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Guide to Participation: State of Standards and Comment Review

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Introduction

For the credible and transparent certification of fair conditions for music, standards have to be developed integrating all interested parties and stakeholders. In order to find a common agreement about the framework conditions that describe how fair-labelled music should look like in the future, a broad dialogue has to be held.

It is the purpose of this document to provide all fair music stakeholders and supporters profound information about how to participate in the standards development process. As to give an overview about what has happened so far, a short history and a description for each standard are presented. This includes a summary providing the different drafts and key facts as well as detailed descriptions of the decision making process of fair music. If already available, a synopsis describing how the different comments of the stakeholders have been addressed is provided.

Fair music seeks compliance with the ISEAL initiative (International Social and Environmental Accreditation and Labelling Alliance) guaranteeing that the developed standards are transparent, credible and effective. For this reason and in order to facilitate the exchange of information of the fair music partners, additional resources (including this document and the fair music standards) are provided on the fair music homepage www.fairmusic.net.

Standard Setting Procedure

The process of standard setting is managed by the Fair-Music Project Management Team. Decisions about the standards are made by the Fair Music Project Consortium.

The different steps of the fair music standard setting procedure follow the ISEAL regulations. However, during the project phase, minor variations may occur. After project completion, a Standards Setting Committee will take over the decision making and the process will be managed by a team of experts from the Fair Music Certification Agency (which will be setup during the Fair Music Project).

When new Fair Music Standards are being developed or existing Standards are being reviewed, the relevant stakeholders are consulted. The process is open for comments for stakeholders during each stage of the process.

The process contains the following steps and elements:

Project description

A project description provides the necessary background for the project and its objectives.

Standard drafts

The project management develops an initial draft document describing standards.

Comment period

The standards draft document is being published on the internet and through other communication channels such as newsletters etc. If suitable, a questionnaire is being set up to get structured response.

Feedback and comments is discussed by the standard setting committee and worked into the draft document. Stakeholders can submit their comments at any time also after the comment period

Consultations

Consultations with major stakeholder groups are part of the reviewing process during the comment period.

Fair Music Standards Setting Committee / adoption of Standards

The committee is the decision making body. Members are appointed from the project consortium and outside experts. After the end of the comment period the Standards Committee discusses the comments and feedback in a review meeting. In this meeting the committee decides on the revision of the Standards.

Complaint Resolution Mechanism

Fair music will provide a complaints resolution mechanism in order to face problems and contradictions that may occur during the standard setting procedure. Additional

information about the complaint mechanism and the lodging of complaints are provided on the fair music homepage.

Summary of the Steps of the Standard Setting Process:

- Initial Standard draft document developed by Project Management Team
- Adoption of initial Standard draft document by Standard Setting Committee
- Commenting Period, publication on Fair Music Website
- Consultations with Stakeholders
- Review Meeting with Standards Committee
- Adoption of Standards
- Publication of Standards
- Complaints Resolution Mechanism
- Standards Review Process every 2 years

Ways to Participation: Process, Deadlines and Decision Making

During the commenting and consultation period all interested parties of fair music are **encouraged to participate in evaluating and revising the standards**. In order to comment a standard an email has to be sent to office@fairmusic.net.

Minimum Requirements for Comments

Please send a mail to office@fairmusic.net considering the following issues:

- Please note, that only written comments can be accepted
- Cite clearly which standard and which paragraphs are addressed
- Include an explanation for the proposed modifications/changes
- The language of comments is English
- Please include your contact information in order to guarantee the dispassion of the submitted comments

Technically, the Standard Setting Committee of the fair music Agency would decide whether the comments are integrated in the standards. As already mentioned, the Fair Music Agency will be set up later with the result that **all of the existing standards may be commented until the project phase has ended and the agency has been created**. Nonetheless, the official procedure (that will be applied after the project) phase shall be described in the following paragraphs.

