



GRACENOTE®

CONTENT PARTNER PROGRAM AGREEMENT –
RECORD LABEL, MUSIC PUBLISHER,
PRODUCTION STUDIOS & INDIVIDUAL ARTIST

Revision: 2.0

GRACENOTE, INC.

2000 Powell St., Ste 1380
Emeryville, CA 94608
www.gracenote.com

**GRACENOTE® CONTENT PARTNER AGREEMENT – RECORD LABEL &
ARTIST VERSION**

Signature Page

GRACENOTE® CONTENT PARTNER AGREEMENT (“Agreement”) is made between **Gracenote, Inc.** 2000 Powell Street, Suite 1380, Emeryville, CA 94608 USA (“**Gracenote**”), and **Content Partner** (as identified below as defined below).

This Agreement is effective on the date that both parties have executed this Agreement (“Effective Date”).

The attached Terms and Conditions and Schedules are included in this Agreement. Any written Addendum(s) or Amendment(s) between Content Partner and Gracenote become part of this Agreement when signed by both parties.

Intending to be bound, the parties have signed this Agreement as follows:

Executed as a binding Agreement by Gracenote:

By (Authorized Signature): _____ Date: _____

Print Name: _____ Title: _____

Executed as a binding Agreement by Content Partner:

Company Name: _____

By (Authorized Signature): _____ Date: _____

Print Name: _____ Title: _____

Street Address: _____

City, State: _____

Postal Code, Country: _____

Telephone Number: _____

Fax Number: _____

Web Site URL: _____

Contact Name / Email: _____

GRACENOTE® CONTENT PARTNER AGREEMENT

Terms and Conditions

1. Introduction

- a. Content Partner is in business as a “record label”, “music publisher”, “production studio” or as an “independent artist.” Its business activities include marketing commercial recordings of music in CD form (each a “CD”).
- b. Content Partner wishes that Gracenote’s database might include accurate factual information (“Metadata” which means data relating to CDs and/or Music Files, including artist, title, genre, and track name information) regarding music CDs that Content Partner markets and sells or plans to market and sell (“Content Partner Recordings”).
- c. To facilitate providing gathering of such information, Gracenote is willing to license to Content Partner a certain software application known as the “Gracenote Content Partner Application.” The Gracenote Content Partner Application enables the Content Partner to submit Metadata along with mathematically-derived identifiers called “Fingerprints” (which are digital derivatives of all or part of the digitized sound in a Music File) and “TOCs”(also known as “Table of Contents” which are a type of data contained on a CD that relates to when and where tracks start and end; TOC also refers to any data or information derived by or resulting from processing such data or any portion thereof). Metadata together with Fingerprints and TOC are referred to as “Music Identification Data.” The Gracenote Content Partner Application automatically sends this data to Gracenote (a “Submission”).
- d. Gracenote does not want, nor will Gracenote accept, any delivery or submission of actual digital music files, whether in compressed or uncompressed form unless the parties otherwise agree in writing. The Gracenote Content Partner Application does not create, gather, submit or save digital music files. At the Content Partner’s option they may send Gracenote copies of actual CDs, which will become the property of Gracenote unless otherwise agreed in writing.

2. Grant of License to Software; Cooperation

- a. Gracenote grants to Content Partner, for the term of this Agreement as defined below (the “Term”), a license to a copy of the Gracenote Content Partner Application. Gracenote agrees to supply the Gracenote Content Partner Application to Content Partner electronically or on CD-ROM.
- b. Under this license, Content Partner may (but is not obligated to):
 - (1) Install up to three (3) copies of the Gracenote Content Partner Application internally on reasonably secure personal computers under Content Partner’s possession and control; and
 - (2) Use the Gracenote Content Partner Application to submit Music Data for Content Partner Recordings to Gracenote.
- c. In addition, Content Partner may (but is not obligated to) supply Metadata to Gracenote by such other means as Gracenote may request.
- d. Content Partner agrees to use commercially reasonable efforts to provide accurate data and to follow Gracenote’s data standards, as they are made available from time to time. Deliberate or repeated erroneous Submissions are cause for termination without notice.

3. Grant of Rights to Gracenote.

Content Partner agrees that Gracenote shall have the permanent right to copy, distribute, use or exploit the Music Identification Data supplied by Content Partner by any lawful manner or means. Gracenote is under no obligation to use any Music Identification Data provided by Content Partner.

