Push Media Promotion GmbH
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Standard Terms and Conditions of Push Media Promotion GmbH for business owners/entrepreneurs

1. Subject matter of Agreement

1.1

This Agreement governs the provision of a web application under the trademark, "Promojukebox", and its functions to business owners/entrepreneurs (hereinafter referred to as "contracting partner") over the Internet. This web application, its functions and the other services provided by Push Media Promotion GmbH (hereinafter referred to as "Push Media") allow contracting partners to email digital samples of specific music files, image files, text and other information (hereinafter referred to as "Data") for upcoming recording publications to media partners, whom they select (hereinafter referred to as the "Sampling Recipients"). The Sampling Recipients will be given access to the Data on Push Media servers via streaming or downloading.

1.2

The web application as well as the necessary storage capacity for the Data, which is uploaded by the contracting partners, will be made available by Push Media or by a computer center authorised by it. The Data uploaded by the contracting partners will be protected against access by third parties.

1.3

This Agreement does not govern the contracting partners' access to the Internet. The contracting partner is solely responsible for the functionality of its Internet access, including the means of transmission and its own computer.

1.4

Once a contracting partner has logged on, consented to these standard terms and conditions, and formally registered, Push Media will provide it with the access data required to use Promojukebox. A contracting partner may authorise Push Media to set up several accesses using its name and various passwords for multiple employees/agents of the contracting partner. Until revoked by the contracting partner, these employees/agents will be deemed authorised on behalf of the contracting partner to place orders as defined in item 2 below with Push Media and to exercise all other powers vis-à-vis Push Media as granted to them by the contracting partner.

1.5

The contracting partner is not authorised to disclose this access data to any third party. It must in its own interest take the action necessary to ensure that its employees and agents also treat the access data as confidential.

2. Order placement

2.1

The client can choose between various product and time options which can be seen in the actual price list under "Packages" and can be booked in the log in area under shop. The monthly flat packages starts after the contracting partner received an email confirmation about the booked time period from Push Media. The product packages are starting with the upload of the product. All products are no subscription ie have to be renewed manually by the client.
Booked products or time periods cannot be terminated by contract partner prior to its end, and no fees paid for the time period booked shall be reimbursed by Push Media.

2.2

When the contracting partner places the order Push Media will confirm the order via e-mail. By executing the order, the sampling contract will be accepted.

2.3

The Data will be saved and stored on the Push Media server for a period of 12 months at the **most, unless the contracting partner has authorised the deletion of the Data earlier than 12 months.**

2.4

The payment of the flat fee shall be paid in advance and can only be made by credit card or via "Paypal". The number of contracting partners credit card will not be stored by Push Media and will be used only once for that respective single payment procedure.

2.5

Only the contracting partner will be responsible for the functionality of the Data uploaded by the contracting partner as well as the functionality of its internet access. Push Media assumes no liability with respect thereto.

3. Assignment of rights

3.1

The contracting partner grants Push Media any and all necessary, non-exclusive rights to use the uploaded Data for purposes of performing the digital sampling. Push Media is thereupon authorised specifically to copy the uploaded Data for purposes of storing such Data on its computers and to grant the Sampling Recipients (designated by the contracting partner) open access to such Data by way of

streaming and/or downloading.

3.2

The contracting partner does not grant Push Media any rights of use, as such, other than those which are required for Push Media to perform the contract. The contracting partner and Push Media acknowledge and agree that Push Media is granting the Sampling Recipient solely the right to download the Data from its servers. Push Media does not grant the Sampling Recipients any additional rights of use. As with physical samples, the contracting partner, as the holder of the right, is free to decide in its sole discretion whether to grant the Sampling Recipients the additional rights of use (e.g., a broadcasting right).

3.3

Push Media does not claim any copyrights to the content contracting partner uploads to the Services. However by uploading any content through the service, you hereby grant to Push Media a non-exclusive, fully-paid to the collecting societies, royalty-free and worldwide license to distribute the content solely on and through the services to recipients that you have requested the content be delivered to. The license will terminate at the time the content is removed from the cervices. This right is required for proper and legal operation of the service. The license does not allow us to do anything more that you would expect, e.g. it does not give us the right to distribute your content or sell your content to anyone.

4. Indemnification

4.1

The contracting partner hereby states that (i) it is authorised to assign to Push Media the rights which are the subject matter of this Agreement, (ii) the Data, which it uploads and makes available to the Sampling Recipient through Push Media for streaming and/or downloading purposes, do not infringe any third partner rights or otherwise violate the law, and (iii) it has paid to the competent rights collecting society any and all fees, which arise during the term of this Agreement in connection with the sampling, streaming or downloading.