Public Summary

At the outset of a standard development or revision process, fair music will make available on the website and send out via newsletter to interested parties a public summary of this process including:

- Contact information and information on how to contribute to the consultation
- Summary of the terms of reference for the standard, including scope, objectives, rationale and justification of need
- Steps in the standard-setting process including timelines and clearly identified opportunities for contribution
- Decision-making procedures, including how decisions are made and who makes them

Interested parties will have an opportunity to comment on this public summary for the standard and the terms of reference within **three months**. The Standard Setting Committee will deal with the comments and assess their relevance. Should the Committee reason that the comments are relevant for the standards it will integrate the conclusions out of the comments in the further development of the standards.

Public Consultation

The public consultation phase for fair music standards development or revision includes:

- An online survey publicly available for stakeholders of all interested parties
- Presentation of the new standard versions on music fairs and conferences
- Face-to face meetings with stakeholders
- Focus group conferences with invited representatives from interest groups
- Each round (survey and focus group conference) includes a period of at least 60 days for the submission of comment

Decision-Making

Standards will be approved by vote of the Standard Setting Committee, then have to be confirmed by the Board of the Fair Music Organisation.

The range and diversity of interested parties related to social and environmental standards makes the likelihood of reaching true consensus very low. It is acceptable to work towards consensus but to have a fall-back mechanism for making decisions should consensus not be reached on a given issue. If a consensus on revising or creating new standards cannot be reached, the Standard Setting Committee will decide according to the following quorum and decision rules:

For making a decision the attendance of at least 80% of the members of the Standard Setting Committee is required. A standard can be adopted by the simple majority of the attendant members of the Committee.

Availability of the fair music Standards

All approved fair music standards will be published promptly on the fair music website and will be available for free in pdf format. The fair music standards will be provided in English language. Translations can only be provided within the means of the agency.

Review and Revision of Standards

To receive comments and requests for clarification, the fair music agency will publish the draft standards on the fair music website and send out a newsletter with an invitation to take part in the development of the standard to the interested parties. Contact information will be included on the website information as well as in the newsletter and the public summary.

Fair music standards will be reviewed every two years. The date of the subsequent review will be made publicly available on the fair music website and will be included in the standard. Proposals for revisions or clarifications can be submitted by interested parties at any time. They will be documented and considered by the fair music agency in the subsequent review process. A statement on the standard about when comments will next be considered will be available on the website. This statement will include also information about the steps that will be taken in the comment review and standards revision process as well as information about the complaints procedure.

Fair Music Standards

To promote and work towards a just music business, the development of numerous standards will be inevitable. But first of all, fair music will focus on the 3 different Standards for Recorded Music, Live Performances and Online Music Services. Consequently, the fair music agency will certify labels, retailers, venues and concert promoters that fulfil the specific standards developed for their business segment. After the completion of the project phase, the elaboration of additional standards will follow.

History of the Fair Music Standards

- 2006:** **Start of the fair music Project**
Fair Music started as a local initiative by *mica-music austria*
- Sept 2009:** **Creation of the first draft for the fair music Standards for Recorded Music**
The first draft for the fair music Standards for Recorded Music were set up by an internal meeting of the project team (*mica – music austria*) and a lawyer specialised on the music business.
- Oct 2009:** **3rd World Forum on Music conference in Tunis**
First Stakeholder consultation as part of the Standards Setting Process: fair music project partner Wouter Tourkenburg of IAJS (International Association of Schools of Jazz) presented the Standards in their erstwhile form and discussed with his peers from other music organisations.
- Achieved progress:
Adoption of the draft version of the Standards for Recorded Music resulting in the first mutually agreed version.
- Jan 2010:** **Meeting of IAMIC (International Association of Music Information Centres) in Nizza**
Presentation of the fair music project at the winter conference of the International Association of Music Information Centres.
- March 2010:** **Launch of the Fair Music Homepage and Publication of Standards**
Publication of the first version of the Standards for Recorded Music on the new fair music website, which, since then, serves as an information platform for stakeholders and interest parties.

