
Google Online Agreements

Background Information

CLA with Subscription Offerings Addendum GIL- Eng Law Eng Language + BTO2 v3 27Nov2014

Agreement

CONTENT LICENCE AGREEMENT

This Content Licence Agreement, including the Subscription Offerings Addendum set out at Exhibit A (the **"Agreement"**) is entered into by (1) **You**, being the entity agreeing to these terms (**"Provider"**), and (2) **Google Ireland Limited and Google Commerce Limited**, both companies incorporated under the laws of Ireland, whose principal place of business is at Gordon House, Barrow Street, Dublin 4, Ireland, (together **"Google"**). The Agreement is effective as of the date Provider accepts it online through click-to-accept (the **"Effective Date"**).

1. DEFINITIONS

"Ad Revenues" means revenue recognised by Google and directly and identifiably arising from ads provided by Google (or a third party approved by Google) that are displayed or streamed on Playback Pages, Channel Pages or in or on the YouTube Video Player in conjunction with the streaming of Provider Content and Monetized Content.

"Affiliate" means any entity that directly or indirectly controls or is controlled by, or is under common control with, a party. For the avoidance of doubt, Google's Affiliates include Google LLC.

"Contract Year" means a period of 365 days starting on the Effective Date or the relevant anniversary of the Effective Date.

"Google Services" means the Google websites, applications, products and services, including but not limited to the YouTube Website, applications, APIs, embeds and any of the foregoing that are made available for syndication.

"Monetized Content" means a user video designated for monetization by Provider pursuant to a separate Content Identification and Management Agreement, which may be entered into by the parties.

"Playback Pages" means pages on the YouTube Website where Provider Content, Monetized Content and associated ads are displayed and streamed to users at no cost.

"Provider Content" means the audio and audiovisual content received by or made available to Google from or by Provider, and all related metadata and materials made available to Google, via specified delivery means.

"YouTube Video Player" means one or more digital media players made available to users which is/are used or useful in the transmission, performance and/or playback of multimedia content, including but not limited to Provider Content, so that the digital data that embodies the relevant audio or audiovisual content can be perceived by and communicated to a user of such digital media player(s) when used in conjunction with the aid of a machine or device.

"YouTube Website" means the Google Service known as YouTube located at <http://www.youtube.com>, including all mirror and/or derivative sites and all replacement, successor and/or international versions thereof.

2. LICENCES

2.1 **Provider Content and Monetized Content.** Provider grants to Google a non-exclusive, limited right and licence to host, cache, route, transmit, store, copy, distribute, perform, display, reformat, excerpt, analyze, and otherwise use Provider Content and Monetized Content on the Google Services to: (a) host the Provider Content and Monetized Content on servers owned or controlled by Google; (b) index Provider Content and Monetized Content; (c) display, perform, and distribute Provider Content and Monetized Content on Google Services; and (d) make continuing improvements to Google Services. The foregoing includes all necessary licences to use the compositions and sound recordings of any music included in the Provider Content and Monetized Content in order to host, index, display, perform, synchronize, and distribute Provider Content and Monetized Content, and the right to modify Provider Content and Monetized Content to the extent technically necessary to index and display Provider Content and Monetized Content. Provider understands and agrees that Google Services incorporating Provider Content and Monetized Content may be syndicated to Google's associated companies and syndication partners.

2.2 **Brand Features Licence.** Provider grants to Google a non-exclusive, limited, worldwide, royalty-free licence to use any names, logos, trademarks, trade names, domain names and designs (collectively, **"Brand Features"**) provided by Provider in connection with Provider Content and Monetized Content to exercise Google's rights under this Agreement and to include in partner lists and presentations.

2.3 **Production and Editorial Control.** Google has the sole right and decision making authority with respect to the design, appearance, functionality, hosting, performance, and maintenance of the Google Services,

including but not limited to the YouTube Website. Provider is responsible for the selection and organisation of Provider Content and has sole editorial control in respect of the Provider Content on the Google Services pursuant to this Agreement.

