

## EXAMPLE CONTRACT

This is an example of a contract for your information. The legally binding contract will be issued after registration on <https://rebeatdigital.com>. For registration you need an excerpt from the commercial register.

**Rebeat Digital GmbH**  
Gutenbergstr. 23  
A-3430 Tulln  
Austria  
(hereafter "Rebeat")

and

the User

Conclude the following **contract on the distribution of digital sound files**:

### § 1 Business model

REBEAT's business model is based on the following: REBEAT provides the User an internet-based software (hereafter "Software") and a server for the sole purpose of enabling the User to upload digital sound files with the provided software onto REBEAT's server, provided the User did register and pay the software license fees beforehand.

REBEAT shall convert the uploaded sound files into required file formats to be used by online streaming and download portals and download portals for ring tones (hereafter "online portals"; see item 3.), provide them with metadata and forward them for publication to certain online portals, subject to contractual relationships (see item 4.).

At regular intervals REBEAT receives invoices on the downloaded sound files from the online portals. REBEAT shall put the invoices online in a protected area to be examined by the User. After receipt of payment REBEAT shall arrange the pay-out less the commission share to the User onto the account named by the User according to the contractual conditions (see item 5.). The contractual parties therefore stipulate:

### § 2 Rebeat Music Enterprise Software

REBEAT places the software "REBEAT Music Enterprise Software" at the User's disposal, enabling the User to upload own sound files to REBEAT's server. The User has to register before the first use of the software. The User is obliged to fill in all data fields completely and correctly. The User has to register with his civil name resp. with the full company name. Any pseudonym may be attached. The User explicitly accepts that his data shall be processed and therefore acknowledges that all information must be correct. Data fields not filled in or filled in incorrectly might cause

mistakes influencing the User's rights. The User explicitly accepts any disadvantages hence resulting.

The User accepts that REBEAT can only process sound files uploaded with the software onto the server. Any other transfer mode, e.g. by e-mail, must be excluded due to organizational reasons.

After a one-time payment of the software license fee of EUR 149.00 net for the REBEAT Music Enterprise Software, the User receives an access code to activate the software. The payment is carried out by the payment provider mPay24. The software enables the upload of sound files in wave-format (SD, HD) or adequate formats, mentioned on the REBEAT website. By paying the software license fee the User is entitled to use the software unlimitedly and unrestrictedly for his own use. The User explicitly accepts that the software must not be used to upload unauthorized external sound files. The User is not entitled to updates etc.

The User hereby explicitly accepts that REBEAT exclusively holds all rights concerning the software and the User is only entitled to use the software for the upload of his own sound files. Any other use is explicitly excluded. The User therefore is obliged to not pass on the software to third parties or to use the software for other purposes. REBEAT is only liable for indemnification in case of damages caused deliberately or due to gross negligence by REBEAT or its vicarious agents. REBEAT is not liable for consequential damage, loss of profit, intervention by third parties, loss of data or other claims.

### **§ 3 Sound files**

Any sound files uploaded by the User have to be in wave-format (SD, HD) or other adequate formats stated on REBEAT's website. The User explicitly accepts that REBEAT can neither handle nor forward other file formats. REBEAT shall convert any uploaded sound files into file formats (also unprotected), set by contracting online portals (hereafter "contracting parties"), and shall forward them to the contracting parties. REBEAT is also entitled to forward tracks to new contracting parties for publication. The User accepts that REBEAT shall neither handle nor adjust nor control the contents of the single sound files, but shall only convert the file format. Any metadata according to the contracting parties' instruction shall be attached to the sound files. The User is not entitled to publication of further metadata or other data. REBEAT is entitled to abridge or abbreviate sound files and metadata on the contracting parties' demand.

The User shall pay EUR 1 net to REBEAT for each upload. Any conversion or forwarding shall be made after receipt of payment.

### **§ 4 Transfer to online portals**

REBEAT arranges the conversion of sound files electronically transferred by the User ("track") and the forwarding to the contracting parties. Any publication or presentation of the tracks by the respective online portal is not subject to REBEAT's discretion. Therefore the User is not eligible to any publication or any certain form of publication of the tracks by certain contracting parties. REBEAT shall not undertake any additional marketing activities.

### **§ 5 Rights of sound files**

The User is obliged only to upload sound files after ensuring that the User is holder of all rights and especially holds all rights on the record as well as all rights on sampled parts. The User hereby explicitly declares not to upload sound files that might violate rights of third parties. The User

accepts that REBEAT does not verify the User's rights to publish the sound files in his own name or if regulations under public law are violated.

The User is obliged to indemnify REBEAT of all claims by third parties. REBEAT is entitled to block sound files in his own discretion resp. to instruct all online portals to block the access if infringements have been claimed. However, REBEAT does not have any influence whether the online portals comply with the instructions.

REBEAT is not obliged to verify the validity of third parties' claims or to engage in proceedings. REBEAT is obliged to notify the User of any claims within a reasonable term. The User must not upload sound files with anti-semitic, discriminating or illegal contents in terms of criminal law. The User is liable for any infringement of these obligations.