- May 2010:** **Fair Music conference in Vienna**
Discussion about the current boom of Austrian pop music and its economic frameworks, aesthetic dimensions, economic potential and the risks of a rapidly changing industry especially for small and medium-sized labels.
- Jun 2010:** **IAMIC Annual Meeting in Dublin**
Presentation of the fair music project and the planned online surveys by Sabine Reiter, CEO of *mica-music austria*.
- Autumn 2010:** **First Fair Music Newsletter and Invitation to Participation**
The first fair music newsletter was sent in order to inform all relevant stakeholder and interest groups. In the following newsletters, invitations to standard conferences and the achieved progresses are being reported.
- Popkomm and WOMEX**
Rainer Praschak and Alexander Hirschenhauser as ambassadors of the Fair Music Initiative travelled to Berlin and Copenhagen and met with about 100 label managers from Europe and other countries.
- Jan 2011:** **Eurosonic**
About 50 people visited the panel presentation and discussion "fair music - a new trend in music marketing" on Friday 12th of January 2011. Shamal Ranasinghe, Topspin Media, UK; Hannes Tschuertz, Ink Music, AT; and Wouter Turkenburg, IASJ, NL, chairperson, each gave their view on fair music and discussed how the initiative could be successful.
- Midem**
Presentation of the fair music idea at the traditional WIN(Worldwide Independent Music Industry Network) board meeting during MIDEM music convention in Cannes/France. Invitation of national trade organisations for spreading the fair music idea and labels as evaluation partners for the fair music Standards.
- Online Survey on: Standards for Recorded Music**
A questionnaire for the Standards for Recorded Music was created and presented on the fair music homepage.

Feb 2011:

Focus Group on Standards for Recorded Music

15 members from VTMÖ (Austrian Association of Independent Labels) revised together with *mica – music austria* the Standards for Recorded Music.

Achieved progress:

Negotiations about economic aspects which coincidence with the fair music certification: Limitation of costs for labels resulting in the second version of the Standards for Recorded Music.

March 2011:

Completion of the first version of Standards for Online Music Services

Different representatives from VTMÖ, VUT (German Association of Independent Labels) and *mica – music austria* set up the first version of Standards for Online Music Services on a conference in Berlin.

Completion of the first version of Standards for Live Performance

The project team (*mica – music austria*) and a lawyer drew up the first version of Standards for Live Performance in order to discuss the outcomes in Frankfurt.

April 2011:

Musikmesse Frankfurt,

At the Frankfurt Music Fair, musicians, label owners, event organisers, operators of online music services, and special interest groups met to revise the drafts of fair contractual standards in order to finally apply and establish these standards. Subjects covered were contractual standards for music recordings, live performances and online music services.

Achieved progress concerning standards for:

- Recorded Music: The Standards for Recorded Music passed the reality check in Frankfurt. Conference participants were able to finally agree on the most important and controversial clauses of the contractual standards and agreed on the third version.
- Online Music Services & Live Performances: Discussion about the necessary changes of the first versions in order to develop subsequent versions in the future.

Standard for Recorded Music

Labels are certified through the “Fair Music Standards for Recorded Music” that explore the contractual arrangements between the performing artist or producer of the music and the label that is exploiting the recordings.

Purpose of the Standard

Professional recording of music, specifically albums, can be considered as one of the foremost requirements for artists to reach their audience and gain access to the market. However, this step is highly associated with considerable investments for both artists and labels that are bearing this risk mutually. Therefore, it is substantial to provide just conditions for music production guaranteeing an appropriate remuneration for artists and balanced contractual agreements between the parties involved. With this standard fair music strives for the protection of artistic freedom, fair remuneration for composers and musicians, especially for musicians of the Global South.

Content of the Standard

The detailed content of the standard can be found at www.fairmusic.net.

Current Phase of the Standard

The first draft of “Fair Music Standards for Recorded Music” has been set up by the project team followed by the commenting and consultation phase. At the Musikmesse Frankfurt (April 07-08, 2011) a stakeholder meeting took place and a consensus for the third version of the album production standards was reached.

Nevertheless, it is still possible to **hand in comments and suggestions for this standard by the procedure described above.**

Synopsis of the Standard Development

In order to follow ISEAL, a written synopsis shall be provided. However, making available a document in which each raised aural and written comment is listed does not seem reasonable at the moment. The Standard for Recorded Music has been developed according to the principle of reaching a wide consensus during the discussions.

Therefore, it is sufficient to provide only the results of the stakeholder meetings, which can be found in **Annex II**. If required, the minutes of the stakeholder meetings can be requested at *mica-music austria*.