3. OBLIGATIONS

3.1 **Delivery, Hosting, Serving, Storage, Territorial Limitations.** Provider will deliver the Provider Content and associated metadata pursuant to specifications provided by Google. Subject to Google's applicable hosting policies and terms, including without limitation the community guidelines of the YouTube Website (currently available at http://uk.youtube.com/t/community_guidelines ("Community Guidelines"), or such other URLs as may be updated by Google), Google will host, store and serve Provider Content and Monetized Content on the YouTube Website, through the YouTube Video Player and via other Google Services. Google may create or enable Provider to create a channel on the YouTube Website that displays the Provider trademarks, contains a collection of Provider Content, and may be customized by Provider using functionality provided in the YouTube Website templates. Provider will specify in a metadata feed or other Google interface the territorial limitations for streaming Provider Content and Monetized Content, and may set other limitations on distribution and display via Google Services that Google may make available. Provider will not include any promotions, sponsorships or other advertisements (except for those promoting its own products or services) as part of Provider Content. If any of the foregoing are included as part of Provider Content, Google may elect not to serve advertisements that would be subject to the revenue share in clause 4.1 or may remove the relevant Provider Content. Provider will not deliver to Google any Provider Content comprised substantially of third party materials unless Provider is the exclusive licensee of online distribution rights for the underlying material. If a third party provides Google with a claim of ownership of any material contained within Provider Content or Monetized Content, then: (a) the Provider Content or Monetized Content may be blocked from the Google Services (including without limitation the YouTube Website and the YouTube Video Player); (b) payments accruing to Provider under this Agreement in association with such content may be suspended or cancelled; and (c) if Provider disputes the third party claim, Provider will participate in such reasonable procedures as Google may establish, to resolve the dispute.

3.2 **Removal.** If Provider notifies Google, or Google determines that its use of Provider Content or Monetized Content may create liability for Google or harm the integrity of Google's servers or the Google , Google may stop displaying Provider Content and/or Monetized Content . Provider may initiate removal of Provider Content and Monetized Content through methods made available by Google. If Provider Content or Monetized Content continues appearing on Google Services more than 48 hours after Provider has correctly initiated removal using such methods, Provider will notify Google of the URL of such content by sending an email to partner-takedownrequest@youtube.com or such other address(es) as Google may designate from time to time, and Google will use commercially reasonable efforts to remove the material from the Google Services within 20 days of confirmed receipt of such notice.

4. ADVERTISING

4.1 **Delivery, Ad Revenues, Payments, Reports.** Google will have the right, but not the obligation, to serve advertising in any and all Google Services, including but not limited to the display of ads on the Playback Pages and within the YouTube Video Player in conjunction with the display or playback of Provider Content and Monetized Content. Provider will receive 55% of Ad Revenues recognised by Google . If one or more Google content providers claim a portion of Monetized Content for monetization through the Content ID system, Provider will receive a pro rata share of the Ad Revenues that would otherwise be due, with such pro rata share to be determined by Google in its reasonable discretion. Recognized revenues do not include items listed in clause 4.3 or taxes. Payments to Provider for Ad Revenues will be sent by Google within approximately sixty (60) days after the end of any calendar month, provided that Provider's earned balance is \$100 or more in the aggregate. When Provider's monthly earned balance is less than \$100, there will be no payment and the balance will accumulate until it exceeds \$100, at which time it will be paid to Provider in accordance with the preceding sentence. Any payments to Provider will be made in the manner that Google pays its partners. Google reserves the right to retain all other revenues derived from Google Services, including without limitation any revenues from ads that may appear on any search results pages. Within thirty (30) days of the end of each month, Google will provide Provider with usage reports in the form generally made available to partners at that time. Google may create an account for Provider to access information about payments owed to Provider. To ensure proper payment, Provider is responsible for providing and maintaining accurate contact and payment information associated with its account.

4.2 **Taxes.** All payments made in connection with this Agreement are exclusive of taxes imposed by governmental entities of whatever kind and imposed with respect to the transactions for services provided under this Agreement. Google will be responsible for any taxes relating to payments it makes under this Agreement other than taxes based on Provider's income. If Google is required to deduct or withhold taxes from any payments made to Provider and remits such taxes to the local taxing jurisdiction, then Google will duly withhold and remit such taxes and will pay to Provider the remaining net amount after the taxes have been withheld.

