

INTERIM LOCAL STATION BLANKET RADIO LICENSE

AGREEMENT made between AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS (“We”, “Us” or “ASCAP”) and

\_\_\_\_\_ (“You” or “Licensee”) as follows:

1. **Term of License.** This license covers the interim license period commencing \_\_\_\_\_, 200\_\_ and continuing until terminated as provided in subsection (2) of this paragraph, subject to the following terms and conditions:

- (1) This interim license is subject to retroactive adjustment to the commencement date of this agreement on the basis of the terms and conditions arrived at for the term beginning January 1, 2001 (i) by negotiation between ASCAP and the Radio Music License Committee (“the Committee”) or (ii) by court determination of reasonable fees in the pending proceeding brought by the Committee under the Amended Final Judgment in *United States v. ASCAP, Application of Hicks Broadcasting of Indiana, LLC, et al.*
- (2) This agreement may only be terminated by substitution of agreements that are either negotiated by ASCAP and the Committee or that embody fees determined by the Court to be reasonable for similarly situated stations for the period commencing January 1, 2001. In addition, ASCAP shall have the right to terminate the license granted by this agreement in accordance with the provisions of Paragraph 11. below, and either ASCAP or Licensee shall have the right to terminate the agreement in accordance with Paragraph 14. below.
- (3) At the conclusion of the negotiations or Court proceedings described above, ASCAP shall offer and Licensee shall accept the new license agreements when they are made available to stations represented by the Committee, and on the same terms and conditions as apply to stations represented by the Committee.
- (4) Licensee acknowledges that it has voluntarily chosen not to be formally represented by the Committee in negotiations or in any proceeding the Committee may bring, or to make its own application under the Amended Final Judgment entered in *United States v. ASCAP*. Licensee hereby waives its right to make an application to ASCAP or to the Court under the Amended Final Judgment for the license period beginning on the commencement date of this agreement and ending as agreed upon by ASCAP and the Committee or determined by the Court, for terms and conditions other than those arrived at by ASCAP’s negotiations with the Committee or determined by the Court.

2. **Licensed Radio Station.** The radio station licensed by this agreement is:

Call Letters _____
Frequency _____
City of License _____

All references to “you”, “your”, “the Station”, or “your station” include any company, firm or corporation that you own or that is under the same or substantially the same ownership, management or control as the Station. “Independent” refers to any firm or corporation that is not under the same or substantially the same ownership, management or control as the Station.

3. **Grant.** This license grants you the right to perform publicly by radio broadcasting on *radio programs* from your Station or from any other place non-dramatic performances of the separate musical compositions in the ASCAP *repertory*.

4. **Limitations on License.** This agreement does not: license the performance of any dramatic-musical works, such as operas, operettas, musical comedies or plays, in whole or in part; grant you any other rights in the musical compositions licensed under this agreement; authorize you to grant to others any performance or other rights in any of the musical compositions licensed under this agreement; extend to the receiver of any of your radio broadcasts, or to any place at which the performances licensed by this agreement originate if other than at the station.

5. **Definitions.** When used in this agreement the defined words and phrases appear in italics and have the following meanings:

A. ASCAP “Repertory” means all musical compositions which ASCAP has the right to license for public performance now or hereafter during the term of this agreement. All compositions written and copyrighted by our members and in the repertory on the date this agreement is executed are included for the full term of this agreement. Compositions written or copyrighted by our members during the license term are included for the full balance of the term.

B. Your “Radio Programs” means all programs and announcements broadcast by the Station, all of your *simulcast programs*, and all of your *occasional network programs*, whether originated by the Station or any other source, including those furnished by networks, or other program suppliers, whether or not those networks or program suppliers are licensed by us.

C. Your “Simulcast Programs” means all programs broadcast simultaneously or by so-called “delayed” or “repeat” broadcasts by two or more stations that you own or for which you act as a *time broker*.

D. Your “Occasional Network Programs” means all programs that you cause to be broadcast simultaneously or by so-called “delayed” or “repeat” broadcasts on any group of two or more radio stations that are affiliated with you for the purpose of broadcasting those programs. For the purposes of this agreement any sports network which you operate is deemed to be an occasional network.

