

**NAXOS DIGITAL SERVICES LTD
THE AMERICAS SERVICE AGREEMENT**

Party details	Customer ("you")		NAXOS ("we" or "us" or "our")		
	Name			Naxos Online Libraries, LLC	
	Address			1810 Columbia Avenue Suite 28 Franklin, Tennessee 37064	
Service	Naxos Music Library ____ users NML World ____ users NML Jazz ____ users Naxos Video Library ____ users Naxos Works Database ____ users Naxos Spoken Word Library ____ users Naxos Sheet Music Library ____ FTE Sound Quality Upgrade ____ (Check only if applicable)			<u>Minimum System Requirements</u> (a) broadband internet connection; and (b) (for PC users) MS Windows 98, 2000, XP or XP Professional with at least MS IE 6.0 Adobe Flash; and (c) (for Apple users) iMac with OS 8.6, 9.0 with MS IE 5.1 for Mac or OS 10.2 with at least MS IE 5.2 for Mac and Adobe Flash for Mac.	
	Service Fee	\$ _____ per annum			
Authentication Information	Please Provide Relevant Authentication Details on Page 4				
Date of Agreement	the _____ day of _____ 20____				

We agree to provide you with the Service on the terms and conditions set out in this Agreement.

EXECUTED as an Agreement.	
SIGNED by a duly authorised representative for NAXOS ONLINE LIBRARIES, LLC.: _____ Signature _____ Name	SIGNED by a duly authorised representative for the CUSTOMER: _____ Signature of authorised officer _____ Date _____ Name of authorised officer (Ph.) _____ Phone number of authorised officer _____ Email address of authorised officer

1. PROVISION OF SERVICE

We provide the Service on the terms and conditions set out in this Agreement.

2. TERM

This Agreement comes into effect upon your payment of the Service Fee and continues until terminated pursuant to the terms and conditions of this Agreement.

3. AUTHORISED USE & USERS

3.1 We consider you are using the Service under this Agreement regardless of whether you use all or only part of the Service.

3.2 You will use the Service in compliance with the U.S. Fair Use Provisions for educational, research and other non-commercial uses only.

3.3 You will allow internal and external access to the Service only by Authorised Users on your intranet. With NML Unlimited, an Authorized User is any current member of your institution. Only current students, faculty and staff at academic institutions may obtain external access through an NML unlimited user account.

3.4 An Authorized User is defined by the institution and may include walk-in members in the on-campus library buildings.

3.5 The rights granted by this Agreement are restricted to the recordings embodied in the Service. You are responsible for obtaining any other relevant permission including public performance rights if applicable.

You agree to take all reasonable measures to prevent users from:

- (a) parting with possession of, distributing, transferring, loaning, renting, selling, leasing, sub-licensing or otherwise dealing with the Service to another person or body;
- (b) downloading, copying, burning, capturing, re-transmitting, streaming or re-streaming, recording or reproducing the Service by any means or in any form;
- (c) allowing unauthorised access to the Service;
- (d) altering, modifying, reverse engineering, decompiling or disassembling the Service for any purpose whatsoever;
- (e) altering, changing, removing or obscuring any notices or other indications (including copyright notices) as to the ownership of the Service;
- (f) using the Service for spamming or of a 'spamming' nature; or
- (g) framing, deep linking or establish unauthorised links to any part of the Service, without our written consent.

3.6 Authorized users may print texts from the Service for research and educational purposes but may not further distribute the material.

3.7 You will notify us immediately if you become aware of any breach of this Agreement or unauthorised use of the Service and agree to provide us with all necessary assistance in any action we may take in response to any breach.

4. SERVICE FEE

4.1 You agree to pay us the Service Fee upon execution of this Agreement and continue to pay the Service Fee on each anniversary of the Date of the Agreement. Where mutually agreed an updated version of this Agreement can replace this Agreement.

4.2 We will notify you at least 30 days prior to the expiration of this Agreement. If payment has not been received by the expiration date we may terminate this Agreement pursuant to clause 8.