4.3 **Non-Qualifying Ads.** Google is not required to make payments to Provider based on: (a) invalid queries or clicks originating from Provider's IP addresses or computers, or solicited by Provider for the purpose of generating revenues; (b) ads delivered to browsers with JavaScript disabled (except to the extent that Google retains revenues from such ads); (c) transparent (empty) ads; (d) clicks co-mingled with a significant number of invalid clicks; or (e) breach of this Agreement by Provider. Google may withhold

payment or charge back Provider for the foregoing, or any breach of this Agreement by Provider, pending Google's reasonable investigation. Provider will cooperate with Google in any investigation. Provider will not, and will not authorise or encourage any third party to generate invalid or fraudulent clicks, queries, or impressions.

5. **CONFIDENTIALITY. "Confidential Information"** means information that one party (or an Affiliate) discloses to the other party under this Agreement, and which is marked as confidential or would normally under the circumstances be considered confidential information. It does not include information that the recipient already knew, that becomes public through no fault of the recipient, that was independently developed by the recipient, or that was lawfully given to the recipient by a third party. The recipient will not disclose the Confidential Information, except to Affiliates, employees, agents or professional advisors who need to know it and who have agreed in writing (or in the case of professional advisors are otherwise bound) to keep it confidential. The recipient will ensure that those people and entities use the received Confidential Information only to exercise rights and fulfill obligations under this Agreement, while using reasonable care to keep it confidential. The recipient may also disclose Confidential Information when required by law after giving reasonable notice to the discloser.
6. **REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION.** Each party represents and warrants that it has the authority to enter into this Agreement. Provider represents and warrants that: (a) Provider has all necessary rights, licences and clearances to grant the licences set out in clause 2; and (b) Provider Content and Monetized Content do not breach any applicable law or regulations. Each party will indemnify, defend and hold harmless the other party and its directors, officers, employees, and agents from third party claims arising from or related to a breach of the indemnifying party's representations and warranties hereunder. Provider will indemnify, defend and hold harmless Google, its directors, officers, employees, and agents in respect of any third party claims arising from or related to Google's use in accordance with this Agreement of any Provider Content, any Provider Brand Features, Monetized Content or any other materials provided by Provider to Google under this Agreement.
7. **DISCLAIMER AND LIMITATION OF LIABILITY.**
 - 7.1 Save as expressly set out in this Agreement, no conditions, warranties or other terms will apply. Subject to clause 7.2, no implied conditions, warranties or other terms apply (including without limitation any implied terms relating to satisfactory quality, fitness for any purpose or conformance with description).
 - 7.2 Nothing in this Agreement will exclude or limit either party's liability for: (a) death or personal injury resulting from the negligence of either party or their servants, agents or employees; (b) fraud or fraudulent misrepresentation; (c) breach of any implied condition as to title or quiet enjoyment; (d) misuse of Confidential Information; (e) payment of sums properly due and owing to the other in the course of normal performance of this Agreement; and (f) under any indemnities in clause 6.
 - 7.3 Subject to clause 7.2, neither party will be liable under or in connection with this Agreement (whether in contract, tort or otherwise) for any:
 - (a) loss of profits or anticipated savings or cost of substitute services;
 - (b) loss of goodwill or business opportunity;
 - (c) loss of or corruption of data; or
 - (d) special, indirect or consequential lossessuffered or incurred by the other party (whether or not such losses were within the contemplation of the parties at the date of this Agreement).
 - 7.4 Subject to clauses 7.2 and 7.3, each party's total aggregate liability under or in connection with this Agreement (whether in contract, tort or otherwise) arising in any Contract Year is limited to the greater of either: total aggregate liability under or in connection with this Agreement (whether in contract, tort or otherwise) will be limited to the greater of either: (i) 125% of the Ad Revenues paid or payable by Google to Provider under this Agreement in the relevant Contract Year; or (ii) \$50,000.
8. **TERM AND TERMINATION.** This Agreement will commence on the Effective Date and shall continue thereafter for a period of one (1) year unless terminated earlier as provided for in this Agreement (the "Initial Term"). This Agreement will automatically renew for additional one (1) year terms unless either party gives at least thirty (30) days written notice prior to the end of the then-current term of its intent not to renew (the Initial Term and all renewal terms, collectively, the "Term"). Either party may terminate this Agreement on 30 days' written notice to the other. Google may terminate this Agreement immediately if Provider breaches any of the warranties set out in clause 6. On termination: (a) clauses 1, 5, 6, 7, 8(b) and 9 survive termination; (b) Google will pay any outstanding amounts earned by Provider in accordance with clause 4 within 90 days after the end of the calendar month in which the Agreement terminates; and (c) Provider will immediately remove the Provider Content by means of Provider's YouTube user account or such other means as provided by Google. If Provider fails to remove the Provider Content (regardless of whether such failure is inadvertent or intentional), the provisions of clause 2 will also survive. Notwithstanding the foregoing, upon termination of this Agreement, Google itself will have the right, in its sole discretion, to remove any or all of the Provider Content.
9. **MISCELLANEOUS.** This Agreement is governed by English law and the parties submit to the exclusive jurisdiction of the English courts in relation to any dispute (contractual or non-contractual) concerning this Agreement save that either party may apply to any court for an injunction or other relief to protect its intellectual property rights. Neither party may assign any part of this Agreement without the written consent of the other, except to an Affiliate where: (a) the assignee has agreed in writing to be bound by