E. “Time Broker” means any independent person, firm or corporation that engages in *time brokerage*.

F. “Time Brokerage” means any arrangement between a station and a *time broker* that:

- (1) authorizes the resale by the *time broker* of the radio broadcasting facilities of the station;
- (2) permits the *time broker* to provide programs for 10% or more of the time the station is on the air; and
- (3) provides for the sale by the *time broker* of all or substantially all announcements within the brokered time.

G. “Net Promotional Revenue” means all cash payments that you receive from third parties for the direct or indirect promotion of their businesses via the broadcast facilities of the station other than paid programs or commercial announcements (such as, but not limited to, Bridal or Craft Shows, Direct Mailings, Special Sponsored Events or Publications, produced and promoted by the station), less those out-of-the-ordinary costs, such as booth rentals, printing and mailing expenses, and cost of goods sold, that would not have otherwise been incurred without the promotional activity. Deductible costs may not exceed the cash payments received.

H. “Gross Revenue” means all:

- (1) cash payments made by or on behalf of:
  - a. sponsors or donors for the use of radio broadcasting facilities of the Station,
  - b. sponsors of, or donors to, your *simulcast programs*,
  - c. sponsors of, or donors to, your *occasional network programs*,
  - d. *time brokers* who each provide programs for less than 10% of the time the Station is on the air, or recognized independent companies engaged in arrangements with radio or television stations generally for the resale of the radio broadcasting facilities of the Station, and
  - e. independent networks or other program suppliers for the broadcasting of such networks’ or program suppliers’ programs or announcements by the Station; and
- (2) *net promotional revenue*

Such payments shall include all payments made directly to, or as authorized by, you, your employees, representatives, agents or any other person acting on your behalf. Such payments shall not include payments made to independent third parties, such as networks or program suppliers, or non-cash payments such as payments in goods or services commonly referred to as “trades” or “barter”.

I. “Adjusted Gross Revenue” means *gross revenue* less:

- (1) advertising agency commission not to exceed 15% actually allowed to an independent advertising agency;
- (2) any sums received from your political radio programs and announcements, net of agency commissions;
- (3) bad debts actually written off and discounts allowed or rebates paid; and
- (4) rate card discounts, cash, quantity and/or frequency actually allowed.

J. “Revenue Subject to Fee” means *adjusted gross revenue* or, at Station’s option, *adjusted gross revenue* less the total of the following itemized deductions which exceeds 11% of *adjusted gross revenue*:

- (1) All compensation over and above the total annual amount indicated below, actually paid by the Station to personnel whose duties primarily are acting as (a) master of ceremonies or disc jockey on musical programs, or (b) vocalist or instrumentalist engaged for a specific program; or (c) featured newscaster and news commentator; or (d) featured sportscaster, or (e) master of ceremonies on an entertainment program, or (f) announcer:

Station's Annual Adjusted Gross Revenue	Total Annual Amount Not Deductible
Under - \$ 50,000	\$ 6,200
\$ 50,000 - \$ 149,999	\$18,600
\$ 150,000 - \$ 299,999	\$27,900
\$ 300,000 - \$ 499,999	\$41,900
\$ 500,000 - \$ 749,999	\$46,500
\$ 750,000 - \$ 999,999	\$53,700
\$ 1,000,000 and Over	\$62,000

You may not deduct any compensation paid to any person who has a stock or other ownership interest in Licensee or in the station of 40% or more.

(2) The actual payment by the Station to an independent supplier of general news service (such as AP or UPI) or specialized news service (such as weather, traffic, business or agricultural reports).

(3) The following actual costs incurred by the Station for a specific program: (a) payments to the telephone company or like transmission utility for remote pick-up necessary to broadcast the program from a point outside a studio of the Station; and (b) rights for broadcasting a sports or other special event.

(4) The following actual payments made by the Station to an independent network not licensed by ASCAP for a specific local program: (a) If the network is owned and operated by a college or university, the actual payment made by the station to the college or university; (b) If the network is not owned and operated by a college or university, the actual payments made for talent and for broadcast rights (which may not exceed the amount actually paid to or for the original holder of the broadcast rights for the particular program), and the actual payments made to or for the telephone company or like transmission utility for interconnecting lines and remote lines necessary to broadcast the program from a point outside the studio of the Station, which may not exceed the amount actually paid to or for the telephone company or like transmission utility.