Additionally, the results of the fair music questionnaire on the Standard for Recorded Music are provided in **Annex I**.

Standard for Online Music Services

Online Music Services are certified through the “Fair music Standards for Online Music Services” that explore the contractual arrangements between the rights holders of recordings, mostly labels (often represented by their aggregators) and the online music services.

Purpose

Since the digital distribution of music is growing steadily, the creation of fair conditions for this relatively new phenomenon has to be targeted. Online music services could empower musicians in reaching a global audience with acceptable costs using the worldwide web. Overall, the achievement of fair distribution channels is aspired providing an adequate remuneration and just conditions for artists.

Content of the Standard

The detailed content of the standard will be provided soon at www.fairmusic.net.

Current Phase of the Standard

The first version of “Fair music Standards for Online Services/Stores” has been set up by the project team in cooperation with the German label association VUT (Verband unabhängiger Musikunternehmer) and VTMÖ. At the Musikmesse Frankfurt, the first version was discussed and the elaboration of the second version will be targeted in the future. Since the digital music standard is still in an early stage, **comments and suggestions are highly appreciated.**

Synopsis of the Standard Development

Since the standard setting procedure for the Standard for Digital Music is still at a relatively early stage, a synopsis cannot be provided. These issues will be addressed later on.

Standard for Live Performance

Venues are certified through the “Fair Music Standards for Live Performances” that explore the contractual arrangements between the performing artist or his representative (e.g. booking agency, management) and the local promoter of the concert.

Purpose

Live performances present an important income source for musicians; beyond that, they enable artists to communicate and promote their music directly to their audience. It is the goal of this standard to create just framework conditions for artists concerning live performances.

Legal Framework

Due to the specific statutory provisions in the different European countries, e.g. union agreements covering live performances, there will be several distinct versions of the Standard for Live Performance. Aside from the legal framework, the characteristics of the numerous music genres require the elaboration of different standard versions as well.

Content of the Standard

The detailed content of the standard can be found at www.fairmusic.net.

Current Phase of the Standard

The first draft of “Fair Music Standards for Live Performances” has been set up by the project team and was discussed at the Musikmesse Frankfurt. Since the Live Performance Standards are still in an early stage, **comments and suggestions are highly appreciated.**

Synopsis of the Standard Development

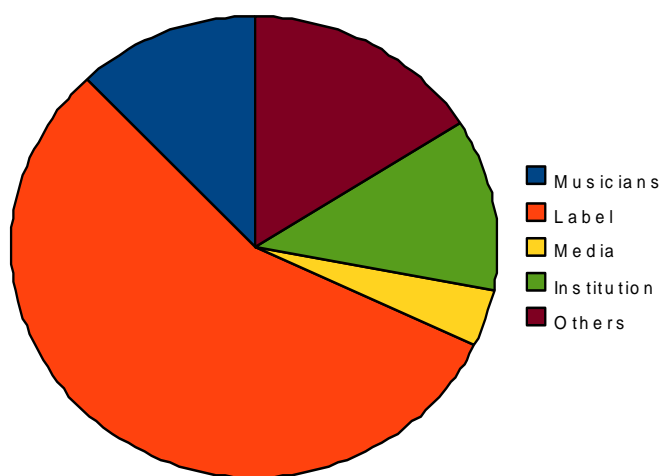
Since the standard setting procedure for the Standard for Live Performance is still at a relatively early stage, a synopsis cannot be provided. These issues will be addressed later on.

Annex I: Survey results for the Standard for Recorded Music

In order to give all fair music stakeholder an idea of how the Standard for Recorded Music is perceived and how the stakeholder have evaluated the different paragraphs, some results of the online questionnaire are presented.