the terms of this Agreement; (b) the assigning party remains liable for obligations under the Agreement if the assignee defaults on them; and (c) the assignor has notified the other party of the assignment. Any other attempt to assign is void. Subject to clause 7.2(b), this Agreement sets out all terms agreed between the parties and supersedes all previous or contemporaneous agreements relating to its subject matter. In entering into this Agreement neither party has relied on, and neither party will have any right or remedy based on, any statement, representation or warranty (whether made negligently or innocently), except those expressly set out in this Agreement. Any amendment to this Agreement must be in writing and expressly state that it is amending this Agreement. Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under this Agreement. Neither party may make any public statement regarding this Agreement without the other's written approval except when required by law after giving reasonable notice to the other. All notices of termination or breach must be in writing and addressed to the other party's legal department. The email address for notices sent to Google's Legal Department is legal-notices@google.com. Notice will be treated as given on receipt, as verified by written or automated receipt or by electronic log (as applicable). All other notices must be in writing, and addressed to the other party's primary contact. Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control. If any term (or part of a term) of this Agreement is invalid, illegal or unenforceable, the rest of the Agreement will continue in force unaffected. This Agreement does not confer any benefits on any third-party unless it expressly states that it does. Nothing in this Agreement will create an agency, partnership or joint venture of any kind between the parties. The parties may execute this Agreement in multiple counterparts, including facsimile, PDF and other electronic copies, which taken together will constitute one instrument.

EXHIBIT A

SUBSCRIPTION OFFERINGS ADDENDUM

1. Definitions.

1.1 **"Music Subscription Offering"** means features on YouTube that apply to all or a subset of YouTube music content that are only available to subscribers for a fee or on a free trial basis.

1.2 **"Provider Music Video"** means any Provider Content designated as a music video pursuant to Section 4.1 below, and that (a) is comprised substantially of one or more musical sound recordings or (b) Google and Provider agree constitutes a Provider Music Video.

1.3 **"Subscription Offering"** means features on YouTube that apply to all or a subset of YouTube content that are only available to subscribers for a fee or on a free trial basis (and may include, by way of example only, the ability to view such content without ads). For the avoidance of doubt, Subscription Offerings include Music Subscription Offerings. Subscription Offerings do not include those paid services whereby users pay a fee in exchange for access to specific items of content, e.g. rentals and purchases, paid channels or live PPV.

1.4 **"Subscription Revenues"** means revenues recognized under the Generally Accepted Accounting Principles by Google from any fees charged by Google to users in connection with Subscription Offerings. Subscription Revenues are net of any taxes, refunds, chargebacks, declined payments or any fees payable to platform, device or other distribution partners in connection with Subscription Offering transactions. Google does not recognize revenues in the cases of free trials or discounts to subscription fees (including discounted packages for families or multiple subscriptions).