(5) The following actual costs incurred in connection with your *occasional network programs*: (a) the payments to your affiliated stations in connection with those programs; (b) the actual payments made for talent and broadcast rights (which may not exceed the amount actually paid to or for the original holder of such broadcast rights); and (c) the actual payments made to or for the telephone company or like transmission utility for interconnecting lines and remote lines necessary to broadcast that program from a point outside the studio of the Station, which may not exceed the amount actually paid to or for the telephone company or like transmission utility.

6. **Music Reports.** You agree to furnish to us upon request a list of all musical compositions on your *radio programs*, showing the title, composer and author of each composition. You will not be obligated to furnish such list for a period or periods which in the aggregate exceed one month in any one calendar year during the term of this agreement.

7. **Right to Restrict.**

A. Our members may restrict the radio broadcasting of their compositions up to a maximum of 500 at any given time, only for the purpose of preventing harmful effect upon other interests under the copyrights of such works; provided, however, that (1) limited licenses will be granted upon application to us entirely free of additional charge if the copyright owners are unable to show reasonable hazards to their major interests likely to result from such radio broadcasting; (2) the right to restrict any composition will not be exercised for the purpose of permitting the fixing or regulating of fees for the recording or transcribing of the composition; (3) in no case will any charges, "free plugs", or other consideration be required for permission to perform a restricted composition; and (4) in no event will any composition be restricted after its initial radio broadcast for the purpose of confining further radio broadcasts to a particular artist, station, network or program.

B. We may also in good faith restrict the radio broadcasting of any composition, over and above the number specified in the previous paragraph, only as to which any suit has been brought or threatened on a claim that the composition infringes a composition not contained in the ASCAP *repertory* or on a claim that we do not have the right to license the public performance of the composition by radio broadcasting.

8. **License Fee.**

A. You agree to pay us the following license fee for each year of the agreement:

(1) Gross Revenue up to \$150,000. If your annual (or annualized) *gross revenue* is \$150,000 or less use the following fee schedule to determine your annual fee for the year. Any period of less than a year should be annualized and the applicable annual fee for a station with that annualized revenue should be pro-rated for the period.

Annual Revenue	License Fee
Up to \$50,000	\$ 450
\$50,001 - \$75,000	\$ 800
\$75,001 - \$100,000	\$1150
\$100,001 - \$125,000	\$1450
\$125,001 - \$150,000	\$1800

(2) Gross Revenue over \$150,000. If your annual (or annualized) *gross revenue* is over \$150,000 your fee is 1.615% of your *revenue subject to fee* but not less than 1% of your *adjusted gross revenue*.

B. In the event that your payment of fees under this agreement causes us to incur a liability to pay a gross receipts, sales, use, business use, or other tax which is based on the amount of our receipts from you, and (1) we have taken reasonable steps to be exempted or excused from paying the tax; and (2) we are permitted by law to pass through the tax to our licensees, you will pay us the full amount of the tax.

#### 9. Reports and Payments.

A. Annual Reports. You will send us a report of the license fee due for each year of this agreement, by April 1st of the following year, by fully completing the Statement of Account form which we will supply free of charge. A copy of the Statement of Account form is annexed and made a part of this agreement.

B. Monthly Payments. For each month during the term of this Agreement, you will pay us on or before the first day of the following month, a sum equal to 1/12th of the license fee for the preceding calendar year (annualized for any reported period less than a year), adjusted in accordance with any increase in the Consumer Price Index (National, all items) between the preceding October and the next preceding October. If we do not receive the report required by Paragraph 9.A. for any calendar year when due, the monthly payments will be in the amount of the monthly payments due for the preceding year, plus 24%, and payments at that rate will continue until we receive the late report. If the station commenced broadcasting after January 1, 1996, you will furnish us with a good faith estimate of your revenue for the first year of operation and the monthly payments during the first calendar year of broadcasting will be 1/12th of the fee provided in Paragraph 8.A. for a station having such revenue.