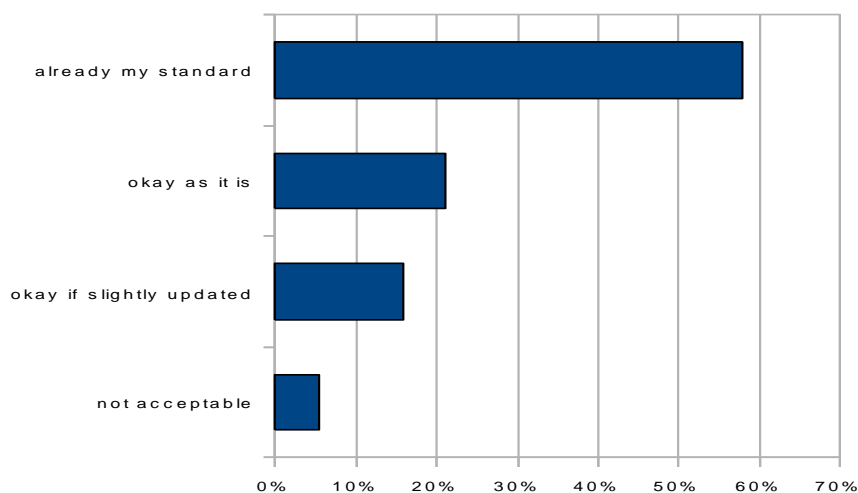
Composition of queried stakeholders

Question: These Survey only addresses music scene professionals, please mark which group of music professionals you consider yourself to be part of!

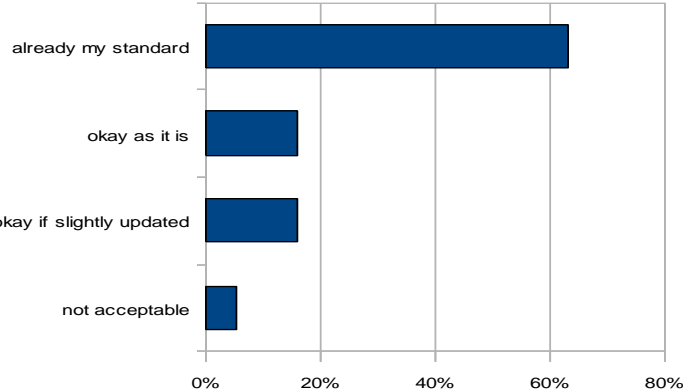


I. Transfer of Rights

Question: No concession of (musical) publishing rights in countries with copyright regimes that allow such transfer of rights (no work for hire without success share)?

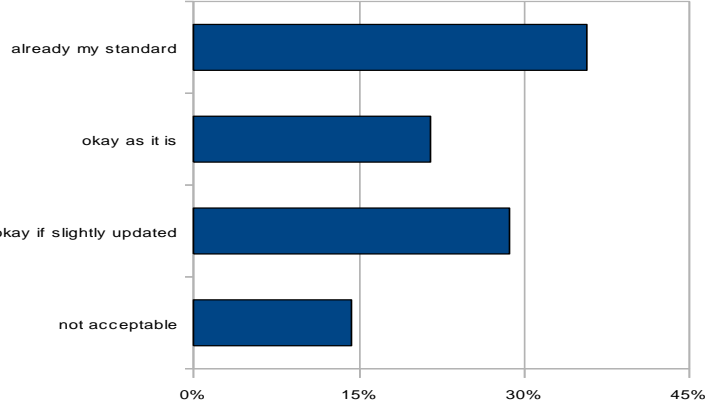


Question: Collecting society's proviso: Rights transferred to collecting societies are not topic of the contract?



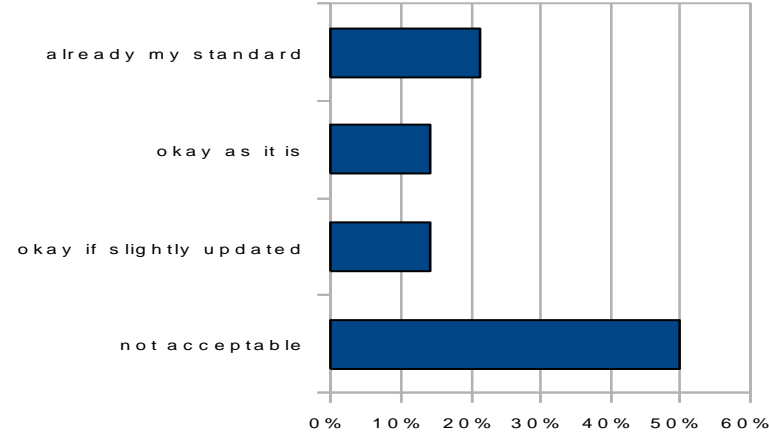
II. Exclusivity

Question: Re-recording restrictions: 5 years maximum after release?