2. General Product Terms.

2.1 **Offline Access.** For the avoidance of doubt, the licence granted by Provider under the Agreement includes the right to enable offline access to Provider Content on the Google Services for up to thirty (30) days, including as part of a Subscription Offering or on an ad-supported basis. If offline access has previously been disabled on any Provider Content, offline access will be enabled on such items of content on or following the Effective Date. Provider understands and agrees that the licence grant in the Agreement will survive for a period of thirty (30) days from the date of any termination or expiration of the Agreement or removal of any Provider Content from the Google Services.

2.2 **Other Product Features.** Google may make available, and Provider may enable in Provider's sole discretion, certain product features that allow Google and/or authorized third parties (including users) to create derivative works of content on the Google Services. If Provider enables such feature(s) for Provider Content, the licence grant in the Agreement is amended to include the right for Google and/or authorized third parties to create derivative works of such Provider Content.

2.3 **Advertising Limitations.** Provider acknowledges that due to technical or policy limitations, in some cases the type and frequency of advertising may be limited. By way of example, in some cases ads may be limited to only those sold or provided by Google.

2.4 **Prohibited Acts.** Provider will not engage in any unauthorized activities that negatively impact watch time, views or other metrics relating to Subscription Offerings.

2.5 Monetized Content. For purposes of this amendment only, all references to Provider Content include Monetized Content.

3. General Terms for Subscription Offerings.

3.1 Content Pools. Each piece of Provider Content may be part of one or more relevant Subscription Offerings. Google will have sole discretion to determine the size and composition of each pool of content within each Subscription Offering or across multiple Subscription Offerings ("Content Pools"), but for clarity Provider has sole discretion over what content it selects to make available on the Google Services under the Agreement. Content Pools may contain content from individual Subscription Offerings or multiple Subscription Offerings. Content Pools for Subscription Offerings may differ by territory. For each Subscription Offering, at least fifty-five percent (55%) of the total Subscription Revenues for such Subscription Offering will be distributed among Google partners, based on each partner's share of the consumption of such content, as described below.

3.2 Corpus Parity. Provider acknowledges and agrees that if Provider makes available any Provider Content under the Agreement on a free, ad-supported basis, Provider will also make such content available for distribution in any Subscription Offering.

3.3 Monetized Platforms. Provider acknowledges and agrees that the monetized platform feature will not apply to Subscription Offerings.

4. Additional Terms for Music Subscription Offerings.

4.1 Categorization of Music Content. At the time of uploads or claiming, Provider may categorize any Provider Content that Provider determines is "music content" as a Provider Music Video. If Google reasonably believes that any Provider Content has been improperly categorized by Provider, the parties will discuss in good faith the recategorization of such Provider Content.

4.2 Cross Authentication with the Other Google Music Subscription Services. Google may offer music subscription services on the Google Services that are operated partially or wholly separately from the Music Subscription Offering (each, an "Other Google Music Subscription Service"). Subscribers to such Other Google Music Subscription Services will be deemed to be users hereunder and will be entitled to access the Music Subscription Offering and subscribers to the Music Subscription Offering will be deemed to be subscribers of such Other Google Music Subscription Services and entitled to access thereto.

4.3 Audio-only Access for Music Content. For the avoidance of doubt, the licence granted by Provider under the Agreement includes the right to make available an audio-only access feature to users of a Music Subscription Offering whereby users can specifically elect to disable playback of or offline access to the visual portion of Provider Music Videos, while enabling consumption of and offline access to only the audio portion of the Provider Music Videos.

5. Revenues, Payments and Reporting.

5.1 Revenue Share for Non-Music Subscription Offerings. Within each Content Pool for Subscription Offerings (excluding Music Subscription Offerings) that contain Provider Content, in a given accounting period, Google will pay to Provider fifty-five percent (55%) of Subscription Revenues that are attributable to that Content Pool multiplied by the share of monthly watch time of Provider Content as a percentage of watch time (total or a representative sample) of participating content in that Content Pool. For the avoidance of doubt, Subscription Offerings may include advertising. If ads are enabled in any Subscription Offering, Google will pay Provider in accordance with the provisions of the Agreement governing Ad Revenues.