#### **§ 6 Electronic invoice**

REBEAT receives invoices from the online portals at regular intervals. REBEAT provides those invoices for the User for each track in a protected area on the website for download. The User shall not receive any invoices in hard copy and agrees to receive invoices and credits only electronically. For downloaded albums, the invoice shall be issued for the album on the whole. The User abstains from invoices in hard copy.

The User accepts that REBEAT cannot verify the accuracy of the invoices sent to REBEAT by the respective online portals. Therefore the User has to file any claims directly to the operators of the online portals.

#### **§ 7 Distribution rights & duration of contract**

Throughout the duration of this contract, with any upload the User transfers to REBEAT the unlimited and unrestricted exclusive right of sale and marketing for the respective sound file for the digital (non-physical) download and streaming area and the digital rights management for the respective track. The exclusive right of sale and marketing especially includes the right to offer the respective track in digital form to third party persons or to provide the track for utilization, e.g. for posting the track on online portals. Since these rights are granted to REBEAT exclusively, the User is not entitled to transfer those rights to third parties or to merchandise the track in digital form. REBEAT exercises the rights in his own name by naming the respective artist. The right of marketing especially includes the right to offer the track to online portals in REBEAT's own discretion resp. to post on online portals (also on subscription portals and sponsored platforms).

This contract may be terminated at the earliest after a one year minimum term starting with the upload by keeping four (4) months notice to the last day of the month. The termination has to be declared by registered letter.

REBEAT will instruct the online portals to delete the track after the cancellation has become legally effective. If the online portals delete the tracks belatedly, any amounts received by REBEAT shall nonetheless be divided according to the regulations of this contract. For deletion of a product while the contract is valid ("Take Down") the amount of EUR 10.00 net per file will be charged. The User hereby acknowledges that REBEAT will forward the Take-Down request to the

respective online portals, yet that REBAT has no influence on the length or the correct execution of the Take-Down by the online portals.

Commercial online portals have different regulations regarding digital rights management (DRM) specifications. The User hereby explicitly authorizes REBEAT to define any DRM rights and the rights granted to the end-consumer in digital sound files at its own discretion. Furthermore, REBEAT is entitled to convert tracks into an unprotected format at its own discretion (e.g. MP3) and to forward the tracks to contracting parties for upload.

### **§ 8 Remuneration & payment**

For the exercise of these rights REBEAT receives a remuneration of 15% of any incoming fees. These amounts are deducted from any incoming amounts immediately. The payment of the remaining amount to the User is due within 90 days after REBEAT has received the online portals' payment and the User's fees exceed the amount of EUR 50.00 after the deduction of REBEAT's remuneration. Any payment shall be carried out if the account balance exceeds EUR 50.00. If the account balance does not exceed EUR 50.00 within three years after the respective credit has been booked onto the account, the credit balance shall be forfeit in favour of REBEAT.

The User is given a password and an access code by REBEAT to download the invoices and to enter an account number for the transfer of any payments. The User authorizes REBEAT to balance the copyright fees and any author's fees for mechanical rights duly with the competent copyright companies and to transfer from any amounts received by REBEAT. The User accepts that REBEAT is obliged to transfer any copyright fees directly to the copyright companies. Therefore REBEAT transfers to the User the net revenue less remuneration and copyright fees as well as less respective taxes or other duties. If the User does not notify REBEAT of his VAT-ID, the transfer to the User will be made without VAT.

### **§ 9 Optional Media Promotion Service**

As an optional feature, REBEAT offers to the User the possibility to use the "REBEAT Media Promotion Service" (hereafter "Service"). The purpose of the service is to make information available for registered media partners and to transmit the User's products to registered media partners. The service supports the media partner's broadcasting of the products via radio, TV and online channels and the editorial coverage about the products in print media and online magazines.

For the broadcasting and the accurate accounting of the broadcasting royalties, registered media partners usually need a label code assigned to the specific products. If the User does not dispose an own label code, REBEAT Digital offers the possibility to use the REBEAT label code for the use of the service. In this case, REBEAT expressly points out that the User will miss out the broadcasting royalties generated.

The service can be cancelled at any time through a data update (fee required). From the date of cancellation on, the sampling of the User's products by the registered media partners will be stopped. However, REBEAT has no influence on the registered media partners usage of products transferred prior to cancellation.

The use of this service is granted free of charge until further notice. However, REBEAT reserves the right to introduce the charge of a service fee five (5) working days after sending written notice thereof to the User. The amount of this fee is subject to REBEAT's sole decision.

#### **§ 10 Digital distribution by third parties**

The User must not offer sound files uploaded at REBEAT to other providers and must not distribute these titles anywhere in digital form or permit the distribution by third parties.