4.3 The Service Fee is exclusive of any sales or value added taxes, where required by law.

4.4 All invoice terms are Net30.

4.5 All invoices will be sent to the "Billing Contact" listed below, through e-mail, unless otherwise specified.

4.6 Non-payment may result in action pursuant to clause 8.

5. SERVICE FEATURES & SYSTEM REQUIREMENTS

5.1 Upon your execution of this Agreement and payment of the Service Fee, we provide you with the following:

- (a) Access to the Service for the number of authorized users as set out in the Schedule above.; and
- (b) Reasonable levels of technical support by email or by telephone throughout your use of the Service and which you accept at your sole risk.

5.2 The Service includes, as relevant, our website and its contents, anything streamed from our website, data, recordings, text, photographs, graphics, art works, button icons, logos, trade marks, any accompanying search and retrieval software, manuals, user guides, passwords and security strings and documentation.

5.3 You will receive updates of the Service for which the appropriate Service Fee has been paid. The Service includes the content of the Catalogues as described in the Schedule above.

5.4 Due to contractual or other limitations, from time to time, some content on the Service may no longer be available. We may modify or discontinue, temporarily or permanently, the programming of the Service or the way the Service is presented at any time without notice subject to clause 8.5. Should a significant proportion of the content be removed from the Service then within 30 days we will replace it with content of similar quantity and quality as that removed. After 30 days, should you consider the service to be considerably diminished you will have the right to terminate this Agreement immediately and receive a refund for the unused portion of the subscription fees. Where possible, reasonable prior notice will be given.

5.5 The Minimum System Requirements are set out in the Schedule of this Agreement. We will give you 60 days prior notice if we change the Minimum System Requirements. If changes to the Minimum System Requirements impede your ability to use the Service, you will have the right to terminate this Agreement immediately and receive a refund for the unused portion of the Subscription Fees.

5.6 You are responsible for any hardware, systems and software programs you use and any associated fees and expenses to connect to or use the Internet, stream the music and use the Service.

6. TITLE, INTEREST & INTELLECTUAL PROPERTY RIGHTS

6.1 This Agreement does not give you any intellectual property rights in the Service nor does it make you the owner of the Service and nor does it transfer or assign to you any right, title, interest or other proprietary rights in the Service.

6.2 Any data provided by you to us will only be used for the conduct of our business subject to privacy and other relevant laws.

6.3 In this Agreement, intellectual property includes the full benefit of any rights in any copyright, patent, trademark, registered design, trade and business names, agreements, inventions, discoveries and improvements, computer programs, confidential processes, confidential information and know-how and includes without limitation any artistic work, images, photographs, animations, video, audio, music, text, recordings and programming and any adaptation of it or concept relating to it.

7. EXCLUSIONS AND LIMITATION OF LIABILITY

- 7.1 To the maximum extent permitted by law our liability is limited to supplying the services again.
- 7.2 Notwithstanding anything else in this clause 7, our maximum aggregate liability under or relating to this Agreement in any 12 month period, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity or on any other basis is limited to the pro rated Service Fees paid by you during that 12 month period.
- 7.3 In no event are we liable under or in relation to this Agreement for any indirect, special, economic or consequential loss or damage or loss of revenue, profits, goodwill, bargain or opportunities or loss or corruption of data or loss of anticipated savings incurred or suffered by you whether caused by negligence or otherwise or whether or not we were aware or should have been aware of the possibility of such loss or damage. This includes but is not limited to the transmission of any computer viruses or anything else that may interfere with or damage the operation of your computer systems.