5.2 Music Subscription Revenues. Within each Content Pool for a Music Subscription Offering, in a given accounting period, Google will pay to Provider fifty-five percent (55%) of Subscription Revenues attributable to that Content Pool multiplied by the monthly views of Provider Music Videos as a percentage of total views of participating content in that Content Pool, or at Google's election, watchtime (total or a representative sample). If ads are enabled in any Music Subscription Offering, Google will pay Provider in accordance with the Section of the Agreement governing Ad Revenues.

5.3 Users Who Subscribe to Multiple Subscriptions. If any Provider Content is available in more than one Subscription Offering and a user subscribes to more than one Subscription Offering, Google will calculate Provider's share of Subscription Revenues based on the Subscription Offering(s) with the highest ranking as determined by Google. Google will rank Subscription Offerings based on the Subscription Offering with the highest amount of Subscription Revenues as of the date on which such determination is made. Google may recalculate such rankings based on factors such as, by way of example only, adding or removing Subscription Offerings or Content Pools or if there is a significant change in the composition of any Subscription Offerings or Content Pools.

5.4 Rate Changes for Provider Music Videos. Google may elect, with Provider's consent, to clear some or all musical composition licences with respect to some or all Provider Music Videos and in such event, Google will pay Provider as follows: (a) in a Music Subscription Offering, forty-five percent (45%) of Subscription Revenues attributable to the applicable Content Pool multiplied by the monthly views of Provider Music Videos as a percentage of total views of participating content in that Content Pool or, at Google's election, watchtime (total or a representative sample); or (b) on a free, ad-supported basis, and with respect to any ads served against Provider Music Videos in a Music Subscription Offering, forty-five percent (45%) of Ad Revenues. For clarity, the foregoing payments are subject to any adjustments required hereunder in the event of multiple claimants. If any major record label partner agrees to rates for Provider Music Videos that are lower than the rates in this Subscription Offerings

Addendum, Google will have the right to reduce Provider's rate accordingly, following thirty (30) days written notice to Provider (which may include e-mail).

5.5 Monetization. If Google makes available any feature that allows Provider to disable monetization with respect to the Subscription Offerings on any Provider Content, Provider acknowledges that such Provider Content will still be viewable within the relevant Subscription Offerings but that Google will not pay Provider any Subscription Revenues.

5.6 Multiple Claimants. If one or more Google content providers claim a portion of Monetized Content for monetization through the Content ID system, Provider will receive a pro rata share of the Subscription Revenues that would otherwise be due, with such pro rata share to be determined by Google in its reasonable discretion. All claimants to a piece of content will be paid out of the same Content Pool for Subscription Revenues.

5.7 Payments. Google will pay Provider any Subscription Revenues due in accordance with the payment terms set forth in the Agreement.

6. **Other Agreements**. For the avoidance of doubt, to the extent that Provider enters or entered into a Subscription Content Amendment or Commerce Content Addendum, the terms of that amendment or addendum will govern the products described therein (including paid channel subscriptions) and the terms of this Subscription Offerings Addendum govern all other subscription products. If there is a Sound Recording and Audiovisual Agreement or other music-specific content license agreement in force between the parties at any time, the terms of such music agreement will supersede the music-specific provisions of this Subscription Offerings Addendum.

Signatory Information

Note: Please review your company details and amend accordingly. If the legal name of your company is incorrect, please advise your Google contact who will arrange for this to be amended. PLEASE DO NOT ACCEPT THIS ONLINE CONTRACT AGREEMENT IF YOUR DETAILS ARE INCORRECT.

Contracting Entity: Blender Foundation

Url:

Name:*

You will be the signatory to the following agreement

Title:*

Email:*

Address:*

Country:*

Phone:

Fax:

Accept Agreement

Note: If you are accepting on behalf of your employer or another entity, you represent and warrant that you have full legal authority to bind your employer or such entity to these terms and conditions. If you don't have the legal authority to bind, please do not click the "Accept" button below.

By checking this box, I am accepting this Agreement on behalf of the entity **Blender Foundation**. I represent and warrant that (a) I have full legal authority to bind the entity to this Agreement, (b) I have read and understand this Agreement, and (c) I agree to all terms and conditions of this Agreement on behalf of the entity that I represent.