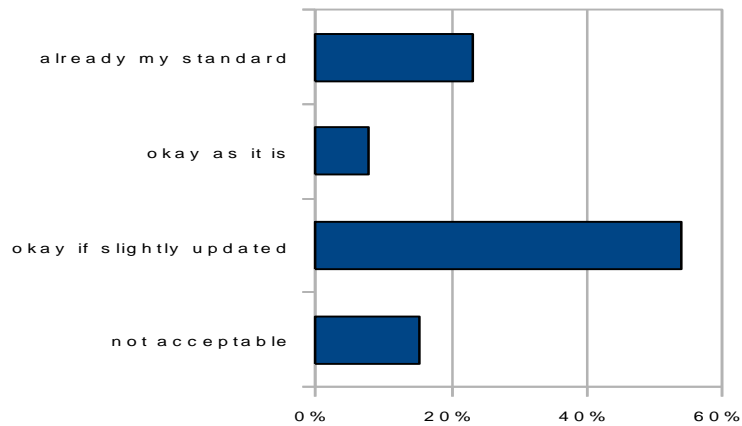
IV. Cost

Question: Purchase at manufacturing costs for own sale by the artist at concerts in case of physical product. These costs have to be illustrated transparently without charging of in-house-efforts.

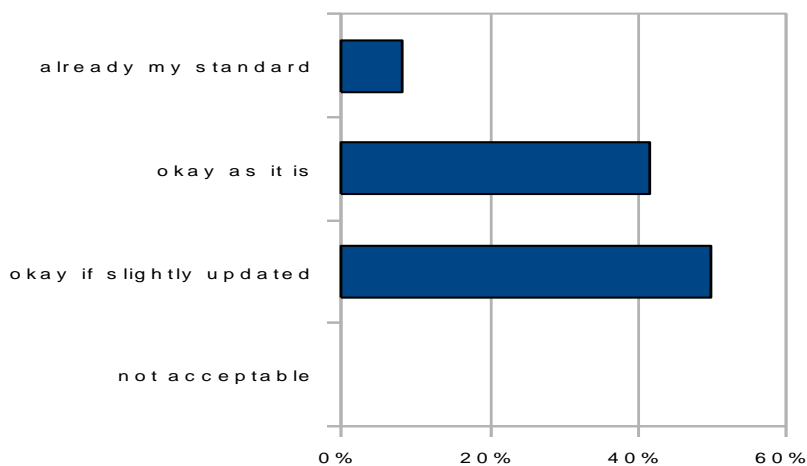


V. Royalties

Question: Commercial model: percentage shares need to be illustrated transparently (with clear examples that deal with standard figures at the time of contract signing).
Minimum share of the artist per longplay-album at least € 1,50 ?



Question: Alternative: Cooperative model: Fifty-fifty share of net income after break-even of the release without cross collateralization; no deduction of the label's or artist's in-house efforts?



Annex II: Summary of Frankfurt for the Standard for Recorded Music

FAIR MUSIC conference at Musikmesse Frankfurt 7th + 8th April 2011; STANDARD DRAFT VERSION 3:

Recorded Music: Focus groups on both days

Attendees – for both or one of the 2 meetings:

Beaumont-Nesbitt Jake, IMMF Exec. Director
Beverungen Nicolai, Echo Beach Label Head
Dudt Simone, EMC Secretary General
Fischer Silja, IMC Secretary General
Fuller Michael, IAM Head of Legal Affairs
Göttlich Oke, Finetunes MD
Gregson Peter, Artist
Hergovich Franz, Fair Music Project
Heuer Helmut, Legere Recordings Head
Hirschenhauser Alexander, Fair Music Project
James Peter, Popbüro Stuttgart MD, VUT board
Jenner Peter, Sincere Management
Kiltz Eva, VUT MD
Machuel Benoit, IMF Secrétaire Général
May Volker, IMMF Vice-Chair Europe
McNamee Trevor, Jalapeno Records Head
Ozgen Burak, IMC Legal Consultant
Praschak Rainer, Fair Music Project
Reiter Sabine, MICA MD
Ritson Hal, FAC Board
Roeingh Matthias, Dr Motte Artist
Schoepe Wolf D., IAEL
Smith Helen, IMPALA Executive Chair

Annotation:

(MPp) – Producer changed to “artistic” producer
(Mpa) – Artist changed to “featured” artist.

