

LICENSE AGREEMENT – ENDURANCE EVENTS

Agreement between the American Society of Composers, Authors and Publishers (“ASCAP”), a New York membership association, located at 2 Music Square West, Nashville, TN 37203 and _____ (“LICENSEE”), located at _____ as follows:

1. Grant and Term of License

- (a) ASCAP grants and LICENSEE accepts a license to perform publicly or cause to be performed publicly as part of Endurance Events (as defined below) presented by or under the auspices of LICENSEE, and not elsewhere or otherwise, non-dramatic renditions of the separate musical compositions in the “ASCAP repertory.”
- (b) For purposes of this Agreement:
- (i) “ASCAP repertory” means all copyrighted musical compositions written or published by ASCAP members or members of affiliated foreign performing rights societies, including compositions written or published prior to or during the term of this Agreement and of which ASCAP has the right to license non-dramatic public performances.
 - (ii) “Endurance Event” means a non-motorized race or course event such as a road race, marathon, trail race, fun run, triathlon, obstacle course, bicycle race or challenge, ski race and similar events. Endurance Events do not include multi-sport events such as Olympics, World Masters Games and similar events.
- (b) This license shall be for an initial term of one (1) year commencing _____, and shall continue thereafter for additional terms of one (1) year each unless either party terminates it by giving the other party notice at least thirty (30) days before the end of the initial or any renewal term. If such notice is given, the license shall terminate on the last day of the license year in which notice is given.

2. Limits on License

- (a) This license is not assignable or transferable by operation of law or otherwise, except upon the express written consent of the parties, but no assignment shall relieve the parties of their respective obligations as to performances rendered, acts done and obligations incurred prior to the effective date of the assignment.
- (b) This license is strictly limited to the LICENSEE; to performances during the course and directly a part of the Endurance Event; and to the premises or area where the Endurance Event takes place; it does not authorize any other performances given at the premises.
- (c) This license does not authorize the broadcasting or telecasting or transmission by wire, Internet, webcasting, on-line service or otherwise, of renditions of musical compositions in ASCAP’s repertory to persons outside of the premises or area where each Endurance Event is presented.
- (d) This license does not authorize any performances in or as part of a concert, musical recital or similar activity for which a separate ticket or admission is required.

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(e) This license is limited to non-dramatic performances, and does not authorize any dramatic performances. For purposes of this Agreement, a dramatic performance shall include, but not be limited to, the following:

- (i) performance of a “dramatico-musical work” (as hereinafter defined) in its entirety;
- (ii) performance of one or more musical compositions from a “dramatico-musical work” (as hereinafter defined) accompanied by dialogue, pantomime, dance, stage action, or visual representation of the work from which the music is taken;
- (iii) performance of one or more musical compositions as part of a story or plot, whether accompanied or unaccompanied by dialogue, pantomime, dance, stage action, or visual representation;
- (iv) performance of a concert version of a “dramatico-musical work” (as hereinafter defined).

The term “dramatico-musical work” as used in this agreement, shall include, but not be limited to, a musical comedy, opera, play with music, revue, or ballet.

(f) This license does not authorize any performance by means of a coin-operated phonorecord player (jukebox) for which a license is otherwise available from the Jukebox License Office.

(g) This license is limited to the United States, its territories and possessions and the Commonwealth of Puerto Rico.

3. Reports and Payments

(a) LICENSEE shall submit reports to ASCAP upon execution of this Agreement and within thirty (30) days of the anniversary date for each subsequent license year of this Agreement.

(b) The report to be submitted upon entering into this Agreement shall state the estimated total number of Endurance Events for the upcoming license year; the number of participants per event; and the estimated license fees due for that year.

(c) The report to be submitted within thirty (30) days of the anniversary date for each subsequent license year of this Agreement shall state (i) the total number of Endurance Events for the prior license year; the number of participants per event; and the actual license fees due for that year; and (ii) the estimated total number of Endurance Events for the upcoming license year; the number of participants per event; and the estimated license fees due for that year.

4. License Fees

(a) In consideration of the license granted herein, LICENSEE agrees to pay ASCAP the applicable license fee based on the factors that determine the license fees applicable under the Rate Schedule, attached to and made a part of this Agreement.

(b) LICENSEE shall pay ASCAP the license fees due hereunder (i) upon entering into this Agreement, the license fees due for the first year of this Agreement as shown by the report due at that time; and (ii) within thirty (30) days of the anniversary date for each subsequent license year of this Agreement, the license fees for the then current license year, and any additional license fees due for the previous year, as shown by the report due on that date. Any overpayments shall be applied as a credit to fees due for the following license year.

(c) LICENSEE shall pay a finance charge of 1.5% per month from the date due on any required payment that it is not made within thirty (30) days of its due date. LICENSEE shall pay to ASCAP a \$25 service charge for each unpaid check, draft or other form of monetary instrument submitted by LICENSEE to ASCAP.

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5. Breach or Default

Upon any breach or default by LICENSEE of any term or condition herein contained, ASCAP may terminate this license by giving LICENSEE thirty (30) days notice to cure such breach or default, and in the event that such breach or default has not been cured within said thirty (30) days, this license shall terminate on the expiration of such thirty-day period without further notice from ASCAP. In the event of such termination, ASCAP shall refund to LICENSEE any unearned license fees paid in advance.

6. Additional Termination Provision

ASCAP shall have the right to terminate this license upon thirty (30) days written notice if there is any major interference with, or substantial increase in the cost of ASCAP's operations as the result of any law in the state, territory, dependency, possession or political subdivision in which LICENSEE is located or in which LICENSEE presents Endurance Events which is applicable to the licensing of performing rights. In the event of such termination, ASCAP shall refund to LICENSEE any unearned license fees paid in advance.

7. Notices

ASCAP or LICENSEE may give any notice required by this agreement by sending it by United States Mail, generally recognized same-day or overnight delivery service to the other Party's address described at the top of the agreement, or by transmitting the notice electronically to the other Party's last known facsimile number or e-mail (or similar electronic transmission) address. Notices to ASCAP must also be copied to the following address: Vice President of Legal Affairs, ASCAP, One Lincoln Plaza, New York, NY 10023. Each party agrees to notify the other of any change of address.

8. Applicable Law

The meaning of the provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws principles.

9. Indemnity

ASCAP agrees to indemnify, save and hold harmless and to defend LICENSEE from and against all claims, demands and suits that may be made or brought against it with respect to the non-dramatic performance under this Agreement of any compositions in the ASCAP repertory which are written or copyrighted by members of ASCAP or as to which ASCAP has or shall have rights to grant performance licenses during the term hereof. LICENSEE agrees to give ASCAP immediate notice of any such claim, demand or suit and agrees immediately to deliver to ASCAP copies of all court papers pertaining thereto. ASCAP shall have full charge of the defense of any such claim, demand or suit and shall pay attorney's fees and costs in connection with such claims, demands or suits and LICENSEE shall cooperate fully with ASCAP in such defense. ASCAP will promptly provide Licensee with all copies of pleadings, filings, and responses related thereto as they become available. LICENSEE, however, shall have the right to engage counsel of its own at its own expense who may participate in the defense of any such action. ASCAP's liability under this Paragraph shall be strictly limited to the amount of license fees actually paid by LICENSEE to ASCAP under this Agreement for the license year in which the performance or performances which are the subject of the claim, demand or suit occurred.

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IN WITNESS WHEREOF, this Agreement has been duly executed by ASCAP and LICENSEE on _____.

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS

LICENSEE _____

By: _____

By: _____

Title: _____

Title: _____

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".