4. Restrictions. Content Partner agrees not to use the Gracenote Content Partner Application to send Music Identification Data to any third party. Content Partner agrees not to keep, store, or aggregate Music Fingerprints created by the Gracenote Content Partner Application. Content Partner agrees that the Gracenote Content Partner Application will be used only within Content Partner’s organization and only by its own employees. Content Provider agrees to only submit data for Content Partner Recordings. Content Provider agrees not to submit lyrics, digital music or other copyrighted content, unless the Content Provider has the legal right to do so and such submission is mutually agreed to in writing by the parties.

5. **Ownership.** The Gracenote Content Partner Application is the property of Gracenote and its suppliers. As between Gracenote and Content Partner, the Music Fingerprints shall be deemed to be the property of Gracenote; no other ownership interest is created or granted by any provision of this Agreement. All rights not granted are reserved to the parties respectively.

6. **Warranty Disclaimers; Limitations of Liability.** Neither party makes any representations or warranties, express or implied, as to the business results that the other may obtain by reason of this Agreement. The Gracenote Content Partner Application is provided "AS IS." No warranty is made that the Gracenote Content Partner Application is error-free or that functioning of the Gracenote Content Partner Application will be uninterrupted. Except with regard to intellectual property rights, or with regard to the copying, use or disclosure of the Gracenote Content Partner Application or Music Fingerprints in breach of this Agreement, neither party will be liable for lost profits, lost savings or other incidental or consequential damages. Except with regard to intellectual property rights, or with regard to the copying, use or disclosure of the Gracenote Content Partner Application or Music Fingerprints in breach of this Agreement, in no case will either party be liable in the aggregate for any amount in excess of \$5,000.

7. **Public Relations.** Either party will have the right to issue press releases about the relationship between the parties with the other's consent. Each party agrees to provide the other in advance with a written copy of each proposed press release and to include reasonable changes proposed by the other. The Content Partner, subject to its approval in writing, will allow Gracenote, where appropriate, the right to use its trademarks on its website and on promotional materials related to this program.

8. **Confidentiality.** Gracenote Content Partner Application will be installed on reasonably secure computers and Content Partner will limit access to the Gracenote Content Partner Application to authorized users. Each party agrees to use reasonable efforts to protect the other party's non-public confidential information.

9. **Term and Termination.** The Term of this Agreement will be two years (24 months) from the Effective Date ("Initial Term") and shall be automatically extended for additional one-year periods thereafter indefinitely unless earlier terminated as provided for in this Agreement. Either party may terminate this Agreement for convenience on thirty (30) days notice. Either party shall have the right to terminate this Agreement on written notice, in the event that the other party materially breaches this Agreement and the breach remains uncured upon the expiration of the ten (10) day period after notice reasonably specifying the breach of this Agreement.

10. **Effect of Termination.** Content Partner agrees to erase all copies of the Gracenote Content Partner Application and to certify to Gracenote that it has done so no less than ten (10) days after termination. Each party will return or destroy the other's confidential information no less than ten (10) days after termination. The following provisions survive termination: 3, 5, 6, 7, 9 (second sentence only), 10 and 11 (as applicable).

11. **General Provisions.** No term or provision of this Agreement may be amended, waived, released, discharged or modified in any respect except in writing, signed by Content Partner and Gracenote. If any term or provision of this Agreement or its application to any person or circumstance shall be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby. Agreement does not create a partnership or a joint venture. No failure or delay on the part of any party to this Agreement in exercising any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any other right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. This Agreement may not be assigned or otherwise transferred by Content Partner, in whole or in part, voluntarily, involuntarily, by operations of law or otherwise, without the prior written consent of Gracenote, which assent will not be unreasonably withheld. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and, as applicable, their permitted respective heirs, executors, administrators, representatives, successors and assigns. In case of breach of this Agreement, each party shall be entitled to seek temporary, preliminary and final injunctive relief in a court of law. All notices and demands (collectively, a "Notice") between the parties shall be in writing and shall be provided: (i) by registered or certified mail, return receipt requested; (ii) by overnight courier service; or (iii) by email confirmed by regular mail. This Agreement and the relationship of the parties shall be governed by and construed in accordance with the laws of the State of California without regard to its choice of law or conflict of law provisions. Jurisdiction and venue for all actions and claims relating to this Agreement or the relations of the parties will be exclusively in the federal and state courts within Alameda County in the State of California. This Agreement is the complete and exclusive agreement between Content Partner and Gracenote, superseding all other communications and agreements between the parties relating to this subject matter.