It has been agreed that we will need separate standards for non-featured artists (session musicians etc.)

Preamble:

Line 1: wording changed slightly, meaning stays the same
Line 2: “publishing” added

I. Transfer of rights:

Concession of publishing rights: “without a reference to a royalty share” added

Collecting society’s proviso: “rights transferred to collecting societies” changed to “rights exercised by collecting management organizations (collecting societies etc.)”
Entire transfer of rights etc.: “black & white list (do's & don'ts) should be part of the contract” added. ACA changed to “two calendar bank days”. Weight changed to “++/-_“

Compilations: changed to “usage (compilations etc.)”. “Black & white list (do's & don'ts) should be part of the contract” added. ACA changed to “two calendar bank days”. Weight changed to “+++/---“

Ancillary rights: moral rights changed to “personal rights” in the comment line.

Website: wording changed, meaning stays the same. “The artist website must not be used to promote third party products without the artist’s approval” added. Weight changed to “+!/”. “Main focus here is on the artist domain name, specific product domain names referring to back catalogue can stay with the label as long as it holds the rights for such back catalogue titles” added in the comment line.

Duty to release (MP only): master changed to “all contractual masters”. Declaration of intent on pressing circulation changed to “a minimum exploitation plan (initial pressing quantity, promotion plan, types of platforms)”. Weight changed to “!/--/-/+”.

Duty to release (AC only): changed completely.

Type and volume of distribution: deleted because now included in “duty to release”.

Sound carrier proviso: vinyl changed to “any reasonable specific carrier (physical and digital)”, comment line adapted.

Territories: Weight changed to “--/neutral/+/+”

Legal mandate: Weight clarified

No money for nothing: “Ideally there are separate contracts for different revenue streams” added in the comment line.

Artwork + titles: reduced to “collaborative decision process”.

Unknown types of use: changed completely. Weight changed to “--/neutral if included”

No transfer of rights that do not exist at time of contract: additional criterion created.

Limit on how long rights can get assigned or licensed: additional criterion created.

II. Exclusivity:

Personal exclusivity (AC only & MPa only): “and as a featured artist with a clearly separated distinct brand” added. Weight changed to “---/+”

Re-recording: “or 3 years after the end of term” added.

III. Duration: wording changed slightly, meaning stays the same

IV. Costs:

Production costs (MP only): “reasonable out of pocket costs - the same applies for both contract parties” added.

Marketing costs: changed completely. ACA: changed to “two calendar bank days”. Weight changed to “+/-/!”. “Video, remix etc.” separated from “advertising + promotion”.

Deviation from label standards: approval by the artist afterwards changed to “prior approval”.

Cross collateralization: Weight changed to “---“

Free copies of physical product: 10 copies changed to “25 copies” and “5% of the quantity if pressing below 300” added.

Purchase of physical product: cheap changed to “cheapest”. Weight changed to “+/----“

Sell-off: “in case of scrapping - purchase of cost of mechanical price plus reasonable handling costs” added.

V. Royalties:

Commercial model: per longplay album at least € 1,50 changed to “at least 20% of PPD without further deductions”. Weight changed to “more than 20% ++ / below 16% -- / below 10% ---“. Comment added: 20% of PPD equals app. 10% of retail price, to be used when communicating in public.

Cooperative model: “beyond the record deal” added.

VI. Accounting:

Period and reporting deadline: completely changed.

Minimum transfer amount: deleted the word “maximum”

Returns reserve: “needs to be liquidated over the next two accounting periods, no reserves on digital income” added. Weight: completely changed.

Auditing: Weight added for “auditing at source: +++”