#### **§ 11 Personal data**

The User expressly agrees to the electronic storage of his data, including personal data. REBEAT is entitled to forward the data to contracting parties in the required extent. The User expressly agrees to the publication of uploaded titles and to the publication of the product data on the internet in the extent of the data made known by the User. This declaration of consent is valid for the whole duration of the contract and must not be revoked separately. In case of a revocation REBEAT is not obliged to arrange for the deletion of the data on online portals.

#### **§ 12 Intent to make profit**

The User declares, that he operates with the intent to make profit and therefore is an entrepreneur according to the terms of sec. 1 of the Austrian Commercial Code (UGB). The User will attend to his tax matters and other matters according to public law by himself. REBEAT does not attend to these matters. The User will indemnify REBEAT if claims have been filed against REBEAT by financial or similar authorities.

#### **§ 13 Alteration in prices**

REBEAT reserves the right to alter prices, if costs borne by REBEAT increase due to amendments of the legal situation or if online portals change their requirements (e.g. technical specifications or use of new software) and these changes cause additional costs for REBEAT. Therefore REBEAT is entitled to charge these increased costs to the User.

#### **§ 14 Change of address & bank details**

The User is obliged to immediately notify REBEAT of any changes of his address and/or his banking details.

#### **§ 15 Exemption of side agreements**

The contracting parties hereby mutually agree that the mutually assumed obligations are described in full in this contract. Therefore, any possible different declarations, promises or other statements become null and void and shall not apply anymore after the conclusion of this contract.

#### **§ 16 Transfer to third parties**

REBEAT is entitled to transfer rights and obligations according to this contract to third parties resp. to transfer the whole contractual relationship to third parties without the User's consent.

#### **§ 17 Legal compliance**

The User accepts that REBEAT performs its services legally compliant. In case of amendment of the legal situation the User is not entitled to any reduction of payment, if certain services (all or part) cannot be rendered due to the amendment of the legal situation. If increased expenses arise

due to any amendment of the legal situation, the User is obliged to reimburse REBEAT for arising additional expenses.

### **§ 18 Electronic data storage**

REBEAT is entitled to electronically store and process any data made known to REBEAT in connection with this contract and with the fulfilment of this contract. REBEAT may use the services of other enterprises for data processing and may therefore forward the respective data.

The User declares only to transfer data subject to the Data Protection Act for fulfilling the contractual goals, if these data are not contrary to justifiable interests of third parties. REBEAT is not obliged to verify the legitimacy of the use of data. The User shall indemnify REBEAT for all possible claims.

### **§ 19 Place of jurisdiction**

This contract is solely subject to Austrian law in rem. Any references to other legal systems are not applicable. The contracting parties hereby stipulate the exclusive competence of the court competent in rem for Vienna Innere Stadt for all disputes arising out of this contract or any infringement, termination or nullity of this contract.

REBEAT is entitled to file claims at the User's court of general jurisdiction or any other court. If the User's seat is in any state not having yet ratified the Lugano Convention (Federal Law Gazette BGBl 1996/448) or the Brussels Convention (EuGVÜ, EC on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) (BGBl III 1998/209 as amended) and any execution in this state of any decision regarding this contract is not possible under these conventions, REBEAT may file claims also at any arbitrary court in his own discretion. In this case the following arbitration clause shall be stipulated: "All disputes arising out of this contract or related to its violation, termination or nullity shall be finally settled under the Rules of Arbitration and Conciliation of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by one arbitrator appointed in accordance with these Rules. The language to be used in the arbitral proceedings shall be German. The parties waive their right to appeal or annul the arbitration."

### **§ 20 Modifications and amendments**

Any modifications or amendments of this contract require written form, as well as legally relevant declarations in connection with this contract. The requirement of the written form may be denunciated only in written form.

### **§ 21 Period of notification**

The User is obliged to immediately notify REBEAT of all changes of his postal address in written form. Legally relevant declarations in connection with this contract have to be delivered to the last address made known to the contracting party. Therefore the delivery is deemed as effected even if the other contracting party moved without giving a new address. Terms in this contract are kept if the necessary declaration has been demonstrably posted on the last day of the term at the post or any other carrier.

**§ 22 Completeness**

This contract reflects the agreement between the parties in full. The contracting parties certify with their signature that they have not made any additional agreements. Any agreements, promises or other statements in connection with this contract made before the conclusion of this contract hereby lose force.

**§ 23 Appeal**

The contracting parties are aware of the mutual services and their value. The contracting parties forgo to dispute the contract – on any legal grounds – or to object in or out of court.

**§ 24 Place of fulfilment**

The place of fulfilment is Tulln/Austria/Europe.

**§ 25 Invalidity**

If any provisions of this contract are held or become invalid, such invalidity shall not affect other provisions of this contract. The invalid or void provisions shall be interpreted to serve the aspired commercial and legal aims as much as possible. Otherwise the contracting parties agree to substitute the invalid provisions for valid provisions as close as possible to the intended commercial and legal aims.

Place, xx/xx/xxxx

Tulln, xx/xx/xxxx

First name, Surname (User)

Rebeat Digital GmbH