4.2

The contracting partner also warrants that the Data uploaded to the Push Media servers is free and clear of any viruses, Trojan horses, keyloggers, backdoor programs and/or other malware.

4.3

The contracting partner hereby agrees to indemnify Push Media with respect to any and all third party claims based on an infringement or violation defined in items 4.1. and 4.2. and agrees to compensate Push Media with respect to all damages arising as a result thereof, including any reasonable costs for legal defence.

4.4

The contracting partner hereby states that the Sampling Recipient designated by it consents to the receipt of the sampling. It agrees to indemnify Push Media against any and all claims which the Sampling Recipient may have in this regard.

5. Liability

Push Media's liability under the applicable statutory laws and regulations is limited as follows:

5.1

Push Media will be liable for any and all types of damages caused by its intentional acts or omissions and gross negligence. The liability disclaimers and limitations set forth under this item 5 do not apply to the kind of injury or damage defined in § 309 No. 7 a) of the German Civil Code ("BGB").

5.2

Push Media will not be liable in the event it or any of its officers, directors, statutory representatives, employees or other vicarious agents commit an act of simple negligence. Push Media will also not be liable in the event its non-managing employees or simple vicarious agents engage in a grossly negligent act or omission. The aforementioned liability disclaimer will not apply if material contractual duties have been breached.

5.3

If Push Media is liable under item 5.2, then this liability will be limited to solely those damages which are foreseeable and typical for the contract.

5.4

In all other cases involving simple negligent conduct, Push Media's liability will be limited to EUR 1,000 per claim.

5.5

The contracting partner is obligated to take effective measures to avoid and mitigate damages.

5.6

The foregoing provisions also apply mutatis mutandis to liability relating to indemnification for futile expenditures.

5.7

Liability under the Product Liability Act remains are unaffected by the foregoing provisions.

5.8

The foregoing provisions also apply in favour of Push Media employees and vicarious agents.

6. Data protection and non-disclosure

6.1

Push Media agrees to guarantee that the protection of the Data entered by the contracting partner is in compliance with the "General Data Protection Regulation (GDPR) (EU) 2016/679". For more information please check our privacy policy.

6.2

Push Media hereby gives notice to the contracting partner that it will collect, process and use personal data, if such actions are necessary to perform the contract. The contracting partner agrees that such Data transmitted by it will be saved, transmitted, deleted and blocked by Push Media, if such action is necessary upon considering the legitimate interests of the contracting partner and in order to perform this contract.

6.3

Push Media agrees to treat as confidential any all information, which the contracting partner provides to it during the performance of the contract. Push Media agrees to impose on its employees the obligation not to disclose the information and Data to third parties. Push Media also agrees to take suitable precautionary measures to prevent the third parties from gaining unauthorised access to the information and Data of the contracting partner.

7. Use of YouTube Services

7.1

By using the features on this website that utilize the YouTube API, you acknowledge and agree to be bound by the YouTube Terms of Service, available here. Our use of the YouTube API implies your consent to these terms. Please ensure you carefully read and understand the YouTube Terms of Service before using the relevant features on our website.

8. General provisions

8.1

Push Media has the right to terminate the contractual relationship with contracting partners who violate the rules without notice, to block access or to delete the account of the contracting partner including all the contents.

8.2

Push Media may at any time without notifying the contracting partner make any changes to the services which are necessary to comply with any applicable security or other statutory requirements or which do not materially affect the nature or quality of the service.

8.3

All legal disputes arising from or connected with this Agreement will be governed exclusively by German law to the exclusion of any conflict of law rules which refer to another set of laws. The UN Convention on the Contracts for the International Sale of Goods will not apply.

8.4

The contracting partner's standard terms and conditions will not apply, if they directly conflict with these standard terms and conditions. Any other, additional standard terms and conditions of the

contracting partner will apply, only if they favour Push Media.

8.5

The place of performance is Munich.

8.6

The jurisdiction and venue for any and all disputes arising from or connected with this Agreement shall lie with the courts in Munich.

8.7

Any side agreements to, modifications of and addenda to this Agreement must in writing to be valid. The foregoing also applies to a rescission of this writing requirement.

8.8

Should any provision hereof be or become invalid, then the validity of the Agreement as a whole will not be affected thereby.

8.9

The client is accepting and understanding the Terms & Conditions even if English is not his native language.

9. Contract Language

9.1

Please note that our agreed contract language is German and the German version is binding in case of discrepancies; the English language versions provided serve as convenience translations only.

Push Media Promotion GmbH, May 2024