C. Annual Adjustments. If the monthly payments that you have made to us for a year pursuant to Paragraph 9.B. are less than the license fee for that year, you will pay us the additional amount due with the annual report. If the amount that you paid for that year exceeds the license fee due for the year we will apply the excess payment against your future monthly payments, or refund it to you upon your written request if it is greater than three monthly payments required by Paragraph 9.B.

D. Late Payments. If we do not receive any payment required under Paragraph 9.B. or 9.C. before the first day of the month following the date when the payment was due, you will pay us a finance charge of 1½% per month from the date the payment was due.

E. Billing Basis. License fee reports will be made on a billing basis by all stations, except that any station may report on a cash basis if (1) its books have been kept on a cash basis and (2) it reported to us only on a cash basis and at no time on a billing basis during the entire term of its agreement with us ending February 28, 1977, and continuously thereafter. You will account for all billings made subsequent to the termination of this agreement with respect to radio broadcasts made during the term of the agreement as and when you make such billings.

F. Late Reports. If we do not receive a report required by Paragraph 9.A. of this agreement within 30 days of the date that the report was due, we may give you notice that you have an additional 30 days within which to submit the report on either the *adjusted gross revenue* or *adjusted gross revenue* less itemized deductions basis. If you fail to submit the report within the additional 30-day period, the report must be on the *adjusted gross revenue* basis.

G. Multiple Station Reports. You will submit a single license fee report for:

(1) AM and FM stations that you own in the same city if the combined *gross revenue* for the stations is less than \$75,000, or

(2) all stations that you own that simultaneously broadcast programs for 80% or more of the time the stations are on the air concurrently.

If you act as a *time broker* for one or more other radio stations that are licensed pursuant to this form of local station blanket radio license, you will include in your license fee reports for the Station all *gross revenue* relating to periods on those other station or stations that are simulcast or are sold in combination with the Station. All other stations that you own or act as a *time broker* for will report and pay separately, and be treated for all purposes as separate stations.

H. Combination Sales. If the use of the broadcasting facilities of the station is sold in combination with any other stations that you own, operate or control that are licensed by us under a form of agreement other than this form of local station blanket radio license, the combination revenue shall be allocated among the stations on a reasonable basis taking into account factors such as, but not limited to, separate sales by the stations for comparable facilities during the report period or the immediately preceding period, and/or the relative ratings of the stations during the report period.

## 10. Audits.

A. **Right to Audit.** We have the right by our duly authorized representatives, at any time during customary business hours, upon reasonable notice, to examine your books and records of account only to the extent necessary to verify any report required by this agreement. We will consider all data and information coming to our attention as a result of any such examination of books and records as completely and entirely confidential.

B. **Audit Period.** The period for which we may audit is limited to the four calendar years reported preceding the year in which the audit is made. However, if you request a postponement, we have the right to audit for the period commencing with the fourth calendar year reported preceding the year in which we first notified you of our intention to audit. This limitation does not apply if you fail or refuse after written notice from us to produce the books and records necessary to verify any report or statement of accounting pursuant to the agreement.

C. **Correction of Errors.** You may correct computational errors, or errors relating to deductions permitted under the agreement on your license fee reports for the four calendar years preceding the year in which the corrected reports are submitted. However, you may not submit a report on the *adjusted gross revenue* less itemized deductions basis for a period previously reported on the *adjusted gross revenue* basis.

D. **Audit Finance Charges.** If our audit discloses that you underpaid license fees due us:

(1) You will pay a finance charge on the additional license fees of 1½% per month from the date(s) the fees should have been paid pursuant to this agreement if the underpayment is 5% or more, but not less than \$1000.

(2) You will pay a finance charge on the additional license fees of 1½% per month beginning thirty (30) days after the date we bill the additional license fees to you if the underpayment is less than 5% or less than \$1000.

(3) You may dispute all or part of our audit claim. If you do, you must, within thirty (30) days from the date that we bill the additional fees, (i) advise us, in writing, of the basis for your dispute and (ii) pay us any fees indisputably owed together with any applicable finance charges. If there is a good faith dispute between us with respect to all or part of the additional fees that we have billed pursuant to this Paragraph, no finance charges will be billed with respect to the disputed fees for a period beginning on the date we billed the fees to you and ending sixty (60) days from the date that we respond to your written notification of the existence of a dispute.