8. TERMINATION

- 8.1 Either you or we may terminate this Agreement for any reason by giving to the other 30 days written notice. If you terminate on notice we will refund any unused part of the Service Fee. If we terminate on notice pursuant to this clause 8.1, we will refund the balance of the Service Fee as long as you are not in breach of this Agreement.
- 8.2 We may terminate this Agreement if you commit a material breach of its terms and fail to rectify said breach within 30 days of being notified.
- 8.3 We may also terminate this Agreement with 30 days notice to you if:
- you become, threaten or resolve to become or are in jeopardy of becoming subject to any form of insolvency administration;
 - you enter into or propose to enter into a scheme, composition or arrangement with any of your creditors.
- 8.4 If this Agreement is terminated, you must immediately cease all use of and access to the Service and use all reasonable efforts to delete, erase and otherwise remove all copies of the Service from all equipment into which you have loaded or installed the Service.
- 8.5 If we terminate this Agreement, we will:
- refund the pro-rata unused balance of the Service Fee you have paid us;
 - recover from you any money (including Service Fees) which you owe us;
 - be regarded as discharged from any further obligations under this Agreement; and
 - pursue any additional or alternative remedies provided by law.

9. FORCE MAJEURE

- 9.1 We will not be in breach or default of any obligation, agreement, or covenant (whether express or implied) by reason of any circumstance beyond our reasonable control including any act of nature, industrial dispute, act of governmental or other authority.
- 9.2 We shall notify you as soon as practicable of any suspension of the Service due to force majeure. The performance of our obligations under this Agreement will be suspended for the period of the inaccessibility of the Service due to force majeure. In the event that the Service is inaccessible due to our fault and/or to force majeure for more than 5 consecutive business days we will extend the expiration date of this Agreement by the same number of days as the Service was unavailable.
- 9.3 Your obligation to pay the Service Fee is not affected by this clause 9.

10. GENERAL

- 10.1 You will not assign any of your respective rights or obligations under this Agreement without our written consent.
- 10.2 Any time or indulgence or any waiver by us of any terms or conditions of this Agreement shall not affect any of our other rights under this Agreement nor shall it at the same time be deemed a waiver by us of any other terms or conditions of this Agreement or subsequent breach of such term or condition.
- 10.3 This Agreement constitutes your entire agreement with us. Any prior arrangements, agreements, representations or undertakings are superseded. This Agreement may not be changed, altered or modified unless done so by written instrument signed by you and us.
- 10.4 If any of the terms and conditions or provisions of this Agreement are determined invalid, unlawful or unenforceable to any extent such term, condition or provision shall be severed from the remaining terms, conditions and provisions which shall continue to be valid to the fullest extent permitted by law.
- 10.5 This Agreement is governed by and construed in accordance with the laws of Tennessee and you agree to submit to the jurisdiction of the Courts of Tennessee.
- 10.6 Nothing in this Agreement shall constitute or be deemed to constitute a partnership, joint venture or relationship of principal and agent or any other fiduciary relationship between us.
- 10.7 This Agreement may consist of a number of counterparts and if so the counterparts taken together constitute one and the same instrument.
- 10.8 In entering into this Agreement, you have not relied upon any warranty or representation in relation to our Service or us which is not expressly set out in this Agreement and you have relied entirely on your own enquiries in relation to our Service and us.

NAXOS Online Libraries - SUBSCRIPTION INFORMATION FORM

Please Return Via:

Email: Nick@NaxosUSA.com

Fax: +1 (615) - 465 - 3836

This form is designed for us to be able to most efficiently set up your service to the Naxos Online Libraries, and ensure that the correct people are being contacted in the set up and invoicing process. If one person is the contact for all areas, you only need to enter the information once!

Title	Name	Email	Phone	Fax
Technical Contact (Who can answer technical questions?)				
Billing Contact (for invoicing)				
Set-up contact (When your service is ready, to whom should we give the details?)				
Music/Reference Librarian (Who will be using NML on a regular basis?)				

What is your preferred form of authentication?

___ IP authentication (Please Provide IP range below)

___ Username/Password

___ Referral URL:

___ Library Card # Format: _____ (ex: 10 Digits with the format: 45874*****)

What is your IP range / Referral URL?

And finally:

What e-mail address should we send the invoice to?
