork shall remain with Rights Holder or its licensors.

## **2. Rights Holder Obligations.**

The Rights Holder shall obtain and pay for any necessary clearances and licenses in the Territory for all the Rights Holder's sound recordings and artwork. The Rights Holder shall be responsible for and pay any royalties and other income due to artists, authors, co-authors, copyright owners, co-copyright owners, producers, and other record royalty participants from sales or other uses of the Licensed Recordings.

## **3. Likenesses and Names.**

Rights Holder hereby grants to Distributor the right to use and to allow others to use the Rights Holder's name, likeness of artist(s), group(s) or band(s), company information, and biographical material for advertising and promoting the sale of the Licensed Recordings during the Term of Grant throughout the Territory.

## **4. Territory**

The Territory shall be the world.

## 5. Term of Grant

The Term of Grant shall commence upon the date hereof and shall continue until the Rights Holder cancels in writing with NGTunes Music Service. The distributor shall have sixty (60) days after notice of cancellation or expiration of the Term to remove all of the Rights Holder's music content from the web sites of the.

## 6. Royalties

Distributor shall pay to the Right's Holder seventy percent (70%) of any Net Revenues derived from the sale of the digital audio transmissions embodying the Licensed Recordings.

## 7. Additional Definitions

For purposes hereof, the following terms shall have the respective meanings provided below:

- 7.1.** The term "Artist" shall mean any recording artist whose performances are embodied in the Licensed Recordings.
- 7.2.** The term "Licensed Artwork" shall mean any artwork, drawings, photographs, liner notes, or other graphical, textual or other graphical works relating to Artist or Label, developed or created by or for Label for use in connection with the distribution or promotion of the Licensed Recordings, and delivered to Distributor and Distributor's Third Party Assignees hereunder.
- 7.3.** The term "Name and/or Likeness" shall mean the name, voice, photograph, drawing, likeness, biographical material, any words, symbols, and logos which identify a person or group, and any trademarks, service marks, trade names, or similar properties, of, relating to or associated with a person or group, and any other exercise of the "right of publicity" of, relating to, or associated with a person or group.
- 7.4.** The term "Controlled Compositions" shall mean any musical works embodied in the Licensed Recordings which are written or composed, in whole or in part, or owned or controlled, directly or indirectly, by Artist or Label, collectively or individually.

**7.5.** The term "Licensed Recording(s)" shall mean the Licensed Recordings, Licensed Artwork, Controlled Compositions, the Name and/or Likeness of Label or any Artists performing in the Licensed Recordings, Music Videos, CD, Album and any other materials licensed to Distributor hereunder.

**7.6.** The term "Net Revenues" shall mean gross revenues less only the following costs and fees incurred in connection with such deliveries, and only to the extent incurred:

(a) transaction processing fees, such as credit card transaction fees and other electronic commerce processing, patent royalties or other fees, payable to or retained by unaffiliated third parties in connection with effecting a transaction or transmission, if any;

(b) sales tax, if any;

(c) returns and credits, including, but not limited to, those on account of defective merchandise, errors in billing, and errors in transmission, if any;

(d) mechanical royalties, if any;

(e) public performance fees, if any;

(f) shipping, if any;

(g) union, guild or other third party fees that may be required by contract or the Copyright Act, if any;

(h) Internet advertising and promotion costs, such as banner ads on other web sites to promote the sound recordings, if any, provided that costs shall not exceed 10% of gross revenues.

(i) Internet referral fees, such as fees payable to any third party who, through their web site, email or other means, refer to us as a purchaser of copy or phonorecord of a Recording, if any, provided that such costs shall not exceed 15% of gross revenues.

Net Revenues shall not include, and no royalties shall be payable to Rights Holder on any Licensed Works reproduced, distributed, performed, displayed, broadcast, delivered or transmitted on a "free" or "no charge" basis.

**7.7.** The term "Digital Audio Transmission" shall mean any digital embodiment of a sound recording.

## **8. Record Keeping and Report**

**8.1.** Distributor agrees to maintain and preserve accurate books and records concerning all transactions relating to the reproduction and distribution of the Licensed Recordings for as long as possible until termination of this Agreement.

**8.2.** Distributor will compute the royalties to Rights Holder according to this Agreement within thirty (30) days after the end of each calendar quarter (i.e., ending March 31, June 30, September 30, and December 31), and will deliver to Rights Holder a quarterly royalty statement for each such period together with the net amount of royalties, if any, computed following this Agreement, which shall be payable after deducting any unrecovered charges hereunder.

## **9. Indemnification and Limitation of Liability**

The Rights Holder will indemnify and hold harmless the Distributor from and against any losses, liabilities, damages, costs or expenses (including reasonable attorney's fees and costs) arising out of a claim by a third party because of a breach of any warranty, representation, covenant or obligation of the Rights Holder under this Agreement, or any claim that any Digital Audio Transmission, sound recording, printed material, or artwork provided to the Distributor by the Rights Holder use thereof violates or infringes the rights of another party. The Rights Holder will reimburse the Distributor for any actual payments made in the resolution of any liability or claim that is subject to indemnification under this section.

## **10. Editorial Right**

Distributor reserves an unabridged right to refuse to distribute any of Rights Holder's sound recordings for good reason, a bad reason, or no reason.

## **11. Entire Agreement**

This Agreement sets forth the entire agreement between the Distributor and the Rights Holder concerning the subject matters hereof. No Modification, amendment, waiver, termination or discharge of this contract or any other provision hereof shall be binding upon the Distributor unless confirmed by a written statement signed by an officer of the Distributor. No waiver of any provision of this contract or any default hereunder shall affect the Distributor's rights thereafter to enforce such provisions or to

exercise any right or remedy in the event of any other default or breach. The Distributor reserves the right to unilaterally modify, amend, add, or delete provisions to this contract upon giving written notice to the Rights Holder. The Rights Holder will then have thirty (30) days to refuse to bound by the modification after which the provision will become a part of the agreement between Distributor and Rights Holder without any further action required by either party.

**I HEREBY CERTIFY AS THE RIGHTS HOLDER THAT I HAVE THE AUTHORITY TO GRANT ALL OF THE LICENSES CONTAINED HEREIN.**