(4) Finance charges computed in accordance with this Paragraph and pertaining to additional fees which you dispute in accordance with subparagraph (3) above will be adjusted pro-rata to the amount arrived at by you and us in resolution of the dispute.

11. **Breach or Default.** If you fail to perform any of the terms or conditions of this agreement relating to the reports, accountings or payments required to be made by you, we may give you thirty (30) days' notice in writing to cure your breach or default. If you do not do so within the thirty (30) days, we may then promptly terminate this license.

12. **Time Brokerage Arrangements.** If you enter into a *time brokerage* arrangement, the license granted by this agreement will automatically terminate thirty (30) days after the commencement date of the *time brokerage* unless you have furnished us a complete copy of the *time brokerage* agreement and you and *time broker* have executed a letter to us in the form annexed and made a part of this agreement requesting amendment of the license agreement to add *time broker* as a party. When that letter has been fully executed by you, *time broker* and us, this agreement will be amended accordingly.

13. **Indemnity Clause.** We will indemnify, save and hold harmless and defend you, your advertisers and their advertising agencies, and your and their officers, employees and artists, from and against all claims, demands and suits that may be made or brought against you or them with respect to the performance under this agreement of any compositions in the ASCAP *repertory* which are written or copyrighted by our members. You must give us immediate notice of any such claim, demand or suit and immediately deliver to us all papers pertaining thereto. We will have full charge of the defense of any such claim, demand or suit and you agree to cooperate fully with us in such defense. You may however engage your own counsel at your own expense who may participate in the defense of any such action. At your request we will cooperate with and assist you, your advertisers and their advertising agencies and your and their officers, employees and artists in the defense of any action or proceeding brought against them or any of them with respect to the performance of any musical compositions contained in the ASCAP *repertory*, but not copyrighted or written by members of ASCAP. This Paragraph 13 does not apply to performances of any works that may be restricted under Paragraph 7 of this agreement.

## 14. Rights of Termination.

A. You have the right to terminate this license on seven (7) days' written notice in the event of the termination, suspension or any substantial alteration or variation of the terms and conditions of the governmental licenses covering the Station, or any major interference with the operations of the Station due to governmental measures or restrictions.

B. We have the right to terminate this license on thirty (30) days' notice if there is any major interference with, or substantial increase in the cost of, our operation as a result of any law of the state, territory, dependency, possession or political subdivision in which the Station is located which is applicable to the licensing of performing rights.

15. **Notices.** All notices required or permitted to be given by either of us to the other under this agreement will be duly and properly given if:

- A. mailed to the other party by registered or certified United States mail; or
- B. sent by electronic transmission (i.e., Mailgram, facsimile or similar transmission); or
- C. sent by generally recognized same-day or overnight delivery service;

addressed to the party at its usual place of business.

16. **Successors and Assignees.** This agreement will enure to the benefit of and be binding upon you and us and our respective successors and assignees, but no assignment will relieve either of us of our respective obligations under this agreement.

17. **Per Program License.** ASCAP's "interim local station per program license" is being offered to you simultaneously with this agreement. In accepting this agreement, you acknowledge that you have a choice of entering into either this agreement or the interim per program license with us; that you have the opportunity to negotiate for separate licenses with our individual members; and that you are voluntarily entering into this agreement with us. You may substitute the interim per program agreement in place of this agreement by giving us written notice at least 10 days prior to the commencement of any month during the term of this agreement. In such event, effective with the commencement of that month, the interim per program agreement will be in full force and effect between us.

18. **Applicable Law.** The fees set forth in this agreement have been approved by the United States District Court for the Southern District of New York as reasonable and non-discriminatory in accordance with the Amended Final Judgment in United States v. ASCAP. The meaning of the provisions of this agreement will be construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, this agreement has been duly executed by ASCAP and Licensee this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

AMERICAN SOCIETY OF COMPOSERS,  
AUTHORS AND PUBLISHERS

By \_\_\_\_\_

LICENSEE
(Full corporate or other name of station owner)
By _____

(Fill in capacity in which signed)

- (a) If corporation, state corporate office held;
- (b) If partnership, write word "partner" under signature of signing partner
- (c) If individual owner, write "individual owner" under signature